



REQUEST FOR TENDER

Biloela Sewage Treatment Plant (STP) Repair Project

CONTRACT NO: T2324.41

Request for Tender



PART 1 – PREAMBLE				
Banana Shire Council invites tenders from suitably qualified and experienced tenderers for completion of all works required for completion of Biloela Sewage Treatment Plant (STP) Repair Project as described in detail in Part-5 Scope. All WUC are to be completed within 6 months of the awarding of the tender.				
PART 2 – GENERAL INFORMATION				
1. Contract details:	T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project			
2. Communications by Tenderers:	Communications regarding the Procurement Process must be submitted to enquiries@banana.qld.gov.au no later than seven (7) calendar days prior to the time stated in Item 4			
3. Briefing or site inspection:	Details	Maximum attendees	Mandatory	RSVP
	<p>The Contractor should become fully acquainted with the site, existing infrastructure and WUC prior to submitting the tender. A site meeting will be held on 25th of September 2024 at 10.00am to discuss any queries that the tenderer may have.</p> <p>Tenderers are to meet at the Biloela STP, 93 Quarrie Road, Biloela. Minutes will be taken and made available to the tenderers.</p>	N/A	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	RSVP to enquiries@banana.qld.gov.au by the 24th of September 2024 2:00pm
4. Submission of Tender:	Tenders must be submitted electronically only at tenders@banana.qld.gov.au by no later than 11:00am on the 9th of October 2024 . <i>Note// Adequate time must be allowed for the Tender and all supporting documents to be uploaded or received by this time.</i>			
5. Evaluation Criteria:	Evaluation Criteria			Weighting (%) (Optional)
	Price			30%
	Ability to complete project within required timeframe			20%
	Previous Experience and Technical/ Engineering Support			25%
	Quality, Environmental, Safety and Other Management Processes			20%
	Local Content			5%
6. Tenders should not be longer than:	N/A			
7. Tenders to be valid for:	90 calendar days after the time stated in Item 4 (as extended if at all, pursuant to the Procurement Process Conditions)			
8. Complaints:	Complaints regarding Procurement Process to be directed to: enquiries@banana.qld.gov.au			
PART 3 – PROCUREMENT PROCESS CONDITIONS				

The Procurement Process is governed by, and this Request for Tender is to be read in conjunction with, the Procurement Process Conditions attached to or provided with this Request for Tender and identified as **T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – Procurement Process Condition.**

PART 4 – CONTRACT

The contract shall be substantially in the form attached to or provided with this Request for Tender and identified as **T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project - Contract.**

PART 5 – SCOPE

The Scope is described in the document(s) attached to or provided with this Request for Tender and identified as **T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – Scope of Works**

T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – Technical Specification

T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – General Specification

T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – Appendix A-D

T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – Schedule of Prices

PART 6 – RESPONSE SCHEDULES

The Tender must be submitted in the form provided in the response schedules attached to or provided with this Request for Tender and identified as **T2324.41 Biloela Sewage Treatment Plant (STP) Repair Project – Response Schedule.**



Procurement Process Conditions

Biloela Sewage Treatment Plant (STP) Repair Project

CONTRACT NO: T2324.41

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1. GENERAL

- 1.1 **(Conduct of the Procurement Process)** The Principal will endeavour to conduct the Procurement Process in a manner which is consistent with these Procurement Process Conditions.
- 1.2 **(Rights of the Principal)** The Principal may do anything which it considers to be prudent or necessary for the proper conduct of the Procurement Process, including:
- (a) **(alteration of Procurement Documents)** amend, add to or delete any part of the Procurement Documents including:
 - (i) the procedures and timeframes provided in the Procurement Process Conditions;
 - (ii) the Evaluation Criteria (including weightings);
 - (iii) the Scope; and
 - (iv) where one is included in the Procurement Documents, the Contract;
 - (b) **(suspension or termination)** suspend or terminate the Procurement Process;
 - (c) **(attendances)** request any one or more Respondents to attend a briefing, site inspection or other meeting or to make a presentation of their Response in person at the Principal's office at no cost to the Principal;
 - (d) **(change or error in Procurement Documents)** request any one or more Respondents to change their Response to take account of a change in the Procurement Documents or any error in such documents;
 - (e) **(clarification or alteration)** request any one or more Respondents to clarify or alter any aspect of the Respondent's Response;
 - (f) **(additional information)** request additional information from one or more Respondents relating to a Response, the Procurement Process, the Respondent's compliance with the Procurement Process Conditions or any other matter which the Principal considers relevant to its assessment (including information that should have been, but was not, included in the Respondent's Response);
 - (g) **(negotiation)** negotiate amendments to any aspect of a Response with any one or more Respondents and suspend or terminate such negotiations at any time;
 - (h) **(revised Responses)** invite one or more Respondents to provide a revised Response or best and final offer; and/or
 - (i) **(shortlisting)** create a shortlist of one or more Respondents and exercise any of its rights only in respect of one or more of the shortlisted Respondents.
- 1.3 **(Conduct of Respondents)** The Respondent must not, and must ensure that its Personnel do not, engage in any Improper Conduct. The Respondent must immediately notify the Principal in the event that it becomes aware that it, or any of its Personnel, have engaged in Improper Conduct. Where appropriate, the Principal may report Improper Conduct by the Respondent to the appropriate Authority and provide that Authority with any relevant information related to that conduct.
- 1.4 **(Complaints in relation to the Procurement Process)** The Respondent must make any complaint in relation to the Procurement Process using the Communication Method immediately upon the cause of the complaint arising or upon the Respondent becoming aware of the cause. The complaint must be made in writing to the Complaints Manager and must contain adequate detail to allow the Complaints Manager to properly investigate the complaint.

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- 1.5 **(No warranty)** The Principal gives no warranty and makes no representation that the Procurement Documents or any other information provided to the Respondent in connection with the Procurement Process is accurate, adequate or complete.
- 1.6 **(No liability)** Neither the Principal nor its Personnel shall be liable upon any Claim for any Specified Loss in connection with the Procurement Process.

2. BRIEFINGS AND SITE INSPECTIONS (RFT AND RFEOI ONLY)

- 2.1 **(Attendance)** The Respondent must attend any briefing or a site inspection which is identified in the General Information as mandatory. Respondents are encouraged to attend any briefing or site inspection which is not described as mandatory.
- 2.2 **(RSVP)** The Respondent must confirm that it intends to attend the briefing or site inspection to the email address and by the time and date stated in the General Information and may only bring a maximum of the number of Personnel stated in the General Information.
- 2.3 **(Safety)** The Respondent must inform itself of risks to health and safety arising from attendance at the briefing or site inspection and take all reasonable steps to ensure that such risks are eliminated or, if it is not possible to eliminate them, to minimise them so far as is practicable.
- 2.4 **(Obligation to inspect)** Where no site inspection is identified in the General Information, the Respondent must make its own arrangements to inspect the site prior to lodging its Response.

3. COMMUNICATIONS DURING PROCUREMENT PROCESS

- 3.1 **(Communication Method)** All communications by the Principal to the Respondent shall at first instance be made using the Communication Method. Except where expressly permitted by these Procurement Process Conditions, all communications by the Respondent to the Principal in connection with the Procurement Process shall at first instance be directed to the Principal using the Communication Method. No other communication method may be utilised by the Respondent unless expressly permitted by the Principal or where technical difficulties prevent the Respondent from utilising the Communication Method or the Principal expressly agrees to an alternative method.
- 3.2 **(Respondent's responsibility)** The Respondent must ensure that it is capable of receiving and does receive all communications to the Respondent in connection with the Procurement Process. Where the Communication Method is email, it is the Respondent's responsibility to ensure that it notifies the Principal of the correct email address for receiving communications. Where the Communication Method is through a website, the Respondent must ensure that it is properly registered with and capable of receiving communications through the website.
- 3.3 **(Confidentiality of communications)** The Principal may notify any or all Respondents of a request for further information made by a Respondent and the Principal's response to it without identifying the submitting Respondent or may keep a request for information confidential and respond only to the Respondent if it considers that it is appropriate to do so.
- 3.4 **(No reliance)** The Respondent must not rely upon any information (including information provided at a briefing or site inspection) unless it is confirmed by the Principal through the Communication Method.
- 3.5 **(Communication Closing Time)** The Principal will not respond to any request for information received after the Communication Closing Time.

4. THE RESPONSE (RFT AND RFQ ONLY)

- 4.1 **(Application of clause)** This clause 4 only applies in respect of an RFT or an RFQ.
- 4.2 **(Acceptance of Contract and Scope)** If one has not been provided, the Respondent must obtain a copy of the Contract from the Principal by requesting a copy through the Communication Method. Except to the extent that the Respondent has detailed a proposed

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alternative, amendment, qualification or departure in a Response, the Respondent will be taken to have unconditionally accepted and agreed to:

- (a) be bound by the terms and conditions of the Contract; and
- (b) carry out and complete the whole of the obligations described in or to be reasonably inferred from the Procurement Documents.

4.3 **(Price)** The Price must be submitted exclusive of GST and in Australian dollars.

4.4 **(Discrepancy in Price)** Where the Response Form requires the Respondent to provide a Price and there is a discrepancy between the amount stated in the Response Form as the Respondent's Price and the sum total of the items in any Price Schedule then:

- (a) if the Contract provides that it is a lump sum contract, then the sum total of the items in the Price Schedule shall be the Respondent's Price; or
- (b) if the Contract provides that it is a schedule of rates contract or a part lump sum and part schedule of rates contract, then the rate, price or lump sum of each item will prevail over the total shown, and the total shall be adjusted accordingly.

4.5 **(Response Validity Period)** The Respondent's Response will remain valid and open for acceptance by the Principal until the end of the Response Validity Period and thereafter until it is withdrawn in writing by the Respondent or the Procurement Process is finalised. The Principal may consent to the Respondent withdrawing its Response before the end of the Response Validity Period. The Principal may request an extension of the Response Validity Period at any time by giving written notice to the Respondent. If the Respondent does not agree to the requested extension then the Principal may exclude the Respondent's Response from assessment or further assessment as the case may be.

4.6 **(Alternative Responses)** If the Respondent wishes to submit an Alternative Response, then the Respondent is encouraged to:

- (a) also submit a Conforming Response; and
- (b) submit the Alternative Response on a separate Response Form to the Conforming Response, clearly marked, "ALTERNATIVE RESPONSE" accompanied by a clear summary of all points of difference between the Alternative Response and the Conforming Response.

5. RESPONDENT'S GENERAL WARRANTIES AND REPRESENTATIONS

5.1 **(Warranties and Representations)** By lodging a Response, the Respondent warrants and represents that:

- (a) **(conduct of Respondent)** neither the Respondent nor any of its employees or agents has engaged in any Improper Conduct;
- (b) **(authority)** the Response has been signed and lodged by a person with authority to do so on behalf of the Respondent;
- (c) **(basis of Response)** the Respondent:
 - (i) has received or obtained copies of all of the Procurement Documents and all information or documents referred to in the Procurement Documents; and
 - (ii) has not relied on the accuracy, adequacy or completeness of any documents or information provided or any representation made by or on behalf of the Principal in connection with the Procurement Process in preparing its Response;

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- (d) **(accuracy of Response)** all information provided in or with the Response is accurate;
- (e) **(ability)** the Respondent and its relevant Personnel:
 - (i) hold (and are compliant with all requirements of) all necessary competencies, licences (including if necessary, a licence under the *Queensland Building and Construction Commission Act 1991* (Qld)), accreditations, certifications, permits, clearances and other authorisations which will be required for the Respondent to carry out the Scope if it is ultimately engaged to carry out that Scope; and
 - (ii) are not excluded from submitting a tender under any applicable Queensland or Federal Government scheme, code or policy;
- (f) **(suitability etc. of works, goods or services)** where the Principal has stated in the Procurement Documents the purpose(s) for which the works, goods or services must be suitable, appropriate, adequate or fit, the works, goods or services shall be suitable, appropriate, adequate and fit for those purposes (but this warranty and representation will not apply to the extent (if any) that the Respondent has expressly excluded or limited it in the Respondent's Response);
- (g) **(Effect of implied warranties)** neither clause 5 nor clause 6 shall operate in any way to limit, exclude or otherwise restrict the operation of any warranty implied by law.

6. RESPONDENT'S FURTHER WARRANTIES AND REPRESENTATIONS (RFT AND RFQ ONLY)

- 6.1 **(Application of clause)** This clause 6 only applies in respect of an RFT or an RFQ.
- 6.2 **(Warranties and Representations)** By lodging a Response, the Respondent warrants and represents that:
 - (a) **(investigations)** the Respondent has undertaken its own enquiries and investigations to satisfy itself of:
 - (i) the nature and extent of the Scope, its contractual obligations and all other risks, contingencies and other circumstances which could have an impact on its ability to carry out and complete the obligations it will have under the Contract if its Response is accepted for the Price; and
 - (ii) the suitability, appropriateness and adequacy of the Scope (including, in respect of contracts under which the successful Respondent is required to design works, any preliminary design included in the Scope) for the purposes stated in or to be reasonably inferred from the Scope;
 - (b) **(ability)** the Respondent and its relevant Personnel:
 - (i) have and will maintain the necessary experience, expertise and skill to perform its obligations under the Contract in accordance with the requirements of the Contract in the event that its Response is accepted; and
 - (ii) have and will maintain the resources necessary to comply with the timeframes for the performance of the Contract stated in the Procurement Documents (as amended if at all, pursuant to these Procurement Process Conditions);
 - (c) **(price)** the Price, and all rates, sums and prices included in the Response allow for:
 - (i) all of the risks, contingencies and other circumstances which could have an effect on the Respondent's ability to carry out and complete the obligations it will have under the Contract if its Response is accepted for the Price, except to the extent that the Contract expressly allows an adjustment;

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- (ii) the provision of all materials, plant, labour and other services necessary for the proper completion of the obligations it will have under the Contract if its Response is accepted, whether or not those items are expressly mentioned in the Contract; and
- (iii) unless the Contract expressly allows an adjustment, rise and fall in costs;
- (d) **(competitive neutrality)** if the Respondent is required by law to comply with principles of competitive neutrality, the Respondent has properly considered, assessed and complied with the applicable competitive neutrality principles in relation to the Procurement Process and the acceptance by the Principal of the Respondent's Response will not breach those principles;
- (e) **(notice)** the Respondent has notified the Principal in its Response of any:
 - (i) ambiguity, inconsistency, uncertainty, error or omission which it has discovered in or from the Procurement Documents;
 - (ii) any assumptions that it has made in determining its Price;
 - (iii) further information or investigations which it considers that it requires to enable it to give the warranties and make the representations in this clause 6,

and otherwise gives all warranties and makes all representations which the Contract requires to be given or made by the successful Respondent. The Respondent acknowledges that the Principal will rely on these warranties and representations in entering into a contract with the successful Respondent.

7. LODGEMENT AND OPENING OF RESPONSES

7.1 **(Method of lodgement)** A Response must be lodged:

- (a) if the Tender Box is a website, by uploading it to the Tender Box;
- (b) if the Tender Box is an email address, by sending it as an attachment to an email to the Tender Box; or
- (c) if the Tender Box is a physical address, by delivering it to the Tender Box.

The Principal may direct or allow the Response to be lodged by an alternative method.

7.2 **(Time of lodgement)** A document forming part of a Response shall be deemed to have been lodged:

- (a) where the Tender Box is a website, at the time that the document is successfully uploaded to the Tender Box, as indicated on the electronic receipt issued to the Respondent;
- (b) where the Tender Box is an email address, at the time that an email attaching the document is successfully delivered to the Tender Box, as indicated on the email system on which the Tender Box is hosted;
- (c) where the Tender Box is a physical address, at the time that the document is physically received at the Tender Box; or
- (d) where the Response is lodged by an alternative method allowed by the Principal, when it is received by the Principal by that method.

7.3 **(Response opening)** Responses will not be opened publicly and the Respondent will not be permitted to attend the opening of Responses.

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8. ASSESSMENT OF RESPONSES

- 8.1 **(Evaluation Criteria)** In determining which Response(s) are most advantageous to the Principal, each Response evaluated in accordance with these Procurement Process Conditions will be assessed, but not necessarily exclusively, against the Evaluation Criteria (if any).
- 8.2 **(Considerations)** In assessing Responses, the Principal may consider any information which the Principal reasonably considers to be relevant to its assessment (however obtained), including:
- (a) information contained in the Response or any amendment to or clarification of a Response;
 - (b) information provided at a meeting with or presentation by the Respondent;
 - (c) outcomes from discussions with a Respondent's referees (if any);
 - (d) information obtained pursuant to clause 8.5;
 - (e) the Respondent's past performance under other contracts with the Principal or third parties; and
 - (f) the reasonably held subjective opinions of the persons appointed by the Principal to evaluate Responses or any advisor to such persons.
- 8.3 **(Uncertainties)** The Principal may ignore any part of a Response which is ambiguous, uncertain, unclear or illegible without seeking clarification from the Respondent and may assess the balance of the Response.
- 8.4 **(Right to exclude)** The Principal may, but shall not be obliged to, reject or exclude from assessment any Response including:
- (a) a Non-Conforming Response, an Alternative Response or a Late Response;
 - (b) a Response, in respect of which the Principal reasonably believes that the Respondent has:
 - (i) failed to comply with these Procurement Process Conditions or any request made by or on behalf of the Principal pursuant to them within the time required; or
 - (ii) breached a warranty given or representation made pursuant to these Procurement Process Conditions or that a warranty, declaration or representation in the Respondent's Response is false or misleading in any material respect;
 - (c) a Response in respect of which the Principal reasonably believes that the Respondent cannot reasonably comply with the obligations which it will have under the Contract (in the event that its Response is successful) for the Price; or
 - (d) a Response which fails to achieve a satisfactory score against any of the Evaluation Criteria, even if the overall score of the Response is satisfactory;
- 8.5 **(Other information or assistance)** The Principal may undertake its own investigations, or engage third parties to do so on its behalf, in relation to any aspect of a Response (including verifying any warranty, representation or declaration made or given in the Response or pursuant to these Procurement Process Conditions) or any other matter which it considers relevant to the conduct of the Procurement Process. The Respondent must cooperate with such investigations and provide all information and assistance reasonably requested by or on behalf of the Principal in connection with the investigation.

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9. SHORTLISTING (RFEOI ONLY)

- 9.1 **(Application of clause)** This clause 9 only applies in respect of an RFEOI.
- 9.2 **(Shortlisting)** The Principal intends, but is not bound, to create a shortlist of Respondents and invite tenders from the shortlisted Respondents.
- 9.3 **(No obligation)** The Principal is not bound to shortlist or invite a tender from any Respondent, including the Respondents with the highest scores against the Evaluation Criteria. The Principal may shortlist and invite tenders from as many or as few Respondents as the Principal sees fit and may choose not to shortlist any Responses or invite any tenders.
- 9.4 **(Local preference)** The Principal may shortlist an EOI that is from a Local Supplier in preference to comparable EOIs from Non-Local Suppliers even if the EOIs from the Non-Local Suppliers have been assessed as more favourable in terms of one or more Evaluation Criteria.
- 9.5 **(RFT)** A Respondent shall not be entitled to submit a tender unless and until the Principal expressly invites the Respondent to submit a tender in writing.
- 9.6 **(Unsuccessful Respondents)** Unsuccessful Respondents will be notified after the Procurement Process is concluded. The Principal may provide feedback to unsuccessful Respondents if requested to do so, but such feedback may be general in nature, will be limited to the Respondent's EOI only and may be postponed until after any related Request for Tender process is finalised.

10. ACCEPTANCE (RFT AND RFQ ONLY)

- 10.1 **(Application of clause)** This clause 10 only applies in respect of an RFT or an RFQ.
- 10.2 **(Ability to accept)** The Principal is not bound to accept the Response with the lowest Price or the Response with the highest score against the Evaluation Criteria, or any Response. The Principal will, if it accepts a Response, accept the Response(s) which it reasonably believes are the most advantageous to it having regard to the Sound Contracting Principles and the requirements of the *Local Government Regulation 2012* (Qld) to the extent that they are applicable and relevant to the Procurement Process.
- 10.3 **(Local preference)** The Principal may accept a Response lodged by a Local Supplier in preference to comparable Responses from Non-Local Suppliers even if the Responses from the Non-Local Suppliers have been assessed as more favourable in terms of one or more Evaluation Criteria, so long as the overall differences are not substantial, and so long as it is clear that the Local Supplier can meet the Principal's requirements at an acceptable standard which is generally comparable to that of the Non-Local Suppliers.
- 10.4 **(Acceptance of more than one Response and acceptance of part of a Response)** The Principal may accept a Response in whole or in part. Without limiting this, where the Scope comprises distinct portions of works, goods or services, the Principal may accept a Response from one or more Respondents in relation to different portions of the works, goods or services as if those portions had been the subject of separate Procurement Processes.
- 10.5 **(No contract or appointment until formal acceptance)** Unless and until the Principal expressly notifies the Respondent in writing that the Respondent's Response (as amended by any post-Response negotiation, if any) has been successful or the parties execute a contract:
- (a) no binding contract for the provision of any work, services and/or goods by the Respondent will exist between the parties; and
 - (b) in respect of an RFT for appointment as a Pre-qualified Supplier or Preferred Supplier, the Respondent will not be considered to be appointed as a Pre-qualified Supplier or Preferred Supplier.

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For clarity, a statement published by the Principal but not specifically notified to the Respondent (including a record of a council resolution) to the effect that a Response has been accepted or a contract has been awarded does not, of itself, constitute an acceptance of the Response or notice that the Response has been successful or constitute a rejection of any other Response.

- 10.6 **(Form of Contract)** Unless the RFT or RFQ stated that the Respondent would not be required to enter into a contract until it is separately engaged by the Principal to provide works, goods or services, if a Response is accepted, the successful Respondent will be required to enter into a contract in the form of the Contract, as amended by agreement between the parties.
- 10.7 **(Unsuccessful Respondents)** Unsuccessful Respondents will be notified after a Response has been accepted. The Principal may, at its discretion, notify unsuccessful Respondents of the name of, and Price submitted by, the successful Respondent. The Principal may provide feedback to unsuccessful Respondents if requested to do so, but such feedback may be general in nature and will be limited to the Respondent's Response only.
- 10.8 **(Arrangement with other local governments)** The Respondent acknowledges that if, pursuant to the Procurement Process, the Respondent is selected to be a Preferred Supplier or Pre-qualified Supplier for goods and/or services then any Related Local Government may make a contract with the Respondent for the supply of those goods and/or services, as if that Related Local Government had itself selected the Respondent to be a Preferred Supplier or Pre-qualified Supplier of those goods and/or services.

11. DOCUMENTS AND INFORMATION

- 11.1 **(Ownership)** The Procurement Documents remain the property of the Principal. The Response will become the property of the Principal upon lodgement.
- 11.2 **(Intellectual Property Rights)** Intellectual Property Rights in documents and information provided on behalf of a party in connection with the Procurement Process remain, as between the parties, with the party on whose behalf they were provided. The Principal and the Respondent grant each other a perpetual, non-exclusive, royalty free licence to do the things contemplated by clause 11.9. The licence so granted by the Respondent is irrevocable. The licence granted by the Principal may be revoked at any time on the giving of written notice.
- 11.3 **(Warranty and representation)** The Respondent warrants and represents that:
- (a) it owns or has a right to use the Intellectual Property Rights in its Response for the purpose of lodging a Response and undertaking the obligations which it will have under a contract with the Principal in the event that the Respondent's Response is accepted; and
 - (b) it has the right and authority to grant the licence in clause 11.2 and the Principal's exercise of the rights so granted will not infringe the Intellectual Property Rights of a third party.
- 11.4 **(Confidentiality)** Except to the extent otherwise provided in these Procurement Process Conditions, each party shall keep Confidential Information of the other party confidential. The Respondent must inform each of its Personnel and any other person to whom Confidential Information of the Principal is disclosed of the Respondent's obligations under this clause 11.4. Subject to clause 11.9(b), the Respondent must return any and all Confidential Information when requested to do so by the Principal.
- 11.5 **(Information Privacy Act)** If the Respondent collects or has access to 'Personal Information' as that term is defined in the *Information Privacy Act 2009* (Qld) in connection with the Procurement Process, the Respondent must comply with Parts 1 and 3 of Chapter 2 of that Act as if the Respondent was the Principal. The Principal collects and uses personal information and non-personal information in the Response so that it can properly conduct the Procurement Process and otherwise carry out its functions as a Local Government. The Principal is authorised to collect this information under the *Local Government Act 2009* (Qld) and the *Local Government Regulation 2012* (Qld) and other law. The information in the Respondent's Response will be accessible by employees of the Principal and third party personnel engaged

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to assist the Principal in conducting the Procurement Process or otherwise carrying out the functions of the Principal. Information in the Response may also be disclosed as required by the *Local Government Regulation 2012* (Qld) and the *Right to Information Act 2009* (Qld) as described below.

- 11.6 **(Local Government Regulation)** The *Local Government Regulation 2012* (Qld) provides that the Principal must, as soon as possible after entering into a contractual arrangement worth \$200,000 or more (exclusive of GST) publish relevant details of the contract (including the person with whom the Principal has entered into the contractual arrangement, the value of the contractual arrangement and the purpose of the contractual arrangement) on the Principal's website and display those details in a conspicuous place in the Principal's public office. The relevant details must be published or displayed in this manner for a period of at least 12 months.
- 11.7 The *Local Government Regulation 2012* (Qld) may also require the Principal to make documentation and information contained in, or provided by the Respondent in connection with, a Response (including documentation and information identified by the Respondent as confidential) publicly available where that documentation or information is:
- (a) discussed in a Local Government Meeting;
 - (b) included in a report or other document that:
 - (i) relates to an item on the agenda for a Local Government Meeting and is made available to Councillors or committee members for the purposes of the meeting;
 - (ii) is directly relevant to a matter considered or voted on at a Local Government Meeting; or
 - (iii) is presented at a Local Government Meeting for the consideration or information of the Local Government or committee; or
 - (c) otherwise required to be disclosed pursuant to a provision of the *Local Government Act 2009* (Qld) or the *Local Government Regulation 2012* (Qld).
- 11.8 **(Right to Information)** The *Right to Information Act 2009* (Qld) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies (including the Principal). The Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to public interest. Information or documentation contained in or provided by the Respondent in connection with a Response is potentially subject to disclosure to third parties, including documentation and information identified by the Respondent as confidential. Any application for disclosure will be assessed in accordance with the terms of the Act. Notwithstanding any other provision of the Procurement Documents or a Response, if a Response is accepted, the Principal may publish on a Queensland Government website or by any other means, contract information including:
- (a) the name and address of the Principal and the successful Respondent;
 - (b) a description of the goods and/or services to be provided or works to be carried out pursuant to the contract;
 - (c) the date of award of the contract (including the relevant stages if the contract involves more than one stage);
 - (d) the contract value (including the value for each stage if the contract involves more than one stage and advice as to whether any non-price criteria were used in the evaluation of Responses);
 - (e) the procurement method used; and
 - (f) for contracts with a value over \$10 million, the contract, or summary information in respect of the contract, between the Principal and the Respondent.
- 11.9 **(Use of documents and information)** Documents and information provided on behalf of a party to the other party in connection with the Procurement Process (including documentation and

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information identified by the Respondent as confidential) may be used, copied, modified or disclosed as required by any law and otherwise:

- (a) by the Principal, as the Principal considers to be reasonably necessary to:
 - (i) properly conduct the Procurement Process;
 - (ii) exercise the rights granted to it in these Procurement Process Conditions;
 - (iii) obtain legal, accounting or other professional advice in connection with the Response;
 - (iv) report any actual or suspected Improper Conduct to the appropriate Authority; and/or;
 - (v) to otherwise properly carry out its functions as a Local Government;
- (b) by the Respondent, as is reasonably necessary to enable the Respondent to:
 - (i) prepare the Response;
 - (ii) obtain legal, accounting or other professional advice in connection with the Response; or
 - (iii) comply with the Respondent's corporate governance requirements.

If the Respondent is required by law to disclose Confidential Information of the Principal, the Respondent must notify the Principal of this prior to making such disclosure and must only disclose the minimum amount of information required to meet its obligation to disclose.

- 11.10 **(Media)** The Respondent must not, either on its own account or in conjunction with other parties, issue any publication, advertisement, document, article or information whether verbal or written, in connection with the Procurement Process in any media without the prior approval of the Principal.

12. DEFINITIONS

12.1 **(Definitions)** In these Procurement Process Conditions, unless the context otherwise requires:

- (a) **Addenda and Addendum** means any communication issued to Respondents in accordance with these Procurement Process Conditions which is identified as an Addendum;
- (b) **Alternative Response** means a Response which is otherwise a Conforming Response but which in the opinion of the Principal, contains significant alternatives, qualifications or amendments to or departures from the Contract or the Scope;
- (c) **Authority** means a local government, the State of Queensland, the Commonwealth or other any Federal, State, or local government authority, administrative or judicial body or tribunal, department, commission, agency, government owned corporation, statutory body or instrumentality having jurisdiction over the project;
- (d) **Business Day** means a day that is not a Saturday, Sunday or public holiday at Theodore;
- (e) **Claim** includes any claim, action, demand, proceeding, suit, defence or set-off, however arising including at law (including a breach of an express or implied term of contract), under statute, in equity, in tort (including for negligence), in quasi-contract, for unjust enrichment and to the extent permitted by law, pursuant to any other principle of law, in connection with the Procurement Process;

Procurement Process Conditions

- (f) **Communication Closing Time** means the time identified in the General Information as the time by which communications by Respondents must be submitted;
- (g) **Communication Method** means submitting an enquiry through the website forum or sending an email to the email address nominated for communications by Respondents in the General Information;
- (h) **Complaints Manager** means the person identified in the General Information as the person to whom complaints regarding the Procurement Process should be directed;
- (i) **Confidential Information** means documents and information provided or made available by or on behalf of one party to the other party in connection with the Procurement Process which are of their nature confidential (including copies of such documents and information) but not including documents and information which are in the public domain other than through a breach of clause 11.4;
- (j) **Conforming Response** means a Response which, in the opinion of the Principal:
 - (i) is substantially in the form and contains substantially all of the documentation, information, acknowledgements, warranties, declarations and undertakings required by the Response Schedules;
 - (ii) contains no significant alternatives, qualifications or amendments to or departures from the Contract or the Scope; and
 - (iii) in respect of Tenders or EOIs only, does not substantially exceed the Maximum Page Limit (if any);
- (k) **Contract** means:
 - (i) a contract which may be entered into between the Principal and a Respondent pursuant to an RFT or RFQ and which will be in the form referenced in Part 4 – Contract of the RFT or RFQ, as amended (if at all) by the express written agreement of the Principal; and
 - (ii) where an RFT is for appointment as a Preferred Supplier or Pre-qualified Supplier, also includes a contract which may be entered into during the term of the appointment unless the context requires otherwise;
- (l) **Councillor** has the same meaning as in the *Local Government Act 2009* (Qld);
- (m) **EOI (Expression of Interest)** means a Response lodged by a Respondent in response to an RFEOI and includes all documents and information lodged with or as part of the expression of interest;
- (n) **Evaluation Criteria** means:
 - (i) for an RFT or an RFEOI, the evaluation criteria (if any) set out in the General Information; and
 - (ii) for an RFQ, the evaluation criteria (if any) set out in the RFQ;
- (o) **General Information** means Part 2 – General Information of the RFQ, RFT or RFEOI (as the case may be);
- (p) **GST** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (q) **Improper Conduct** means:

Procurement Process Conditions

- (i) engaging in any activity or obtaining any interest which results in or is likely to result in any actual, potential or perceived conflict between the interests of the Respondent and the Respondent's obligations to the Principal in connection with the Procurement Process;
- (ii) engaging in misleading or deceptive conduct in connection with the Procurement Process;
- (iii) engaging in any collusive tendering, anticompetitive conduct, or any other unlawful or unethical conduct with any other Respondent, or any other person in connection with the Procurement Process;
- (iv) canvassing, attempting to improperly influence, offering any inducement to or accepting or inviting improper assistance from any Councillor or other Personnel (or former Personnel) of the Principal in connection with the Procurement Process;
- (v) using any information improperly obtained, or obtained in breach of any obligation of confidentiality in preparing the Respondent's Response;
- (vi) breaching any law in connection with the Procurement Process;
- (vii) engaging in aggressive, threatening, abusive, offensive or other inappropriate behaviour or committing a criminal offence; or
- (viii) engaging in conduct contrary to sections 199 and 200 of the *Local Government Act 2009* (Qld);
- (r) **Intellectual Property Rights** means copyright, patents and all rights in relation to inventions, registered and unregistered trademarks (including service marks), registered designs, circuit layouts and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;
- (s) **Late Response** means any Response that is not received in the Tender Box (or otherwise received by the Principal by an alternative method permitted under the Procurement Process Conditions) by the Response Closing Time;
- (t) **Local Government** has the same meaning as in the *Local Government Act 2009* (Qld);
- (u) **Local Government Meeting** has the same meaning as in the *Local Government Act 2009* (Qld);
- (v) **Local Supplier:**
 - (i) where the Principal's procurement policy provides a meaning of local supplier, has the meaning given in the Principal's procurement policy, a copy of which can be obtained from the Principal upon request; or
 - (ii) where the Principal does not have a procurement policy, or the procurement policy does not provide a meaning of local supplier, means a supplier that:
 - (A) is beneficially owned and operated by persons who are residents or ratepayers of the local government area of the Principal as determined under the *Local Government Regulation 2012* (Qld); or
 - (B) has its principal place of business within that local government area; or
 - (C) otherwise has a place of business within that local government area that solely or primarily employs persons who are residents or ratepayers of that local government area;

Procurement Process Conditions

- (w) **Maximum Page Limit** means the number of pages which may be lodged as, with or in relation to the Response (including, unless otherwise indicated, all attachments, annexures, supplements, parts, schedules or appendices), which the General Information states a Response should not be longer than;
- (x) **Non-Conforming Response** means a Response which is not a Conforming Response or an Alternative Response;
- (y) **Non-Local Supplier** means a supplier (including a Respondent) that is not a Local Supplier;
- (z) **Personnel** includes the officers, employees, agents, representatives, contractors and consultants of a party and any other person or entity for whom that party is vicariously liable;
- (aa) **Preamble** means Part 1 – Preamble of the RFEOI, RFT or RFQ (as the case may be);
- (bb) **Preferred Supplier** means a supplier that has been selected as a preferred supplier pursuant to section 233 of the *Local Government Regulation 2012* (Qld);
- (cc) **Pre-qualified Supplier** means a supplier that has been selected as a pre-qualified supplier pursuant to section 232 of the *Local Government Regulation 2012* (Qld);
- (dd) **Price** means:
 - (i) where the Procurement Process is for appointment as a Preferred Supplier or Pre-qualified Supplier, the rates, sums or prices stated in the Response;
 - (ii) otherwise, subject to clause 4.4, the total price stated in the Response;
- (ee) **Price Schedule** means a Response Schedule which provides a breakdown of the Price, and which may include rates, lump sums, prices, provisional sums, estimated quantities and other information;
- (ff) **Principal or Purchaser** means Banana Shire Council;
- (gg) **Procurement Documents** means:
 - (i) the RFEOI, RFT or RFQ (as the case may be); and
 - (ii) any Addenda issued pursuant to these Procurement Process Conditions,and includes all documents included in or incorporated by reference into these documents;
- (hh) **Procurement Process** means the process by which the Principal intends to, or does, invite, assess and where applicable, accept or reject Responses in respect of the Scope;
- (ii) **Procurement Process Conditions** means these procurement process conditions;
- (jj) **Quotation** means a Response lodged by a Respondent in response to an RFQ and includes all documents and information lodged with or as part of the quotation;
- (kk) **Related Local Government** means a local government that has entered into an arrangement with the Principal, as contemplated in section 235(f) of the *Local Government Regulation 2012* (Qld), to the effect that the local government may make a contract with a supplier that has been selected by the Principal to be a Preferred Supplier or Pre-qualified Supplier of goods and/or services, as if that local government had itself selected that supplier to be a Preferred Supplier or Pre-qualified Supplier of those goods and/or services.

Procurement Process Conditions

- (ll) **Respondent** means:
- (i) any person who lodges a Response; and
 - (ii) to the extent to which the term can apply to any other person who obtains a copy of any of the Procurement Documents during the Procurement Process, also includes such other persons,
- and includes a Tenderer;
- (mm) **Response** means, where these Procurement Process Conditions are incorporated into an:
- (i) RFEOI, an EOI;
 - (ii) RFT, a Tender; or
 - (iii) RFQ, a Quotation;
- (nn) **Response Closing Time** means the time identified in the General Information as the time by which Responses must be submitted as varied (if at all) pursuant to these Procurement Process Conditions;
- (oo) **Response Form** means in respect of an:
- (i) RFEOI, the document identified as the EOI form in the Response Schedules;
 - (ii) RFT or RFQ:
 - (A) the document identified as the tender form or the quotation form (as the case may be) in the Response Schedules; or
 - (B) otherwise where there is no document identified as the tender form or quotation form, any document (other than a Price Schedule) which states the total price offered by the Respondent in the Response;
- (pp) **Response Schedules** means the schedules identified in Part 5 – Response Schedules of the RFEOI or Part 6 – Response Schedules of the RFT or RFQ (as the case may be);
- (qq) **Response Validity Period** means the period stated in the General Information as the time for which Responses are to be valid as extended (if at all) pursuant to clause 4.5;
- (rr) **RFEOI (or Request for Expressions of Interest)** means the request for expressions of interest issued by the Principal and all documents included in or incorporated by reference into it (including these Procurement Process Conditions and the Scope);
- (ss) **RFQ (or Request for Quotation)** means the request for quotations issued by the Principal and all documents included in or incorporated by reference into it (including these Procurement Process Conditions, the Contract and the Scope);
- (tt) **RFT (or Request for Tender)** means the request for tenders issued by the Principal and all documents included in or incorporated by reference into it (including these Procurement Process Conditions, the Contract and the Scope);
- (uu) **Scope** means the scope described in Part 4 – Scope of the RFEOI or Part 5 – Scope of the RFT or RFQ (as the case may be) and all documents incorporated into it (whether physically or by reference), and includes any amendments provided for in an Addendum;
- (vv) **Sound Contracting Principles** has the meaning given in section 104(3) of the *Local Government Act 2009* (Qld);

Procurement Process Conditions

- (ww) **Specified Loss** means:
- (i) any loss of, or loss of anticipated, profit, income, revenue, saving, production; business, contract or opportunity; increase in financing or operating costs; liability for loss or damage suffered by third parties; legal costs (on a solicitor and client basis); fines levied; loss of reputation or embarrassment and the cost of abating or reducing such; any other financial or economic loss; and
 - (ii) any indirect, special or consequential loss, damage, cost, expense or penalty not expressly referred to in the preceding paragraph, howsoever arising;
- (xx) **Tender** means a Response lodged by a Tenderer in response to an RFT and includes all documents and information lodged with or as part of the tender;
- (yy) **Tender Box** means the website, email address or physical location at which the General Information states that Responses are to be submitted;
- (zz) **Tenderer** means:
- (i) any person who lodges a Tender; and
 - (ii) to the extent to which the term can apply to any other person who obtains a copy of any of the Procurement Documents during the Procurement Process, also includes such other persons,

and words or terms not defined in these Procurement Process Conditions but defined in a Contract have the same meaning as in the Contract, except where the context otherwise requires.

13. GENERAL PROVISIONS

- 13.1 **(Interpretation of Procurement Documents)** The Procurement Documents must be read and construed together and are intended to be mutually explanatory.
- 13.2 **(Joint and several obligations)** An obligation of two or more parties binds them jointly and each of them severally and an obligation incurred in favour of two or more parties is enforceable by them severally.
- 13.3 **(Headings)** Clause headings are for reference purposes only and must not be used in interpretation.
- 13.4 **(No limitation)** The words 'include', 'includes' and 'including' shall be read as if followed by 'without limitation'.
- 13.5 **(Grammatical Forms)** Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form concerning the word or phrase has a corresponding meaning. Words importing the singular number include the plural number and words importing the plural number include the singular number.
- 13.6 **(Time)** References to time are to local time in Queensland. Where time is to be reckoned from a day or event, the day or the day of the event must be excluded. If any time period specified in the Procurement Documents expires on a day which is not a Business Day, the period will expire at the end of the next Business Day.
- 13.7 **(Discretion)** Unless expressly provided otherwise:
- (a) any right of the Principal pursuant to these Procurement Process Conditions may be exercised; and
 - (b) any consent of the Principal required under these Procurement Process Conditions may be given, withheld or given subject to conditions,

Procurement Process Conditions

in the absolute discretion of the Principal without giving reasons and without reference to the Respondent unless, and then only to the extent that the Procurement Process Conditions provide otherwise.

13.8 **(Law)** A reference to 'law' includes:

- (a) legislation (including subordinate legislation), local laws, by-laws, orders, ordinances, awards, requirements and proclamations of an Authority having jurisdiction and any related fees and charges; and
- (b) certificates, licences, accreditations, clearances, authorisations, approvals, consents, and permits and any related fees and charges,

which are applicable to the Procurement Documents, the Procurement Process or the Contract or which are otherwise in force at any place where an obligation under the Contract is to be carried out.

13.9 **(Governing Law)** The Procurement Process is governed by the laws of Queensland and the Commonwealth of Australia which are in force in Queensland. The Principal and the Respondent submit to the jurisdiction of the Courts of Queensland, relevant Federal Courts and Courts competent to hear appeals from them.

13.10 **(Contra proferentem)** The *contra proferentem* rule and other rules of construction will not apply to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.

13.11 **(Rights Cumulative)** The rights and remedies of the Principal and the Respondent provided in the Procurement Process Conditions are cumulative on each other and on any rights or remedies conferred at law or in equity.

13.12 **(Severance)** If a provision of the Procurement Process Conditions is void or unenforceable it must be severed and the provisions that are not void or unenforceable are unaffected by the severance.

13.13 **(No waiver)** No waiver by the Principal of a provision of these Procurement Process Conditions is binding unless made in writing.

13.14 **(Other references)** A reference to:

- (a) a person includes any other legal entity and a reference to a legal entity includes a person;
- (b) the Respondent or the Principal includes their respective heirs, executors, successors and permitted assigns;
- (c) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes email and facsimile;
- (d) a monetary amount is a reference to an Australian currency amount; and
- (e) a measurement or quantity is a reference to an Australian legal unit of measurement as defined under the *National Measurement Act 1960* (Cth).



CONTRACT
(DESIGN AND CONSTRUCT)

Biloela Sewage Treatment Plant (STP) Repair Project

CONTRACT NO: T2324.41

Formal Instrument of Agreement

PARTIES

Banana Shire Council ABN 85 946 116 646 of 62 Valentine Plains Road Biloela in the State of Queensland

(*'the Principal'*)

ACN of , in the State of

(*'the Contractor'*)

RECITALS:

- A. The *Contractor* has submitted an offer to carry out and complete the *WUC* and has given the *Principal* warranties and made representations to the *Principal*.
- B. In reliance on the warranties given and representations made by the *Contractor*, the *Principal* has accepted the *Contractor's* offer.
- C. The parties wish to enter into this *Contract* to record the terms of their agreement.

THE PARTIES AGREE:

1. THE CONTRACT

- 1.1 The *Contract* shall comprise the following documents:
 - (a) this Formal *Instrument of Agreement*;
 - (b) Annexure Part A to AS4902-2000 General conditions of contract for design and construct;
 - (c) Annexure Part E to AS4902-2000 General conditions of contract for design and construct;
 - (d) AS4902-2000 General conditions of contract for design and construct (which form a part of this *Contract* notwithstanding that a copy is not physically incorporated into this *Contract*);
 - (e) Annexure Part F – Specification; will be included once the tender award
 - (f) Annexure Part G – Methodology; will be included once the tender award
 - (g) Annexure Part H – Price Schedule; will be included once the tender award
 - (h) Annexure Part I – Variation Rates; will be included once the tender award and
 - (i) Annexure Part J – Contractor's Statutory Declaration.
- 1.2 The *Contract* constitutes the entire, final and concluded agreement between the parties. It supersedes all prior representations, agreements, statements and understandings between the *Contractor* and the *Principal* (whether oral or in writing).
- 1.3 Where any obligation described in the *Contract* has been carried out by the *Principal* or the *Contractor* prior to the date on which the *Contract* is executed, that obligation shall be taken to have been carried out pursuant to, and the carrying out of that obligation shall be governed by, the *Contract* as if the obligation had been carried out after the *Contract* was executed.

- 1.4 Subject to subclause 8.1, if there is any ambiguity, inconsistency, conflict or discrepancy between any of the documents listed in clause 1.1 of this *Formal Instrument of Agreement* then the ambiguity, inconsistency, conflict or discrepancy shall be resolved by giving precedence to the document which places the highest or more onerous requirement on the *Contractor*. If that does not resolve the issue, then the documents will take precedence in the order set out in clause 1.1 of this *Formal Instrument of Agreement*, with the *Formal Instrument of Agreement* being the highest in the order.

2. INTERPRETATION

- 2.1 The contra proferentem rule and other rules of construction will not apply to the *Contract* to disadvantage a party whether that party put the clause forward, was responsible for drafting all or part of it or would otherwise benefit from it.
- 2.2 To the extent permitted by law, if either party consists of two or more persons the *Contract* binds such persons and their respective executors, administrators, successors and permitted assigns jointly and severally.
- 2.3 Each indemnity provided in the *Contract* is a continuing indemnity which survives the expiration or termination of the *Contract*. The *Principal* need not incur any expense or make any payment in order to rely on an indemnity.
- 2.4 The rights and remedies of a party to the *Contract* are in addition to the rights or remedies conferred on the party elsewhere in the *Contract*, at law or in equity.
- 2.5 If a provision of the *Contract* is void or unenforceable it must be severed from this *Contract* and the provisions that are not void or unenforceable are unaffected by the severance.
- 2.6 In the *Contract* the words 'include', 'includes' and 'including' shall be read as if followed by 'without limitation'.
- 2.7 The *Contract* may be executed in any number of counterparts and when executed communication of the fact of execution to the other party may be made by sending evidence of execution by email. For clarity, the parties consent to the *Contract* being executed electronically using DocuSign or an equivalent electronic method to identify the parties.
- 2.8 A reference in the *Contract* to a *legislative requirement* means a reference to that *legislative requirement* as amended or replaced from time to time.
- 2.9 In Annexure Part A, items or words which have been struck through are deleted from Annexure Part A and items or words which have been underlined have been added to Annexure Part A.

Annexure Part A to AS4902 – 2000

ANNEXURE to the Australia Standard
General conditions of contract for design and
construct
AS4902-2000

PART A

This Annexure shall be completed and issued as part of the tender documents and, subject to any amendments to be incorporated into the *Contract*, is to be attached to the General Conditions of Contract and shall be read as part of the *Contract*.

Item

- | | | |
|----|--|--|
| 1 | <i>Principal</i>
(clause 1) | Banana Shire Council

ABN 85 946 116 646 |
| 2 | <i>Principal's address</i> | 62 Valentine Plains Road Biloela QLD 4715 |
| 3 | <i>Contractor</i>
(clause 1) |
ACN

ABN |
| 4 | <i>Contractor's address</i> | |
| 5 | <i>Superintendent</i>
(clause 1) |
ACN |
| 6 | <i>Superintendent's address</i> | |
| 7* | (a) <i>Date for practical completion</i>
(clause 1) | |
| | OR | |
| | (b) <i>Period of time for practical completion</i>
(clause 1) | (time period as nominated in tender submission) |
| 8 | Governing law
(clause 1(h)) | Queensland

If nothing stated, that of the jurisdiction where the <i>site</i> is located |
| 9 | (a) Currency
(clause 1(g)) | AUD

If nothing stated, that of the jurisdiction where the <i>site</i> is located |
| | (b) Place for payments
(clause 1(g)) | Payments will be made by electronic transfer into the bank account last notified in writing by the <i>Contractor</i> to the <i>Principal</i> . |
| | (c) Not used | |

Annexure Part A to AS4902 – 2000

- | | | |
|-----|---|---|
| 10 | The <i>Principal's project requirements</i> are described in the following documents (clause 1) | <p>1 <i>T2324.41 – Scope</i></p> <p>2 <i>T2324.41– Technical Specification</i></p> <p>3 <i>T2324.41– Technical Specification – Appendices A-D (including concept designs)</i></p> <p>4 <i>T2324.41– General Specification</i></p> |
| 11 | Preliminary design (clause 1) | <p>(a) A <i>preliminary design for the works</i>:</p> <p><input checked="" type="checkbox"/> is included</p> <p><input type="checkbox"/> is not included</p> <p>in the <i>Principal's project requirements</i>.</p> <p>If nothing selected, a <i>preliminary design</i> is not included.</p> <p>(b) The <i>preliminary design</i> documents are:</p> <p><i>Included in T2324.41– Technical Specification & Appendices A-D</i></p> |
| 11A | <u><i>Contract sum</i></u>
(<u>clause 1 and clause 2</u>) | <p><u>The <i>Contract</i> is a:</u></p> <p><input type="checkbox"/> <u><i>schedule of rates contract</i></u></p> <p><input checked="" type="checkbox"/> <u><i>lump sum contract</i></u></p> <p><u>If nothing stated, the <i>Contract</i> is a <i>lump sum contract</i>.</u></p> |
| 12 | Quantities in <i>schedule of rates</i> , limits of accuracy (subclause 2.65(b)) | <p>Upper Limit</p> <p>Lower Limit</p> <p>If nothing stated, upper limit is 120%, lower limit is 80%</p> |
| 13 | <i>Provisional sum</i> , percentage for profit and attendance (clause 3) | No profit and attendance is payable. |
| 14* | <i>Contractor's security</i> | |
| | (a) Form (clause 5) | Two (2) unconditional bank guarantees in equal amounts. |
| | (b) Amount or maximum percentage of <i>contract sum</i> (clause 5) | 5%

If nothing stated, 5% of the <i>contract sum</i> |
| | (c) If retention moneys, percentage of each <i>progress certificate</i> (clause 5 and subclause 37.2) | Nil

If nothing stated, 10% until the limit in <i>Item 14(b)</i> |
| | (d) Time for provision (except for retention moneys) (clause 5) | Within 10 <i>business days</i> after the <i>date of acceptance of tender</i>

If nothing stated, within 10 <i>business days</i> after <i>date of acceptance of tender</i> |

Annexure Part A to AS4902 – 2000

	(e) Additional <i>security</i> for unfixed plant and materials (subclauses 5.4 and 37.3)	Not applicable \$	
	(f) <i>Contractor's security</i> upon <i>certificate of practical completion</i> is reduced by (subclause 5.4)	50% of amount held If nothing stated, 50% of amount held	
15*	<i>Principal's security</i>		
	(a) Form (clause 5)	Not applicable	
	(b) Amount or maximum percentage of <i>contract sum</i> (clause 5)	Not applicable If nothing stated, nil	
	(c) Time for provision (clause 5)	Not applicable If nothing stated, within 20 <i>business days</i> after the <i>date of acceptance of tender</i>	
	(d) <i>Principal's security</i> upon <i>certificate of practical completion</i> is reduced by (subclause 5.4)	Not applicable If nothing stated, 50% of amount held	
16	<i>Principal-supplied documents</i> (subclause 8.2)	Document Copy of Contract	No. of copies 1
		If nothing stated, 5 copies of the drawings, specification, <i>bill of quantities</i> or <i>schedule of rates</i> (if any)	
17	Documents, numbers of copies, and the times or stages at which they are to be supplied by the <i>Contractor</i> (subclause 8.3)		
	Document	No. of copies	Time/stage
18	Time for <i>Superintendent's direction</i> about documents (subclause 8.3)	If nothing stated, 10 <i>business days</i>	
19	Subcontracting (subclause 9.2)	<i>Work by consultants</i>	<i>Work by others</i>
		The whole or any part of <i>WUC</i>	The whole or any part of <i>WUC</i>

Annexure Part A to AS4902 – 2000

20	Novation (subclause 9.4)	<i>Subcontractor or selected subcontractor</i> as the case may be	Particular part of the <i>preliminary design or selected subcontract work</i> , as the case may be
		Not applicable	Not applicable
21	<i>Intellectual property rights</i> granted to the <i>Principal</i> , the Alternative applying (subclause 10.2)	Alternative 1 If nothing stated, Alternative 1 applies	
22	<i>Legislative requirements</i>		
	(a) Those excepted (subclause 11.1)	None excepted	
	(b) Identified <i>WUC</i> (subclause 11.2(a)(iii))		
22A	<u>Portable long service</u> (subclause 11A.1)	The: <input checked="" type="checkbox"/> <u>Principal</u> <input type="checkbox"/> <u>Contractor</u> is to make payments and give notices under the <u>Building and Construction Industry (Portable Long Service Leave) Act 1991 (Qld)</u> If nothing selected the <i>Contractor</i> is to do so	
22B	<u>Work, health and safety</u> (Clause 12A) <u>Engagement as principal contractor</u>	<u>The Contractor:</u> <input checked="" type="checkbox"/> <u>is engaged</u> <input type="checkbox"/> <u>is not engaged</u> <u>as principal contractor under the Work Health and Safety Regulation 2011 (Qld).</u> If nothing selected, the <i>Contractor</i> is not appointed as <i>principal contractor</i> .	
22C	<u>The Contractor's liability is limited to</u> (clause 1 and clause 15A)	_____ If nothing stated, the <i>Contractor's</i> liability is not limited	
22D	<u>The Principal's liability is limited to</u> (clause 1 and clause 15A)	<u>Nil</u> If nothing stated, the <i>Principal's</i> liability is limited to the amount of the <i>contract sum</i> as adjusted pursuant to the <i>Contract</i> .	
23	Insurance of the Works (clause 16A)		

Annexure Part A to AS4902 – 2000

- (a) Alternative applying Alternative 1
If nothing stated, Alternative 1 applies
- If Alternative 1 applies
- (b) Provision for demolition and removal of debris \$
OR
10% of the *contract sum*
- (c) Provision for *consultants' fees* and *Principal's consultants' fees* \$
OR
10% of the *contract sum*
- (d) Value of materials or things to be supplied by the *Principal* Nil
- (e) Additional amount or percentage \$
OR
10% of the total of paragraphs (a) to (d) in clause 16A
- 24 Professional indemnity insurance (clause 16B and subclause 9.2(d))
- (a) Levels of cover of *Contractor's* professional indemnity insurance shall be not less than \$
If nothing stated, \$5,000,000
- (b) Period for which *Contractor's* professional indemnity insurance shall be maintained after issue of the *final certificate* If nothing stated, 6 years
- (c) Categories of *consultants* and levels of cover of *consultants' professional indemnity insurance*
- | Category | Levels of cover |
|-------------------|--------------------------------|
| Design Consultant | \$5,000,000 |
| RPEQ | \$5,000,000 |
| | If nothing stated, \$1,000,000 |
- (d) Period for which each *consultant's* professional indemnity insurance shall be maintained after issue of the *final certificate* If nothing stated, 6 years
- 25 Public liability insurance (clause 17)
- (a) Alternative applying Alternative 1
If nothing stated, Alternative 1 applies

Annexure Part A to AS4902 – 2000

If Alternative 1 applies

(b) Amount per occurrence shall be not less than Twenty million dollars
\$20,000,000
If nothing stated, then not less than \$20,000,000

25A Key Personnel
(Clause 23A)

Name Role Period

26 (a) Time for giving access (subclause 24.1) Within 20 *business days* after the *date of acceptance of tender*
If nothing stated, within 10 *working days* after the *date of acceptance of tender*

(b) Time for giving possession (subclause 24.1) Within 20 *business days* after the *date of acceptance of tender*
If nothing stated, within 10 *working days* after the *date of acceptance of tender*

26A Working days and working hours
(clause 31)

Working days **Working hours**

Monday to Friday 7am to 6pm

Saturday 7am to 4pm

but shall not include:

- a) a public holiday, special holiday or bank holiday at the site;
- b) 22 December to 10 January in any year; or
- c) any other day which the Contract elsewhere provides is a day on which work cannot be carried out

27 The information, materials, documents or instructions and the times by, or periods within which they are to be given to the *Contractor*
(clause 32)

Documents or instructions Times/Periods

28 *Qualifying causes of delay, causes of delay for which EOTs will not be granted*
~~(paragraph (b)(iii) of clause 1 and subclause 34.3)~~

- 1) change in legislative requirements that satisfies the requirements of subclause 11.2;
- 2) variations directed under subclause 36.1;
- 3) A latent condition notified in accordance with clause 25;
- 4) State or nationwide industrial conditions occurring before the date of practical completion;
- 5) inclement weather occurring before the date for practical completion and the effects of inclement weather which, in the Superintendent's opinion, prevents WUC on the critical path from being undertaken on the Site for more than four hours;
- 6) delay obtaining an approval from government authority such as delays not due to an act, default

Annexure Part A to AS4902 – 2000

or omission of the Contractor or employees, agents or Subcontractors; or

7) suspension of WUC pursuant to subclause 33.1 where the suspension is not caused by an act, default or omission of the Contractor or its Subcontractors, employees or agents;

But excludes:

a) any cause of delay within the reasonable control of the Contractor and/or its Subcontractors;

b) any cause of delay caused or contributed by Contractor failing to comply with its obligations under the Contract;

c) any cause of delay which does not affect the Contractor's critical path for completion of Works; and

d) any act, default or omission of the Contractor's employees, agents and/or Subcontractors.

29*	Liquidated damages, rate (subclause 34.7)	\$2,950 per day								
30*	Bonus for early <i>practical completion</i> (subclause 34.8)	Not applicable								
	(a) Rate	per day								
	(b) Limit	\$								
		OR								
		% of <i>contract sum</i>								
		If nothing stated, there is no waiver								
31*	Other <i>compensable causes</i> (page 1, clause 1 and subclause 34.9)	No other <i>compensable causes</i>								
31A*	<u>Delay costs, limit per <i>working day</i></u> (subclause 34.9)	<u>Up to maximum of \$500 per working day</u> <u>If nothing stated, \$500 per <i>working day</i></u>								
32	<i>Defects liability period</i> (clause 35)	12 months If nothing stated, 12 months								
32A	<u>Variations, percentage for profit and overheads</u> (subclause 36.4)	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;"><u>Profit</u></td> <td style="width: 50%;"><u>5%</u></td> </tr> <tr> <td></td> <td><u>If nothing stated 5%</u></td> </tr> <tr> <td><u>Overheads</u></td> <td><u>5%</u></td> </tr> <tr> <td></td> <td><u>If nothing stated 5%</u></td> </tr> </table>	<u>Profit</u>	<u>5%</u>		<u>If nothing stated 5%</u>	<u>Overheads</u>	<u>5%</u>		<u>If nothing stated 5%</u>
<u>Profit</u>	<u>5%</u>									
	<u>If nothing stated 5%</u>									
<u>Overheads</u>	<u>5%</u>									
	<u>If nothing stated 5%</u>									
33	Progress Claims (subclause 37.1)									
	(a) Times for progress claims	Within seven (7) days after the end of each month in which <i>WUC</i> is carried out up to and including the month in which <i>practical completion</i> is reached, for work done to the last day of the month								

Annexure Part A to AS4902 – 2000

OR

	(b) Stages of <i>WUC</i> for progress claims	
34	Unfixed plant and materials for which payment claims may be made (subclause 37.3)	Nil
35	Interest rate on overdue payments (subclause 37.5)	3 % per annum If nothing stated, 18% per annum
36	(a) Time for <i>Principal</i> to rectify inadequate access (subclause 39.7(a)(iii))	25 <i>working days</i> If nothing stated, 25 <i>working days</i>
	(b) Time for <i>Principal</i> to rectify inadequate possession (subclause 39.7(a)(iv))	25 <i>working days</i> If nothing stated, 25 <i>working days</i>
37	Not used	

*If applicable, delete and instead complete equivalent Item in the separable portions section of the Annexure Part A.

Annexure Part A Separable Portions

Part A

Separable Portions

- This section should be completed only if the *Contract* provides for *separable portions*.
- Complete separate pages for each *separable portion*, which should be numbered appropriately. Any balance of the *Works* should also be a *separable portion*.

Separable portion
(clause 1)

No.

Description of *separable portion*
(clause 1)

Item

7 (a) *Date for practical completion*
(clause 1)

OR

(b) *Period of time for practical completion*
(clause 1)

14 *Contractor's security*

(a) Form (clause 5) Two (2) unconditional bank guarantees in equal amounts.

(b) Amount or maximum percentage value of this *separable portion* (clause 5) 5%
If nothing stated, 5% of the value of this *separable portion*

(c) If retention moneys, percentage of each *progress certificate* applicable to this *separable portion* (clause 5 and subclause 37.2) Nil
If nothing stated, 10% until the limit in *Item 14(b)*

(d) Time for provision (except for retention moneys) (clause 5) Within 10 *business days* after the *date of acceptance of tender*
If nothing stated, within 10 *business days* after *date of acceptance of tender*

(e) Additional *security* for unfixed plant and materials Not applicable
\$

Annexure Part A Separable Portions

	(subclauses 5.4 and 37.3)	
	(f) Contractor's <i>security upon certificate of practical completion</i> is reduced by	50% of amount held
	(subclause 5.4)	If nothing stated, 50% of amount held
15	<i>Principal's security</i>	
	(a) Form (clause 5)	Not applicable
	(b) Amount or maximum percentage value of this <i>separable portion</i> (clause 5)	Not applicable If nothing stated, nil
	(c) Time for provision (clause 5)	Not applicable If nothing stated, within 20 <i>business days</i> after the <i>date of acceptance of tender</i>
	(d) <i>Principal's security upon certificate of practical completion</i> is reduced by (subclause 5.4)	Not applicable If nothing stated, 50% of amount held
29	Liquidated damages, rate (subclause 34.7)	per day
30	Bonus for early <i>practical completion</i> (subclause 34.8)	Not applicable
	(a) Rate	per day
	(b) Limit	\$
		OR
		% of the value of this <i>separable portion</i> If nothing stated, there is no waiver
31	Other <i>compensable causes</i> (page 1, clause 1 and subclause 34.9)	No other <i>compensable causes</i>
31A	<u>Delay costs, limit per working day</u> (subclause 34.9)	_____ <u>If nothing stated, \$500 per working day</u>

Annexure Part E to AS4902 – 2000

Part E

Annexure to the
Australian Standard General Conditions of Contract for Design and Construct

Deletions, amendments and additions

1. The following clauses have been deleted from AS4902-2000

See below

2. The following clauses have been amended and differ from the corresponding clauses in AS4902-2000

See below

3. The following clauses have been added to those of AS4902-2000

See below

1 INTERPRETATION AND CONSTRUCTION OF CONTRACT

Delete the definition of '*bill of quantities*' and replace with:

'bill of quantities means a *price schedule*;

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

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

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

'business day means:

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

Insert a new definition of '*claim*':

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

Insert a new definition of '*claimable amount*':

'claimable amount means:

- (a) the value of *work* carried out by the *Contractor* in the performance of the *Contract* which the *Contractor* is entitled to include in a progress claim; and

Annexure Part E to AS4902 – 2000

- (b) amounts otherwise due from the *Principal* to the *Contractor* pursuant to the *Contract*;

Insert a new definition of '*compensable direction*':

'compensable direction' means a *direction* pursuant to subclause 8.1 that is necessitated solely because of an inconsistency, ambiguity, discrepancy or error in a part of the *Principal's project requirements* prepared by or on behalf of the *Principal* and which could not have been identified by a competent contractor at the time of the *Contractor's* tender if that contractor had inspected:

- (a) all written information made available by the *Principal* to the *Contractor* for the purpose of tendering;
- (b) all information influencing the risk allocation in the *Contractor's* tender and reasonably obtainable by the making of reasonable enquiries; and
- (c) the *site* and its near surrounds;

Insert a new definition of '*conflict of interest*':

'conflict of interest' means any actual, potential or perceived conflict between the interests of the *Contractor* and the *Contractor's* obligations under the *Contract*;

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

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

Delete the definition of '*contract sum*' and replace with:

'contract sum' means

- (a) where *Item 11A* states that the *Contract* is a *lump sum contract*, the sum of the lump sums contained in the *price schedule*; or
- (b) where *Item 11A* states that the *Contract* is a *schedule of rates contract*:
- (i) the sum of the products ascertained by multiplying the rates by the corresponding quantities in the *price schedule*; plus
- (ii) any lump sums contained in the *price schedule*,

including *provisional sums* but excluding additions or deductions which may be required to be made under the *Contract*;

Insert a new definition of '*Councillor*':

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

Delete the definition of '*date of acceptance of tender*' and insert:

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

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

Annexure Part E to AS4902 – 2000

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

Insert a new definition of '*Formal Instrument of Agreement*':

'Formal Instrument of Agreement means the document of that name forming part of the *Contract*;

Insert a new definition of '*improper conduct*':

'improper conduct means:

- (a) engaging in misleading or deceptive conduct;
- (b) engaging in any collusive tendering, anticompetitive conduct, or any other unlawful or unethical conduct;
- (c) failing to declare a *conflict of interest* in breach of subclause 2A.2;
- (d) canvassing, attempting to improperly influence, offering any inducement to, or accepting or inviting improper assistance from, the *Principal's Councillors* or other *personnel* (or former *personnel*);
- (e) using any information improperly obtained, or obtained in breach of any obligation of confidentiality;
- (f) engaging in aggressive, threatening, abusive, offensive or other inappropriate behaviour or committing a criminal offence; or
- (g) engaging in conduct contrary to sections 199 and 200 of the *Local Government Act 2009* (Qld);'

Insert a new definition of '*informal variation direction*':

'informal variation direction means a *direction* by the *Superintendent* for a *variation* which is either:

- (a) not in writing; or
- (b) in writing but which does not expressly state that it is a *direction* for a *variation* pursuant to clause 36;'

Insert a new definition of '*liability limit*':

'liability limit means:

- (a) in respect of the *Contractor*, the sum of:
 - (i) the amount specified in *Item 22C*; and
 - (ii) the amount of any excess payable under a policy of insurance required to be effected and maintained by the *Contractor* under the *Contract*; and
- (b) in respect of the *Principal*, the sum of:
 - (i) the amount specified in *Item 22D*; and

Annexure Part E to AS4902 – 2000

- (ii) the amount of any excess payable under a policy of insurance required to be effected and maintained by the *Principal* under the *Contract*;

Insert a new definition of '*lump sum contract*':

'lump sum contract' means a contract to which subclause 2.5 applies;

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

'payment period' means:

- (a) if the *Contract* is a *building contract*, 15 *business days*;
- (b) otherwise, 25 *business days*,

after the progress claim or *final payment claim* (as the case may be) is given to the *Superintendent*;

Insert a new definition of '*payment schedule*':

'payment schedule' has the same meaning as in the *security of payment legislation*;

Insert a new definition of '*personal information*':

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

Insert a new definition of '*personnel*':

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

Insert a new subparagraph at the end of the definition of '*practical completion*':

- (d) anything else which the *Contract* provides is to be done, provided or otherwise satisfied as a requirement of or prior to *practical completion* has been so done, provided or satisfied;

Delete the definition of '*prescribed notice*' and insert:

'prescribed notice' means a written notice which contains:

- (a) details of the basis of the *claim*; and
- (b) a detailed itemised breakdown of the quantum of the *claim*, or, where the quantum cannot be itemised at the time that the *prescribed notice* is given because the costs are not yet known, an itemised breakdown of the estimated quantum of the *claim*;

Insert a new definition of '*price schedule*':

'price schedule' means the documents incorporated into Annexure Part H;

Annexure Part E to AS4902 – 2000

Insert a new definition of '*Principal's policies*':

'Principal's policies' means the *Principal's* plans, policies, procedures, codes, standards and guidelines to the extent that these are made available by the *Principal* (whether to the public at large or to the *Contractor*) from time to time;

Insert a new definition of '*provisional work*':

'provisional work' means:

- (a) any *work* or item to which a *provisional sum* relates; and
- (b) any other *work* or item which is identified in the *Contract* as 'provisional', 'if ordered', 'as directed' 'optional' or similar or which the *Contract* otherwise provides is not to be carried out or supplied by the *Contractor* unless the *Contractor* is given a *direction* to do so;

Delete the definition of '*qualifying cause of delay*' and insert:

'qualifying cause of delay' means to the extent that they delay activities on the critical path of the *program*:

- (a) any of the following, which are beyond the control of the *Contractor* occurring on or before the *date for practical completion*:
 - (i) industrial action not exclusively directed at the *Contractor*;
 - (ii) inclement weather and the effects at the *site* of inclement weather;
- (b) any of the following which are beyond the control of the *Contractor* whether occurring before, on or after the *date for practical completion*:
 - (i) any act, default or omission of the *Superintendent*, the *Principal* or the *Principal's* consultants, agents or other contractors (not being employed by the *Contractor*);
 - (ii) actual quantities of *work* being greater than the quantities in the *price schedule* or the quantities determined by reference to the upper limit of accuracy stated in *Item 12* (otherwise than by reason of a *variation* directed under clause 36);
 - (iii) *variations* (other than a *variation* for the convenience of the *Contractor*);
 - (iv) *latent conditions*;
 - (v) a change in a *legislative requirement* which comes into effect after the 10th *business day* before the closing of tenders and which could not have been reasonably anticipated by a competent contractor;
 - (vi) delays by municipal, public, or statutory authorities (including the *Principal* in its capacity as a local government authority);
 - (vii) claims referred to in subclause 15.1(d);
 - (viii) any breach of the *Contract* by the *Principal*,

but does not include any cause of delay identified in *Item 28*;

Annexure Part E to AS4902 – 2000

Insert a new definition of '*required deductions*':

'required deductions means:

- (a) amounts paid previously under the *Contract*;
- (b) retention moneys to be deducted pursuant to *Item 14*;
- (c) amounts which the *Superintendent* is required to certify pursuant to subclause 5.1A;
- (d) other amounts due from the *Contractor* to the *Principal* in connection with the *Contract*;
- (e) amounts due from the *Contractor* to the *Principal* otherwise than in connection with the *Contract*;
- (f) to the extent that such *work* has not yet been carried out by the *Contractor* and the cost of such *work* has not yet been incurred by the *Principal*, the estimated cost to the *Principal* of having any *work* of removal, demolition, redesign, reconstruction, replacement, correction or rectification the subject of a *direction* pursuant to subclause 29.3 or clause 35 carried out by a third party;
- (g) amounts in respect of *work* which is required by the *Contract* to be tested and for which any of the following conditions have not been met:
 - (i) all required *tests* have been completed;
 - (ii) the results of the *tests* do not reveal a failure of the *Contractor* to comply with the *Contract*;
- (h) the *Contractor* has made good *WUC* and provided the results of the *tests* to the *Superintendent* and to the *Principal* in accordance with subclause 30.6; and
- (i) other amounts which the *Contract* expressly provides are *required deductions* or which the *Contract* expressly entitles the *Principal* or the *Superintendent* to deduct from payments to the *Contractor*;

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

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

Delete the definition of '*schedule of rates*' and insert:

'schedule of rates means a *price schedule*;

Insert a new definition of '*schedule of rates contract*':

'schedule of rates contract means a contract to which subclause 2.6 applies;

Delete paragraphs c) and d) of the definition of '*security*';

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

'security of payment legislation means the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) and any associated subordinate legislation;

Insert a new definition of '*specified loss*':

Annexure Part E to AS4902 – 2000

'specified loss means:

- (a) any loss of, or loss of anticipated, profit, income, revenue, saving, production; business, good will, contract or opportunity (including access to markets); increase in financing or operating costs; liability for loss or damage suffered by third parties; legal costs (on a solicitor and client basis); fines levied; loss of reputation or embarrassment and the cost of abating or reducing such; damage to credit rating; any other financial or economic loss; and
- (b) any indirect, special or consequential loss, damage, cost, expense or penalty not expressly referred to in the preceding paragraph, howsoever arising;

Insert a new definition of '*variation rates*':

'variation rates means the rates included in Annexure Part I;

Insert a new definition of '*wilful misconduct*':

'wilful misconduct means an intentional act or omission by a party committed with reckless disregard for its foreseeable and potentially harmful consequences, in circumstances where that party knows or ought to know that those consequences would likely result from the act or omission, but which is not due to an honest mistake oversight, error of judgement, accident or negligence;

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

'working day means a day identified as such in *Item 26A*;

2 NATURE OF CONTRACT

Delete the existing text of subclause 2.1 and replace with:

2.1 The *Contractor* shall carry out and complete *WUC* in accordance with the *Contract* and *directions* authorised by the *Contract* and shall otherwise comply with its obligations under the *Contract* at its expense.

The *Principal* shall pay the *Contractor*:

- (a) for *work* described in the *price schedule* as a 'rate only' item, the sum of the products ascertained by multiplying the measured quantity of each section or item of *work* actually carried out under the *Contract* by the rate accepted by the *Principal* for the section or item; and
- (b) for all other *work* (including *work* for which the *price schedule* provides a lump sum), the lump sum identified in the *price schedule*,

adjusted by any additions or deductions made pursuant to the *Contract*.

Notwithstanding anything else in this clause, where the *price schedule* or the *Contract* elsewhere contains provisions for determining the *Contractor's* entitlement to payment for an item then the *Contractor's* entitlement to payment for that item shall be determined in accordance with such provisions.'

Delete subclauses 2.4 and 2.5 insert:

2.4 **(Price schedule)** Quantities in a *price schedule* are estimated quantities only. The *Superintendent* is not required to give a *direction* by reason of the actual quantity of an item required to perform the *Contract* being

Annexure Part E to AS4902 – 2000

greater or less than the quantity shown in a *price schedule*.

The *Principal* gives no warranty and makes no representation as to the completeness, accuracy or adequacy of a *price schedule*. If a *price schedule* omits an item which should have been included, the item shall be deemed to have been allowed for in other items.

- 2.5 **(Adjustment for actual quantities – lump sum contract)** This subclause 2.5 only applies where *Item 11A* states that the *Contract* is a *lump sum contract*.

Where, otherwise than by reason of a direction to vary *WUC*, the actual quantity of an item required to perform the *Contract* is greater or less than the quantity shown in the *price schedule* and:

- (a) the *price schedule* expressly describes the item as a 'rate only' item, the rate shall apply to the greater or lesser quantities provided that where limits of accuracy for a quantity in a *price schedule* are stated in *Item 12*, the rate shall apply to the greater or lesser quantities within the limits, and quantities outside the limits shall be a deemed *variation*; and
- (b) otherwise (including where the *price schedule* expressly provides a lump sum for the item) the *Contractor* shall carry out that greater or lesser quantity as if it were originally stated in the *Contract* and there shall be no adjustment to the *contract sum*.

- 2.6 **(Adjustment for actual quantities – schedule of rates contract)** This subclause 2.6 only applies where *Item 11A* states that the *Contract* is a *schedule of rates contract*.

Where, otherwise than by reason of a *direction* to vary *WUC*, the actual quantity of an item required to perform the *Contract* is greater or less than the quantity shown in a *price schedule* and:

- (a) the *price schedule* contains a lump sum for the item, the difference shall be a deemed *variation*;
- (b) the *price schedule* contains a rate for the item, the rate shall apply to the greater or lesser quantities provided that where limits of accuracy for a quantity in a *price schedule* are stated in *Item 12*, the rate shall apply to the greater or lesser quantities within the limits, and quantities outside the limits shall be a deemed *variation*.

- 2.7 **(Rise and fall)** The *contract sum* is not subject to adjustment for variations in the cost of labour and materials unless, and then only to the extent that, the *Contract* expressly elsewhere provides that such an adjustment is to be made and states the formula by which that adjustment is to be calculated.

- 2.8 **(Inclusions)** Except to the extent that the *Contract* expressly allows an adjustment, the *Contractor* warrants and represents that the *contract sum*, and all rates, sums and prices included in the *contract sum* allow for:

- (a) all of the risks, contingencies and other circumstances which could have an effect on the *Contractor's* ability to carry out and complete *the Works* for the *contract sum*, except to the extent that the *Contract* expressly allows an adjustment;
- (b) the provision of all materials, plant, labour and other services necessary for the proper completion of *the Works*, whether or not those items are expressly mentioned in the *Contract*;

Annexure Part E to AS4902 – 2000

- (c) payment of all royalties, levies, fees, charges, costs, expenses, taxes or duties in connection with *WUC*; and
- (d) compliance with all of the *Contractor's* obligations under the *Contract*, including compliance with *directions* of the *Superintendent*.'

2A CONDUCT OF CONTRACTOR AND PERSONNEL

Insert a new clause 2A as follows:

'2A CONDUCT OF CONTRACTOR AND PERSONNEL

- 2A.1 **(General)** The *Contractor* must, and must ensure that its *personnel*, at all times whilst engaged in *WUC* act professionally and treat all of the *Principal's* *personnel*, other contractors and the general public respectfully and comply with all of the *Principal's* *policies*.
- 2A.2 **(Conflict of interest)** The *Contractor* warrants and represents that as at the *date of acceptance of tender* the *Contractor* is not aware of any *conflict of interest*. The *Contractor* must not, and must ensure that its *personnel* do not, engage in any activity or obtain any interest which does, or is likely to, result in a *conflict of interest* during the *Contract* and must immediately notify the *Principal* in the event that a *conflict of interest* that has not previously been disclosed arises or is likely to arise.
- 2A.3 **(Improper Conduct)** The *Contractor* warrants and represents that neither the *Contractor* nor any of its *personnel* engaged in any *improper conduct* in connection with the procurement process pursuant to which the parties entered into the *Contract*. The *Contractor* must not, and must ensure that its *personnel* do not, engage in any *improper conduct* in connection with the *Contract*.'

3 PROVISIONAL SUMS

Insert the following at the end of clause 3:

'The *Superintendent* shall not be obliged to give a *direction* that any *provisional work*, or any particular part or quantity of *provisional work*, be carried out or supplied by the *Contractor*. The *Principal* may carry out or supply the whole or any particular part or quantity of *provisional work* itself or engage a third party to do so on its behalf. The *Contractor* shall not be entitled to any monetary compensation (whether for costs incurred, lost profit, lost overheads or otherwise) in connection with any *provisional work* (or any particular part or quantity of *provisional work*) which it is not directed to carry out or supply. Unless the *Contract* elsewhere provides how particular *provisional work* is to be valued, it shall be valued in accordance with this clause 3 as if it were identified as a *provisional sum*.'

5 SECURITY

Insert the following at the end of subclause 5.1:

'Where, due to adjustments made pursuant to the *Contract*, the *contract sum* is increased by more than 10%, the *Superintendent* may direct the *Contractor* to provide additional *security*. Unless the parties agree otherwise, the additional *security* shall be:

- (a) in the form stated in *Item 14*;
- (b) in an amount no more than is necessary to ensure that the total *security* held by the *Principal* is equivalent to the percentage stated in *Item 14(b)* of the *contract sum* as adjusted at the time of the *direction*; and

Annexure Part E to AS4902 – 2000

(c) provided within 10 *business days* of the *Superintendent's direction*.'

Insert a new subclause 5.1A as follows:

5.1A Failure to provide security

Without limiting the *Principal's* other rights, unless and until the *Contractor* provides *security* (other than retention moneys) in accordance with subclause 5.1:

- (a) the *Superintendent* shall certify, as a *required deduction*, an amount equal to the value of the *security* which has not been provided; and
- (b) the *Principal* shall be entitled to hold that amount as *security*.

The *Principal* shall release and return any amounts held under this subclause 5.1A within 10 *business days* after *Contractor* provides the *security* in accordance with subclause 5.1.'

Delete the existing text of subclause 5.3 and replace with:

'The *Contractor* may at any time request the *Principal's* consent to substitute retention moneys or cash *security* with another form of *security*. The *Principal* may, at its absolute discretion give or withhold consent or give consent subject to such conditions as the *Principal* sees fit. To the extent that another form of *security* is provided, the *Principal* shall not deduct, and shall promptly release and return, retention moneys and cash *security*.'

Delete the existing text of subclause 5.4 and replace with:

'To the extent permitted by law, upon the later of:

- (a) the issue of the *certificate of practical completion*; and
- (b) in respect of *security* under *Item 14* only, the rectification of all *defects* in respect of which the *Superintendent* has given the *Contractor* written notice either in, or prior to the issue of, the *certificate of practical completion*,

a party's entitlement to *security* (other than in *Item 14(e)*) shall be reduced by the percentage or amount in *Item 14(f)* or *15(d)* as applicable, and the reduction shall be released and returned within 10 *business days* to the other party.

The *Principal's* entitlement to *security* in *Item 14(e)* shall cease 10 *business days* after incorporation into *the Works* of the plant and materials for which that *security* was provided.

A party's entitlement otherwise to *security* shall cease 10 *business days* after the last of the following to occur:

- (i) the issue of the *final certificate*;
- (ii) in respect of *security* under *Item 14* only, compliance by the *Contractor* with all *directions* given under subclause 29.3 or clause 35 (other than *directions* which have been the subject of a *notice of dispute*); and
- (iii) the resolution (whether pursuant to clause 42 or otherwise) of any *dispute* the subject of a *notice of dispute* referred to in subclause 37.4(d).'

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6 EVIDENCE OF CONTRACT

Delete the existing text of clause 6 and replace with:

'Within the time reasonably required by the *Principal* (or where the *Principal* does not prescribe a time, 10 *business days*) after receiving a copy of a *Formal Instrument of Agreement* for execution ('*execution copy*'), the *Contractor* shall either:

- (a) properly execute the number of copies provided and return them; or
- (b) provide the *Principal* with written notice of any aspect of the *execution copy* which the *Contractor* considers is in error or which does not reflect the agreement between the *Principal* and the *Contractor*.

If the *Contractor*:

- (i) does not give the *Superintendent* the written notice required by subclause 6(b) within the time required by that subclause; or
- (ii) the *Contractor* commences *work* after receiving the *execution copy* and before giving the *Principal* the written notice required by subclause 6(b),

then the *Contractor* shall be deemed to have accepted and agreed to, and shall be legally bound by, the terms of the contract as evidenced by the *execution copy*.

Otherwise, until a *Formal Instrument of Agreement* is executed by the parties, documents evidencing the parties' consensus shall constitute the *Contract*.

Within 25 *business days* after receiving executed copies of the *Formal Instrument of Agreement* from the *Contractor*, the *Principal* shall execute both copies and send one copy to the *Contractor*.

The *Superintendent* may extend the time under this clause by written notice to the parties.'

7 SERVICE OF NOTICES

Insert an additional subclause 7(b)(iv) (together with any consequential amendments) at the end of subclause 7(b) as follows:

- '(iv) the time at which an email comprising or attaching the notice or other document becomes capable of being retrieved and read by the addressee at the addressee's email address.

Notwithstanding anything else in this clause 7, where the *Contract* elsewhere prescribes the manner in which a particular notice is to be given, then such a notice shall only be deemed to have been given and received if given in the prescribed manner.'

8 CONTRACT DOCUMENTS

Delete the existing text of subclause 8.1 and replace with:

'Figured shall prevail over scaled dimensions in a discrepancy. Otherwise, if either party discovers any inconsistency, ambiguity or discrepancy in or between any document prepared for the purpose of carrying out *WUC* (including the documents incorporated into Annexure Parts F and G), that party shall give the *Superintendent* written notice of it. The *Superintendent*, thereupon, and upon otherwise becoming

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aware, shall direct the *Contractor* as to the interpretation and construction to be followed.

The *Principal* shall not be liable upon any *claim* for compliance with a *direction*, under this subclause 8.1 unless the *direction* is a *compensable direction* and either:

- (a) the *direction* expressly states that it is a *compensable direction* pursuant to this subclause 8.1; or
- (b) the *Contractor* gives the *Superintendent* a written notice which identifies the *direction* and states that the *Contractor* considers that the *direction* is a *compensable direction* within 5 *business days* after the *direction* is given to the *Contractor*.

The *Contractor* must promptly give the *Superintendent* such additional information as the *Superintendent* reasonably requires in relation to a notice given under paragraph (b).

Subject to the *Contractor's* compliance with this clause and clause 41, if compliance with a *compensable direction* causes the *Contractor* to incur more cost than otherwise would have been incurred had the *direction* not been given, the difference shall be assessed by the *Superintendent* and added to the *contract sum*.

If compliance with any *direction* under this subclause 8.1 (including a *compensable direction*) causes the *Contractor* to incur less cost than otherwise would have been incurred had the *Contractor* not been given the *direction*, then the difference shall be assessed by the *Superintendent* and deducted from the *contract sum*.¹

Delete the existing text of subclause 8.5 and insert:

'The parties shall ensure that there are kept confidential such documents, samples, models, patterns and other information as are supplied and clearly identified as confidential or which are, of their nature, confidential.

If required in writing by the *Principal*, the *Contractor* shall enter into a separate agreement not to disclose to anyone else any confidential matter even after issue of the *final certificate* or earlier termination of the *Contract*.

Notwithstanding anything else in this subclause 8.5 or elsewhere in the *Contract*, documents and information provided on behalf of a party to the other party in connection with the *Contract* may be used, copied, modified or disclosed as required or permitted by any *legislative requirement* or other law and otherwise:

- (a) by the *Principal*, as the *Principal* considers to be reasonably necessary to:
 - (i) carry out its obligations and exercise its rights under the *Contract*;
 - (ii) obtain legal, accounting or other professional advice in connection with the *Contract*; and/or
 - (iii) otherwise properly carry out its functions as a local government authority;
- (b) by the *Contractor*, as is reasonably necessary to enable the *Contractor* to:
 - (i) carry out its obligations and exercise its rights under the *Contract*;
 - (ii) obtain legal, accounting or other professional advice in connection with the *Contract*; and
 - (iii) comply with the *Contractor's* corporate governance requirements.

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If the *Contractor* is required by law to disclose confidential information of the *Principal*, the *Contractor* must notify the *Principal* of this prior to making such disclosure and must only disclose the minimum amount of information required to meet its obligation to disclose.

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

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

Insert the following at the end of subclause 8.6:

'The *Principal* may organise official media releases for publication in relation to the *Works*. The *Contractor* shall provide any assistance that may be reasonably requested by the *Principal* to facilitate the production of any such media releases.'

9 ASSIGNMENT AND SUBCONTRACTING

Insert the following at the end of subclause 9.2:

'For the purposes of this subclause 9.2, the *subcontractors* which the *Contractor* nominated in its tender (as amended by post-tender negotiation) are approved by the *Superintendent*. In considering whether to approve a request by the *Contractor* to use other *subcontractors*, the *Superintendent* may, in addition to any other matter which the *Superintendent* is entitled to consider, also take into account whether the proposed *subcontractor* is:

- (a) a local supplier (as defined in the *Principal's* procurement policy as published at the *date of acceptance of tender*); or
- (b) at least 50% owned by Aboriginal or Torres Strait Islander persons,

and if not, whether such a supplier is available to undertake the *work* which is proposed to be subcontracted.'

11A SPECIFIC LEGISLATION AND OTHER REQUIREMENTS

Insert new clause 11A as follows:

'11A SPECIFIC LEGISLATION AND OTHER REQUIREMENTS

11A.1 (**Portable Long Service Leave**) The party identified in *Item 22A* shall pay any levy payable and give any relevant notices pursuant to the *Building*

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and Construction Industry (Portable Long Service Leave) Act 1991 (Qld) in relation to WUC.

- 11A.2 **(Goods and Services Tax)** If GST, as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth), is imposed on any supply made pursuant to this *Contract*, the amount payable for the supply is to be increased by the amount of that GST.
- 11A.3 **(Local government)** Nothing in the *Contract* shall be taken to fetter the power, rights or authority of the *Principal* as a local government authority under the *Local Government Act 2009* (Qld), the *Local Government Regulation 2012* (Qld) or any other *legislative requirement*.
- 11A.4 **(Compliance)** The *Contractor* must, and must ensure that to the extent relevant to them its *personnel*, in carrying out the *Contractor's* obligations under the *Contract*.
- (a) hold, maintain and are compliant with all requirements of, all necessary qualifications, competencies, licences, accreditations, certifications, permits, clearances and other authorisations which are required:
- (i) under contract;
- (ii) pursuant to a *legislative requirement* or the *Principal's policies*; or
- (iii) otherwise at law,
- for the *Contractor* to carry out its obligations under the *Contract*;
- (b) act consistently with, and do all things reasonably necessary to enable the *Principal* to comply with, applicable *legislative requirements* and the *Principal's policies*;
- (c) not do, or permit to be done, anything which would cause the *Principal* to be in breach of any *legislative requirements* or the *Principal's policies*;
- (d) notify the *Principal* immediately if it becomes aware of any breach of this subclause 11A.4; and
- (e) when directed to do so by the *Superintendent*, provide the *Superintendent* with such information and documentation evidence as the *Superintendent* reasonably requests to satisfy the *Superintendent* that the *Contractor* has complied with this subclause 11A.4.
- 11A.5 **(Indemnity)** The *Contractor* shall indemnify and keep indemnified the *Principal* against any *claim* which may be brought against the *Principal* and any cost, expense, fine, penalty, damages or loss which may be imposed upon, suffered or incurred by the *Principal* in connection with:
- (a) the *Contractor's* failure to comply with this clause 11A or to satisfy a *legislative requirement* as required by subclause 11.1;
- (b) any breach by the *Contractor* of its obligations under any *legislative requirement*; and/or
- (c) any enforcement of obligations imposed on the *Contractor* under any *legislative requirement*,

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but the indemnity will be reduced to the extent that the act or omission of the *Principal* or the *Superintendent* caused or contributed to the *claim* or the cost, expense, fine, penalty, damages or loss.

- 11A.6 (**Interpretation**) In the event of any inconsistency, ambiguity, discrepancy or conflict in or between any obligation of the *Contractor* under this subclauses 11A.1 to 11A.4, the *Contractor* must promptly notify the *Superintendent* who shall direct the *Contractor* as to the interpretation to be followed. In the absence of such a *direction*, the *Contractor* shall adopt the interpretation which places the higher or more onerous obligation on the *Contractor*.

12A WORK HEALTH AND SAFETY

Insert new clause 12A as follows:

12A WORK HEALTH AND SAFETY

- 12A.1 (**Interpretation**) In this clause:

- (a) '*Act*' means the *Work Health and Safety Act 2011* (Qld);
- (b) '*WHS authority*' means any government authority having jurisdiction under the *WHS Laws*;
- (c) '*Regulation*' means the *Work Health and Safety Regulation 2011* (Qld);
- (d) '*inspector*', '*notifiable incident*', '*regulator*' '*structure*' and '*workplace*' have the same meanings as in the *Act*;
- (e) '*principal contractor*' has the same meaning as in the *Regulation*;
- (f) '*statutory notice*' means any:
 - (i) infringement notice, prohibition notice, improvement notice or non-disturbance notice; and
 - (ii) any electrical safety protection notice or unsafe equipment notice,

issued by an *authority* pursuant to the *WHS Laws*;
- (g) '*WHS*' means work, health and safety;
- (h) '*WHS Laws*' means the *Act*, the *Regulation* and all other applicable work health and safety legislation, regulations, rules, Codes of Practice and Australian Standards.

- 12A.2 (**Appointment as principal contractor**) Where *Item 22B* states that the *Contractor* is appointed as *principal contractor*, then from the *date of acceptance of tender*:

- (a) the *Principal* engages the *Contractor* to be the *principal contractor* under the *Regulation* in relation to *WUC* and authorises the *Contractor* to:
 - (i) have management and control of the *site* and any other *workplace* at which *WUC* is carried out; and
 - (ii) discharge the duties of the *principal contractor*;

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- (b) the *Contractor* accepts the engagement as *principal contractor* from the *Principal* and agrees to fulfil all requirements and give effect to that engagement prior to the commencing any *WUC*; and
- (c) discharge the duties as person conducting a business or undertaking and the additional duties of the *principal contractor* imposed under the *Regulation*;

If *Item 22B* states that the *Contractor* is not engaged as *principal contractor*, the *Contractor* must comply with all *directions* of the *Superintendent* relating to *WHS*.

12A.3 **(Contractor's primary obligations)** From the *date of acceptance of tender*, the *Contractor* must:

- (a) comply with and discharge all obligations imposed on the *Contractor* as a person who conducts a business or undertaking and otherwise, by the *WHS Laws*;
- (b) consult with the *Principal* and consult with the designers of the whole or any part of a structure to be constructed under the *Contract*, about how to ensure that risks to health and safety arising from the design are eliminated during construction of *WUC* or, if it is not reasonably practicable to eliminate the risks, minimise, so far as is reasonably practicable;
- (c) in performing its obligations under the *Contract*, take into account and take appropriate action having regard to any information given to the *Contractor* by the *Principal* or any other person, about hazards and risks at or in the vicinity of the *workplace* where *WUC* is being carried out,
- (d) comply with any direction on *WHS* issued by a *WHS Authority issued* in relation to the *WUC*;
- (e) consult, co-operate and co-ordinate *work* with the *Principal* in relation to any health and safety matter arising out of or in connection with *WUC*, *the Contract* or duties held by either the *Principal* or the *Contractor* under *WHS Law*; and
- (f) without limiting paragraph 12A.2(c) ensure its officers, workers and agents, subcontractors and its subcontractors' officers, workers and agents, discharge their respective duties under the *WHS Laws* in connection with *WUC*.

12A.4 **(Contractor's WHS systems and documentation)** The *Contractor*:

- (a) must ensure, and warrants and represents, it has made its own enquiries in connection with compliance with *WHS Laws*, including in relation to hazards or risks on the *site*, and has not relied on any representations, warranty or information that has been provided by the *Principal*;
- (b) must ensure, and warrants and represents, that it has adequate *WHS* systems in place having regard to the nature of its obligations under the *Contract* and any hazards specific to any *workplace* at which an obligation under the *Contract* is to be carried out;
- (c) must inform the *Principal* of all its *WHS* policies, procedures or measures implemented for the performance of its obligations under the *Contract*;

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- (d) must prepare and adopt a *WHS* plan and other documentation which:
- (i) addresses all the specific *WHS* hazards and issues relevant to the *Contractor's* obligations under the *Contract* which can be reasonably anticipated or ascertained from time to time during the performance of the *Contractor's* obligations under the *Contract*;
 - (ii) documents the system and control methods to be implemented for the performance of its obligations under the *Contract*,

and must update such documentation as required from time to time to ensure that it complies with this subclause 12A.4(c) at all times during the performance of its obligations under the *Contract*;

- (e) must:

- (i) unless otherwise directed by the *Principal*, prior to commencing *WUC*, submit the *Contractor's* *WHS* plan and other documentation (including the documentation required elsewhere under the *Contract*) to the *Principal* for review; and
- (ii) within the time directed by the *Principal*, submit to the *Principal* for review any other *WHS* documentation that the *Principal* directs it to prepare,

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

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

12A.5 (Notices and reports) The *Contractor* must:

- (a) if a *notifiable incident* occurs at the *workplace* at which *WUC* is being undertaken:
 - (i) immediately notify the *regulator* and the *Superintendent* of the *notifiable incident*; and
 - (ii) take all reasonably practicable steps to secure the *site* where the *notifiable incident* occurred until an *inspector* arrives at the *site* or any earlier time that an *inspector* directs;
- (b) provide a copy of every *statutory notice* received from an *authority* in connection with *WUC* to the *Principal* and the *Superintendent* within 1 *business day* after the notice is received;
- (c) if any of the *Contractor's* *personnel* are involved in an accident or other health and safety incident or otherwise suffer an injury in connection with the performance of *WUC*:

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- (i) immediately notify the *Principal* of the accident, incident or injury; and
 - (ii) within 3 *business days* of the accident, incident or injury (or such longer period as the *Principal* may agree) provide a report giving complete details of the incident, including results of the investigations into the causes, and any recommendations or strategies identified for the preventions in the future; and
 - (iii) cooperate and assist (and procure its *personnel* to cooperate and assist) the *Principal* with any investigation by the *Principal* into any accident, injury or other health and safety incident in connection with the *Contract*,
 - (d) within the time directed by the *Superintendent* make available to the *Superintendent* and the *Principal* all project *site* accident data which must include injuries and damage resulting from accidents or any incidents involving harm to a third party, particularly where legal action may be taken against them or the *Principal*.
- 12A.6 **(Site specific induction)** The *Contractor* must ensure that all *personnel* of the *Contractor* working at the *site* receive a site-specific induction and that each person visiting the *Contractor* or its *personnel* at that *site* receives a site-specific induction or is accompanied by someone who has received such an induction.
- 12A.7 **(Safety compliance)** If during the performance of *WUC* the *Superintendent* informs the *Contractor* that it is of the opinion the *Contractor* is:
- (a) not conducting *WUC* in compliance with the *Act*, *Regulation*, codes of practice or relevant policies and procedures; or
 - (b) conducting *WUC* in such a way as to endanger the health and safety of the *Contractor's personnel*, the *Principal's personnel* or the general public,
- the *Superintendent* may direct the *Contractor* to promptly remedy the breach or take any other action permitted by the *Contract*, including suspending the whole or part of *WUC* pursuant to clause 33 until such time as the *Contractor* satisfies the *Superintendent* that *WUC* can be resumed in a safe manner.
- 12A.8 **(Indemnity)** The *Contractor* shall indemnify and keep indemnified the *Principal* against any *claim* which may be brought against the *Principal* and any cost, expense, fine, penalty, damages or loss which may be imposed upon, suffered or incurred by the *Principal* in connection with a breach by the *Contractor* of its obligations under this clause 12A but the indemnity will be reduced to the extent that the act or omission of the *Principal* or the *Superintendent* caused or contributed to the *claim* or loss.'

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15 DAMAGE TO PERSONS AND PROPERTY OTHER THAN WUC

Delete the existing text of paragraph (d) in the third paragraph of subclause 15.1 and insert “not used”.

Delete clause 15.2.

15A LIABILITY

Insert a new clause 15A as follows:

15A LIABILITY

15A.1 (**Limit and exclusion of liability**) Subject to subclause 15A.2, to the extent permitted by law:

- (a) the total aggregate liability of each party to the other in connection with the *Contract* (including in respect of any *claims*) shall not exceed that party's *liability limit*, and
- (b) neither party shall be liable to the other upon any *claim* for any *specified loss* unless and then only to the extent that the *Contract* expressly provides for that liability.

15A.2 (**Application of clauses**) Subclause 15A.1 does not apply to:

- (a) liability of the *Principal* to pay the *contract sum* as adjusted pursuant to the *Contract*;
- (b) liability of the *Contractor* for liquidated damages pursuant to subclause 34.7;
- (c) liability of either party in connection with personal injury or death or damage to property;
- (d) liability of a party arising as a result of:
 - (i) a breach of any *legislative requirement*;
 - (ii) an infringement of confidentiality or *intellectual property rights*;
 - (iii) a deliberate breach or abandonment of the *Contract*;
 - (iv) *wilful misconduct*; or
 - (v) fraud or other criminal conduct,by that party;
- (e) liability of the *Contractor* which the *Contractor*:
 - (i) is entitled to recover under any insurance policy required to be effected under the *Contract* (up to the monetary limits for that insurance stated in the *Contract*) unless, and then only to the extent that, the *Contractor* uses all reasonable endeavours to, but does not actually, recover that liability; or
 - (ii) would have been entitled to recover under any insurance policy required to be effected under the *Contract* (up to the

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monetary limits for that insurance stated in the *Contract*) but for any act or omission of the *Contractor*,

and amounts referred to in paragraphs (a), (b), (c), (d) and (e) shall not be included in calculating whether the *liability limit* of a party has been reached.'

16A INSURANCE OF THE WORKS

In the third paragraph of Alternative 1, delete 'The insurance cover shall be for an amount not less than the aggregate of the:' and insert:

'The insurance cover shall be for an amount per occurrence of not less than the aggregate of the:'

In the second last paragraph of Alternative 1, delete 'be in the joint names of the parties' and insert 'be in the name of the *Contractor* and shall note the *Principal* as an interested party'.

17 PUBLIC LIABILITY INSURANCE

In Alternative 1, delete the existing text of subclause 17(a) and replace with:

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

19 INSPECTION AND PROVISIONS OF INSURANCE POLICIES

Delete subclauses 19.3 and 19.6.

20 SUPERINTENDENT

Delete the first paragraph of clause 20 and insert:

'The *Principal* shall ensure that at all times there is a *Superintendent*, and that the *Superintendent*, when acting as certifier, valuer or assessor, fulfils all aspects of the role and functions honestly, fairly, independently, and in accordance with the *Contract*. The *Contractor* acknowledges and accepts that the *Superintendent* and individuals appointed as *Superintendent's Representatives* under clause 21 may be employees of the *Principal* or may have a general commercial relationship with the *Principal* beyond the performance of the appointed roles under this *Contract*. The *Contractor* shall not bring any *claim* against the *Principal* by reason of the relationship between the *Principal* and the *Superintendent* and/or *Superintendents Representatives*.

Except where the Contract otherwise provides, the Superintendent may give a direction orally but shall as soon as practicable confirm it in writing. If the Contractor in writing requests the Superintendent to confirm an oral direction, the Contractor shall not be bound to comply with the direction until the Superintendent does so.

Where the Contractor has an obligation under the Contract, the Superintendent may direct the Contractor as to the manner and timing of the Contractor's performance of that obligation and the Contractor must comply with the direction at its expense and without delaying completion of WUC unless the Contract expressly entitles the Contractor to an adjustment of the contract sum or an EOT.

The Contractor agrees that except to the extent expressly provided in the Contract the Superintendent may:

(a) *exercise or refuse to exercise any discretion, right or power given to the Superintendent under the Contract in whatever way the Superintendent decides in its*

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*absolute discretion, and without any obligation to do so for the benefit of the Contractor;
and*

(b) grant, refuse or grant subject to reasonable conditions any consent required from the Superintendent in its absolute discretion, and without any obligation to do so for the benefit of the Contractor.'

23A PERSONNEL

Insert a new clause 23A as follows:

'23A PERSONNEL

Unless the *Superintendent* approves a change in key *personnel* in writing, the *Contractor* must provide the key *personnel* (if any) identified in *Item 25A* to perform the roles during the period or periods stated in *Item 25A* or where no period is stated, until the end of the last *defects liability period*. The *Contractor* may seek the approval of the *Superintendent* to change the role of any key *personnel* or to engage additional persons as key *personnel*.

The *Contractor* must promptly arrange a replacement approved by the *Superintendent* to replace any key *personnel*. The *Contractor* must provide any information reasonably required by the *Superintendent* in connection with the replacement. The *Superintendent* cannot unreasonably refuse to approve a replacement person that is of equal or greater skill, experience and competency to the person being replaced.'

24 SITE

Delete the first sentence of the second paragraph of subclause 24.1 and insert:

'The *Principal* shall give the *Contractor* possession of sufficient of the *site* for commencement of *WUC* on *site* on the later of:

- (a) the expiry of the time in *Item 26(b)*; and
- (b) 10 *business days* after the *Contractor* has:
 - (i) complied with subclause 19.1; and
 - (ii) given the *Superintendent* all other information and documentation and done all other things which the *Contract* elsewhere requires to be given or done before possession of the *site* is given.

Possession of the *site* may be non-exclusive.'

25 LATENT CONDITIONS

In the first paragraph of subclause 25.1, insert the following before 'inspected':

'done all things which the *Contractor* has warranted and represented in subclause 2B.1'

Delete '28 days' from subclause 25.3 and insert '5 *business days*'.

29 QUALITY

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Delete the first paragraph of subclause 29.3 and insert:

'If the *Superintendent* becomes aware of *work* done (including material provided) by the *Contractor* which does not comply with the *Contract*, the *Superintendent* may direct the *Contractor* to do any one or more of the following (including times for commencement and completion):'

Insert the following at the end of subclause 29.3:

'Without limiting the above, if the *Contractor* discovers *work* done (including material provided) by the *Contractor* which does not comply with the *Contract*, the *Contractor* shall promptly advise the *Superintendent* and initiate any non-conformance procedures required by the *Contract* or directed by the *Superintendent*.

If directed to do so by the *Superintendent*, the *Contractor* shall submit a written proposal for the rectification of the subject *work* in writing to the *Superintendent* within the timeframe reasonably required by the *Superintendent*. The subject *work* must not be covered up or incorporated into *the Works* without the prior *direction* of the *Superintendent*.'

Delete the existing text of subclause 29.4 and insert:

'Instead of a *direction* pursuant to subclause 29.3 or clause 35, the *Superintendent* may direct the *Contractor* that the *Principal* elects to accept the subject *work*. Where the *Contract* elsewhere provides for an applicable reduced level of service for the subject *work*, then the *contract sum* shall be adjusted in accordance with such provisions. Otherwise, there shall be a deemed *variation*.'

30 EXAMINATION AND TESTING

Insert the following additional paragraph at the end of subclause 30.1:

'The Contractor shall arrange WUC so that all necessary tests can be performed between the hours stated in Item 26B.'

Delete the existing text of subclause 30.2 and insert:

'No WUC shall be covered up or made inaccessible until accurate details of WUC have been recorded.

Any WUC covered up or made inaccessible before details of the WUC have been accurately recorded by a surveyor appointed by the Contractor or nominated by the Superintendent; or in breach of a direction by the Superintendent or other requirement of the Contract that the work is not to be covered or made inaccessible, must, if the Superintendent so directs, be uncovered and re-covered at the Contractor's expense.'

Insert the following at the end of subclause 30.6 as follows:

'The Contractor shall not be entitled to rely upon the results of any test carried out by the Principal or Superintendent.

If the Contractor disagrees with the results of any test, conducted by or on behalf of the Principal, the Contractor must give the Principal and the Superintendent a notice of dispute within 10 business days of the results being provided to the Contractor. In the absence of a notice of dispute being given in accordance with

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this subclause 30.9 and subclause 42.1, the Contractor will be deemed to have irrevocably accepted the accuracy and correctness of the test and shall be barred from disputing the results of the test under this Contract or otherwise.'

Insert the following at the end of subclause 30.7:

'If, notwithstanding subclause 30.1, tests are required outside of the hours stated in Item 26B (other than due to the act or omission of the Principal or Superintendent) then the additional cost incurred by the Principal in carrying out or having those tests carried out by others outside of the hours in Item 26C will be a debt due and payable by the Contractor to the Principal, irrespective of the outcome of the test.'

31 WORKING HOURS

Delete the first sentence of clause 31 and replace with:

'The working hours and *workings days* for *work* on the *site* are stated in *Item 26A*.'

32 PROGRAMMING

Insert the following at the end of the fifth paragraph of clause 32:

'The program must comply with the requirements stated elsewhere in the Contract.'

Delete the last paragraph of clause 32 and insert:

'If compliance with any such direction under this clause 32, except those pursuant to the Contractor's default, will or is likely to cause the Contractor to incur more cost than otherwise would have been incurred had the Contractor not been given the direction then the Contractor must no later than 5 business days after being given the direction and where possible before complying with the direction, give the Superintendent a written notice of this stating the reason for the additional cost.

If the Contractor has given notice in accordance with the preceding paragraph, then the increased costs reasonably and necessarily incurred by the Contractor in complying with the direction shall be assessed by the Superintendent and added to the contract sum. The Contractor must promptly give the Superintendent such information as the Superintendent reasonably requires in relation to the notice.

If compliance with any such direction under this clause 32 causes the Contractor to incur less cost than otherwise would have been incurred had the Contractor not been given the direction, then the difference shall be assessed by the Superintendent and deducted from the contract sum.'

34 TIME AND PROGRESS

Delete '28 days' from paragraph (b) of subclause 34.3 and replace with '10 *business days*'.

Delete the first paragraph of subclause 34.4 and replace with:

'To the extent that delays caused by *qualifying causes of delay* overlap with delays caused by other causes of delay, the *Contractor* shall not be entitled to an *EOT*.'

Insert the following at the end of subclause 34.4:

'To avoid doubt, all *EOTs* shall be claimed and granted in *working days*.'

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Delete the existing text of subclause 34.5 and replace with:

'Within 20 *business days* after receiving the *Contractor's* claim for an *EOT*, the *Superintendent* shall give to the *Contractor* and the *Principal* a written *direction* evidencing the *EOT* so assessed.

Notwithstanding anything else in this *Contract*, the *Contractor* shall not be entitled to an *EOT* unless, and then only to the extent, that the causation has delayed activities on the critical path of the *construction program* last approved by the *Superintendent*.

Notwithstanding that the *Contractor* is not entitled to or has not claimed an *EOT*, the *Superintendent* may at any time and from time to time before issuing the *final certificate*, in its absolute discretion and without any obligation to do so for the benefit of the *Contractor*, direct an *EOT*. The *Contractor* shall not be entitled to any monetary compensation (whether under subclause 34.9 or otherwise) in connection with an *EOT* granted by the *Superintendent* pursuant to this paragraph.

Neither:

- (a) a delay caused by a *compensable cause*; nor
- (b) a failure by the *Superintendent* to grant a reasonable *EOT* or to do so within the time required under subclause 34.5,

will set the *date for practical completion* at large or render subclause 34.7 unenforceable. Nothing in subclause 34.5 shall affect the *Contractor's* right to damages for a breach of contract.'

Delete the existing text of subclause 34.7 and replace with:

'If *WUC* does not reach *practical completion* by the *date for practical completion*, the *Superintendent* shall certify, as due and payable to the *Principal*, liquidated damages at the rate stated in *Item 29* for every day after the date for *practical completion* to and including the earliest of the *date of practical completion* or termination of the *Contract* or the *Principal* taking *WUC* out of the hands of the *Contractor*.

The *Superintendent* may certify, the *Contractor* must pay, and the *Principal* may set off, liquidated damages pursuant to the preceding paragraph at any time after the *date for practical completion* has passed, whether or not the *Contractor* has achieved *practical completion* at that time.

If an *EOT* is directed after the *Contractor* has paid or the *Principal* has set off liquidated damages, the *Principal* shall forthwith repay to the *Contractor* such of those liquidated damages as represent the days the subject of the *EOT*.

If, for any reason, the *Principal's* entitlement to liquidated damages pursuant to this subclause 34.7 is found to be void, voidable or otherwise unenforceable, or the *Principal* is otherwise unable to recover liquidated damages from the *Contractor*, the *Contractor* shall be liable to the *Principal* for any loss (whether direct loss or *specified loss*), damage, cost or expense suffered or incurred by the *Principal* as a result of the *Contractor* failing to achieve *practical completion* by the *date for practical completion*.'

Delete subclause 34.9 and replace with:

'34.9 Delay costs

For every *working day* the subject of an *EOT* for a *compensable cause* and for which the *Contractor* gives the *Superintendent* a claim for delay costs pursuant to

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subclause 41.1, the *Superintendent* shall, under subclause 41.3, certify as due and payable to the *Contractor*, such extra costs as are reasonably and necessarily incurred by the *Contractor* by reason of the delay up to a maximum per *working day* of the amount stated in *Item 31A*.

Nothing in this subclause 34.9 shall oblige the *Principal* to pay extra costs for delay –

- (a) which have already been included in the value of a *variation* or any other payment under the *Contract*;
- (b) caused by inclement weather or its effects, even if that inclement weather or those effects would not have delayed the *Contractor* but for an earlier delay caused by a *compensable cause*, (except to the extent, if any, that *Item 31* provides otherwise);
- (c) to the extent that the *Contractor* has failed to take all reasonable steps to mitigate the delay or the extra costs incurred.'

34A DELAY COSTS

Insert a new clause 34A as follows

'34A DELAY COSTS

34A.1 General

The amount (if any) certified by the *Superintendent* in accordance with this clause 34A is the *Contractor's* sole remedy and entitlement to monetary compensation in connection with any delay or disruption to or prolongation of *WUC*, however caused or encountered, including *claims* by the *Contractor* for breach of contract by the *Principal* and *claims* against the *Contractor* by the *Contractor's subcontractors* and *consultants*.

Nothing in this clause 34A shall oblige the *Principal* to pay extra costs for delay –

- a) which has already been included in the value of a *variation* or any other payment under the *Contract*;
- b) for any period in which delay caused by a *compensable cause* overlaps or is concurrent with a delay which is not caused by a *compensable cause*;
- c) caused by inclement weather or its effects, even if that inclement weather or those effects would not have delayed the *Contractor* but for an earlier delay caused by a *compensable cause*;
- d) to the extent that the *Contractor* has failed to take all practicable steps to mitigate the delay and the extra costs incurred.

34A.2 Delay costs

The Alternative in Item 30A(a) applies.

Alternative 1: Fixed delay costs

For every *working day* the subject of an *EOT* for a *compensable cause* and for which the *Contractor* gives the *Superintendent* a *claim* for delay costs pursuant to subclause 41.1, the *Superintendent* shall, under subclause 41.3, certify as due and payable to the

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Contractor, delay costs determined by multiplying the rate stated in *Item 30A(b)* by the number of *working days* of extension of time granted for the delay.

Alternative 2: Capped delay costs

For every *working day* the subject of an *EOT* for a *compensable cause* and for which the *Contractor* gives the *Superintendent* a *claim* for delay costs pursuant to subclause 41.1, the *Superintendent* shall, under subclause 41.3, certify as due and payable to the *Contractor*, such extra costs as are reasonably and necessarily incurred by the *Contractor* by reason of the delay up to a maximum per *working day* of the amount stated in *Item 30A(c)*.

Alternative 3: Delay costs not fixed or capped

For every *working day* the subject of an *EOT* for a *compensable cause* and for which the *Contractor* gives the *Superintendent* a *claim* for delay costs pursuant to subclause 41.1, the *Superintendent* shall, under subclause 41.3, certify as due and payable to the *Contractor*, such extra costs as are reasonably and necessarily incurred by the *Contractor* by reason of the delay.'

36 VARIATIONS

At the end of subclause 36.1, insert:

'The *Principal* may itself perform or engage others to perform any *work* which is omitted pursuant to this subclause 36.1 without payment of monetary compensation to the *Contractor* for doing so. No *variation* shall invalidate or amount to a repudiation of the *Contract*.'

Delete the last sentence of subclause 36.2.

Delete the existing text of subclause 36.4 and replace with:

'The *Superintendent* shall, as soon as possible, price each *variation* using the following order of precedence:

- (a) prior agreement;
- (b) rates or prices in a *price schedule* to the extent that it is reasonable to use them;
- (c) *variation rates* (or where no applicable *variation rates* are included in the *Contract*, other applicable rates or prices in the *Contract*);
- (d) reasonable rates or prices, which shall include the percentage stated in *Item 32A* for profit, and if the *Superintendent* considers it reasonable to do so, the percentage stated in *Item 32A* for overheads,

and any deductions shall include the full value of the deducted *work* (including profit and overheads) unless the *Superintendent* considers it reasonable to exclude an amount for overheads, in which case the amount so excluded shall not exceed the percentage stated in *Item 32A* for overheads.

That price shall be added to or deducted from the *contract sum*, as the case may be.

For clarity, percentages for profit and overheads shall be calculated independently of each other, not cumulatively.

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Notwithstanding anything else in the *Contract*, the *Principal* shall not be liable upon any *claim* in connection with an *informal variation direction* unless the *Contractor* gives the *Superintendent* a written notice which:

- (a) identifies the *informal variation direction*; and
- (b) states that the *Contractor* considers the *informal variation direction* is a *direction* for a *variation*,

within 5 *business days* after the *informal variation direction* is first given to the *Contractor*.'

37 PAYMENT

Delete the second paragraph of subclause 37.1, and insert:

'With each progress claim, the *Contractor* must submit the statutory declaration included in Annexure Part J, and any other documentation which the *Contract* elsewhere requires to be submitted with a progress claim.'

Delete the existing text of subclause 37.2 and insert:

'The balance remaining after all *required deductions* are deducted from the *claimable amount* shall be due from the *Principal* to the *Contractor*, or the *Contractor* to the *Principal*, as the case may be. The *Superintendent* shall, before the end of the *response period*, issue to the *Principal* and to the *Contractor* a *progress certificate* evidencing the *Superintendent's* opinion of that balance and, if that balance is different to the amount claimed by the *Contractor*, the reasons for that difference.

If the *Contractor* does not make a progress claim in accordance with *Item 33*, the *Superintendent* may nevertheless issue the *progress certificate*.

Unless the *Principal* itself issues a *payment schedule* which complies with the requirements of the *security of payment legislation* within the timeframes permitted under that legislation, the *Superintendent's progress certificate* or *final certificate* (as the case may be) shall be deemed to be the *Principal's payment schedule*, and to the extent that it is necessary for the *Principal* to do so, the *Principal* authorises the *Superintendent* to receive progress claims and issue *payment schedules* on its behalf.

Subject to the following paragraph, if the *progress certificate* shows that an amount is due to the *Contractor*, then the *Principal* shall pay the amount of the *progress certificate* before the end of the *payment period*. If the *progress certificate* shows that an amount is due to the *Principal*, the *Contractor* shall pay the *Principal* the amount of the *progress certificate* within 15 *business days* after receiving the *progress certificate*.

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

To the extent permitted by law, if the *Superintendent* fails to include a *required deduction* in a *progress certificate*, then the *Principal* may nevertheless deduct that *required deduction* from the amount shown in the certificate and pay the balance (if any) to the *Contractor*.

Neither a *progress certificate* nor a payment of monies shall be evidence that the

Annexure Part E to AS4902 – 2000

subject *WUC* has been carried out satisfactorily. Payment other than *final payment* shall be on account only.'

In the second paragraph of subclause 37.4, delete 'Within 42 days after the expiry of the last defects liability period' and insert 'Before the end of the *response period*'.

Delete the third paragraph of subclause 37.4 and replace with:

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

Delete subclause 37.6.

39 DEFAULT OR INSOLVENCY

Delete the existing text of paragraph (e) of subclause 39.2 and insert:

- (e) in respect of subclauses 37.1 and 38.1, failing to provide a statutory declaration or documentary evidence or providing a statutory declaration or documentary evidence which is false, misleading or deceptive in any material respect; and
- (f) failing to comply with an obligation under, warranty given or representation made in clause 2A (including where a warranty given or representation made is found to be false).'

Before the comma at the end of subclause 39.5(b)(iii), insert:

'(including *design documents* for which the *Principal* has been granted a licence under Alternative 1 of subclause 10.2)'

Delete the last paragraph of subclause 39.10 and insert:

'The *Principal* may also, without payment of compensation, take possession of and use the *design documents* (including *design documents* for which the *Principal* has been granted a licence under Alternative 1 of subclause 10.2).'

39A TERMINATION FOR CONVENIENCE

Insert a new clause 39A as follows:

39A TERMINATION FOR CONVENIENCE

39A.1 (**Right to terminate**) The *Principal* may at any time, and for any reason, in its absolute discretion, terminate this *Contract* by giving 5 *business days* written notice to the *Contractor*.

39A.2 (**Obligations and rights after termination**) If the *Principal* exercises its right under this clause 39A, then:

- (a) the *Contractor* must comply with all reasonable *directions* of the *Principal* in connection with the termination;
- (b) the *Principal* may complete the uncompleted part of *WUC* itself or have it completed by others; and
- (c) the *Principal* may, without payment of compensation to the *Contractor*, take possession of and use any:

Annexure Part E to AS4902 – 2000

- (i) *design documents* (including *design documents* for which the *Principal* has been granted a licence under Alternative 1 of subclause 10.2); and
- (ii) other documents and goods which have become the property of the *Principal*,

and the *Principal* shall have a right of access to any premises at which those things are held in order to recover possession of those things.

39A.3 (**Payment on Termination**) The *Superintendent* shall issue a certificate evidencing, and the *Principal* shall, subject to the *Contract*, pay the *Contractor*:

- (a) the same payments that would have been payable if the *Contract* was frustrated under clause 40 with references to 'frustrated' and 'frustration' in clause 40 being read as references to 'terminated' and 'termination' respectively; plus
- (b) an additional amount equal to 5% of the balance of the *contract sum* remaining after deducting all amounts paid or payable to the *Contractor* pursuant to the *Contract* (including under subclause 39A.3(a)),

except that the total amount payable to the *Contractor* under the *Contract* shall not exceed the amount which would have been payable had the *Contract* not been terminated and the *Contractor* completed *WUC* in accordance with the *Contract*. The *Principal* shall not be liable upon any other *claim* in connection with the termination.'

39B PRINCIPAL'S RIGHTS ON FAILURE OF CONTRACTOR TO CARRY OUT AN OBLIGATION

Insert new clause 39B as follows:

'39B PRINCIPAL'S RIGHTS ON FAILURE OF CONTRACTOR TO CARRY OUT AN OBLIGATION

Without limiting the *Principal's* other rights, where the *Contractor* fails to carry out any obligation under the *Contract* (including the obligation to comply with a *direction* of the *Superintendent*) within the time required by the *Contract* or reasonably directed by the *Superintendent* for performance of such an obligation, the *Principal* may, after giving 5 *business days'* notice (unless urgent action is required, in which case the *Principal* need not give notice) to the *Contractor*, carry out that obligation itself or have it carried out by others.

If the *Principal* incurs more cost in carrying out the obligation itself, or having it carried out by others than it would have incurred if the *Contractor* had carried out the obligation, then those additional costs shall be a debt due and payable by the *Contractor* to the *Principal* and shall be certified as such by the *Superintendent*. The *Principal* shall be entitled to have access to the *site* and any other place where an obligation under the *Contract* is to be carried out in order to exercise the rights provided by this clause 39B.'

Annexure Part E to AS4902 – 2000

41 NOTIFICATION OF CLAIMS

Delete the first paragraph of subclause 41.1 and replace with:

‘References in clause 41 to a ‘claim’ are to be taken as references to a ‘*claim*’ whether or not the term is italicised.’

In subclause 41.2, delete ‘a party’ and replace with ‘the *Principal*’ and delete ‘the other party’ and replace with ‘the *Contractor*’.

Insert the following at the end of subclause 41.2:

‘Notwithstanding any other provision of the *Contract*, the *Principal* shall not be liable upon any *claim* by the *Contractor*.

- (a) which is required to be communicated in accordance with another provision of the *Contract* unless the *claim* has been communicated strictly in accordance with that provision;
- (b) to which subclause 41.1 applies unless the *Contractor* has given the *Principal* a *prescribed notice* or a notice of *dispute* pursuant under subclause 42.1 within 45 *business days* after first becoming aware of the circumstances giving rise to the *claim*.’

Insert the following at the end of subclause 41.3:

‘For clarity, within 42 days of receipt of a *prescribed notice*, the party receiving a *prescribed notice* may give the *Superintendent* and the other party submissions in respect of the *claim* and the *Superintendent* shall be entitled to consider those submissions in assessing the *claim*.’

42 DISPUTE RESOLUTION

Delete the last paragraph of subclause 42.1 and insert:

‘Notwithstanding the existence of a *dispute*, the parties shall, subject to clauses 39, 39A, 40 and subclause 42.4, continue to perform the *Contract*.’

In subclause 42.2:

Delete 'or to agree on methods of doing so' from the first paragraph.

Delete 'or methods' from the first paragraph.

Delete 'arbitration' from the second paragraph and insert:

'mediation which shall be conducted in accordance with the mediation rules published by the Resolution Institute current as at the *date of acceptance of tender*’.

Delete the existing text of subclause 42.3 and insert ‘Not used’.

In subclause 42.4 delete ‘herein’ and insert ‘in subclauses 42.1 and 42.2’.

Annexure Part E to AS4902 – 2000

Insert a new subclause 42.5 as follows:

'42.5 Disputing a direction of the Superintendent

Notwithstanding anything else in this clause or elsewhere in the *Contract*, unless a notice of *dispute* disputing a *direction* of the *Superintendent* is given in accordance with subclause 42.1 within 20 *business days* after the *direction* is given:

- (a) the *Contractor* will be deemed to have irrevocably accepted the *direction* and shall be barred from disputing the *direction* under this *Contract* or otherwise; and
- (b) the *Principal* shall not be liable upon any *claim* that is inconsistent with the *direction*.'

43 WAVER OF CONDITIONS

At the end of clause 43, insert:

'The *Principal* and the *Contractor* acknowledge that:

- (a) the *Superintendent* is not authorised to vary, waive, discharge or release any provision of the *Contract* or any right of the *Principal* on behalf of the *Principal* (including provisions or rights relating to the giving of notices or the making of *claims* under the *Contract*); and
- (b) the failure of the *Principal* or *Superintendent* at any time during the *Contract* to require strict compliance with the provisions of the *Contract* (including provisions relating to the giving of notices or the making of *claims* under the *Contract*) or to exercise a right of the *Principal* will not constitute a waiver, discharge, or release of such provisions or rights, or any other provision or right, and shall not prevent the *Principal* from exercising any of its rights or having the benefit of any remedies it may have in respect of any subsequent non-compliance with such provisions by the *Contractor*.'

At the end of clause 43, insert:additional clauses 43 and 44:-

43 WAGES

(Wages) The wages of the contractor's employees are not to be less than the equivalent of a Council employee's rate of pay. For the rate of wages for council employees, please refer to the Banana Shire Certified agreement on the Queensland Industrial relation Commission website or contact the procurement department for a copy.

44 USES BY OTHER LOCAL GOVERNMENTS

43.1 A Local Government in Queensland other than Council (an "Other Local Government") may access the contract subject to mutual agreement in writing of Council, the Contractor and the other Local Government in Queensland.

43.2 Responsibilities for establishing and managing any contract between the contractor and the Other Local Government in Queensland rests with the Other Local Government.

Annexure Part F - Specification

Annexure Part F - Specification

[DELETE THIS PAGE AND INSERT SPECIFICATION IN EXECUTION COPY OF CONTRACT]

Annexure Part G – Methodology

Annexure Part G – Methodology

[DELETE THIS PAGE AND INSERT METHODOLOGY IN EXECUTION COPY OF CONTRACT]

Annexure Part H - Price Schedule

Annexure Part H - Price Schedule

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Annexure Part I - Variation Rates

Annexure Part I – Variation Rates

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Annexure Part J - Statutory Declaration

**Oaths Act 1867
STATUTORY DECLARATION**

QUEENSLAND
TO WIT

I, _____ of _____ in the State of Queensland, do solemnly and sincerely declare that, in relation to the Contract between Banana Shire Council and _____ (Contractor), for the _____ (Contract):

1. I hold the position of _____. Having made all reasonable inquiries, I am in a position to know the facts contained herein and am duly authorised by the Contractor to make this declaration on its behalf.
2. All subcontractors, suppliers, and consultants ('subcontractors') of the Contractor have been paid all that:
 - (a) _____ is due and payable to them up to the date of submission by the Contractor of the payment claim with which this declaration is submitted in respect of their part of the work under the Contract; and
 - (b) the subcontractors have claimed is due and payable to them up to the date of submission by the Contractor of the payment claim with which this declaration is submitted in respect of their part of the work under the Contract,

except as disclosed in paragraph 3.

3. The Contractor has not paid the following amounts which are due and payable to subcontractors or which subcontractors claim are due and payable to them:

Name of subcontractor	Date of claim	Date work the subject of the claim carried out	Amount claimed	Amount paid	Reason for not paying amount claimed

4. All the Contractor's employees who at any time have been engaged on work under the Contract by the Contractor have been paid, in accordance with the relevant award or industrial instrument, all moneys due and payable to them up to the date of submission by the Contractor of the payment claim with which this declaration is submitted (including, without limitation building industry superannuation and long service leave levies), except as disclosed in paragraph 5.

5. The Contractor has not paid the following amounts which are due and payable to workers:

Name of worker	Amount unpaid	Basis of payment (e.g. wages)	Reason for not paying amount claimed

6. All subcontracts and employee agreements are in accordance with applicable law and any specific requirements in the Contract.
7. The Contractor is not aware of any current or potential legal action against it which it has not previously disclosed to the Principal.
8. The Contractor remains able to pay its debts as and when they become due and payable. None of the events described in subclause 39.11(a), (b), (c) or (d) of the AS4902–2000 General conditions of contract for design and construct (or any analogous event) has occurred in relation to the Contractor since the

Annexure Part J - Statutory Declaration

date on which the Contractor submitted its tender for the Contract to the Principal.

- 9. No non-conforming building products or building products the subject of a warning statement issued by the Minister have been incorporated into the works and all required information has been obtained and provided to the Principal or the Superintendent (where 'building product', 'Minister', 'non-conforming building product' and 'required information' each have the respective meanings given to those terms in the *Queensland Building and Construction Commission Act 1991* (Qld)).
- 10. All insurances which are required to be effected and maintained under the Contract remain in place.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the *Criminal Code Act 1899* (Qld).

I state that:

- A. This declaration was made in the form of an electronic document.*
- B. This declaration was electronically signed.*
- C. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*.*

(*delete whichever statements are not applicable)

DECLARED by

..... [insert full name of declarant]) [signature of declarant]
at)
[insert place where declarant is located])	[date]
In the presence of:)	
.....)	
[insert full name of witness])	
.....)
[insert type of witness])	[signature of witness]
.....)
[insert name of law practice / witness's place of employment]*)	[date]
<i>*delete if not applicable</i>)	

For special witnesses to complete – Tick as applicable

- I am a special witness under the Oaths Act 1867. (see section 12 of the Oaths Act 1867)
- This document was made in the form of an electronic document.
- I electronically signed this document.
- This statutory declaration was made, signed and witnessed under part 6A of the Oaths Act 1867 – I understand the requirements for witnessing a document by audio visual link and have complied with those requirements.



SCOPE OF WORKS

Biloela Sewage Treatment Plant (STP) Repair Project

CONTRACT NO.: T2324.41

1. THE SCOPE OF WORKS

- 1.1 **(Documents comprising this Scope of Works)** The Scope of Works comprises this Scope of Works, including;
- (a) Technical Specification including Additional documents Map, Defect Picture, and Others (Appendix A – D)
 - (b) General Specification
 - (c) Pricing Schedule
- 1.2 **(Precedence of documents comprising the Scope of Works)** The documents comprising the Scope of Works shall be taken to be mutually explanatory. If there is any ambiguity, inconsistency, conflict or discrepancy between any of the documents listed in clause 1.1 then the documents will take precedence in the order set out in clause 1.1, with the document listed at 1.1 being the highest in the order.
- 1.1 **(Documents incorporated by reference into the Scope of Works)** The Contractor is deemed to have obtained copies of, read, understood, and allowed for compliance with the Scope of Works (including any documents which are incorporated into it by reference only).
- 1.2 **(Definitions)** Capitalised terms used in the Scope of Works have the meanings assigned to them in the General Conditions of Contract (if any) unless the context otherwise requires. Terms which are separately defined in a clause of this Scope of Works have the meanings given in those clauses.

2. SCOPE OF WORKS

The purpose of the Biloela Sewage Treatment Plant (STP) repair project is to extend the service life of existing STP assets through a variety of repair works. The design and construct project encompasses minor repairs such as localised concrete repairs, crack injection, and application of protective coatings to the following assets:

- Inlet channel
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The project also includes design and construction to replace the failed BTF 2 ballast retention wall, and design, supply and installation of restraint brackets to BTF 3 ballast retention wall.

The existing STP must continue to operate effectively throughout the repair works. Wastewater treatment will take precedence over all activities associated with the repair project.

It is, however, anticipated that some disruption to the “normal” operation of the STP will be required in order to accommodate the various upgrades and associated works. Such disruptions shall be minimized.

3. APPROVALS AND OTHER LAW

- 3.1 **(Identifying, obtaining and maintaining Approvals)** The Supplier must identify and notify the Principal of all Approvals which are necessary for the proper performance of the Services (other than Approvals which the Principal has advised the Supplier it has already obtained). The Supplier must obtain and maintain all such Approvals until all of the Supplier's other obligations under the Contract are complete. The cost of obtaining and maintaining all such Approvals shall be borne by the Supplier.
- 3.2 **(Compliance)** The Supplier must and must ensure that its Personnel comply with all Approvals and other law which are in anyway applicable to the Services, including, unless the Contract expressly provides otherwise, by paying all fees, royalties, levies, charges, costs, expenses, taxes or duties.
- 3.3 **(Obtaining or granting of Approvals by Principal)** The Principal gives no warranty and makes no representation that:
- (a) it will be able to obtain, or obtain within any particular time; or
 - (b) where the Principal is the relevant Authority, that it will grant,
- any Approval required for the Supplier to perform the Services.
- 3.4 **(No fetter)** Nothing in the Contract shall be taken to fetter the power, rights or authority of the Principal as the sublessor under the *Land Act 1994* (Qld) or an Authority under the *Local Government Act 2009* (Qld), the *Local Government Regulation 2012* (Qld) or any other law.
- 3.5 **(Provision of the Services)** The Supplier must, and warrants and represents that it will, perform the Services so that the Site, at all times during the Term, complies with all Approvals and other applicable law.
- 3.6 **(Obligation to report breach)** The Supplier must notify the Principal immediately if it becomes aware of or reasonably suspects in the course of carrying out its obligations under the Contract, that the Supplier has breached an obligation under clauses 3.1, 3.2 or 3.3. Unless otherwise directed by the Principal, the Supplier must take immediate steps to remedy such a breach at its expense.

4. PROCUREMENT SERVICES

- 4.1 Where the Services require the Supplier to manage, conduct or otherwise participate in a Procurement Process for the engagement of a contractor or other supplier by the Principal, then the Supplier must, and must ensure that its Personnel, to the extent that it is within the control of the Supplier or its Personnel ensure that the procurement process is conducted consistently with:
- (a) the Principal's procurement policy;
 - (b) the *Local Government Act 2009* (Qld) and the *Local Government Regulation 2012* (Qld);
 - (c) the requirements of the request for tender or request for quotation documentation issued to tenderers;
 - (d) any probity plan or evaluation plan implemented for the Procurement Process;

- (e) principles of probity; and
- (f) Good Industry Practice,

with a view to ensuring that the selected contractor or supplier is the most advantageous to the Principal having regard to the sound contracting principles in section 104 of the *Local Government Act 2009* (Qld).

5. SUPERINTENDENT SERVICES

5.1 **(Primary obligations)** Where the Services require the Supplier or any of its Personnel to fulfil the role and functions of the Superintendent or similar under a Construction Contract, the Supplier must, and must ensure that its Personnel, in doing so:

(a) comply with and act consistently with any requirements of the Construction Contract as to the manner in which those roles and functions are to be fulfilled including (where applicable) by:

- (i) giving any directions, documents or notices required or permitted to be given by the superintendent under the Construction Contract; and
- (ii) assessing all claims made under the Construction Contract,

in accordance with the requirements of the Construction Contract for the giving of such directions, documents and notices and the making of such assessments;

(b) use its or their reasonable endeavours to ensure that the Construction Contractor complies with the Construction Contract, including by exercising the available rights and powers of the superintendent under the Contract;

(c) keep the Principal fully informed of all relevant matters under the Construction Contract;

(d) unless and then only to the extent (if any) that to do so would be inconsistent with the Construction Contract:

- (i) act as the Principal's agent;
- (ii) act in the best interests of the Principal;
- (iii) seek and act in accordance with the instructions of the Principal; and
- (iv) do all other things necessary to protect the Principal's rights and interests under the Construction Contract.

5.2 **(No waiver or limitation)** The Supplier must not, and must ensure that its Personnel do not, do or omit to do anything where that act or omission could operate so as to waive or limit the rights of the Principal under or in connection with the Construction Contract or otherwise prevent the Principal from exercising any right under or in connection with the Construction Contract.

5.3 **(Security of payments)** The Supplier:

- (a) is authorised to prepare and issue payment schedules in response to any payment claims made by the Construction Contractor pursuant to the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) in relation to the Construction Contract;
- (b) must take all reasonable steps to identify all documents which may constitute such payment claims and immediately provide a copy of such documents to the Principal;
- (c) if requested by the Principal, promptly give to the Principal a copy of the payment claim and any other information or documentation required by the Principal in connection with the payment claim;
- (d) must provide such other assistance as the Principal may reasonably require in connection with the payment claim and any related proceedings whether under the Act or otherwise.

5.4 (Definitions) In this clause:

- (a) **Construction Contract** means a construction contract between the Principal and the Construction Contractor for the construction of any works the subject of the Services, and includes any construction contract specifically identified in the Contract;
- (b) **Construction Contractor** means the contractor engaged by the Principal under the Construction Contract;
- (c) **Superintendent** means the person appointed to fulfil the role and functions of the superintendent pursuant to a Construction Contract, and includes a superintendent's representative.

6. DESIGN SERVICES

6.1 **(Design services)** In addition to the warranties and representations contained in the General Conditions, where the Services include Design Work, the Supplier warrants and represents that the works the subject of the Design Work are neither over-designed nor under-designed and that to the extent to which it is within the control of the Supplier, any works constructed in accordance with the Design Documents will:

- (a) meet or exceed the minimum performance characteristics and standards identified in the Contract;
- (b) be fit for the purpose or purposes stated in or to be reasonably inferred from the Contract and any other purpose for which such works are commonly provided or which has been made known by the Principal to the Supplier; and
- (c) be capable of achieving the Design Life.

6.2 **(Use of Design Documents)** In addition to the rights provided under clause 31 of the General Conditions, the Supplier consents to the Principal using, copying, reproducing, modifying and adapting the Design Documents for any purpose in connection with the construction, use, maintenance, operation, modification or replication of the Works or works similar to the Works.

6.3 **(Definitions)** In this clause:

- (a) **Design Documents** means the drawings, specifications and other information, samples, models, patterns and the like (if any) required by the Contract and created (including by the Supplier) as part of the Services;
- (b) **Design Life** means the design life stated in or to be reasonably inferred from the Scope;
- (c) **Design Work** means the preparation, review, modification or certification of any documentation describing the design and/or specification requirements of any work or item;
- (d) **Works** means the works the subject of the Design Documents.

7. BIOSECURITY MANAGEMENT

7.1 (Definitions) In this clause:

- (a) a **biosecurity risk** is the risk that exists when dealing with:
 - (i) any pest, disease, or contaminant (including plants, seeds, spores, eggs, vertebrate and invertebrate pest); or
 - (ii) something that could carry a pest, disease or contaminant (e.g. animals, plants, soil, equipment and water—known as 'carriers').
- (b) a **potential biosecurity risk** is a biosecurity risk that does not currently occur at the Site but which has the capacity to occur at the Site. It may be present but not visible or may be introduced during the performance of the Supplier's obligations. It includes risks associated with carriers and the movement and sourcing of materials, vehicles, and machinery; and the disturbance, import or export of soils.
- (c) a **known biosecurity risk** is a biosecurity risk that is currently recorded within the footprint or proximity of the Site which is:
 - (i) identified within biosecurity plans or programs active for the area;
 - (ii) identified during the performance of the Supplier's obligations; or
 - (iii) otherwise identified by the Principal.

7.2 **(Preparation of plan)** The Supplier shall prepare a biosecurity risk management plan (**BRMP**) to ensure reasonable and practical steps are taken to address biosecurity risks and that the Supplier meets its general biosecurity obligation (as that term is used in the *Biosecurity Act 2014* (Qld)). The primary purpose of the BRMP is to address both potential biosecurity risks and known biosecurity risks.

7.3 **(Training)** The Supplier shall ensure that all relevant Personnel are trained to be aware of biosecurity risks.

7.4 **(Notice of breach or risk)** If at any time during the performance of the Supplier's obligations a breach of the BRMP or a significant biosecurity risk is identified, then the Supplier must immediately contact the Principal for direction.

8. PRINCIPAL SUPPLIED INFORMATION AND OTHER INVESTIGATIONS

- 8.1 **(Definitions)** In this clause “**Principal Supplied Information**” means any information relating to the Contract which does not form part of the Contract but which is or has been provided or made available by or on behalf of the Principal to the Supplier in any form, whether such information is made available before or after the date of the Contract.
- 8.2 **(Acknowledgement and agreement by Supplier)** The Supplier acknowledges and agrees that:
- (a) the Principal gives no warranty and makes no representation in respect of this Contract. Without limiting this, the Principal gives no warranty and makes no representation:
 - (i) that the Principal Supplied Information is accurate, adequate or complete; and
 - (ii) as to the physical condition, suitability or other characteristics of the Site;
 - (b) the Supplier has not relied and will not rely on the Principal Supplied Information unless and until the Supplier has independently verified the adequacy, accuracy and completeness of that information;
 - (c) the Supplier:
 - (i) has carefully, thoroughly and critically reviewed, examined, investigated, inspected and checked the Principal Supplied Information and the Site and undertaken all other necessary enquiries and investigations to satisfy itself of the suitability of the Site to enable the Supplier to comply with its obligations under this Contract and of any other logistical considerations, risks, contingencies and other circumstances which could have an effect on the cost of carrying out and completing Services or compliance with the Supplier's other obligations under the Contract;
 - (ii) the Supplier has made its own interpretations, deductions and conclusions from such enquiries and investigations and accepts full responsibility for those interpretations, deductions and conclusions; and
 - (iii) the Supplier, having undertaken those enquiries and investigations, accepts the risk of any inadequacy, inefficiency, deficiency or fault in the Site and that it can and will carry out and complete the Services in accordance with the Contract and comply with its other obligations under the Contract for the Price (as adjusted pursuant to the Contract); and
- 8.3 **(No liability)** The Principal shall not be liable upon any Claim by the Supplier in connection with the Principal Supplied Information or the physical condition, suitability or other characteristics of the Site.

9. MANAGEMENT PLAN

9.1 **(Preparation)** The Supplier must, prior to commencing the Services, prepare and obtain the Principal's approval of a management plan or plans which addresses the following matters:

- (a) Contractor submit the plan schedule to the project manager

If the Principal notifies the Supplier that all or part of the plan(s) is not suitable, the Supplier must at its cost amend and resubmit the relevant plan(s).

9.2 **(Updating)** The management plan must be updated as often as required to:

- (a) ensure that the Supplier continues to comply with the warranties and representations as to Supplier Documents given in the Contract;
- (b) address any deficiencies in the systems described in the plan of which the Supplier becomes aware; and
- (c) take into account any Variations or improvements in the Services.

A copy of a revised management plan must be submitted to the Principal for approval prior to implementation of it.

9.3 **(Compliance)** The Supplier must comply with the management plan at all times whilst performing the Services. Such compliance will not release or discharge the Supplier from any liability or obligation under the Contract.

10. MEETINGS

10.1 **(Meetings)** The Supplier must, at the following times:

- (a) Meeting schedule send to the project manager in advance

and when otherwise reasonably required by the Principal, meet and in good faith discuss the performance of the Supplier and/or any other matter concerning the Principal in connection with the Contract including:

- (b) the Supplier's performance of its obligations under this Contract, including the Service Level(s) (if any) identified in the Contract;
- (c) to promote safer and quieter work practices; and
- (d) improvements to efficiency of the Supplier's obligations under the Contract.

10.2 **(Recommendations or directions)** The Supplier must comply with any reasonable recommendations or directions given by the Principal in relation to the performance of the Supplier's obligations under the Contract. Such compliance will not release or discharge the Supplier from any liability or obligation under the Contract.

11. SERVICE RECORDS AND AUDITING

11.1 **(Creation)** The Supplier must:

- (a) create and maintain the following:

- (i) service record list of all machinery's that related with this project
- (b) create and maintain the records, reports and other documents required by the Contract and any other records, reports or documents reasonably required by the Principal in connection with the Contract; and
- (c) create any document required to be prepared under the Supplier's management plan prepared under the Contract,

(‘Service Records’).

11.2 **(Audit)** The Principal may at any time during the Term, on the giving of reasonable notice, audit the Supplier's compliance with the Contract or any obligation under it. The Supplier shall facilitate the audit by:

- (a) allowing the auditors to undertake any inspections or tests;
- (b) providing such assistance, information and access to the Site, systems and equipment and other cooperation;
- (c) providing to the auditor with copies of, facilitating the copying by the auditor of, the Services Records and all other records, information and documentation,

reasonably required by the auditor.

If the audit reveals any non-compliance by the Supplier with its obligations under the Contract, then the costs reasonably and necessarily incurred by the Principal in conducting the audit shall be a debt due and payable by the Supplier. Otherwise, the Principal shall bear the cost of the audit.

12. PERSONAL PROPERTY SECURITIES

12.1 **(Definitions)** In this clause, PPS Act means the *Personal Property Securities Act 2009* (Cth). Terms used in this clause which are defined in the PPS Act have the meanings given in that Act.

12.2 **(Disclosure)** If this Contract contains a security interest, then each Party agrees for the purposes of section 275(6) of the PPS Act that it will not disclose information of the type referred to in section 275(1) of the PPS Act where a request is made under section 275(1) of the PPS Act in relation to this Contract or any part of it, except in circumstances where the Party is compelled by law (other than section 275(1) of the PPS Act) to make that disclosure.

12.3 **(Supplier's obligations)** If the Principal determines that any clause of this Contract, or a transaction contemplated by this Contract or in connection with the performance of its obligations under this Contract constitutes, or is likely to give rise to a security interest in respect of which the Principal is the security holder, then:

- (a) the Supplier must, within the time required by the Principal, provide all assistance and cooperation requested by the Principal that the Principal determines is reasonably required to:
 - (i) register and maintain the registration of its security interest on the personal property securities register within any applicable time limits relevant to the effectiveness of the security interest;

- (ii) ensure that the Principal's security interest is enforceable against third parties, perfected or otherwise effective;
- (iii) ensure that the security interest has the appropriate priority required by the Principal (including where applicable as a purchase money security interest);
- (iv) ensure that any security interest granted temporary perfection under the PPS Act is perfected by registration or other appropriate means prior to any applicable expiry of that temporary perfection; and
- (v) enable the Principal to register financing statements or financing change statements under the PPS Act with respect to any such security interest;
- (vi) the Supplier waives the right to receive notice of a verification statement in relation to the registration of that security interest;
- (vii) the Supplier shall not register or permit to be registered any other security interest in respect of the personal property that comprises the collateral in respect of that security interest other than one that has been consented to or granted by the Principal
- (viii) the Supplier shall not cause or allow any of the Supplier's personal property to become an accession to the Principal's personal property or cause or allow the Principal's personal property to become an Accession to the Supplier's personal property without the prior consent of the Principal, and
- (ix) the Supplier must immediately notify the Principal if any other person claims or attempts to enforce a security interest:
 - (A) in the Principal's personal property, or
 - (B) in the Supplier's personal property to the extent that that purported enforcement affects or has the potential to affect the Supplier's ability to carry out its obligations in accordance with the terms of the Contract.



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TECHNICAL SPECIFICATION

Biloela Sewage Treatment Plant (STP) Repair Project

CONTRACT NO: T2324.41



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Technical Specification

1 INTRODUCTION

The purpose of the Biloela Sewage Treatment Plant (STP) repair project is to extend the service life of existing STP assets through a variety of repair works. The design and construct project encompasses minor repairs such as localised concrete repairs, crack injection, and application of protective coatings to the following assets:

- Inlet channel
- Primary Sedimentation Tank (PST) 1 and 2
- Biological Trickling Filter (BTF) 1 and 3
- Chlorine contact tank (CCT)

The project also includes design and construction to replace the failed BTF 2 ballast retention wall, and design, supply and installation of restraint brackets to BTF 3 ballast retention wall.

The existing STP must continue to operate effectively throughout the repair works. Wastewater treatment will take precedence over all activities associated with the repair project.

It is, however, anticipated that some disruption to the “normal” operation of the STP will be required in order to accommodate the various upgrades and associated works. Such disruptions shall be minimised.



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2 SITE INSPECTION

The Contractor should become fully acquainted with the site, existing infrastructure and WUC prior to submitting the tender. A site meeting will be held on 25th of September 2024 at 10.00am to discuss any queries that the tenderer may have. Tenderers are to meet at the Biloela STP, 93 Quarrie Road, Biloela. Minutes will be taken and made available to the tenderers in attendance.

3 GENERALS

3.1 PURPOSE OF REPAIR WORKS

The intent of repair works is to extend the service life of existing reinforced concrete STP assets.

3.2 CONTRACTOR EXPERIENCE

Due to the nature of the works, a specialist Contractor with a detailed understanding and demonstrated experience in concrete remedial projects and tank construction projects shall undertake the works.

3.3 WARRANTIES

Upon the completion of commissioning, the Contractor shall supply the Principal copies of all manufacturers' warranties covering all individual components of each repair. In addition, as part of practical completion, the Contractor shall forward to the Principal a written warranty certification, certifying that the warranty for any component that is not covered by the manufacturer is in force from the date of completion of commissioning.

3.4 SELECTION AND DESIGN OF WORKS

This document has been prepared to address the known and expected defects present across the in-scope structures at the time of original inspection (2021). The scope of repairs and methodology is to be determined by the Contractor based on a detailed inspection of in-scope elements, in combination with the minimum requirements detailed in this performance specification.

Confirmation of the suitability and design of each repair type shall be undertaken by a suitably qualified Registered Professional Engineer of QLD (RPEQ).

A Safety in Design (SiD) assessment shall be completed.

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3.5 OUTLINE OF SPECIFICATION

This Performance Specification details the minimum technical and performance requirements for the repair of in-scope STP assets.

3.6 REFERENCE DRAWINGS

Defect location maps and high-level concept design drawings have been prepared and are provided as Appendix A to Appendix C. Available construction drawings for in-scope assets have also been provided as Appendix D. Appendices should be read in conjunction with this specification. Drawing details are provided in Table 3 1.

Table 3-1 Reference drawings

Drawing Numbers	Drawing/Set Title
30032680-1 to 30032680-16	Biloela STP Repair Project Repair Map - Drawing Set
30032680-GA-1121	Biloela STP – Structural General Notes
30032680-GA-1122	Biloela STP – Biological Trickling Filter 2 – Wall Replacement Reinforced Concrete General Arrangement and Details
30032680-GA-1123	Biloela STP – Biological Trickling Filter 2 – Wall Replacement Reinforcement Details
30032680-GA-1124	Biloela STP – Biological Trickling Filter 3 – Wall Brackets
WT1193M520	Biloela Wastewater Treatment Plant -Site Plan
4-494	Biloela Sewerage Treatment Works – Layout Plan No. 1
4-380	Treatment Plant Augmentation – Layout Plan
4-500	Biloela Sewerage Treatment Works – Grit Channel: Structural Sheet 1
4-501	Biloela Sewerage Treatment Works – Grit Channel: Structural Sheet 2
4-502	Biloela Sewerage Treatment Works – Grit Channel: Reinforcement Sheet 1
4-503	Biloela Sewerage Treatment Works – Grit Channel: Reinforcement Sheet 2

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4-381	Treatment Plant Augmentation – Primary Sedimentation Tank
4-504	Biloela Sewerage Treatment Works – Alterations to Siphon Chamber Structural & Reinforcement
4-505	Biloela Sewerage Treatment Works – Biological Trickling Filter Structural – Sheet 1
4-506	Biloela Sewerage Treatment Works – Biological Trickling Filter Structural – Sheet 2
4-507	Biloela Sewerage Treatment Works – Biological Trickling Filter Reinforcement
4-513	Biloela Sewerage Treatment Works – Chlorine Contact Chamber Structural

4 ITEMS OF WORKS

This performance specification details the minimum technical and performance requirements for the contracts Items of Work. The Items of Works in this Contract include but are not necessarily limited to:

- a) Detailed inspection of all structures requiring repair, marking up all defects on the structures. A defect map and register shall be submitted to the Superintendent and agreement sought on defect nature and extent prior to completion of any repair works.

[HOLD POINT]

- b) Engineering detailed design of all works by a suitably qualified RPEQ.
- c) Complete isolation activities for each asset requiring access to internal surfaces. Isolation activities and responsible parties are described in Table 4-1. It shall be the responsibility of the contractor to clean and dispose of any waste from tanks as required to facilitate repair works. Where the contractor is required to complete isolation works, BSC shall assist by providing relevant information including flow data and P&ID's. Contractors shall submit enquiries to BSC via (tenders@banana.qld.gov.au) to receive further explanation of isolation and flow control requirements as needed. Requirements shall also be addressed at the pre-tender site inspection.

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Table 4-1 Isolation responsibilities

Asset	Activity Name	Activity Description	Activity Owner
BTF2	Isolation of BTF2	Turn off the isolation valve of inlet pipe	BSC
	Re-commissioning of BTF2	Turn on the isolation valve of the inlet pipe	BSC
Inlet Channel	Isolation of Inlet	Bypass the inlet channel by a temporary pipe/other means	Contractor
	Re-commissioning	Remove the temporary bypass and divert the wastewater to the inlet channel	Contractor
PST Siphon Chamber	Isolation of siphon chamber adjacent PST1	Bypass the siphon chamber adjacent PST1 by a temporary pipe/other means. Bypass flows will need to be distributed between two biological trickling filters at all times and cannot be re-directed to just one asset	Contractor
	Re-commissioning of siphon chamber adjacent PST1	Remove the temporary bypass and divert the wastewater to the siphon chamber	Contractor
BTF 1	Isolation of BTF1	Turn off the isolation valve of inlet pipe	BSC
	Re-commissioning of BTF1	Turn on the isolation valve of inlet pipe	BSC
CCT	Isolation of CCT	Divert the treated wastewater from the old sand filter to the maturation ponds	BSC
		Extend sodium hypochlorite dosing pipeline up to the outlet channel to dose chlorine	BSC
	Re-commissioning of CCT	Divert the water back to the CCT and bring the sodium hypochlorite dosing pipeline back to the original position	BSC

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- d) Repairs to existing reinforced concrete assets as detailed in drawings 30032680-1 to 30032680-16 including:
- Concrete repairs to areas of delamination, spalling and cracking
 - Injection of cracks exceeding 0.3mm in width
 - Application of anti-carbonation coatings
 - Application of epoxy coating to areas of concrete experiencing etching and section loss.
- e) Installation of stainless-steel restraining brackets around the base of BTF 3 wall in line with the concept design detailed in 30032680-GA-1121 to 30032680-GA-1124.
- f) Replacement of BTF 2 ballast retention wall inclusive of
- Removal and reinstatement of inlet pipework and distributor arms as necessary to facilitate construction.
 - Removal, and storage of ballast as required to facilitate demolition of the existing wall and replacement. Inclusive of removal and disposal of any sludge or waste
 - Demolition and disposal of the existing reinforced concrete ballast wall
 - Rebuilding of the existing ballast wall in line with the concept design detailed in 30032680-GA-1121 to 30032680-GA-1124.
 - Reinstatement of ballast.
- g) Site works, inclusive of any earthworks, concrete works, and site reinstatement.
- h) Ballast from BTF 2 shall be removed as required to facilitate works. This ballast shall be stored and returned to BTF 2 free of additional contaminants. This shall be allowed for in the contractor's price.
- i) Relocation of existing services as needed.
- j) The provision of all labour, materials and equipment included in the above and provisional items and all necessary miscellaneous items to provide a safe and operational plant are deemed to be included in all Items of Work.
- k) Commissioning, testing and verification as per the following:
- The Principle has nominated Witness and Hold points throughout for different stages of the project. The Contractor must not proceed beyond a Witness Point or a Hold Point without the written consent of the Principle in the form of signature on a suitable form provided by the Contractor
 - The signature of the Principle does not constitute verification, acceptance or approval of the works completed at the Witness Point or the Hold Point. The quality of the Works will remain the responsibility of the Contractor.

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4.1 PROVISIONAL ITEMS OF WORK

4.1.1 BTF 1 OPTION 1 –BTF1 BALLAST WALL REPAIR

In addition to the general project scope items detailed in the preceding section, BTF 1 wall repair activities shall include:

a) Repairs to existing reinforced concrete ballast wall as outlined in drawings 30032680-6 to 30032680-9 including:

- Concrete repairs to areas of delamination, spalling and cracking
- Injection of cracks exceeding 0.3mm in width
- Application of anti-carbonation coatings

b) Removal and reinstatement of inlet pipework and distributor arms as necessary to facilitate repairs.

c) Removal, and storage of ballast as required to facilitate repairs inclusive of removal and disposal of any sludge or waste. Ballast shall be stored and returned to BTF 1 free of additional contaminants. It is expected a large portion of BTF 1 concrete repairs to the wall will require removal of ballast internally to facilitate full thickness repairs noting there is only a single layer of reinforcement. This shall be allowed for in the contractor's price.

4.1.2 BTF 1 OPTION 2 –BTF1 BALLAST WALL REPLACEMENT

Given the large quantity of defects present on BTF 1 ballast wall, the contractor is invited to submit a provisional sum for design and construct of a replacement ballast wall. The contractor should allow for completion of all activities as described for replacement of BTF 2 ballast wall in Section 10.5. The replacement BTF 1 ballast wall shall:

- Align with the design philosophy of the BTF 2 ballast wall replacement concept (refer to drawings 30032680-GA-1121 to 30032680-GA-1123).
- Occupy the same footprint as the existing BTF 1 wall
- Have the same external dimensions as the existing wall

As per the BTF2 replacement concept design, wall to footing fixity may be provided using mechanical dowelled connections with the footing, or via externally applied stainless steel brackets.

4.1.3 INLET CHANNEL PARTIAL REPLACEMENT

As an alternative to repairing the reinforced concrete inlet channel downstream of the grit removal chamber, the contractor is invited to submit an alternative offer to replace this portion of channel with pipework which connects into the existing pipework between the inlet channel and primary sedimentation tanks. There is no requirement to demolish the

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superseded portion of inlet channel, and the contractor may elect to run the pipework inside the existing channel footprint. A concept drawing showing the extent of pipework is provided as Appendix C. Pipework shall be sized to accept 5 x average dry weather flow requirements. Additional details required for design purposes shall be furnished at time of award should this scope item be adopted.

5 FUNCTIONAL AND OPERATIONAL REQUIREMENTS

During the progress of the works the sewage treatment plant must remain operational. Short term shutdowns or bypasses of individual structures shall be permitted at the approval of the Superintendent if required to facilitate works.

Repair works on Biological Trickling Filters (BTF's) shall be sequenced to allow a minimum of two BTF's to remain in operation at any time.

6 APPLICABLE ACTS AND REGULATIONS

The design and construction of all components of the infrastructure shall comply with all national and state statutory requirements, as well as Australian Standards (or equivalent) relevant to the work. Latest revisions of all statutes, regulation and policy documents will apply.

A list of some of the over-arching statutes, acts and regulations that will generally apply to all components of the project is listed below (this list should not be considered exhaustive):

- Qld Local Government Act 2009
- Qld Professional Engineers Act 2002 and Regulation 2003
- Queensland Work Health and Safety Act 2011 and Regulation 2011
- Commonwealth Work Health and Safety Act 2011

7 REFERENCE CODES AND STANDARDS

The design and construction of the works shall follow the order of precedence (in order of highest precedence to lowest precedence) as follows:

- Contract Specific Clauses;
- Government and Statutory Requirements;

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- Australian Codes of Practice
- Australian Standards;
- Water Services Association of Australia (WSAA) documentation;
- Capricorn Municipal Development Guidelines documentation;
- International Codes and Standards;
- Other references (e.g. recognised industry best practice).

Regardless of the general order of precedence, if there is a conflict between documents, the clause presenting the more conservative and pragmatic guidance will govern. If in doubt, or in all cases where noncompliance is anticipated, clarification and approval shall be sought from BSC.

8 DESIGN LIFE

This performance specification has been developed based on the nominated design lives in Table 8.1. The performance specification has been made using guidance from AS1170, AS3600, EN1504, WSA201, and SA HB84.

Any alternative products or specifications proposed by the contractor shall achieve these minimum required design lives

Table 8.1 Design Lives

Item	Minimum Design Life (years)
New Concrete Structures	50
Stainless steel brackets	50
Concrete repairs	10
Crack injection	10
Epoxy coating	10
Anti-carbonation coatings	20

Design life for new works is defined as the period of time at which the asset shall be serviceable and structurally adequate, given a minimum level of maintenance typical for the asset. It does not mean the asset will not perform past the design life; however, it may mean major modification and/or rectification to maintain structure integrity, or an increased amount of maintenance to ensure serviceability and structural integrity is maintained.

Design life for remedial works is defined as the period of time for which remedial works will maintain asset serviceability or structural integrity, given a minimum level of

Technical Specification

maintenance typical for the asset. It does not mean the remedial works will not perform past the design life.

8.1 DURABILITY REQUIREMENTS

Durability must be addressed throughout the design, construction, operation and maintenance of all assets. The durability requirements will be applied diligently and continuously throughout the process of design, including design review and design amendments. Items that cannot be readily accessible for maintenance or replacement shall be designed such that they shall function for their specified minimum design life without maintenance.

The design of any new reinforced concrete structure shall determine the exposure classification, considering the asset location and any contact with effluent or other chemicals. The minimum exposure classification for new concrete structures shall be B2.

9 QUALITIES

The Contractor shall have a Quality Management System in place throughout all phases of the works. The Quality Management Systems shall comply with the requirements of ISO 9001 Quality Management Systems. The Contractor shall have demonstrated successful experience in the type of repair works being completed.

For all works, the Contractor shall submit a project specific Quality Management Plan (QMP), inclusive of Inspection and Testing Plans (ITPs) to the Principal for approval prior to commencement of any work.

[HOLD POINT]

The Principal may appoint a third-party independent inspector for the works. The Contractor shall provide access for the inspector to the site and provide copies of quality assurance documentation upon request.

10 REPAIR WORKS

10.1 CONCRETE REPAIRS

10.1.1 GENERAL

Concrete repairs include removal of delaminated concrete and breaking back to sound concrete, preparing and priming reinforcement, reinstatement of corroded reinforcement

Technical Specification

(if necessary) and reinstating concrete using a proprietary bagged cementitious repair mortar in strict accordance with the product technical data sheet (TDS). The contractor may select concrete repair as their methodology for rectification of the full depth of static cracks.

10.1.2 SCOPE

Concrete repairs shall be undertaken at all areas identified in Drawings 30032680-1 to 30032680-16, and any other areas identified as delaminated or spalled and approved by the Superintendent following the contractors detailed inspection.

10.1.3 MATERIALS

Concrete repair mortar shall comply with the requirements as follows.

Table 10-1 Concrete repair material performance requirements

Property	Criterion	Standard
Repair material category	≥R3	EN 1504.3
28-day compressive strength	≥25MPa	AS 1478.2
Bond strength by pull-off	≥1.5MPa	BS EN 1542
Chloride ion content by weight of material	<0.05%	BS EN 1015.17

All materials used in the concrete repair works (mortar, reinforcement primer, concrete primer, curing compound, etc.) shall be compatible with each other. Repair mortars may be hand/trowel applied, wet sprayed, or form and pour placed. Placement method, maximum build thicknesses and placement depths per the product TDS shall be strictly adhered to. Suitable high build repair products shall include:

- Sika – Monotop -352 NFG
- Fosroc – Renderoc HB40 or HB40Plus
- Master Builders – MasterEmaco S 5300 CI
- Fosroc – Guncrete E
- Fosroc – Renderoc LA55 or LA55 Plus
- Sika – SikaGrout Deep Pour
- Other approved compliant products.

10.1.4 CONCRETE REPAIR SPECIFICATION

The contractor shall submit a concrete repair specification to the Principal. The specification shall be developed in accordance with repair principle P3 “Replacement of Damaged Concrete” from EN1504, the product manufacturer’s recommendations and industry best practice.

Technical Specification

[HOLD POINT]

The content of the concrete repair specification shall include, at a minimum, the following:

- Trial applications
[HOLD POINT]
- Procedure for breakout and removal of deteriorated concrete
- Preparation and cleaning of steel reinforcement including replacement of heavily corroded sections
- Concrete substrate preparation
- Steel reinforcement and substrate priming
- Mixing
- Reinstatement
- Curing
- Inspection and testing

10.1.5 INSPECTION AND TESTING

The concrete repair specification shall nominate the type, frequency, acceptance criteria and reference standards for all inspection and testing activities.

[WITNESS POINT]

- At a minimum, the inspection and testing shall include:
- Visual inspection of reinforcement priming
- Visual inspection of concrete surface cleanliness, profile, and substrate soaking/priming
- Visual inspection of completed repair
- Soundness (delamination) check of repair
- Compressive strength testing of repair mortars

10.2 REPAIR OF CONCRETE CRACKS BY RESIN INJECTION

10.2.1 GENERAL

Repair of concrete cracks via pressure injection includes filling the full depth of the crack with a proprietary epoxy resin material until the crack is full and remains full.

10.2.2 SCOPE

Crack injection shall be undertaken at all areas identified in 30032680-1 to 30032680-16, and any other areas of cracking >0.3mm in width identified by the Contractor and approved by the Superintendent following the Contractors detailed inspection.

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10.2.3 MATERIALS

Cold curing, two-component, solvent free, unfilled epoxy resin may be used to fill cracks. Resin materials shall comply with the requirements outlined in Table 10.2.

Table 10-2 Epoxy resin injection material performance requirements

Property	Criterion	Standard
Volume Solids	100%	-
Minimum crack width	0.2mm	-
Maximum crack width	3.0mm	-
Viscosity @ 20°C	200 cps ±150	-
Volume change	-1% / +5%	EN 445/3.4
Volumetric shrinkage	≤3 %	EN 1217 – 2
Concrete adhesion	≥2 MPa	EN1218 – 2
Compressive strength @ 7 days	≥32 MPa	BS 6319.2
Compressive strength @ 28 days	≥48 MPa	BS 6319.2
Tensile strength @ 7 days	≥22 MPa	BS 6319.7

Suitable injection materials shall include:

- Sika – Sikadur -52
- Fosroc– Nitofill LV
- Bluey – BlueRez Epoxy 225
- Other approved compliant product.

The use of static mixing nozzles for epoxy injection is not permitted.

10.2.4 RESIN INJECTION SPECIFICATION

The contractor shall submit a resin injection specification to the Principal. The specification shall be developed in accordance with

- EN1504 repair Principle P1 Sealing of the concrete,
 - HB 84 Repair Practices – crack filling
 - The product manufacturer’s recommendations
 - Industry best practice.
- [HOLD POINT]

The content of the resin injection specification shall include, at a minimum, the following:

- Trial applications
- [HOLD POINT]

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- Concrete surface and crack preparation
- Procedure for injection packer installation
- Requirements for surface sealing
- Mixing
- Injection
- Removal of packers and excess surface seal

10.2.5 INSPECTION AND TESTING

The resin injection specification shall nominate the type, frequency, acceptance criteria and reference standards for all inspection and testing activities.

[WITNESS POINT]

- At a minimum, the inspection and testing shall include:
- Visual inspection of concrete surface preparation
- Visual inspection of completed works
- Sampling of mixed resin throughout the works to ensure it is setting
- Core sampling of cracks to confirm resin penetration and curing. Acceptable penetration is considered to be up to where the crack tapers to less than 0.2mm.

10.3 ANTI-CARBONATION COATING

10.3.1 GENERAL

Anti-carbonation coating systems shall be applied to reinforced concrete assets to reduce the rate of carbonation and limit future deterioration. Application of an anti-carbonation coating shall include

- Filling of blowholes and fairing coat application to achieve a smooth substrate
- Application of a single-component penetrating silane-siloxane primer (flood coat)
- Application of two (2) coats of a single component elastomeric pigmented acrylic carbonation protective coating with minimum DFT of 150µm/coat.

10.3.2 SCOPE

Anti-carbonation coatings may be applied to the full external surfaces of BTF 1 and the inlet channel pending award of provisional scope items.

Technical Specification

10.3.3 MATERIALS

Anti-carbonation coatings must satisfy the minimum material performance requirements outlined in Table 10.3. All coating materials shall be provided by a single supplier.

Table 10.3 Anti-carbonation coating material performance requirements

Property	Criterion	Standard	
Equivalent air layer thickness (R)	>150m	AS/NZS Appendix D	4548.5
Equivalent thickness of concrete (Sc)	>450mm	AS/NZS Appendix D	4548.5
CO ₂ diffusion co-efficient (protective coatings only) (D)	< 2 x 10 ⁻⁷ cm ² /s	AS/NZS Appendix D	4548.5
Water vapour equivalent air layer thickness (Sd)	<4m	AS/NZS Appendix C	4548.5
Dry Film Thickness (DFT) per coat	At least 150µm	AS 1580.108.2	
Minimum crack bridging width	0.3mm	-	
Bond strength at 14 days	>0.75MPa	AS1580.408.5	

Suitable silane-siloxane primer materials include:

- Parchem – Nitoprime DG
- Sika – Sikagard-700S
- BASF – MasterProtect 355
- Other approved compliant product.

Suitable elastomeric pigmented acrylic anti-carbonation coating materials include:

- Parchem – Dekguard E2000/Elastic
- Sika – Sikagard 680S
- BASF – MasterProtect 150
- Other approved compliant product.

10.3.4 ANTI-CARBONATION COATING SPECIFICATION

The contractor shall submit an anti-carbonation coating application specification to the Principal. The specification shall be developed in accordance with:

- EN1504 repair Principle P1 - Protection against aggressive substances
- The product manufacturer's recommendations

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- Industry best practice.
[HOLD POINT]

The content of the anti-carbonation coating specification shall include, at a minimum, the following:

- The need for Trial applications to confirm material and application methodology suitability.

[HOLD POINT]

- Concrete surface preparation including requirements for filling of blowholes and application of fairing coat
- Procedure for primer application
- Procedure for anti-carbonation coating application

10.3.5 INSPECTION AND TESTING

The anti-carbonation coating specification shall nominate the type, frequency, acceptance criteria and reference standards for all inspection and testing activities.

[WITNESS POINT]

At a minimum, the inspection and testing shall include:

- Adhesion testing prior to full scale application
- Visual inspection of prepared surface prior to coating application
- Dry film thickness testing

10.4 EPOXY PROTECTIVE COATING

10.4.1 GENERAL

Epoxy coatings application shall include:

- Removal of all deteriorated concretes and other contaminants
- Reinstatement of original concrete surface profile as required
- Filling any voids using a suitable epoxy filler to achieve an ICRI CSP1 to CSP3 surface finish
- Applying a durable epoxy protective coating system to the specified elements.

10.4.2 SCOPE

Areas to be treated with an epoxy protective coating are detailed in 30032680-1 to 30032680-16. They include:

Technical Specification

- Internal surfaces of the inlet channel walls (excluding the floor)
- All internal surfaces of PST1 siphon chamber to 0.2m below typical waterline
- The top 0.5m of internal wall surfaces in the chlorine contact tank

Significant repairs of up to 30mm will be required to reinstate the original concrete surface profile in the PST1 siphon chamber, and areas of the inlet channel around the outlet. The original concrete profile may be reinstated per the contractor's concrete repair specification, or by the use of an appropriate epoxy mortar applied in strict accordance with the manufacturers guidelines and industry best practice.

10.4.3 COATING SYSTEM

The contractor shall select one of the following WSA 201 coating systems:

- EUH (Epoxy Ultra High Build)
- NOV (Novolac epoxy)

All coating materials shall be provided by a single supplier.

Suitable EUH coating systems include:

- Epirez – Ultra High Build Epoxy Coating (733)
- International – Interzone 485
- Jotun – Jotacote UHB
- Dulux – Luxepoxy UHB
- Wattyl – Epinamel UHB1000
- Peerless – Epigen 1311
- Other approved compliant product.

Suitable NOV coating systems include:

- International - Ceilcote Flakeline 662
- Sika – Sikagard 63N
- Other approved compliant product.

10.4.4 COATING SPECIFICATION

The contractor shall submit a coating specification to the Principal. The content of the specification shall be as per WSA 201 Section 8 Coating System Specifications for the EUH or NOV coating systems.

[HOLD POINT]

The specification shall also include trial applications to confirm material and application methodology suitability

Technical Specification

[HOLD POINT]

10.4.5 INSPECTION AND TESTING

The coating specification shall nominate the type, frequency, acceptance criteria and reference standards for all inspection and testing activities.

[WITNESS POINT]

At a minimum the inspection and testing shall include:

- Adhesion testing prior to full scale application
- Visual inspection of prepared surface prior to coating application
- Phenolphthalein testing of prepared surface to ensure all acid affected concrete has been removed
- Substrate strength
- Surface profile using ICRI CSP comparators
- Substrate moisture content
- Temperature and relative humidity
- Dry film thickness testing of each coat
- Holiday (continuity) testing of completed coating

10.5 NEW BTF 2 BALLAST WALL

10.5.1 GENERAL

The failed ballast wall of BTF 2 shall be removed and replaced with a new reinforced concrete ballast wall. Other reinforced concrete elements are to be retained and re-used.

10.5.2 SCOPE

Wall replacement works shall include

- Dilapidation survey of perimeter reinforced concrete drainage channel, inlet pipework and rotating arm, with survey continuing as elements are exposed.
- Removal and storage of existing inlet pipework and distributor arms
- Removal of and storage of ballast as required to facilitate wall replacement work per Section 4
- Demolition and disposal of existing ballast wall
- Construction of new ballast wall in line with concept design
- Replacement of damaged perforated channel pipe as required
- Reinstatement of inlet pipework and distributor arms
- Replacement of stone ballast
- Damage to retained concrete elements sustained as part of ballast wall replacement works shall be completed at the contractor's expense per Section 10.1.

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The contractor shall participate in a functional check of the rotating arm when the asset is returned to service and shall be responsible for rectification of any function issues arising as a consequence of the contractors works. It is expected the rotating arm should handle the design hydraulic loading rate of 1 to 10 m³/m²/day with the rotating arm completing 1 to 3 revolutions per minute.

The contractor shall prepare detailed design documentation for the replacement BTF 2 ballast wall as outlined in Section 11. The design shall be completed and certified by a suitably qualified RPEQ in line with the concept design communicated in drawing 30032680-GA-1121 to 30032680-GA-1123.

[HOLD POINT]

10.5.3 MATERIALS

Ballast wall materials shall be per details provided in concept design drawing 30032680-GA-1121.

10.5.4 INSPECTION AND TESTING

The Superintendent shall be given a minimum of 48 hours' notice for reinforcement inspection, and concrete shall not be delivered until final approval is obtained

[HOLD POINT]

The Superintendent shall be given a minimum of 48 hours' notice for concrete pours. Concrete compliance testing and sampling shall be completed by the contractor in accordance with AS1379. Any additional inspection and testing specified in design drawings shall also be complied with.

[WITNESS POINT]

The contractor shall complete a defect survey of the ballast wall a minimum of 28 days after construction. Any cracking >0.3mm in width shall be repaired per Section 10.2.

[WITNESS POINT]

10.6 BTF 3 BALLAST WALL BRACKETS

10.6.1 GENERAL

BTF 3 ballast wall is not mechanically connected to the wall footing. An external bracket system shall be installed to provide restraint.

Technical Specification

10.6.2 SCOPE

Bracket installation shall include completion of detailed design, fabrication and installation of a minimum of twelve (12) stainless steel brackets around the perimeter of BTF 3, in line with concept design drawing 30032680-GA-1124.

10.6.3 DESIGN

The contractor shall prepare detailed design documentation for the restraint brackets as outlined in Section 11. The design shall be completed by a suitably qualified RPEQ.

[HOLD POINT]

The steel fabricator shall provide shop drawings to the designer for review prior to undertaking fabrication.

[HOLD POINT]

10.6.4 MATERIALS

Stainless steel bracket materials shall be per the specification provided in detailed designs.

10.6.5 INSPECTION AND TESTING

The contractor shall provide the Principal with at least five (5) working days' notice of its installation programme to enable inspections to be arranged by the Principal. The contractor shall at all times facilitate inspection and testing by the Principal.

Any inspection by the Principal shall not prevent the ultimate rejection of any work or materials in which defect have been found at any time prior to the completion of the Contract.

Inspection by the Principal shall occur following fabrication, and installation. [WITNESS POINT]

11 DESIGN DOCUMENTATION

11.1 GENERAL

The contractor shall undertake the detailed design for all works and shall provide documentation that includes the following:

- Design Plan
- Safety in Design Reporting
- Civil and Structural Design Drawings

Technical Specification

11.2 DESIGN PLAN

The Contractor shall prepare and submit a Design Plan to the Superintendent within two (2) weeks of Contract award.

The Design Plan shall include:

- A breakdown of the design elements into suitable design packages (e.g. breakdown by structure and repair activity)
- A program setting out the design approach including submission/completion dates for drawing packages, dates for submission of design reports and proposed dates for relevant workshops (including timing)
- The location of where the design is being undertaken
- A schedule of design personnel and reviewers, including any sub-consultants, including CVs defining their relevant experience shall be provided
- The CVs of the RPEQ Engineers responsible for the relevant design package. The Contractor shall design the works in accordance with the Design Plan, and in compliance with this job specification.

11.3 SAFETY IN DESIGN

The Contractor shall clearly demonstrate their mitigation of the requirements of Safety-in-Design with a detailed analysis of safety during the entire life cycle of the equipment including constructability, use and operation, maintenance, decommissioning and disposal as required by the Queensland Workplace Health and Safety Act.

11.4 DESIGN DOCUMENTATION

The contractor's program must identify the delivery of documentation to the Superintendent for review for the following stages of design:

- 30%
- 80%
- 100% / Issued for Construction "IFC"

The contractor shall provide copies of all documentation (including drawings, reports, specifications, etc.) to the Superintendent for review.

11.4.1 30% DESIGN SUBMISSION

The contractor shall provide the following documentation to the Superintendent at the programmed 30% completion of the design work/documentation:

- Draft design drawings
- Draft design report

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11.4.2 PAYMENT

The scheduled Lump Sum, with percentage completed for progress payments, for 30%

Design shall include full compensation for the work operations listed in Clause 11.4.1 above, and for all other costs incurred in carrying out the work in accordance with the Contract

11.4.3 80% DESIGN SUBMISSION

The contractor shall provide the following documentation to the Superintendent at the programmed 80% completion of the design work/documentation:

- Draft design drawings
- Draft design report
- Inspection and Test Plans (ITPs) for all works for Approval including a list of inspection instruments and equipment
- Product technical datasheets and safety data sheets (SDS) for all proposed materials
- Detailed work method statement outlining work methodology, containment processes and environmental controls for approval
- Sequence of work with anticipated timeline for approval
- Work schedule, including procedure for the communication of schedule changes to the Superintendent

11.4.4 PAYMENT

The scheduled Lump Sum, with percentage completed for progress payments, for 80% Design shall include full compensation for the work operations listed in Clause 11.4.3 above, and for all other costs incurred in carrying out the work in accordance with the Contract.

11.4.5 100% / ISSUED FOR CONSTRUCTION (IFC)

The contractor shall provide all documentation listed in Clause 11.4.3 to the Superintendent with all documentation at the 100%/Issued for Construction (IFC) stage.

11.4.6 PAYMENT

The scheduled Lump Sum, with percentage completed for progress payments, for IFC Design shall include full compensation for the work operations listed in Clause 11.4.5 above, and for all other costs incurred in carrying out the work in accordance with the Contract.

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11.4.7 QUALITY AND CERTIFICATION REQUIREMENTS

Design drawings must be completed to a professional standard (AS1100) using a computer aided drafting (CAD) package; hand drawings will not be acceptable. Drawings shall be submitted electronically, in searchable pdf format. Each drawing must include a title block, similar to the tender drawings. Design documentation including calculations and drawings must be approved and endorsed by a Registered Professional Engineer of Queensland (RPEQ). The Banana Shire Councils logo and allocated project code must be present on all drawings and documents.

11.5 REVIEW OF SUBMISSIONS

Refer to Clause 8 AS4902 - 2000.

The Superintendent's review of the Contractor's submissions will be for general compliance with the Contract, a review of detailing and standard of drawings. It is not a design check and does not relieve the Contractor of responsibility for ensuring that the works are constructed in accordance with the specification and in a safe manner. Acceptance of the submissions does not imply acceptance of any variation from the contract documents contained therein. Such variations must be identified and the explicit agreement of the Superintendent is obtained. Following completion of the review the Superintendent will notify the Contractor of the results. The Superintendent will arrange for drawings and documents to be returned to the Contractor with a status code.

All submission shall be made by electronic transmission in PDF format for all submittals preceding final certified copies, when native files are required. Electronic files must not be password protected.

Each drawing and document shall contain the following identification information at a minimum in the title block/cover sheet:

- Name of the project
- Contract number
- Drawing/document title
- Equipment identifiers
- Contractor document number
- Revision and Status History.

Drawings/documents that do not meet these requirements will be returned to the Contractor as 'not acceptable' and will require immediate rework and re-submittal.

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The Superintendent will arrange for drawings and documents to be returned to the Contractor following the completion of the review and non-rejection process.

Code	Interpretation
A	Proceed. Data containing this code is deemed acceptable and does not require resubmittal unless changes are made by the Contractor. The Contractor may proceed with manufacture of the item(s) to which the data relates.
B	Proceed as Noted. Data containing this code requires re-submittal by the Contractor within 14 calendar days. The Contractor may proceed with the manufacture of the item(s) to which the data relates, provided that all comments are accepted, incorporated and no other changes are made.
C	Do Not Proceed. Make corrections and re-submit. Data containing this code requires resubmittal by the Contractor within 14 calendar days. The Contractor may NOT proceed with the manufacture of the item(s) to which the data relates.
D	Information Only. Data containing this code is deemed for information only and does not require re-submittal.

Upon receiving reviewed data requiring re-submission (i.e. Status Codes B or C), the Contractor shall re-submit a new revision to the Superintendent within 14 calendar days. The Contractor will revise the document only in accordance with the Superintendent review comments.

The Contractor shall clearly identify revisions made through the use of 'clouding' for drawings and other practical means for other document types.

All issues raised as part of this review must be resolved to the satisfaction of the Superintendent prior to commencement of construction. Alterations to drawings or technical specifications between submissions must be clouded or revision marked to clearly identify the alteration.

In preparing the design program that forms part of the Design Plan (refer to Clause 9.2 of this Specification), the Contractor shall allow for the following review durations and workshop timings:

- Design Documentation to be provided 7 business days prior to nominated design review workshop;

Technical Specification

- Superintendent to provide initial design documentation review comments at least 24 hours prior to workshop so that Contractor has ability to address during the workshop.

12 SITE AND ACCESS DETAILS

12.1 WORKING HOURS

Working hours shall be 07:00hrs to 17:00 hrs Monday to Saturday. Site activities shall be in accordance with Environmental Nuisance or Pollution guidelines provided on Banana Shire Council's Website: <https://www.banana.qld.gov.au/council-services/health-environment>

12.2 ACCESS

Site access shall be via the main gate from Quarrie Road. Access gates shall be open between 06:00 and 17:00hrs subject to liaison with plant operators.

12.3 SITE COMPOUND LOCATION

The proposed location for the successful Contractor's site compound is shown in Figure 12.4. Contractors may propose alternate locations as part of their tender submission.

12.4 OVERLAND STORMWATER FLOW PATH

The Contractor is made aware that the ground immediately east and south of BTF 2 can become an overland flow path during periods of intense rainfall. The typical flow path is show using red arrows in 12.4. The Contractor should take this into consideration when scheduling construction works and selecting stockpiling locations to avoid damage and delays.



Figure 12.4 Proposed location for the site compound shaded in red

12.4.1 INDUCTIONS

Employees & Contractors working on-site are required to complete the following inductions:

BSC Safety Induction – This must be completed prior to attending site. Inductions are generally held fortnightly at BSC’s Biloela Administration Complex located at 62 Valentines Plains Road, Biloela. Bookings shall be made through water services administration via telephone at 07 49929500.

A Site-specific induction. Biloela STP site inductions are held in contractors own time.

13 COMPLIANCES WITH STANDARDS

It is a mandatory requirement that all work performed under this arrangement shall meet all relevant current Australian Industry and Council Standards.

14 PURCHASE ORDER AND INVOICING

Before the commencement of work the contractor must receive an official signed Purchase Order stating the tender number and tendered amount. The contractor must not proceed until received via email or hand delivered.

Council will place a purchase order with the selected supplier detailing the requirement and an estimated quantity. The quantity and delivery times are estimates only and are subject to change at any time. No work shall be conducted without an official council purchase order.

The Supplier shall operate an appropriate system of recording and invoicing such that all necessary information is recorded and provided as required. Invoices shall be in a format acceptable to the Council with all relevant information required by Council including street and road address or park area and all if any consumables utilized.

14 Appendices

APPENDIX A – REPAIR DEFECT MAP AND REGISTER

APPENDIX B – BTF2 REPLACEMENT WALL AND BTF 3 RESTRAINT BRACKET CONCEPT DESIGNS

APPENDIX C – PROVISIONAL INLET CHANNEL REPLACEMENT CONCEPT

APPENDIX D – EXISTING ASSET DRAWINGS



GENERAL SPECIFICATION (STANDARD RISK)

BILOELA SEWAGE TREATMENT PLANT (STP)
REPAIR PROJECT

CONTRACT NO: T2324.41

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1. THE SPECIFICATION

- 1.1 **(Documents comprising the specification)** The specification comprises the following documents:
- (a) the Technical Specification including Appendices A-D
 - (b) this General Specification;
 - (c) other documents to the extent that they are incorporated (whether physically or by reference) into the specification, namely:
 - (i) Water Services Association of Australia (WSAA) standard specification;
 - (ii) relevant Australian Standards;
 - (iii) Principal's Policies and Procedures;
- 1.2 **(Precedence of documents comprising specification)** The documents comprising the specification shall be taken to be mutually explanatory. If there is any ambiguity, inconsistency, conflict or discrepancy between any of the documents listed in clause 1.1 then the documents will take precedence in the order set out in clause 1.1, with the document listed at 1.1(a) being the highest in the order.
- 1.3 **(Documents incorporated by reference into specification)** The Contractor is deemed to have obtained copies of, read, understood, and allowed for compliance with the Specification (including any documents which are incorporated into it by reference only).

2. DEFINITIONS

- 2.1 **(Definitions)** Capitalised terms used in the General Specification have the meanings assigned to them in the General Conditions of Contract (if any) unless the context otherwise requires. Terms which are separately defined in a specific clause have the meanings assigned in those clauses. Otherwise, in the General Specification:
- (a) **Administrator** means, when used in or by reference to Department of Transport and Main Roads documents, the Superintendent;
 - (b) **Approvals** means certificates, licences, accreditations, clearances, authorisations, consents, permits, approvals, determinations, and permissions from any Authority and any related fees and charges;
 - (c) **Authority** means any Federal, State, or local government authority, administrative or judicial body or tribunal, department, commission, agency, government owned corporation, statutory body or instrumentality, or any other person having jurisdiction over the project;
 - (d) **General Conditions of Contract** means the General Conditions of Contract referred to in the formal instrument of agreement to which this General Specification is attached;
 - (e) **General Specification** means this document and all attachments to it which forms part of the Contract;
 - (f) **Good Industry Practice** means:
 - (i) the standard of skill, care, and diligence; and
 - (ii) the practices, methods, techniques, and acts,of a skilled, competent, and experienced contractor engaged in the business of carrying out Work similar to the WUC;

- (g) **Principal** has the same meaning as given to the term “Principal” or “Purchaser” in the General Conditions of Contract (as the case may be);
- (h) **Principal’s Policies and Procedures** means the policies, procedures, codes, plans, guidelines, and the like provided or made available by or on behalf of the Principal to the Contractor from time to time, including those published on the Principal’s website which are in any way applicable to this Contract;
- (i) **Program** has the same meaning as given to the term “construction program” or “program” in the General Conditions of Contract (as the case may be);

3. CONTRACTOR’S GENERAL OBLIGATIONS, WARRANTIES AND REPRESENTATIONS

3.1 **(Ability)** The Contractor must ensure, and warrants and represents that the Contractor and, to the extent applicable to them, its Personnel:

- (a) have the experience, skills, expertise, and resources;
- (b) hold all necessary competencies, licences, accreditations, qualifications, permits, clearances, or other authorisations,

which are required for the Contractor to comply with its obligations under the Contract and will maintain such competencies, licences, accreditations, qualifications, permits, clearances, or other authorisations at all times until the Contractor has completed its obligations under the Contract.

3.2 **(Standard)** The Contractor must, and warrants and represents that it will, and to the extent applicable to them will ensure that its Personnel, carry out WUC and Contractor’s other obligations in connection with the Contract in accordance with Good Industry Practice.

3.3 **(Methodology)** The Contractor:

- (a) warrants and represents that the methodology for carrying out and completing WUC stated in the Contract is suitable, appropriate and adequate; and
- (b) must, and warrants and represents that it will, carry out and complete WUC in accordance with that methodology (if any) unless otherwise directed by the Superintendent or permitted or required under the Contract.

3.4 **(Goods)** The Contractor warrants and represents that all plant, equipment, materials, parts, consumables or other goods (“Goods”) supplied, used or installed as part of WUC shall:

- (a) at the time that they are supplied, used, or installed, be new;
- (b) be free from defects and of merchantable quality;
- (c) comply in all respects with the Contract including as to quality, quantity, performance, functionality and description;
- (d) conform to any sample goods approved by the Principal or Superintendent;
- (e) comply with any applicable requirement, code, guideline, policy, drawing, or specification included or incorporated by reference into the Contract or, if none is included or incorporated, any Australian Standards applicable to the Goods and any applicable Legislative Requirements; and
- (f) be suitable and adequate for the purposes for which they are supplied, used or installed.

3.5 **(Equipment)** The Contractor warrants and represents that:

- (a) the Equipment and all materials comprising the Equipment shall, at the time at which the Equipment is Delivered:
 - (i) be new, free from defects, and of merchantable quality;
 - (ii) comply in all respects with the Contract including as to quality, quantity, performance, functionality, and description;
 - (iii) conform to any sample goods approved by the Principal or Superintendent;
 - (iv) comply with any applicable requirement, code, guideline, policy, drawing, or specification included or incorporated by reference into the Contract or, if none is included or incorporated, any Australian standards applicable to the Equipment and any applicable Legislative Requirements; and
 - (v) be suitable and adequate for the purposes for which the Equipment is supplied.
- (b) all other plant, equipment, materials, parts, consumables or other goods ('Goods') supplied, used or installed as part of WUC shall:
 - (i) at the time that they are supplied, used, or installed, be new;
 - (ii) be free from defects and of merchantable quality;
 - (iii) comply in all respects with the Contract including as to quality, quantity, performance, functionality and description;
 - (iv) conform to any sample goods approved by the Principal or Superintendent;
 - (v) comply with any applicable requirement, code, guideline, policy, drawing, or specification included or incorporated by reference into the Contract or, if none is included or incorporated, any Australian Standards applicable to the Goods and any applicable Legislative Requirements; and
 - (vi) be suitable and adequate for the purposes for which they are supplied, used or installed.

3.6 **(Investigations)** The Contractor warrants and represents that the Contractor has:

- (a) carefully reviewed the Contract and all other information provided by the Principal to the Contractor for the purpose of WUC, and is satisfied that the Contract and other information is appropriate and adequate to enable the Contractor to comply with its obligations under the Contract;
- (b) inspected the Site;
- (c) familiarised itself with factors that could affect the ability of the Contractor to carry out WUC for the Contract Sum, including weather conditions and the availability of temporary access, temporary lighting, power, telephone services, water supply, waste disposal facilities and local labour.

3.7 **(Construction Plant)** The Contractor warrants and represents that all Construction Plant utilised in carrying out WUC shall be in good working condition, suitable and appropriate for the Work for which it is used, and compliant with all applicable Legislative Requirements.

3.8 **(Contractor Documents)** The Contractor warrants and represents that all Contractor Documents will:

- (a) comply with the requirements of the Contract and applicable law;
- (b) be consistent with or exceed applicable industry standards;

- (c) be of a standard and quality expected of a contractor using Good Industry Practice;
- (d) be suitable and adequate for the purpose for which they are provided.

In this clause, **Contractor Documents** means:

- (i) those records, reports, designs, specifications, certificates, plans (including management plans), procedures, manuals and other documents, whether electronic documents or hard copy format, required by the Contract to be handed over to the Principal by the Contractor; and
- (ii) all information advice, designs, calculations and recommendations in those documents;

but does not include those that are incomplete at the time at which the Principal exercises its rights under subclause 39.4 of the General Conditions of Contract or the Contractor exercises its rights under subclause 39.9 of the General Conditions of Contract);

4. CONTRACT MANAGEMENT

4.1 **(Contractor's Superintendence)** The Contractor shall provide all superintendence necessary for the proper fulfilment of the Contractor's obligations under the Contract, including, unless the Superintendent directs otherwise, a competent site manager and site foreman approved by the Superintendent (with such approval not to be unreasonably withheld). Unless otherwise agreed by the Superintendent, the site manager shall be the Contractor's representative under clause 22 of the General Conditions of Contract.

4.2 **(Requests for review and information)** The Superintendent will endeavor to provide a response and/or Direction in relation to a written request for information from the Contractor within 5 Business Days of receipt of such request. The response time will be dependent on the complex nature and or quantity of clarifications per information request submitted. The Contractor is encouraged to make recommendations and or suggestions for the Superintendent's consideration when submitting such requests.

4.3 **(Shop drawings)** The Contractor is deemed to have allowed for the time permitted by subclause 8.3 of the General Conditions for examination of workshop drawings in the Program. The Contractor must review and incorporate any comments received from the Principal or the Principal's nominated Personnel in relation to the workshop drawings. Unless otherwise directed, the Contractor is not required to (and must not) resubmit revised workshop drawings to the Principal or its Personnel.

Final structural steel shop drawings 'Issued For Fabrication' (IFF) must be submitted to the Superintendent for information/filing purposes only. The Contractor, as part of its own quality management procedures, must ensure that all previous comments have been incorporated. The Contractor is encouraged to submit the completed 3D model / CAD file along with the 2D PDF files to assist the Superintendent in the initial shop drawing review.

4.4 **(Direction by Principal or Superintendent)** The Principal shall not be bound by any verbal advice given or information furnished by any Personnel of the Principal or Superintendent in respect of the Contract. The Contractor must not accept instructions from any person other than the Superintendent and/or the Superintendent's Representative. The Contractor acknowledges and agrees that its obligations and liabilities in connection with the Contract are not affected by any:

- (a) receipt or review of, or comment or Direction on, a document submitted by the Contractor;
- (b) failure by the Principal or Superintendent to review, comment on, or give a Direction on any document submitted by the Contractor; or
- (c) failure by the Superintendent to give its approval pursuant to clause 8.3.

Before relying on the receipt, review, or comment by the Superintendent, or Principal, or complying with a Direction in relation to a document, the Contractor must notify the Superintendent in writing, if doing so will affect a warranty, representation or obligation of the Contractor under the Contract.

- 4.5 **(Code of Conduct)** In this clause, 'Code of Conduct' means the Principal's code of conduct which is available on the Principal's website. The Code of Conduct identifies the standards and behaviours expected from all workers, including contractors, in delivering services to the local community. The Contractor must:
- (a) communicate the Code of Conduct to all of the Contractor's Personnel;
 - (b) comply with, and ensure that its Personnel comply with, all requirements of the Code of Conduct, including all standards contained within the Code of Conduct; and
 - (c) if directed to do so by the Superintendent, obtain and provide to the Superintendent a signed form from all Personnel engaged by the Contractor to perform any part of WUC which states that the person has read, understood and agrees to comply with the Code of Conduct.

5. DESIGN

- 5.1 **(Standard of Design Documents)** The Design Documents must, unless the Superintendent otherwise directs, comply with AS 1100.101-1992: Technical Drawing – General as amended or replaced from time to time.
- 5.2 **(Principal's Project Requirements)** Without limiting any other obligation of the Contractor or right of the Principal, to the extent (if any) that the Principal's Project Requirements includes any drawings, specifications or other information, samples, models, patterns and the like provided by the Contractor ('Contractor's Tendered Design'), the Contractor warrants and represents that the Contractor's Tendered Design accords with the balance of the Principal's Project Requirements.
- 5.3 **(Suitability and adequacy of The Works)** The Contractor:
- (a) must ensure that at Practical Completion the Works are (and each part of The Works) is; and
 - (b) warrants and represents that The Works and each part of The Works will at Practical Completion, be,
- suitable and adequate for the purpose stated in or to be reasonably inferred from the Contract, or otherwise made known to the Contractor prior to the date of acceptance of tender.
- 5.4 **(Submission and review of Design Documents)** The Contractor must submit design documents to the Superintendent for review in accordance with Section 11 of the Technical Specification before carrying out WUC in reliance on the Design Documents and, at the times (if any) as identified.

The Principal shall advise the Contractor within a reasonable time as to whether it grants or refuses permission for the use of the Design Documents for the construction of The Works. The Contractor must not amend any Design Document for which the Principal has granted permission, unless the Contractor first obtains the Principal's written consent.

If the Principal refuses permission, the Principal shall provide reasons for the refusal in which case the Contractor must resubmit updated Design Documents to the Principal, together with a report which identifies how any comments from the Principal have been addressed in the Design Documents.

No review, permission, approval, consent, confirmation, comment, advice or the like given or withheld by, or on behalf of, the Principal in relation to any Contractor Document shall:

- (a) constitute an acceptance by the Principal or the Principal's Representative of any responsibility in connection with the WUC;
- (b) adversely affect any right of the Principal; or
- (c) relieve the Contractor from any of its responsibilities, obligations, or liabilities.

5.5 **(Consultant's design certificate)** The Contractor must, at the time of submission of Design Documents, give to the Superintendent a statutory declaration properly executed by a representative of the Contractor's design consultant in a position to verify the facts stated in the declaration, stating that the Design Documents in respect of which the declaration is issued:

- (a) have been prepared by Personnel of the Contractor that:
 - (i) have the experience, skills, expertise, and resources
 - (ii) hold all necessary competencies, licences, accreditations, qualifications, permits, clearances, or other authorisations,

required to undertake their part of the Contractor's Design Obligations; and
- (b) accord with the requirements of the Contract.

5.6 **(Consultant's design construction certificate)** The Contractor must, as a requirement of Practical Completion and whenever otherwise reasonably directed by the Principal, give to the Superintendent a statutory declaration properly executed by a representative of the Contractor's design consultant in a position to verify the facts stated in the declaration, stating that:

- (a) the consultant has:
 - (i) inspected the following parts of the Works described in the Design Documents listed in the appendix;
 - (ii) taken all reasonable steps to ascertain whether the Certified Works are in accordance with the Design Documents; and
- (b) to the extent ascertainable from that inspection and those steps, the Certified Works are in accordance with the Design Documents.

6. WORK BY OTHERS

6.1 **(Work by others)** The Work identified in Appendix A will be undertaken by others.

6.2 **(Obligation to cooperate)** The Contractor and its Personnel shall liaise, cooperate, and coordinate WUC with the Principal and any other Personnel of the Principal performing Work or services at the Site (including the Work identified in clause 6.1) so that, to the extent that it is within the control of the Contractor, WUC is coordinated and integrated with the Work and services performed by the Principal's Personnel. The Contractor must use all reasonable endeavours to avoid interference with, or disruption to, or delay to WUC, to the Work identified in clause 6.1, and to any other Work or services undertaken by the Principal's Personnel at the Site. The Contractor must keep the Superintendent informed on all matters involving such coordination.

6.3 **(No claim by Contractor)** Notwithstanding anything else in the Contract, the Principal shall not be liable upon any Claim (including a claim for delay costs under the General Conditions of Contract) arising as a consequence of any interference with, or disruption or delay to, WUC or

any of the Contractor's obligations under this Contract, caused or contributed to by a contractor carrying out the Work identified in clause 6.1.

7. PRINCIPAL SUPPLIED MATERIALS

7.1 **(Definitions)** In this clause, '**Principal Supplied Materials**' means materials identified in Appendix B which the Principal is required under the Contract to supply, or which the Principal otherwise agrees in writing to supply, to the Contractor free of charge for use in WUC.

7.2 **(Principal's obligation to provide)** The Principal must:

- (a) deliver Principal Supplied Materials to the Site; or
- (b) make the Principal Supplied Materials available at the location (if any) stated in the Contract,

at the time at which the Program required the materials to be provided or made available, or such other time as the Principal agrees in writing.

7.3 **(Inspection by Contractor)** Upon any Principal Supplied Materials being delivered or made available, the Contractor must immediately inspect the materials and ensure that the specified quantity has been delivered and that the materials are in a condition which complies with the requirements of the Contract.

7.4 **(Notice of deficiencies)** If, within 5 Business Days of the materials being delivered or made available, the Contractor does not notify the Superintendent in writing of any deficiencies, then it shall be deemed that the specified quantity of Principal Supplied Materials has been delivered or made available to the Contractor in a condition that complies with the Contract.

7.5 **(Risk)** Any Principal Supplied Materials which, after it is delivered or made available to the Contractor, is lost, destroyed, contaminated, or altered in any way such that the materials no longer comply with the Contract, shall be immediately removed, disposed of, and replaced by the Contractor, at the Contractor's expense, with materials that comply with the Contract, unless the Superintendent expressly directs otherwise. The Contractor must notify the Superintendent in writing of any lost, destroyed, contaminated, or altered materials within 5 Business Days of becoming aware of such events.

7.6 **(Excess)** Unless otherwise directed by the Superintendent, the Contractor must return any excess Principal Supplied Materials to the Principal at the place required by the Superintendent.

7.7 **(Ownership)** Principal Supplied Materials, other than destroyed, contaminated or altered material which is disposed of by the Contractor pursuant to clause 7.5 shall, notwithstanding anything else in this clause 7, remain the property of the Principal at all times.

8. APPROVALS AND OTHER LAW

8.1 **(Approvals obtained by the Principal)** The Principal has obtained the following Approvals:

- (a) Design and maps
- (b) Site approval

The Contractor must comply with those Approvals to the extent that they are applicable to WUC.

8.2 **(Identifying, obtaining and maintaining Approvals)** The Contractor must identify and notify the Principal of all Approvals which are necessary for the proper performance of WUC (other than Approvals which the Principal has advised the Contractor it has already obtained). The Contractor must obtain and maintain all such Approvals until the end of the last Defects Liability Period to expire. The cost of obtaining and maintaining all such Approvals shall be borne by the Contractor.

- 8.3 **(Final certificates)** The Contractor must:
- (a) obtain all final certificates; and
 - (b) provide a list of all inspections and forms required for the final certificate before commencing any WUC.
- 8.4 **(Compliance)** The Contractor must ensure that its Personnel comply with all Approvals and other laws which are in anyway applicable to WUC, including, unless the Contract expressly provides otherwise, by paying all fees, royalties, levies, charges, costs, expenses, taxes, or duties.
- 8.5 **(Obtaining or granting of Approvals by Principal)** The Principal gives no warranty and makes no representation that:
- (a) it will be able to obtain, or obtain within any particular time; or
 - (b) where the Principal is the relevant Authority, that it will grant, any Approvals required for the Contractor to perform WUC.
- 8.6 **(Timing)** The Contractor is deemed to have allowed a reasonable time in the Program for all required Approvals to be applied for and obtained.
- 8.7 **(No fetter)** Nothing in the Contract shall be taken to fetter the power, rights, or authority of the Principal as an Authority under the *Local Government Act 2009* (Qld), the *Local Government Regulation 2012* (Qld), or any other law.

9. SITE

- 9.1 **(Location)** The Site is identified in the scope of works and Technical Specification and Appendices.
- 9.2 **(Requirements of access or possession)** The Contractor's attention is drawn to clause 24 of the General Conditions of Contract. The Contractor must provide the following documentation and information to the Superintendent. The documentation and information must be provided:
- (a) in a form that complies with the requirements of the Contract;
 - (b) as a requirement of the Principal giving access to or possession of the Site; and
 - (c) within the earlier of:
 - (i) 20 Business Days after the Date Of Acceptance Of Tender; and
 - (ii) 5 Business Days prior to any scheduled pre-start meeting.

Item	Description	Relevant clause
(A)	Updated Program	Clause 100 of this General Specification
(B)	Stakeholder Management Plan	Clause 111 of this General Specification
(C)	WHS plan and other WHS documentation (including, if applicable, evidence of payment of fees and lodgement of notice appointing Contractor as principal contractor)	Clause 18.5 of the General Conditions of Contract
(D)	Quality management plan	Clause 12.22 of this General Specification

(E)	Inspection and test plan	Clause 12.3 of this General Specification
(F)	Dilapidation survey	Clause 13.7 of this General Specification
(G)	Environmental management plan	Clause 18.22 of this General Specification
(H)	Erosion and sediment control plan	Clause 18.33 of this General Specification
(I)	Biosecurity risk management plan	Clause 20.2.2 of this General Specification
(J)	Cultural heritage plan	Clause 22 of this General Specification
(K)	Traffic management plan	Clause 23 of this General Specification

- 9.3 **(Site specific induction)** The Contractor must ensure that:
- (a) each of the Contractor's Personnel working on Site receives a site-specific induction;
 - (b) every visitor to the Site either receives a site-specific induction or is accompanied at all times at the Site by someone who has received a site-specific induction for that Site (or, where the Site comprises more than one location, the particular part of the Site).
- 9.4 **(Site specific requirements)** The Contractor must comply with the reasonable requirements of the Principal in relation to the Contractor's access to or conduct on the Site.
- 9.5 **(Locations within Site)** The Contractor must ensure that all plant, equipment, materials, temporary workshops, stores, and offices are kept within the confines of the Site at locations approved by the Superintendent.
- 9.6 **(Unauthorised entry to site)** The Contractor must use all reasonable endeavours to prevent any unauthorised entry to the Site.
- 9.7 **(Security fencing)** The Contractor must supply, install, maintain, repair, and remove security fencing around the Site. The security fencing must:
- (a) clearly identify the extents of the Site to the public;
 - (b) be covered with opaque screening/printed fence wrap to limit viewing into the Site and include any graphic design provided by the Principal; and
 - (c) be kept in good condition.
- 9.8 **(Signage)** No signage is to be placed on the Site or the perimeter (other than safety signage) without the prior written consent of the Superintendent.
- 9.9 **(Deliveries)** The Contractor is responsible for delivery and unloading of all goods, equipment and other materials used in WUC (including any such materials used by subcontractors), providing space for the storage of the materials, handling the materials, and checking that the materials comply with the requirements of the Contract.
- 9.10 **(Site office)** The Contractor is to provide an office at the Site for the exclusive use of the Superintendent and the Superintendent's Representatives. The office is to be suitable for Site meetings and accommodate a minimum of eight (8) people. Appropriate furniture including a desk, table, eight (8) meeting chairs, fridge, air conditioning and all associated services are to be provided by the Contractor.

- 9.11 **(Setting out)** The Contractor's attention is drawn to clause 26 of the General Conditions of Contract. The Contractor must:
- (a) set out The Works from the information shown on the drawings;
 - (b) check all dimensions on Site before proceeding with WUC; and
 - (c) notify the Superintendent of any omissions or discrepancies within the drawings or General Specification.

Notwithstanding subclause 26.2 of the General Conditions of Contract, any errors in the position, level, dimensions, or alignment of any WUC shall be rectified at the Contractor's expense, unless the Contractor gave the Superintendent written notice of the error before commencing Work in reliance on the erroneous position, level, dimension, or alignment.

- 9.12 **(Interference)** The Contractor must use all reasonable endeavours to minimise interference with existing amenities, whether natural or man-made, and the amount of noise caused by the carrying out of WUC.
- 9.13 **(Services)** Except to the extent that the Contract expressly provides otherwise, the Contractor must, at its expense, connect and otherwise provide all required services, including water, sewerage, drainage, electricity, and communications, and obtain all required Approvals for connection or use of services.
- 9.14 **(Connection to Principal's water infrastructure)** Unless otherwise directed by the Superintendent (which may be given, withheld or given subject to conditions in the absolute discretion of the Superintendent), the Principal shall undertake all connections to the Principal's water infrastructure.
- 9.15 **(Connection of new sewer mains to existing mains)** The Contractor shall undertake all connections to sewer infrastructure to the extent indicated in the specifications and drawings forming part of the Contract. The Contractor shall liaise with the Principal prior to any such Work so arrangements can be made for any required flow control and shutdowns. The Contractor must give the Superintendent written notice of the date of any proposed shut-down at least 20 Business Days prior to the shutdown. The Contractor must give the Superintendent the Contractor's proposed methodology at least 10 Business Days prior to the shutdown. Any costs reasonably and necessarily incurred by the Principal arising out of or in connection with a failure by the Contractor to comply with these timeframes shall be certified by the Superintendent as a debt due and payable by the Contractor to the Principal.
- 9.16 **(Public utilities and other assets)** Without limiting the Contractor's obligations under clause 15 of the General Conditions of Contract, the Contractor must use all reasonable endeavours to identify, locate, and prevent damage to overhead public utility lines, surface drainage works, underground pipes, conduits, and cables in the vicinity of The Works. If the Contractor or any of its Personnel damage any such assets, then:

- (a) the Contractor must immediately report such damage to the owner of the asset and the Superintendent; and
- (b) comply with the requirements of the owner of the asset (including by paying for any required repairs or renewals).

The Contractor must notify the Superintendent immediately if the Contractor considers that it is necessary to alter the location or level of any existing assets to conform with the requirements of the Contract. If directed to do so by the Superintendent, the Contractor must arrange for the relocation Work to be carried out by the appropriate Authority. Subject to clause 25 of the General Conditions of Contract, the Contractor shall bear the cost of such relocation.

- 9.17 **(No latent condition for material to be excavated)** In addition to any other warranties given or representations made in the Contract, the Contractor warrants and represents that it has inspected the Site and has, carried out all necessary investigations to ascertain the materials which may need to be excavated for WUC and, if required, their suitability to be used in WUC.

Notwithstanding clause 25 of the General Conditions of Contract, the Principal shall not be liable upon any Claim in connection with excavation, disposal of materials or replacement of materials irrespective of materials or conditions encountered at the Site.

9.18 **(Other property)** The Contractor must:

- (a) arrange for any other land (in addition to land made available by the Principal) required by the Contractor to carry out WUC, whether for the storage of materials, plant, or equipment, or for any other purposes;
- (b) obtain the Principal's permission in writing to enter any private property (as that term is defined in the *Local Government Act 2009* (Qld) ('Private Property')) before entering the Private Property for the purpose of carrying out WUC or fulfilling any other obligation of the Contractor under the Contract;
- (c) comply with all Legislative Requirements, including the *Local Government Act 2009* (Qld) in relation to entering Private Property;
- (d) not unreasonably obstruct, destroy, or damage any Private Property, other land or other property, and ensure that all roadways, drains, watercourses, buildings, fences, gardens, walls, concrete surfaces and paths, grass and trees, and other property are left in a condition equivalent or better than that in which the property was found, unless the Contractor provides written evidence that the owner of the property agrees otherwise;
- (e) take over control of any approval, permit, or license that the Principal has in place, in relation to the Site or other land made available by the Principal, prior to commencing any WUC on the Site or using or occupying the other land.

9.19 **(Private property)** The Contractor must ensure that all Personnel of the Contractor that enter Private Property in connection with WUC:

- (i) have all appropriate qualifications, skills, and training to exercise a power or perform a responsibility under Chapter 5, Part 2, Division 2 of the *Local Government Act 2009* (Qld);
- (ii) do not exercise any power or perform a responsibility under Division 2, Chapter 5 of the *Local Government Act 2009* (Qld) unless the Contractor's Personnel are authorised as local government workers (as that term is defined in the *Local Government Act 2009* (Qld)) ('Local Government Worker') by the Principal; and
- (iii) comply with all obligations of a Local Government Worker imposed under the *Local Government Act 2009* (Qld).

10. PROGRAM

10.1 **(Format and details)** The Program shall:

- (a) be prepared utilising native format Microsoft Project software, or alternative software as approved in writing by the Superintendent;
- (b) be submitted in electronic format with copies in both PDF format and native Microsoft Project file format; and
- (c) detail the Contract milestone dates, the commencement and completion dates of each trade, and/or sub-contract;
- (d) work activity, procurement activities and supply contract activity, with activities linked in a logical progression through a 'critical path' and identify any float based on a continuous cycle of WUC.

- (e) be updated at least fortnightly and submitted to the Principal for discussion at the fortnightly site meetings.
- 10.2 **(Allowances in program)** The Contractor must allow, and is deemed to have allowed, in the program for:
- (a) the time permitted under the General Conditions of Contract for the Superintendent to review documents for which the Contract requires the Contractor to obtain the Superintendent's Direction about such documents; and
 - (b) other timeframes under the Contract within which the Superintendent and the Principal are permitted to act.
- 10.3 **(Approval of Program)** The approval of, or permission to adopt, a Program by the Superintendent will not relieve the Contractor of any of its obligations under the Contract, including the obligation to not, without reasonable cause, depart from an earlier approved Program.
- 10.4 **(Improving progress)** If, in the opinion of the Superintendent, the Contractor falls behind an approved Program, the Contractor must, unless otherwise directed by the Superintendent:
- (a) take such steps as are necessary to improve progress (including the use of additional resources);
 - (b) promptly, and within the time directed by the Superintendent, submit a revised Program, identifying the steps taken or to be taken.

The Principal shall not be liable upon any Claim in connection with the Contractor's compliance with this clause.

11. STAKEHOLDER MANAGEMENT

- 11.1 **(Workshop and plan)** The Contractor shall:
- (a) convene a workshop with the Principal, Superintendent, and the Contractor to identify all stakeholders on the project and to agree protocols for communications between stakeholders and the various parties of the Contract;
 - (b) develop a stakeholder management plan based on the outcome of the workshop and the requirements of this clause; and
 - (c) obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract.
- 11.2 **(Notice to Superintendent)** With respect to notification, the *Contractor* shall give the Superintendent a minimum of 15 business days' written notice of changes in traffic movements or any Work impacting individual property owners or businesses. The notice shall be clearly titled 'Notice of Changes in Traffic Movements' or 'Notice of Any Works Impacting Individual Property Owners or Businesses' and contain the following information:
- (a) title of notice;
 - (b) start and finish dates of Work;
 - (c) purpose of communications;
 - (d) type and length of interruption;
 - (e) affected locations (chainages, streets, property accesses, etc);
 - (f) whether the works subject to weather;

- (g) who is carrying out the works (i.e. contractor or subcontractor); and
 - (h) Contractor details.
- 11.3 **(Notice to stakeholders)** The Principal shall be responsible for undertaking public notification distributing through their normal channels. The Contractor shall be responsible for hand delivering written notices prepared by the Principal to individuals impacted and must do so not later than 5 Business Days prior to commencing the Works. The Contractor shall also send a copy of the written notice via registered post 5 Business Days prior to commencing The Works with a covering letter confirming the dates and times the written notice was hand delivered.
- 11.4 **(Sign board)** The Contractor must provide a sign board comprising the following information, at the entrance to the Site or as required:
- (a) Contractor's name;
 - (b) Contractor's postal address; and
 - (c) Site supervisor's name and 24-hour contact number.
- 11.5 **(Complaints)** With respect to complaints, the Contractor shall:
- (a) maintain a record of any complaints received from any stakeholder or the public, including documentary evidence that complaints have been addressed and attended to, to the satisfaction of the Superintendent; and
 - (b) discuss all complaints with the Superintendent promptly after being made aware of it and follow any directions of the Superintendent in relation to the complaint.

12. QUALITY MANAGEMENT SYSTEM

- 12.1 **(General)** The Contractor must:
- (a) prior to commencing WUC at the Site, implement a quality management system which accords with the requirements of ISO 9001 or with any alternative standard approved by the Superintendent (acting reasonably);
 - (b) provide a copy of the ISO9001 certification (or other documentary evidence suitable to the Superintendent, acting reasonably) of the Contractor's system;
 - (c) comply with, and ensure that all of the Contractor's Personnel comply with the system;
 - (d) appoint a suitably qualified quality management representative, who shall have such authority to effectively manage and control the implemented quality system.
- 12.2 **(Quality management plan)** The Contractor's quality management system must include a quality management plan which contains at least the following information:
- (a) a project organisation chart clearly showing the lines of authority, responsibility, and communication that will be in effect;
 - (b) details of the qualifications and experience of all project management and supervision staff;
 - (c) a lot plan;
 - (d) details of project specific procedures, including those related to the following to the extent that they are applicable to WUC:
 - (i) all shop drawing formation and coordination;

- (ii) management of all services subcontractor/trades;
- (iii) management of all services/operational commissioning;
- (e) applicable inspection and test plans;
- (f) a register of all proposed quality records; and
- (g) a copy of the NATA terms of registration for the Contractor's compliance testing laboratory.

The Contractor must obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract.

12.3 **(Inspection and test plan)** The Contractor must, as part of the Contractor's quality management system, prepare and obtain the Superintendent's Direction regarding an inspection and test plan. The inspection and test plan must, at a minimum, detail:

- (a) the items of Work to be inspected or tested;
- (b) the party who will carry out the inspection or test;
- (c) the stages at which Work is to be inspected and tested or the frequency of inspections and tests;
- (d) the testing procedures and methodologies;
- (e) acceptance criteria;
- (f) non-conformance management and corrective processes;
- (g) Work which shall not be covered up or made inaccessible without the prior approval of the Superintendent;
- (h) witness points for Work for which a Superintendent's Representative must be present;
- (i) hold points beyond which Work cannot proceed without approval of the Superintendent;
- (j) relevant standards; and
- (k) the records to be maintained by the Contractor.

The Contractor must obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract.

12.4 **(Reporting)** The Contractor must provide the Superintendent with all documents and information:

- (a) reasonably requested to support or evidence the Contractor's quality management system;
- (b) which are produced by the Contractor in compliance with the quality management system.

12.5 **(Inspections)** The Principal and the Superintendent may carry out inspections of the Site at any time. During inspections, the Contractor shall provide the Principal and the Superintendent with all documents, access and assistance reasonably requested by either. The Contractor shall provide a sufficient and safe access for all inspections at the Site. Unless otherwise specified, the Contractor must give the Superintendent no less than 2 Business Days' notice of its intention to commence each stage of the following Work:

- (a) Principal will give you the inspection schedule and list if required;

If the Contractor does not provide the required notification for an inspection, particularly in the event that an urgent after-hours inspection is required to ensure WUC is not delayed, the Superintendent may deduct the cost of the inspection as a Required Deduction pursuant to clause 37.2 of the General Conditions of Contract.

13. REPORTS, MEETINGS AND RECORD KEEPING

13.1 **(Progress reports)** The Contractor must:

- (a) keep the Principal fully informed of the progress and performance of WUC;
- (b) at the times stated in the Contract and when otherwise reasonably required by the Principal, meet and discuss the performance of the Contractor and/or any other matter concerning the Principal in connection with the Contract; and
- (c) comply with any recommendations or directions given by the Principal in relation to the performance of the Contractor's obligations under the Contract (but such compliance will not release or discharge the Contractor from any liability or obligation under the Contract).

13.2 **(Meetings)** The Contractor must, at the times reasonably required by the Principal, meet and discuss the performance of the Contractor and/or any other matter concerning the Principal in connection with the Contract. The Contractor shall provide a sufficient and safe access for all meetings at the Site.

Without limiting the preceding paragraph, the Contractor must attend and ensure that the Personnel noted below attend the following meetings:

Item	Meeting description	Topics for discussion	Time for meetings	Required attendees
(a)	Pre-start meeting	Contract Requirements	Prior to commencement of WUC at the Site	Superintendent, and Principal and Contractor Representatives
(b)	Progress Meetings	Contractual Issues, Progress of Works, updated work schedule, Claims etc.	Fortnightly, unless otherwise agreed	Superintendent, and Principal and Contractor Representatives

13.3 **(Record of compliance)** The Superintendent may direct the Contractor to provide reasonable evidence of its compliance with the requirements of the Contract, within the time reasonably required by the Superintendent. The Superintendent and the Principal shall be entitled to rely on any failure by the Contractor to provide reasonable evidence of compliance, with a particular requirement of the Contract as *prima facie* evidence that the Contractor has not complied with that requirement.

13.4 **(Record of compliance)** The Contractor must:

- (a) create and maintain complete and accurate records, reports and other documents demonstrating the Contractor's compliance with the Contract, including:
 - (i) full fill the councils policy and procedure;
 and any other records, reports or documents reasonably required by the Principal in connection with the Contract; and

- (b) create any document required to be prepared under any management plan prepared under the Contract.

13.5 **(Audit)** The Principal may at any time up to the expiry of the last Defects Liability Period to expire (or where the Contract is earlier terminated, up to 12 months after the date on which the termination takes effect), on the giving of reasonable notice, audit the Contractor's compliance with the Contract or any obligation under it. The Contractor shall facilitate the audit by:

- (a) allowing the auditors to undertake any inspections;
- (b) providing such assistance, information and access to the Site, systems and equipment and other cooperation;
- (c) providing the auditor with copies of, and facilitating the copying by the auditor of, all the other records, information, and documentation required to be created under clause 13,

as reasonably required by the auditor. If the audit reveals any non-compliance by the Contractor with its obligations under the Contract, then the costs reasonably and necessarily incurred by the Principal in conducting the audit shall be a debt due and payable by the Contractor. Otherwise, the Principal shall bear the cost of the audit. For clarity, the Contractor is not required to provide to the Principal under this clause, any documents to the extent that they contain material which is subject to legal professional privilege.

13.6 **(Photographic evidence)** The Contractor must provide to the Superintendent a progressive photographic record of the progress of WUC at the following stages and as otherwise reasonably required by the Superintendent:

Item	Stages at which photographic record to be made
(a)	On the giving of possession of the Site
(b)	Prior to commencing repairs on a particular structure/component of works
(c)	Following preparation of works (ie showing extend of works) prior to undertaking repairs/crack filling/covering up)
(d)	Showing completing of repair works on a particular structure/component of works.
(e)	At the end of each calendar month prior to the month in which Practical Completion is achieved; and
(f)	At Practical Completion.

Photographs shall be in high-definition digital format and shall be dated and labelled to describe the photograph's content.

13.7 **(Dilapidation survey)** The Contractor must, prior to the commencement of WUC, undertake a dilapidation survey including a photographic record clearly indicating the date and time of photos taken, of all areas identified as forming part of the Site and work areas / structures to be repaired.

The dilapidation survey shall be replicated prior to and as a requirement of Practical Completion. The purpose of this survey is to confirm the pre and post-construction condition of the Site. The dilapidation survey shall be completed by the Contractor in the company of the Superintendent.

14. PROJECT TRUSTS AND RETENTION TRUSTS

- 14.1 **(Definitions)** Terms used in this clause 14 which are not separately defined in the Contract have the same meaning as is attributed to them in Chapter 2 of the Security Of Payment Legislation.
- 14.2 **(Compliance)** Nothing in this clause shall be taken to limit the Contractor's obligations under Chapter 2 of the Security Of Payment Legislation. The Contractor must provide all information and documentation that the Superintendent reasonably directs in connection with the Contractor's compliance with this clause.
- 14.3 **(Project trust account)** The Contractor must:
- (a) open and maintain a Project Trust Account; and
 - (b) give to the Superintendent and Principal all notices which the Security Of Payment Legislation requires the Contractor to give in connection with a Project Trust.
- 14.4 **(Retention trust account)** The Contractor must:
- (a) open and maintain a Retention Trust Account; and
 - (b) give to the Superintendent and Principal all notices which the Security Of Payment Legislation requires the Contractor to give in connection with a Retention Trust.
- 14.5 **(Variation to contract)** If at the Date Of Acceptance Of Tender:
- (a) the Contractor is not required to open and maintain a Project Trust Account but subsequently becomes required to do so under the Security Of Payment Legislation; or
 - (b) the Contractor is not required to open and maintain a Retention Trust Account but subsequently becomes required to do so under the Security Of Payment Legislation,
- the Contractor must give the Superintendent and Principal written notice of that changed requirement within 5 Business Days of the date on which the Contractor becomes aware, or ought to have become aware of the changed requirement and must comply with clauses 14.4 and or 14.5 as the case may be.
- 14.6 **(Substantial breach)** In addition to other acts or omissions which constitute a Substantial Breach of the Contract, Substantial Breaches include the Contractor failing to
- (a) establish a project trust account as required by the security of payment legislation, in breach of clause 14.3;
 - (b) establish a retention trust account as required by the security of payment legislation, in breach of clause 14.4;
 - (c) comply with an obligation of the Contractor set out in Part 2, Divisions 4 and 5 of Chapter 2 of the security of payment legislation;
 - (d) comply with an obligation of the Contractor set out in Part 3, Divisions 4 and 5 of Chapter 2 of the security of payment legislation.

15. PRINCIPAL SUPPLIED INFORMATION

- 15.1 **(Definitions)** In this clause, **Principal Supplied Information** means:
- (a) the following information or documents:

- (i) defect map/s & register, concept design information, existing asset drawings – as contained in Appendices A-D of the Technical Specification;
- (ii) policy and procedures and
- (b) any other information relating to the Contract which either:
 - (i) does not form part of the Contract but which is or has been provided or made available by or on behalf of the Principal to the Contractor; or
 - (ii) does form part of the Contract, but which is expressly identified as Principal Supplied Information or otherwise as information on which the Contractor should not or must not rely,

and includes information in any form and information which is made available before or after the Date Of Acceptance Of Tender.

15.2 **(No warranty or representation by Principal)** The Principal gives no warranty and makes no representation that the Principal Supplied Information is accurate, adequate, or complete.

15.3 **(No reliance)** The Contractor:

- (a) Acknowledges and agrees that the Contractor has not relied on the Principal Supplied Information in entering into the Contract; and
- (b) must not rely on the Principal Supplied Information unless and until the Contractor has independently verified the adequacy, accuracy, and completeness of that information.

16. CONFIDENTIAL INFORMATION

16.1 **(Specific confidential information)** Without limiting subclause 8.5 of the General Conditions of Contract, the Contractor must, and must ensure that its Personnel, keep confidential the following documents and any other information obtained in the course of performing the Contract which is, of its nature, confidential:

- (a) the Contract;
- (b) policy and procedure;
- (c) maps and design.

17. SAFETY

17.1 **(Relationship to General Conditions of Contract)** The Contractor's attention is drawn to clause 12A of the General Conditions of Contract. Nothing in clause 17 shall be taken to limit or exclude any obligation or liability of the Contractor under the General Conditions of Contract or at law in relation to work, health and safety.

17.2 **(Safety in design assessment)** A project specific safety in design risk assessment ('SiD Assessment') has been included as part of the request for tender documentation for the Contract. The SiD Assessment:

- (a) contains information which the Principal and the Principal's design consultant have in relation to the hazards and risks at or in the vicinity of the Site and who is best placed to mitigate those potential risks; and
- (b) has been prepared by a third party, and the Principal gives no warranty and makes no representation as to the accuracy, adequacy, or completeness of the SiD Assessment.

The Contractor must review the SiD Assessment, seek clarification on any areas of concern and take account of the SiD Assessment when discharging its duties and obligations under the *Work Health and Safety Act 2011* (Qld) and the *Work Health and Safety Regulation 2011* (Qld).

17.3 **(Storage)** The Contractor must:

- (a) appropriately store and secure any poisonous, flammable, or injurious substances for the duration of WUC;
- (b) provide all necessary fully charged fire extinguishers in accessible locations at the Site as are necessary for the care and safety of WUC to the satisfaction of the Superintendent and the Queensland Fire and Emergency Services, or other relevant Authority;
- (c) provide adequate first aid facilities appropriate to the size and composition of his/her staff and labour force and the nature of WUC;
- (d) if the Principal has appointed a third party as principal contractor for the Site under the *Work Health and Safety Regulation 2011* (Qld), comply with the reasonable requirements of that third party in its capacity as principal contractor; and
- (e) if the Principal has not appointed a third party as principal contractor for the Site:
 - (i) comply with the Principal's Policies and Procedures relating to work, health and safety;
 - (ii) inform the Principal of all its work health safety policies, procedures or measures implemented for the individual project sites established for performance of its obligations under this Contract.

17.4 **(Microbiological risks)** The Contractor is advised that partially treated and untreated sewage and aerosols/spray contains micro-organisms such as bacteria, viruses, and parasites that can exist in large numbers. These micro-organisms may be harmful to health. The Contractor shall ensure that all microbiological risks are considered, and appropriate control measures identified within the Contractor's work health and safety management plan, general risk assessment for WUC, and any specific task related work method statements.

17.5 **(Safety audit)** The Contractor must:

- (a) prior to commencing WUC engage an independent third party to carry out safety audits of the Contractor's work practices. The safety audit must, as a minimum, include the following:
 - (i) verification that the Contractor is carrying out WUC in accordance with the approved WHS plan submitted to the Principal under subclause 12A.4(d) of the General Conditions of Contract;
 - (ii) physical safety inspection of the Site and the Contractor's work practices; and
 - (iii) confirmation that Contractor and the Contractor's Personnel is compliant with all Legislative Requirements;
- (b) provide the Principal with the safety auditor's report together with the Contractor's WHS plan within 5 Business Days after completion of the safety audit;
- (c) within 5 Business Days of the date of the safety auditor's report, create a non-conformance plan to rectify non-conformances identified in the safety auditor's report (if any) and keep evidence satisfactory to the Principal of the completion of the plan.
- (d) provide a copy of the non-conformance plan to the Principal within 5 Business Days of the date of the safety audit report. The Principal may audit the implementation of the

non-conformance plan to rectify any non-conformances, and request evidence satisfactory to the Principal of completion.

- (e) immediately suspend WUC (or the relevant portion of WUC) until the Contractor has addressed the safety issues identified during the safety audit and/or in the safety audit report. The Contractor must continue to comply with all duties and obligations under the WHS Act and the Contract;
- (f) rectify any non-conformances in the Contractor's WHS Plan and resubmit the revised WHS Plan to the Principal within 5 Business Days.

17.6 **(Electrical Safety)** The Contractor must:

- (a) comply with all provisions of the *Electrical Safety Act 2002* (Qld) and all related Legislative Requirements; and
- (b) ensure that:
 - (i) all electrical work conducted, including work performed by subcontractors, is fully documented and recorded on a 'Certificate of Electrical Safety';
 - (ii) all required 'AS3000 Test Results' are documented and recorded by the Contractor; and
- (c) provide:
 - (i) certificates of testing and safety pursuant to the *Electrical Safety Regulation 2013* (Qld) for all electrical work carried out as part of WUC (whether by the Contractor or by subcontractors); and
 - (ii) records of all test results in accordance with AS3000:2007 for all electrical installation works on property owned by the Principal.

18. ENVIRONMENTAL PROTECTION

18.1 **(Environmental protection)** The Contractor must, and must ensure that its Personnel, perform the Contractor's obligations in accordance with:

- (a) best practice environmental management (as that term is defined in Section 21 of the *Environmental Protection Act 1994* (Qld));
- (b) the requirements of all other Legislative Requirements relating to the protection of the Environment; and
- (c) the Principal's policies and procedures relating to the protection of the Environment.

18.2 **(Environmental Management Plan)** The Contractor must, within the time required by clause 9.2, prepare and provide to the Superintendent for review an environmental management plan ('EMP') for WUC, detailing how the Contractor will prevent or minimise the risk of harm to the environment in performing its obligations under the Contract. The Contractor must obtain and comply with the Superintendent's Direction regarding the plan pursuant to subclause 8.3 of the General Conditions of Contract. The Contractor must comply, and ensure that all of the Contractor's Personnel comply, with the EMP at all times until the expiration of the last Defects liability Period to expire. The EMP must:

- (a) comply with ISO14001;
- (b) cover all WUC to be undertaken at the Site;
- (c) describe the Contractor's process and procedures for the management of the risk of harm to the environment in connection with WUC;

- (d) be consistent with relevant Australian Standards and Legislative Requirements;
- (e) be a practical and achievable plan;
- (f) detail each environmental issue and impact which is to be addressed;
- (g) include all control measures which the Contractor shall undertake and any issues which the Contractor shall address during the construction process (including any required pre or post construction activity);
- (h) detail who is responsible for ensuring the control measures are undertaken, the verification of such actions, and the reporting process;
- (i) provide a trigger for undertaking an action, and where possible, timing of each action;
- (j) detail procedures for the monitoring of the EMP by the Contractor;
- (k) detail a procedure for recording any non-compliance with the EMP; and
- (l) detail a system for registration and action of environmental complaints.

If the Contractor wishes to commence any WUC prior to obtaining the Superintendent's Direction in relation to the complete EMP, sections of the EMP relevant to that WUC may be submitted at least 10 Business Days prior to the planned commencement of that WUC. A hold point shall occur and no WUC shall proceed until written acceptance of the complete EMP or a section of the EMP relevant to a particular construction operation is received from the Superintendent.

18.3 **(Erosion and sediment control plan)** The Contractor must prepare and obtain the Superintendent's Direction regarding an erosion and sedimentation control plan ('ESCP') pursuant to subclause 8.3 of the General Conditions of Contract. The ESCP must describe the Contractor's process and procedures for the prevention or minimisation of harm caused by erosion and sediment in connection with WUC, including by control of overland flows, minimisation of flow path lengths, and the use of trapping devices to capture sediment. The Contractor must undertake the installation, inspection, repair, and maintenance of all environmental control measures required by the ESCP. The Contractor must inspect all environmental control measures at least:

- (a) once each week;
- (b) immediately after any major rainfall event; and
- (c) as otherwise directed by the Superintendent.

18.4 **(Protection of Fauna)** The Contractor must:

- (a) use all reasonable endeavours to minimise disruption to any fauna at or in the vicinity of the Site;
- (b) ensure that each of the Contractor's Personnel and every other person carrying out WUC at the Site:
 - (i) is appropriately trained in relation to the protection of fauna prior to carrying out any part of WUC;
 - (ii) aware of the potential for impacts on fauna and the need to minimise these impacts,
 prior to that person carrying out any WUC; and

- (c) use all reasonable endeavours to ensure that each of the Contractor's Personnel and every other person carrying out WUC at the Site minimises disruption to any fauna in the vicinity of the Site; and
- (d) at the Contractor's expense, comply with any Directions issued by the Superintendent to address any excessive or avoidable adverse impact on fauna at or in the vicinity of the Site.

18.5 **(Protection of Flora)** The Contractor must:

- (a) use all reasonable endeavours to minimise disruption to any flora at or in the vicinity of the Site;
- (b) ensure that each of the Contractor's Personnel and every other person carrying out WUC at the Site is appropriately trained in relation to the protection of flora prior to that person carrying out any part of WUC;
- (c) use all reasonable endeavours to ensure that that each of the Contractor's Personnel and every other person carrying out WUC at the Site minimises disruption to existing flora at or in the vicinity of the Site;
- (d) make good any damage to flora caused by the Contractor or its Personnel, other than damage which is the unavoidable consequence of carrying out WUC; and
- (e) at the Contractor's expense, comply with any Directions issued by the Superintendent to address any excessive or avoidable adverse impact on flora at or in the vicinity of the Site.

19. WASTE MANAGEMENT

19.1 **(Definitions)** In this clause 'Levyable Waste Disposal Site', "Levyable Waste", "Waste", "Waste Disposal Site" and "Waste Levy" have the meanings given to those terms in the *Waste Reduction and Recycling Act 2011* (Qld).

19.2 **(Contractor's obligation)** The Contractor must:

- (a) ensure that all Waste from the Site is placed in appropriate containers and removed from the Site to a legal Waste Disposal Site in accordance with the *Waste Reduction and Recycling Act 2011* (Qld) and any other applicable Legislative Requirements;
- (b) otherwise, ensure that all Waste arising from WUC is disposed of in accordance with the requirements of the *Waste Reduction and Recycling Act 2011* (Qld) and any other applicable Legislative Requirements relating to the disposal of Waste; and
- (c) pay all royalties, levies, fees, charges, costs, expenses, taxes, or duties in connection with the disposal of Waste.

19.3 **(Evidence of payment)** With or in each progress claim submitted by the Contractor under the Contract, the Contractor must provide a separate breakdown of the amount of any Waste Levy which the Contractor is aware has been passed on to, and paid by, the Contractor in connection with the disposal of Levyable Waste arising from WUC.

19.4 **(Energy Use)** The Contractor shall ensure that the use of energy for WUC is minimised by undertaking regular maintenance of all machinery to ensure energy efficiency and by utilising minimum sized machinery to undertake tasks.

20. BIOSECURITY MANAGEMENT

20.1 **(Definitions)** In this clause:

- (a) a **Biosecurity Risk** is the risk that exists when dealing with:

- (i) any pest, disease, or contaminant (including plants, seeds, spores, eggs, vertebrate, and invertebrate pest); or
 - (ii) something that could carry a pest, disease or contaminant (e.g., animals, plants, soil, equipment and water—known as ‘carriers’).
- (b) a **Potential Biosecurity Risk** is a Biosecurity Risk that does not currently occur at the Site, but which has the capacity to occur at the Site. It may be present but not visible or may be introduced during WUC. It includes risks associated with carriers and the movement and sourcing of materials, vehicles, and machinery; and the disturbance, import, or export of soils;
- (c) a **Known Biosecurity Risk** is a Biosecurity Risk that is currently recorded within the footprint or proximity of the Site which is:
- (i) identified within biosecurity plans or programs active for the area;
 - (ii) identified during WUC; or
 - (iii) otherwise identified by the Principal;
- (d) **BRMP** means a Biosecurity Risk management plan;
- (e) **General Biosecurity Obligation** has the meaning given to that term in the *Biosecurity Act 2014* (Qld).

20.2 **(Biosecurity Risk management plan)** The Contractor must prepare and obtain the Superintendent’s Direction regarding a BRMP pursuant to subclause 8.3 of the General Conditions of Contract. The BRMP must:

- (a) describe the processes and procedures for the management of Biosecurity Risks in connection with WUC;
- (b) outline reasonable and practical steps to address Biosecurity Risks;
- (c) describe how the Contractor will meet its General Biosecurity Obligation;
- (d) address both Potential Biosecurity Risks and Known Biosecurity Risks.

The Contractor must comply with and ensure that all of the Contractor’s Personnel comply with the BRMP.

20.3 **(Training)** The Contractor must ensure that each of the Contractor’s Personnel and every other person carrying out WUC at the Site is appropriately trained to be aware of Biosecurity Risks prior to that person carrying out any part of WUC. If at any time during WUC a breach of the BRMP or a significant Biosecurity Risk is identified, then the Contractor must immediately contact the Superintendent for Direction.

21. ASBESTOS

21.1 **(General)** The removal, transportation, and disposal of asbestos products must be undertaken in accordance with:

- (a) all Legislative Requirements;
- (b) relevant standards and codes of practice including “How to Safely Remove Asbestos 2021” as amended or replaced from time to time; and
- (c) to the extent not inconsistent with paragraphs (a) and (b), any management plan prepared under the Contract.

- 21.2 **(Work to be done by certified removalist)** Such Work must be undertaken by a certified asbestos removalist.
- 21.3 **(Monitoring)** The Contractor must arrange for daily air monitoring and reporting during the asbestos removal process by an independent air monitoring consultant/hygienist.
- 21.4 **(Certification)** At the completion of the asbestos removal process, the Contractor must provide certification that all asbestos has been safely removed from the Site and disposed of in accordance with this clause.

22. CULTURAL HERITAGE

- 22.1 **(Compliance)** Without limiting any other obligation of the Contractor under the Contract or any law, the Contractor's attention is drawn to, and the Contractor must comply, and must use all reasonable endeavours to ensure that its Personnel comply with the requirements of, the *Aboriginal Cultural Heritage Act 2003* (Qld), *Torres Strait Islander Cultural Heritage Act 2003* (Qld) and the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth).

23. TRAFFIC MANAGEMENT

- 23.1 **(Traffic management plan)** The Contractor must comply with the Principal's traffic management plan for WUC.

- 23.2 **(General)** The Contractor:

- (a) is responsible for the safety of all pedestrians and vehicular traffic at, or adjacent to the Site, or in any way affected by the execution of WUC;
- (b) must provide all necessary lights, barriers, notices and signs, and other traffic control devices required for the safe and appropriate management of traffic.
- (c) must comply with and ensure that all traffic control devices conform to:
 - (i) the current Manual of Uniform Traffic Control Devices published by the Department of Transport and Main Roads;
 - (ii) Queensland Guide to Temporary Traffic Management;
 - (iii) AS1742 Manual of Uniform Traffic Control Devices;
 - (iv) Austroads Australian Guide to Temporary Traffic Management;
 - (v) Queensland Guide to Road Safety;
 - (vi) Guideline – Traffic Management at Works on Roads,

as amended or replaced from time to time. In the event of any inconsistency, ambiguity, discrepancy, or conflict between any requirement or standard in the documents listed above, the Contractor shall comply with the more onerous requirement or higher standard unless otherwise directed by the Superintendent.

- 23.3 **(No obstruction)** The Contractor must:

- (a) provide for the continuous operation of normal traffic along all roads, and pedestrian and vehicular access to properties included in the Contract or intersected by WUC;
- (b) where necessary, provide side-tracks which must be appropriately constructed, signposted, lit, and maintained; and

- (c) use all reasonable endeavours to avoid obstructing any side road, branch track, drain, or watercourse and to the extent that such obstructions cannot be avoided, remove such obstructions as soon as possible.

24. PERSONAL PROPERTY SECURITIES

- 24.1 **(Interpretation)** In this clause, 'PPS Act' means the *Personal Property Securities Act 2009* (Cth). Terms used in this clause which are defined in the PPS Act which are not separately defined in the Contract have the meaning attributed to them in the PPS Act.
- 24.2 **(Disclosure)** If this Contract contains a security interest, then each party agrees to the purposes of section 275(6) of the PPS Act that it will not disclose information of the type referred to in section 275(1) of the PPS Act, where a request is made under section 275(1) of the PPS Act in relation to this Contract or any part of it, except in circumstances where the party is compelled by law (other than section 275(1) of the PPS Act) to make that disclosure.
- 24.3 **(Contractor's obligations)** If the Principal determines that any clause of this Contract, or a transaction contemplated by this Contract or in connection with the performance of WUC, constitutes, or is likely to give rise to a security interest in respect of which the Principal is the security holder, then the Contractor:
- (a) must, within the time required by the Principal, provide all assistance and cooperation requested by the Principal that the Principal determines is reasonably required to;
 - (i) register and maintain the registration of its security interest on the personal property securities register within any applicable time limits relevant to the effectiveness of the security interest;
 - (ii) ensure that the Principal's security interest is enforceable against third parties, perfected, or otherwise effective;
 - (iii) ensure that the security interest has the appropriate priority required by the Principal (including where applicable, as a purchase money security interest);
 - (iv) ensure that any security interest granted temporary perfection under the PPS Act is perfected by registration or other appropriate means prior to any applicable expiry of that temporary perfection;
 - (v) enable the Principal to register financing statements or financing change statements under the PPS Act, with respect to any such security interest;
 - (b) waives the right to receive notice of a verification statement in relation to the registration of that security interest;
 - (c) must not register or permit to be registered any other security interest in respect of the personal property that comprises the collateral in respect of that security interest, other than one that has been consented to or granted by the Principal;
 - (d) must not cause or allow any of the Contractor's personal property to become an accession to the Principal's personal property or cause or allow the Principal's personal property to become an accession to the Contractor's personal property without the prior consent of the Principal; and
 - (e) must immediately notify the Principal if any other person claims or attempts to enforce a security interest:
 - (i) in the Principal's personal property; or
 - (ii) in the Contractor's personal property to the extent that that purported enforcement affects or has the potential to affect the Contractor's ability to carry out WUC in accordance with the terms of the Contract.

25. HEAVY VEHICLE NATIONAL LAW

- 25.1 **(Meaning of terms)** Terms used in this clause which are defined in the Heavy Vehicle National Law (Queensland) (the 'National Law') have the same meaning as in that law.
- 25.2 **(General obligations)** The Contractor must ensure, so far as is reasonably practicable, the safety of the Contractor's transport activities. Without limiting this, the Contractor must, so far as is reasonably practicable:
- (a) eliminate public risks and, to the extent it is not reasonably practicable to eliminate public risks, minimise the public risks; and
 - (b) ensure the party's conduct does not directly or indirectly cause or encourage:
 - (i) the driver of the heavy vehicle to contravene the National Law; or
 - (ii) the driver of the heavy vehicle to exceed a speed limit applying to the driver; or
 - (iii) another person, including another party in the chain of responsibility, to contravene the National Law.
- 25.3 **(Notice)** The Contractor must immediately:
- (a) notify the Superintendent if the Contractor considers that anything in this Contract, or any act or omission of the Principal or its respective officers, employees, agents or representatives, has or is likely to, directly or indirectly, cause or encourage the Contractor or any Personnel of the Contractor:
 - (i) being the driver of a heavy vehicle to contravene the National Law; or
 - (ii) being the driver of a heavy vehicle to exceed a speed limit applying to the driver; or
 - (iii) being another person, including another party in the chain of responsibility, to contravene the National Law; and
 - (b) notify the Principal and the Superintendent in writing in the event that it, or any Personnel, is issued with any warning, request for information or production of documents, notice or fine in respect of any breach of chain of responsibility law in respect of WUC. The Contractor undertakes to provide the Principal and the Superintendent with a copy of any such warning, request, notice or fine, and any response or submissions made by it in relation to the same.
- 25.4 **(Chain of Responsibility)** In addition to its obligations under the chain of responsibility law, the Contractor must comply with the following chain of responsibility compliance assurance conditions, that:
- (a) the Principal has a policy of compliance for its chain of responsibility obligations under the National Law. The Contractor agrees that it complies with its obligations under the chain of responsibility laws, and has a policy of training and compliance that is subject to periodic review and assessment. The Contractor will require its subcontractors and agents to comply with chain of responsibility obligations in any supply chain arrangement or any arrangement whatsoever in connection with WUC;
 - (b) the Principal is committed to taking all reasonable steps to ensure that any carriage of goods by road performed as part of WUC is performed safely and in accordance with the National Law and the chain of responsibility provisions it contains. The Principal will not comply with any instruction or requirement of the Contractor that might have the effect of contributing to a breach of the National Law, or preventing the Principal from taking all steps that it considers necessary to prevent any breach of the National Law;

- (c) upon becoming aware of any breach of mass, dimension, load restraint, fatigue, speed, or maintenance requirement, the Principal may report the breach to the relevant Authority and retain records of the breach; and
- (d) as a requirement of access to the Site, the Contractor must provide copies of any/all:
 - (i) chain of responsibility policy;
 - (ii) mass, dimension, or load restraint policy;
 - (iii) speed management policy;
 - (iv) fatigue management policy; and
 - (v) maintenance management policy,that is in place in respect of its business.

26. LABOUR HIRE

The Contractor must not provide or utilise any labour for any WUC, unless the provider of that labour hire is registered under the *Labour Hire Licensing Act 2017* (Qld).

27. NON-CONFORMING BUILDING PRODUCTS

- 27.1 **(Definitions)** In this clause, the terms '**person in the chain of responsibility**', '**building product**', '**Minister**', '**non-conforming building product**' and '**required information**' each have the respective meanings given to those terms in the *Queensland Building and Construction Commission Act 1991* (Qld) ('*QBCC Act*').
- 27.2 **(General)** The Contractor:
- (a) acknowledges that, to the extent that the Contractor is a person in the chain of responsibility, it has obligations under Part 6AA of the QBCC Act in relation to non-conforming building products;
 - (b) warrants and represents that no building products incorporated into The Works are non-conforming building products, or the subject of a warning statement issued by the Minister;
 - (c) must ensure that it, and its subcontractors, suppliers, and consultants provide all required information for a building product incorporated into The Works to the Principal upon installation of the building product into The Works; and
 - (d) must provide all required information and any other information relevant to a building product to the Principal within the timeframes requested by the Principal.
- 27.3 **(Failure to comply)** If the Contractor installs, or incorporates into The Works, a building product without the required information, the Principal will be entitled to do either of the following in its sole and absolute discretion:
- (a) request the required information from the Contractor, in which case the Contractor will provide the required information as soon as reasonably practicable, or
 - (b) direct the Contractor to remove the building product from The Works and replace with a building product that is not non-conforming pursuant to subclause 29.3 of the General Conditions of Contract or clause 35 of the General Conditions of Contract.
- 27.4 **(Requirement of Practical Completion)** The Contractor shall, as a requirement of practical completion, provide to the Principal a signed statutory declaration confirming that all required

information has been obtained and provided to the Principal, and that no non-conforming building products have been installed or incorporated into The Works.

- 27.5 **(Indemnity)** Without limiting clause 11A.6 of the General Conditions of Contract, the Contractor shall indemnify and keep indemnified the Principal against any Claim which may be brought against the Principal, and any cost, expense, fine, penalty, damages or loss which may be imposed upon, suffered, or incurred by the Principal to the extent caused or contributed to any breach of the Contractor's obligations under this clause 27, or by any failure of the Contractor to comply with its obligations under the QBCC Act in relation to building products.

28. WORK HEALTH AND SAFETY ACCREDITATION SCHEME

- 28.1 **(Accreditation)** The Contractor must maintain accreditation under the Australian Government Work Health and Safety Accreditation Scheme ('the Scheme'), established by the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth), while building work (as defined in section 6 of the Act) is carried out.
- 28.2 **(Compliance)** The Contractor must comply with all conditions of the Scheme accreditation and the National Construction Code performance requirements in relation to building materials.

29. QUEENSLAND CODE

- 29.1 **(The Queensland Code)** If applicable, in addition to the terms defined in this document, terms used in this clause 29 have the same meaning as is attributed to them in the Queensland Government's *Queensland Code of Practice for the Building and Construction Industry* (the 'Queensland Code').
- 29.2 **(Primary Obligations)** The Contractor must:
- (a) comply with, and meet any obligations imposed by, the Queensland Code;
 - (b) notify the Australian Building and Construction Commission ('ABCC') (or nominee) and the Principal, of any alleged breaches of the Queensland Code and of voluntary remedial action taken within 24 hours of becoming aware of the alleged breach;
 - (c) where the Contractor is authorised to engage a subcontractor and it does so, ensure that any secondary contract imposes on the subcontractor equivalent obligations to those in this clause 29, including that the subcontractor shall comply with, and meet any obligations imposed by, the Queensland Code; and
 - (d) not appoint or engage another party in relation to WUC, where that appointment or engagement would breach a sanction imposed on the other party in relation to the Queensland Code.
- 29.3 **(Information)** The Contractor must maintain adequate records of compliance with the Queensland Code by it, its subcontractors, and related entities.
- 29.4 **(Access)** The Contractor must allow, and take reasonable steps to facilitate, Queensland Government authorised personnel (including personnel of the ABCC) to:
- (a) enter and have access to sites and premises controlled by the Contractor, including any Site at which WUC is being carried out;
 - (b) inspect any work, material, machinery, appliance, article, or facility;
 - (c) access information and documents;
 - (d) inspect and copy any records relevant to WUC;
 - (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, and related entities.

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

29.6 **(Sanctions)** The Contractor warrants that at the time of entering into this Contract, neither it, nor any of its related entities, are subject to a sanction in connection with the Queensland Code that would have precluded it from tendering for work to which the Queensland Code applies. If the Contractor does not comply with, or fails to meet any obligation imposed by the Queensland Code, a sanction may be imposed against it in connection with the *Queensland Code*. Where a sanction is imposed:

(a) it is without prejudice to any rights that would otherwise accrue to the parties;

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

(i) record and disclose details of non-compliance with the Queensland Code and the sanction; and

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

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

29.8 **(No relief)** Compliance with the Queensland Code does not relieve the Contractor from responsibility to perform WUC and any other obligation under the Contract, or from liability for any defect in The Works, or from any other legal liability, whether or not arising from its compliance with the Queensland Code.

29.9 **(Change)** Where a change in the Contract or WUC is proposed, and that change would, or would be likely to, affect compliance with the Queensland Code, the Contractor must immediately notify the Principal (or nominee) 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; and

(c) what steps the Contractor proposes to take to mitigate any adverse impact of the change,

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

30. QUEENSLAND GOVERNMENT QUEENSLAND CHARTER FOR LOCAL CONTENT

30.1 **(Definitions)** Terms used in this clause 30 which are not separately defined in this Contract have the same meaning as is attributed to them in the Charter for Local Content.

30.2 **(Contractor's obligation)** The Contractor must, and must ensure its subcontractors, in carrying out WUC:

- (a) comply with the principles of the Charter for Local Content and any related requirements under the Contract;
- (b) comply with any Statement of Intent or equivalent local content statement under the Contract;
- (c) complete and submit a Charter for Local Content – Project Outcome Report (available from State Government website) to the Principal at, and as a requirement of, Practical Completion and at such other times as reasonably requested by the Principal, with a copy to gclc@dsg.qld.gov.au.

31. AS CONSTRUCTED DRAWINGS

31.1 **(Requirements for as constructed drawings)** Unless the Superintendent otherwise directs, as constructed drawings must:

- (a) comply with AS 1100.101-1992: Technical Drawing – General as amended or replaced from time to time;
- (b) clearly detail the finished line, level, arrangements, layouts, and the like of The Works as completed, including the pickup of any existing in-ground services encountered in the execution of WUC;
- (c) be prepared utilising the latest issued version of the construction drawings and must be prepared using AutoCAD format, or an alternative software package/format approved by the Superintendent; and
- (d) must be clearly identified as ‘as constructed drawings’, be appropriately titled, and must be dated and signed by the Contractor.

31.2 **(Draft as constructed drawings)** No later than two weeks before the Date For Practical Completion the Contractor must give to the Superintendent, two advanced ‘draft’ copies of the as constructed drawings of The Works.

31.3 **(Final as constructed drawings)** The Contractor must give to the Superintendent, as a requirement of Practical Completion, as constructed drawings of The Works as follows:

- (a) 3 complete copies of as constructed drawings in A3 hardcopy format;
- (b) 1 complete electronic copy of as constructed drawings in PDF; and
- (c) 1 complete copy in the electronic format in which the drawings were created (native format).

32. OPERATION AND MAINTENANCE MANUALS

32.1 **(Requirements for operation and maintenance manuals)** Unless the Superintendent otherwise directs, the operation and maintenance manuals must include:

- (a) Contractor’s name, address, facsimile number, telephone number and email address;
- (b) maintenance schedule (in tabular form);
- (c) technical description of the equipment supplied, with diagrams and illustrations where appropriate;
- (d) detailed description of each item of maintenance;
- (e) detailed description of each item of operation;
- (f) procedures for dismantling and reassembling;

- (g) details and descriptions of maintenance and operations, equipment and tools, with instructions for their use;
- (h) supplier/material quality certificates for each product;
- (i) supplier/material specification and data sheets for each product;
- (j) Material Safety Data Sheets (MSDS) for all products directly or indirectly involved in all aspects of operation and maintenance of the works; and
- (k) complete spares list.

32.2 **(Draft as operation and maintenance manuals)** No later than two weeks before the Date For Practical Completion the Contractor must give to the Superintendent, two advanced 'draft' copies of the operation and maintenance manuals for The Works.

32.3 **(Final operation and maintenance manuals)** The Contractor must give to the Superintendent, as a requirement of Practical Completion, 1 complete electronic copy in PDF of the operation and maintenance manuals for The Works.

33. PRACTICAL COMPLETION

33.1 **(Requirements of achieving practical completion)** The Contractor acknowledges that the Contract may elsewhere include additional obligations which must be satisfied as a requirement of Practical Completion. In addition to any such obligations, the Contract must, as a requirement of Practical Completion:

- (a) satisfy all requirements of the Contract in relation to commissioning and operator training;
- (b) provide to the Superintendent one (1) bound and one (1) PDF copy of an end-of-job report which shall contain the following as a minimum:
 - (i) material test results;
 - (ii) details of products used at particular locations including supplier information;
 - (iii) warranty details and certificates (including transfer to Principals name if appropriate)
 - (iv) as constructed drawings which comply with clause 31;
 - (v) completed warranties for all fittings and fixtures including major supply information;
 - (vi) operations & maintenance manuals;
 - (vii) building surveyor inspection certificates where applicable;
 - (viii) plumbing inspection certificates;
 - (ix) electrical inspection certificates; and
 - (x) final inspection certificates from an approved registered certifier;
 - (xi) RPEQ Certification