MEDIUM WORKS CONTRACT – DESIGN AND CONSTRUCTION

Contract Number: SMC-23-0952

DESIGN AND CONSTRUCT OF CHATSWOOD DEMOLITION AND REMEDIATION FOR THE CITY AND SOUTHWEST METRO PROJECT

Between

Sydney Metro

[PRINCIPAL]

ABN 12 354 063 515

and

RMA Contracting Pty Ltd

[CONTRACTOR]

ABN 28 092 116 704

Contents

List of Exhibits

Parties

1. **Sydney Metro** (ABN 12 354 063 515), a NSW Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW), of Level 43, 680 George Street, Sydney NSW 2000 (***Principal***).

2. **RMA Contracting Pty Ltd** (ABN 28 092 116 704) of Level 34, 32 Turbot Street, Brisbane QLD 4000 (the ***Contractor***).

Recitals

A The Principal is a NSW Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW), and is responsible for developing the Sydney Metro network.

B The Principal is responsible for the Sydney Metro City and South West which operates from the Northwest line at Chatswood through new CBD stations and southwest to Bankstown.

C The Site was used for the construction of the Sydney Metro City and South West Project but is no longer required for that purpose.

D The Principal has reached an agreement with Property and Development NSW to remediate and transfer the Site to the NSW Department of Education on or about 1 July 2024 and has engaged the Contractor to carry out the Works on the Site for that purpose.

E The Works include:

- Site establishment;
- Protection of Council and other assets, including temporary design and installation of any retention structure required to complete excavation works;
- Removal of hardstand;
- Removal of underground storage tanks;
- Excavation and removal of contaminated soil;
- Collection of validation data to enable the Principal's appointed Validation Consultant to prepare a validation report detailing the outcomes of the remedial works; and
- Preparation of Site for handover.

F The Contractor has agreed to undertake the Contractor's Activities for the Principal in accordance with this Contract.

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It is agreed as follows

1. Definitions and Interpretation

1.1 Definitions

In this Contract, unless the context otherwise indicates:

Aboriginal Participation Plan means the plan described in the NSW Government Aboriginal Procurement Policy (January 2021), developed in relation to the Works, attached at Exhibit G, and which forms part of the Contract Management Plan.

Aboriginal Participation Report means the report described in the NSW Government Aboriginal Procurement Policy (January 2021), which demonstrates the Contractor's compliance with the Aboriginal Participation Plan.

Accredited Site Auditor means the person identified in Schedule 1 as the site auditor, who is accredited as a site auditor under the *Contaminated Land Management Act 1997* (NSW), engaged by the Principal in connection with the Works, or any replacement notified to the Contractor by the Principal's Representative.

Apprentice means an employee of the Contractor or its Subcontractors undertaking a recognised Australian Apprenticeship program and related qualification and holding a formal training contract who has been employed by the Contractor or its Subcontractors to undertake the Contractor's Activities on the Site.

Authority includes any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, Minister, statutory corporation or instrumentality and any private electricity, telecommunications, gas or other utility company having statutory rights in relation to the Works or the Contractor's Activities.

Authority Approval means any licence, permit, consent, approval, determination, exemption, certificate, memorandum of understanding, notification or permission from any Authority or under any Law, or any requirement made under any Law, which must be obtained or satisfied (as the case may be) to:

(a) carry out the Contractor's Activities including for the avoidance of doubt all things required for conducting work within the Rail Corridor or affecting rail operations and all things required for dealing with, transporting and disposing of Contamination, Hazardous Material or Waste; or

(b) occupy and use for its intended purpose the completed Works or a completed Portion,

and for the avoidance of doubt includes the Planning Approval and the EPL (if an EPL is required for the Works).

Business Day means any day other than a Saturday, Sunday, public holiday in New South Wales or 27, 28, 29, 30 or 31 December.

CCU means Construction Compliance Unit, the unit established within NSW Industrial Relations to monitor compliance with and receive reports of alleged breaches of the NSW Guidelines.

Change in Authority Approval means:

(a) a change:

(i) in an Authority Approval which is in existence as at the date of this Contract; and

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(ii) which occurs after the date of this Contract.

Change in Codes and Standards means a change in the Codes and Standards taking effect after the date of this Contract, excluding a change in the Codes and Standards which, as at the date of this Contract:

(a) was published or of which public notice had been given (even as a possible change in the Codes and Standards); or

(b) a party experienced and competent in the delivery of works and services similar to the Works or the Contractor's Activities (as applicable) would have reasonably foreseen or anticipated,

in substantially the same form as the change in the Codes and Standards eventuating after the date of this Contract.

Change in Control means, in respect of an entity, any event occurs such that a change occurs in the Control of that entity.

Change in Law means (if it takes effect after the date of this Contract):

(a) a change in an existing Law (other than a change in an Authority Approval); or

(b) a new Law (other than a new Authority Approval),

compliance with which:

(c) has a direct effect on the Contractor carrying out the Contractor's Activities; and

(d) directly results in an increase or decrease in the Contractor's costs of carrying out the Contractor's Activities, or a delay to the Contractor achieving Completion of the Works or a Portion by the relevant Date for Completion in accordance with clause 10.7(a),

but excludes:

(e) a change in an existing Law in respect of Taxes or a new Law in respect of Taxes; and

(f) a change in an existing Law or a new Law which, as at the date of this Contract was published or of which public notice had been given (even as a possible change in an existing Law or a possible new Law) in substantially the same form as the change in an existing Law or new Law eventuating after the date of this Contract.

Claim includes any claim for an increase in the Contract Sum, for payment of money (including damages), for an extension of time to a Date for Completion or for any other form of relief:

(a) under, arising out of, or in any way in connection with, this Contract, including any direction of the Principal's Representative;

(b) arising out of, or in any way in connection with, the Contractor's Activities or the Works or either party's conduct prior to the date of this Contract; or

(c) otherwise at Law or in equity including:

(i) under or for breach of statute;

(ii) in tort for negligence or otherwise, including negligent misrepresentation; or

(iii) for restitution, including restitution based on unjust enrichment.

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Codes and Standards means:

(a) the relevant building codes (including the National Construction Code), Standards Australia codes, standards, specifications, guidelines, rules, procedures or other publications current at the date of this Contract (including the Disability (Access to Premises – Buildings) Standards 2010), including any specified or required by this Contract;

(b) the NSW Government Aboriginal Procurement Policy (January 2021), NSW Code, NSW Guidelines, Environmental Management Systems Guidelines (4th edition) (January 2020), Work Health and Safety Management Systems and Auditing Guidelines (6th edition) (2019), Training Management Guidelines (October 2021), Quality Management System Guidelines for Construction (January 2021), GREP and any other NSW Government guidelines and requirements specified or required by this Contract; and

(c) if (and to the extent) the codes and standards referred to in paragraphs (a) or (b) are irrelevant, then relevant international codes, standards, specifications, guidelines, rules, procedures or other publications current at the date of this Contract.

Commonwealth means the Commonwealth of Australia.

Completion means the stage in the execution of the Contractor's Activities when:

(a) the Works are, or a Portion is, complete in accordance with this Contract except for minor Defects:

(i) that do not prevent the Works or the Portion from being reasonably capable of being used for the intended purpose of the Works or the Portion;

(ii) that can be rectified without prejudicing the convenient intended use of the Works or the Portion; and

(iii) in respect of which the Contractor has reasonable grounds for not promptly rectifying;

(b) the Contractor has:

(i) carried out and passed all tests that:

A. are required under this Contract to be carried out and passed before the Works or a Portion reaches Completion; or

B. must necessarily be carried out and passed to verify that the Works or a Portion is in the condition this Contract requires the Works or Portion (as the case may be) to be in at Completion;

(ii) without limiting clause 2.3(c)(iv), obtained all Authority Approvals that it is required under this Contract to obtain before Completion of the Works or a Portion and provided such Authority Approvals to the Principal's Representative;

(iii) given to the Principal's Representative all other documents and information:

A. required (including in accordance with the Works Brief) for the use, operation, maintenance and repair of the Works or a Portion; and

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B. that are to be handed over to the Principal's Representative before Completion of the Works or a Portion;

(iv) complied with all performance requirements that this Contract requires to be verified before Completion of the Works or a Portion;

(v) provided the Principal's Representative with the Contractor's Certificate of Completion in the form of Schedule 21 for the Works or a Portion; and

(c) the Contractor has done everything else that it is required to do under this Contract before Completion of the Works or a Portion including those things referred to in Schedule 1.

Consequential Loss means any loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of business or loss of business opportunity, loss of contract, loss of goodwill, loss of production or failure to realise anticipated savings (whether the loss is direct or indirect).

Construction Environmental Management Plan means the plan which forms part of the Contract Management Plan which is required to be provided and implemented by the Contractor pursuant to the Works Brief.

Construction Plant means equipment, appliances, machinery and things used in the execution of the Contractor's Activities but not forming part of the Works.

Contamination means the presence in, on or under land or water or any other aspect of the Environment of:

(a) a substance (whether occurring naturally or otherwise) which is at a concentration above the concentration at which the substance (whether occurring naturally or otherwise) is normally present in, on or under land or water or any other aspect of the Environment in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment; or

(b) any natural or artificial substance whether solid, liquid or gas (alone or in combination with any other substance) which is toxic, flammable or otherwise capable of causing harm to humans or damage to the Environment.

Contract means the contract between the Principal and the Contractor in respect of the Works constituted by the documents referred to in Schedule 1.

Contract Documentation means all documentation in computer readable or written forms brought into (or required to be brought into) existence as part of, or for the purpose of, performing the Contractor's Activities (whether before or after the date of this Contract) including:

(a) the Works Brief (including any Preliminary Design) and all Design Documentation; and

(b) all plans, manuals, programs and other documents.

Contract Management Plan means the documents required to be provided and implemented by the Contractor pursuant to the Works Brief as developed, amended or updated from time to time in accordance with the Contract.

Contract Sum means the Original Contract Price increased or decreased by the amounts by which this Contract requires the Contract Sum to be increased or decreased.

Contractor means the person named as the Contractor in Schedule 1.

Contractor's Activities means all things or tasks which the Contractor is, or may be, required to do to comply with its obligations under this Contract, including:

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(a) the design, construction, commissioning and hand-over of the Works;

(b) the provision of Temporary Works and Construction Plant; and

(c) anything incidental or ancillary to the obligations in paragraphs (a) to (c).

Contractor's Program means the program prepared and provided by the Contractor in accordance with clause 10.2, as developed and updated in accordance with clause 10.2 from time to time.

Contractor's Representative means the person notified to the Principal's Representative in accordance with clause 9.4(a) as being the Contractor's Representative.

Control has the meaning in the Corporations Act 2001 (Cth).

Crown Building Work has the meaning given to that term in section 6.1 of the *Environmental Planning and Assessment Act 1979* (NSW).

Date for Completion means in respect of the Works or a Portion the date, or the last day of the period of time, specified in Schedule 1 for the Works or that Portion, as adjusted under this Contract by an extension of time determined by the Principal's Representative or pursuant to any determination by an expert or any litigation.

Date of Completion means:

(a) the date of Completion of the Works or a Portion, set out in a Notice of Completion; or

(b) where another date is determined in any determination by an expert or any court pursuant to clause 16 as the date upon which Completion was achieved, that date.

Date of Final Completion means:

(a) the date determined in accordance with clause 13.8(e)(i) as the date Final Completion was achieved; or

(b) where another date is determined in any determination by an expert or any court pursuant to clause 16 as the date upon which Final Completion was achieved, that date.

date of this Contract means the date on which the Contract was formed by the execution of this deed or other formal instrument.

Defect means any:

(a) defect, deficiency, fault, error or omission in the Works or Temporary Works, including subsidence, shrinkage and movement outside the required tolerances; or

(b) other aspect of the Works, Temporary Works or Contractor's Activities that is not in accordance with the requirements of this Contract, including non-compliances, non-conformances and non-conformities.

Defects Rectification Period means the period stated in Schedule 1, as extended by clause 8.6.

Design Documentation means all design documentation (including design standards, design reports, durability reports, construction descriptions, specifications, models, samples, prototypes, calculations, drawings, digital records, computer software and all other relevant data) in computer readable and written forms, or stored by any other means required by this Contract or necessary to be produced by the Contractor to design and construct the Works and the Temporary Works and documentation (including certificates and check lists) to evidence that the design documentation complies with the requirements of this Contract.

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Difference in Conditions has the meaning given to that term in clause 2.12(b)(iv).

Dispute has the meaning given to that term in clause 16.1.

Document means any document which is required to be submitted for the review of the Principal's Representative under this Contract.

Draft Third Party Agreement has the meaning given to that term in clause 2.12(b)(i)A.

Electronic Portal means the electronic portal or document management system (if any) referred to in a notice by the Principal's Representative under clause 17.1(a).

Environment means components of the earth, including:

(a) land, air and water;

(b) any layer of the atmosphere;

(c) any organic or inorganic matter and any living organism;

(d) human-made or modified structures and areas; and

(e) interacting natural ecosystems that include components referred to in paragraphs (a) to (c).

Environmental Representative means the person identified in Schedule 1 as the environmental manager appointed by the Principal, or any replacement notified to the Contractor by the Principal's Representative.

EPA means the Environment Protection Authority constituted by the *Protection of the Environment Administration Act 1991* (NSW).

EPL means an environment protection licence issued under the *Protection of the Environment Operations Act 1997* (NSW).

Excavated Natural Material (ENM) means Waste which is excavated natural material in accordance with *The excavated natural material order 2014* (NSW EPA Resource Recovery Order under Part 9, clause 93 of the *Protection of the Environment Operations (Waste) Regulation 2014)*.

Excepted Risk means any one of:

(a) war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, act of terrorism, insurrection or military or usurped powers, martial law or confiscation by order of any government or public authority;

(b) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the Contractor or its Subcontractors or either's employees or agents; or

(c) any other event so described in Schedule 1.

Excluded Claim means any claim:

(a) with respect to a Change in Law under clause 2.3(d);

(b) for a Variation directed in accordance with clause 6.2 or a direction by the Principal's Representative to which clause 18.1 applies;

(c) for an extension of time to any Date for Completion under clause 10.7(a); or

(d) for payment under clause 11, including claims under clauses 11.9 and 11.11.

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Executive Negotiators means the persons described in Schedule 1.

Extra Land means the land referred to in clause 3.4(a).

Final Audit Documents means the final site audit statement and final site audit report prepared by the Accredited Site Auditor in connection with the Contractor's Activities.

Final Completion means the stage in the execution of the Contractor's Activities when:

(a) all Defects Rectification Periods (including any extension under clause 8.6) have expired and the Contractor has rectified all Defects in accordance with the Contract;

(b) the Contractor has:

(i) carried out and passed all tests which:

A. are required under this Contract to be carried out and passed before the Works reach Final Completion; or

B. must necessarily be carried out and passed to verify that the Works are in the condition this Contract requires them to be in at Final Completion;

(ii) obtained all Authority Approvals that it is required under this Contract to obtain which:

A. were not obtained before Completion of the Works or the last Portion to reach Completion; or

B. are to be obtained prior to Final Completion,

and provided such Authority Approvals to the Principal's Representative;

(iii) given to the Principal's Representative all other documents or information referred to in this Contract:

A. which are required for the use, operation, maintenance and repair of the Works but which were not obtained before Completion of the Works or the last Portion to reach Completion; or

B. which are required to be handed over to the Principal's Representative before Final Completion; and

(iv) complied with all performance requirements under this Contract that must be verified before Final Completion; and

(c) the Contractor has done everything else which it is required to do under this Contract before Final Completion.

First Statement of Outstanding Claims has the meaning in clause 11.9.

Force Majeure Event means earthquake, flood, bushfire, act of terrorism, act of a public enemy, war (declared or undeclared) or revolution.

General Conditions means clauses 1 to 22 of this Contract.

General Solid Waste (Putrescible) means Waste which is general solid waste (putrescible) as defined in the Waste Classification Guidelines.

General Solid Waste (Non-Putrescible) means Waste which is general solid waste (non-putrescible) as defined in the Waste Classification Guidelines.

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General Solid Waste (with Asbestos) means Waste which is general solid waste (with asbestos) in accordance with the Waste Classification Guidelines.

General Solid Waste (recyclable) means Waste which is general solid waste in accordance with the Waste Classification Guidelines, and which is capable of being recycled off-site at a facility lawfully able to accept that Waste.

Greenhouse Data means all data, information, records and reports of the type that a registered corporation or any other person may be required or entitled to provide under the NGER Legislation, including as to:

(a) greenhouse gas emissions, energy production or energy consumption; and

(b) reduction of greenhouse gas emissions, removal of greenhouse gases or offsets of greenhouse gas emissions from any greenhouse gas project,

relating to any aspect of any of the Contractor's Activities or the activities of any of the Contractor's personnel in connection with the Contractor's Activities.

GREP means the NSW Government Resource Efficiency Policy (2019).

Guarantor means the person who is required to execute the Parent Company Guarantee under clause 2.7(f).

Hazardous Material means any natural or artificial substance whether solid, liquid or gas (alone or in combination with any other substance) which is toxic, flammable or otherwise capable of causing harm to humans or damage to the Environment including asbestos, toluene, polychlorinated biphenyls, lead based paints, hydrofluorocarbons and hydrocarbons.

Hazardous Waste means Waste which is classified as hazardous waste in accordance with the Waste Classification Guidelines**.**

Incident means:

(a) any work health and safety or environmental or security incident arising from the performance of (or failure to perform) the Contractor's Activities including:

(i) a fatality or injury to any person including any incident which must be reported to SafeWork NSW;

(ii) loss of containment, escape of or migration of Contamination off-Site and into the Environment;

(iii) any fire or dangerous event on the Site or Extra Land;

(iv) a security breach;

(v) any unauthorised removal of trees;

(vi) a non-compliance with an Authority Approval; or

(vii) any public complaint; or

(b) any unplanned and/or undesired event which results in or has the potential to result in injury, ill-health, damage to or loss of property, interruption to operations or environmental impairment,

and includes:

(c) a near miss, breach of procedure, quality failure and/or injuries to contractors and members of the public; and

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(d) a "notifiable incident" under the WHS Legislation.

Inclement Weather Allowance means a period of delay specified in Schedule 1 caused by inclement weather for which the Contractor might otherwise have been entitled to make a claim for an extension of time for delays, but for this Contract.

Information Documents and Materials means:

(a) the items specified in Schedule 9;

(b) the Reports; and

(c) all other documents, core and other samples, exhibits and materials in any format or medium including any electronic form provided to the Contractor unless expressly identified as forming part of this Contract,

including anything which is expressly stated by this Contract to form part of the Information Documents and Materials.

Insolvency Event means when:

(a) one party informs the other party in writing, or its creditors generally, that the party is insolvent or is unable to proceed with its obligations under this Contract for financial reasons;

(b) in relation to an individual, the individual (being a party) commits an act of bankruptcy, a bankruptcy petition is presented against the individual or the individual is made bankrupt;

(c) execution is levied against a party by a creditor, debenture holders or trustees or under a floating charge; or

(d) in relation to a corporation any one of the following:

(i) notice is given of a meeting of creditors with a view to the corporation entering into a deed of company arrangement or scheme of arrangement (other than a solvent scheme of arrangement);

(ii) the corporation enters a deed of company arrangement or composition with creditors;

(iii) an application is made for, a resolution is passed by the directors for the appointment of, or an order is made for, a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator to be appointed to the corporation;

(iv) a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator is appointed to the corporation;

(v) an application is made to a court for the sequestration or winding up of the corporation and not stayed, dismissed or discontinued within 21 days;

(vi) a sequestration order or winding up order is made in respect of the corporation;

(vii) the corporation resolves by special resolution that it be wound up voluntarily (other than for a members' voluntary winding-up), or a meeting of creditors of a party under administration or a deed of company arrangement resolves that the corporation be wound up;

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(viii) a mortgagee of any property of the corporation takes possession of that property; or

(ix) the corporation ceases, suspends or threatens to cease or suspend the conduct of all or a substantial part of its business, or disposes or threatens to dispose of all or a substantial part of its assets; or

Inspection includes auditing, surveillance, monitoring, testing, review, examination and measuring.

Institution means any:

(a) authorised deposit taking institution holding an authority to carry on banking business in Australia under the terms of the *Banking Act 1959* (Cth); or

(b) insurance company which is regulated by the Australian Prudential Regulatory Authority and has the Required Rating.

Intellectual Property means all rights in copyright, inventions (including patents and innovation patents), registered and unregistered trademarks or name, registered and registrable designs, confidential information, trade secrets, technical data and know how, circuit layout rights, and all other protected rights of intellectual property defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.

Latent Conditions has the meaning given in clause 3.5(a).

Law means:

(a) Commonwealth, New South Wales or local government legislation, including ordinances, instruments, codes of practice, policy and statutory guidance (but excluding the National Construction Code, any other building codes or Standards Australia codes), requirements, regulations, by-laws and other subordinate legislation;

(b) principles of law or equity established by decisions of courts; and

(c) Authority Approvals (including any condition or requirement under them).

Loss means any cost, expense, loss, damage, Liability, fine, penalty or other amount, whether direct, indirect, consequential, present, future, fixed, unascertained, actual or contingent and, for the avoidance of doubt, includes Consequential Loss.

Mitigation Measure means a measure, action, standard or precaution to mitigate the impact of the Works.

Modern Slavery has the same meaning as in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children.

Modern Slavery Laws means, as applicable, the *Modern Slavery Act 2018* (NSW) and the *Modern Slavery Act 2018* (Cth).

Modern Slavery Offence has the same meaning as in the *Modern Slavery Act 2018* (NSW), and includes an offence listed from time to time in Schedule 2 to the *Modern Slavery Act 2018* (NSW).

Modern Slavery Practice includes any one or more of the following:

(a) using any form of forced or child labour or deceptive recruitment practices;

(b) requiring personnel to work excessive hours in the performance of, or in connection with, this Contract;

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(c) save for short periods where legally required to do so for the purposes of administering employment, retaining the passports and/or identity documents of personnel or any potential personnel;

(d) denying personnel the right to terminate their employment or join or form, or discouraging personnel from joining or forming, a trade union if they so desire;

(e) save where required by Law, paying wages to any individual other than personnel; and

(f) if any personnel are migrant workers, providing migrant workers with any lesser entitlements than given to local employees.

Monument has the meaning given to that term in the *Surveying and Spatial Information Regulation 2017* (NSW).

National Remediation Framework means the National Remediation Framework (CRC CARE, 2020).

NGER Legislation means *National Greenhouse and Energy Reporting Act 2007* (Cth), related regulations and legislative instruments.

Northern Dive Service Building means the building of that name shown on drawing SMC-23-0952-DWG-00100[A]

Notice of Completion means a notice issued under clause 13.3(d)(i) by the Principal's Representative stating that Completion of the Works or a Portion has been achieved.

NSW Code has the meaning given in clause 21.2.

NSW Guidelines has the meaning given in clause 21.1.

NSW Procurement Board means the board established under section 164 of the *Public Works and Procurement Act 1912* (NSW).

NSW Trains means the corporation by that name constituted by Part 3C of the *Transport Administration Act* 1988 (NSW).

Opal Card means the contactless smart card ticketing system used or to be used for public transport services in the greater Sydney area, and includes any successor in name or technology.

Option means an option referred to in Schedule 15.

Original Contract Price means the amount set out in Schedule 1, which is, and all components of which are, exclusive of GST.

Other Contractor means any contractor, consultant, artist, tradesperson or other person engaged by the Principal or others to do work, other than:

(a) the Contractor and its Subcontractors; and

(b) the Validation Consultant and the Accredited Site Auditor.

Other Contractor Work means the works to be undertaken by an Other Contractor on a part of the Site during any period in which the Contractor has been engaged as principal contractor in respect of that part of the Site.

Overhead Costs means the costs referrable to the items described in Part B of Schedule 10.

Parent Company Guarantee means the Deed which appears in Schedule 17.

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Payment Breakdown Schedule means Schedule 2.

Payment Claim Date means the later of:

(a) the date when the Contractor has complied with the requirements in clause 11.6; and

(b) the following dates:

(i) prior to the time for submission of the Final Payment Claim, upon the last day of each month;

(ii) for the Completion Payment Claim, within the time required by clause 11.9; and

(iii) for the Final Payment Claim, within the time required by clause 11.11.

Planning Approval means:

(a) the Authority Approval for the Works (as set out in Exhibit C) as it may be modified from time to time, and any other Authority Approvals issued from time to time by either the Principal or the Minister for Planning and Infrastructure (acting in their capacity as determining authority) under the *Environmental Planning and Assessment Act 1979* (NSW) in respect of the Works; and

(b) any Mitigation Measures and statement of commitments that are required to be complied with or fulfilled in the documents referred to in paragraph (a).

POEO Act means the Protection of the Environment Operations Act 1997 (NSW).

Pollution has the meaning given to "pollution" in the Dictionary to the *Protection of the Environment Operations Act 1997* (NSW).

Portion means a part of the Contractor's Activities or Works, as described in Schedule 1 or as directed under clause 13.6(a).

PPS Act means the *Personal Property Securities Act 2009* (Cth).

PPS Law means:

(a) the PPS Act and any regulations made at any time under the PPS Act, as amended from time to time; and

(b) any relevant amendment made at any time to any other legislation as a consequence of paragraph (a).

Preliminary Design means the preliminary design of the Works (if any) which appears in Exhibit F.

Principal means Sydney Metro.

Principal Supplied Items means the items listed in Schedule 27.

Principal's Representative means:

(a) the person nominated in Schedule 1; or

(b) any other person appointed from time to time by the Principal under clause 9.2,

and includes any appointee under clause 9.3.

Prohibited Subcontractor means:

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(a) any Subcontractor:

(i) who has made an admission to the Independent Commission Against Corruption that it has engaged in; or

(ii) in respect of whom the Independent Commission Against Corruption has made a finding that it has engaged in,

corrupt conduct as defined in the *Independent Commission Against Corruption Act 1988* (NSW); or

(b) any Subcontractor employing an employee in respect of whom paragraph (a)(i) or (a)(ii) apply.

Project Work Health and Safety Management Plan means the plan which forms part of the Contract Management Plan which is required to be provided and implemented by the Contractor and which must:

(a) set out in adequate detail the procedures the Contractor will implement to manage the Works and the performance of the Contractor's Activities from a work health and safety perspective; and

(b) describe how the Contractor proposes to ensure the Works and Contractor's Activities are performed consistently with Law in relation to work health and safety.

Provisional Sum Work means the work detailed in Schedule 1.

Rail Corridor means the area containing the Rail Tracks, rail junctions, level crossings, station buildings, platforms, signal boxes, tunnels, bridges and other associated structures. This area is often defined by railway boundary fencing and in the absence of such fencing, is defined by a physical boundary (i.e. tunnel, building or retaining walls) or everywhere within 15 metres of the outermost rails.

Rail Transport Agency means Sydney Metro, Transport for NSW (and each of its divisions), TAHE, Sydney Trains and NSW Trains.

Referral Date has the meaning given to that term in clause 16.5(a).

Related Body Corporate has the meaning given to that term in the Corporations Act 2001 (Cth).

Relevant Matters has the meaning given to that term in clause 9.15(a).

Remediation or **Remediate** has the meaning given in the *Contaminated Land Management Act 1997* (NSW).

Remediation Action Plan means the plan of that name contained in the Works Brief as updated from time to time.

Replacement Third Party Agreement has the meaning given to that term in clause 2.12(b)(i)B.

Report means each report referred to in Schedule 1.

Request for Tender means the document titled "Request for Tender – RFT No. SMC-23-0952 – Chatswood Precinct Worksite Remediation Works" dated 8 August 2023.

Required Rating means a credit rating of at least A- by Standard & Poor's (Australia) Pty. Ltd. or A3 by Moody's Investors Service, Inc.

Restricted Solid Waste means Waste which is classified as restricted solid waste in accordance with the Waste Classification Guidelines.

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Restricted Solid Waste (with Asbestos) means Waste which is classified as restricted solid waste (with asbestos) in accordance with the Waste Classification Guidelines.

Revised Allocation has the meaning given to that term in clause 2.12(b)(iii)D.

Second Statement of Outstanding Claims has the meaning in clause 11.11.

Security Interest has the meaning given to that term in clause 17.26(a).

Service includes any service facility or item of public or private infrastructure, including railway systems, pedestrian and vehicular corridors, water, electricity, gas, fuel, telephone, existing drainage, sewerage, industrial waste disposal and electronic communications service.

Site means:

(a) the lands and other places described in Schedule 1; and

(b) any other lands and places made available to the Contractor by the Principal for the purpose of this Contract.

Solid Waste includes soils and rock excavated from the Site, comprising General Solid Waste (Putrescible), General Solid Waste (Non-Putrescible), General Solid Waste (with Asbestos), Restricted Solid Waste, Restricted Solid Waste (with Asbestos), Hazardous Waste, Virgin Excavated Natural Material (VENM) and/or Excavated Natural Material (ENM) or soils and rock which are otherwise reusable in accordance with the POEO Act.

SOP Act means the *Building and Construction Industry Security of Payment Act* 1999 (NSW).

Statement of Business Ethics means TfNSW's Statement of Business Ethics, which may be obtained from TfNSW and is located at: https://www.transport.nsw.gov.au/about-us/access-to-information/policy-documents .

Subcontract includes an agreement for supply of goods or services (including professional services and plant hire) or both.

Subcontractor includes a consultant or a supplier of goods or services (including professional services and plant hire) or both.

Survey Certificate has the meaning given to that term in the *Surveying and Spatial Information Regulation 2006* (NSW).

Survey Plan has the meaning given to that term in the *Surveying and Spatial Information Act 2002* (NSW).

Sydney Metro means Sydney Metro, a NSW Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW).

Sydney Trains means the corporation by that name constituted by Part 3B of the *Transport Administration Act 1988* (NSW).

TAHE means Transport Asset Holding Entity of New South Wales, the corporation by that name constituted by Part 2 of the *Transport Administration Act 1988* (NSW).

Taxes means income, stamp, indirect or other taxes levies, imposts, deductions, charges, duties (including import duty), compulsory loans and withholdings (including financial institutions duty, debits tax or other taxes whether incurred by, payable by return or passed on to another person) together with interest thereon or penalties, if any, and charges, fees or other amounts made on, or in respect thereof.

Temporary Works means any temporary works required to be carried out or provided by the Contractor for the purpose of the execution of the Contractor's Activities but not forming part of the Works.

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Tender means the response provided by a Tenderer to undertake the Contractor's Activities.

Tenderer means an entity which submits a Tender for the Contractor's Activities in response to the Request for Tender

TfNSW means Transport for NSW, a NSW Government agency and a corporation constituted by section 3C of the *Transport Administration Act 1988* (NSW).

Third Party means a party to a Third Party Agreement other than the Principal.

Third Party Agreement means an agreement described in Schedule 1.

Trainee means an employee registered as a trainee, holding a formal training contract with their employer, who is directly employed by the Contractor or its Subcontractors who has been employed to undertake the Contractor's Activities at the Site for a period of not less than 12 weeks.

Trigger Event has the meaning given to that term in clause 2.12(b)(iv)G.

[redacted]

Validation Consultant means the person identified in Schedule 1 as the consultant engaged by the Principal to oversee the Works and prepare a validation report in respect of the Works, or any replacement notified to the Contractor by the Principal's Representative.

Variation means any change to the Works or the Temporary Works including:

(a) any addition or increase to, or decrease, omission or deletion from, the Works or the Temporary Works;

(b) any change to the character or quality, or demolition or removal, of any material or work; or

(c) any change to the levels, lines, positions or dimensions of any part of the Works or the Temporary Works,

but it excludes any changes to the Works or the Temporary Works that are required as a result of the exercise of an Option by the Principal's Representative under clause 6.3.

Virgin Excavated Natural Material (VENM) means Waste which is virgin excavated natural material as defined in the *Protection of the Environment Operations Act 1997* (NSW).

Waste has the meaning given in the *Protection of the Environment Operations Act* 1997 (NSW).

Waste Classification means a waste classification listed in the table in clause 2 of Schedule 24.

Waste Classification Guidelines means the NSW EPA *Waste Classification Guidelines (2014)* as revised from time to time (including the addendum to the Waste Classification Guidelines (2014) – Part 1: classifying waste dated October 2016).

Waste Provisional Amounts means the allowances in the Original Contract Price, as set out in Schedule 1, for amounts payable under Schedule 24.

Waste Works means that part of the Contractor's Activities comprising the reuse of excavated materials on the Site or the off-Site disposal of excavated materials outside the Site in accordance with Schedule 24.

WHS means work health and safety.

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WHS Guidelines means the NSW Government Work Health and Safety Management Systems and Auditing Guidelines (6th edition), December 2019 or any document issued from time to time which amends or substitutes this document.

WHS Legislation means:

(a) the Work Health and Safety Act 2011 (NSW) and the Work Health and Safety Regulation 2017 (NSW); and

(b) any legislation in other States and Territories of Australia addressing work health and safety which applies to the Works.

Workplace Relations Management Plan means the plan described in the NSW Guidelines developed in relation to the Works.

Works means the whole of the works, including:

(a) any changes to the Works that are required solely as a result of the exercise of an Option by the Principal's Representative under clause 6.3; and

(b) all Variations to the Works,

that the Contractor must design, construct, commission, integrate and hand-over to the Principal (or its nominee) under this Contract.

Works Brief means the Principal’s written requirements for the Works described in:

(a) Exhibit A, and

(b) where the Contract includes a Preliminary Design, the Preliminary Design.

1.2 Interpretation

In this Contract unless the context otherwise requires:

(a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;

(b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";

(c) a reference to any party to this Contract includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;

(d) a reference to any Authority, institute, association or body is:

(i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and

(ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;

(e) a reference to this Contract or to any other deed, agreement, document or instrument is deemed to include a reference to this Contract or such other deed,

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agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;

(f) a reference to any legislation or to any section or provision of it includes:

(i) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and

(ii) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;

(g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;

(h) headings are for convenience only and do not affect the interpretation of this Contract;

(i) a reference to:

(i) a party, clause, Schedule or Exhibit is a reference to a party, clause, Schedule or Exhibit of or to this Contract; and

(ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;

(j) subject to clause 3.6, a reference to this Contract includes all Schedules and Exhibits;

(k) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;

(l) where under this Contract:

(i) a direction is required to be given or must be complied with;

(ii) payment of money must be made;

(iii) an unconditional undertaking must be released; or

(iv) a default must be remedied,

within a period of 7 days or less from a specified event, then only Business Days will be counted in computing the number of days;

(m) for the purposes of clauses 10.10, 10.11, 10.12 and 10.13:

(i) any extension of time to any Date for Completion stated in days; or

(ii) any reference to "day",

will include only those days indicated in Schedule 1, or otherwise approved by the Principal's Representative, as working days;

(n) for all purposes (other than as set out in clauses 1.2(l) and 1.2(m), or where otherwise designated as a Business Day), "day" means calendar day;

(o) a reference to "$" is to Australian currency;

(p) a reference to "direction" in the definition of "Claim" in clause 1.1 or in any of clauses 7.1(a)(i)B, 9.1, 9.8(i), 16 and 18 will be read as also including certificate, decision, demand, determination, instruction, notice, order, rejection, request or requirement but will not include any failure to reject a Document;

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(q) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Contract or any part;

(r) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;

(s) the interpretations of the terms Date for Completion, Date of Completion and Completion, and clauses 8, 10, 12 and 14, will apply separately to each Portion and references therein to the Works and to the Contractor's Activities will mean so much of the Works and the Contractor's Activities as is comprised in the relevant Portion;

(t) any reference to "Principal's Design" shall be read as if it is a reference to "Preliminary Design"; and

(u) any reference to "intended purpose" in this Contract will be read as referring to the intended use or intended purpose having regard to any intended use or intended purpose stated in, contemplated by or ascertainable from the terms of this Contract including the requirement that the Works, when completed will be designed and constructed in compliance with all health and safety requirements of the WHS Legislation.

1.3 Ambiguous terms

(a) If the Principal's Representative considers, or if the Contractor notifies the Principal's Representative in writing that it considers, that there is an ambiguity, inconsistency or discrepancy in the Contract (including in any Exhibit), the Principal's Representative must, subject to clause 1.4, direct the interpretation of this Contract which the Contractor must follow.

(b) The Principal's Representative, in giving a direction in accordance with clause 1.3(a), is not required to determine whether or not there is an ambiguity, inconsistency or discrepancy in this Contract.

1.4 Order of Precedence

(a) In the event of any other inconsistency, ambiguity or discrepancy between the various documents comprising this Contract then:

(i) where the inconsistency, ambiguity or discrepancy is between two or more documents that together comprise the Works Brief, then to the extent of any inconsistency, ambiguity or discrepancy, the higher, or more onerous, or more rigorous, requirement will apply; and

(ii) otherwise, to the extent of any inconsistency, ambiguity or discrepancy, the order of precedence in Schedule 1 applies.

(b) The Works Brief, any Preliminary Design and the Planning Approval are to be regarded as mutually explanatory and anything contained in one but not in the other will be equally binding as if contained in all, so as to ensure that the Works comply with this Contract and are fit for their intended purposes.

1.5 Deed Poll by Contractor

If required by Schedule 1 the Contractor must, within 10 days of the date of this Contract and as a condition precedent to any obligation of the Principal to pay the Contractor any amount under clause 11.4, provide to the Principal's Representative an executed deed poll in the form set out in Schedule 16 in favour of the persons named in Schedule 1.

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1.6 Authorities

(a) This Contract will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of the Principal or any other Rail Transport Agency to exercise any of their respective functions and powers pursuant to any legislation.

(b) Without limiting clause 1.6(a), anything the Principal, any other Rail Transport Agency do, or fail to do or purport to do, pursuant to their respective functions and powers under any legislation, will be deemed not to be an act or omission by the Principal under this Contract.

1.7 Principal Novation

(a) The Principal may at any time, at its sole discretion, novate the Contract to any Authority, any successor in title to the Principal or any other person that assumes the functions or obligations of the Principal.

(b) If the Principal elects to novate the Contract in accordance with paragraph (a), the Principal will provide the Contractor with a duly completed deed of novation in the form which appears in Schedule 29 and the Contractor must execute the deed of novation and return it to the Principal within 5 Business Days of receipt.

(c) If the Contractor fails to properly execute the deed of novation in the form which appears in Schedule 29 within the time period specified in paragraph (b), then for the purpose of executing the deed of novation, the Contractor irrevocably appoints the Principal to be its attorney with full power and authority to complete the particulars and execute, sign, send and deliver in the name of the Contractor the deed of novation and all notices, deeds and documents for that purpose.

2. Contractor's obligations

2.1 General

The Contractor:

(a) must execute the Contractor's Activities, including design, construct, commission and hand-over the Works and each Portion, in accordance with this Contract;

(b) warrants that the Temporary Works will at all reasonable times be fit for their intended purposes;

(c) warrants that the Works and each Portion will upon Completion be, and remain, fit for their intended purposes;

(d) must, unless otherwise agreed by the Principal's Representative in writing, employ the person or persons specified in Schedule 1, including the Contractor’s Representative, in the performance of the Contractor's Activities;

(e) must use all reasonable efforts to inform itself of the requirements of the Principal and regularly consult with the Principal during the performance of the Contractor's Activities; and

(f) must liaise, cooperate and confer with others as directed by the Principal.

2.2 Subcontracts

(a) Subject to clause 2.2(b), the Contractor may enter into Subcontracts for the vicarious performance of its obligations under this Contract.

(b) The Contractor must not enter into any Subcontract:

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(i) with:

A. a Prohibited Subcontractor; or

B. an initial subcontract price equal to or over the amount specified in Schedule 1 without the prior written approval of the Principal's Representative (which may be conditional but which will not be unreasonably withheld); or

(ii) for the parts of the Works specified in Schedule 1 without the prior written approval of the Principal's Representative to the relevant subcontractor (which may be conditional but which will not be unreasonably withheld).

Any request by the Contractor for approval to subcontract under this clause 2.2(b) must be in writing and include such details as may be required by the Principal's Representative, including details of the proposed Subcontract conditions, and the proposed Subcontractor's capacity to undertake the relevant work, past performance in undertaking similar work, safety (including work health, safety and rehabilitation issues and providing evidence of compliance with clause 2.2(h)), environmental compliance (including any environmental management system) and other performance, management systems and proposed safe working procedures.

Within 14 days after a request by the Contractor for approval, the Principal's Representative will advise the Contractor whether the request is approved (and, if approved, any relevant Conditions) or not and, where it is not approved, the reasons why approval is not given.

(c) The Contractor must ensure that each Subcontractor referred to in Schedule 1:

(i) effects and maintains professional indemnity insurance which:

A. covers the Subcontractor's liability in respect of breaches of professional duty (whether owed in contract or otherwise) by the Subcontractor or its Subcontractors in carrying out the work under the relevant Subcontract;

B. covers the Subcontractor for liability to the Principal or the Contractor for the relevant minimum amount listed in Schedule 1;

C. unless the Subcontractor using its best endeavours is unable reasonably to procure such a term in the policy, includes at least one automatic reinstatement of the total limit of liability per annum after claims have been paid; and

D. remains in place at least until the expiration of a 7 year period from completion of the relevant Subcontract works or professional services; and

(ii) is obliged under the relevant Subcontract to comply with clause 14.7(c) of this Contract in relation to the insurance referred to in sub-paragraph (i).

(d) The Contractor will be:

(i) fully responsible for the Contractor's Activities despite subcontracting the carrying out of any part of the Contractor's Activities; and

(ii) vicariously liable to the Principal for all acts, omissions and defaults of its Subcontractors (and those of the employees, Subcontractors and other

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agents of its Subcontractors) relating to, or in any way connected with, the Contractor's Activities.

(e) The Contractor must:

(i) without limiting clause 17.22(c), ensure that each of its Subcontracts that has an initial subcontract price of the amount specified in Schedule 1 or more includes provisions to the effect set out in Schedule 5 and a clause to the same effect as this clause 2.2(e)(i) that is binding on the Subcontractor and provide evidence of this to the Principal's Representative when requested by the Principal's Representative;

(ii) where a Subcontractor is to carry out design work or other professional services, unless not required by the Principal's Representative, procure that Subcontractor to execute a deed in the form of Schedule 6 and provide this to the Principal's Representative within 7 days of the engagement of that Subcontractor;

(iii) ensure that each Subcontractor (and their Subcontractors) executes a Confidentiality Undertaking in the form of Schedule 3 and provides this to the Principal's Representative within 7 days of the engagement of that Subcontractor;

(iv) procure that each of its Subcontractors:

A. engaged under a Subcontract that has an initial subcontract price equal to or greater than the amount specified in Schedule 1; or

B. in respect of the categories of work set out in Schedule 1 (regardless of subcontract price),

executes a deed in the form of Schedule 14 and provides this to the Principal's Representative within 7 days of being engaged by the Contractor; and

(v) in respect of all Subcontracts in which it holds retention money from the Subcontractor, comply with all requirements under the *Building and Construction Industry Security of Payment Regulation 2020* (NSW).

(f) The Contractor must, as a condition precedent to Completion of the Works or a Portion, procure and provide the Principal's Representative with those warranties described in Schedule 1 or elsewhere in this Contract from relevant Subcontractors undertaking or supplying the work or items the subject of the warranty.

These warranties:

(i) must be in the form set out in Schedule 11 and must be in favour of the Principal and any other entity nominated by the Principal's Representative from time to time, including any Rail Transport Agency; and

(ii) will not derogate from any rights that the Principal may have against the Contractor in respect of the subject matter of these warranties.

(g) If directed by the Principal, the Contractor must, without being entitled to compensation, within 5 Business Days of the date of receipt by the Contractor of the direction, execute and deliver to the Principal a deed of novation in the form which appears in Schedule 18, such deed being between the Principal, the Contractor and the Subcontractor stated in Schedule 1.

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The Contractor irrevocably and severally appoints the Principal and any authorised representative of the Principal to be the Contractor's attorney to execute, sign, seal and deliver in the name of the Contractor, the deed referred to in this clause 2.2(g) and all notices, deeds and documents for that purpose.

Any direction given by the Principal and any novation occurring pursuant to this clause 2.2(g) will not:

(i) relieve the Contractor from its liabilities or obligations (including those arising out of any warranties given under this Contract);

(ii) limit or otherwise affect the Principal's rights against the Contractor (including those arising out of any warranties given under this Contract); or

(iii) entitle the Contractor to make any Claim,

whether under this Contract or otherwise according to any Law.

(h) The Contractor must:

(i) ensure that, if any Law, including in the State or Territory in which the Works are situated or the Works are carried out (as the case may be), require that:

A. a person:

1) be authorised or licensed (in accordance with the WHS Legislation) to carry out any work at that workplace, that person is so authorised or licensed, and complies with any conditions of such authorisation or licence; and/or

2) has prescribed qualifications or experience or, if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised; or

B. a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed;

(ii) not direct or allow a person to carry out or use plant or substance at a workplace unless the requirements of subparagraph (i) are met (including any requirement to be authorised, licensed, qualified or supervised); and

(iii) if requested by the Principal's Representative or required by the WHS Legislation, produce evidence of any approvals, certificates, authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Principal's Representative before the Contractor or Subcontractor (as the case may be) commences such work.

2.3 Compliance with Law

(a) Subject to clause 2.3(c)(i), the Contractor must in carrying out the Contractor's Activities:

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(i) comply with, and ensure that the Works and the Temporary Works comply with, all applicable Law;

(ii) give all notices and pay all fees, bonds and other amounts which it is required to pay in respect of the performance of its obligations under this Contract and give the Principal's Representative copies of all notices it gives to Authorities at the time or before it submits such notices to Authorities;

(iii) give the Principal's Representative copies of all documents (including Authority Approvals and other notices) that Authorities issue to it;

(iv) at all times conform and comply with, and ensure that the Works and the Temporary Works conform and comply with, all Codes and Standards; and

(v) not engage in any fraud, bribery or corruption.

(b) Where there is a Change in Codes and Standards:

(i) the Contractor must give a written notice to the Principal's Representative within 20 Business Days of the Change in Codes and Standards containing:

A. details of the Change in Codes and Standards; and

B. an estimate of the Contractor's increased or decreased costs of complying with the Change in Codes and Standards including sufficient information to support the estimate; and

(ii) if a notice is given by the Contractor which complies with clause 2.3(b)(i), then within 10 Business Days of the notice being given, the Principal's Representative will either:

A. direct the Contractor to disregard the Change in Codes and Standards; or

B. direct a Variation under clause 6.2(a) in respect of the Change in Codes and Standards after which the relevant adjustments will be made under clause 6.4.

If there is any change in the Codes and Standards which does not constitute a Change in Codes and Standards the Contractor must comply with the change and will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with the change.

(c) The Contractor must:

(i) obtain all Authority Approvals required for the execution of the Contractor's Activities and occupation and use of the completed Works or Portions (and for that purpose prepare and submit all applications and associated documents to relevant Authorities), except for those Authority Approvals specified in Schedule 7 that either:

A. were obtained by the Principal prior to the date of this Contract; or

B. will be obtained by the Principal after the date of this Contract where required;

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(ii) unless otherwise expressly specified in Schedule 4, comply with, satisfy, carry out and fulfil the conditions and requirements of all Authority Approvals (whether obtained by the Contractor or the Principal), including those conditions and requirements that the Principal is required, under the terms of the Authority Approvals, including the Planning Approval, to comply with, satisfy, carry out and fulfil;

(iii) in respect of any:

A. Authority Approvals which are to be obtained by the Principal after the date of this Contract; or

B. conditions and requirements of Authority Approvals which pursuant to Schedule 4 are to be satisfied or fulfilled by the Principal,

provide the Principal with such reasonable assistance as may be reasonably required by the Principal to enable the Principal to obtain the Authority Approvals or satisfy or fulfil the conditions and requirements;

(iv) for the purpose of obtaining all Authority Approvals as required by clause 2.3(c)(i), prepare all associated studies and reports required because of the design of the Works or Temporary Works proposed by the Contractor; and

(v) as a condition precedent to Completion of the Works or a Portion, ensure that it has:

A. obtained all Authority Approvals it is required to obtain under this Contract;

B. complied with, carried out and fulfilled all conditions and requirements of all Authority Approvals it is required to comply with, carry out and fulfil under this Contract;

C. without limiting clauses 2.3(c)(v)A and 2.3(c)(v)B, complied with, carried out and fulfilled all conditions and requirements of the Planning Approval which it is required to comply with, carry out and fulfil (including obtaining the approval of any person for anything) under this Contract; and

D. unless it is included in Schedule 7 as an Authority Approval which the Principal will obtain, obtained and supplied to the Principal's Representative certification that the Works or the Portion, as designed and built, comply with the requirements of the National Construction Code to the extent applicable,

including for the avoidance of doubt any Authority Approvals, conditions or requirements which must be obtained, carried out or fulfilled to enable the Principal and any Rail Transport Agency to occupy and use the Works or Portion for its intended purpose.

(d) Where there is a Change in Law:

(i) if either party wishes this clause 2.3(d)(i) to apply, then that party must, within 14 days of the Change in Law, give a written notice to the other and the Principal's Representative stating that clause 2.3(d)(i) applies and containing details of the Change in Law, including, where the notice is given by the Contractor, its impact on the Contractor's costs of carrying out the Contractor's Activities and any effect it will have on the Contractor's Program;

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(ii) if such a notice is given the Principal's Representative will determine:

A. where the Change in Law decreases the Contractor's costs of carrying out the Contractor's Activities in compliance with the Change in Law, a reasonable amount as the amount of the decrease; or

B. where the Change in Law increases the Contractor's costs of carrying out the Contractor's Activities in compliance with the Change in Law, the amount of the additional costs reasonably and necessarily incurred by the Contractor on the basis that the Contractor took all reasonable steps to mitigate those increased costs,

and the Contract Sum will be increased or decreased by that amount; and

(iii) the Contractor must comply with the Change in Law.

(e) If a Change in Authority Approval occurs which necessitates a Variation, the Contractor must:

(i) if the relevant Authority Approval was obtained by the Principal, within 14 days of the date on which the Contractor becomes aware or ought reasonably to have become aware of the Change in Authority Approval taking effect; or

(ii) otherwise within 14 days of the Change in Authority Approval taking effect,

notify the Principal's Representative in writing with detailed particulars of the reason why the Change in Authority Approval necessitates a Variation. If the Contractor gives such a notice and the Change in Authority Approval does necessitate a Variation the Principal's Representative will direct a Variation under clause 6.2(a) after which relevant adjustments will be made under clause 6.4.

(f) Other than as set out in clause 2.3(e), the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with:

(i) any Change in Authority Approval;

(ii) an Authority Approval obtained or issued or which otherwise takes effect after the date of this Contract;

(iii) a change in an Authority Approval after the date of this Contract; or

(iv) any:

A. assumptions the Contractor makes; or

B. failure by the Contractor to adequately satisfy itself,

as to what work methodologies and Temporary Works might be permissible under all Authority Approvals.

(g) Without limiting the Contractor's obligations under any other clause of this Contract, insofar as the Contractor, in carrying out the Contractor's Activities, is:

(i) a person conducting a business or undertaking that designs plant, substances or structures to whom section 22 of the *Work Health and Safety Act 2011* (NSW) applies;

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(ii) a person conducting a business or undertaking that manufactures plant, substances or structures to whom section 23 of the *Work Health and Safety Act 2011* (NSW) applies;

(iii) a person conducting a business or undertaking that imports plant, substances or structures to whom section 24 of the W*ork Health and Safety Act 2011* (NSW) applies;

(iv) a person conducting a business or undertaking that supplies plant, substances or structures to whom section 25 of the *Work Health and Safety Act 2011* (NSW) applies; or

(v) a person conducting a business or undertaking that installs, constructs or commissions plant or structures to whom section 26 of the *Work Health and Safety Act 2011* (NSW) applies,

the Contractor shall comply with the applicable obligations under the WHS Legislation.

2.4 Legal Challenge to Approval

(a) If there is a legal challenge, proceedings or action in relation to the assessment or determination of an application for an Authority Approval or a modification of an Authority Approval, performance of the Contractor's Activities or the Works, or compliance with any Authority Approval under:

(i) the *Environmental Planning and Assessment Act 1979* (NSW);

(ii) the *Protection of the Environment Operations Act 1997* (NSW);

(iii) the *Environment Protection and Biodiversity Conservation Act 1999* (Cth); or

(iv) any other Law,

the Contractor must continue to perform its obligations under this Contract unless, as a result of that legal challenge, proceedings or action, it is otherwise:

(v) ordered or directed by an Authority;

(vi) ordered by a court or tribunal; or

(vii) directed by the Principal or the Principal's Representative.

(b) Subject to clause 2.4(c), the Principal must pay the Contractor the additional costs reasonably and necessarily incurred by the Contractor as a direct result of:

(i) an Authority order referred to in clause 2.4(a)(v);

(ii) a court order referred to in clause 2.4(a)(vi); or

(iii) a direction by the Principal referred to in clause 2.4(a)(vii),

to the extent that such Authority order, court order, or direction prevents the Contractor from achieving Completion of the Works or a Portion by the relevant Date for Completion.

(c) Clause 2.4(b) does not apply to the extent that a legal challenge, proceedings or action of the kind referred to in clause 2.4(a) is brought or upheld due to the Contractor's non-compliance with its obligations under this Contract or any Authority Approval.

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2.5 Services

The Contractor must:

(a) obtain and pay for any Service it needs to perform its obligations under this Contract;

(b) relocate, remove, modify, support, protect, reinstate and provide all Services necessary for the Contractor to comply with its obligations under this Contract;

(c) subject to clause 3.5, assume the risk of the existence, location, condition and availability of all Services required for the execution of the Contractor's Activities;

(d) provide and maintain all signage, line marking, flagmen, barriers and other road traffic devices needed by the Contractor to comply with its obligations under this Contract, including any such devices reasonably required by the Principal's Representative;

(e) despite any other provision in the Contract to the contrary, ensure that no Services are:

(i) damaged or destroyed; or

(ii) disconnected, disrupted, interfered with or interrupted during normal operating hours,

by reason of the performance of the Contractor's Activities;

(f) cooperate and coordinate with the owners of all Services, and implement their requirements as part of the Contractor’s Activities; and

(g) indemnify the Principal against any claim, damages, expense, costs, loss, liability, fine or penalty the Principal suffers or incurs arising out of or in any way in connection with any disconnection, interference with, interruption or disruption to any Service arising out of or in any way in connection with the Contractor's Activities, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal contributed to the claim, damages, expense, costs, loss, liability, fine or penalty.

Subject to clause 3.5, the Contractor agrees it is responsible for, and assumes the risk of all additional work, increased costs and any damages, expense, loss, liability, delay or disruption (including any delay in achieving Completion) it suffers or incurs arising out of or in any way in connection with the existence, location, condition and availability of all Services required for the execution of the Contractor's Activities.

2.6 Crown Building Work

(a) The Contractor must, in relation to any part of the Works that is a Crown Building Work, certify (on behalf of the Principal) as required by section 6.28 of the *Environmental Planning and Assessment Act 1979* (NSW).

(b) Any certification under clause 2.6(a) will not lessen or otherwise affect:

(i) the Contractor's other liabilities or responsibilities under this Contract or otherwise according to Law; or

(ii) the Principal's rights against the Contractor, whether under this Contract or otherwise according to Law.

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2.7 Unconditional Undertakings and Parent Company Guarantee

(a) Without limiting clause 2.7(d), the unconditional undertakings to be provided under this clause 2.7 are for the purpose of ensuring the due and proper performance by the Contractor of its obligations under this Contract.

(b) The Contractor must give the Principal within 10 days of the date of this Contract, [redacted] unconditional undertakings:

(i) [redacted] for [redacted]% of the Original Contract Price, [redacted] for [redacted]% of the Original Contract Price and [redacted] for [redacted]% of the Original Contract Price (a cumulative total of [redacted]% of the Original Contract Price);

(ii) each in the form of Schedule 8;

(iii) each in favour of the Principal;

(iv) each issued by an Institution approved by the Principal that maintains the Required Rating; and

(v) where required by Law, duly stamped.

(c) Subject to its rights to have recourse to the unconditional undertakings and subject to clauses 2.7(g), 15.10 and 15.12, the Principal must:

(i) within 20 Business Days after the Date of Completion of the Works or the last Portion to reach Completion, release so much of the unconditional undertakings provided by the Contractor under clause 2.7(b) as may be then held by the Principal, so that it then holds [redacted] of the Contract Sum;

(ii) within 20 Business Days after the issue of the Final Audit Documents, release so much of the unconditional undertakings provided by the Contractor under clause 2.7(b) as may be then held by the Principal, so that it then holds [redacted] of the Contract Sum; and

(iii) within 20 Business Days after the Date of Final Completion, release the balance of the unconditional undertakings provided by the Contractor under clause 2.7(b) as may be then held by the Principal.

(d) The Principal:

(i) may have recourse to any unconditional undertaking provided under this clause 2.7 or clause 11.7(b) at any time;

(ii) is not obliged to pay the Contractor interest on:

A. any unconditional undertaking; or

B. the proceeds of any unconditional undertaking if it is converted into cash; and

(iii) does not hold the proceeds referred to in clause 2.7(d)(ii)B on trust for the Contractor.

(e) The Contractor must not take any steps to injunct or otherwise restrain:

(i) any issuer of any unconditional undertaking provided under this clause 2.7 or clause 11.7(b) from paying the Principal pursuant to the unconditional undertaking;

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(ii) the Principal from taking any steps for the purposes of making a demand under any unconditional undertaking provided under this clause 2.7 or clause 11.7(b) or receiving payment under any such unconditional undertaking; or

(iii) the Principal using the money received under any unconditional undertaking provided under this clause 2.7 or clause 11.7(b).

(f) If Schedule 1 states that a Parent Company Guarantee is required, the Contractor must within 10 days of the date of this Contract give the Principal a guarantee duly executed by the person referred to in Schedule 1 in favour of the Principal in the form of the Parent Company Guarantee and which is, where required, duly stamped.

(g) Despite any other provision of this Contract to the contrary, where this Contract may otherwise require the Principal to release an unconditional undertaking or this Contract is terminated by the Principal either pursuant to clause 15 or by reason of the Contractor repudiating this Contract (or otherwise at Law), the Principal may continue to hold the unconditional undertaking after the date for its release or the termination of this Contract to the extent of any claim which the Principal may have against the Contractor arising out of, or in any way in connection with, this Contract or the Contractor's Activities whether for damages (including liquidated damages) or otherwise.

2.8 Long Service Leave Levy

Where the Contractor is specified in Schedule 1 as being responsible for payment of the long service leave levy, then, before commencing any construction work under this Contract (including any construction of Temporary Works), the Contractor must:

(a) pay to the Long Service Corporation or that body's agent all amounts payable for the long service leave levy in respect of the Contractor's Activities under the *Building and Construction Industry Long Service Payments Act 1986* (NSW); and

(b) produce to the Principal's Representative the documents evidencing payment of the amounts referred to in clause 2.8(a).

2.9 Not used

2.10 Incident Management Reporting

(a) The Contractor must identify clear guidelines for responding to any Incident arising from the performance of the Contractor's Activities and establish procedures to ensure that the Principal's Representative is promptly notified of any Incident in accordance with the Works Brief.

(b) Should an Incident occur which:

(i) is reportable under any relevant Law, the Contractor must immediately report the Incident to the relevant Authority and the Principal's Representative in accordance with the Works Brief; and

(ii) relates to rail safety, the Contractor must notify the Principal and any relevant Rail Transport Agency management centre or the nearest network control officer.

(c) In relation to any environmental or safety Incident involving Hazardous Material, Contamination, Pollution or other waste that arises during the performance of the Contractor's Activities, the Contractor must:

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(i) at its own cost promptly take all appropriate action to manage and dispose of all Hazardous Material, Contamination, Pollution or other waste arising from the Incident;

(ii) comply with all relevant Laws including any requirements to give notice to a relevant Authority; and

(iii) at its own cost manage the Incident in a manner which minimises damage to the reputation of the Principal including complying with any reasonable request of the Principal's Representative.

(d) If the Contractor causes or contributes to the occurrence of an Incident and fails to ensure that the Principal is promptly notified, the Principal, may without prejudice to any other right it has under this Contract, immediately terminate the Contract by written notice to the Contractor.

(e) Without prejudice to the Principal's other rights under this Contract, if the Principal forms the reasonable view, upon the occurrence (or imminent risk of the occurrence) of an Incident, that the Contractor is not taking adequate measures to manage the Incident or control or eliminate the adverse impact or the risk of such an Incident arising in the future, the Principal may (but has no obligation) to take such actions as it deems necessary to overcome and alleviate the cause and consequences of any Incident. If the Principal takes any such action it will be entitled to recover its reasonable costs and expenses from the Contractor as a debt due from the Contractor to the Principal.

(f) Without prejudice to the Principal's other rights under this Contract, the Principal's Representative may issue a direction under clause 10.14 requiring the Contractor to suspend the carrying out of the whole or any part of the Contractor's Activities in the event:

(i) of any Incident involving:

A. a significant spill of Contamination;

B. any accident or release of Contamination which it believes may pose a danger to health, life or property; or

C. any actual damage or harm to the Environment or a significant risk of harm to the Environment; or

(ii) any safety incident occurs which leads to, or has the potential to lead to, a fatality or injury to person (including any incident which must be reported to SafeWork NSW) or damage to property.

The Principal will not be liable upon any Claim by the Contractor for any cost, expense, loss, delay, disruption or penalty arising out of or in connection with:

(iii) any suspension due to a direction to suspend issued, or for the failure to issue a notice to suspend, in the circumstances set out in this clause 2.10(f); and

(iv) complying with a direction issued under clause 2.10(g), including complying with the steps which Principal's Representative directs that the Contractor must take before the Principal's Representative will issue a direction to recommence the Contractor's Activities.

(g) If the Principal's Representative issues a notice to suspend in the circumstances set out in clause 2.10(f), the Contractor may not recommence the Contractor's Activities in respect of the part of the Contractor's Activities to which the notice relates until the Principal's Representative issues a direction to the Contractor permitting the

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Contractor to recommence the Contractor's Activities affected by the notice to suspend.

(h) If the Principal's Representative issues a notice to suspend in the circumstances set out in clause 2.10(f) the Principal's Representative may also direct the Contractor as to the steps which the Contractor must take before the Principal's Representative will issue a direction pursuant to clause 10.14 permitting the Contractor to recommence the Contractor's Activities affected by the notice to suspend. In these circumstances the Contractor must, at its cost, comply with the direction of the Principal's Representative, and only once the Principal's Representative is satisfied that the Contractor has complied with the requirements of the direction issued under this clause 2.10(g) will the Principal's Representative issue a direction to the Contractor permitting the Contractor to recommence the Contractor's Activities affected by the notice to suspend.

(i) The Principal will be entitled to recover its reasonable costs and expenses for any action the Principal's Representative deems necessary to avoid the issue of any notice to suspend in the circumstances set out in clause 2.10(f), as a debt due and payable from the Contractor to the Principal.

2.11 Principal Contractor

(a) In this clause 2.11 the terms 'construction project', 'construction work', 'principal contractor' and 'workplace' have the same meanings assigned to those terms under the WHS Legislation.

(b) For the purpose of the WHS Legislation and the Contract, the Works and any Other Contractor Work is taken to be part of the same construction project.

(c) If the Contractor is specified in Schedule 1 as being the principal contractor:

(i) the Principal engages the Contractor as the principal contractor in respect of the Contractor's Activities and all Other Contractor Work carried out on the Site unless otherwise notified in accordance with clause 2.11(g);

(ii) the Principal authorises the Contractor to have management and control over the Site and of each workplace at which the Contractor's Activities and the Other Contractor Work is to be carried out and to discharge the duties of a principal contractor under the WHS Legislation; and

(iii) the Contractor accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Legislation.

(d) To the extent not prohibited by Law, the Contractor must indemnify the Principal against any damage, expense, loss (including reasonable legal fees) or liability suffered or incurred by the Principal arising out of or in connection with the Contractor's failure to discharge the duties imposed on a principal contractor by the WHS Legislation that the Contractor is required to discharge in accordance with this clause 2.11.

(e) Where the Contractor is not specified in Schedule 1 to be the principal contractor, the Contractor:

(i) acknowledges that the person who is specified in Schedule 1 is the principal contractor in respect of all construction work carried out by or on behalf of the Principal on that Site during the period which that person is specified as being the principal contractor in Schedule 1; and

(ii) must comply with any exercise by the person referred to in sub-paragraph (i) of such authority as is necessary to enable that person to

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discharge the responsibilities imposed on a principal contractor by the WHS Legislation.

(f) Without limiting anything else in this clause 2.11, the Contractor must, in respect of any construction work carried out on all or part of the Extra Land, discharge the duties of a principal contractor under the WHS Legislation in respect of such construction work.

(g) If the Contractor is specified in Schedule 1 as being the principal contractor, the Principal may issue a written direction to the Contractor stating that another person has been appointed as the principal contractor and the Contractor must do everything reasonably necessary to assist that person with the transition to their role as principal contractor and comply with paragraph (e) above as if that person was specified in Schedule 1 as principal contractor.

2.12 Third Party Agreements

(a) The Contractor:

(i) acknowledges that the Principal has entered or will enter into the Third Party Agreements;

(ii) must:

A. unless otherwise expressly specified in Schedule 4, comply with, satisfy, carry out and fulfil the conditions and requirements of all Third Party Agreements, including those conditions and requirements that the Principal is required, under the terms of the Third Party Agreements, to comply with, satisfy, carry out and fulfil; and

B. comply with and fulfil any conditions, obligations or requirements allocated to the Contractor in Schedule 4 that are additional to or more stringent or onerous than the conditions and requirements described in clause 2.12(a)(ii)A;

(iii) must assist the Principal in any way that the Principal reasonably requires to enable the Principal to perform the obligations identified for the Principal to perform in Schedule 4;

(iv) must comply with any reasonable directions of the Principal's Representative (who will have regard to any reasonable submissions made by the Contractor to the Principal's Representative) in relation to compliance with the relevant conditions and requirements of each Third Party Agreement;

(v) must, where a Third Party Agreement provides for the Principal to provide a document, notice or information to the Third Party, provide such document, notice or information to the Principal (and not to the Third Party) within a reasonable time sufficient for the Principal to review and comment on the document, notice or information and provide it to the Third Party within the time period required by a Third Party Agreement;

(vi) must, in carrying out the Contractor's Activities:

A. ensure that no act or omission of the Contractor constitutes, causes or contributes to any breach by the Principal of its obligations to the Third Party under the Third Party Agreement; and

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B. otherwise act consistently with the terms of the Third Party Agreement;

(vii) agrees that whenever, pursuant to the terms of a Third Party Agreement, the Principal makes an acknowledgment or gives a release or warranty, indemnity, or covenant to the Third Party under any clause of the Third Party Agreement then, subject to what is provided in Schedule 4 and the other terms of this Contract, the Contractor is deemed to make the same acknowledgement or give the same release or warranty, indemnity or covenant to the Principal on the same terms and conditions as the acknowledgement, release or warranty, indemnity or covenant made or given by the Principal under a Third Party Agreement in the same way as if the relevant terms of the acknowledgement, release or warranty, indemnity or covenant were set out in full in this Contract; and

(viii) acknowledges that to the extent that a Third Party Agreement contains a provision pursuant to which the Third Party is stated to make no representation as to a state of affairs, the Contractor agrees that the Principal similarly makes no representation to the Contractor in respect of that state of affairs in the same way as if the relevant terms of the Third Party Agreement were set out fully in this Contract.

(b) The parties acknowledge that:

(i) as at the date of this Contract:

A. the terms and conditions of the Third Party Agreements identified in Schedule 1 as "Draft" have not been finalised between the Principal and the relevant Third Party (each a "**Draft Third Party Agreement**"); and

B. certain Third Party Agreements may need to be replaced with new agreements on different terms (each a "**Replacement Third Party Agreement**");

(ii) the Contractor has reviewed the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements and has included in the Original Contract Price all of its costs (including the cost of all physical works and allowance for any delay or disruption) in complying with its obligations under clause 2.12(a) and the Principal's obligations under the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements other than those identified in Schedule 4 for the Principal to perform;

(iii) following:

A. finalisation of any Draft Third Party Agreement; or

B. the execution of any Replacement Third Party Agreement,

after the date of this Contract, the Principal must promptly give the Contractor a copy of the:

C. executed version of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable), together with (in the case of a Replacement Third Party Agreement) details of the Third Party Agreement that is replaced; and

D. amendments (if any) to Schedule 4 arising out of the execution of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable) ("**Revised Allocation**");

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(iv) within 28 days of receipt of an executed copy of a Draft Third Party Agreement or a Replacement Third Party Agreement (as applicable), and the associated Revised Allocation, the Contractor must notify the Principal's Representative in writing if any terms and conditions of:

A. the executed version of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); or

B. the associated Revised Allocation,

are substantially more onerous than those contained in:

C. the relevant Draft Third Party Agreement; and

D. Schedule 4,

(**"Difference in Conditions"**) and:

E. where the Difference in Conditions or Revised Allocation will result in additional administration, details of such additional administration costs to be incurred by the Contractor;

F. where the Difference in Conditions or Revised Allocation will result in additional physical works:

1) not forming part of the Contractor's Activities; and

2) which is otherwise in addition to any physical works contemplated by the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements,

details of such additional physical works and the cost of carrying out such additional physical works; and

G. where the Difference in Conditions or Revised Allocation alters the Contractor's risk profile under this Contract and creates a contingent liability which the Contractor did not previously bear and which may convert to an actual liability on the happening of another event ("**Trigger Event**"), details of the altered risk profile, contingent liability and Trigger Event and a notice of intention to claim;

(v) if the Principal does not receive a notice from the Contractor under clause 2.12(b)(iv) within the 28 day period:

A. Schedule 4 is amended in accordance with the Revised Allocation as and from the date of receipt by the Contractor of the:

1) executed copy of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); and

2) Revised Allocation,

under clause 2.12(b)(iii); and

B. the Contractor must carry out its obligations under this Contract on the basis of:

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1) the executed version of the Draft Third Party Agreement or Replacement Third Party Agreement (rather than the Third Party Agreement that is replaced) (as applicable); and

2) the Revised Allocation,

without any adjustment to the Contract Sum or any entitlement to make any other Claim;

(vi) if the Principal's Representative receives a notice from the Contractor under clause 2.12(b)(iv) within the 28 day period, then:

A. Schedule 4 is amended in accordance with the Revised Allocation as and from the date of receipt by the Contractor of the:

1) executed copy of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); and

2) Revised Allocation,

under clause 2.12(b)(iii);

B. the Contractor must carry out its obligations under this Contract on the basis of:

1) the executed version of the Draft Third Party Agreement or Replacement Third Party Agreement (rather than the Third Party Agreement that is replaced) (as applicable); and

2) the Revised Allocation;

C. the Principal's Representative must:

1) where the Contractor has provided the details referred to in clause 2.12(b)(iv)E, give the Contractor a notice setting out the Principal's Representative's determination of the additional administration costs reasonably and necessarily incurred or to be incurred by the Contractor in complying with the executed version of the Draft Third Party Agreement, the Replacement Third Party Agreement or Revised Allocation and the Contract Sum will be increased by that amount; and

2) where the Contractor has provided the details referred to in clause 2.12(b)(iv)F, if the terms of any executed version of a Draft Third Party Agreement, the relevant Replacement Third Party Agreement or Revised Allocation require the Contractor to carry out any physical work which:

a) does not form part of the Contractor's Activities; and

b) is additional to any physical works contemplated by the Third Party Agreements executed at the date of this

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Contract and the Draft Third Party Agreements,

direct the Contractor to carry out such physical work as a Variation under clause 6.2; and

D. where the Contractor has provided the details referred to in clause 2.12(b)(iv)G, the Principal's Representative's obligation to make a determination in relation to the altered risk profile or contingent liability referred to in clause 2.12(b)(iv)G is deferred until the Trigger Event occurs;

(vii) if:

A. the Contractor issues a notice under clause 2.12(b)(iv) and provides the details referred to in clause 2.12(b)(iv)G; and

B. a Trigger Event occurs during the implementation of:

1) the executed Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); and

2) the Revised Allocation,

the Contractor may issue a notice to the Principal's Representative providing details of the additional costs reasonably and necessarily incurred in satisfying the actual liability which has arisen;

(viii) if the Principal's Representative receives a notice under clause 2.12(b)(vii), the Principal's Representative must give the Contractor a notice setting out the Principal's Representative's determination of the reasonable, additional costs incurred by the Contractor in satisfying the actual liability which has arisen and the Contract Sum will be increased by that amount; and

(ix) notwithstanding the provisions of clause 2.12(b), the amount of any additional costs incurred by the Contractor as a result of the circumstances referred to in clause 2.12(b) will not be added to the Contract Sum unless the Contractor has taken all proper and reasonable measures to:

A. avoid the Trigger Event; and

B. avoid or minimise the extra costs resulting from such circumstances.

(c) The Contractor:

(i) must indemnify the Principal from and against:

A. any claim by a Third Party against the Principal; or

B. any liability of the Principal, to a Third Party,

arising out of or in any way in connection with a Third Party Agreement (including a Draft Third Party Agreement or a Replacement Third Party Agreement executed after the date of this Contract) to the extent that the claim or liability arises out of or in any way in connection with the Contractor's Activities, provided that the Contractor's responsibility to indemnify the Principal will be reduced to the extent that an act or

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omission of the Principal, an Other Contractor or an agent of the Principal contributed to the claim or liability; and

(ii) agrees that it:

A. bears the full risk of:

1) complying with the obligations under this clause 2.12; and

2) any acts or omissions of Third Parties; and

B. will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with the risks referred to in clause 2.12(c)(ii)A.

3. The Site and location of the Works

3.1 Access

(a) The Contractor acknowledges and agrees that access to the Site will be provided progressively to the Contractor as set out in Schedule 1.

(b) Subject to clause 3.1(c) and any other provision of this Contract affecting access, the Principal must:

(i) give, or ensure the Contractor has, access to the Site by the dates set out in Schedule 1 (and if a period is specified in relation to access to a part of the Site, then by the last day of that period); and

(ii) once access to a part of the Site is provided to the Contractor, thereafter continue to allow, or ensure that the Contractor is continued to be allowed, access to that part of the Site.

(c) The Contractor acknowledges and agrees that:

(i) access to the Site or any part thereof will only confer on the Contractor a right to such management and control as is necessary to enable the Contractor to execute the Contractor's Activities in accordance with this Contract and to discharge its responsibilities under the WHS Legislation, including to discharge its responsibilities as principal contractor;

(ii) the Principal is not obliged to give the Contractor access to any part of the Site until the Contractor has:

A. complied with clause 2.7(b) of this Contract;

B. submitted the Project Work Health and Safety Management Plan, the Construction Environmental Management Plan and the Construction and Site Management Plan, as required by the Works Brief, to the Principal's Representative under clause 9.8 and the Principal's Representative has not rejected the proposed Construction Environmental Management Plan, Construction and Site Management Plan or Project Work Health and Safety Management Plan within 15 Business Days after such submission in accordance with clause 9.8(c);

C. effected the insurance policies required under clauses 14.4, 14.5 and 14.6;

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D. complied with clauses 14.4, 14.5 and 14.6 with respect to each insurance policy; and

E. complied with the matters set out in Schedule 1;

(iii) the Principal is not obliged to provide, and the Contractor may not be given, exclusive access to the Site;

(iv) the Principal is not obliged to carry out any work or provide any facilities to the Contractor which may be necessary to enable the Contractor to obtain access to the Site or carry out the Contractor's Activities;

(v) the Principal and others will engage Other Contractors to work upon or in the vicinity of the Site and Extra Land at the same time as the Contractor; and

(vi) without limiting or otherwise restricting any other provision under this Contract, the Contractor is responsible for all costs arising from or in connection with accessing any railway services or stations, including the costs of procuring Opal Cards for its personnel and Subcontractors, and any Opal Card charges.

(d) The Principal's obligations under clause 3.1(a) and 3.1(b) in respect of each part of the Site will cease upon the issue of a Notice of Completion in respect of the last Portion occupying that part of the Site, except to the extent required to allow the Contractor to comply with its obligations during the Defects Rectification Periods.

(e) Failure by the Principal to give access as required by clause 3.1(b) will not be a breach of this Contract but will entitle the Contractor to:

(i) an extension of time to any relevant Date for Completion under clause 10.10 if the requirements of that clause are satisfied; and

(ii) have the Contract Sum increased by the costs reasonably and necessarily incurred by the Contractor as a direct result of the failure of the Principal to give access as required by clause 3.1(b) as determined by the Principal's Representative up to but not exceeding the maximum daily amount set out in Schedule 1.

(f) The Contractor's entitlement under clause 3.1(e)(ii) will be its only right to payment of money arising out of or in any way in connection with the Principal's failure to give access as required by clauses 3.1(a), 3.1(b)(i) or 3.1(b)(ii).

3.2 Temporary Works

The Contractor must carry out all Temporary Works required to execute the Contractor's Activities so that the Temporary Works will be fit for their intended purpose.

3.3 Management and Control of the Site

At all times after being given access to the Site or a part of the Site under clause 3.1 and before the Date of Completion of the Works or the last Portion to reach Completion, the Contractor:

(a) without limiting any right of the Principal or the Principal's Representative under this Contract, and subject to clause 2.11, will be responsible for the management and control of the Site;

(b) must control access to, and the security and maintenance of, the Site or that part, except where the Principal's Representative advises otherwise;

(c) must ensure public safety on and adjacent to the Site or that part;

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(d) must provide for the continuous safe passage of the public, road and railway system users on existing roads, footpaths access ways, cycleways and Rail Tracks affected by the Contractor's Activities in accordance with this Contract;

(e) must, subject to clauses 3.1 and 3.8 and the Works Brief, and any relevant Law, limit access to the Site to its employees, Subcontractors and their employees and Subcontractors, and those with a legitimate interest in being on the Site as part of the Contractor's Activities;

(f) must not impede access or Services to private property without the consent of the Principal's Representative and the relevant owner or occupier; and

(g) must ensure that existing buildings (including residences, whether occupied or unoccupied) on the Site are preserved and protected from damage (including from theft and vandalism) until (where relevant) they are due for demolition by the Contractor if that forms part of the Contractor's Activities.

3.4 Land in Addition to the Site

The Contractor must:

(a) procure for itself and at its own cost the occupation or use of or relevant rights over any land or buildings in addition to the Site, including any land owned by a Rail Transport Agency, which is necessary or which it may require for the purposes of carrying out the Contractor's Activities;

(b) at its own cost carry out all activities and procure all Services necessary to make the Extra Land suitable for use by the Contractor;

(c) as a condition precedent to Completion of the Works or any Portion:

(i) rehabilitate any Extra Land in accordance with the requirements of all relevant Authorities and other relevant persons; and

(ii) unless not required by the Principal's Representative, provide to the Principal's Representative a properly executed certificate in the form of Schedule 13 or a release on terms otherwise satisfactory to the Principal's Representative from all claims or demands (whether for damages or otherwise howsoever arising) from the owner or occupier of, and from other persons having an interest in, such Extra Land; and

(d) indemnify the Principal against any damage, expense, loss, cost or liability suffered or incurred by the Principal arising out of or in any way in connection with a claim by the owner or occupier of, or any other person having any interest in any Extra Land, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal contributed to the damage, expense, loss, cost or liability.

3.5 Latent Conditions

(a) Subject to the last paragraph of this clause 3.5, Latent Conditions are:

(i) sub-surface physical conditions on the Site or its surroundings (including artificial things) which differ materially from the sub-surface physical conditions which should reasonably have been anticipated by a competent and experienced contractor at the date of this Contract if such a contractor had:

A. examined all information made available in writing by the Principal to the Contractor for the purpose of its Tender (including the Reports);

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B. examined all information (including the Reports) relevant to the risks, contingencies and other circumstances having an effect on the development of the Original Contract Price and obtainable by the making of reasonable enquiries; and

C. inspected the Site and its surroundings;

(ii) any Services on the Site which are:

A. not identified in the Reports;

B. not capable of otherwise having been anticipated by the Contractor at the date of this Contract if it had done the things referred to in clause 3.5(a)(i)A, B and C; and

C. discovered only after the Contractor has undertaken potholing of the Services identified in the Works Brief, including drawings and specifications, or Reports to confirm their exact location.

Latent Conditions exclude:

(iii) weather conditions or physical conditions regardless of their severity which are a consequence of weather conditions at the Site; and

(iv) Hazardous Material and Contamination.

(b) If during the execution of the Contractor's Activities, the Contractor becomes aware of a Latent Condition the Contractor must:

(i) promptly; and

(ii) where possible before the physical conditions are disturbed,

give written notice thereof to the Principal's Representative.

The Contractor must provide in that notice to the Principal's Representative a statement specifying:

(iii) the conditions encountered and in what respects the Contractor considers they constitute a Latent Condition;

(iv) the additional work and additional resources which the Contractor estimates to be necessary to deal with the Latent Condition;

(v) the time the Contractor anticipates will be required to deal with the Latent Condition and the expected delay in achieving Completion (if any) as a result of dealing with the Latent Condition;

(vi) the Contractor's estimate of the cost of the measures necessary to deal with the Latent Condition; and

(vii) other details reasonably required by the Principal's Representative.

(c) If a Latent Condition:

(i) has a direct effect on the Contractor carrying out the Contractor's Activities; and

(ii) directly results in an increase in the Contractor's costs of carrying out the Contractor's Activities,

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which a competent and experienced contractor could not have avoided or mitigated, and could not reasonably have anticipated at the date of this Contract, the Contract Sum will be increased by the additional costs reasonably and necessarily incurred by the Contractor in carrying out the Contractor's Activities as a result of the Latent Condition as determined by the Principal's Representative together with the percentage referred to in Schedule 1 in respect of clause 6.4(b)(ii) applied to those additional costs.

(d) In making a valuation pursuant to clause 3.5(c) or determining an extension of time under clause 10, regard will not be had to any Contractor's Activities, additional costs or delays suffered or incurred more than 14 days before the date on which the Contractor gives the written notice required by clause 3.5(b).

3.6 Information Documents and Materials

(a) Whether or not any Information Documents and Materials or any part thereof form an Exhibit to this Contract, the Contractor acknowledges that:

(i) the Information Documents and Materials or part thereof do not form part of this Contract and that clause 3.6(c) applies to the Information Documents and Materials or part thereof; and

(ii) where Information Documents and Materials or any part thereof form an Exhibit to this Contract, they do so only for the purposes of identification of that document or part thereof.

(b) Without limiting clause 3.6(c):

(i) the Contractor acknowledges that the Principal does not warrant, guarantee, assume any duty of care or other responsibility for or make any representation about the accuracy, adequacy, suitability or completeness of the Information Documents and Materials, and the Information Documents and Materials do not form part of this Contract;

(ii) subject to clause 3.6(e), the Principal will not be liable upon any Claim by the Contractor arising out of or in any way in connection with:

A. the provision of, or the purported reliance upon, or use of the Information Documents and Materials to or by the Contractor or any other person to whom the Information Documents and Materials are disclosed; or

B. a failure by the Principal to provide any other information, data or documents to the Contractor.

(c) The Contractor:

(i) warrants that it did not in any way rely upon:

A. any information, data, representation, statement or document made, or provided to the Contractor, by the Principal or anyone on behalf of the Principal or any other information, data, representation, statement or document for which the Principal is responsible or may be responsible whether or not obtained from the Principal or anyone on behalf of the Principal; or

B. the accuracy, adequacy, suitability or completeness of such information, data, representation, statement or document,

for the purposes of entering into this Contract except to the extent that any such information, statement or document forms part of this Contract;

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(ii) warrants that it enters into this Contract based on its own investigations, interpretations, deductions, information and determinations; and

(iii) acknowledges that it is aware that the Principal has entered into this Contract relying upon the warranties, acknowledgements and agreements in clauses 3.6(c)(i) and 3.6(c)(ii).

(d) Subject to clause 3.6(e), the Contractor releases and indemnifies the Principal from and against:

(i) any claim against them by, or liability of them to, any person; or

(ii) (without being limited by clause 3.6(d)(i)) any costs, expenses, losses or damages suffered or incurred by them,

arising out of or in any way in connection with:

(iii) the provision of, or the purported reliance upon, or use of the Information Documents and Materials, as referred to in clauses 3.6(b) and 3.6(c)(i), to or by the Contractor or any other person to whom the Information Documents and Materials are disclosed or a failure by the Principal to provide any information, data or documents to the Contractor (other than any information, data or documents which the Principal is required to provide to the Contractor by the terms of this Contract);

(iv) any breach by the Contractor of this clause 3.6; or

(v) the Information Documents and Materials being relied upon or otherwise used in the preparation of any information or document, including any information or document which is "misleading or deceptive" or "false or misleading" (within the meaning of those terms in sections 18 and 29 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth) or any equivalent provision of State or Territory legislation.

(e) The acknowledgements, warranties, releases and indemnities referred to in clauses 3.6(a) to 3.6(d) do not affect the Contractor's rights under clauses 3.5(c) and 3.11.

3.7 Things of Value Found

All valuable minerals, fossils, coins, articles or objects of value or antiquity, and other remains or things of geological, archaeological, anthropological or other special interest found on the Site (all **"Valuable Finds"**) are, and will as between the Contractor and the Principal be and remain, the property of the Principal.

The Contractor must:

(a) immediately notify the Principal's Representative if it discovers a Valuable Find;

(b) ensure the Valuable Find is protected and not lost, removed, disturbed or damaged; and

(c) comply with any directions of the Principal's Representative in relation to the Valuable Find.

Despite the acknowledgements, warranties, releases and indemnities referred to in clauses 3.6(a) to 3.6(d):

(d) the Contract Sum will be increased by the additional costs reasonably and necessarily incurred by the Contractor as determined by the Principal's Representative in complying with the Principal’s Representative’s directions under this clause 3.7; and

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(e) the Contractor will be entitled to make a claim for an extension of time under clause 10.7 in respect of any delays the Contractor suffers in complying with the Principal's Representative's directions,

but only to the extent that the Valuable Find could not have been reasonably anticipated by a competent and experienced contractor having done those things referred to in clause 3.5(a)(i)A, B and C, as determined by the Principal's Representative.

3.8 Principal's Right to Access and Inspect

Subject to clause 3.12, the Contractor must:

(a) without limiting clauses 3.3 and 3.4, minimise disruption or inconvenience to:

(i) the Principal, occupiers (including railway system or rail passengers and other users), tenants and potential tenants of the Site, Extra Land or any other land or buildings on or adjacent to the Site or any Extra Land or a part thereof in their occupation or use of, or attendance upon, any part of the Site and Extra Land, including any occupation or use of the Works, a Portion or a part thereof under clause 12.6; and

(ii) others having a right of access to the Site, Extra Land or any other land or buildings on or adjacent to the Site or any Extra Land; and

(b) at all times:

(i) give the Principal's Representative, the Principal, the Validation Consultant, the Accredited Site Auditor and any person authorised by either the Principal's Representative or the Principal access to:

A. the Works;

B. the Site; or

C. any other areas where the Contractor's Activities are being carried out,

including unobstructed vehicular access through the Site; and

(ii) provide the Principal, the Principal's Representative and Validation Consultant and the Accredited Site Auditor with every reasonable facility necessary for the Inspection of the Contractor's Activities, including the Contractor's compliance with the Authority Approvals; and

(c) without limiting or otherwise restricting clause 3.8(b), on a 24 hours a day, seven days a week basis, provide access through the Site to the Principal's Representative, the Principal, the Validation Consultant, the Accredited Site Auditor and any person authorised by either the Principal's Representative or the Principal to the Northern Dive Service Building.

3.9 Works to be constructed within Site

The Contractor must ensure that the Works are constructed within the relevant boundaries of the Site stipulated in Schedule 1.

3.10 Condition Surveys

The Principal has undertaken a condition survey of the properties listed in Schedule 1. The Contractor may undertake further condition surveys of these properties.

The Contractor must:

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(a) identify and prepare a condition survey of all property that could be affected or damaged by the Contractor's Activities and as required by the Planning Approval;

(b) prepare this condition survey:

(i) a minimum of two weeks prior to commencing any work on the Site, Extra Land or on any other land which is necessary for performing the Contractor's Activities or undertaking the Works, where that work could damage property on or off the Site; and

(ii) within two weeks after the Date of Completion; and

(c) in preparing the condition surveys must use suitably skilled, qualified, and experienced personnel or Subcontractor.

3.11 Contamination and Waste Disposal

(a) The Contractor:

(i) must:

A. remove from the Site and any Extra Land; and

B. dispose of,

any Contamination or Waste pursuant to its obligations under this Contract to a licensed waste facility in accordance with all relevant Law and Authority Approvals; or

(ii) where permitted under the terms of this Contract, all relevant Laws, Codes and Standards, lawful requirements of any Authority, guidelines made or approved by the EPA and the National Remediation Framework, the Remediation Action Plan and any other requirements of this Contract, must treat and reuse any Contamination or Waste in accordance with all relevant Laws, Codes and Standards, lawful requirements of any Authority, guidelines made or approved by the EPA, the National Remediation Framework and the Remediation Action Plan.

(b) The Contractor must:

(i) ensure that the entity that carries out the storage, treatment, transport and disposal of the Contamination or Waste from the Site or Extra Land holds all relevant Authority Approvals that are necessary or desirable; and

(ii) procure and provide evidence of such Authority Approvals to the Principal's Representative upon request.

(c) The Contractor must:

(i) sort all Contamination and Waste (including separating Contamination from clean material and Waste);

(ii) not contaminate clean material by intermixing any Contamination or Waste;

(iii) not intermix Contamination (or material with different waste classifications) with clean material or any other type of Contamination or Waste;

(iv) digitally track Waste and spoil movements from cradle to grave, including movement of Waste or spoil within the boundaries of the Site or any

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Extra Land and movement of Waste or spoil from the Site to offsite reuse locations; and

(v) perform the Contractor's Activities in a manner that minimises the amounts payable pursuant to Schedule 24 including by:

A. carrying out all reasonable investigations on the Site as early as possible;

B. subject to clause 3.11(c)(v)E, limiting the amount of any material disposed of at a higher Waste Classification than is necessary;

C. incorporating as much soil into the Works where this is technically feasible and permitted by Law;

D. prioritising the incorporation of material of a higher Waste Classification into the Works over that of a lower Waste Classification (where technically feasible and permitted by Law); and

E. where material must be disposed of offsite, prioritising the most sustainable and cost efficient disposal site where it reduces the cost to the Principal, does not unduly impact the Contractor's Program, is technically feasible and is permitted by Law.

(d) The Contractor must ensure, and must ensure that its Subcontractors ensure, that their respective employees, agents and contractors, as applicable, are suitably trained in correct and safe methods of loading, unloading and handling any Contamination or other spoil or Waste and that they comply with all applicable Laws, Codes and Standards, lawful requirements of any Authority, guidelines made or approved by the EPA, the National Remediation Framework, the Remediation Action Plan and specific requirements of this Contract that are relevant to their role.

(e) The Contractor must:

(i) keep complete, accurate and up to date digital records of all materials that are treated and reused, disposed of or otherwise removed from the Site or any Extra Land (including all Contamination, each waste classification of Solid Waste and other wastes), including classification certificates and tip dockets for all loads and Waste tracking from cradle to grave and detailed and careful records of spoil movement within the boundaries of the Site or any Extra Land including tracking of onsite material movements; and

(ii) if requested or otherwise required pursuant to Schedule 24, provide a copy of any such records to the Principal's Representative, the Validation Consultant and the Accredited Site Auditor.

(f) The Contractor acknowledges and agrees that:

(i) the Contractor will not be entitled to any increase in the Contract Sum or to make any other Claim for payment other than in accordance with Schedule 24:

A. for complying with this clause 3.11;

B. in respect of carrying out investigations of the Site (including any structures) or Extra Land to determine the presence and extent of any Contamination present on, in, under or migrating from the Site or Extra Land;

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C. for any costs incurred arising out of or in connection with any delay or disruption to the Contractor's Activities resulting from the presence of any Contamination on, in, under or migrating from the Site or Extra Land including arising out of or in connection with complying with its obligations under this clause 3.11, regardless of whether the Contamination was referred to in (or reasonably able to be inferred from) the Reports or otherwise; or

D. for managing the Remediation on the Site or Extra Land; and

(ii) the Contractor will not be entitled to an extension of time in respect of any delay arising out of or in connection with the discovery of Contamination or the discharge of its obligations under this clause 3.11, regardless of whether the Contamination was referred to in (or reasonably able to be inferred from) the Reports or otherwise.

(g) To the extent the Contractor causes or contributes to any Contamination on, in, over or under the Site or any Extra Land:

(i) the Contractor must Remediate such Contamination in accordance with all relevant Laws, Codes and Standards, lawful requirements of any Authority, guidelines made or approved by the EPA, the National Remediation Framework and the Remediation Action Plan; and

(ii) will not be entitled to any payments under Schedule 24 in respect of such Contamination.

(h) To the extent practicable, the Contractor must retain and protect existing groundwater monitoring wells and soil vapour monitoring locations to ensure serviceability for monitoring, including sampling. If the Contractor considers that existing groundwater monitoring wells and soil vapour monitoring locations cannot be retained or protected in the performance of the Contractor's Activities, the Contractor must notify the Principal in writing within 10 Business Days of becoming aware. If the Principal's Representative determines, acting reasonably, that existing groundwater monitoring wells and soil vapour monitoring locations cannot be retained, the Principal may direct the Contractor to decommission the existing groundwater monitoring wells and soil vapour monitoring locations, which must be undertaken in accordance with all relevant Laws, Codes and Standards, lawful requirements of any Authority, guidelines made or approved by the EPA, the National Remediation Framework and the Remediation Action Plan, and the Contract Sum will be adjusted as if the direction were a Variation.

(i) The Contractor must indemnify the Principal against any claim, damage, expense, loss, liability, fine or penalty suffered or incurred by the Principal arising out of or in any way in connection with any failure by the Contractor to comply with any obligation under this clause, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, Other Contractors or an agent of the Principal may have contributed to the claim, damage, expense, loss, liability, fine or penalty.

(j) The parties agrees that:

(i) the Original Contract Price contains Waste Provisional Amounts for the performance of the Waste Works; and

(ii) the Contract Sum will be adjusted by the difference between the Waste Provisional Amounts and the amounts payable pursuant to Schedule 24.

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3.12 Principal not in Control

The Contractor and Principal acknowledge that nothing in this Contract including the right to inspect pursuant to clause 3.8 or any audit by the Principal or the Principal's Representative at any time will be construed to mean or imply that:

(a) the Principal has any management or control over the Contractor's Activities or the Site or Extra Land; or

(b) the Principal has any responsibility for any act or omission by the Contractor or its Subcontractors or agents including compliance or non-compliance with any relevant Laws or this Contract.

3.13 Utility Services

(a) The Contractor must:

(i) obtain and pay for any Services it needs to perform its obligations under this Contract;

(ii) assume the risk of the existence, location, condition and availability of all Services required for the execution of the Contractor's Activities;

(iii) despite any other provision in the Contract to the contrary, ensure that no Services are:

A. damaged or destroyed; or

B. disconnected, disrupted, interfered with or interrupted during normal operating hours,

by reason of the performance of the Contractor's Activities;

(iv) cooperate and coordinate with the owners of all Services, and implement their requirements as part of the Contractor’s Activities and must consult with and keep the Principal fully informed as to the Contractor's dealings with the Authorities providing the Services; and

(v) indemnify the Principal against any claim, damages, expense, costs, loss, liability, fine or penalty the Principal suffers or incurs arising out of or in any way in connection with any disconnection, interference with, interruption or disruption to any Service arising out of or in any way in connection with the Contractor's Activities, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal contributed to the claim, damages, expense, costs, loss, liability, fine or penalty.

(b) The Contractor agrees it is responsible for, and assumes the risk of all additional work, increased costs and any damages, expense, loss, liability, delay or disruption (including any delay in achieving Completion or Final Completion) it suffers or incurs arising out of or in any way in connection with the existence, location, condition and availability of all Services required for the execution of the Contractor's Activities.

4. Compliance

4.1 Quality of Work

The Contractor must in carrying out the Contractor's Activities use the materials and standard of workmanship required by this Contract, and otherwise comply with this Contract in the execution of the Contractor's Activities. In the absence of any other requirement, the

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Contractor must use suitable new materials and ensure that all workmanship and materials are fit for their intended purpose.

4.2 Environmental Management

The Contractor must:

(a) hold and maintain an environmental management system which complies with the requirements of Works Brief for so long as any Contractor's Activities are carried out;

(b) as part of the Contract Management Plan, document, implement and maintain a contract specific Construction Environmental Management Plan for the management of environmental matters in accordance with the Works Brief;

(c) carry out the Contractor's Activities in accordance with the Construction Environmental Management Plan;

(d) supervise Subcontractor's activities and ensure that they are complying with all relevant Law, Authority Approvals and Works Brief in relation to environmental management on the Site and Extra Land; and

(e) use, and be able to demonstrate the use of, ecologically sustainable development principles (including any Sydney Metro sustainability initiatives) in the design and construction of the Works, Temporary Works and all other Contractor's Activities.

4.3 WHS Management

The Contactor must:

(a) hold and maintain an WHS management system for so long as any Contractor's Activities are carried out that complies with the WHS Guidelines and the Works Brief;

(b) as part of the Contract Management Plan, develop, document and implement a contract specific Project Work Health and Safety Management Plan in accordance with the WHS Guidelines and Works Brief;

(c) carry out the Contractor's Activities in accordance with the Project Work Health and Safety Management Plan;

(d) create a safe working environment for ensuring the safety of all authorised personnel on the Site and Extra Land and that no unauthorised individual gains access to the Site; and

(e) supervise any Subcontractor's activities and ensure that they are complying with all relevant Law, Authority Approvals and the Works Brief in relation to the WHS management on the Site and Extra Land.

4.4 No Relief from Obligations

The Contractor will not be relieved from any of its liabilities or responsibilities under this Contract (including under clause 8 or otherwise according to Law) nor will the rights of the Principal whether under this Contract or otherwise according to Law be limited or otherwise affected, by:

(a) the implementation of, and compliance with, any management system or plan by the Contractor;

(b) compliance with the Contract Management Plan by the Contractor;

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(c) any release, authorisation, approval or agreement by the Principal's Representative, or any other person acting on behalf of the Principal or the Principal's Representative, particularly those concerning or relating to the Contractor proceeding past any hold point or witness point identified in the Works Brief, the Works Brief or otherwise directed by the Principal's Representative;

(d) any failure by the Principal, the Principal's Representative or any other person acting on behalf of the Principal or engaged by the Principal to detect any Defect, particularly whilst participating in any hold point or witness point procedure, including where such a failure is the result of a negligent act or omission; or

(e) any inspections arranged by the Principal's Representative under the Contract or any related discussions between the Contractor's Representative and the Principal's Representative.

5. Design and Design Documentation

5.1 Contractor's Design

The Contractor:

(a) must prepare and complete the design of the Works and the Temporary Works (including the Design Documentation), so that it is fit for its intended purpose and otherwise complies with the requirements of this Contract; and

(b) warrants that:

(i) it has fully and carefully reviewed the Works Brief including any Preliminary Design;

(ii) the completed design of the Works and the Temporary Works as represented in the Design Documentation will:

A. satisfy the requirements of the Works Brief, (including any Preliminary Design) and the other requirements of this Contract; and

B. be fit for their intended purposes; and

(iii) construction in accordance with the completed design of the Works and the Temporary Works will satisfy the requirements of the Works Brief (including any Preliminary Design) and the other requirements of this Contract.

5.2 Prior Design Work

(a) This clause 5.2 applies only when a Preliminary Design is included in the Contract.

(b) If directed by the Principal, the Contractor, without being entitled to compensation, shall promptly execute a Deed of Novation in the form of Schedule 25, such deed being between the Principal, the Contractor and the consultant named in Schedule 1.

For the purpose of effecting such novation only, the Contractor hereby irrevocably appoints the Principal's Representative to be the Contractor's attorney with authority to execute such documents as are necessary to give effect to the novation and to bind the Contractor accordingly.

(c) Without limiting clause 5.1, the Contractor:

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(i) acknowledges and agrees that, prior to the date of this Contract, the Preliminary Design was created by the Principal and the Principal's agents and consultants, and that it is aware that the Preliminary Design is incomplete and may contain ambiguities, errors, inconsistencies, discrepancies or omissions;

(ii) warrants that, prior to the date of this Contract, it checked and carefully reviewed and considered the Preliminary Design to ensure that it complied with the requirements of the Contract, including that it was fit for the intended purpose of the Works; and

(iii) acknowledges and agrees that:

A. the Contractor's design obligations under this clause 5 and the Contractor's warranties (including under clause 5.1), obligations and liabilities under the Contract and at Law, remain unaffected; and

B. the Contractor's obligations to carry out the Contractor's Activities and complete the Works in accordance with this Contract remain unaffected by, and it will bear and continue to bear full liability and responsibility for the carrying out of the Contractor's Activities and the completion of the Works in accordance with this Contract at its cost,

notwithstanding any one or more of the following:

C. that design work (including the Preliminary Design) has been carried out by or on behalf of the Principal and included in the Preliminary Design;

D. that the Contractor has entered into a novation of any prior contract between the Principal and a consultant named in Schedule 1 under clause 5.2(b) and thereafter has retained that consultant in connection with the Contractor's Activities;

E. that any ambiguities, errors, inconsistencies, discrepancies or omissions exist in the Preliminary Design; or

F. that prior to the date of this Contract any part of the Preliminary Design is described or represented by the Principal as having been completed to any particular design stage (including "Approved for Construction", "Preliminary Design Review", "System Concept Review", "Critical Design Review" or otherwise) (the "Relevant Design Stage"), and despite any such description or representation:

1) an ambiguity, error, inconsistency, discrepancy or omission exists in the Preliminary Design which is inconsistent with the Preliminary Design having achieved the Relevant Design Stage; or

2) the Contractor is otherwise required to perform work which is required to be undertaken in order for the Preliminary Design to satisfy the requirements of the Relevant Design Stage, whether or not that work has been undertaken prior to the date of this Contract.

5.3 Design Documentation

(a) The Contractor must submit all Design Documentation:

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(i) progressively to the Principal's Representative and, if required, the Validation Consultant in accordance with the Contract Management Plan and the requirements of clause 9.8; and

(ii) at the times set out in:

A. the Works Brief; and

B. the Contractor's Program.

(b) The Contractor must upon each submission of the Design Documentation to the Principal's Representative and, if required, the Validation Consultant for review (including at the completion of the design of each design package) ensure that the Design Documentation is accompanied by the following documents:

(i) the Contractor's Certificate of Design Compliance in the form of Schedule 19;

(ii) a register of records of design verification and reviews applicable to the design package and other compliance records required by this Contract (all records being satisfactorily completed and signed);

(iii) a register of any outstanding design non-conformities and unresolved issues;

(iv) a register of deficiency notices and evidence of their close out; and

(v) a register of concessions (if any) granted for non-conforming Design Documentation.

5.4 Copies of Design Documentation

(a) The Contractor must, in accordance with clause 5.3, progressively submit to the Principal's Representative and, if required, the Validation Consultant the number of copies specified in Schedule 1 of all Design Documentation, whether complete or work in progress, which it intends to use for design or construction purposes.

(b) The Contractor must give the Principal's Representative and, if required, the Validation Consultant the number of copies specified in Schedule 1 of:

(i) all survey information used in the design of the Works and the Temporary Works; and

(ii) all final Design Documentation.

5.5 Availability of Design Documentation

The Contractor must keep available for the use of the Principal's Representative and any person authorised by the Principal's Representative:

(a) on the Site, at least one complete set of all Design Documentation that the Contractor is entitled to use for construction purposes pursuant to clause 9.8, and any construction related documents provided by the Principal; and

(b) at any area on or off the Site where the Contractor's Activities are being carried out, one copy of each of those items specified in paragraph (a) insofar as they are relevant to the Contractor's Activities being carried out in that area.

5.6 Ownership of Contract Documentation and Methods of Working

(a) Subject to clause 5.6(c)(vii):

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(i) title to and Intellectual Property in or in relation to the Contract Documentation prepared by the Contractor will vest upon its creation for the purposes of this Contract in the Principal;

(ii) to the fullest extent permitted by Law, the Contractor hereby assigns to the Principal all of its rights, titles, and interests in, and to, all Intellectual Property in or in relation to the Contract Documentation prepared by the Contractor, whenever created; and

(iii) upon request by the Principal, the Contractor must do all things necessary to vest that title or that Intellectual Property in the Principal.

(b) The Principal grants to the Contractor a licence to use and reproduce the Contract Documentation for the Contractor's Activities.

(c) The Contractor:

(i) warrants and must ensure that the Contract Documentation and any methods of working do not and will not infringe any Intellectual Property;

(ii) must indemnify the Principal against any claims against, and costs, expenses, losses and damages suffered or incurred by the Principal arising out of, or in any way in connection with, any actual or alleged infringement of any Intellectual Property in connection with the Works, the Temporary Works, the Contractor's Activities or the Contract Documentation, except to the extent that such actual or alleged infringement arises as a direct result of:

A. the Principal having provided the Contractor with material which this Contract permits the Contractor to use for the purpose of the Works, the Contractor's Activities or the Contract Documentation; and

B. the provision of that material to the Contractor being an infringement of a third party's Intellectual Property rights;

(iii) must ensure that all Subcontracts between the Contractor and all Subcontractors for design and documentation contain provisions to the same effect as clause 5.6(a);

(iv) must obtain confirmation of the inclusion of such provisions in the form of a signed acknowledgment from such Subcontractors for design and documentation;

(v) must, where requested by the Principal's Representative, obtain such an acknowledgement from other Subcontractors;

(vi) must obtain an assignment to the Principal from any third party who owns any Intellectual Property right in the Contract Documentation;

(vii) must if it is unable to obtain the assignment referred to in clause 5.6(c)(vi), grant or have granted to the Principal an irrevocable licence:

A. to use the Contract Documentation for the completion of the Works;

B. which arises immediately upon the creation of the Contract Documentation;

C. which extends to any subsequent repairs to, maintenance or servicing of, or additions or alterations to the Works; and

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D. which will survive the termination of this Contract on any basis; and

(viii) must ensure that the Intellectual Property created for the purposes of this Contract is not used, adapted or reproduced other than for the purposes of this Contract without the prior written approval of the Principal (which will not be unreasonably withheld, but may be given subject to terms and conditions).

5.7 Delivery Up of Contract Documentation

If this Contract is frustrated or terminated the Contractor must:

(a) immediately deliver the original and all sets and copies of all Contract Documentation (whether complete or not), including fully detailed electronic versions in unlocked native format (with all logic links intact and nothing hidden or protected), then in existence to the Principal; and

(b) provide such details, memoranda, explanations, documentation and other assistance as the Principal reasonably requires in relation to the Contract Documentation.

5.8 Moral Rights

(a) The Contractor:

(i) warrants that the Principal's use of the Contract Documentation, or any other work provided by the Contractor under this Contract, will not infringe any author's moral rights under the *Copyright Act 1968* (Cth) or similar legislation in any jurisdiction; and

(ii) must indemnify the Principal against any claims against, or costs, expenses, losses or damages suffered or incurred by the Principal arising out of, or in any way in connection with, any actual or alleged infringement of any author's moral rights under the *Copyright Act 1968* (Cth) or similar legislation in any jurisdiction in connection with the Works, the Contractor's Activities or the Contract Documentation.

(b) For the purposes of clause 5.8(a), the Principal's use of the Contract Documentation includes the Principal's right to reproduce, publish, copy, adapt, communicate to the public, materially distort, destroy, mutilate or in any way change the Contract Documentation or part of the Works to which the Contract Documentation or any other work provided by the Contractor under this Contract relates:

(i) with or without attribution of authorship;

(ii) in any medium; and

(iii) in any context and in any way it sees fit.

6. Variations

6.1 Proposed Variations

At any time prior to the Date of Completion of the Works or the last Portion to reach Completion (but without limiting clauses 8 and 14.3) the Principal's Representative may issue a document titled "Variation Proposal Request" to the Contractor, which will set out details of a proposed Variation that the Principal is considering.

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Within 10 Business Days of the receipt of a "Variation Proposal Request", or at such other time as is approved by the Principal's Representative, the Contractor must provide the Principal's Representative with a written notice in which the Contractor sets out such details as may be reasonably required by the Principal's Representative.

The Principal will not be obliged to proceed with any proposed Variation that is the subject of a "Variation Proposal Request".

6.2 Variation Orders

(a) Whether or not the Principal's Representative has issued a "Variation Proposal Request" under clause 6.1, the Principal's Representative may at any time prior to the Date of Completion of the Works or the last Portion to reach Completion (but without limiting clauses 8 and 14.3) direct the Contractor to carry out a Variation by issuing a written document titled "Variation Order", in which the Principal's Representative will state one of the following:

(i) the proposed adjustments to the Contract Sum and the Payment Breakdown Schedule set out in the Contractor's notice under clause 6.1 are agreed and the Contract Sum and Payment Breakdown Schedule will be adjusted accordingly;

(ii) any adjustment to the Contract Sum will be determined under clause 6.4(b); or

(iii) the Variation is to be carried out as daywork and any adjustment to the Contract Sum will be determined under clause 6.7.

(b) There is no limitation on the power of the Principal's Representative to direct a Variation, and no Variation or direction to carry out a Variation will invalidate this Contract.

(c) The Contractor must comply with a "Variation Order" irrespective of:

(i) the nature, extent or value of the work the subject of the Variation;

(ii) the location or timing (including the impact on any Date for Completion) of the work involved in the Variation; or

(iii) any Dispute related to the Variation.

(d) The Contractor’s entitlement (if any) to an extension of time and any time related or delay costs arising out of or in connection with a Variation will be dealt with under clause 10 and not this clause 6. The valuation of Variations under clause 6.4 and clause 6.7 will exclude any amount for costs incurred by the Contractor as a result of any delay or disruption caused by the Variation.

6.3 Options

The Principal's Representative may, by written notice given to the Contractor at any time on or before the date stated in Schedule 15, exercise any Option. Commencing upon the issue of such a notice by the Principal's Representative, the Principal and the Contractor must perform their obligations under this Contract on the basis that the Contract Sum, the Works Brief and the provisions of this Contract will be adjusted as set out in Schedule 15 for the relevant Option.

For the avoidance of doubt:

(a) the Principal is not under any obligation whatsoever to exercise; and

(b) the Contractor is not entitled to make, nor will the Principal be liable upon, any Claim in respect of the Principal not exercising,

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any Option.

Where the Principal does not exercise its discretion to exercise an Option, the Principal may, either by itself or by third parties, undertake the work contemplated by the relevant Option.

The exercise of an Option by the Principal's Representative under this clause 6.3 will not:

(c) relieve the Contractor from its liabilities or obligations (including those arising out of any warranties given under this Contract);

(d) limit or otherwise affect the Principal's rights against the Contractor or the Contractor's rights against the Principal (including those arising out of any warranties given under this Contract); or

(e) entitle the Contractor to an extension of time,

whether under this Contract or otherwise according to any Law.

6.4 Valuation

Subject to clauses 16 and 18, the Contract Sum and the Payment Breakdown Schedule will be adjusted for all Variations that have been directed by the Principal's Representative by:

(a) to the extent that clause 6.2(a)(i) applies, the agreed amount as specified in the Variation Order;

(b) to the extent that clause 6.2(a)(ii) applies:

(i) an amount in respect of the Variation to be determined by the Principal's Representative on the basis of (where applicable or where it is reasonable to use them for valuing the Variation):

A. the prices and rates set out in the Schedule 10; and

B. any other applicable data in this Contract; or

(ii) to the extent sub-paragraph (i) does not apply, an amount determined by the Principal’s Representative on the basis of reasonable prices and rates (which are to be exclusive of any amount for preliminaries, Overhead Costs or profit) to be agreed between the parties, or failing agreement, determined by the Principal's Representative, which will be increased by the following percentage of that amount:

A. where the adjustment to the Contract Sum is to be an increase, the relevant percentage set out in Schedule 1 which will be in total satisfaction of all the Contractor's preliminaries, Overhead Costs and profit; or

B. where the adjustment to the Contract Sum is to be a decrease, the relevant percentage set out in Schedule 1 of the total amount for off-site Overhead Costs described in section 2 of Part B of Schedule 10 and profit,

provided however that where the Principal's Representative has issued a Variation Proposal Request, the Contractor's entitlement under this clause 6.4(b) will not be greater than any amount set out in the Contractor's notice under clause 6.1; or

(c) to the extent that clause 6.2(a)(iii) applies, the amount determined by the Principal's Representative under clause 6.7.

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6.5 Omissions

If a Variation the subject of a direction by the Principal's Representative requires the omission or deletion of any part of the Works:

(a) the Principal may thereafter either perform this work itself or employ or engage any other person or persons to carry out and complete the omitted or deleted work;

(b) the Principal will not be liable upon any Claim by the Contractor arising out of or in any way in connection with any work being omitted or deleted from the Contractor's Activities whether or not the Principal thereafter performs this work itself or employs or engages any other person or persons to carry out and complete the omitted or deleted work; and

(c) the adjustment to the Contract Sum arising from the work that has been omitted or deleted will be valued in accordance with clause 6.4.

6.6 Daywork

If the Contractor is given a direction under clause 6.2(a)(iii) to carry out work as daywork, the Contractor must:

(a) carry out the daywork in an efficient manner; and

(b) after the direction, each day provide the Principal's Representative with a written report in respect of that day signed by the Contractor that:

(i) records particulars of all resources used by the Contractor for the execution of the daywork; and

(ii) includes those particulars reasonably required by the Principal’s Representative that evidence the cost of the daywork.

The Principal's Representative may direct the manner in which the matters referred to in clause 6.6(b) are to be recorded.

6.7 Valuation of Daywork

In valuing the adjustment to the Contract Sum arising from any work that the Principal's Representative directs to be carried out as daywork, the Principal's Representative will have regard to:

(a) the amount of wages and allowances paid or payable by the Contractor for the hours reasonably worked in respect of the daywork at the rates:

(i) set out in Schedule 10 (which rates will apply to all labour whether employed by the Contractor, a Subcontractor or otherwise);

(ii) where the rates in Schedule 10 do not apply, as established by the Contractor to the satisfaction of the Principal's Representative; or

(iii) determined by the Principal's Representative;

(b) the amount paid or payable by the Contractor in accordance with any statute or award applicable to labour additional to the amount determined under clause 6.7(a);

(c) the reasonable amount of hire charges and associated fuel and other operating costs in respect of Construction Plant approved by the Principal's Representative for use on the work in accordance with such hiring rates and conditions as may be:

(i) agreed between the Principal's Representative and the Contractor; or

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(ii) failing agreement, determined by the Principal's Representative;

(d) the reasonable amounts paid by the Contractor for Subcontract work, including professional fees; and

(e) the reasonable actual cost to the Contractor at the Site of all materials supplied and required for the daywork,

to which will be added to the extent that the rates set out in Schedule 10 are not already expressed to be inclusive of the Contractor's non-time related preliminaries, Overhead Costs and profit, the relevant percentage specified in Schedule 1 of the amounts determined under paragraphs (a) to (e), which will be in total satisfaction of all the Contractor's non-time related preliminaries, Overhead Costs and profit.

6.8 Contractor's Entitlements

This clause 6 is an exhaustive code of the Contractor's rights in any way in connection with any Variation. The Contractor waives all rights at Law to make any Claim against the Principal in any way in connection with any of the matters set out in this clause 6 otherwise than in accordance with the terms of this Contract.

7. Construction

7.1 Construction

(a) The Contractor must construct and handover to the Principal the Works and construct the Temporary Works:

(i) in accordance with:

A. subject to clause 7.1(b), the Works Brief (including any Preliminary Design) and any Design Documentation that has been prepared by the Contractor in accordance with the requirements of the Contract and not rejected by the Principal's Representative under clause 9.8;

B. any direction of the Principal's Representative given or purported to be given under a provision of this Contract; and

C. the other requirements of this Contract; and

(ii) so that they are fit for their intended purposes.

(b) If there is any ambiguity, discrepancy or inconsistency between this Contract (including the Works Brief and any Preliminary Design) and any Design Documentation which has been prepared by the Contractor and not rejected by the Principal's Representative under clause 9.8, then, unless otherwise directed by the Principal's Representative, the requirements of this Contract will prevail.

(c) At monthly intervals during the construction work and at the Completion of the Works or each Portion, the Contractor must submit to the Principal's Representative a Certificate of Construction Compliance in the form of Schedule 20.

7.2 All Work Included

The Contractor:

(a) warrants it has allowed for the provision of;

(b) must undertake and provide; and

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(c) will not be entitled to make, and the Principal will not be liable upon, any Claim except as otherwise provided for in this Contract, relating to the provision of,

all Construction Plant, Temporary Works, labour, materials and other work necessary to execute the Contractor's Activities, whether or not expressly mentioned in this Contract or anticipated by the Contractor, and agrees that all such Construction Plant, Temporary Works, labour, materials and work forms part of the Contractor's Activities.

7.3 Provisional Sum Work

For each item of Provisional Sum Work, the Principal's Representative will give the Contractor a direction either requiring the Contractor to proceed with the item of Provisional Sum Work or deleting the item of Provisional Sum Work.

Where the Principal's Representative gives the Contractor a notice requiring the Contractor to proceed with an item of Provisional Sum Work, the Contract Sum will be adjusted for the item of Provisional Sum Work by the difference between:

(a) the amount allowed for the item of Provisional Sum Work in Schedule 1; and

(b) either:

(i) an amount agreed between the Contractor and the Principal's Representative; or

(ii) if they fail to agree:

A. an amount determined by the Principal's Representative on the basis set out in clause 6.4(b) as if the item of Provisional Sum Work were a Variation, excluding:

1) the percentage referred to in clause 6.4(b)(ii)A or 6.4(b)(ii)B; or

2) any other amount for the Contractor's Overhead Costs or profit; or

B. if the amount determined under clause 7.3(b)(ii)A (**7.3(b)(ii)A Amount**) is less than the amount allowed for that item of Provisional Sum Work in Schedule 1, then:

1) the 7.3(b)(ii)A Amount; plus

2) a reasonable amount for the Contractor's Overhead Costs and profit applicable to the 7.3(b)(ii)A Amount (but only to the extent not included within the 7.3(b)(ii)(A) amount), as determined by the Principal's Representative, which amount must not exceed an amount calculated using the percentage set out in Schedule 1.

Where the Principal's Representative gives the Contractor a direction deleting an item of Provisional Sum Work:

(c) the Contract Sum will be reduced by the amount allowed for the item of Provisional Sum Work in Schedule 1;

(d) the Principal may thereafter either carry out the Provisional Sum Work itself or engage any other person or persons to carry out the item of Provisional Sum Work; and

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(e) the Principal will not be liable upon any Claim by the Contractor arising out of the deletion of the item of Provisional Sum Work.

7.4 Co-operation with Other Contractors

The Contractor must:

(a) permit Other Contractors to carry out their work;

(b) fully co-operate with Other Contractors;

(c) carefully coordinate and interface the Contractor's Activities with the work carried out or to be carried out by Other Contractors; and

(d) carry out the Contractor's Activities so as to minimise any interfering with, disrupting or delaying the work of Other Contractors.

The Principal shall procure that each of its Other Contractors that undertakes work on part of the Site during any period in which the Contractor has been engaged as principal contractor in respect of that part of the Site executes a deed poll in favour of the Contractor, as principal contractor, and the Principal in the form set out in Schedule 23 and provide the Contractor with an executed copy of each such deed poll.

7.5 Setting Out

The Contractor must:

(a) set out the Works in accordance with the requirements of this Contract, based on information and survey marks (including any survey peg, bench mark, reference mark, signal, alignment, level mark or any other mark for the purpose of setting out, checking or measuring work) identified by the Contractor that are suitable for their purposes;

(b) carry out any survey (including providing all instruments and things) that may be necessary for this purpose; and

(c) for this purpose keep all survey marks in their true positions.

If the Contractor discovers an error in the position, level, dimensions or alignment of any part of the Works, the Contractor must immediately notify the Principal's Representative and, unless the Principal's Representative otherwise directs, the Contractor must at its cost rectify the error.

7.6 Survey

The Contractor must, as a condition precedent to Completion of the Works or any Portion, and as otherwise required by the Principal's Representative, submit to the Principal's Representative:

(a) for its review under clause 9.8 a Survey Plan for the Works or the relevant Portion that:

(i) has regard to the setback requirements in the National Construction Code;

(ii) has regard to any stratum lots whether above or below ground;

(iii) has regard to the survey control requirements of any relevant Rail Transport Agency;

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(iv) shows the location of all Monuments, and their relation to horizontal and vertical boundaries;

(v) shows all internal title boundaries;

(vi) shows all easements; and

(vii) shows the location of the Works and all Services; and

(b) a Survey Certificate which complies with all Law addressed to the Principal and signed by a land surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW) stating that:

(i) the whole of the Works or the Portion has been constructed within the relevant boundaries of the Site stipulated in Schedule 1;

(ii) the elements of the Works or the Portion are in the positions and within the tolerances required by Law and this Contract;

(iii) the survey information included in the configuration materials provided pursuant to the Works Brief complies with the requirements of this Contract; and

(iv) any other matter identified by the Principal's Representative, complies with the requirements of this Contract.

7.7 Cleaning Up

In carrying out the Contractor's Activities, the Contractor must:

(a) keep the Site, Extra Land and the Works clean and tidy and free of refuse;

(b) regularly remove rubbish, litter, graffiti and surplus material from the Site and Extra Land; and

(c) as a condition precedent to Completion of the Works or a Portion, remove all rubbish, surplus materials, Construction Plant and Temporary Works from the Site and Extra Land or the part of the Site or Extra Land relevant to the Works or the Portion.

7.8 Safety

(a) The Contractor must carry out the Contractor's Activities:

(i) safely and in a manner that does not put the health and safety of persons at risk; and

(ii) in a manner that protects property.

If the Principal's Representative reasonably considers there is a risk to the health and safety of people or damage to property arising from the Contractor's Activities, the Principal's Representative may direct the Contractor to change its manner of working or to cease working.

(b) The Contractor must:

(i) ensure that in carrying out the Contractor's Activities:

A. it complies with all Law, including the WHS Law, and other requirements of this Contract for work health, safety and rehabilitation management;

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B. all Subcontractors comply with the requirements referred to in this clause 7.8 and their respective obligations under the WHS Legislation; and

C. it complies with its obligations under the WHS Legislation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter;

(ii) notify the Principal's Representative immediately (and in the event within 12 hours of such matter arising) of all work health, safety and rehabilitation matters arising out of, or in any way in connection with, the Contractor's Activities, unless otherwise directed by the Principal;

(iii) institute systems to obtain regular written assurances from all Subcontractors about their ongoing compliance with the WHS Legislation including the due diligence obligation contained therein;

(iv) provide the Principal's Representative with the written assurances obtained pursuant to sub-paragraph (iii), together with written assurance(s) from the Contractor about the Contractor's ongoing compliance with the WHS Legislation;

(v) provide the Principal's Representative with a written report at each meeting in accordance with clause 9.5, on all work health, safety and rehabilitation matters (including matters concerning or arising out of, or in any way in connection with, this clause 7.8), or any other relevant matters as the Principal's Representative may require from time to time, including a summary of the Contractor's compliance with the WHS Legislation;

(vi) consult, cooperate and coordinate with all Other Contractors and the Principal to ensure that all parties are able to comply with their respective obligations under the WHS Legislation;

(vii) exercise a duty of the utmost good faith to the Principal in carrying out the Works to enable the Principal to discharge the Principal's duties under the WHS Legislation;

(viii) ensure that it does not do anything or fail to do anything that would cause the Principal to be in breach of the WHS Legislation; and

(ix) ensure its Subcontracts include provisions equivalent to the obligations of this clause 7.8.

(c) Without limiting clause 17.14 the Principal may take any action necessary to protect or to prevent or minimise risks to, the Works, the Environment, other property or the health or safety of people.

If the action taken by the Principal is action which the Contractor was required to take under this Contract but did not take, the amount of any penalty, fine, damage, expense, cost (including any reasonable legal fees), loss or liability that the Principal suffers or incurs arising out of or in any way in connection with:

(i) taking the action contemplated in this clause 7.8(c); or

(ii) the Contractor's failure to take that action,

will, except to the extent prohibited by Law, be a debt due from the Contractor to the Principal.

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7.9 Construction Plant and Materials Removal

Except for the purpose of achieving Completion as contemplated by clause 7.7(c), the Contractor must not remove from the Site or the Contractor's Activities any:

(a) significant materials or major items of Construction Plant; or

(b) materials or Construction Plant specified in any written notice issued by the Principal's Representative,

without the prior written approval of the Principal's Representative, which approval will not be unreasonably withheld.

7.10 Principal Supplied Items

(a) The Principal must:

(i) make available the Principal Supplied Items to the Contractor:

A. at its own cost;

B. at the respective places referred to in Schedule 27; and

C. by the respective date referred to in Schedule 27; and

(ii) use its best endeavours to procure that the Contractor has the benefit of any warranty obtained by the Principal in respect of any Principal Supplied Item.

(b) The Contractor:

(i) agrees that, in respect of Principal Supplied Items, the:

A. Contractor:

1) warrants that it has reviewed the Works Brief and any relevant specification, and made whatever other enquiries and investigations it considers necessary relating to each of the Principal Supplied Items and is satisfied that they satisfy and will allow the Contractor to satisfy the requirements of this Contract;

2) will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with any Principal Supplied Item except under clause 10 if a Principal Supplied Item is not made available by the relevant date set out in Schedule 27; and

3) is not relieved from and remains liable for complying with, all of its obligations under this Contract, despite the Principal making available the Principal Supplied Items; and

B. *Sale of Goods Act 1923* (NSW) does not apply to the Principal's obligations under clause 7.10(a) and the Principal makes no representation as to the quality, performance, merchantability or fitness of the Principal Supplied Items; and

(ii) must:

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A. at its own cost and risk, transport each Principal Supplied Item from the respective place referred to in Schedule 27 to the Site or Extra Land (as applicable); and

B. as part of the Contractor's Activities, incorporate each Principal Supplied Item into the Works.

8. Defects

8.1 Defects Liability

Subject to clause 8.2, the Contractor must rectify all Defects whether or not they are identified and notified by the Principal's Representative.

Without limiting the previous paragraph, the Contractor must rectify any Defects in the Works or any Portion which existed at Completion of the Works or that Portion as soon as possible after Completion of the Works or that Portion.

When rectifying Defects which existed at Completion, the Contractor must do so at times and in a manner which causes as little inconvenience to the occupants or users of the Works or Other Contractors as is reasonably possible.

8.2 Defect Notification

If at any time prior to the expiration of any Defects Rectification Period (including for the avoidance of doubt prior to Completion of the Works or any Portion), the Principal's Representative discovers or believes there is a Defect, the Principal's Representative may give the Contractor a direction which identifies the Defect and does one or more of the following:

(a) requires the Contractor to rectify the Defect, or any part of it, and specifying the time within which this must occur;

(b) advises the Contractor that the Principal will accept the work, or any part of it, despite the Defect; or

(c) in respect of any Defect to which clause 8.3(b) applies, advises the Contractor that an Other Contractor will rectify (or has rectified) the Defect, or any part of it, or carry out (or has carried out) a Variation to overcome the Defect, or any part of it.

8.3 Rectification of Defect

If a direction is given under clause 8.2(a):

(a) the Contractor must rectify the Defect (or the part of it notified):

(i) within the times specified in the Principal's Representative's direction, which will generally be limited to the periods during which the rectification work will cause minimal or no inconvenience to the operators, including any Rail Transport Agency (where relevant), and occupants of the Works; and

(ii) if after Completion of the Works or relevant Portion:

A. at other times otherwise agreed with the Principal's Representative;

B. in accordance with the requirements of the operators of the Works, including any Rail Transport Agency (where relevant), and any other relevant Authority;

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C. so as to minimise the impact on the use of the Works or the Portion; and

D. in a manner which causes as little inconvenience as possible to users of the Works or the Portion or the public, any Service or any access to the Works or the Portion; and

(b) if the Contractor does not comply with clause 8.3(a)(i), the Principal's Representative may, without prejudice to any other rights that the Principal may have against the Contractor with respect to the Defect under this Contract or otherwise at Law, give the Contractor a direction under clause 8.2(c) and have the rectification work carried out at the Contractor's expense, and the cost of the rectification work incurred by the Principal will be a debt due from the Contractor to the Principal.

The Contractor must pay the Principal all costs incurred by the Principal in providing access to the Works, or arranging the availability of any resources (including the resources of any other Rail Transport Agency), as may be necessary for the Contractor to rectify any Defect during the Defects Rectification Period.

8.4 No Claim for Correction of Defect

Where a direction is given under clause 8.2(a), the Contractor will not be entitled to make a Claim against the Principal for rectifying the Defect (or the part notified) and must bear all costs, losses and expenses suffered or incurred in rectifying the Defect.

8.5 Acceptance of Work

If a direction is given under clause 8.2(b):

(a) where the value to the Principal of the Works is reduced (which will include having regard to any additional operating or maintenance costs) arising out of or in any way in connection with the Defect (or the part notified), the Contract Sum will be reduced by the amount determined by the Principal's Representative as the higher of the cost of rectifying the Defect (or the part notified) and the diminution in the value to the Principal of the Works; or

(b) where the value to the Principal of the Works increases because of the acceptance of the Defect (or the part notified):

(i) the Principal's Representative will determine an amount by subtracting the cost of rectifying the Defect from the increased value of the Works; and

(ii) the Contract Sum will:

A. be reduced by the amount determined by the Principal's Representative, where that amount is negative; and

B. not be changed where the amount determined by the Principal's Representative is positive.

8.6 Extension of Defects Rectification Period

If:

(a) the Principal's Representative gives the Contractor a notice under clause 8.2(a) during any Defects Rectification Period; and

(b) the Contractor rectifies the Defect (or the part notified),

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the relevant Defects Rectification Period for the work required by the notice will be extended by the period set out in Schedule 1, commencing upon completion of the rectification of the Defect (or the part notified).

8.7 Defect Rectification by Other Contractor

Where a direction is given under clause 8.2(c):

(a) without limiting or otherwise affecting clause 7.4, the Contractor must not impede the Other Contractor from having sufficient access to the Site or Extra Land to rectify the Defect or carrying out the Variation; and

(b) any costs, losses or damages suffered or incurred by the Principal arising out of or in any way in connection with, the Other Contractor rectifying the Defect or carrying out the Variation, will be a debt due from the Contractor to the Principal.

8.8 Rights Not Affected

Neither the Principal's rights, nor the Contractor's liability, whether under this Contract or otherwise according to Law in respect of Defects, whether before or after the expiration of any relevant Defects Rectification Period, will be in any way affected or limited by:

(a) the rights conferred upon the Principal or the Principal's Representative by this clause 8 or any other provision of this Contract;

(b) the exercise of, or the failure by the Principal or the Principal's Representative to exercise, any such rights; or

(c) any notice or direction of the Principal's Representative under clause 8.2.

9. Administration

9.1 Principal's Representative

(a) The Principal must ensure that at all times until Final Completion there is a Principal's Representative. The Contractor acknowledges and agrees that the Principal's Representative will give directions and carry out all its other functions under this Contract as the agent of the Principal (and not as an independent certifier, assessor or valuer) and is subject to the directions of the Principal.

A discretion (including an absolute or sole discretion), power or decision of the Principal’s Representative is validly and properly exercised or made for the purposes of this Contract if exercised or made (or if it is not exercised or made) by the Principal’s Representative:

(i) independently;

(ii) after consultation with the Principal and its advisers; or

(iii) as directed by the Principal.

Any control or influence exercised by the Principal over the Principal’s Representative does not:

(iv) affect the valid and proper exercise of any power or discretion (including an absolute or sole discretion) or the making of a decision by the Principal’s Representative; or

(v) entitle the Contractor to make any Claim against the Principal’s Representative or the Principal, or to challenge the effect or validity of

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the discretion (including an absolute or sole discretion), power, or decision.

The Contractor must comply with any direction by the Principal's Representative given or purported to be given under a provision of this Contract.

Except where this Contract otherwise provides, the Principal's Representative may give a direction orally but will as soon as practicable confirm it in writing.

(b) The parties acknowledge that any direction by the Principal's Representative under one of the clauses referred to in Schedule 1 is an interim position only and that, without limiting the rights of the Principal's Representative under clause 11.3, either party may seek to have any such direction opened up, reviewed, decided and substituted pursuant to clause 16 by giving a notice of dispute to the other party and the Principal's Representative in accordance with clause 16.1.

The Principal will not be liable upon any Claim by the Contractor arising out of or in connection with any such direction by the Principal's Representative in circumstances where it is incorrect, subsequently overturned pursuant to clause 16 or is unreasonable (other than in accordance with the corrected determination). The Contractor acknowledges and agrees that its sole means of redressing any errors contained in or associated with any such direction by the Principal's Representative is by giving a notice of dispute in accordance with clause 16.1.

9.2 Replacement of the Principal's Representative

The Principal may at any time replace the Principal's Representative, in which event the Principal must appoint another person as the Principal's Representative and notify the Contractor of that appointment.

Any substitute Principal's Representative appointed under this clause 9.2 will be bound by anything done by the former Principal's Representative to the same extent as the former Principal's Representative would have been bound.

9.3 Delegation of Functions

(a) The Principal's Representative may:

(i) by written notice to the Contractor appoint persons to exercise any of the Principal's Representative's functions under this Contract;

(ii) not appoint more than one person to exercise the same function under this Contract; and

(iii) revoke any appointment under clause 9.3(a)(i) by notice in writing to the Contractor.

(b) The Principal's Representative may continue to exercise a function under this Contract despite appointing another person to exercise the function under clause 9.3(a)(i).

(c) All references in this Contract to the Principal's Representative include a reference to an appointee appointed under clause 9.3(a)(i).

9.4 Contractor's Personnel

(a) The Contractor must notify the Principal's Representative in writing of the name of the Contractor's Representative (who at the date of this Contract is the relevant person listed in Schedule 1) and of any subsequent changes.

(b) The Contractor must:

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(i) employ the individuals nominated by the Contractor and listed in Schedule 1 in the positions specified in Schedule 1 or equivalent positions;

(ii) subject to clause 9.4(b)(iii), not replace the individuals referred to in clause 9.4(b)(i) without the Principal's Representative's prior written approval which will not be unreasonably withheld; and

(iii) if any of the individuals referred to in clause 9.4(b)(i):

A. dies;

B. becomes unable to continue in their positions due to illness;

C. resigns from the employment of the Contractor (other than to accept other employment with the Contractor or any "related body corporate" of the Contractor (as that term is defined in section 9 of the *Corporations Act 2001* (Cth)); or

D. becomes the subject of a direction under clause 9.4(c),

replace them with personnel of at least equivalent experience, ability, knowledge and expertise approved by the Principal's Representative.

(c) The Principal's Representative may, at its absolute discretion and without being obliged to give any reasons, by notice in writing direct the Contractor to remove any person (including a person referred to in clause 9.4(a) or clause 9.4(b)) from the Site and the Contractor's Activities. The Contractor must then cease to engage that person in the Contractor's Activities and must appoint a replacement.

(d) The Contractor must ensure that any person the subject of a direction under clause 9.4(c) is not again employed in the Contractor's Activities or on the Site.

(e) Any direction under clause 9.1(a) will be deemed to have been given to the Contractor if given to the Contractor's Representative. Matters within the knowledge of the Contractor's Representative will be deemed to be within the knowledge of the Contractor.

9.5 Site Meetings

The Contractor must convene meetings on the Site or such other place (or places) as the Principal's Representative may direct at:

(a) prior to the Date of Completion of the Works or the last Portion to reach Completion, weekly or such longer intervals as may be directed in writing by the Principal’s Representative; and

(b) monthly intervals after the Date of Completion of the Works or the last Portion to reach Completion until all Defects Rectification Periods (including any extension under clause 8.6), have expired or at such other intervals as may otherwise be agreed.

9.6 Environmental Representative

The Contractor acknowledges and agrees that:

(a) the Principal has appointed the Environmental Representative as required by an Authority Approval;

(b) the Environmental Representative:

(i) is independent of the parties;

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(ii) shall oversee the implementation of all environmental management plans and monitoring programs required under the Planning Approval, and shall advise the Principal upon achievement of the outcomes contemplated in the Planning Approval;

(iii) shall advise the Principal and the Principal's Representative on the Contractor's compliance with the Planning Approval; and

(iv) shall have the authority and independence to:

A. direct the Contractor as to; or

B. advise the Principal's Representative to direct the Contractor as to,

reasonable steps the Contractor must take to avoid or minimise unintended or adverse environmental impacts;

(c) it must comply with the directions of the Environmental Representative or the Principal's Representative as contemplated by clause 9.6(b)(iv); and

(d) it bears the full risk of complying with any directions given by the Environmental Representative or the Principal's Representative as contemplated by clause 9.6(c) and none of the Principal, the Principal's Representative or the Environmental Representative will be liable upon any Claim arising out or in any way in connection with such directions.

9.6A Validation Consultant

The Contractor acknowledges and agrees that:

(a) the Principal has appointed (or will appoint) the Validation Consultant in connection with the Works;

(b) the Validation Consultant:

(i) will oversee the Remediation carried out by the Contractor and prepare a validation report advising on the compliance of the Remediation with the Remediation Action Plan;

(ii) shall have the authority and independence to:

A. direct the Contractor as to; or

B. advise the Principal's Representative to direct the Contractor as to,

reasonable steps the Contractor must take to comply with the Remediation Action Plan;

(c) it must cooperate with the Validation Consultant to enable it to carry out its functions including providing any information and documents reasonably required by the Validation Consultant;

(d) it must comply with the directions of the Principal's Representative as contemplated by clause 9.6A(b)(ii);

(e) the Principal may request the Validation Consultant to review any Document provided by the Contractor under the Contract, including any Design Documentation; and

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(f) it bears the full risk of complying with any directions given by the Validation Consultant or the Principal's Representative as contemplated by clause 9.6A(b) and none of the Principal, the Principal's Representative or the Validation Consultant will be liable upon any Claim arising out or in any way in connection with such directions.

9.6B Accredited Site Auditor

The Contractor acknowledges and agrees that:

(a) the Principal has engaged an Accredited Site Auditor in connection with the Works;

(b) the Principal may request the Accredited Site Auditor to review any Document provided by the Contractor under the Contract; and

(c) the Contractor must:

(i) cooperate with the Accredited Site Auditor to enable it to carry out its functions; and

(ii) assist the Accredited Site Auditor and provide all documents and information reasonably required by the Accredited Site Auditor in relation to the Works to allow the Accredited Site Auditor to prepare the Final Audit Documents.

9.7 Industrial Relations

The Contractor must in carrying out the Contractor's Activities:

(a) assume sole responsibility for and manage all aspects of industrial relations for the Contractor's Activities;

(b) ensure all Subcontractors manage all aspects of the industrial relations with their employees appropriately;

(c) ensure that the rates of pay and conditions of employment specified in all relevant industrial, enterprise and project based agreements and awards, and any relevant Law, for all employees engaged in any capacity by any person in connection with the Contractor's Activities, are always observed in full;

(d) keep the Principal's Representative fully and promptly informed of industrial relations problems or issues that affect or are likely to affect the carrying out of the Contractor's Activities and Other Contractors' activities;

(e) without limiting clauses 2.3 and 21, comply with all the requirements of the NSW Code and the NSW Guidelines;

(f) conduct its industrial relations affairs in accordance with the Workplace Relations Management Plan developed and submitted by the Contractor as part of the Contract Management Plan, in accordance with the Works Brief and clause 9.8;

(g) prepare, document and implement a project Workplace Relations Management Plan;

(h) not commence any work on the Site or Extra Land until the Workplace Relations Management Plan has been submitted to the Principal's Representative and the Principal's Representative has not rejected it under clause 9.8;

(i) submit to the Principal's Representative, before beginning work on the Site or Extra Land, a statement detailing:

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(i) the location of time and wage records and other documents that are required to be kept to verify ongoing compliance with all employment and legal obligations;

(ii) the names of each award or enterprise agreement that is likely to cover the Contractor and Subcontractors involved in the Contractor's Activities; and

(iii) the names of those responsible for coordinating industrial relations for the Contractor's Activities;

(j) not do, or omit to do, anything that is, or is likely to be, prejudicial to the performance of the Contractor's Activities;

(k) before beginning work on the Site or Extra Land, submit a statement on the Contractor's letterhead and signed by an authorised person, attesting to the Contractor's compliance, in the preceding twelve months, with all employment and legal obligations, including:

(i) payment of remuneration to employees;

(ii) annual leave provisions;

(iii) Long Service Leave Payment Scheme registration;

(iv) obligations to register workers under the *Building and Construction Industry Long Service Payments Act 1986* (NSW);

(v) workers' compensation insurance, including self-insurance arrangements;

(vi) superannuation fund membership and contributions; and

(vii) over-award payments such as redundancy fund contributions; and

(l) continue to provide during the Contractor's Activities appropriate information to verify compliance with the awards, enterprise and workplace agreements and all other legal obligations relating to the employment of people for the Contractor's Activities.

If the Contractor engages an independent industry or employer association or other specialist organisation to audit and verify compliance with employment and legal obligations, a statement or declaration from that organisation may be submitted instead of the statement by the Contractor under paragraph (i).

The industrial relations requirements contained in this Contract, the NSW Code and the NSW Guidelines:

(m) are in addition to, but are not in substitution for, any requirements of Law; and

(n) do not limit the powers of the Principal or the liabilities and responsibilities of the Contractor.

The Contractor warrants and acknowledges that it has allowed in the Original Contract Price for all the costs and expenses involved with complying with all the requirements of this Contract relating to industrial relations and all relevant awards, enterprise and industrial agreements and project specific agreements and awards.

9.8 Submission for Review by the Principal's Representative

(a) The Contractor must submit each Document:

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(i) in accordance with the times stated in this Contract or otherwise progressively and in a timely manner to ensure that the Contractor's Activities are commenced, progressed and completed by the times required under this Contract, and by the times or within the periods:

A. identified in the Contractor's Program which is not rejected by the Principal's Representative; or

B. in the absence of a time or period in the Contractor's Program, required by the Principal's Representative; and

(ii) under cover of a written notice entitled "Submit for Review", which identifies:

A. the Document; and

B. the provision of this Contract under which the Document is submitted.

(b) A Document will be deemed not to have been submitted to the Principal's Representative, and, if required, the Validation Consultant or the Accredited Site Auditor, unless and until:

(i) the Document covers, fully details and co-ordinates the whole of discrete areas of work so as to allow the area of work to be fully understood; and

(ii) the Contractor has otherwise complied with this clause 9.8, in addition to any other requirement of this Contract relating to the submission of that Document.

(c) The Principal's Representative may, after the submission of a Document which satisfies the requirements of clause 9.8(b):

(i) review the Document, or any resubmitted Document, prepared and submitted by the Contractor; and

(ii) where submitted or resubmitted in accordance with a program which has not been rejected by the Principal's Representative within 15 Business Days of submission by the Contractor of such Document or resubmitted Document:

A. reject the Document if in its opinion the Document (or any part) does not comply with the requirements of this Contract, stating the nature of the non-compliance;

B. make comments on the Document; or

C. notify the Contractor that it has no (or has no further) comments to make.

(d) If any Document:

(i) is rejected or deemed to be rejected, the Contractor must submit an amended Document to the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor within 10 Business Days of the date of such rejection or deemed rejection and this clause 9.8 will re-apply; or

(ii) is not rejected and the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor responds to the submission with comments, the Contractor must respond to the comments within 10 Business Days or such other period as may be

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directed by the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor.

If the Contractor fails to respond to the Principal's Representative's comments and, if required, the Validation Consultant or Accredited Site Auditor within this period in a manner satisfactory to the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor, the Document will be deemed to be rejected.

(e) The Contractor must not commence construction of any part of the Works to which any Document (other than the Contractor's Program) submitted to the Principal's Representative applies, unless the Principal's Representative has had the period referred to in clause 9.8(c)(ii) to review the Document and has not rejected the Document or made any comments on the Document (except in the case where the Contractor has responded to the Principal's Representative's comments within the required time period and in a manner satisfactory to the Principal's Representative as referred to in clause 9.8(d)); and

(f) The Contractor must not amend for construction purposes any Document that has:

(i) been submitted to the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor; and

(ii) not been rejected or not had comments made about it under clause 9.8(c)(ii),

unless the Contractor submits the proposed amendments to the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor, in which case this clause 9.8 will re-apply.

(g) The Principal's Representative, the Validation Consultant and the Accredited Site Auditor do not assume or owe any duty of care or other responsibility to the Contractor to review, or in reviewing, a Document submitted by the Contractor, including for errors, omissions or non-compliance with this Contract.

(h) The Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with the Principal's Representative, the Validation Consultant or the Accredited Site Auditor not detecting and notifying the Contractor of any errors, omissions or non-compliance with the requirements of this Contract in any Document submitted.

(i) No review of, comment upon or rejection of, or failure to review or comment upon or reject, a Document prepared by the Contractor, or any other direction by the Principal's Representative, Validation Consultant or Accredited Site Auditor in connection with the Document, will:

(i) constitute a direction to carry out a Variation pursuant to clause 6.2, unless it is in a written document titled "Variation Order" and describes the nature of the Variation in accordance with clause 6.2(a);

(ii) relieve the Contractor from or alter its liabilities or obligations, whether under this Contract or otherwise according to any Law; or

(iii) limit or otherwise affect the Principal's rights against the Contractor, whether under this Contract or otherwise according to any Law.

(j) In considering any Document, the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor may consult with and take into account any views or requirements of any relevant Authority.

(k) Unless otherwise advised by the Principal's Representative and, if required, the Validation Consultant or Accredited Site Auditor, the Contractor must submit the

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number of copies of a Document stated in this Contract, or if no number is stated then:

(i) an electronic version on CD (in both pdf and native formats), which must be virus free;

(ii) 1 printed original; and

(iii) 3 printed copies (2 bound and 1 unbound).

9.9 Work Method

Whether or not this Contract prescribes a particular work method or a work method is otherwise a part of this Contract or reviewed or approved (expressly or impliedly) by the Principal's Representative and, if required, the Validation Consultant, the fact that any work method that the Contractor adopts or proposes to adopt is impractical or impossible or that the Contractor, with or without the approval of the Principal's Representative and, if required, the , uses another work method will:

(a) not entitle the Contractor to make any Claim against the Principal arising out of or in any way in connection with the work method proving to be impractical or impossible or any change in the work method; and

(b) not cause the Contract to be frustrated.

9.10 Exchange of Information between Government Agencies

The Contractor authorises the Principal, its employees and agents to make information concerning the Contractor (including any information provided under clause 9.11) available to NSW government departments or agencies. Such information may include, but need not be limited to, any information provided by the Contractor to the Principal and any information relating to the Contractor's performance under this Contract.

The Contractor acknowledges that any information about the Contractor from any source, including but not limited to substantiated reports of unsatisfactory performance, may be taken into account by the Principal and NSW government departments and agencies in considering whether to offer the Contractor future opportunities for NSW government work.

The Contractor also acknowledges that the Principal has in place processes for assessing the performance of its contractors, that these processes will apply to the Contractor’s performance under this Contract and that it will participate in the Principal’s "Contractor Performance Reporting" process.

9.11 Change in Control

(a) Subject to the terms of this clause 9.11, the Contractor must ensure that there is no Change in Control of any entity that comprises the Contractor without the prior written consent of the Principal (which must not be unreasonably withheld).

(b) The Contractor must notify the Principal in writing of any Change in Control of any entity that comprises the Contractor, and provide:

(i) full details of the Change in Control, including the acquisition of voting power, the change in equity interests or any other event which will cause or constitute the Change in Control; and

(ii) all other information necessary for the Principal to determine whether to exercise its rights under clauses 9.11(d) and 9.11(e) , in relation to the Change in Control of the relevant entity that comprises the Contractor.

(c) The Principal's approval is not required for a Change in Control arising from:

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(i) a transfer of any share or unit or other interest in the nature of equity which is listed on a recognised stock exchange; or

(ii) any transfer of a share or unit or other interest in the nature of equity by a person to a Related Body Corporate of that person, provided the Contractor gives the Principal prior written notice of the transfer.

(d) The Principal will be deemed to be acting reasonably if it withholds its approval to a Change in Control of an entity that comprises the Contractor where the Principal is of the reasonable opinion that:

(iii) the person or entity which will exercise Control of the Contractor or the relevant entity that comprises the Contractor:

A. is not solvent and reputable;

B. has an interest or duty which conflicts in a material way with the interests of the Principal; or

C. is involved in a business or activity which is incompatible, or inappropriate, in relation to Sydney Metro; or

(iv) as a result of the Change in Control, the Contractor will no longer:

A. have sufficient expertise and ability; or

B. be of sufficiently high financial and commercial standing,

to properly carry out the obligations of the Contractor under this Contract.

(e) If a Change in Control of any entity that comprises the Contractor occurs without the permission of the Principal (other than a Change in Control permitted under clause 9.11(c)), the Contractor acknowledges that the Principal may terminate this Contract by notice in writing to the Contractor.

(f) The Principal's approval of a Change in Control of any entity that comprises the Contractor will not relieve the Contractor of any of its obligations under this Contract.

9.12 Employment of Aboriginal and Torres Strait Islander People

The Contractor must:

(a) comply with the requirements of the NSW Government Aboriginal Procurement Policy (January 2021) (**"APP Policy"**);

(b) comply with the Aboriginal Participation Plan;

(c) not amend the Aboriginal Participation Plan unless the Contractor submits the proposed amendments to the Principal's Representative in which case the provisions of clause 9.8 will apply to the proposed amendments;

(d) comply with the reporting requirements of the APP Policy;

(e) as part of the human resources input to and the documentation and implementation of the Contract Management Plan, address the employment of Aboriginal and Torres Strait Islander people and compliance with the APP Policy; and

(f) provide a final Aboriginal Participation Report to the Principal's Representative at the completion of the Works, identifying if Aboriginal participation requirements

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were met and following approval by the Principal, submit the report through the APIC reporting portal.

9.13 Waste Reduction and Purchasing Policy

The Contractor must:

(a) use its best endeavours to reduce wastage and increase the use of recycled materials in accordance with the GREP;

(b) address as part of the Construction Environment Management Plan the measures to be taken to reduce wastage and increase the use of recycled materials in the areas of paper products, office consumables, vegetation and landscaping materials, and construction and demolition materials; and

(c) provide reports to the Principal's Representative in such format and within such times as may be required by the Principal's Representative for the use by the Principal in complying with its GREP obligations to report performance.

9.14 Not used

9.15 National Greenhouse and Energy Reporting Act 2007 (Cth)

The Contractor acknowledges and agrees that:

(a) if any of the Contractor's Activities, or the activities of any of the Contractor's personnel, in connection with the Contractor's Activities (the **"Relevant Matters"**) constitute a "facility" within the meaning of the NGER Legislation, then, for the purposes of the NGER Legislation, the Contractor has operational control of that facility and will comply with any obligations arising in respect of the Principal's activities under the NGER Legislation;

(b) if, despite the operation of clause 9.15(a), the Principal incurs, or (but for this clause) would incur, a liability under or in connection with the NGER Legislation as a result of or in connection with any of the Relevant Matters, and the NGER Legislation provides that such liability can be transferred by the Principal or the NSW Government or any of its agencies to the Contractor, the Contractor must, on the written request of the Principal, do all things reasonably necessary to ensure the liability is transferred to the Contractor;

(c) if the Principal requests it, the Contractor must provide Greenhouse Data to the Principal:

(i) to the extent that, in a manner and form that, and at times that, will enable the Principal to comply with the NGER Legislation irrespective of whether the Principal or the Contractor or any other person has an obligation to comply with the NGER Legislation in connection with any Relevant Matters; and

(ii) otherwise as requested by the Principal from time to time;

(d) the Contractor must also provide to the Principal all Greenhouse Data and other information which the Contractor provides to any other person under the NGER Legislation in connection with any Relevant Matters, at the same time as the Contractor provides that Greenhouse Data or other information to that other person;

(e) the Contractor must:

(i) collect and record all such Greenhouse Data as may be required to enable reporting under the NGER Legislation or enable the Contractor to discharge its obligations under this clause 9.15, and keep that

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Greenhouse Data for at least 7 years after the end of the year in which the Relevant Matters occur; and

(ii) permit any persons appointed or authorised by the Principal to examine, monitor, measure, copy, audit and/or verify the Greenhouse Data and co-operate with and provide all reasonable assistance to any such persons (including by doing such things as giving access to premises, plant and equipment, producing and giving access to documents and answering any relevant questions);

(f) the Principal may provide or otherwise disclose the Greenhouse Data and any other information which the Principal obtains under this clause 9.15 to any other person, and may otherwise use the Greenhouse Data and other information for any purpose as the Principal sees fit; and

(g) nothing in this clause 9.15 is to be taken as meaning that the Principal has agreed to perform any statutory obligation that the Contractor may have regarding the provision of Greenhouse Data to any Authority.

10. Time and Progress

10.1 Rate of Progress

The Contractor must:

(a) immediately commence, and thereafter regularly and diligently progress the Contractor's Activities;

(b) proceed with the Contractor's Activities with due expedition and without delay; and

(c) achieve Completion of the Works and each Portion by the relevant Date for Completion.

Without limiting the Contractor's rights under the SOP Act, the Contractor must not suspend the progress of the whole or any part of Contractor's Activities except where directed by the Principal's Representative under clause 10.14.

Without limiting the next paragraphs of this clause 10.1 or clause 10.4, the Contractor must give the Principal's Representative reasonable advance notice of any information, documents or directions required by the Contractor to carry out the Contractor's Activities in accordance with this Contract.

The Principal and the Principal's Representative will not be obliged to furnish information, documents or directions earlier than the Principal or the Principal's Representative, as the case may be, should reasonably have anticipated at the date of this Contract.

The Principal's Representative may, by written notice expressly stated to be pursuant to this clause 10.1, direct in what order and at what time the various stages or parts of the Contractor's Activities must be performed. If the Contractor can reasonably comply with the direction, the Contractor must do so. If the Contractor cannot reasonably comply, the Contractor must notify the Principal's Representative in writing, giving reasons. For the avoidance of doubt, no direction by the Principal's Representative will constitute a direction under this clause 10.1 unless the direction is in writing and expressly states that it is a direction under this clause 10.1.

If compliance with a written direction expressly stated to be pursuant to this clause 10.1 causes the Contractor to necessarily incur more or less cost than otherwise would have been incurred, the difference will be dealt with and valued as if it were a Variation except where the direction was necessary because of, or arose out of or in any way in connection with, a failure by the Contractor to comply with its obligations under this Contract.

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Such costs shall be the Contractor's sole entitlement, and the Contractor will not be entitled to make, and the Principal will not be liable upon, any other Claim, arising out of or in any way in connection with any direction pursuant to this clause 10.1.

10.2 The Contractor's Programming Obligations

The Contractor must:

(a) prepare and provide a Contractor's Program that complies with and includes the details required by this Contract and any requirements of the Principal's Representative;

(b) submit the Contractor's Program to the Principal's Representative for its review in accordance with clause 9.8 within the earlier of:

(i) 10 Business Days of the date of this Contract; or

(ii) any time required by the Works Brief;

(c) when directed to do so by the Principal's Representative, prepare and submit to the Principal's Representative specific detailed programs and schedules for the Contractor's Activities within 5 Business Days of receipt of such a direction;

(d) update, revise and submit to the Principal’s Representative an updated Contractor's Program:

(i) to allow for delays to non-critical activities, extensions of time granted by the Principal's Representative to any Date for Completion, the actual progress made by the Contractor, Variations and any other changes to the Contractor's Activities but excluding claims for extensions of time to any Date for Completion which have been submitted by the Contractor to the extent that they have not been granted by the Principal’s Representative; and

(ii) on a monthly basis or whenever directed to do so by the Principal's Representative;

(e) prepare and provide for the Principal’s Representative’s information only versions of all Contractor's Programs prepared in accordance with clause 10.2(d) that also allow for those claims for an extension of time to any Date for Completion that have been made by the Contractor in accordance with clause 10.7(a) but to which the Principal's Representative has not yet responded in accordance with clause 10.10;

(f) comply with the requirements of the Principal's Representative and its other obligations under this Contract in preparing and using programs, including the requirements in clause 9.8; and

(g) not depart from the current version of the Contractor's Program that has been submitted to the Principal's Representative for review under clause 9.8 and not been rejected by the Principal's Representative within 15 Business Days.

10.3 Contractor not Relieved

Without limiting clause 9.8, no submission of, review of or comment upon, acceptance or rejection of, or any failure to review or comment upon or reject, a program (including the Contractor's Program) prepared by the Contractor, by the Principal's Representative in connection with the program, will:

(a) relieve the Contractor from or alter its liabilities or obligations under this Contract, including the obligation under clause 10.1;

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(b) evidence or constitute notification of a delay or the claiming of or the granting of an extension of time to any Date for Completion or a direction by the Principal's Representative to compress, disrupt, prolong or vary any, or all, of the Contractor's Activities; or

(c) affect the time for the performance of the Principal's or the Principal's Representative's obligations under this Contract.

10.4 Compression by Contractor

If the Contractor chooses to compress the Contractor's Activities or otherwise accelerate progress:

(a) neither the Principal nor the Principal's Representative will be obliged to take any action to assist or enable the Contractor to achieve Completion before any Date for Completion;

(b) the time for carrying out the obligations of the Principal or the Principal's Representative will not be affected; and

(c) the Contractor does so at its own cost and risk.

10.5 Importance of Completion on Time

The Contractor acknowledges:

(a) the importance of complying with its obligations under clause 10.1; and

(b) that a Date for Completion will only be extended in accordance with clause 10.10 or clause 10.12, or when so determined under clause 16.

10.6 Risk and Notice of Delay

(a) Except as expressly provided for in clause 10.10, the Contractor accepts the risk of all delays in, and disruption to, the carrying out of the Contractor's Activities and performance of its obligations under this Contract both before and after any Date for Completion.

(b) The Contractor must within 5 days of the commencement of an occurrence causing any delay or which is likely to cause delay, give the Principal's Representative written notice of any delay or likely delay to the carrying out of the Contractor's Activities, details of the cause and how any Date of Completion is likely to be affected (if at all).

10.7 Entitlement to Claim Extension of Time

(a) If the Contractor is, or will be, delayed on or prior to the Date for Completion of the Works or a Portion, by reason of:

(i) an act or omission of the Principal or the Principal's Representative (including any breach of this Contract or Variation directed by the Principal's Representative); or

(ii) a cause set out in Schedule 1,

the Contractor may claim an extension of time to the relevant Date for Completion.

(b) If the Contractor is, or will be, delayed after the Date for Completion of the Works or a Portion, by reason of an act or omission of the Principal or the Principal's Representative (including any breach of this Contract or Variation directed by the

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Principal's Representative), the Contractor may claim an extension of time to the relevant Date for Completion.

10.8 Claim for Extension of Time

To claim an extension of time the Contractor must:

(a) within 14 days of the commencement of the occurrence causing the delay, submit a written claim to the Principal's Representative for an extension of time to the relevant Date for Completion, which:

(i) gives detailed particulars of the:

A. delay and the occurrence causing the delay; and

B. activities that are critical to the maintenance of progress in the execution of the Contractor's Activities; and

(ii) states the number of days for which the extension of time is claimed together with the basis of calculating that period, including evidence that the:

A. conditions precedent to an extension of time in clause 10.9 have been met; and

B. occurrence will delay it in achieving Completion in the manner described in clause 10.7; and

(b) if the effects of the delay continue beyond the period of 14 days after the commencement of the occurrence causing the delay and the Contractor wishes to claim an extension of time in respect of the further delay, submit a further written claim to the Principal's Representative:

(i) every 14 days after the first written claim, or such other period as may be approved by the Principal’s Representative in writing, until after the end of the effects of the delay; and

(ii) containing the information required by paragraph (a).

The Principal's Representative may, within 14 days of receiving the Contractor's claim or further claim for an extension of time for Completion, by written notice to the Contractor, request additional information in relation to the claim or further claim.
The Contractor must, within 14 days of receiving such request, provide the Principal's Representative with the information requested.

10.9 Conditions Precedent to Extension of Time

It is a condition precedent to the Contractor's entitlement to an extension of time to any relevant Date for Completion that:

(a) the Contractor gives the notices and claims required by clauses 10.6(b) and 10.8 as required by those clauses;

(b) the Contractor complies with any request for additional information under clause 10.8 within the time required;

(c) the cause of the delay is beyond the reasonable control of the Contractor; and

(d) the Contractor is actually, or will be, delayed:

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(i) on or prior to the Date for Completion of the Works or the Portion, by reason of one or more of the causes set out in clause 10.7(a) in the manner described in clause 10.7(a); or

(ii) after the Date for Completion of the Works or the Portion, by reason of an act or omission of the Principal or the Principal's Representative (including any breach of this Contract or Variation directed by the Principal's Representative) in the manner described in clause 10.7(b).

If the Contractor fails to comply with the conditions precedent in this clause 10.9:

(e) the Principal will not be liable upon any Claim by the Contractor; and

(f) the Contractor will be absolutely barred from making any Claim against the Principal,

arising out of or in any way in connection with the event giving rise to the delay and the delay involved.

10.10 Extension of Time

Subject to clause 10.11, if the conditions precedent in clause 10.9 have been satisfied, the relevant Date for Completion will be extended by a reasonable period determined by the Principal's Representative, and notified to the Principal and the Contractor within 28 days after the latest of the:

(a) Contractor's written claim under clause 10.8; and

(b) provision by the Contractor of any additional information regarding the claim required under clause 10.8.

A failure of the Principal's Representative to grant a reasonable extension of time to any Date for Completion or to grant an extension of time to any Date for Completion within the relevant 28 day period will not cause an affected Date for Completion to be set at large, but nothing in this paragraph will prejudice any right of the Contractor to damages.

10.11 Reduction in Extension of Time

The Principal's Representative will reduce any extension of time to the relevant Date for Completion it would otherwise have determined under clause 10.10 to the extent that the Contractor:

(a) contributed to the delay; or

(b) failed to take all reasonably practicable steps necessary both to preclude the cause of the delay and to avoid or minimise the consequences of the delay.

10.12 Unilateral Extensions

Whether or not the Contractor has made, or is entitled to make, a claim for an extension of time to any relevant Date for Completion, or is entitled to be, or has been, granted an extension of time to any relevant Date for Completion, under clause 10.10, the Principal's Representative may, in its absolute discretion, for any reason and at any time, from time to time by written notice to the Contractor and the Principal, unilaterally extend any Date for Completion by any period specified in a notice to the Contractor and the Principal.

The Principal's Representative is not required to exercise its discretion under this clause 10.12 for the benefit of the Contractor.

The discretion to grant an extension of time under this clause 10.12 may only be exercised by the Principal's Representative and the exercise or failure to exercise that discretion is not a "direction" which can be the subject of a Dispute pursuant to clause 16 or in any other way

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opened up, reviewed or exercised by any other person in any forum (including in any expert, arbitration or litigation proceedings).

10.13 Delay Damages

For each day by which the Date for Completion of the Works or a Portion is extended due to:

(a) a breach of this Contract by the Principal; and

(b) a Variation the subject of a direction by the Principal's Representative under clause 6.2, except where that Variation is directed in the circumstances described in clause 8.2(c),

the Contractor will be entitled to be paid the additional actual costs reasonably and necessarily incurred by the Contractor as a direct result of the delay the subject of the extension of time with no margin or Contractor labour and (as determined by the Principal's Representative) up to but not exceeding the maximum daily amount set out in Schedule 1 provided that the Contractor provides evidence of such costs and the Contractor demonstrates that any relevant resources cannot be redeployed or utilised for other parts of the Contractor's Activities which are not affected by an event under this clause 10.13.

The valuation of entitlements to money under clauses 3.5(c), 10.1 and 14.3 is not a Variation for the purposes of clause 10.13(b).

The amounts payable pursuant to this clause 10.13 will be a limitation upon the Principal's liability to the Contractor for any delay or disruption that:

(c) the Contractor encounters in carrying out the Contractor's Activities; and

(d) arises out of, or in any way in connection with, the breach of this Contract by the Principal,

and the Contractor will not be entitled to make, nor will the Principal be liable upon, any Claim in these circumstances other than for the amount which is payable by the Principal under this clause 10.13.

10.14 Suspension

The Principal's Representative may direct the Contractor to suspend and, after a suspension has been directed, to re-commence, the carrying out of all or a part of the Contractor's Activities. Nothing in this clause limits the Principal's rights under clause 2.10.

If the suspension under this clause 10.14 arises in the circumstance set out in clause 2.10(f) then clauses 2.10(f) and 2.10(g) will apply, otherwise where it arises as a result of:

(a) the Contractor's failure to carry out its obligations in accordance with this Contract (including where any process, procedure, test method, calculation, analysis or report required by this Contract has resulted in or will result in a non-conformance), the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, the suspension; or

(b) a cause other than the Contractor's failure to perform its obligations in accordance with this Contract:

(i) a direction to suspend under this clause 10.14 will entitle the Contractor to:

A. be paid by the Principal the additional costs reasonably and necessarily incurred by it as a direct result of the suspension as determined by the Principal's Representative; and

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B. an extension of time to any relevant Date for Completion where it is otherwise so entitled under this clause 10;

(ii) the Contractor must take all steps possible to mitigate the additional costs incurred by it as a result of the suspension; and

(iii) the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, the suspension other than as allowed under this clause 10.14(b).

10.15 Acceleration directed by the Principal's Representative

(a) The Principal's Representative may request the Contractor at any time to price a proposed direction to accelerate, giving the Contractor details of the proposed acceleration with the request.

(b) Within 5 Business Days of receiving a request from the Principal's Representative under clause 10.15(a), the Contractor must, at its cost, provide the Principal's Representative with a written notice containing the following details:

(i) the Contractor's strategy for acceleration ("**Acceleration Strategy**"), including details of the changes to the Contractor's Activities and effect on the Contractor's Program; and

(ii) the Contractor's estimated cost of accelerating the Contractor's Activities as proposed, together with a detailed breakdown of the estimated cost ("**Acceleration Cost Estimate**").

(c) The Principal's Representative may by written notice expressly stated to be pursuant to this clause 10.15(c):

(i) accept the Acceleration Strategy and the Acceleration Cost Estimate and direct the Contractor to proceed with the acceleration in accordance with the Acceleration Strategy and the Acceleration Cost Estimate;

(ii) accept the Acceleration Strategy but not the Acceleration Cost Estimate and direct the Contractor to proceed with the acceleration in accordance with the Acceleration Strategy;

(iii) notify the Contractor of any modifications which it requires to be made to the Acceleration Strategy, in which case the procedures under clauses 10.15(a) to 10.15(c) are to be performed again, taking account of the modifications notified; or

(iv) not proceed with the acceleration.

(d) If the Principal's Representative gives a direction to the Contractor to accelerate under clause 10.15(c)(i) or 10.15(c)(ii) then:

(i) the Contractor must accelerate the performance of the Contractor's obligations under the Contract to the degree which the direction requires and in accordance with any Acceleration Strategy as accepted by the Principal's Representative;

(ii) the Contractor must provide an updated Contractor's Program within the time directed by the Principal's Representative detailing the period which will elapse between the date on which the acceleration of the Contractor's Activities commences and the revised Date for Completion;

(iii) to the extent that the Contractor, but for the direction, would have been entitled to an extension of time to the Date for Completion, the Contractor will:

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A. be entitled to be paid:

1) the Acceleration Cost Estimate if accepted, or such other price as the Principal's Representative and the Contractor have otherwise agreed; or

2) where an Acceleration Cost Estimate has not been accepted and the parties have not agreed another price for the acceleration, then the direct, reasonable, proven and necessarily incurred costs in accelerating the performance of its obligations under the Contract as required by the Principal's Representative's direction (such costs to be determined by the Principal's Representative), but otherwise will not be entitled to any payment nor to any relief from any of its obligations under the Contract; and

B. not be entitled to an extension of time to the Date for Completion for the period to which the acceleration relates; and

(iii) if the direction to accelerate is given to overcome delay for which the Contractor is not entitled to an extension of time, the Contractor must comply with the direction to accelerate at its own cost; and

(iv) if neither clause 10.15(d)(iii) or 1.1(a)(iii) applies, the Contractor will be entitled to be paid:

A. the Acceleration Cost Estimate if accepted, or such other price as the Principal's Representative and the Contractor have otherwise agreed; or

B. where an Acceleration Cost Estimate has not been accepted and the parties have not agreed another price for the acceleration, then the direct, reasonable, proven and necessarily incurred costs in accelerating the performance of its obligations under the Contract as required by the Principal's Representative's direction (such costs to be determined by the Principal's Representative), but otherwise will not be entitled to any payment nor to any relief from any of its obligations under the Contract.

(e) Any costs payable under any of clauses 10.15(d)(iii) or 1.1(a)(iv) shall be the Contractor's sole entitlement, and the Contractor will not be entitled to make, and the Principal will not be liable upon, any other Claim arising out of or in any way in connection with any direction pursuant to this clause 10.15.

11. Payment

11.1 Contractor's Payment Entitlements

(a) Subject to clause 17.12 and to any other right to set-off that the Principal may have, the Principal must pay the Contractor the Contract Sum and any other amounts expressly payable by the Principal to the Contractor under this Contract, in accordance with the procedure in this clause 11.

(b) The Contract Sum is not subject to rise and fall.

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11.2 Payment Claims

The Contractor may give the Principal's Representative a claim for payment on account of the Contract Sum and any other amount expressly payable by the Principal to the Contractor under the Contract on each Payment Claim Date.

Each claim for payment must:

(a) generally follow the form of the Payment Breakdown Schedule and otherwise be in such form as the Principal's Representative reasonably requires;

(b) include all the evidence reasonably required by the Principal's Representative of the amount of work completed in accordance with this Contract and the amount payable;

(c) for each monthly claim pursuant to clause 11.2 (a **"Progress Claim"**), set out the amount claimed for work completed in accordance with the Contract and incorporated in the Works or to which clause 11.7 applies, to the end of the previous month and details of how the amount has been calculated;

(d) include all information required by Schedule 24; and

(e) include such further information and evidence in respect of the payment claim as is reasonably required by the Principal's Representative.

The Contractor may not include in any payment claim under this clause 11 any amount:

(f) for the provision of Asset Management Information until all of the information has been submitted to the Principal in accordance with the Contract and to the satisfaction of the Principal; or

(g) in respect of a Claim which is barred by clause 18.6 or any other provision of this Contract.

11.3 Payment Statements

The Principal's Representative must (on behalf of the Principal), within 10 Business Days of receiving a Progress Claim which complies with the requirements of clause 11.2, a Completion Payment Claim under clause 11.9 or a Final Payment Claim under clause 11.11, issue to the Contractor and the Principal a payment statement which, identifies the Progress Claim, Completion Payment Claim or Final Payment Claim to which it relates, and which sets out:

(a) its determination of the value of the Contractor's Activities carried out in accordance with this Contract, using the methodology in clause 11.2(c) where the payment statement relates to a Progress Claim;

(b) the amount already paid to the Contractor;

(c) the amount the Principal is entitled to retain, deduct, withhold or set-off under this Contract;

(d) the amount (if any) which the Principal's Representative believes to be then payable by the Principal to the Contractor on account of the Contract Sum and which the Principal proposes to pay to the Contractor or the amount which the Principal's Representative believes to be then payable by the Contractor to the Principal; and

(e) if the amount in paragraph (d) is less than the amount claimed in the Progress Claim, Completion Payment Claim or Final Payment Claim:

    (i) the reason why the amount in paragraph (d) is less than the amount claimed in the relevant Progress Claim, Completion Payment Claim or Final Payment Claim; and

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(ii) if the reason for the difference is that the Principal proposes to retain, deduct, withhold or set-off payment for any reason, the reason for the Principal retaining, deducting, withholding or setting-off payment.

The issue of a payment statement by the Principal's Representative does not constitute approval of any work nor will it be taken as an admission or evidence that the part of the Works or Contractor's Activities covered by the payment statement has been satisfactorily carried out in accordance with this Contract.

Failure by the Principal's Representative to set out in a payment statement an amount, or the correct amount, which the Principal is entitled to retain, deduct, withhold or set-off from the amount which would otherwise be payable to the Contractor by the Principal will not prejudice the Principal's right to subsequently exercise its right to retain, deduct, withhold or set-off any amount under this Contract.

The Contractor agrees that the amount referred to in the payment statement in respect of paragraph (d) above for the purposes of section 9 and 10 of the SOP Act, is the amount of the "progress payment" (as defined in the SOP Act) calculated in accordance with the terms of this Contract to which the Contractor is entitled in respect of this Contract.

Where the Principal has notified the Contractor in accordance with clause 19(f)(iv) that it no longer proposes to issue a recipient created tax invoice for a taxable supply made by the Contractor for the Principal, the Contractor must, within 2 Business Days after receipt of the payment statement issued by the Principal’s Representative give the Principal’s Representative a tax invoice (which complies with the GST Legislation) for the amount of the payment statement.

11.4 Payment

(a) Where, pursuant to clause 11.3(d), the Principal's Representative sets out in a payment statement an amount payable by the Principal to the Contractor, subject to clauses 11.1, 11.2, 11.6, 11.8, 15.3, 15.7(a) and 17.12, the Principal must, within 15 Business Days of receipt of the payment claim to which the payment statement relates pay the Contractor the amount set out in the payment statement referred to in clause 11.3.

(b) Where, pursuant to clause 11.3(d), the Principal's Representative sets out in a payment statement an amount payable by the Contractor to the Principal, the Contractor must, within 5 Business Days of the Principal's Representative issuing the payment statement under clause 11.3, pay the Principal the amount set out in the payment statement referred to in clause 11.3.

11.5 Payment on Account

A payment of moneys under clause 11.4(a) is not:

(a) an admission or evidence of the value of work or that work has been satisfactorily carried out in accordance with this Contract;

(b) an admission of liability; or

(c) approval by the Principal or the Principal's Representative of the Contractor's performance or compliance with this Contract,

but is only to be taken as payment on account.

11.6 Payment Claim Requirements

Prior to making a payment claim under clause 11.2, the Contractor must have:

(a) complied with clause 1.5;

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(b) provided the Principal with the unconditional undertakings and the Parent Company Guarantee (if any) required under clause 2.7;

(c) provided the Principal's Representative with:

(i) a statutory declaration by the Contractor, or where the Contractor is a corporation, by a representative of the Contractor who is in a position to know the facts attested to, in the form of Schedule 12, made out not earlier than the date of the payment claim;

(ii) a Contractor's Certificate of Design Compliance and a Contractor's Certificate of Construction Compliance, in the form of Schedule 19 and Schedule 20; and

(iii) where clause 11.16(j) applies, the statement and the evidence (if any) required to be provided by the Contractor pursuant to that clause; and

(d) effected or procured to be effected the insurances required to be effected by the Contractor by clauses 14.4, 14.5 and 14.6 and (if requested) provided evidence of this to the Principal's Representative.

11.7 Unfixed Plant and Materials

The Contractor is only entitled to make a claim for payment for plant or materials intended for incorporation in the Works but not yet incorporated, and the Principal is only obliged to make payment for such plant or materials in accordance with clause 11.4(a) if so agreed by the Principal and if:

(a) the Contractor provides evidence of:

(i) ownership of the plant or materials;

(ii) identification and labelling of the plant and materials as the property of the Principal; and

(iii) adequate and secure storage and protection;

(b) security acceptable to the Principal in the form of the unconditional undertaking in Schedule 8 issued by an Institution approved by the Principal in an amount equal to the payment claimed for the unfixed plant and materials has been provided by the Contractor to the Principal;

(c) the plant and materials are on the Site or are available for immediate delivery to the Site;

(d) the insurance held and the storage arrangements for the unfixed plant and materials are acceptable to the Principal's Representative;

(e) the condition of the unfixed plant and materials has been confirmed in an inspection by the Principal's Representative; and

(f) if the PPS Law applies, the Contractor has registered a Security Interest in the unfixed plant and materials in favour of the Principal in accordance with clause 17.26.

The only such unfixed plant or materials to be allowed for in a payment statement are those that have become or (on payment) will become the property of the Principal. Upon a payment against a payment statement that includes amounts for unfixed plant and materials, title to the unfixed plant and materials included will vest in the Principal.

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The security provided in accordance with clause 11.7(b) will be released once the applicable unfixed plant and materials are incorporated into the Works and are fit for their intended purpose.

11.8 Payment of Employees and Subcontractors

(a) When submitting any Progress Claim, Completion Payment Claim or Final Payment Claim, the Contractor must give the Principal's Representative a statutory declaration in accordance with clause 11.6(c)(i).

(b) If any moneys are shown as unpaid in the Contractor's statutory declaration under clause 11.6(c)(i), the Principal may withhold the moneys so shown until the Contractor provides evidence to the satisfaction of the Principal's Representative that the moneys have been paid to the relevant persons.

(c) If an employee or a Subcontractor obtains a court order in respect of the moneys payable to him, her or it in respect of his, her or its employment on, materials supplied for, or work performed with respect to, the Contractor's Activities, and produces to the Principal the court order and a statutory declaration that it remains unpaid, the Principal may (but is not obliged to) pay the amount of the order and costs included in the order to the employee or Subcontractor, and the amount paid will be a debt due from the Contractor to the Principal.

(d) If the Principal receives notice of any Insolvency Event in relation to the Contractor the Principal will not make any payment to an employee or Subcontractor without the concurrence of the administrator, provisional liquidator, liquidator, trustee or official receiver, as the case may be, of the Contractor.

(e) Nothing in this clause 11.8 limits or otherwise affects the Principal's right under section 175B(7) of the *Workers Compensation Act 1987* (NSW), section 18(6) of schedule 2 of the *Payroll Tax Act 2007* (NSW) or section 127(5) of the *Industrial Relations Act 1996* (NSW).

11.9 Completion Payment Claim

No later than 28 days after the issue of the Notice of Completion for the Works or the last Portion to reach Completion, but subject to clause 11.6 the Contractor may lodge with the Principal's Representative a payment claim marked "Completion Payment Claim" stating;

(a) the Contract Sum;

(b) all payments received on account of the Contract Sum; and

(c) the balance, if any, due to the Contractor.

The Completion Payment Claim must be accompanied by such information as the Principal's Representative may reasonably require.

With the Completion Payment Claim the Contractor must lodge with the Principal's Representative a First Statement of Outstanding Claims. The First Statement of Outstanding Claims must identify all Claims that the Contractor wishes to make against the Principal in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract which occurred prior to the date of submission of the Completion Payment Claim.

The Completion Payment Claim and First Statement of Outstanding Claims must address all facts, matters or things arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract up to the date of submission of the Completion Payment Claim in respect of all Claims included in the Completion Payment Claim and First Statement of Outstanding Claims.

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11.10 Release after Completion Payment Claim

The Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract that occurred prior to the date of submission of the Completion Payment Claim, except for any Claim which:

(a) has been included in the Completion Payment Claim or First Statement of Outstanding Claims which is given to the Principal's Representative within the time required by, and in accordance with clause 11.9; and

(b) has not been barred under another provision of this Contract.

11.11 Final Payment Claim

No later than 28 days after the expiration of the last Defects Rectification Period, but subject to clause 11.6 the Contractor may lodge with the Principal's Representative a payment claim marked "Final Payment Claim" stating:

(a) the Contract Sum;

(b) all payments received on account of the Contract Sum; and

(c) the balance, if any, due to the Contractor.

The Final Payment Claim must be accompanied by such information as the Principal's Representative may reasonably require.

With the Final Payment Claim the Contractor must lodge with the Principal's Representative a Second Statement of Outstanding Claims. The Second Statement of Outstanding Claims must identify all Claims that the Contractor wishes to make against the Principal in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract which occurred prior to the date of submission of the Final Payment Claim.

The Final Payment Claim and Second Statement of Outstanding Claims must address all such facts, matters or things arising out of or in any way in connection with the Contractor's Activities the Works or this Contract up to the date of submission of the Final Payment Claim in respect of all Claims included in the Final Payment Claim and Second Statement of Outstanding Claims.

11.12 Release after Final Payment Claim

The Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract that occurred prior to the date of submission of the Final Payment Claim, except for any Claim which:

(a) has been included in the Final Payment Claim or Second Statement of Outstanding Claims which is given to the Principal's Representative within the time required by, and in accordance with, clause 11.11; and

(b) has not been barred under another provision of this Contract.

11.13 Interest

If any moneys due to either party remain unpaid after the date upon which, or the expiration of the period within which, they should have been paid, then interest will be payable thereon from but excluding the date upon which, or the date at the end of the expiration of the period within which, they should have been paid to and including the date upon which the moneys are paid.

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The rate of interest will be the rate from time to time prescribed for judgement debts under the *Uniform Civil Procedure Rules 2005* (NSW). Interest will be compounded at six monthly intervals.

This will be the party's sole entitlement to interest, including damages for loss of use of, or the cost of borrowing, money.

11.14 Correction of Payment Statements

The Principal's Representative may, in any payment statement:

(a) correct any error; and

(b) modify any assumptions or allowances made,

in any previous payment statement issued by the Principal's Representative.

11.15 Costs Allowed by Contractor

Unless otherwise provided in this Contract, it is agreed that the Contractor has, and will be deemed to have, allowed in the Original Contract Price for and will be wholly responsible for the payment of:

(a) without limiting clause 19, all customs duties, tariffs and similar taxes (other than GST) and charges paid or payable on all items that are:

(i) intended to be used for, or that are to be incorporated into, the Works; or

(ii) otherwise used for the Contractor's Activities;

(b) any long service leave levy which may be payable in respect of the Contractor's Activities or the Works;

(c) all royalties, licence fees and similar payments for Intellectual Property in respect of:

(i) the items that are intended to be used for, or that are to be incorporated into, the Works; and

(ii) all Contract Documentation; and

(d) all fluctuations in the value of the Australian dollar against other currencies.

The Contractor will have no entitlement to any increase in the Contract Sum or otherwise to make any Claim against the Principal in respect of any of those amounts, whatever they may actually be.

11.16 SOP Act

(a) The Contractor must ensure that a copy of any written communication it delivers to the Principal of whatever nature in relation to the SOP Act, including a payment claim under the SOP Act, is provided to the Principal’s Representative at the same time.

(b) In responding to the Contractor under the SOP Act, the Principal’s Representative acts as the agent of the Principal and the Principal authorises the Principal’s Representative to issue payment schedules on its behalf (without affecting the Principal’s right to issue a payment schedule itself).

(c) If, within the time allowed by the SOP Act for the service of a payment schedule by the Principal, the Principal does not:

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(i) serve the payment schedule itself; or

(ii) notify the Contractor that the Principal's Representative does not have authority from the Principal to issue the payment schedule on its behalf,

then a payment schedule issued by the Principal's Representative under this Contract which relates to the period relevant to the payment schedule will be taken to be the payment schedule for the purpose of the SOP Act (whether or not it is expressly stated to be a payment schedule).

(d) If an adjudication occurs under the SOP Act and the Principal has paid an adjudicated amount to the Contractor:

(i) the amount will be taken into account by the Principal's Representative in issuing a payment schedule under clause 11.3;

(ii) if it is subsequently determined pursuant to the Contract that the Contractor was not entitled under the Contract to payment of some or all of the adjudicated amount that was paid by the Principal (**"overpayment"**), the overpayment will be a debt due and payable by the Contractor to the Principal which the Contractor must pay to the Principal upon demand and in respect of which the Contractor is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence; and

(iii) if the adjudicator's determination is quashed, overturned or declared to be void, any amount paid to the Contractor by the Principal pursuant to the adjudicator's determination then becomes a debt due and payable by the Contractor to the Principal upon demand and in respect of which the Contractor is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence.

(e) For the purposes of section 17(3) of the SOP Act the Contractor irrevocably chooses the Resolution Institute, as the "authorised nominating authority" (as that term is defined in the SOP Act) for any adjudication application it may make under the SOP Act in respect of the subject matter of this Contract.

(f) Without limiting clauses 11.8 or 17.12, the Principal may withhold any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act.

(g) If the Principal withholds from money otherwise due to the Contractor any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act, then:

(i) the Principal may plead and rely upon Division 2A of the SOP Act as a defence to any claim for the money by the Contractor from the Principal; and

(ii) the period during which the Principal retains money due to the Contractor pursuant to an obligation under Division 2A of the SOP Act will not be taken into account for the purpose of determining:

A. any period for which money owed by the Principal to the Contractor has been unpaid; and

B. the date by which payment of money owed by the Principal to the Contractor must be made.

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(h) The Contractor agrees not to commence proceedings to recover any amount withheld by the Principal pursuant to a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act.

(i) Any amount paid by the Principal pursuant to section 26C of the SOP Act will be a debt due from the Contractor to the Principal.

(j) If the Principal withholds money pursuant to a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act and the Contractor:

(i) pays the amount claimed to be due under the adjudication application to which the payment withholding claim relates; or

(ii) becomes aware that the adjudication application to which the payment withholding claim relates has been withdrawn,

then the Contractor must so notify the Principal within 5 days of the occurrence of the event in sub-paragraph (i) or (ii) above (as applicable) by providing to the Principal a statement in writing in the form of a statutory declaration together with such other evidence as the Principal may require evidencing that the amount has been paid or the adjudication application has been withdrawn (as the case may be).

11.17 Title

Title in each item forming part of the Works will pass progressively to the Principal on the earlier of payment for that item or delivery of that item to the Site. Risk in all such items remains with the Contractor until Completion.

12. Not used

13. Completion

13.1 Progressive Inspection and Testing

At any time prior to Final Completion and including at the times stated in Schedule 1, the Principal's Representative may direct that any materials or work forming part of the Contractor's Activities in respect of the Works or that Portion be tested. The Contractor must provide such assistance, documentation, records, personnel (including Subcontractors) and samples and make accessible such parts of the Contractor's Activities or Works as may be required. On completion of any test the Contractor must make good the Contractor's Activities or Works so that they fully comply with this Contract.

The Principal's Representative may direct that any part of the Contractor's Activities or the Works must not be covered up or made inaccessible without the Principal's Representative's prior approval.

The tests prescribed in this Contract must be conducted by the Contractor as and when provided for in this Contract, or may be conducted by the Principal's Representative or a person (that may include the Contractor) nominated by the Principal's Representative.

Any testing required to be done by an independent authority must be carried out by an authority recognised by the Joint Accreditation System of Australia and New Zealand.

Unless otherwise stated in this Contract before conducting a test under this Contract the Principal's Representative or the Contractor must give not less than two Business Days' notice in writing to the other of the time, date and place of the test. If the other party does not then attend, the test may nevertheless proceed.

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Without prejudice to any other rights or remedies under this Contract, if the Contractor or the Principal's Representative delays in conducting a test, the other, after giving reasonable notice in writing of intention to do so, may conduct the test.

Each party must promptly make the results of tests available to the other and to the Principal's Representative.

Where the Principal's Representative directs that materials or work be tested, the costs of and incidental to testing must be valued under clause 6.4 and must be borne by the Principal or paid by the Principal to the Contractor unless:

(a) this Contract provides that the Contractor must bear the costs or the test is one which the Contractor was required to conduct other than pursuant to a direction under clause 13.1;

(b) the test shows that the material or work is not in accordance with this Contract;

(c) the test is in respect of a part of the Contractor's Activities or the Works covered up or made inaccessible without the Principal's Representative's prior approval where such was required; or

(d) the test is consequent upon a failure of the Contractor to comply with a requirement of this Contract.

Where the extra costs are not to be borne by the Principal, they will be borne by the Contractor and will be a debt due from the Contractor to the Principal or paid by the Contractor to the Principal on demand.

13.2 Contractor to Notify

(a) The Contractor must give the Principal's Representative written notice 21 days before it anticipates achieving Completion of the Works or a Portion.

(b) Following the issue by the Contractor of a notice under clause 13.2(a) the Contractor must:

(i) prepare a detailed procedure for the progressive inspection by the Principal's Representative of the Works or that Portion; and

(ii) unless otherwise required by the Principal's Representative, provide a draft defects management plan (without identifying any defects in respect of the Works or that Portion).

(c) The procedure and draft defects management plan referred to in clause 13.2(b) must be submitted to the Principal's Representative and, prior to the inspection under clause 13.3(a) must, if required by the Principal's Representative, be amended to ensure that the:

(i) procedure provides the Principal's Representative with sufficient time to properly carry out this progressive inspection and the final inspection which the Principal's Representative is required to undertake under clause 13.3 to determine whether Completion of the Works or a Portion (as the case may be) has occurred; and

(ii) draft defects management plan fully addresses the matters the Principal's Representative directs.

13.3 Inspection before Completion

(a) The Principal's Representative, the Contractor's Representative and the Validation Consultant must, within 7 days of receipt by the Principal's Representative of the notice referred to in clause 13.2(a), jointly inspect the Works or the Portion at a

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mutually convenient time. The Principal's Representative may invite any other person to attend an inspection under this clause 13.3(a) who may provide comments to the Principal's Representative in relation to any non-compliance of the Contractor's Activities or the Works with this Contract.

(b) Following the joint inspection under clause 13.3(a), the Principal's Representative must issue a notice to the Principal and the Contractor either:

(i) containing a list of the items that are apparent and it believes must be completed before Completion of the Works or the Portion is achieved; or

(ii) stating that it believes the Contractor is so far from achieving Completion of the Works or the Portion that it is not practicable to issue a list as contemplated in clause 13.3(b)(i).

(c) When the Principal's Representative issues a notice under either clause 13.3(b)(i) or clause 13.3(b)(ii), the Contractor must continue to proceed to bring the Works or the Portion to Completion and thereafter when the Contractor considers it has achieved Completion of the Works or the Portion, the Contractor must notify the Principal's Representative in writing by means of a Contractor’s Certificate of Completion in the form of Schedule 21.

Thereafter the Principal's Representative, the Contractor's Representative and the Validation Consultant must jointly inspect the Contractor's Activities at a mutually convenient time.

(d) Following the joint inspection under clause 13.3(c), the Principal's Representative must within 21 days of receipt of a notice under clause 13.3(c), or of receipt of a notice under clause 13.3(e), issue a notice to the Principal and the Contractor:

(i) if satisfied that Completion of the Works or the Portion has been achieved:

A. stating the date on which the Principal's Representative determines Completion of the Works or the Portion was achieved; and

B. containing a list of any minor Defects, of the type described in paragraph (a) of the definition of "Completion" in clause 1.1, that are apparent; or

(ii) if not satisfied that Completion of the Works or the Portion has been achieved:

A. containing a list of the items that are apparent and it believes must be completed before Completion of the Works or the Portion is achieved; or

B. stating that it believes the Contractor is so far from achieving Completion of the Works or the Portion that it is not practicable to issue a list as contemplated by clause 13.3(d)(ii)A.

(e) If the Principal's Representative issues a notice under either clause 13.3(d)(ii)A or clause 13.3(d)(ii)B, the Contractor must continue to proceed to bring the Works or the Portion to Completion and thereafter when it considers it has achieved Completion of the Works or the Portion, the Contractor must notify the Principal's Representative and the Principal's Representative by notice in writing, after which the second paragraph of clause 13.3(c), clause 13.3(d) and this clause 13.3(e) will reapply.

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(f) Where there are Portions, for the purposes of this Contract and without affecting the Contractor's obligation to achieve Completion of each Portion by the relevant Date for Completion of each Portion:

(i) no separate Date for Completion of the Works is specified in this Contract;

(ii) Completion of the Works is achieved by achieving Completion of all Portions;

(iii) Completion of the Works will be taken to have occurred once Completion of all Portions has occurred; and

(iv) the Date of Completion of the Works will be taken to be the Date of Completion of the last Portion to reach Completion.

13.4 Unilateral Issue of Notice of Completion

If at any time a notice required to be given by the Contractor to the Principal's Representative under either of clauses 13.3(c) or 13.3(e) is not given by the Contractor yet the Principal's Representative is of the opinion that Completion of the Works or a Portion has been achieved, the Principal's Representative may at any time and for any reason in its absolute discretion issue a Notice of Completion under clause 13.3(d)(i) for the Works or the Portion.

13.5 Hand Over upon Completion

The Contractor acknowledges that the Principal may require a progressive handover of the Works and that this handover will take place by the Contractor handing over each Portion once that Portion has reached Completion. The Principal’s obligations under clause 3.1(b) in respect of the Site will then cease in respect of so much of the Site, access to which was provided for that Portion which is handed over to the Principal.

13.6 Part of the Works or a Portion

(a) Without limiting clause 13.6(b), further Portions may be created by the Principal's Representative by issuing a written direction to the Contractor which clearly identifies for each, the:

(i) portion of the Works;

(ii) Date for Completion; and

(iii) respective amounts for security, delay damages and liquidated damages (which will unless otherwise stated in the Principal's Representative's direction all be calculated pro-rata according to the ratio of the Principal's Representative's valuation of the Portion to the Contract Sum).

(b) Without limiting clause 13.6(a), the Principal may, after the Contractor is given written notice by the Principal's Representative, occupy or use any part of the Works or a Portion although the whole of the Works or the Portion has not reached Completion.

(c) If the Principal's Representative gives a notice under clause 13.6(b):

(i) the Principal must allow the Contractor reasonable access to the part of the Works or the Portion referred to in the notice and being occupied or used by the Principal, to enable the Contractor to bring the Works or the relevant Portion of which the area being occupied or used forms part to Completion; and

(ii) this will not otherwise limit or affect the obligations of the parties under this Contract, including the obligation of the Contractor to achieve

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Completion of the Works or the relevant Portion of which the area being occupied or used forms part, by the relevant Date for Completion.

13.7 Liquidated Damages for Delay in Reaching Completion

(a) Subject to clause 13.7(e), if Completion of the Works or a Portion has not occurred by the Date for Completion for the Works or the Portion, the Contractor must pay the Principal liquidated damages at the rates stated in Schedule 1 for every day after the Date for Completion of the Works or the Portion up to and including:

(i) the Date of Completion of the Works or the Portion; or

(ii) the date that this Contract is terminated under clause 15,

whichever is first.

(b) The parties:

(i) agree that the amount of liquidated damages provided for in Schedule 1 constitutes a reasonable and good faith pre-estimate of the anticipated or actual loss or damage that will be incurred by the Principal as a result of Completion of the Works or a Portion not occurring on or before the relevant Date for Completion (except for amounts referred to in clause 13.7(d));

(ii) desire to avoid the difficulties of proving damages in connection with such failure and agree that the liquidated damages payable by the Contractor in accordance with clause 13.7(a) are reasonable and do not constitute nor are they intended to be a penalty; and

(iii) agree that the amount of liquidated damages payable by the Contractor under clause 13.7(a) will be recoverable from the Contractor as a debt immediately due and payable to the Principal.

(c) The Contractor:

(i) acknowledges that the liquidated damages referred to in clause 13.7(a) do not include any allowances for any liability of the Principal to Other Contractors; and

(ii) must indemnify the Principal against any Claim that the Principal must pay to any Other Contractor as a result of a breach of clause 10.1 by the Contractor.

(d) If clause 13.7(a) is found for any reason to be void, invalid or otherwise inoperative so as to disentitle the Principal from recovering liquidated damages, the Principal will be entitled to recover general damages as a result of the Contractor failing to achieve Completion of the Works or a Portion by the relevant Date for Completion, but the Contractor's liability for such damages (whether per day or in aggregate) will not be any greater than the liability which the Contractor would have had if clause 13.7(a) had not been void, invalid or otherwise inoperative.

(e) The Contractor's aggregate liability under clauses 13.7(a) and 13.7(d) is limited to the amount set out in Schedule 1.

13.8 Final Completion

(a) The Contractor must give the Principal's Representative written notice two months before it anticipates completing all the work to be completed prior to achieving Final Completion.

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(b) The Principal's Representative and the Contractor's Representative must, within 20 Business Days before the date the Principal's Representative expects Final Completion to occur, but no earlier than 20 Business Days before the end of the latest Defects Rectification Period, jointly inspect the Works at a mutually convenient time.

(c) Following the joint inspection under clause 13.8(b), the Principal's Representative must issue a notice to the Principal and the Contractor containing a list of the items that are apparent and it believes must be completed before Final Completion is achieved.

(d) If the Principal's Representative issues a notice under clause 13.8(c), the Contractor must continue to bring the Works to Final Completion and thereafter when the Contractor considers it has achieved Final Completion, the Contractor must notify the Principal's Representative in writing by means of a Contractor's Certificate of Final Completion in accordance with Schedule 22. Thereafter, the Principal's Representative and the Contractor's Representative must jointly inspect the Works at a mutually convenient time.

(e) Following the joint inspection under clause 13.8(d), the Principal's Representative must within 15 Business Days of receipt of a notice under clause 13.8(d), or of receipt of a notice under clause 13.8(f), issue a notice to the Principal and the Contractor:

(i) if satisfied that Final Completion has been achieved, stating the date on which the Principal's Representative determines Final Completion was achieved; or

(ii) if not satisfied that Final Completion has been achieved:

A. containing a list of the items which it believes must be completed before Final Completion is achieved; or

B. stating that it believes the Contractor is so far from achieving Final Completion that it is not practicable to issue a list as contemplated by clause 13.8(e)(ii)A.

(f) If the Principal's Representative issues a notice under clause 13.8(e)(ii)A or clause 13.8(e)(ii)B, the Contractor must continue to proceed to bring the Works to Final Completion and thereafter when it considers it has achieved Final Completion of the Works the Contractor must notify the Principal's Representative in writing after which the second sentence of clause 13.8(d), clause 13.8(e) and this clause 13.8(f) will reapply.

13.9 Effect of Notice of Completion or Final Completion

A notice issued under clause 13.3(d)(i) or 13.8(e)(i) will not:

(a) constitute approval by the Principal or the Principal's Representative of the Contractor's performance of its obligations under this Contract;

(b) be taken as an admission or evidence that the Works or the Portion complies with the requirements of this Contract; or

(c) prejudice any rights or powers of the Principal or the Principal's Representative.

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14. Care of the Works, Risks and Insurance

14.1 Care of the Works

Except where it arises from an Excepted Risk, and without limiting the generality of the Contractor's obligations, the Contractor:

(a) from and including the earlier of the date of commencement of work and the date on which the Contractor is given access to the Site, or a part of the Site, until 4:00pm on the Date of Completion of the Works or the last Portion to reach Completion will:

(i) be responsible for the care of and will bear the risk of, and indemnify the Principal against any loss of, or damage to:

A. the Contractor's Activities;

B. the Works;

C. Temporary Works;

D. Construction Plant;

E. unfixed plant and materials (whether on or off the Site) the value of which has been included in a payment schedule under clause 11.3; and

F. things entrusted to the Contractor by the Principal or brought onto the Site by a Subcontractor for the purpose of carrying out the Contractor's Activities; and

(ii) provide the storage and protection necessary to preserve these things; and

(b) after the time after which the Contractor ceases to be responsible under paragraph (a) for the care of a part of the Works or any other thing referred to in subparagraph (a)(i), will bear the risk of, and indemnify the Principal against, any loss of or damage to that part of the Works or other thing, arising from:

(i) any act or omission of the Contractor during the Defects Rectification Period (including any extension under clause 8.6) or any other Contractor's Activities; or

(ii) any event which occurred while the Contractor was responsible for the care of the relevant part of the Works or other thing under paragraph (a) in connection with the Contractor's Activities.

14.2 Indemnity

The Contractor must indemnify the Principal against:

(a) any loss of or damage to property of the Principal;

(b) any liability to or claims by a third party in respect of loss of or damage to property, the loss of use of or access to property, or injury to or death of persons; and

(c) without limiting or otherwise affecting paragraph (a), any loss or damage to existing property in or upon which the Contractor's Activities are being carried out,

caused by, or arising out of, or in any way in connection with, the Contractor's Activities, but the Contractor's responsibility to indemnify the Principal will be reduced proportionally to the

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extent than an act or omission by the Principal, the Principal's Representative, other agents of the Principal or an Other Contractor contributed to the loss, damage, injury or death.

The indemnity in this clause 14.2 will not:

(d) exclude any other right of the Principal to be indemnified by the Contractor; or

(e) apply to the extent to which the Contractor must indemnify the Principal under clause 14.1.

14.3 Reinstatement

During the period during which the Contractor bears the risk of loss or damage, and while the Contractor is responsible for its care, if loss or damage occurs to anything for which the Contractor is responsible under clause 14.1, the Contractor must:

(a) subject to paragraph (b), promptly replace or otherwise make good the loss or repair the damage; and

(b) where the loss or damage arises from an Excepted Risk, without fault or omission on the part of the Contractor, only comply with paragraph (a) to the extent directed by the Principal's Representative.

The Contractor will bear the cost of such replacement, making good or repair except to the extent that the loss or damage arises from an Excepted Risk, in which event this replacement, making good or repair will, to the extent the loss or damage arises from an Excepted Risk (but subject to paragraph (b)), be treated as if it were a Variation the subject of a direction by the Principal's Representative and clause 6.4 applied.

14.4 Works Insurance - Alternative 1

This alternative applies if so stated in Schedule 1.

The Principal will effect and maintain insurances on the terms of the insurance policy which is included in Exhibit B.

This insurance is subject to the exclusions, conditions and excesses noted in Exhibit B, and is deemed to satisfy the Principal's obligation to effect insurance. The Contractor acknowledges and agrees that prior to the date of this Contract it reviewed and examined Exhibit B and:

(a) has satisfied itself as to the nature and extent of the cover provided by those insurance policies;

(b) acknowledges that the policies of insurance summarised in Exhibit B do not cover every risk to which the Contractor might be exposed and are subject to deductibles and limits and the Contractor may, if it chooses to do so, at its cost effect appropriate insurance for any risk or liability which is not covered by the policies of insurance in Exhibit B; and

(c) where it bears the risk of the relevant loss or damage, or is required to indemnify the Principal, agrees to bear the cost of any excesses in the insurance policies summarised in Exhibit B or any insurance taken out under this clause 14.4.

14.4 Works Insurance - Alternative 2

This alternative applies if so stated in Schedule 1.

Before commencing the Contractor's Activities, the Contractor must insure all the things referred to in clause 14.1 against loss or damage resulting from any cause until the Contractor ceases to be responsible for their care.

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Without limiting the generality of the obligation to insure, such insurance must cover the Contractor's liability under clause 14.3 and things in storage off site and in transit to the site but may exclude:

(a) the cost of making good fair wear and tear or gradual deterioration, but shall not exclude the loss or damage resulting therefrom;

(b) the cost of making good faulty workmanship and materials, but shall not exclude the loss or damage resulting therefrom;

(c) consequential loss of any kind, but shall not exclude loss of or damage to the Works;

(d) damages for delay in completing or for the failure to complete the Works;

(e) loss or damage resulting from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel resulting from any cause; and

(f) loss or damage resulting from the Excepted Risk referred to in paragraph (a) of the definition of Excepted Risk.

The insurance cover must be for an amount not less than the aggregate of the:

(g) Contract Sum;

(h) provision in Schedule 1 to provide for costs of demolition and removal of debris;

(i) provision in Schedule 1 for consultants' fees and Principal's consultants' fees;

(j) value in Schedule 1 of any materials or things to be supplied by the Principal for the purposes of the Contractor's Activities; and

(k) additional amount or percentage in Schedule 1 of the total of the items referred to in sub-paragraphs (g) to (j) of this paragraph.

Insurance shall be in the joint names of the parties, must cover the parties, consultants and subcontractors whenever engaged in the Contractor's Activities for their respective rights, interests and liabilities and, except where the Contract otherwise provides, must be with an insurer and in terms both approved in writing by the Principal (which approvals must not be unreasonably withheld).

14.5 Public Liability Insurance – Alternative 1

This alternative applies if so stated in Schedule 1.

The Principal will effect and maintain insurance on the terms of the insurance policy which is included in Exhibit B.

This insurance is subject to the exclusions, conditions and excesses noted on the policies, and is deemed to satisfy the Principal's obligation to effect insurance. The Contractor acknowledges and agrees prior to the date of this Contract it reviewed and examined Exhibit B and:

(a) has satisfied itself as to the nature and extent of the cover provided by those insurance policies;

(b) acknowledges that the policies of insurance summarised in Exhibit B do not cover every risk to which the Contractor might be exposed and are subject to deductibles and limits and the Contractor may, if it chooses to do so, at its cost effect appropriate insurance for any risk or liability which is not covered by the policies of insurance in Exhibit B; and

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(c) where it bears the risk of the relevant loss or damage, or is required to indemnify the Principal, agrees to bear the cost of any excesses in the insurance policies summarised Exhibit B, or any insurance taken out under this clause 14.5.

14.5 Public Liability Insurance – Alternative 2

This alternative applies if so stated in Schedule 1.

Before commencing the Contractor's Activities, the Contractor must effect and maintain for the duration of the Contract, a public liability policy.

The policy must:

(a) be in the joint names of the parties;

(b) cover the:

(i) respective rights and interests; and

(ii) liabilities to third parties,

of the parties, the Principal's Representative, consultants and subcontractors from time to time, whenever engaged in the Contractor's Activities;

(c) cover the parties' respective liability to each other for loss or damage to property (other than property required to be insured by clause 14.4 Alternative 2) and the death of or injury to any person (other than liability which the Law requires to be covered under a workers compensation insurance policy);

(d) be endorsed to cover the use of any Construction Plant not covered under a comprehensive or third party motor vehicle insurance policy;

(e) provide insurance cover for an amount in respect of any one occurrence of not less than the sum in Schedule 1; and

(f) be with an insurer and otherwise in terms both approved in writing by the Principal (which approvals must not be unreasonably withheld).

14.6 Contractor's Other Insurance Obligations

The effecting of insurance will not limit the liabilities of the Contractor under any other provision of this Contract.

The Contractor must, or in the case of asbestos liability insurance, either the Contractor or its specialist asbestos removal Subcontractor must (if required by clause 14.6(a)(iii) below), before the Contractor commences the Contractor's Activities or as otherwise required by this Contract:

(a) effect and have in place the following insurance with insurers of the Required Rating and on terms satisfactory to the Principal's Representative:

(i) workers' compensation insurance, employers indemnity insurance or similar insurance, in accordance with the Laws of any State, Territory or other jurisdiction where the Contractor's Activities are being performed;

(ii) an insurance policy covering physical loss, destruction or damage to the Construction Plant;

(iii) if the Contractor's Activities include any work involving asbestos or asbestos decontamination, including stripping, encapsulation or removal, asbestos liability insurance covering liability for third party injury and/or property damage;

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(iv) professional indemnity insurance covering civil liability of the Contractor in performing professional activities and duties in connection with the Works and Contractor's Activities;

(v) motor vehicle insurance covering all mechanically propelled vehicles used in connection with the Contractor's Activities, whether registered, capable of being registered or required under the Law to be registered, extended specifically to cover the transportation of items and substances, and including:

A. insurance against personal injury or death, as required under all applicable Laws; and

B. in addition to the public liability insurance required under this Contract, insurance for third party property damage and personal injury or death;

(vi) not used;

(vii) any insurance that the Contractor is required to obtain by virtue of any Law or Change in Law; and

(viii) any other insurance that the Principal may reasonably require the Contractor to obtain,

for amounts not less than the amounts (if any) referred to in Schedule 1;

(b) ensure the asbestos liability insurance, motor vehicle insurance (except for compulsory third party insurance for bodily injury as required by the Law), and any insurance required by sub-paragraph (a)(vii):

(i) are policies in the joint names of the Principal and the Contractor, and cover the Principal, the Principal's Representative (including any appointee under clauses 9.2 or 9.3), the Contractor and all its Subcontractors, for their respective rights and interests, and their liabilities to third parties and liability to each other;

(ii) cover loss or damage to property (other than property described in clause 14.1 and the death of or injury to any person (other than liability which the Law requires to be covered under a workers' compensation insurance or similar insurance policy), arising out of, or in any way in connection with, the Contractor's Activities;

(iii) includes a cross-liability clause in accordance with clause 14.10; and

(iv) is for an amount in respect of any occurrence not less than the amount referred to in Schedule 1;

(c) ensure the asbestos liability insurance is in place before any work involving asbestos or asbestos decontamination work commences;

(d) ensure that any insurance policy required by sub-paragraph (a)(vii) is in place before the Contractor's Activities covered by such policies commence;

(e) ensure the professional indemnity insurance:

(i) covers claims for breach of professional duty (whether owed in contract or otherwise) by the Contractor or its Subcontractors in carrying out the Contractor's Activities;

(ii) covers the Contractor for liability to the Principal arising from errors or omissions in:

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A. design or documentation of the Works or the Temporary Works; or

B. other professional services,

carried out by the Contractor or any of its Subcontractors; and

(iii) provide:

A. cover for any amount in respect of any one claim of not less than;

B. cover for an amount in the aggregate of not less than; and

C. for an excess not greater than,

the amount stated in Schedule 1;

(f) in relation to the workers' compensation insurance or similar insurance:

(i) where permitted by Law, extend the insurance policy to provide indemnity to the Principal for its statutory liability to the Contractor's employees;

(ii) ensure that each of its Subcontractors has such workers compensation insurance or similar insurance covering the Subcontractor's employees; and

(iii) ensure it insures against liability for death of or injury to persons employed by the Contractor or its Subcontractors as required by any Law for an amount not less than the amount stated in Schedule 1 (if any) for any one event, subject to the maxima or minima imposed by relevant Law.

14.7 General Insurance Requirements

The Contractor must:

(a) in respect of any insurance policy (including an insurance policy which this Contract requires the Contractor to procure to be effected by a Subcontractor) which it is required to effect or procure to be effected, pursuant to this Contract and where required by the Principal's Representative, provide the Principal's Representative (or other person nominated for this purpose by the Principal's Representative) within 5 days of a request with:

(i) a certificate of currency and any other evidence satisfactory to the Principal's Representative demonstrating that the policy is current and in compliance with the Contractor's obligation to insure (or procure insurance), or (where relevant) a licence as a self-insurer or other proof of being a self-insurer under the *Workers Compensation Act 1987* (NSW); and

(ii) a copy of the insurance policy and any other evidence which may be reasonably necessary to satisfy the Principal's Representative that the policy is current and complies with the requirements of this Contract;

(b) ensure that (except for professional indemnity or workers compensation or similar insurance):

(i) the Principal receives at least 30 days' notice of any cancellation or material change of any insurance policy effected under clause 14.4, 14.5 or 14.6;

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(ii) a notice of claim given to the insurer by the Principal, the Contractor or a Subcontractor will be accepted by the insurer as a notice of claim by the Principal, the Contractor and the Subcontractor, and

(iii) upon becoming aware of any fact, matter or thing entitling the insurer to cancel the policy, give immediate notice in writing to the Principal about that fact, matter or thing at least 30 days prior to the insurer giving any notice of cancellation; and

(c) ensure that it:

(i) does not do anything which prejudices any insurance;

(ii) where required, rectifies anything which might prejudice any insurance;

(iii) reinstates an insurance policy if it lapses;

(iv) does not cancel, vary or allow an insurance policy to lapse without the prior written consent of the Principal's Representative;

(v) immediately notifies the Principal's Representative of any event that may result in an insurance policy lapsing or being cancelled, and replaces that insurance policy prior to it lapsing or being cancelled; and

(vi) gives full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance.

If the Contractor fails to:

(d) provide copies of any insurance policy (including an insurance policy which this Contract requires the Contractor to procure a Subcontractor to effect) which the Contractor is required to effect together with evidence satisfactory to the Principal's Representative that the policy is current; or

(e) effect or procure to be effected insurance which is with insurers of the Required Rating and on terms satisfactory to the Principal's Representative,

as required by clauses 2.2(c), 14.4, 14.5, 14.6 or this clause 14.7, the Principal may, at its sole discretion and without prejudice to any other rights that it may have, take out that insurance and the cost will be a debt due from the Contractor to the Principal.

The Principal may refuse payment until the Contractor produces evidence of compliance with its insurance obligations under clauses 2.2(c), 14.4, 14.5 and 14.6 to the satisfaction of the Principal. The rights given by this clause 14.7 are in addition to any other right.

14.8 Period of Insurance

The insurance the parties are required to have in place under this clause 14 must be maintained:

(a) in the case of the works and public liability insurance policy required by clauses 14.4, and 14.5 so as to provide cover until the latest to occur of:

(i) Contractor ceases to be responsible under clause 14.1 for the care of anything; and

(ii) the Principal's Representative issues a notice under clause 13.8(e)(i) stating the date on which Final Completion was achieved;

(b) in the case of the Construction Plant insurance:

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(i) until the Contractor ceases to bear the risk of loss of or damage to anything under clause 14.1; and

(ii) at any time it is being used in connection with the Contractor's Activities;

(c) in the case of the workers compensation insurance and motor vehicle insurances, until the Principal's Representative issues a notice under clause 13.8(e)(i) stating the date on which Final Completion was achieved;

(d) in the case of professional indemnity insurance, before commencing work covered by the policy referred to in clause 14.6(e) until at least the period specified in Schedule 1 after the Date of Final Completion;

(e) in the case of asbestos liability insurance and insurance required under clause 14.6(a)(viii), for so long as there is a risk that an event covered by the insurance may occur in relation to the Works or the Contractor's Activities; and

(f) in the case of insurance required under clause 14.6(a)(vii), during the period required by any Law.

14.9 Notice of Potential Claim

The Contractor must:

(a) as soon as possible inform the Principal in writing of any occurrence that may give rise to a claim under an insurance policy required by this Contract (except for the professional indemnity insurance policy);

(b) keep the Principal informed of subsequent developments concerning the claim; and

(c) ensure that its Subcontractors similarly inform the Contractor and the Principal in respect of occurrences that may give rise to a claim.

14.10 Cross Liability

Where this Contract requires insurance to be effected in joint names the party effecting the insurance must ensure that the insurance policy provides that:

(a) insofar as the policy may cover more than one insured, all insuring agreements and endorsements (with the exception of limits of liability) will operate in the same manner as if there were a separate policy of insurance covering each named insured;

(b) the insurer waives all rights, remedies or relief to which it might become entitled by subrogation against any of the parties covered as an insured;

(c) failure by any insured to observe and fulfil the terms of the policy will not prejudice the insurance in regard to any other insured;

(d) any non-disclosure by one insured does not prejudice the right of any other insured to claim on the policy; and

(e) a notice to the insurer by one insured will be deemed to be notice by all insured parties.

14.11 Risk of Deductibles

The Contractor must pay all insurance deductibles or excesses in respect of any event and claim made under a policy referred to in this clause 14.

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15. Default or Insolvency

15.1 Contractor's Default

If the Contractor commits a breach of this Contract referred to below, the Principal may give the Contractor a written notice.

The breaches by the Contractor to which this clause applies are:

(a) not commencing or not progressing the Contractor's Activities regularly and diligently in accordance with the requirements of this Contract, in breach of clause 10.1;

(b) suspension of work, or failing to proceed with the Contractor's Activities with due expedition and without delay, in breach of clause 10.1;

(c) failing to provide the security, in breach of clause 2.7;

(d) failing to provide evidence of insurance, in breach of clause 14;

(e) failing to use the materials or standards of workmanship required by this Contract, in breach of clause 4.1;

(f) not complying with any direction of the Principal's Representative made in accordance with this Contract, in breach of clause 9.1(a);

(g) not complying with the requirements of this Contract regarding the Contract Management Plan in a material respect;

(h) not complying with its environmental obligations under this Contract;

(i) not complying with its obligations under this Contract regarding work health and safety;

(j) the failure to comply with all applicable Law, including the failure to comply with, carry out and fulfil the conditions and requirements of all Authority Approvals in breach of clause 2.3; or

(k) any other failure to comply with a material obligation under the Contract.

15.2 Contents of Notice

A written notice under clause 15.1 must:

(a) state that it is a notice under clause 15.1 or clause 15.3 (as the case may be);

(b) specify the alleged breach;

(c) require the Contractor to remedy the breach or, in the case of a notice by the Principal where the breach is not capable of being remedied, make other arrangements satisfactory to the Principal; and

(d) specify the time and date by which the Contractor must remedy the breach or make other arrangements satisfactory to the Principal (which time must not be less than 21 clear days after the notice is given).

15.3 Rights of the Principal Following Notice

Upon giving a notice under clause 15.1, the Principal may suspend payments to the Contractor until the date upon which the Contractor remedies the breach or makes arrangements satisfactory to the Principal.

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If, by the time specified in a notice under clause 15.1, the Contractor fails to remedy the breach or make arrangements satisfactory to the Principal, the Principal may, by notice in writing to the Contractor:

(a) take out of the hands of the Contractor the whole or part of the work remaining to be completed; or

(b) terminate this Contract.

15.4 Immediate Termination or Take-Out

If:

(a) whether or not the Contractor is then in breach of this Contract:

(i) an Insolvency Event occurs:

A. to the Contractor;

B. where the Contractor comprises more than one person, any one of those persons; or

C. to a person specified in Schedule 1; or

(ii) the Contractor causes or contributes to the occurrence of an Incident and fails to ensure that the Principal is promptly notified as set out in clause 2.10(d);

(b) a Change in Control occurs in respect of an entity that comprises the Contractor without the prior written consent of the Principal (other than a Change in Control permitted under clause 9.11(c); or

(c) the maximum amount for the Contractor's aggregate liability under clauses 12.7(a) and 12.7(d) has been reached,

then subject to the next paragraph, the Principal may, without giving a notice under clause 15.1, exercise the right under clause 15.3(a) or 15.3(b).

The Principal may not exercise a right under 15.3(b) in respect of an Insolvency Event where:

(d) The Contractor comprises more than one person and an Insolvency Event occurs to one, but not all, of those persons; and

(e) the Contractor, remaining or replacement entities comprising the Contractor, or the Guarantor (as relevant) are of sufficient commercial and financial standing demonstrates (and continues to demonstrate) to the satisfaction of the Principal that it is still able to carry out the Contractor's Activities and of sufficient commercial and financial standing to enable it to comply with its obligations under this Contract or the Parent Company Guarantee (as relevant).

15.5 Principal's Common Rights After Take-Out or Termination

If:

(a) the Principal:

(i) exercises its rights under clause 15.3(a); or

(ii) terminates this Contract under clauses 15.3(b), 15.4 or 15.9;

(b) the Contractor repudiates this Contract and the Principal otherwise terminates this Contract; or

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(c) this Contract is frustrated under the Law,

then:

(d) the Contractor:

(i) must novate to the Principal or the Principal's nominee those Subcontracts between the Contractor and its Subcontractors that the Principal directs;

(ii) irrevocably appoints (for valuable consideration) the Principal and any authorised representative of the Principal to be the Contractor's attorney to:

A. execute, sign, seal and deliver all notices, deeds and documents; and

B. undertake actions in the name of the Contractor,

for the purposes referred to in clause 15.5(d)(i); and

(iii) must immediately hand over to the Principal's Representative all copies of:

A. any documents provided by the Principal to the Contractor;

B. all Contract Documentation prepared by the Contractor to the date on which the Principal exercises its rights under clauses 15.3(a) or 15.3(b) (whether complete or not); and

C. any other documents or information in existence that is to be provided to the Principal under the terms of this Contract; and

(e) the Principal:

(i) will be entitled to require the Contractor to remove from the Site or any area affected by the Works, any Construction Plant and Temporary Works and all materials, equipment and other things intended for the Works;

(ii) may complete that work;

(iii) may take possession of such of the Construction Plant, Temporary Works and other things on or in the vicinity of the Site or Extra Land as are owned by the Contractor and are reasonably required by the Principal to facilitate completion of the work; and

(iv) must, if it takes possession of the items referred to in clause 15.5(e)(iii):

A. for the period during which it retains possession of the Construction Plant, Temporary Works or other things pay to the Contractor rent for the use of the Construction Plant, Temporary Works or other things at a market rate to be agreed by the parties or, failing agreement, to be determined pursuant to clause 16; and

B. maintain the Construction Plant, Temporary Works or other things and, subject to clause 15.6, on completion of the work return to the Contractor the Construction Plant, Temporary Works and any things taken under clause 15.5(e)(iii) which are surplus.

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This clause 15.5 will survive the termination or frustration of this Contract.

15.6 Principal's Entitlements after Take-Out

(a) If the Principal exercises the right under clause 15.3(a), the Contractor will not be entitled to any further payment in respect of the work taken out of the hands of the Contractor unless a payment becomes due to the Contractor under this clause 15.6.

(b) When work taken out of the hands of the Contractor under clause 15.3(a) is completed, the Principal's Representative will ascertain the cost incurred by the Principal in completing the work and will issue a certificate certifying the amount.

(c) If the cost incurred by the Principal is greater than the amount that would have been paid to the Contractor if the Contractor had completed the work, the difference will be a debt due from the Contractor to the Principal. If the cost incurred by the Principal is less than the amount that would have been paid to the Contractor if the Contractor had completed the work, the difference will be a debt due to the Contractor from the Principal.

(d) Without limiting clause 15.6(c), if the Principal exercises the right under clause 15.3(a), the Principal will be entitled to recover from the Contractor any costs, expenses, losses or damages incurred or suffered by it as a result of, or arising out of, or in any way in connection with, the exercise of such right.

(e) If the Contractor is indebted to the Principal, the Contractor grants to the Principal a lien over the Construction Plant, Temporary Works or other things taken under clause 15.5 such that the Principal may retain that property until the debt is met. If after reasonable notice, the Contractor fails to pay the debt, the Principal may sell the Construction Plant, Temporary Works or other things and apply the proceeds to satisfaction of the debt and the costs of sale. Any excess will be paid to the Contractor.

15.7 Principal's Rights after Termination

Subject to clause 15.11, if the Principal terminates this Contract under clauses 15.3 or 15.4, or if the Contractor repudiates this Contract and the Principal otherwise terminates this Contract the Principal will:

(a) not be obliged to make any further payments to the Contractor, including any money that is the subject of a payment claim under clause 11.2 or a payment statement under clause 11.3;

(b) be absolutely entitled to call upon, convert and have recourse to and retain the proceeds of any unconditional undertaking held under clause 2.7; and

(c) be entitled to recover from the Contractor any costs, expenses, losses or damages incurred or suffered by it as a result of, or arising out of, or in any way in connection with, such termination.

This clause 15.7 survives the termination of this Contract.

15.8 Contractor's Rights after Repudiation or Wrongful Termination

(a) If the Principal:

(i) repudiates this Contract and the Contractor terminates this Contract; or

(ii) wrongfully:

A. exercises or attempts to exercise any right or power conferred on it by clauses 15.3, 15.4 or 15.9; or

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B. determines or purports to determine this Contract at common law,

then the:

(iii) Principal's actions will be deemed to have been a lawful termination in accordance with clause 15.9 and the Contractor's sole rights in such circumstances will be those set out in clause 15.10; and

(iv) Contractor:

A. will not be entitled to the payment of damages;

B. will not be entitled to any payment on a quantum meruit basis; and

C. waives all other rights it has to make a Claim in such circumstances.

(b) This clause 15.8 will survive the termination of this Contract.

15.9 Termination for Convenience

Without prejudice to any of the Principal's other rights or entitlements or powers under this Contract, the Principal may:

(a) at any time for its sole convenience, and for any reason, by written notice to the Contractor terminate this Contract effective from the time stated in the notice or if no such time is stated, at the time the notice is given to the Contractor; and

(b) thereafter, at the Principal's absolute discretion complete the uncompleted part of the Contractor's Activities or the Works either itself or by engaging Other Contractors.

15.10 Payment for Termination for Convenience

If the Principal terminates this Contract under clause 15.9, the Contractor:

(a) will be entitled to payment of the following amounts as determined by the Principal's Representative:

(i) for work carried out prior to the date of termination, the amount which would have been payable if this Contract had not been terminated and the Contractor submitted a payment claim under clause 11.2 for work carried out to the date of termination;

(ii) the cost of plant and materials reasonably ordered by the Contractor for the Works and for which it is legally bound to pay provided that:

A. the value of the plant or materials have not been previously paid or included in the amount payable under sub-paragraph (a)(i); and

B. title in the plant and materials vests in the Principal upon payment;

(iii) the reasonable cost of removing from the Site all labour, Construction Plant, Temporary Works (where required by the Principal) and other things used in the Contractor's Activities that are not part of, or to be part of, the Works;

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(iv) the costs reasonably incurred by the Contractor in the expectation of completing the whole of the Contractor's Activities and not included in any other payment by the Principal; and

(v) the amount specified in Schedule 1, for all overheads and profit associated with, and to the extent not included in, the work and costs determined under sub-paragraphs (a)(ii), (a)(iii) and (a)(iv); and

(b) must take all steps possible to mitigate the costs referred to in sub-paragraphs (a)(ii) and (a)(iii).

To the extent it has not had recourse to them, the Principal will return all unconditional undertakings then held by it under clause 2.7 when the Contractor has complied with all its obligations under this clause.

The amount to which the Contractor is entitled under this clause 15.10 will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, the termination of this Contract and the Principal will not be liable to the Contractor upon any Claim arising out of, or in any way in connection with, the termination of this Contract other than for the amount payable under this clause 15.10.

This clause 15.10 will survive the termination of this Contract by the Principal under clause 15.9.

15.11 Preservation of Rights

Subject to clause 15.8, nothing in this clause 15 or that the Principal does or fails to do pursuant to this clause 15 will prejudice the right of the Principal to exercise any right or remedy (including recovering damages or exercising a right of set-off under clause 17.12) which it may have where the Contractor breaches (including repudiates) this Contract.

15.12 Termination by Frustration

If under the law this Contract is frustrated the Principal will:

(a) pay the Contractor the following amounts as determined by the Principal's Representative:

(i) an amount calculated in accordance with clause 15.10(a)(i) for work carried out prior to the date of frustration;

(ii) the costs calculated in accordance with the terms of, and subject to the conditions in, clauses 15.10(a)(ii); and

(iii) the costs calculated in accordance with the terms of clauses 15.10(a)(iii) and 15.10(a)(iv); and

(b) to the extent it has not had recourse to them, return all unconditional undertakings then held by it under clause 2.7 when the Contractor has complied with its obligations under this clause.

The amount to which the Contractor is entitled under this clause 15.12 will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, the frustration of this Contract and the Principal will not be liable to the Contractor upon any Claim arising out of, or in any way in connection with, the frustration of this Contract other than for the amount payable under this clause 15.12.

Without limiting any other provision of this Contract, this clause 15.12 will survive the frustration of this Contract.

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15.13 Codification of Contractor's Entitlements

This clause 15 is an exhaustive code of the Contractor's rights arising out of or in any way in connection with any termination and the Contractor:

(a) cannot otherwise terminate, rescind or treat this Contract as repudiated; and

(b) waives all rights at Law to terminate, rescind or treat this Contract as repudiated,

otherwise than in accordance with this clause 15.

16. Disputes

16.1 Notice of Dispute

If a dispute or difference arises between the Contractor and the Principal or between the Contractor and the Principal's Representative in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or the subject matter of this Contract, (**"Dispute"**) the Dispute must be determined in accordance with the procedure in this clause 16.

Where such a Dispute arises, either party may give a notice in writing to the Principal's Representative and the other party (**"Notice of Dispute"**). The Notice of Dispute must:

(a) specify the Dispute;

(b) provide particulars of the party's reasons for being dissatisfied;

(c) set out the position which the party believes is correct; and

(d) in the case of a Dispute in respect of a direction of the Principal's Representative under one of the clauses referred to in Schedule 1 (a "**Schedule 1 Dispute"**), be given in accordance with clause 16.2.

Where the notice is given by the Contractor, if the Contractor fails to provide sufficient particulars of the Dispute to enable the Principal's Representative to properly consider the matter, then the Principal's Representative may request the Contractor to provide further particulars of the Dispute in which event the Contractor must provide the further particulars within 14 days of receipt of the request to provide the further particulars.

16.2 Time for Submitting Notice Concerning Principal's Representative's Direction

If the Contractor wishes to have a direction by the Principal's Representative under one of the clauses referred to in Schedule 1 opened up, reviewed, decided and substituted the Contractor must give a Notice of Dispute in respect of the Dispute to the Principal and the Principal's Representative within 14 days of the date of the direction, after which the Principal's Representative may review the Dispute and make a determination in accordance with clause 16.3.

If the Contractor fails to give such a Notice of Dispute to the Principal and the Principal's Representative within the time period required by this clause 16.2:

(a) the direction will be final and binding and will not be capable of being challenged, opened up or reviewed in any forum; and

(b) where the direction relates to the rejection or deemed rejection of a Claim pursuant to clause 18.4, the Claim will be barred in accordance with clause 18.6.

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16.3 Determination of Schedule 1 Disputes by the Principal's Representative

Upon receipt of a Notice of Dispute in respect of a Schedule 1 Dispute which is given in accordance with clause 16.2, the Principal's Representative may review and make a determination in respect of the Dispute.

The determination of the Principal's Representative in respect of any such Notice of Dispute:

(a) must be in writing;

(b) must be given within 21 days after the Notice of Dispute is given or where further particulars have been requested under clause 16.1, within 21 days after the further particulars have been provided to the Principal's Representative;

(c) will be substituted for the relevant direction the subject of the Notice of Dispute; and

(d) is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed under the procedure in the following clauses.

If the Principal's Representative fails to make a determination as required by this clause 16.3 the direction the subject of the Notice of Dispute will be deemed to be confirmed by the Principal's Representative.

16.4 Response to Notice of Dispute

Where a Notice of Dispute has been given in accordance with clause 16.1 and 16.2 (where applicable) then the party to whom the Notice of Dispute is addressed must:

(a) if the Notice of Dispute does not relate to a Schedule 1 Dispute, within 21 days of the date of:

(i) receipt of the Notice of Dispute; or

(ii) if any further particulars have been requested under clause 16.1, receipt of those particulars; or

(b) if the Notice of Dispute does relate to a Schedule 1 Dispute and if the direction is confirmed, or deemed to have been confirmed, by the Principal's Representative under clause 16.3, within 42 days of the receipt of the Notice of Dispute,

provide a response in writing indicating whether or not it agrees with the position set out in the Notice of Dispute.

16.5 Executive Negotiation

(a) If the Dispute is not resolved within 14 days of:

(i) the date of receipt of the response to the Notice of Dispute pursuant to clause 16.4; or

(ii) if no response is received, the date specified for the provision of a response pursuant to clause 16.4,

(the "**Referral Date**") either party may by notice in writing refer the Dispute to the Executive Negotiators who must:

(iii) meet and undertake genuine and good faith negotiations with a view to:

A. clarifying and narrowing the issues in dispute in the event that litigation is commenced in respect of the Dispute; and

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B. resolving the Dispute; and

(iv) if they cannot resolve the Dispute, endeavour to agree upon a procedure to resolve the Dispute.

(b) If appropriate in the circumstances, at or prior to the meeting referred to in clause 16.5(a) the parties will exchange documents critical to the resolution of the Dispute.

16.6 Expert Determination

If a Dispute relating to a Schedule 1 Dispute is referred for resolution under clause 16.5 and it is not resolved within 21 days after the Referral Date, the dispute must be submitted to an expert determination.

The dispute will be referred to an expert determination whether or not the Executive Negotiators have complied with clauses 16.5(a)(iii), 16.5(a)(iv) and 16.5(b).

16.7 The Expert

The expert determination under clause 16.6 is to be conducted by:

(a) an independent industry expert agreed by the Principal and the Contractor; or

(b) where the parties are unable to agree upon an independent industry expert within 42 days after the Referral Date, or where an independent industry expert appointed under this clause 16.7:

(i) is unavailable;

(ii) declines to act;

(iii) does not respond within 14 days to a request by one or both parties for advice as to whether he or she is able to conduct the determination; or

(iv) does not make a determination within the time required by clause 16.8(e),

an independent industry expert appointed by the Chair of Resolution Institute.

16.8 Rules of Expert Determination

(a) An expert determination conducted under this clause 16 is not an arbitration and the expert is not an arbitrator. The expert may reach a decision from his or her own knowledge and expertise.

(b) The expert determination must be made in accordance with the rules for the expert determination process included in the agreement which appears in Schedule 26 or such other rules as the parties and the expert may agree.

(c) The expert must:

(i) disclose to the parties any interest he or she has in the outcome of the determination; and

(ii) not communicate with one party to the determination without the knowledge of the other.

(d) Each party will:

(i) bear its own costs in respect of any expert determination; and

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(ii) pay one-half of the expert's costs.

(e) Unless otherwise agreed between the parties, the expert must notify the parties of his or her decision upon an expert determination conducted under this clause 16 within the period set out in the agreement between the parties and the expert.

16.9 Agreement with Expert

The expert will not be liable to the parties arising out of, or in any way in connection with, the expert determination process, except in the case of fraud.

The parties must enter into an agreement with the appointed expert on the terms set out in Schedule 26 or such other terms as the parties and the expert may agree.

16.10 Determination of Expert

The determination of the expert:

(a) must be given to the parties in writing;

(b) will be:

(i) substituted for the relevant direction of the Principal's Representative; and

(ii) final and binding,

unless a party gives a notice of appeal to the other party within 21 days of receipt of the determination; and

(c) is to be given effect to by the parties unless and until it is reversed, overturned or otherwise changed by way of litigation.

Where a party gives a notice of appeal under this clause 16.10, either party may commence litigation in respect of the Dispute.

16.11 Litigation

If a Dispute does not relate to a Schedule 1 Dispute and is referred for resolution under clause 16.1, then whether or not the Executive Negotiators have complied with clauses 16.5(a)(iii), 16.5(a)(iv) and 16.5(b), if the Dispute is not resolved, or no agreement on a procedure to resolve the Dispute has been reached, within 14 days after the Referral Date, or within such longer period of time as these persons may agree in writing, either party may commence litigation in respect of the Dispute.

16.12 Survive Termination

This clause 16 will survive the termination of this Contract.

16.13 Continuation of Work

Despite the existence of a Dispute between the parties this Contract, the Contractor must:

(a) continue to carry out the Contractor's Activities; and

(b) otherwise comply with its obligations under this Contract.

16.14 Urgent Relief

Nothing in this clause 16 will prejudice the right of a party to seek urgent injunctive or declaratory relief from a court.

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17. General

17.1 Notices

(a) At any time and from time to time the Principal's Representative may notify the Contractor of an electronic portal or document management system to be used for the purposes of this Contract. The Principal's Representative's notice will set out:

(i) the relevant electronic portal or document management system;

(ii) the date of this Contract for the use of the electronic portal or document management system;

(iii) any password, login details or similar information required for the Contractor to use the electronic portal or document management system;

(iv) address details for the Principal, the Principal's Representative and the Contractor; and

(v) any other information reasonably necessary for the use and service of notices via the electronic portal or document management system.

(b) Any notices contemplated by this Contract must be in writing and must:

(i) before the date referred to in clause 17.1(a)(ii), be delivered or posted to the relevant address shown in Schedule 1 (or to any new address notified by the intended recipient); and

(ii) on and from the date referred to in clause 17.1(a)(ii):

A. in the case of notices by the Contractor:

1) without limiting clause 17.1(b)(ii)A.2), be sent to the Electronic Portal address of the Principal or the Principal's Representative (as applicable); and

2) under clauses 10, 11, 13, 15, 16 or 18 or concerning a claim for payment, in addition to the copy of the notice sent pursuant to clause 17.1(b)(ii)A.1), also be delivered or posted to the relevant address shown in Schedule 1 (or to any new address notified by the intended recipient); and

B. in the case of notices by the Principal or the Principal's Representative:

1) be delivered or posted to the relevant address shown in Schedule 1 (or to any new address notified by the intended recipient); or

2) except in relation to notices by the Principal under clauses 15.3, 15.4, 15.9 or 16.1, be sent to the Electronic Portal address of the intended recipient.

(c) For the avoidance of doubt, no notice referred to in clause 17.1(b)(ii)A.2) shall be effective unless delivered in accordance with both clauses 17.1(b)(ii)A.1) and 17.1(b)(ii)A.2).

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(d) Subject to clause 17.1(g), a notice sent by the Electronic Portal will be taken to have been received on the date recorded on the notice on which it was registered on the Electronic Portal.

(e) Subject to clause 17.1(g), a notice sent by post will be taken to have been received:

(i) in the case of international post, 7 Business Days after the date of posting; and

(ii) in the case of posting within Australia, 2 Business Days after the date of posting.

(f) Subject to clause 17.1(g), a notice sent by email (whether or not containing attachments) will be taken to have been received on the earlier of:

(i) the time sent (as recorded on the device from which the sender sent the email) unless, within 4 hours of sending the email, the party sending the email receives an automated message that the email has not been delivered;

(ii) receipt by the sender of an automated message confirming delivery; and

(iii) the time of receipt as acknowledged by the recipient in writing,

provided that:

(iv) the communication will be taken to be so given by the sender and received by the recipient regardless of whether the email or any of its attachments is opened by the recipient; and

(v) if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next Business Day.

(g) Where clause 17.1(b)(ii)A.2) applies, the relevant notice will be taken to have been received on the later of:

(i) the date determined in accordance with clause 17.1(d); and

(ii) the date determined in accordance with clause 17.1(e) or 17.1(f) (as the case may be).

17.2 Governing Law and jurisdiction

(a) This Contract is governed by and will be construed according to the Laws of New South Wales.

(b) Each party irrevocably:

(i) submits to the non-exclusive jurisdiction of the courts of the State of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this Contract; and

(ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 17.2(b)(i).

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17.3 No Waiver

(a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by Law or under this Contract by the Principal will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by Law or under this Contract.

(b) Any waiver or consent given by the Principal under this Contract will only be effective and binding on the Principal if it is given or confirmed in writing by the Principal.

(c) No waiver by the Principal of:

(i) a breach of any term of this Contract; or

(ii) any other failure by the Contractor to comply with a requirement of this Contract, including any requirement to give any notice which it is required to give in order to preserve its entitlement to make any Claim against the Principal,

will operate as a waiver of another breach of that term or failure to comply with that requirement or of a breach of any other term of this Contract or failure to comply with any other requirement of this Contract.

17.4 Assignment

The Contractor cannot assign, transfer or novate any of its rights or liabilities under this Contract without the prior written consent of the Principal and except on such terms and conditions as are determined in writing by the Principal.

17.5 Entire Agreement

This Contract constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite, and supersede:

(a) any prior agreement (whether in writing or not), negotiations and discussions between the parties in relation to the subject matter of this Contract; and

(b) any correspondence or other documents relating to the subject matter of this Contract that may have passed between the parties prior to the date of this Contract and that are not expressly included in this Contract.

17.6 Joint and Several Liability

The rights and obligations of the Principal and the Contractor, if more than one person, under this Contract, are joint and several. Each person constituting the Contractor acknowledges and agrees that it will be causally responsible for the acts and omissions (including breaches of this Contract) of the other as if those acts or omissions were its own and the Principal may proceed against any or all of them.

17.7 Severability

If at any time any provision of this Contract is or becomes illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, that will not affect or impair:

(a) the legality, validity or enforceability in that jurisdiction of any other provision of this Contract; or

(b) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Contract.

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17.8 Indemnities to Survive

Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Contract.

Nothing in this clause 17.8 prevents any other provision of this Contract, as a matter of interpretation also surviving the termination of this Contract.

It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this Contract.

17.9 Stamp Duty and Other Fees

The Contractor must pay all stamp duties and other fees payable in respect of the execution of this Contract and the performance of its obligations in respect of this Contract.

17.10 Taxes

Without limiting clause 2.3 but subject to clause 19, the Contractor must pay all Taxes that may be payable in respect of the Contractor's Activities, including any customs duty or tariff, and primage applicable to imported materials, plant and equipment required for the Contractor's Activities.

17.11 Confidentiality

(a) Subject to clause 17.11(b), the Contractor must:

(i) keep confidential this Contract and any information relating to the Contractor's Activities and any discussions concerning this Contract;

(ii) not use the information referred to in sub paragraph (a)(i) except as necessary for the performance of the Contractor's Activities; and

(iii) ensure that each of its officers, employees and Subcontractors complies with the terms of sub-paragraphs (a)(i) and (a)(ii).

(b) The Contractor is not obliged to keep confidential any information:

(i) which is in the public domain through no default of the Contractor; or

(ii) the disclosure of which is:

A. required by Law;

B. consented to in writing by the Principal; or

C. given to a court in the course of proceedings to which the Contractor is a party.

(c) The Contractor must:

(i) execute and submit to the Principal within 14 days of this Contract a Confidentiality Undertaking in the form in Schedule 3;

(ii) ensure that all employees of the Contractor that have access to the information described in the Confidentiality Undertaking are aware of their obligations under the terms of the Confidentiality Undertaking; and

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(iii) ensure that each Subcontractor, including suppliers and consultants, to the Contractor execute and submit a Confidentiality Undertaking to the Principal.

(d) The Contractor acknowledges that the Principal may disclose this Contract (and information concerning the terms of this Contract) under or in accordance with any one or more of the following:

(i) the *Government Information (Public Access) Act 2009* (NSW);

(ii) to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of Parliamentary accountability; and

(iii) any other Law.

(e) The Contractor must provide to the Principal any other information which the Principal reasonably requires to comply with its obligations under the items referred to in clause 17.11(d).

(f) The Contractor must indemnify the Principal against any claim, costs, penalties, losses, damage, expense, loss or liability suffered or incurred by the Principal arising out of or in any way in connection with a breach under clause 17.11(a) and any Confidential Undertaking under clause 17.11(c) provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal may have contributed to the liability, claim, costs, losses, damages, fines or penalties.

17.12 Right of Set-Off

The Principal may at any time withhold, set-off or deduct from moneys otherwise due to the Contractor:

(a) any debt or other moneys due from the Contractor to the Principal (including any debt due from the Contractor to the Principal pursuant to section 26C of the SOP Act);

(b) any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act; or

(c) any claim to money which the Principal may have against the Contractor whether for damages (including liquidated damages) or otherwise,

whether under this Contract or otherwise at Law.

If those moneys are insufficient, the Principal can have recourse to the security held under clause 2.7.

17.13 Entire Contract

Despite any progress payments that may be made to the Contractor under clause 11.4, this Contract is an entire contract.

17.14 Principal May Act

(a) The Principal may, either itself or by a third party, perform an obligation under this Contract that the Contractor was obliged to perform but which it failed to perform. The costs, losses, expenses and damages suffered or incurred by the Principal in so performing such an obligation will be a debt due from the Contractor to the Principal.

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(b) Where the Principal or the Principal's Representative is entitled under this Contract to exercise any right or power to:

(i) direct or instruct the Contractor to; or

(ii) itself step in to,

take any action or omit to take any action, it is not obliged to exercise that right or power, and may do so in their absolute discretion.

Where the Principal or the Principal's Representative does exercise any such right or power, the Contractor remains responsible for, controls and assumes the risk of all environmental, health and safety issues relating to the Works.

17.15 Process Agent

If the Contractor is a foreign company (as defined in the *Corporations Act 2001* (Cth)), the Contractor must:

(a) appoint a local process agent acceptable to the Principal as its agent to accept service of process under or in any way in connection with this Contract. The appointment must be in a form acceptable to the Principal and may not be revoked without the Principal's consent; and

(b) obtain the process agent's consent to the appointment.

17.16 Indemnity

The Contractor must indemnify the Principal against:

(a) any liability to or claim by any other person; and

(b) all costs, expenses, losses, damages, fines and penalties suffered or incurred by the Principal,

arising out of, or in any way in connection with:

(c) the Contractor's breach of a term of this Contract; and

(d) any Defect or the consequence of any Defect,

provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal may have contributed to the liability claim, costs, losses, damages, fines or penalties.

17.17 Variations

Subject to clause 6.3, this Contract may only be varied by a document signed by or on behalf of both the Principal and the Contractor.

17.18 Provisions Limiting or Excluding Liability

Any provision of this Contract which seeks to limit or exclude a liability of the Principal or the Contractor is to be construed as doing so only to the extent permitted by Law.

17.19 Limit of Contractor's Liability

Subject to clause 17.21, the liability of the Contractor to the Principal, whether arising under or in connection with this Contract or the performance or non-performance thereof or anything incidental thereto, and whether by way of indemnity, by statute (to the extent that it is possible

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to exclude such liability), in tort (for negligence or otherwise) or on any basis in Law or equity, is limited to [redacted] of the Contract Sum.

17.20 Economic or Consequential Loss

Subject to clause 17.21, the Contractor will have no liability whatsoever to the Principal for Consequential Loss.

17.21 Qualification on Limitation of Liability

Clauses 17.19 and 17.20 do not apply to limit or restrict in any way:

(a) any liability to the extent to which the Contractor is (or will be) entitled to be indemnified pursuant to an insurance policy in respect of that liability;

(b) any liability for which, but for a failure by the Contractor to comply with its obligations under this Contract or under an insurance policy, the Contractor would have received payment or been indemnified under an insurance policy effected in accordance with this Contract;

(c) the Contractor's liability to pay liquidated damages under clause 13.7(a) or general damages under clause 13.7(d);

(d) the Contractor's liability to indemnify the Principal under clauses 2.11(d), 3.4(d), 3.6(d), 5.6(c)(ii), 5.8(a)(ii), 14.2 or 17.11(f);

(e) the Contractor's liability for costs, losses and damage caused by the malicious or fraudulent acts of employees of the Contractor or its Subcontractors or its agents;

(f) liability which is otherwise limited by another provision of this Contract;

(g) the Contractor's liability to indemnify a Rail Transport Agency under the deed poll executed in the form of Schedule 16;

(h) the Contractor's liability where it abandons the performance of its obligations under this Contract; or

(i) liability out of which by Law the Contractor cannot contract.

17.22 Proportionate Liability

(a) To the extent permitted by Law, Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provision in any other state or territory or the Commonwealth) is excluded in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with this Contract whether such rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.

Without limiting the above, the rights, obligations and liabilities of the Principal and the Contractor under this Contract with respect to proportionate liability are as specified in this Contract and not otherwise, whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, in tort or otherwise.

(b) To the extent permitted by Law:

(i) the Contractor must not seek to apply the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to any claim by the Principal against the Contractor (whether in contract, tort or otherwise); and

(ii) if any of the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) are applied to any claim by the Principal against the Contractor (whether in contract, tort or otherwise), the Contractor will indemnify the Principal

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against any loss, damage, cost or expense that forms part of a claim by the Principal against the Contractor which the Principal is not able to recover from the Contractor because of the operation of Part 4 of the *Civil Liability Act 2002* (NSW).

(c) The Contractor must:

(i) in each subcontract into which it enters for the carrying out of the work under this Contract or for the supply of materials or services, include a term that (to the extent permitted by Law) excludes the application of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with each Subcontract whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, tort or otherwise; and

(ii) require each Subcontractor or supplier of materials or services to include, in any further contract that it enters into with a third party for the carrying out of the work under this Contract, a term that (to the extent permitted by Law) excludes the application of Part 4 of the *Civil Liability Act 2002* (NSW) in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with each further agreement whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, tort or otherwise.

(d) The Contractor must ensure that all policies of insurance covering third party liability it is required by this Contract to effect or maintain (including the professional indemnity policy referred to in clause 14.6(e)):

(i) cover the Contractor for potential liability to the Principal assumed by reason of the exclusion of Part 4 the *Civil Liability Act 2002* (NSW); and

(ii) do not exclude any potential liability the Contractor may have to the Principal under or by reason of this Contract.

(e) The powers conferred and restrictions imposed on a court by Part 4 of the *Civil Liability Act 2002* (NSW) are not conferred on an expert appointed in accordance with the provisions of this Contract.

An expert has no power to make a binding or non-binding determination or any award in respect of a claim by applying or considering the provisions of Part 4 of the *Civil Liability Act 2002* (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any dispute referred to the expert.

17.23 Prior Work

The Contractor agrees that the work in connection with the Contractor's Activities carried out by the Contractor prior to the date of this Contract will be deemed to be governed by the provisions of this Contract and will be deemed to be part of the Contractor's Activities and any payments made to the Contractor by the Principal prior to the date of this Contract in respect of the Contractor's Activities will be treated as part payments of the amount required to be paid by the Principal under this Contract.

17.24 Design Life

(a) The Contractor waives any and all rights it may have under sections 14 and 16 of the *Limitation Act 1969* (NSW) and section 6.20 of the *Environmental Planning and Assessment Act 1979* (NSW) in respect of the design lives of the asset elements referred to in the Works Brief where those design lives are for periods longer than those provided for in those Acts.

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(b) If the waiver referred to in clause 17.24(a) is held to be without effect or otherwise unenforceable, or if it is severed from this Contract, the Contractor shall indemnify and keep the Principal indemnified at all times from and against all costs that the Principal may suffer or incur out of the Principal's loss of the benefit of the waiver.

(c) The indemnity in clause 17.24(b) is to continue and remain in full force and effect until the expiration of the last of the design lives referred to in the Works Brief.

(d) The parties agree that any action by the Principal on the indemnity in clause 17.24(b) is not a "civil action" for the purposes of section 6.19 or 6.20 of the *Environmental Planning and Assessment Act 1979* (NSW).

17.25 Counterparts

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

17.26 Personal Property Securities Act

(a) By signing this Contract, the Contractor acknowledges and agrees that if this Contract and the transactions contemplated by it, operate as, or give rise to, a security interest for the purposes of the PPS Law (**"Security Interest"**), the Contractor shall do anything (including amending this Contract or any other document, executing any new terms and conditions or any other document, obtaining consents, getting documents completed and signed and supplying information) that the Principal considers necessary under or as a result of the PPS Law for the purposes of:

(i) ensuring that the Security Interest is enforceable, perfected or otherwise effective and has the highest priority possible under PPS Law;

(ii) enabling the Principal to apply for any registration, or give any notification, in connection with the Security Interest, including the registration of a financing statement or financing change statement; or

(iii) enabling the Principal to exercise rights in connection with the Security Interest and this Contract.

(b) If Chapter 4 of the PPS Act applies to the enforcement of the Security Interest, the Contractor agrees that sections 95, 120, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPS Act will not apply to the enforcement of the Security Interest.

(c) The Contractor:

(i) acknowledges that the Security Interests created under or pursuant to this Contract relate to collateral and all proceeds in respect of that collateral (until the Principal is paid in full for the collateral);

(ii) acknowledges that to the maximum extent permitted by Law, it waives any right to receive a verification statement under the PPS Law in respect of the Security Interest; and

(iii) undertakes it will not register a financing change statement without the prior written consent of the Principal.

(d) The parties agree that neither of them will disclose information of the kind referred to in section 275(1) of the PPS Act and that this clause constitutes a confidentiality agreement within the meaning of the PPS Law.

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(e) The Contractor agrees to waive any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPS Act to authorise the disclosure of the above information.

17.27 Vienna Convention

The United Nations Convention on Contracts for the International Sale of Goods and the *Sale of Goods (Vienna Convention) Act* 1986 (NSW) does not apply to this Contract.

17.28 Chain of responsibility legislation

(a) To the extent heavy vehicles are used in the performance of the Contractor's Activities, the Contractor:

(i) acknowledges that it is a primary duty holder under the COR Laws with responsibility for developing COR Systems;

(ii) must ensure that:

A. any heavy vehicles are appropriately maintained with loads that do not exceed vehicle mass or dimension limits and are appropriately secured;

B. operators carrying freight containers have a valid Container Weight Declaration; and

C. drivers do not exceed speed limits or regulated driving hours, do not drive while impaired by fatigue and observe minimum rest requirements;

(iii) must proactively provide reasonable assistance to the Principal's Representative to enable the Principal (and any of the Principal's personnel) to satisfy its duties and responsibilities under the COR Laws;

(iv) must obtain and maintain, and ensure that each of its personnel or Subcontractors obtains and maintains, all approvals required to enable the applicable activity, function or task to be undertaken lawfully;

(v) must undertake any audits or monitoring as requested by the Principal's Representative to demonstrate compliance with this clause; and

(vi) warrants that it is familiar with and has the capability and resources to comply with the COR Laws and ensure that its personnel and Subcontractors comply with all COR Laws.

(b) Where used in this clause 17.28:

(i) **"COR Laws"** means any section of the Heavy Vehicle Law under which the Contractor is "a party in the chain of responsibility" (within the meaning given to that term under the Heavy Vehicle Law);

(ii) **"COR Systems"** means policies, procedures, standards, training and systems designed to ensure, so far as is reasonably practicable, compliance with the COR Laws;

(iii) **"Heavy Vehicle Law"** means the:

A. Heavy Vehicle National Law (NSW) within the meaning of that term under the Heavy Vehicle (Adoption of National Law) Act 2013 (NSW); and

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B. regulations in force under the Heavy Vehicle National Law (NSW) as applied (with modifications) under the Heavy Vehicle (Adoption of National Law) Act 2013 (NSW) as amended, reproduced or updated from time to time; and

(iv) terms which are defined in the Heavy Vehicle Law have the meaning given in the Heavy Vehicle Law.

17.29 No Merger

Terms contained in this Contract which are capable of taking effect, or capable of continuing after Completion, will remain in full force and effect and will not merge on Completion.

18. Notification of Claims

18.1 Notice of Variation

If a direction by the Principal's Representative, other than a "Variation Order" under clause 6.2, constitutes or involves a Variation, the Contractor must, if it wishes to make a Claim against the Principal arising out of, or in any way in connection with, the direction:

(a) within the time specified in Schedule 1 of receiving the direction and before commencing work on the subject matter of the direction, give notice to the Principal's Representative, that it considers the direction constitutes or involves a Variation;

(b) within the time specified in Schedule 1 of giving the notice under clause 18.1(a), submit a written Claim to the Principal's Representative, which includes the details required by clause 18.3(b); and

(c) continue to carry out the Contractor's Activities in accordance with this Contract and all directions of the Principal's Representative, including any direction in respect of which notice has been given under this clause 18.1.

18.2 Notice of Other Claims

If the Contractor wishes to make any Claim (other than an Excluded Claim) against the Principal in respect of any direction of the Principal's Representative or any other event, circumstance, act, omission, fact, matter or thing (including a breach of this Contract by the Principal) under, arising out of, or in any way in connection with, this Contract, the Contractor's Activities or the Works, including anything in respect of which:

(a) it is otherwise given an express entitlement under this Contract; or

(b) this Contract expressly provides that:

(i) specified costs are to be added to the Contract Sum; or

(ii) the Contract Sum will be otherwise increased or adjusted,

as determined by the Principal's Representative,

the Contractor must give the Principal's Representative the notice required by clause 18.3(a) and a Claim in accordance with clause 18.3(c).

18.3 Prescribed Notices

(a) Any written notice referred to in clauses 18.1(a) and 18.2 must:

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(i) be provided not later than the time specified in Schedule 1 after the first occurrence of the direction, event, circumstance, act, omission, fact, matter or thing which gave rise to the alleged entitlement; and

(ii) expressly specify:

A. that the Contractor proposes to make a Claim; and

B. the direction event, circumstance, act, omission, fact, matter, or thing, which gave rise to the alleged entitlement in the Claim.

(b) Any written Claim referred to in clause 18.1(b) must include:

(i) detailed particulars, including the date or dates, of the direction, including any related event, circumstance, act, omission, fact, matter or thing upon which the Claim is based;

(ii) the provisions of this Contract or other legal basis upon which the Claim is based; and

(iii) details of the amount claimed and how it has been calculated.

(c) Any written Claim referred to in clause 18.2 must:

(i) be provided not later than the time specified in Schedule 1 of giving the written notice under clause 18.3(a); and

(ii) include:

A. detailed particulars, including the date or dates, of the direction, event, circumstance, act, omission, fact, matter or thing upon which the Claim is based;

B. the legal basis for the Claim, whether based on a term of this Contract or otherwise, and if based on a term of this Contract, clearly identifying the specific term;

C. the facts relied upon in support of the Claim in sufficient detail to permit verification; and

D. details of the amount claimed and how it has been calculated.

18.4 Submission of Claims

Claims submitted by the Contractor under clauses 18.1(b) and 18.2 will be considered in the first instance by the Principal's Representative who may accept or reject the Claim in part or in full.

If within 28 days after first receipt of a Claim the Principal's Representative has not made a decision on the Claim, the Claim will be deemed to have been rejected on that 28th day.

18.5 Continuing Events

If the direction, event, circumstance, act, omission, fact, matter or thing upon which a Claim is based, or their consequences are continuing, the Contractor must continue to give the information required by clause 18.3(b) or 18.3(c) every 28 days after the written Claim under clause 18.1(b) or 18.2 (as the case may be) was submitted or given to the Principal's Representative, until after the direction, event, circumstance, act, omission, fact, matter or thing or the consequences thereof have ceased.

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18.6 Bar

If the Contractor fails to comply with clauses 2.3(d), 16.2, 18.1, 18.2, 18.3 or 18.5:

(a) the Principal will not be liable upon any Claim by the Contractor; and

(b) the Contractor will be absolutely barred from making any Claim against the Principal,

arising out of or in any way in connection with the relevant direction, event, circumstance, act, omission, fact, matter or thing (as the case may be) to which those clauses apply.

18.7 Other Provisions Unaffected

Nothing in clauses 18.1 to 18.6 will limit the operation or effect of any other provision of this Contract that requires the Contractor to give notice to the Principal's Representative in order to preserve an entitlement to make a Claim against the Principal.

19. General Provisions Relating to GST

(a) The parties acknowledge that unless otherwise expressly stated all amounts of monetary consideration in this Contract are exclusive of GST.

(b) If GST is or becomes payable on a supply made by a party (**"Supplier"**) under or in connection with this Contract, including the Contractor's Activities or the Works, the party providing consideration for the supply (**"Recipient"**) must pay an additional amount to the Supplier equal to the GST payable by the Supplier (or representative member of a GST group of which the Supplier is a member) in relation to the supply.

(c) Any amount payable under clause 19(b) will be paid to the Supplier at the same time as the consideration for the supply is paid to the Supplier.

(d) If any party is required under this Contract to reimburse or pay to the other party an amount (other than any payment on account of the Contract Sum) calculated by reference to a cost, expense, or an amount paid or incurred by that party, the amount of the reimbursement or payment will be reduced by the amount of any input tax credits to which that party (or representative member of a GST group of which that party is a member) is entitled in respect of any acquisition relating to that cost, expense or other amount.

(e) Notwithstanding any other provision of this Contract, where the Recipient is the Contractor, it will not be obliged to pay any amount in respect of GST to the Principal (whether under this clause 19 or otherwise) in respect of a taxable supply made by the Principal unless the Principal issues to the Contractor a tax invoice that complies with the GST Legislation in respect of that taxable supply.

(f) The parties agree that unless otherwise agreed in writing, the following will apply to all taxable supplies made by the Contractor to the Principal under or in connection with this Contract:

(i) the Principal will issue to the Contractor a recipient created tax invoice (**"RCTI"**) for each taxable supply made by the Contractor to the Principal under this Contract;

(ii) the Principal will issue to the Contractor an adjustment note for any adjustment event;

(iii) the Contractor will not issue a tax invoice in respect of any taxable supply it makes to the Principal; and

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(iv) the Principal may notify the Contractor that it will no longer issue a RCTI for each taxable supply made by the Contractor under this Contract, in which case, from that point in time, the Principal will not be required to issue RCTIs in respect of such supplies and the Contractor will be required to issue tax invoices to the Principal (including under clause 11.3) as a condition precedent to the Principal being obliged to pay any amount in respect of GST to the Contractor in respect of any such taxable supply.

(g) Each party acknowledges and warrants that at the time of entering into this Contract it is registered for GST and will notify the other party if it ceases to be registered for GST or ceases to comply with any of the requirements of any taxation ruling issued by a taxation authority relating to the creation of RCTIs.

(h) If the GST payable in relation to a supply made by the Supplier under this Contract varies from the additional amount paid by the other party under this clause 19 in respect of that supply, then the Supplier will provide a corresponding refund or credit to or will be entitled to receive the amount of that variation from the other party (as appropriate).

(i) In clauses 11.3 and 11.15 and this clause 19:

(i) **"GST"** or **"Goods and Services Tax"** means the tax payable on taxable supplies under the GST Legislation;

(ii) **"GST Legislation"** means *A New Tax System (Goods and Services Tax) Act 1999* and any related Act imposing such tax or legislation that is acted to validate, recapture or recoup such tax;

(iii) terms defined in GST Legislation have the meaning given to them in GST Legislation; and

(iv) any part or progressive or periodic component of a supply that is treated as a separate supply for GST purposes (including attributing GST to tax periods) will be treated as a separate supply.

20. TfNSW's Statement of Business Ethics

(a) The Contractor must at all times comply with TfNSW's Statement of Business Ethics, a copy of which is available at www.transport.nsw.gov.au.

(b) Prior to the engagement of any Subcontractor by the Contractor, the Contractor must obtain a written acknowledgement from such Subcontractor that it has received, read, understood and will comply with TfNSW's Statement of Business Ethics.

21. NSW Code of Practice

21.1 NSW Code and NSW Guidelines

In addition to terms defined in this document, terms used in this clause 21 have the same meaning as is attributed to them in the New South Wales Industrial Relations Guidelines: Building and Construction Procurement (**"NSW Guidelines"**) (as published by the NSW Treasury July 2013 and updated in September 2017). The NSW Guidelines are available at www.industrialrelations.nsw.gov.au.

21.2 Primary Obligation

(a) The Contractor must at all times comply with, and meet any obligations imposed by, the NSW Government's Code of Practice for Procurement (**"NSW Code"**) and NSW Guidelines.

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(b) The Contractor must notify the CCU and the Principal of any possible non-compliance with the NSW Code and NSW Guidelines and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance.

(c) Where the Contractor engages a Subcontractor, the Contractor must ensure that the contract imposes on the Subcontractor equivalent obligations to those in this clause 21, including that the Subcontractor must at all times comply with, and meet any obligations imposed by, the NSW Code and the NSW Guidelines.

(d) The Contractor must not appoint or engage another party in relation to the Works where that appointment or engagement would breach a sanction imposed on the other party in relation to the NSW Code or NSW Guidelines.

21.3 Access and information

(a) The Contractor must maintain adequate records of compliance with the NSW Code and NSW Guidelines by it, its Subcontractors and related entities.

(b) The Contractor must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:

(i) enter and have access to sites and premises controlled by the Contractor, including but not limited to the Site;

(ii) inspect any work, material, machinery, appliance, article or facility;

(iii) access information and documents;

(iv) inspect and copy any record relevant to the Works;

(v) have access to personnel; and

(vi) interview any person,

as is necessary for the authorised personnel to monitor and investigate compliance with the NSW Code and NSW Guidelines, by the Contractor, its Subcontractors and related entities.

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

21.4 Sanctions

(a) The Contractor warrants that at the time of entering into this Contract, neither it, nor any of its related entities, are subject to a sanction in connection with the NSW Code or NSW Guidelines that would have precluded it from responding to a procurement process for work to which the NSW Code and NSW Guidelines apply.

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

(c) Where a sanction is imposed:

(i) it is without prejudice to any rights that would otherwise accrue to the parties; and

(ii) the State of NSW (through its agencies, Ministers and the CCU) is entitled to:

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A. record and disclose details of non-compliance with the NSW Code or NSW Guidelines and the sanction; and

B. take them into account in the evaluation of future procurement processes and responses that may be submitted by the Contractor, or its related entities, in respect of work to which the NSW Code and NSW Guidelines apply.

21.5 Compliance

(a) The Contractor bears the cost of ensuring its compliance with the NSW Code and NSW Guidelines, including in respect of any positive steps it is obliged to take to meet its obligations under the NSW Guidelines. The Contractor is not entitled to make a claim for reimbursement or an extension of time from the Principal or the State of NSW for such costs.

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

(c) Where a change in the Contract or the Works is proposed, and that change may, or may be likely to, affect compliance with the NSW Code and NSW Guidelines, the Contractor must immediately notify the Principal (or nominee) of the change, or likely change and specify:

(i) the circumstances of the proposed change;

(ii) the extent to which compliance with the NSW Code and NSW Guidelines will be, or is likely to be, affected by the change; and

(iii) what steps the Contractor proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a Workplace Relations Management Plan or Project Work Health and Safety Management Plan),

and the Principal will direct the Contractor as to the course it must adopt within 10 Business Days of receiving notice.

22. Modern Slavery

(a) The Contractor warrants that:

(i) it is not aware (including through the making of reasonable inquiries), of any Modern Slavery occurring within its operations or supply chain (or in those of any entity it owns or controls); and

(ii) as at the date of this Contract:

A. it (and any entity it owns or controls or Subcontractor of the Contractor) has not been convicted of any Modern Slavery Offence; and

B. it is not aware of any circumstance within its operations (or in those of any entity it owns or controls) that could give rise to an official investigation or prosecution of a Modern Slavery Offence.

(b) The Contractor agrees that it must:

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(i) at all times:

A. comply, and take reasonable steps to ensure any entity it owns or controls complies, with the Modern Slavery Laws; and

B. take reasonable steps (including developing strategies, due diligence processes and training) to ensure that:

1) Modern Slavery is not occurring (whether directly or indirectly) in the operations and supply chains of the Contractor and any entity it owns or controls; and

2) it (and any entity it owns or controls) does not use, nor procure, any goods, plant, equipment or other materials and work or services that are the product of Modern Slavery;

(ii) provide to the Principal any MS Information and other assistance, as reasonably requested by the Principal (and within the time required by the Principal), to enable the Principal to:

A. meet its obligations under the Modern Slavery Laws; or

B. enable the Principal to meet its respective obligations under the *Modern Slavery Act 2018* (NSW) and associated regulatory requirements (for example, annual reporting requirements and NSW Procurement Board directions),

including cooperating in any Modern Slavery audit undertaken by the Principal, (including by a third party on behalf of the Principal) or the NSW Audit Office, providing reasonable access to the Principal's or NSW Audit Office's auditors to interview the Contractor's personnel and disclosing the source, place and country of origin of goods, plant, equipment or other materials and work or services being procured or supplied under or in connection with this Contract;

(iii) comply with any policies, procedures, investigations or additional conditions relating to Modern Slavery notified in writing by the Principal to the Contractor from time to time during the term of this Contract; and

(iv) without limiting the Contractor's obligations at Law, at all times during the performance of the Contractor's Activities and for a period of seven (7) years after Completion of the last Portion to achieve Completion, the Contractor must:

A. maintain; and

B. promptly upon request from the Principal, give the Principal access to, and/or copies of,

a complete set of records in the possession or control of the Contractor to trace, so far as practicable, the supply chain of all goods, plant, equipment or other materials and work or services provided under this Contract and to enable the Principal to assess the Contractor's compliance with this clause 22.

(c) The Contractor must not (and must ensure any entity it owns or controls does not) at any time engage in any Modern Slavery Practice.

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(d) If the Contractor is a 'reporting entity' for the purposes of any Modern Slavery Law, it must provide to the Principal a copy of any report or statement (unredacted) it has prepared under the Modern Slavery Law within 7 days of providing that report or statement in accordance with the Modern Slavery Law, and otherwise, promptly upon the Principal's request.

(e) If the Contractor becomes aware of any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or in those of any entity that it owns or controls), the Contractor must take reasonable steps to respond to and remedy the occurrence, including in accordance with any internal Modern Slavery strategy and procedures of the Contractor and any relevant code of practice, code of conduct or other guidance issued by the Anti-slavery Commissioner or the NSW Procurement Board. The Contractor must immediately notify the Principal in writing of the actual or suspected occurrence of Modern Slavery and the steps it is taking to respond to and remedy the occurrence, which must be satisfactory to the Principal.

(f) The Contractor must promptly notify the Principal in writing if it becomes aware of any change in the Contractor's operations or supply chain (including in respect of any entity that it owns or controls) which may:

(i) give rise to a position where any information (including any MS Information) that has been provided by the Contractor to the Principal under this clause 22 is incorrect, inadequate or incomplete; or

(ii) otherwise put the Contractor in breach of this clause 22 or result in any inconsistency with any of the original attestations or warranties given by the Contractor under this clause 22,

and if the Contractor gives notice under this clause 22(f) the Contractor must thereafter promptly provide any further information that may be requested by the Principal.

(g) The Contractor must take reasonable steps to ensure all Subcontracts contain Modern Slavery provisions that are reasonably consistent with the provisions in this clause 22, having regard to the nature and origin of the procurement.

(h) The Contractor consents to the Principal sharing MS Information obtained from the Contractor in respect of Modern Slavery pursuant to this clause 22, with any other NSW Government agency or entity and, without limiting any other provision of this clause 22, the Contractor:

(i) agrees that the communication of MS Information to any NSW Government agency is a communication falling within section 30 of the *Defamation Act 2005* (NSW); and

(ii) releases and indemnifies the Principal and the State of New South Wales from and against any claim (of any kind or nature) in respect of any matter arising out of such communications, including the use of the MS Information by the recipient.

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Schedule 1 - Contract Particulars

Accredited Site Auditor (Clause 1.1)	To be confirmed by the Principal after Contract execution date but before the Site Access Date
Conditions Precedent to Completion: (Clause 1.1)	The Accredited Site Auditor accepting the Validation Consultant's final validation report in respect of the Contractor's Activities in order to enable the Accredited Site Auditor to issue the Final Audit Documents.
Contract Documents (Clause 1.1)	General Conditions of Contract. Schedules 1 to 30 (inclusive) Exhibits A to G (inclusive)
Contractor: (Clause 1.1)	RMA Contracting Pty Ltd (ABN 28 092 116 704) Level 24, 32 Turbot Street, Brisbane, QLD, 4000
Date for Completion: (Clause 1.1)	22 August 2024
Defects Rectification Period: (Clause 1.1)	The Defects Rectification Period is the period commencing on the Date of Completion and expiring 12 months after the Date of Completion.
Environmental Representative: (Clause 1.1)	[redacted] of Healthy Buildings International
Other Excepted Risk: (Clause 1.1)	None
Inclement Weather Allowance: (Clause 1.1)	The first 20 working days
Original Contract Price: (Clause 1.1)	[redacted]

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Portions: (Clause 1.1)	Not applicable
Principal's Representative: (Clause 1.1)	[redacted]
Reports: (Clause 1.1)	Refer to Exhibit D
The Site: (Clause 1.1)	Chatswood precinct worksite (as per the Works Brief)
Third Party Agreements: (Clauses 1.1 and 2.12(b))	Not used
Validation Consultant: (Clause 1.1)	To be confirmed by the Principal after the Contract execution date but before the Site Access Date
Waste Provisional Amounts: (Clause 1.1)	[redacted]
Working days: (Clause 1.2(m))	In accordance with the Authority Approval
Order of Precedence: (Clause 1.4)	(a) the Contract excluding the Schedules and the Exhibits; then (b) the Schedules; then (c) Exhibit A - the Works Brief (excluding any Preliminary Design); then (d) the remaining Exhibits.
Is Deed Poll in Schedule 16 required (Clause 1.5)	Yes
Names of persons in whose favour the Deed Poll in Schedule 16 is required (Clause 1.5)	Property and Development NSW and NSW Department of Education

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Amount for approval of Subcontracts: (Clause 2.2(b))	Subcontracts with an initial price of [redacted] or greater.
Parts of Works requiring approval for particular Subcontractor: (Clause 2.2(b))	Not applicable
Subcontractors required to effect professional indemnity insurance: (Clause 2.2(c))	All Subcontractors carrying out any element of design including Temporary Works design
Minimum amount of professional indemnity insurance required: (Clause 2.2(c))	All Subcontractors carrying out civil and structural design [redacted] All other Subcontractors carrying out design [redacted]
Subcontract prices for which security of payment provisions are required: (Clause 2.2(e)(i))	Subcontracts with an initial price of [redacted] or greater.
Subcontractors required to execute deed in form of Schedule 14: (Clause 2.2(e)(iv)A) (Clause 2.2(e)(iv)B)	Subcontracts with an initial price of [redacted] or greater. The following categories: • all Subcontracts and consultant engagements which include any element of design.
Warranties required from Subcontractors: (Clause 2.2(f))	Not applicable
Subcontractors to be novated to Contractor: (Clause 2.2(g))	Not applicable

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Parent Company Guarantee: (Clause 2.7(f))	[redacted]
The party responsible for payment of the Long Service Leave Levy is (Clause 2.8)	Contractor

The principal contractor under the WHS legislation is: (Clause 2.11)	**Person**	**Period of Appointment**
	The Contractor	From the date of this Contract until the date of completion of all construction work comprising the Contractor's Activities

Site access dates: (Clause 3.1(a) and 3.1(b)(i))	Site access to be provided in accordance with Schedule 30.
Site access preconditions: (Clause 3.1(c)(ii)E)	Any other Site access preconditions stated in the Contract or any Third Party Agreement.
Maximum daily amount of delay damages for failure to give access: (Clause 3.1(e)(ii))	[redacted]
Condition surveys exist for the following properties: (Clause 3.10)	Mowbray House only
Consultants to be novated: (Clause 5.2(b))	None
Number of copies of Design Documentation and survey information: (Clause 5.4)	4 (3 bound and 1 unbound) plus one copy in electronic format

Percentages to be applied to Variation and daywork costs: (Clauses 6.4 and 6.7)	**Clause No**	**percentage**
	6.4(b)(ii)A(including a valuation required to be made by clauses 3.5(c))	[redacted] **%**

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	6.4(b)(ii)B [redacted] %
	6.7 [redacted] %
Provisional Sum Work: (Clauses 1.1 and 7.3)	None
Percentage for Overhead Costs and profit (clause 7.3(b)(ii)(B)(2))	[redacted] %
Parts of the Site within which the Works must be located: (Clauses 3.9 and 7.6(b)(i))	Sydney Metro Chatswood site bound by Nelson St, Pacific Highway, Mowbray Road and the Sydney Metro Northern Dive Precinct, Chatswood, NSW, 2067.
New Defects Rectification Period: (Clause 8.6)	12 months
Contractor's Personnel (Clauses 2.1(d), 9.4(a) and 9.4(b)(i))	Contractor's Representative – [redacted] Project Manager – [redacted] Site Superintendent – [redacted] Community Relations Manager – [redacted] Safety Manager – [redacted] Environmental Manager – [redacted]
Causes of delay entitling Contractor to extension of time: (Clause 10.7(a))	• a Force Majeure Event; • a Change in Law to which clause 2.3(d) applies; • a strike that is industry-wide and not specific to the Contractor, the Site, or the Contractor's Activities; • a Latent Condition which satisfies the description in clause 3.5(c); • compliance with any direction given by the Principal's Representative under clause 3.7 in respect of any Valuable Find in the circumstances described in clause 3.7;

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- inclement weather where the inclement weather occurs after the Inclement Weather Allowance has been exhausted;
- a direction by the Principal's Representative to suspend the Contractor's Activities for a cause other than the Contractor's failure to perform its obligations in accordance with the Contract;

Maximum daily amount of delay damages: (Clause 10.13)	[redacted]
Progressive Inspection and Testing: (Clause 13.1)	As per the Works Brief
Liquidated damages: (Clause 13.7(a))	[redacted] per day
Limit of liability for liquidated damages for delay: (Clause 13.7(e))	[redacted] of the Contract Sum
Insurance of the Works (Clause 14.4)	
Alternative applying	Alternative 1
Public liability insurance (Clause 14.5)	
Alternative applying	Alternative 1
Amount of Contractor's insurance: (Clauses 14.6(a) and 14.6(f)(iii))	• **Workers compensation insurance** or similar insurance as required under clause 13.6 for an amount as required by Law • **Construction Plant Insurance** Current market value of the Construction Plant • **Professional Indemnity Insurance** [redacted] • **Motor Vehicle Insurance** [redacted] third party property damage

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	• **Asbestos Liability Insurance** [redacted] • **Insurance required by Law or Change in Law** As required by Law
Period for Professional Indemnity Insurance: (Clause 14.8(d))	7 years
Person in Insolvency Event: (Clause 15.4(a)(i)C)	Not applicable
Amount for termination for convenience: (Clause 15.10(a)(v))	[redacted] of the cost determined under clauses 14.10(a)(ii), 14.10(a)(iii) and 14.10(a)(iv).
Clauses in respect of which disputes concerning directions of a Principal's Representative must be submitted within 14 days of date of direction: (Clauses 9.1(b), 16.1(d) and 16.2)	2.3(d)(ii), 2.12(b)(vi)C, 2.12(b)(viii), 3.1(e)(ii), 3.5(c), 3.7 (final paragraph), 6.4, 6.7, 7.3, 8.5, 8.6, 9.8(c)(ii), 10.10, 10.11, 10.13, 10.14(b), 11.3, 13.3(b), 13.3(d), 15.6(b), 15.10(a) and 15.12(a).
Executive Negotiators: (Clauses 1.1 and 16.5)	Principal: [redacted] Contractor: [redacted]
Addresses: (Clause 17.1(b)(i))	Principal: Level 43, 680 George Street, Sydney NSW 2000 Principal's Representative: [redacted] - Contractor: Unit 12, 6-20 Braidwood St, Strathfield South, NSW, 2136. Contractor's Representative: [redacted]
Time for giving notices: (Clauses 18.1(a) and 18.3(a))	14 days
Time for written Claims: (Clauses 18.1(b) and 18.3(c))	28 days

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Schedule 2 - Payment Breakdown Schedule

(Clause 11.2(a))

Original Contract Price Details

ITEM	DESCRIPTION	TOTAL ($) EXCLUDING GST
1	[redacted]	[redacted]
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
Original Contract Price Total (Excluding GST)		**$**[redacted]

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Schedule 3 - Form of Confidentiality Undertaking

(Clauses 2.2(e)(iii) and 17.11(c)(i))

To: [ ]

We the engaged Consultant/Supplier/Contractor/Subcontractor body, undertake to treat as confidential all information received/generated from the (Principal) in respect of work performed by the Principal.

The Consultant/Supplier/Contractor/Subcontractor hereby undertakes:

(a) To disclose information to its employees only on a need-to-know basis;

(b) Not to disclose information to any other person without first obtaining the written consent of the Principal;

(c) To ensure that its employees to whom information is disclosed will comply with (a) and (b) above.

This undertaking will not apply to information about the Principal which is in the public domain (except where the availability of the information in the public domain is due to any unauthorised disclosure by the Consultant/Supplier/Contractor/Subcontractor, its employees or agents) or which was already known to the Consultant/Supplier/Contractor/Subcontractor.

Any breach of this undertaking by the Consultant/Supplier/Contractor/Subcontractor's employee or agent will constitute a breach of this undertaking by the Consultant/Supplier/Contractor/Subcontractor and at the direction of the Principal the Consultant/Supplier/Contractor/Subcontractor must institute proceedings or do whatever the Principal regards as reasonable to prevent or contain the breach.

The Consultant/Supplier/Contractor/Subcontractor undertakes that on request from the Principal it will forthwith return to the Principal all originals and copies of the confidential information, however embodied, supplied by the Principal and destroy all documents containing or prepared using any confidential information however embodied.

The Consultant/Supplier/Contractor/Subcontractor also undertakes to declare to the Principal any conflict of interests that exists or arises during the course of its engagement which may impinge on the objectivity or probity of the work performed. Such declarations are to be made as soon as the conflict of interests issues arises.

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This undertaking will remain in force until each part of the confidential information is released by the Principal into the public domain.

Dated: ….....

SIGNED for and on behalf of:

.....
(Print Company Name)

By: ....
(Print Name) (Signature)

in the presence of:

....

(Print Name) (Signature)

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Schedule 4 - Action in Complying with Planning Approval and Third Party Agreements

(Clause 2.3(c) and 2.12(a))

Part A Planning Approval

The Contractor must fulfil all the conditions and requirements of the Planning Approval except to the extent that the following tables allocate responsibilities to the Principal. Nothing specified in this table as being a responsibility of the Principal will relieve the Contractor from complying with any obligation set out elsewhere in the Contract. The Contractor may apply to have any part of any of the Approvals listed below modified. The Contractor acknowledges and agrees that it is solely responsible for any such modification.

Conditions of Approval (Chatswood to Sydenham)

Planning Approval Condition Number	Extent of Principal's responsibility for the Planning Approval condition specified
[redacted]	

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[redacted]

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[redacted]

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[redacted]

Part B Construction Environmental Management Framework (CEMF) Environmental Requirements

The Contractor must in addition to fulfilling the requirements of the Planning Approval, comply with the CEMF to the extent specified below:

CEMF Clause	Heading	Contractor's Responsibility
[redacted]		

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[redacted]

Part C Third Party Agreements

Not used

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Schedule 5 - Subcontractors - Security of Payment

(Clause 2.2(e)(i))

The following terms must be included in each Subcontract, and the Subcontracts let by those Subcontractors, as referred to in clause 2.2(e) of the General Conditions of this Contract.

1. Options as to Form of Security

A clause which allows the Subcontractor to lodge an approved unconditional undertaking from a bank or financial institution instead of a cash security or retention moneys as its security for performance of the Subcontract.

A clause which provides that if the Subcontractor does lodge an unconditional undertaking for the required amount, the Contractor must not deduct further retention moneys and any retention moneys or other cash security then held will be promptly released to the Subcontractor.

2. Trust for Cash Security and Retention Moneys

A clause which has the effect that:

(a) cash securities and retentions under the Subcontract and the cash proceeds of any security converted to cash (other than in exercise of a contractual right of enforcement) is trust money and must be deposited into and held in a trust account with a bank within 24 hours of receipt or conversion;

(b) the trust money is beneficially owned by the party which provided the security at all times unless the other party becomes entitled to receive them under the Subcontract;

(c) the security holder must hold proper records and account to the security provider for the trust moneys; and

(d) any interest earned by the trust account will not be held in trust, and will be owned by the security holder.

3. Payment Provisions

A clause which:

(a) has the effect of requiring the Contractor to pay the Subcontractor (and Subcontractors their subcontractors) regular progress payments for 100% of the value of work (less only retention moneys, if any, paid into the trust account) for which payment is claimed by the Subcontractor and for which the Contractor has claimed payment from the Principal, no later than:

(i) in the case of the Contractor's Subcontractors, 7 days; and

(ii) in the case of the Subcontractor's subcontractors, 14 days,

after the last day for payment by the Principal to the Contractor for such work;

(b) states nothing in the clause referred to in paragraph (a) is to be read so as to prevent the Contractor from paying the Subcontractor an amount in excess of that claimed from the Principal, or before the time stipulated in that clause; and

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(c) states if anything in the clause referred to in paragraph (a) is inconsistent with any other provision in the Subcontract, the provisions of that clause will prevail to the extent of the inconsistency.

A clause that prescribes an interest rate for overdue payments that is not less than the interest rate specified in clause 11.13 of the General Conditions of this Contract.

4. Alternative Dispute Resolution

A clause that requires alternative dispute resolution procedures of the type required in this Contract.

A clause making it optional for the Subcontractor to comply with the alternative dispute resolution process if the only remedy it seeks is an order for payment of money which is not disputed to be due and payable under the Subcontract.

5. Documents to be Provided to Subcontractors

A clause that requires the Contractor to provide the Subcontractor with a copy of extracts from this Contract before the Subcontractor starts work under the Subcontract. The extracts to be provided are:

(a) clause 2.2(e)(i);

(b) this Schedule 5;

(c) clause 11; and

(d) clause 15.

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Schedule 6 - Consultant Deed of Covenant

(Clause 2.2(e)(ii))

This deed poll is made the day of 20

To: **Sydney Metro (ABN** 12 354 063 515**)** of Level 43, 680 George Street, Sydney NSW 2000 (the **"Principal"**)

By: **[ ] ("Consultant")**

Recitals

A. The Principal has engaged [ ] (**"Contractor"**) to carry out certain works for the Principal by a contract dated [ ] (**"Contract"**).

B. The Contractor has engaged the Consultant by agreement dated [ ] (**"Subcontract"**) to carry out the professional services to be performed under the Subcontract (**"Professional Services"**) for the purposes of the performance of the Contractor's obligations under the Contract as they relate those design services.

C. Under the Contract, the Contractor is required to procure the Consultant to execute this deed poll in favour of the Principal.

Operative

1. Duty of Care

(a) The Consultant:

(i) warrants to the Principal that:

A. in performing the Professional Services, it will exercise the standard of skill, care and diligence that would be expected of a consultant experienced in and expert in the provision of the type of professional services required by the Principal;

B. the Professional Services will be fit for the intended purposes disclosed in or reasonably able to be inferred from the Works Brief, which is an annexure to the Contract; and

C. the Professional Services do not and will not infringe any patent, registered design, trademark or name, copyright or other protected right;

(ii) acknowledges that:

A. in performing the Professional Services it will owe a duty of care to the Principal; and

B. it is aware that the Principal will be relying upon the skill and judgment of the Consultant in performing the Professional Services and the warranties given by the Consultant in this deed poll; and

(iii) must act in good faith and in the best interests of the Principal and promptly advise the Principal about any matter in which the Consultant has been instructed by the Contractor to provide the Professional Services in a manner which is, or may result in an outcome which is, not

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in accordance with the requirements of the Contract, including without limitation:

A. where the Contractor's instructions in relation to design are not consistent with the Contract or may result in the Works not being fit for their intended purpose; or

B. where the Contractor's instructions require the Consultant to issue a certificate where the conditions for the issue of that certificate under the Contract have not been satisfied.

(b) The Consultant must:

(i) fully cooperate with each other consultant and contractor engaged by the Principal ("Other Contractor");

(ii) carefully coordinate and integrate the Professional Services with the services and work carried out by each Other Contractor;

(iii) carry out the Professional Services so as to minimise any interfering with, disrupting or delaying, the services and work carried out by each Other Contractor;

(iv) without limitation, provide whatever advice, support and cooperation is reasonable to facilitate the due carrying out of the services and work being provided by each Other Contractor;

(v) ensure title to and intellectual property (including any patent, registered design, trademark or name, copyright or other protected right) in or in relation to the Professional Services will vest upon its creation for the purposes of the Contract in the Principal;

(vi) obtain an assignment to the Principal from any third party who owns any intellectual property right in the Professional Services;

(vii) if any intellectual property rights in or in relation to documents, designs and computer programs created for the purposes of the Contract is not capable of being vested in the Principal because the Consultant itself does not own, and is unable at a reasonable cost to obtain ownership of, those rights, provide to the Principal an irrevocable licence to use that Intellectual Property, by sub-licence from the Consultant or direct licence from a third party; and

(viii) ensure that the intellectual property created for the purposes of the Contract is not used, adapted or reproduced other than for the purposes of the Contract without the prior written approval of the Principal (which will not be unreasonably withheld, but may be given subject to terms and conditions).

(c) The Consultant must indemnify the Principal from and against:

(i) any liability to or claim by any other person; and

(ii) all claims against, and costs, expenses, losses and damages,

suffered or incurred by the Principal arising out of, or in any way in connection with:

(iii) the Consultant's breach of a term of, or warranty under, this deed poll; or

(iv) any actual or alleged infringement of any patent, registered design, trademark or name, copyright or other protected right.

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2. Notices

(a) Any notices contemplated by, or arising out of or in any way in connection with, this deed poll must be in writing and delivered to the relevant address or sent to (or to a party's new address which that party notifies to the others):

(i) to the Principal: ***[Insert details including email]***

(ii) to the Consultant: ***[Insert details including email]***

(b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.

(c) A notice sent by email (whether or not containing attachments) will be taken to have been received on the earlier of:

(i) the time sent (as recorded on the device from which the sender sent the email) unless, within 4 hours of sending the email, the party sending the email receives an automated message that the email has not been delivered;

(ii) receipt by the sender of an automated message confirming delivery; and

(iii) the time of receipt as acknowledged by the recipient in writing,

provided that:

(iv) the communication will be taken to be so given by the sender and received by the recipient regardless of whether the email or any of its attachments is opened by the recipient; and

(v) if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next day, which is not a Saturday, Sunday or public holiday in New South Wales.

(d) If the Consultant is a foreign company (as defined in the *Corporations Act*), the Consultant must within 14 days of the date of this deed poll:

(i) appoint a local process agent acceptable to the Principal as its agent to accept service of process under or in any way in connection with this deed poll; and

(ii) obtain the process agent's consent to the appointment.

The appointment must be in a form acceptable to the Principal and may not be revoked without the Principal's consent.

3. Miscellaneous

(a) This deed poll will be construed in accordance with the law of the State of New South Wales and the Consultant irrevocably submits to the jurisdiction of the Courts of that State.

(b) This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal.

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Schedule

[INSERT DESCRIPTION OF PROFESSIONAL SERVICES] as more particularly described in the Subcontract.

Executed as a deed poll.

Signed Sealed and Delivered	)	
by the Consultant	)	……
[ ] by or in the presence of:	)	(Signature)

.....
(Signature of Witness)

.....
(Name of Witness in Full)

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Schedule 7 - Approvals to be obtained by the Principal

(Clause 2.3(c)(i))

- The Planning Approval.

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Schedule 8 - Form of Unconditional Undertaking

(Clause 2.7)

This deed poll (**"Undertaking"**) made the day of 20

In favour of: **Sydney Metro (ABN** 12 354 063 515**)** of Level 43, 680 George Street, Sydney NSW 2000 (the **"Principal"**)

Given by: [ ] (**"Institution"**)

Recitals:

A. By a contract dated [ ] (**"Contract"**) between [ ] (**"Contractor"**) and the Principal the Contractor agreed to carry out the Contractor's Activities (as defined in the Contract).

B. Under the provisions of the Contract, the Contractor is required to provide this Undertaking to the Principal.

Operative:

1. The Institution unconditionally undertakes and covenants to pay to the Principal on demand without reference to the Contractor and notwithstanding any notice given by the Contractor to the Institution not to do so, any sum or sums which may from time to time be demanded in writing by the Principal to a maximum aggregate sum of # ($).

2. The Institution's liability under this Undertaking will be a continuing liability and will continue until payment is made under this Undertaking of the maximum aggregate sum or until the Principal notifies the Institution that this Undertaking is no longer required.

3. The liability of the Institution under this Undertaking must not be discharged or impaired by reason of any variation or variations (with or without the knowledge or consent of the Institution) in any of the stipulations or provisions of the Contract or the Contractor's Activities or acts or things to be executed, performed and done under the Contract or by reason of any breach or breaches of the Contract by the Contractor or the Principal.

4. The Institution may at any time without being required so to do pay to the Principal the maximum aggregate sum less any amount or amounts it may previously have paid under this Undertaking and thereupon the liability of the Institution hereunder will immediately cease.

5. This Undertaking will be governed by and construed in accordance with the laws for the time being of the State of New South Wales.

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Executed as a deed poll.

Signed Sealed and Delivered	)	
by **[ ]** being signed	)	……
sealed and delivered by its duly constituted	)	(Signature)
Attorney [ ] under	)	
Power of Attorney No. in the	)	
presence of:	)	

.....
(Signature of Witness)

.....
(Name of Witness in Full)

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Schedule 9 - Information Documents and Materials

(Clause 3.6)

List of Information Documents and Materials

Item	Description	Author / Source	Date	Format
[redacted]				

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Schedule 10 - Prices and Rates for valuation of Variations and Overhead Costs

(Clauses 6.4(b)(i)A and 6.7(a))

Part A

The prices and rates referred to in clauses 6.4(b)(i)A and 6.7(a) of the Contract are those set out in the table below:

ITEM	DESCRIPTION	UNIT	RATE ($) EXCLUDING GST
	Staff Rates		
[redacted]			

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[redacted]

ITEM	DESCRIPTION	UNIT	DRY HIRE NORMAL TIME DAY RATE ($)	WET HIRE NORMAL TIME DAY RATE ($) EXCLUDING GST
Plant and Equipment Rates				

[redacted]

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Part B - Overhead Costs

(Clauses 1.1, 6.4(b) and 7.3(b))

1. **On-site overheads**

The on-site overheads are those overhead costs and expenses which are specific to the Site including:

(a) on-site personnel with project management, site supervision, administration and support functions;

(b) site accommodation including amenities and parking facilities;

(c) phones lease and installation, rental and charges including mobiles;

(d) storage area and facilities;

(e) office supplies and consumables;

(f) site services;

(g) furniture and office fittings;

(h) site-based computers;

(i) printing, photocopying and stationery;

(j) reproduction of drawings;

(k) project specific insurances only (and not corporate held insurances);

(l) project specific software, data processing and network systems;

(m) security;

(n) cleaning;

(o) postage;

(p) site communications;

(q) first aid and personnel protective equipment for the personnel referred to in paragraph (a);

(r) small tools; and

(s) waste disposal associated with site accommodation, including amenities and parking facilities (excluding waste disposal associated with construction activities).

2. **Off-site overheads**

The off-site overheads are on account of costs and expenses related to off-site business functions of the Contractor (in respect of the Works) including the following matters:

(a) safety and quality;

(b) research and development;

(c) financial, legal, human resources and commercial;

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(d) executive management;

(e) corporate infrastructure and support;

(f) parent company fees;

(g) corporate head offices running costs and payroll;

(h) bonds and bank guarantees.

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Schedule 11 - Form of Warranty

(Clause 2.2(f))

This Deed Poll is made the day of 20

To: **Sydney Metro (ABN** 12 354 063 515**)** of Level 43, 680 George Street, Sydney NSW 2000 (the **"Principal"**)

[Add other beneficiaries as nominated by Sydney Metro] (**"Beneficiary"**).

By: That person described in Item 1 of the Schedule (**"Warrantor"**) which expression will include its successors and assigns)

Recitals

A. The Warrantor has supplied the items described in Item 2 of the Schedule (**"Equipment"**) to the person described in **Item** 3 of the Schedule (**"Contractor"**) or the person described in Item 4 of the Schedule, a subcontractor of the Contractor (**"Subcontractor"**), for the works (**"Works"**) being carried out by the Contractor under the contract described in Item 5 of the Schedule (**"Contract"**) with the Principal.

B. It is a requirement of the Contract that the Contractor procure the Warrantor to give the following warranties in favour of the Principal and the Beneficiary with respect to the Equipment.

Operative

1. Quality

The Warrantor:

(a) warrants to the Principal and the Beneficiary that the Equipment will be to the quality and standard stipulated by the Contract and will be of merchantable quality and fit for the purpose for which it is required; and

(b) gives the warranty more particularly set out in Item 6 of the Schedule with respect to the Equipment.

The above warranties are in addition to and do not derogate from any warranty implied by law in respect of the Equipment.

2. Replacement

The Warrantor warrants to the Principal and the Beneficiary that it will replace so much of the Equipment as within the period described in Item 7 of the Schedule:

(a) is found to be of a lower quality or standard than that referred to in clause 1; or

(b) shows deterioration of such extent that in the opinion of the Principal or the Beneficiary the Equipment ought to be made good or replaced in order to achieve fitness for the purpose for which it is required, whether on account of utility, performance, appearance or otherwise.

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3. Warrantor to bear cost

The Warrantor covenants to the Principal and the Beneficiary that it will bear the cost of any work necessary to any part of the Works to enable the requirements of clause 2 to be carried out or to make good the Works afterwards.

4. Principal not liable

The Warrantor acknowledges to the Principal and the Beneficiary that nothing contained in this deed poll is intended to nor will render either the Principal or the Beneficiary in any way liable to the Warrantor in relation to any matters arising out of the Contract or otherwise.

5. This deed poll may not be revoked

This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal and the Beneficiary.

6. Governing Law

This deed poll is governed by the laws of the State of New South Wales.

7. Jurisdiction

The Warrantor irrevocably submits to the non-exclusive jurisdiction of the Courts of New South Wales.

8. Enforcement of this deed poll

For the avoidance of doubt this deed poll is enforceable by any of the Principal or the Beneficiary.

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Schedule

Item 1: Name and Address of Warrantor

Item 2: Equipment
(Recital A)

Item 3: Contractor
(Recital A)

Item 4: Subcontractor
(Recital A)

Item 5: Contract
(Recital A)

Item 6: Detailed Warranty of Warrantor
(Clause 1(b))

Item 7: Period of Years
(Clause 2)

[insert period] years from the expiry of the last "Defects Rectification Period" as defined in the General Conditions (including any extension under clause 8.6 of the General Conditions).

Executed as a deed poll.

Executed by **[*insert name of Warrantor*] (ABN *[insert ABN])*** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Schedule 12 - Form of Statutory Declaration

(Clause 11.6(c)(i))

Statutory Declaration *Oaths Act (NSW) Ninth Schedule*

I,

.....

of

.....

do solemnly and sincerely declare that:

1. I am the representative of:

.....

("the Contractor")

in the Office Bearer capacity of:

.....

2. The Contractor has a contract with the [ ]:

.....

("the Contract")

3. I personally know the facts which I have set out in this declaration.

4. All employees who have at any time been engaged by the Contractor for work done under the Contract:

a) have been paid all remuneration and benefits to the date of this declaration payable to them by the Contractor in respect of their employment on work under the Contract, and

b) have otherwise had accrued to their account all benefits to which they are entitled from the Contractor as at the date of this declaration in respect of their employment on work under the Contract pursuant to any award, enterprise agreement, act or regulation,

with the exception of the employees and respective amounts unpaid or not accrued for each employee listed below:

Employee: Amount unpaid or not accrued:

.....

.....

.....

5. Attached to and forming part of this declaration, as Annexure A, is a supporting statement for the purposes of section 13(7) of the Building and Construction Industry Security of Payment Act 1999 (NSW).

5A. Where the Contractor holds any retention money from a Subcontractor, the Contractor has complied with all requirements under the Building and Construction Industry Security of Payment Amendment (Retention Money Trust Account) Regulation 2015 (NSW), with the exception of the items listed below:

.....

.....

.....

6. In all cases where a subcontractor or supplier to the Contractor has provided services and/or materials in respect of the Contract and has submitted a claim to the Contractor for these services or materials which as at the date of this statutory declaration would have been due and

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payable but which the Contractor disputes, the reasons for such dispute have been notified in writing to the subcontractor or supplier by the Contractor prior to the date of this statutory declaration. Where such dispute relates to part only of the subcontractor or supplier's claim, that part of the claim not in dispute has been paid by the Contractor to the subcontractor or supplier as at the date of this statutory declaration except for the amounts listed in 5 above.

7. The provisions of the Contract relating to the payment of employees, subcontractors and suppliers of the Contractor have been complied with by the Contractor.

8. The Contractor has been informed by each subcontractor to the Contractor (except for subcontracts not exceeding $25,000 at their commencement) by statutory declaration in equivalent terms to this declaration (made no earlier than the date 14 days before the date of this declaration):

(a) that their subcontracts with their subcontractors and suppliers comply with the requirements of the Contract relating to payment of employees and subcontractors, and

(b) that all their employees and subcontractors, as at the date of the making of such a declaration:

i) have been paid all remuneration and benefits due and payable to them by; or

ii) had accrued to their account all benefits to which they are entitled from;

the subcontractor of the Contractor or from any other subcontractor (except for subcontracts not exceeding $25,000 at their commencement) in respect of any work under the Contract, and

(c) of details of any amounts due and payable or benefits due to be received or accrued described in 8(b) above which have not been paid, received or accrued,

except for the following subcontractors to the Contractor who have failed to provide such a declaration:

Subcontractor: Due amount unpaid:

.....

.....

.....

.....

insert names and addresses of the Contractor's subcontractors who have not submitted a declaration, and unpaid amounts due or otherwise due to each of them by the Contractor in respect of this claim

9. Where a subcontractor to the Contractor has provided a declaration as in 8 above, and it includes unpaid amounts or benefits either not received or not accrued, details of the subcontractor, details of the affected employees, suppliers and subcontractors of the subcontractor, and the respective amounts or benefits either unpaid or not accrued are as follows:

Employee, subcontractor or supplier: Amount unpaid or not accrued:

.....

.....

.....

.....

insert names of the subcontractors, the name and addresses of the unpaid employees, subcontractors and suppliers and amounts listed as unpaid or not accrued to them.

10. In relation to the statutory declaration provided by each subcontractor to the Contractor, I am not aware of anything to the contrary of what is contained therein, and on the basis of the contents of those statutory declarations, I believe that information to be true.

11. Attached to and forming part of this declaration, as Annexure B, is a "Subcontractor's Statement" given by the Contractor in its capacity as 'subcontractor' (as that term is defined in the Workers Compensation Act 1987, Pay-Roll Tax Act 1971 and Industrial Relations Act 1996) which is a written statement:

(a) under section 175B of the Workers Compensation Act 1987 in the form and providing the detail required by that legislation;

(b) under section 18(6) of schedule 2 of part 5 of the Pay-Roll Tax Act 2007 in the form and providing the detail required by that legislation; and

(c) under section 127 of the Industrial Relations Act 1996 in the form and providing the detail required by that legislation.

12. I personally know the truth of the matters which are contained in this declaration and the attached Subcontractor's Statement.

13. All statutory declarations and Subcontractor's Statements received by the Contractor from subcontractors were:

(a) given to the Contractor in its capacity as 'principal contractor' as defined in the Workers Compensation Act 1987, the Pay-Roll Tax Act 2007 and the Industrial Relations Act 1996 ("Acts"); and

(b) given by the subcontractors in their capacity as 'subcontractors' as defined in the Acts.

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14. I am not aware of anything which would contradict the statements made in the statutory declarations or written statements provided to the Contractor by its subcontractors, as referred to in this declaration.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 (NSW). I am aware that I may be subject to punishment by law if I wilfully make a false statement in this declaration.

Declared at ..... on .....
(place) (day) (month) (year)

.....
(Signature of Declarant)

Before me:

.....
(Signature of person before whom the declaration is made)

.....
(Name of the person before whom the declaration is made)

.....
(Title of the person before whom the declaration is made)*

*And as a witness, I certify the following matters concerning the person who made this declaration (**declarant**):*

*[*strike out the text that does not apply]*

*1. *I saw the face of the declarant.*
OR
**I did not see the face of the declarant because the declarant was wearing a face covering, but I am satisfied that the declarant had a special justification for not removing the covering.*

*2. *I have known the declarant for at least 12 months.*
OR
**I confirmed the declarant's identity using the following identification document:*

_____
Identification document relied on
(may be original or certified copy)

_____
Signature of person before whom the declaration is made

Before me:

.....
(Signature of person before whom the declaration is made)

.....
(Name of the person before whom the declaration is made)

.....
(Title of the person before whom the declaration is made)*

** The declaration must be made before one of the following persons:*

- where the declaration is sworn within the State of New South Wales:
(i) a justice of the peace of the State of New South Wales;
(ii) a solicitor of the Supreme Court of New South Wales with a current practising certificate; or
(iii) a notary public.

- where the declaration is sworn in a place outside the State of New South Wales:
(i) a notary public; or
(ii) any person having authority to administer an oath in that place.

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Annexure A

Supporting statement by head contractor regarding payment to subcontractors

This statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

For the purposes of this statement, the terms “principal”, “head contractor”, “subcontractor”, and “construction contract” have the meanings given in section 4 of the *Building and Construction Industry Security of Payment Act 1999*.

Head contractor: [*business name of head contractor*]
ABN: [*ABN*]

* 1. has entered into a contract with: [*business name of subcontractor*]

ABN: [*ABN*]

Contract number/identifier: [*contract number/identifier*]

OR

* 2. has entered into a contract with the subcontractors listed in the attachment to this statement.

* [*Delete whichever of the above does not apply*]

This statement applies for work between [*start date*] and [*end date*] inclusive (the construction work concerned), subject of the payment claim dated [date].

I,[*full name*], being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters that are contained in this supporting statement and declare that, to the best of my knowledge and belief, all amounts due and payable to subcontractors have been paid (not including any amount identified in the attachment as an amount in dispute).

Signature: …… Date: ……

Full name: …… Position/Title: ……

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Attachment

Schedule of subcontractors paid all amounts due and payable				
Subcontractor	**ABN**	**Contract number / identifier**	**Date of works (period)**	**Date of payment claim (head contractor claim)**

Schedule of subcontractors for which an amount is in dispute and has not been paid				
Subcontractor	**ABN**	**Contract number / identifier**	**Date of works (period)**	**Date of payment claim (head contractor claim)**

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Annexure B

SUBCONTRACTOR'S STATEMENT

REGARDING WORKERS COMPENSATION, PAYROLL TAX AND REMUNERATION
(Note 1 - see back of form)

For the purposes of this Statement a "subcontractor" is a person (or other legal entity) that has entered into a contract with a "principal contractor" to carry out work.

This Statement must be signed by a "subcontractor" (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007*, and s127 *Industrial Relations Act 1996* where the "subcontractor" has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s). The signed Statement is to be submitted to the relevant principal contractor.

SUBCONTRACTOR'S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.

Subcontractor: …….....……..... ABN: …….....
(Business name)

of ……..…….....
(Address of subcontractor)

has entered into a contract with ……
ABN:……...
(Business name of principal contractor)

(Not
e 2)

Contract number/identifier …….…… (Note 3)

This Statement applies for work between: ……./……./……. and ……./……./……. inclusive, (Note 4)

subject of the payment claim dated: ……./……./……. (Note 5)

I, ……. a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor's Statement and declare the following to the best of my knowledge and belief:

(a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [ ] if true and comply with (b) to (g) below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [ ] and only complete (f) and (g) below. You must tick one box. (Note 6)

(b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated ……/……/……(Note 7)

(c) All remuneration payable to relevant employees for work under the contract for the above period has been paid. (Note 8)

(d) Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement. (Note 9)

(e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above. (Note 10)

(f) Signature …… Full name……

(g) Position/Title …… Date ……./……./…….

NOTE: Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the Workers Compensation Act 1987.

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Notes

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007* and section 127 of the *Industrial Relation Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

   A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called ***the subcontractor***) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.
2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.
3. Provide the unique contract number, title, or other information that identifies the contract.
4. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

   Section 127(6) of the *Industrial Relations Act 1996* defines remuneration '*as remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees*.'

   Section 127(11) of the *Industrial Relations Act 1996* states *'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor*.'
5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than $7500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.
9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

Statement Retention

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

Offences in respect of a false Statement

In terms of s127(8) of the *Industrial Relations Act 1996*, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

(a) the person is the subcontractor;
(b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
(c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the *Workers Compensation Act* and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

Further Information

For more information, visit the WorkCover website www.workcover.nsw.gov.au, Office of State Revenue website www.osr.nsw.gov.au, or Office of Industrial Relations, Department of Commerce website www.commerce.nsw.gov.au . Copies of the *Workers Compensation Act 1987, the Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at www.legislation.nsw.gov.au.

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Schedule 13 - Property Owner's Certificate

(Clause 3.4(c)(ii))

This deed poll is made the day of 20

To: **Sydney Metro (ABN** 12 354 063 515**)** of Level 43, 680 George Street, Sydney NSW 2000 (the **"Principal"**)

By: [ ].

Property Address: .....

1. I/We confirm that the following works has been carried out and completed on my/our property to my/our satisfaction:

   [Insert description of works on property and property]

2. I/We confirm that our land has been rehabilitated and all damage and degradation on it repaired.

3. I/We release the Principal from all claims and actions which I/we may have arising out of or in connection with the works referred to in paragraph 1.

4. This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal.

Executed as a deed poll.

Signed sealed and delivered by in the presence of:

Signature

Signature of Witness

Name of Witness in full

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Schedule 14 - Form of Subcontractor Deed

(Clause 2.2(e)(iv))

THIS DEED POLL is made on ....., 20..... by

…….....……..... ACN.....….. of

…….....…….. (the **"Subcontractor"**).

RECITALS:

A. **Sydney Metro (ABN** 12 354 063 515**)** of Level 43, 680 George Street, Sydney NSW 2000 (the **"Principal"**) has entered into a contract with [ ] (**"Contractor"**) for the construction of [ ] (**"Works"**).

B. The Subcontractor has an agreement (the **"Subcontract"**) with the Contractor for the execution and completion of the [ ] (the **"Subcontract Works"**) for the Works.

C. It is a condition of the Subcontract that the Subcontractor executes this Deed Poll.

THIS DEED WITNESSES THAT THE SUBCONTRACTOR HEREBY COVENANTS, WARRANTS AND AGREES with and for the benefit of the persons named in the Schedule as follows:

1. It will comply with its obligations under the Subcontract and upon completion of the Works, the Subcontract Works will satisfy the requirements of the Subcontract.

2. The persons named in the Schedule may assign or charge the benefits and rights accrued under this Deed Poll.

3. The Subcontractor:

   (a) must, if required by a written notice by the Principal, sign a deed in the form of the attached Deed of Novation (Attachment 1) with such substitute contractor as the Principal may nominate; and

   (b) for this purpose irrevocably appoints the Principal to be its attorney with full power and authority to complete the particulars in and sign the attached Deed of Novation.

4. This Deed Poll is governed by the laws of the State of New South Wales.

5. This Deed Poll may not be revoked or otherwise modified without the prior written consent of the Principal.

6. The Subcontractor's liability in respect of a breach of a particular obligation under this Deed Poll will be reduced to the extent to which the Subcontractor has already paid money to or performed work for the Contractor in respect of that breach.

PERSONS NAMED IN THE SCHEDULE TO THE DEED POLL

Sydney Metro (ABN 12 354 063 515)

[Insert relevant details]

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EXECUTED AS A DEED POLL.

Executed by **[*insert name*] (ABN [*insert ABN*])**
by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Attachment 1 (to Schedule 14)

THIS DEED OF NOVATION is made on [ ] 20[ ] between the following parties:

1. [ ] (**"Substitute Contractor"**)

2. [ ] (**"Original Contractor"**)

3. [ ] (**"Subcontractor"**).

RECITALS:

A. By deed dated [ ] (the **"Deed"**) between:

(i) **Sydney Metro (ABN** 12 354 063 515**)** of Level 43, 680 George Street, Sydney NSW 2000 (the **"Principal"**); and

(ii) Original Contractor,

the Principal engaged the Original Contractor to undertake the Works (as defined in the Deed).

B. The Original Contractor has entered into an agreement (**"Subcontract"**) with the Subcontractor for the execution and completion of the [ ] (**"Subcontract Works"**) as part of the Works.

C. The Principal has terminated the Deed and has engaged Substitute Contractor to complete the Works.

D. The Principal and Substitute Contractor wish to effect a novation of the Subcontract.

THIS DEED WITNESSES that in consideration, among other things, of the mutual promises contained in this deed, the parties agree:

1. Substitute Contractor must perform all of the obligations of the Original Contractor under the Subcontract which are not performed at the date of this deed. Substitute Contractor is bound by the Subcontract as if it had originally been named in the Subcontract in place of Original Contractor.

2. The Subcontractor must perform its obligations under, and be bound by, the Subcontract as if Substitute Contractor was originally named in the Subcontract in place of Original Contractor.

3. This deed is governed by the laws of New South Wales and the parties agree to submit to the non-exclusive jurisdiction of the courts of that state.

EXECUTED by the parties as a deed:

[Insert appropriate execution clauses]

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Schedule 15 - Options

(Clause 6.3)

Not Used

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Schedule 16 - Form of Contractor Deed Poll

(Clause 1.5)

This deed poll (**"Deed Poll"**) made the day of 20

By: **[insert name of Contractor] (ABN [insert Contractor's ABN])** of [insert Contractor's address] (**"Contractor"**),

in favour of: **[insert name of Beneficiary of Deed Poll] (ABN [insert Beneficiary's ABN])** of [insert Beneficiary's address] (**"Owner"**).

RECITALS

A. Sydney Metro of Level 43, 680 George Street, Sydney NSW 2000, is responsible for developing the ***[Insert]*** (**"Program"**).

B. As part of the Program Sydney Metro is responsible for procuring the execution and completion of certain works [Insert details of project] (the **"Works"**) on behalf of the Owner and the New South Wales Government, and has entered into a contract (**"Main Contract"**) with the Contractor to achieve this.

C. The Owner is relying on Sydney Metro to procure the Contractor to execute and complete the Works in accordance with the Main Contract.

D. The Owner will suffer loss if Sydney Metro does not procure the Contractor to execute and complete the Works in accordance with the Main Contract.

E. It is a condition of the Main Contract that the Contractor executes this Deed Poll.

THIS DEED POLL WITNESSES THAT THE CONTRACTOR HEREBY COVENANTS, WARRANTS AND AGREES with and for the benefit of the Owner as follows:

1. It will comply with its obligations under the Main Contract, including with respect to achieving Completion of each Portion and the Works by the relevant Date for Completion.

2. Upon Completion of the Works, the Works will satisfy the requirements of the Main Contract.

3. The aggregate of the Contractor's liability to the Owner under this Deed Poll and the Contractor's liability to Sydney Metro under the Main Contract:

   (a) will not exceed the liability which the Contractor would have had under the Main Contract if the Main Contract had named, as Principal, the Owner and Sydney Metro jointly and severally; and

   (b) is subject to the same limitations of liability, and qualifications on such limitations of liability, as are specified in the Main Contract.

4. Any provision of this Deed Poll which seeks to limit or exclude a liability of the Contractor is to be construed as doing so only to the extent permitted by law.

5. The Owner may assign or charge the benefits and rights accrued under this Deed Poll.

6. This Deed Poll is governed by the laws of the State of New South Wales.

7. This Deed Poll may not be revoked or otherwise modified without the prior written consent of the Owner.

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8. Where terms used in this Deed Poll are defined in the Main Contract, those terms have the meaning given to them in the Main Contract.

Executed as a deed poll.

Executed by **[insert Contractor's name] ABN [insert Contractor's ABN]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Schedule 17 - Deed of Guarantee and Indemnity

This deed poll (**"Deed Poll"**) made at on 20

Sydney Metro (ABN 12 354 063 515), a NSW Government agency constituted by section 38 of the *Transport Administration Act 1988* (NSW), of Level 43, 680 George Street, Sydney NSW 2000 (***Principal***)

[ ] ABN [ ] of [ ] (***Guarantor***)

RECITALS

A. The Principal has agreed to enter into the Contract with the Contractor on the condition that the Guarantor provide this Guarantee.

B. The Guarantor has agreed on the following terms and conditions to guarantee to the Principal all of the Obligations and to indemnify the Principal against any loss arising from any failure by the Contractor to perform the Obligations.

C. The Guarantor considers that by providing this guarantee there will be a commercial benefit flowing to it.

THIS DEED POLL PROVIDES

1. Definitions

1.1 Definitions and Interpretation

In this Deed Poll:

Contract means the **[Insert details]** Contract dated on or about the date of this Deed Poll between the Principal and the Contractor.

Contractor means **[insert details]**.

Event of Default means any event which constitutes a breach of, or is duly and properly declared to be an event of default (howsoever described) by, the Contract.

Guaranteed Money means all money the payment or repayment of which from time to time forms part of the Obligations.

Insolvency Provision means any Law relating to insolvency, sequestration, liquidation or bankruptcy (including any Law relating to the avoidance of conveyances in fraud of creditors or of preferences, and any Law under which a liquidator or trustee in bankruptcy may set aside or avoid transactions), and any provision of any agreement, arrangement or scheme, formal or informal, relating to the administration of any of the assets of any person.

Obligations means all the liabilities and obligations of the Contractor to the Principal under or arising out of or in any way in connection with the Contract or the work to be carried out or performed by the Contractor under the Contract, and includes any liabilities or obligations which:

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(a) are liquidated or unliquidated;

(b) are present, prospective or contingent;

(c) are in existence before or come into existence on or after the date of this Deed Poll;

(d) relate to the payment of money or the performance or omission of any act;

(e) sound in damages only; or

(f) accrue as a result of any Event of Default,

and irrespective of:

(g) whether the Contractor is liable or obligated solely, or jointly, or jointly and severally with another person;

(h) the circumstances in which the Principal comes to be owed each liability or obligation and in which each liability or obligation comes to be secured by this Deed Poll, including any assignment of any liability or obligation or of this Deed Poll; or

(i) the capacity in which the Contractor and the Principal comes to owe or be owed such liability or obligation,

and **Obligation** means any liability or obligation forming part of the Obligations.

Power means any right, power, authority, discretion, remedy or privilege conferred on the Principal by the Contract, by statute, by law or by equity.

Security means a mortgage, charge, pledge, lien, hypothecation, guarantee (including this Deed Poll), indemnity, letter of credit, letter of comfort, performance bond, contractual right of set-off or combination or other assurance against loss which secures the Guaranteed Money or the performance of any other Obligation, and whether existing at the date of this Deed Poll or at any time in the future.

Specified Rate means the rate which is [redacted] above the rate expressed as a percentage per annum:

(a) which is the average of the bid rates shown at approximately 10.15 am on reference rate page "BBSY" on the Reuters Monitor System on the day the relevant amount was due and payable for bank accepted bills having a tenor of 30 days; or

(b) if for any reason the rate referred to in paragraph (a) is no longer available or if there is no rate displayed for that period at that time, then the average of the buying rates quoted by 3 banks selected by the Principal at or about 10.15 am on the relevant date referred to in paragraph (a) for bills accepted by such banks having a tenor of 30 days.

1.2 Defined terms

Terms used in this Deed Poll which are not otherwise defined will have the meaning given to them in the Contract.

1.3 Interpretation

In this Deed Poll unless the context otherwise requires:

(a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;

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(b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";

(c) a reference to any party to this Deed Poll includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;

(d) a reference to any Authority, institute, association or body is:

(i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and

(ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;

(e) a reference to this Deed Poll or to any other deed, agreement, document or instrument is deemed to include a reference to this Deed Poll or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;

(f) a reference to any legislation or to any section or provision of it includes:

(i) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and

(ii) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;

(g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;

(h) headings are for convenience only and do not affect the interpretation of this Deed Poll;

(i) a reference to:

(i) a party or clause is a reference to a party or clause of or to this Deed Poll; and

(ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;

(j) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;

(k) for all purposes (other than where designated as a Business Day), "day" means calendar day;

(l) a reference to "$" is to Australian currency;

(m) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Deed Poll or any part; and

(n) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated.

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2. Guarantee

2.1 Guarantee

The Guarantor irrevocably and unconditionally guarantees to the Principal the due and punctual performance by the Contractor of all the Obligations.

2.2 Payment by Guarantor

If the Contractor does not pay the Guaranteed Money when due, the Guarantor must on demand pay to the Principal the Guaranteed Money which is then due and unpaid or which later becomes due, owing or payable.

2.3 Perform Obligations

If the Contractor defaults in the performance or observance of any of the Obligations, the Guarantor must, in addition to its obligations under clause 2.2 of this Guarantee, on demand from time to time by the Principal, immediately perform any of the Obligations then required to be performed by the Contractor in the same manner as the Contractor is required to perform the Obligations.

3. Indemnity

As a covenant separate and distinct from that contained in clause 2.1, the Guarantor irrevocably and unconditionally agrees to indemnify the Principal and at all times to keep the Principal indemnified against any loss or damage suffered by the Principal arising out of or in connection with:

(a) any failure by the Contractor to perform the Obligations duly and punctually; or

(b) any obligation or liability that would otherwise form part of the Obligations being void, voidable or unenforceable against or irrecoverable from the Contractor for any reason, and whether or not the Principal knew or ought to have known of that reason.

4. Liability as guarantor and indemnifier

A reference in this Deed Poll to the obligations or liabilities of the Guarantor is a reference to the Guarantor's obligations or liabilities as either guarantor or indemnifier (or both) under this Deed Poll. The use of the expression "Guarantor" in this Deed Poll in relation to a party must not be construed as diminishing that party's obligations as an indemnifier under this Deed Poll.

5. Nature and preservation of liability

5.1 Absolute liability

(a) The liability of the Guarantor under this Deed Poll is absolute and is not subject to the performance of any condition precedent or subsequent by the Contractor or the Guarantor.

(b) This Deed Poll binds each person who has executed it, notwithstanding that:

(i) any person, whether named as a party or not, does not execute this Deed Poll;

(ii) the execution of this Deed Poll by any person is invalid, forged or irregular in any way; or

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(iii) this Deed Poll is or becomes unenforceable, void or voidable against any other person.

5.2 Unconditional liability

The liability of the Guarantor under this Deed Poll will not be affected by any act, omission, matter or thing which, but for this clause 5.2, might operate in law or in equity to release the Guarantor from that liability or to reduce the Guarantor's liability under this Deed Poll, including any of the following:

(a) the occurrence before, on or at any time after the date of this Deed Poll, of any Insolvency Event in relation to the Contractor or the Guarantor;

(b) the receipt by the Principal of any payment, dividend or distribution under any Insolvency Provision in relation to the Contractor or the Guarantor;

(c) the occurrence of any Event of Default;

(d) the Contract or any payment or other act, the making or doing of which would otherwise form part of the Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason whether past, present or future;

(e) the Principal accepting or declining to accept any Security from any person at any time;

(f) the Principal granting time, waiver or other indulgence or concession to, or making any composition or compromise with, the Contractor or the Guarantor;

(g) the Principal not exercising or delaying (whether deliberately, negligently, unreasonably or otherwise) in the exercise of any remedy or right it has for the enforcement of the Contract or any Obligation;

(h) any laches, acquiescence or other act, neglect, default, omission or mistake by the Principal;

(i) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Principal or the Contractor or the Guarantor of the Contract or any Obligation;

(j) any variation to the Contract or any Obligation, whether or not that variation is substantial or material, or imposes any additional liability on or disadvantages the Contractor or the Guarantor;

(k) the full, partial or conditional release or discharge by the Principal or by operation of law, of the Contractor or the Guarantor from the Contract or any Obligation;

(l) any change in membership (whether by death or retirement of an existing member, admission of a new member, or otherwise) or in the name of any partnership, firm or association in which the Contractor or the Guarantor is a member;

(m) the transfer, assignment or novation by the Principal or the Contractor or the Guarantor of all or any of its rights or obligations under the Contract or under any other Obligation;

(n) any failure by the Principal to disclose to the Guarantor any material or unusual fact, circumstance, event or thing known to, or which ought to have been known by, the Principal relating to or affecting the Contractor or the Guarantor at any time before or during the currency of this Deed Poll, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Principal was under a duty to disclose that fact, circumstance, event or thing to the Guarantor or to the Contractor;

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(o) the Principal agreeing with the Contractor or the Guarantor not to sue, issue process, sign or execute judgment, commence proceedings for bankruptcy or liquidation, participate in any administration, scheme or deed of arrangement or reconstruction, prove in any bankruptcy or liquidation, or do anything else in respect of the liability of the Contractor or the Guarantor;

(p) (where the Guarantor is an individual) the death or mental incapacity of the Guarantor; or

(q) the provisions of section 440J of the *Corporations Act 2001* (Cth) operating to prevent or delay:

(i) the enforcement of this Deed Poll against any Guarantor; or

(ii) any claim for contribution against any Guarantor.

5.3 No merger

(a) This Deed Poll is in addition to and does not merge with, postpone, lessen or otherwise prejudicially affect the Contract or any other Power of the Principal.

(b) The Principal will hold any judgment or order obtained by it against any person in respect of the Guaranteed Money or the Obligations collaterally with this Deed, and this Deed Poll will not merge in that judgment or order.

5.4 No obligation to gain consent

No consent is required from any Guarantor nor is it necessary for the Guarantor to or be made aware of any event referred to in clause 5.2, any transaction between the Principal and the Contractor, or any particulars concerning any Obligation.

5.5 Appropriation

(a) The Principal is under no obligation to marshal or appropriate in favour of any Guarantor, or to exercise, apply, transfer or recover in favour of any Guarantor, any Security or any funds or assets that the Principal holds, has a claim on, or has received or is entitled to receive, but may do so in the manner and order as the Principal determines in its absolute discretion.

(b) The Principal may hold in a suspense account (without liability to pay interest) any money which it receives from the Guarantor, or which it receives on account of the Guarantor's liability under this Deed Poll, and which the Principal may, at its discretion, appropriate in reduction of the Guarantor's liability under this Deed Poll.

5.6 Void or voidable transactions

If:

(a) the Principal has at any time released or discharged:

(i) the Guarantor from its obligations under this Deed Poll; or

(ii) any assets of the Guarantor from a Security,

in either case in reliance on a payment, receipt or other transaction to or in favour of the Principal; or

(b) any payment or other transaction to or in favour of the Principal has the effect of releasing or discharging:

(i) the Guarantor from its obligations under this Deed Poll; or

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(ii) any assets of the Guarantor from a Security;

and

(c) that payment, receipt or other transaction is subsequently claimed by any person to be void, voidable or capable of being set aside for any reason, including under an Insolvency Provision or under the general law; and

(d) that claim is upheld or is conceded or compromised by the Principal,

then:

(e) the Principal will immediately become entitled against the Guarantor to all rights (including under any Security) as it had immediately before that release or discharge;

(f) the Guarantor must immediately do all things and execute all documents as the Principal may reasonably require to restore to the Principal all those rights; and

(g) the Guarantor must indemnify the Principal against costs, losses and expenses suffered or incurred by the Principal in or in connection with any negotiations or proceedings relating to the claim or as a result of the upholding, concession or compromise of the claim.

5.7 No set-off, counterclaim

The liability of the Guarantor under this Deed Poll will not be reduced or avoided by any defence, set-off or counterclaim available to the Contractor against the Principal.

5.8 Claim on the Guarantor

The Principal is not required to make any claim or demand on the Contractor, or to enforce the Contract, or any other right, power or remedy against the Contractor, before making any demand or claim on the Guarantor.

5.9 No representation by Principal etc.

The Guarantor acknowledges that it has not entered into this Deed Poll as a result of any representation, promise, statement or inducement to the Guarantor by or on behalf of the Principal, the Contractor or any other person.

6. Representations and Warranties

6.1 General representations and warranties

The Guarantor or, if there is more than one Guarantor, each Guarantor represents and warrants to the Principal:

(a) this Deed Poll constitutes a valid and legally binding obligation of the Guarantor in accordance with its terms;

(b) the execution, delivery and performance of this Deed Poll by the Guarantor does not breach any law, or any document or agreement to which the Guarantor is a party or which is binding on it or any of its assets;

(c) no litigation, arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to the knowledge of the Guarantor, threatened, which, if adversely determined, may have a material adverse effect on the business assets or financial condition of the Guarantor;

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(d) all information relating to the Guarantor provided to the Principal in connection with this Deed Poll is true in all material respects and is not, by omission or otherwise, misleading in any material respect; and

(e) the Guarantor has not entered into this Deed Poll as the trustee of any trust.

6.2 Corporate representations and warranties

The Guarantor, or if there is more than one Guarantor, each Guarantor, that is or purports to be a body corporate, further represents and warrants to the Principal that:

(a) it is duly incorporated and has the corporate power to own its property and to carry on its business as is now being conducted;

(b) the execution, delivery and performance of this Deed Poll does not breach the Constitution of the Guarantor and, if the Guarantor or any of its subsidiaries is listed on the Australian Securities Exchange Limited or on any other stock exchange, those listing requirements or business rules;

(c) it has the power, and has taken all corporate and other action required, to enter into this Deed Poll and to authorise the execution and delivery of this Deed Poll and the performance of its obligations under this Deed Poll; and

(d) the Guarantor has filed all corporate notices and effected all registrations with the Australian Securities and Investments Commission and all of those filings and registrations are current, complete and accurate.

6.3 Representations and warranties repeated

Each representation and warranty in this Deed Poll will be repeated on each day whilst any of the Guaranteed Money remains outstanding (whether or not then due for payment) with reference to the facts and circumstances then subsisting, as if made on each such day.

7. Payments

7.1 On demand

All money payable by the Guarantor under this Deed Poll must be paid by the Guarantor on demand by the Principal in immediately available funds to the account and in the manner notified by the Principal to the Guarantor.

7.2 Payment in gross

All money received or recovered by the Principal on account of the Guaranteed Money will be treated as payments in gross without any right on the part of the Guarantor to claim the benefit of any money received or recovered by the Principal or any Security, until the Principal has been paid 100 cents in the dollar in respect of the Guaranteed Money.

7.3 Interest

As a liability separate and distinct from the Guarantor's liability under clauses 2 and 3, the Guarantor must on demand by the Principal pay interest on all amounts due and payable by it and unpaid under or in respect of this Deed Poll. Interest will accrue on those amounts from day to day from the due date up to the date of actual payment, before and (as a separate and independent obligation) after judgment, at the Specified Rate for successive 90 day interest periods commencing on the date of default and, if not paid when due, will itself bear interest in accordance with this clause 7.3.

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7.4 Merger

If the liability of the Guarantor to pay to the Principal any money under this Deed Poll becomes merged in any judgment or order, then, as an independent obligation, the Guarantor will pay interest on the amount of that money at the rate which is the higher of that payable under clause 7.3 and that fixed by or payable under the judgment or order.

7.5 No set-off or deduction

All payments by the Guarantor to the Principal under this Deed Poll must be:

(a) free of any set-off or counterclaim; and

(b) without deduction or withholding for or on account of any present or future Taxes, unless the Guarantor is compelled by law to make any deduction or withholding.

If the Guarantor is compelled by law to make any deduction or withholding for or on account of any present or future Taxes (not being Taxes on the overall net income of the Principal), then the Guarantor must:

(c) pay to the Principal any additional amounts necessary to enable the Principal to receive (after all deductions and withholdings for those Taxes) a net amount equal to the full amount which would otherwise be payable to the Principal if no deduction or withholding was required to be made;

(d) promptly (and within the time prescribed by law) pay to the relevant taxing authority the amount of those Taxes which it is compelled by law to deduct or withhold, and indemnify the Principal for any Taxes and interest or penalties to which the Principal may become liable consequent on the failure of the Guarantor to pay those Taxes; and

(e) deliver to the Principal, promptly on request from the Principal, a copy of any receipt issued by the relevant taxing authority on payment of those Taxes.

7.6 Currency indemnity

(a) The Australian Dollar is the currency of payment by the Guarantor under or in connection with this Deed Poll , except that payment by the Guarantor of or in relation to any Obligation which is denominated in a foreign currency must be made in that foreign currency.

(b) If for any reason any amount payable by the Guarantor under or in connection with this Deed Poll is received by the Principal in a currency (Payment Currency) other than the currency (Agreed Currency) in which that amount is required to be paid under this Deed Poll (whether as a result of any judgment or order, the liquidation of the Guarantor or otherwise), and the amount obtained (net of charges) by the Principal on its conversion of the amount of the Payment Currency received into the Agreed Currency is less than the amount payable under this Deed Poll in the Agreed Currency, then the Guarantor will, as an independent and additional obligation, indemnify the Principal for that deficiency and for any loss sustained as a result of that deficiency.

8. Expenses and stamp duties

8.1 Expenses

The Guarantor must on demand reimburse the Principal for and keep the Principal indemnified against all expenses, including legal fees, costs and disbursements on a solicitor/own client basis (or on a full indemnity basis, whichever is the higher) assessed without the necessity of taxation, incurred by the Principal in connection with:

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(a) the preparation, negotiation and execution of this Deed Poll and any subsequent consent, agreement, approval, waiver, amendment to or discharge of this Deed Poll; and

(b) any exercise, enforcement or preservation, or attempted exercise, enforcement or preservation, of any rights under this Deed.

8.2 Stamp duties

(a) The Guarantor must pay all stamp duties, transaction, registration and similar Taxes, including fines and penalties, financial institutions duty and debits tax which may be payable to or required to be paid by any appropriate authority, or determined to be payable in connection with the execution, delivery, performance or enforcement of this Deed Poll or any payment, receipt or other transaction contemplated by this Deed Poll ; and

(b) the Guarantor must indemnify the Principal against any loss or liability incurred or suffered by it as a result of the delay or failure by the Guarantor to pay Taxes.

8.3 Goods and Services Tax

If the Principal is or becomes liable to pay any GST (including any penalty) in respect of any supply it makes under, or in connection with, this Deed Poll (GST Liability) then:

(a) to the extent that an amount is payable by the Guarantor to the Principal under this Deed Poll for that supply - the amount will be increased by the full amount of the GST Liability; and

(b) otherwise - the Guarantor will indemnify and keep the Principal indemnified for the full amount of the GST Liability.

8.4 Assignment

The Principal may assign, novate or otherwise transfer all or any part of its rights under this Deed Poll and may disclose to a proposed assignee or transferee any information in the possession of the Principal relating to the Guarantor.

9. Governing law, jurisdiction and arbitration

9.1 Governing law

This Deed Poll and where applicable, the arbitration reference contained in clause 10.3, is governed by and will be construed according to the laws of New South Wales.

9.2 Jurisdiction

(a) This clause 10.2 only applies where clauses 10.3 to 10.7 do not apply.

(b) The Guarantor irrevocably submits to the non-exclusive jurisdiction of the courts and appellate courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought relating in any way to this Deed Poll.

(c) The Guarantor irrevocably waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within paragraph (b) of this clause.

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9.3 Reference to arbitration

(a) Clauses 10.3 to 10.7 will only apply where the Guarantor is a foreign company (as defined in section 9 of the *Corporations Act 2001* (Cth)).

(b) Any controversy, claim or dispute directly or indirectly based upon, arising out of, relating to or in connection with this Deed Poll (including but not limited to any question relating to the existence, validity or termination of this Deed Poll) shall be referred to and finally resolved by arbitration in accordance with the arbitration rules of the Australian Centre for International Commercial Arbitration (known as the ACICA Arbitration Rules).

(c) The seat of the arbitration will be Sydney.

(d) The number of arbitrators will be one.

(e) The language of the arbitration will be English.

9.4 Powers of the arbitrator

The arbitral tribunal has the power to grant all legal, equitable and statutory remedies, except punitive damages.

9.5 Consolidation

The parties agree that section 24 of the *International Arbitration Act 1974* (Cth) will apply in respect of consolidations.

9.6 Joinder

The arbitral tribunal has the power, on the application of any party to this arbitration agreement, to allow a third party who the arbitrator considers has a sufficient interest in the outcome of the arbitration to be joined in the arbitration as a party. Each party to this Deed Poll hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitrator has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration.

9.7 Award final and binding

Any award will be final and binding upon the parties.

10. Miscellaneous

10.1 Notices

(a) Any notices contemplated by this Deed Poll must be in writing and delivered to the relevant address as set out below (or to any new address or facsimile number that a party notifies to the others).

(i) to the Principal: **[to be inserted, including email addresses]**

(ii) to the Guarantor: **[to be inserted, including email addresses]**

(b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.

(c) A notice sent by email (whether or not containing attachments) will be taken to have been received on the earlier of:

(i) the time sent (as recorded on the device from which the sender sent the email) unless, within 4 hours of sending the email, the party sending the

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email receives an automated message that the email has not been delivered;

(ii) receipt by the sender of an automated message confirming delivery; and

(iii) the time of receipt as acknowledged by the recipient in writing,

provided that:

(iv) the communication will be taken to be so given by the sender and received by the recipient regardless of whether the email or any of its attachments is opened by the recipient; and

(d) if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5.00 pm, it is taken to be received at 9.00 am on the next day.

10.2 Continuing obligation

This Deed Poll is a continuing obligation notwithstanding any termination by the Guarantor, settlement of account, intervening payment, express or implied revocation or any other matter or thing, and the Principal will continue to be entitled to the benefit of this Deed Poll as regards the due and punctual performance of all the Obligations until a final discharge has been given to the Guarantor.

10.3 Further assurance

The Guarantor must immediately on the request of the Principal, and at the cost of the Guarantor, do and perform all further acts and things and execute and deliver all further documents as the Principal reasonably requires, or as are required by law, to perfect or to give effect to the rights and powers of the Principal created, or intended to be created, by this Deed Poll.

10.4 Form of demand

A demand on the Guarantor for payment under this Deed Poll may be in the form and contain any information as the Principal determines. It need not specify the amount of the Guaranteed Money, nor the method or basis of calculation of all or any part of the Guaranteed Money, including amounts of, or in the nature of, interest.

10.5 Entire agreement

This Deed Poll constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite, and supersede:

(a) any prior agreement (whether in writing or not), negotiations and discussions between the parties in relation to the subject matter of this Deed Poll; or

(b) any correspondence or other documents relating to the subject matter of this Deed Poll that may have passed between the parties prior to the date of this Deed Poll and that are not expressly included in this Deed Poll.

10.6 Joint and several liability

The obligations of the Guarantor, if more than one person, under this Deed Poll, are joint and several. Each person constituting the Guarantor acknowledges and agrees that it will be causally responsible for the acts and omissions (including breaches of this Deed Poll) of the other as if those acts or omissions were its own and the Principal may proceed against any or all of them. This Deed Poll binds each person who signs as a "Guarantor" even if another person who was intended to become a "Guarantor" does not become a "Guarantor" or is not bound by this Deed Poll.

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10.7 Severance

If at any time any provision of this Deed Poll is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

(a) the legality, validity or enforceability in that jurisdiction of any other provision of this Deed Poll; or

(b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this Deed Poll.

10.8 Remedies cumulative

Each Power is cumulative and in addition to each other Power available to the Principal.

10.9 Waiver

(a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this Deed Poll by the Principal will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this Deed Poll.

(b) Any waiver or consent given by the Principal under this Deed Poll will only be effective and binding on the Principal if it is given or confirmed in writing by the Principal.

(c) No waiver by the Principal of:

(i) a breach of any term of this Deed Poll; or

(ii) any other failure by the Guarantor to comply with a requirement of this Deed Poll,

will operate as a waiver of another breach of that term or failure to comply with that requirement or of a breach of any other term of this Deed Poll or failure to comply with any other requirement of this Deed.

10.10 Consents

Any consent of the Principal referred to in, or required under, this Deed Poll may be given or withheld, or may be given subject to any conditions, as the Principal (in its absolute discretion) thinks fit, unless this Deed Poll expressly provides otherwise.

10.11 Moratorium legislation

To the fullest extent permitted by law, the provisions of all laws operating directly or indirectly to lessen or affect in favour of the Guarantor any obligation under this Deed Poll, or to delay or otherwise prevent or prejudicially affect the exercise of any Power, are expressly waived.

10.12 Set-off

(a) The Principal may (without prior notice at any time) set off any obligation then due and payable by the Guarantor under this Deed Poll against any obligation (whether or not due and payable) by the Principal to the Guarantor, regardless of the place or currency of payment of either obligation or the office or branch through which either obligation is booked. If the obligations are in different currencies, the Principal may convert either obligation into the currency of the other obligation at a market rate of exchange determined by it for the purpose of the set-off. If either obligation is unliquidated or unascertained, the Principal may effect the set off in an amount estimated by it in good faith to be the amount of that obligation.

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(b) The Principal is not obliged to exercise any right of set off pursuant to clause 11.12(a), which is in addition to its other rights of combination of account, set-off or lien (by contract or operation of law).

(c) On its exercise of any set off pursuant to clause 11.12(a) against the Guarantor, the Principal will promptly notify the Guarantor of details of that set-off.

10.13 Variations

This Deed Poll may only be varied by a document signed by or on behalf of both the Principal and the Guarantor.

10.14 Provisions limiting or excluding liability

Any provision of this Deed Poll which seeks to limit or exclude a liability of the Principal or the Guarantor is to be construed as doing so only to the extent permitted by law.

10.15 Counterparts

(a) This Deed Poll need not be executed by the Principal.

(b) If the Guarantor is more than one person, a Guarantor may execute this Deed Poll in one or more separate counterparts, each of which constitutes the deed of that Guarantor.

Executed as a deed poll.

Executed by **[insert Contractor's name] ABN [insert Contractor's ABN]**
in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Schedule 18 - Deed of Novation (Principal, Contractor and Subcontractor)

(Clause 2.2(g))

THIS DEED OF NOVATION is made on [ ] between the following parties:

1. **Sydney Metro (ABN 12 354 063 515)** of Level 43, 680 George Street, Sydney NSW 2000 (**"Principal"**)

2. **[ ] ABN [ ]** of [ ] (**"Contractor"**); and

3. **[ ] ABN [ ]** of [ ] (**"Subcontractor"**).

Recitals

A. By agreement dated [ ] (the **"Subcontract"**), the Principal engaged the Subcontractor to, and the Subcontractor agreed to, undertake certain works for the Principal (the "**Subcontract Works**").

B. By agreement dated [ ] (the **"Contract"**), the Principal engaged the Contractor to, and the Contractor agreed to, undertake certain works for the Principal, which includes the Subcontract Works.

C. Under the Contract and the Subcontract, the Contractor and the Subcontractor must enter into this deed when the Principal requires them to do so.

D. Subject to this deed, the Subcontractor agrees to accept the Contractor in place of the Principal for the performance of all the obligations of the Principal and to release completely and discharge the Principal from all of its obligations under the Subcontract and from all claims and demands in respect of it.

THIS DEED WITNESSES that in consideration, among other things, of the mutual promises contained in this deed, the parties agree:

1. The Subcontractor must perform its obligations under, and be bound by, the Subcontract as if the Contractor was originally named in the Subcontract as the Principal.

2. The Subcontractor:

   (a) releases and forever discharges the Principal from its obligations under the Subcontract and from all claims and demands in respect of the Subcontract; and

   (b) accepts the liability of the Contractor in place of the liability of the Principal in respect of the Subcontract.

3. The Contractor must perform all the obligations of the Principal under, and be bound by, the Subcontract as if the Contractor were originally named in the Subcontract as the Principal.

4. Upon the execution and exchange of this deed:

   (a) the Principal must release any securities given to it by the Subcontractor in accordance with the Subcontract;

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(b) the Subcontractor must give the Contractor security in the same form and for the same amounts as any security required by the Subcontract; and

(c) the Subcontractor must ensure that the Contractor is appropriately noted on all relevant insurance policies as required by the Subcontract.

5. This deed is governed by the laws of New South Wales and the parties agree to submit to the non exclusive jurisdiction of the courts of that state.

EXECUTED by the parties as a deed:

Executed by **[ ] ABN [ ]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

Executed by **[ ] ABN [ ]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

Executed by **[ ] ABN [ ]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Schedule 19 - Contractor's Certificate of Design Compliance

(Clauses 5.3 and 11.6(c)(ii))

CONTRACTOR'S CERTIFICATE OF DESIGN COMPLIANCE

CONTRACTOR:

DESIGN PACKAGE	DESCRIPTION

(Attach schedule of work packages if insufficient space)

I certify that the design for the packages or part thereof described above has been completed to the extent indicated above in accordance with the requirements of the Contract between the Principal and _____, and complies with the requirements of the Contract, subject to the register of outstanding minor design non-conformances and unresolved issues attached.

I further certify that the attached compliance records as required by the Contract reflect the true status of the design packages.

SIGNATURE:_____ SIGNATURE:_____
(Contractor's Representative) *(Contractor's Subcontractor/Designer)*

DATE:_____ DATE:_____

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Schedule 20 - Contractor's Certificate of Construction Compliance

(Clauses 7.1(c) and 11.6(c)(ii))

CONTRACTOR'S CERTIFICATE OF CONSTRUCTION COMPLIANCE

CONTRACTOR:

WORK PACKAGE DESCRIPTION

_____

_____

_____

(Attach schedule of work packages if insufficient space)

I certify that the procurement/construction of the work packages or part thereof described above have been completed to the extent indicated above in accordance with the requirements of the Contract between the Principal and _____, and comply with the requirements of the Contract, subject to the register of outstanding minor construction non conformance and unresolved issues attached.

I further certify that the attached compliance records as required by the Contract reflect the true status of the work packages.

NAME:_____ SIGNATURE:_____ DATE: / /
(Contractor's Representative)

THIS SECTION MUST BE COMPLETED BY THE RELEVANT CONTRACTOR'S SUBCONTRACTOR/DESIGNER

I certify that the procurement/construction of the work packages (one certificate per work package) or part thereof described above have been completed to the extent indicated above in accordance with the requirements of the Contract between the Principal and _____, and comply with the requirements of the Contract, subject to the register of outstanding minor construction non-conformances and unresolved issues attached.

I further certify that the attached compliance records as required by the Contract reflect the true status of the work packages.

SIGNATURE:_____
(Contractor's Subcontractor/Designer)

DATE:_____

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Schedule 21 - Contractor's Certificate of Completion

(Definition of "Completion" in Clause 1.1 and Clause 13.3(c))

CONTRACTOR'S CERTIFICATE OF COMPLETION

CONTRACTOR:

Description of Portion or Works: _____

_____

_____

I certify that the Completion of the above Portion/the Works has/have been achieved in accordance with the requirements of the Contract between the Principal and _____, complies with the requirements of the Contract, subject to the register of unresolved issues attached.

I further certify that:

(a) All Variation Orders (including concessions) are listed in the attached compliance register.

(b) All identified Defects (including any non-conformities but excluding Defects accepted as minor by the Principal) have been satisfactorily rectified and their documentation closed out.

(c) All required documentation has been submitted.

I further certify that the attached compliance records as required by the Contract reflect the true status of the Portion/the Works.

SIGNATURE:_____ SIGNATURE:_____

(Contractor's Representative) *(Contractor's Subcontractor/Designer)*

DATE:_____ DATE:_____

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Schedule 22 - Contractor's Certificate of Final Completion

(Clause 13.8(d))

CONTRACTOR'S CERTIFICATE OF FINAL COMPLETION

CONTRACTOR:

I hereby certify that Final Completion has been achieved by[the Contractor] in accordance with the requirements of the Deed (including all Variation orders detailed in (a) below) between the Principal and the Contractor.

I further certify that:

(a) All Variation Orders (including concessions) are listed in the attached compliance register.

(b) All identified Defects (including any non-conformities have been satisfactorily rectified and their documentation closed out.

(c) All required documentation has been submitted.

(d) All notices regarding system deficiencies have been satisfactorily closed out.

I further certify that the attached compliance records as required by the Deed reflect the true status of the Portion/the Works.

SIGNATURE:_____ DATE: / / /

(Contractor's Representative)

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Schedule 23 - Form of Other Contractor Deed Poll

(Clause 7.4)

This Deed Poll made the day of 20

In favour of: **[*insert details*]** (ABN **[*insert details*]**) of **[*insert details*]**

("Contractor") and

Sydney Metro (ABN 12 354 063 515) of Level 43, 680 George Street, Sydney NSW 2000
("Principal")

Given by: **[*insert details*]** (ABN **[*insert details*]**) of **[*insert details*]**

("Other Contractor")

Recitals

A. By a contract dated **[*insert date*]** (**"Contract"**) between the Principal and the Contractor, the Contractor agreed to design and construct certain works (**"Works"**), on the land more particularly described in the Contract (the **"Site"**).

B. The Other Contractor has been appointed under a Contract (**"Other Contract"**) to undertake certain works on the Site (**"Other Contractor Works"**).

C. For the purposes of the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulation 2011* (NSW) (together, the **"WHS Legislation"**), the Works and the Other Contractor Works are a 'construction project' within the meaning of the WHS Legislation.

D. Under the Contract, the Principal engaged the Contractor as principal contractor and authorised the Contractor to have management and control of the workplace for the purpose of discharging the duties imposed on a principal contractor for the construction project.

E. Under the provisions of the Contract, the Principal is required to procure the provision of this Deed Poll from each Other Contractor that undertakes Other Contractor Works (as that term is defined in the Contract).

This Deed Poll Provides

1. In consideration of the Contractor accepting this Deed Poll, the Other Contractor agrees that

   (a) the Other Contractor, its subcontractors and their respective personnel while they are on the Site, will comply with Site safety regulations, any Site rules or regulations and with all directions of the Contractor with respect to work health and safety;

   (b) the Other Contractor, its subcontractors and their respective personnel will comply in a timely manner with directions of the Contractor so that the Contractor discharges its obligations as principal contractor;

   (c) the Other Contractor, its subcontractors and their respective personnel will consult, cooperate and coordinate activities with the Contractor, the Principal and all other persons who have a work health and safety duty in relation to the same matter;

   (d) the Other Contractor, its subcontractors and their respective personnel will comply with the work health and safety plan(s) prepared by the Contractor while on Site;

   (e) the Contractor may exclude the Other Contractor, any of its subcontractors and their respective personnel from the Site for work health and safety reasons;

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(f) the Contractor may direct the Other Contractor, any of its subcontractors and their respective personnel to perform or not perform certain acts for work health and safety reasons;

(g) where high risk construction work is to be carried out in the performance of the Other Contractor Works, the Other Contractor must:

(i) prepare a safe work method statement that complies with all requirements of the WHS Legislation;

(ii) provide a copy of the safe work method statement to the Principal and the Contractor prior to the commencement of high risk construction work;

(iii) review and revise the safe work method statement in accordance with the WHS Legislation;

(iv) ensure that the high risk construction work is carried out in compliance with the safe work method statement; and

(v) where so directed by the Contractor, suspend the performance of any high risk construction work;

(h) the Other Contractor shall in carrying out the work under the Other Contract, comply with, and ensure that all subcontractors and personnel comply with the WHS Legislation; and

(i) in its contracts with subcontractors, the Other Contractor will ensure that the subcontractor is obliged to give the same obligations and rights as required of the Other Contractor under this Deed Poll.

2. The Other Contractor indemnifies the Contractor against any delay, damage, expense, loss, penalty or liability suffered or incurred by the Contractor as a result of:

(a) any failure by the Other Contractor to comply with any direction given by the Contractor in accordance with this Deed Poll; or

(b) any breach by the Other Contractor, any of its subcontractors or their respective personnel of:

(i) their respective contractual or legislative work health and safety obligations; or

(ii) the provisions of this Deed Poll.

3. This Deed Poll will be governed by and construed in accordance with the law for the time being of New South Wales.

Executed as a Deed Poll.

Executed by ***[Other Contractor]*** by or in the presence of:	
_____	_____

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Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Schedule 24 - Contamination and Waste disposal

[redacted]

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Schedule 25 - Deed of Novation (Principal, Contractor and Consultant)

(Clause 5.2(b))

Deed of Novation

[ ]
ABN [ ]

[ ]
ABN [ ]

[ ]
ABN [ ]

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Deed of Novation made at on

Parties [***insert name***] **ABN** [***insert***] of [***insert***] (**Retiring Party**)

[***Insert name***] **ABN** [***insert***] of [***insert***] (**Continuing Party**)

[***Insert name***] **ABN** [***insert***] of [***insert***] (**Substitute Party**)

Recitals

A The Retiring Party and the Continuing Party are parties to the Contract.

B The Retiring Party and the Substitute Party have asked the Continuing Party to agree to the novation of the Contract on the terms and conditions of this deed.

C The Continuing Party has agreed to the novation of the Contract on the terms and conditions of this deed.

This deed provides

1. Definitions and interpretation

1.1 Definitions

Defined terms in the Contract have the same meanings in this deed, unless the contrary intention appears.

In this deed:

"**Claim**" means any claim, notice, demand, action, proceeding, litigation, investigation or judgment whether based in contract, tort, statute or otherwise.

"**Contract**" means the agreement between the Retiring Party and the Continuing Party described in the Schedule.

"**Effective Date**" means [***insert date***].

"**GST**" means the Goods and Services Tax as defined in the *A New Tax System (Goods and Services) Act 1999* (Cth.).

"**Liability**" means all liabilities, losses, Claims, damages, outgoings, costs and expenses of whatever description.

"**Related Entity**" has the meaning ascribed to that term in section 9 of *the Corporations Act 2001* (Cth).

1.2 Interpretation

In this deed:

(a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

(b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;

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(c) **person** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;

(e) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;

(f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

(g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

(h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;

(i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(j) **includes** in any form is not a word of limitation; and

(k) a reference to **$** or **dollar** is to Australian currency.

2. Condition Precedent to Novation

Clause 3 of this deed will have no force and effect until the Effective Date.

3. Novation

3.1 Novation

(a) The parties novate the Contract so that the Substitute Party and the Continuing Party are parties to a new agreement on the same terms as the Contract.

(b) Any reference in the Contract to the Retiring Party will be read as a reference to the Substitute Party.

3.2 Assumptions of rights and obligations

(a) The Substitute Party:

(i) will be bound by and must comply with the terms of the Contract and will enjoy the rights and benefits conferred on the Retiring Party under the Contract; and

(ii) will assume the obligations and Liability of the Retiring Party under the Contract,

in all respects as if the Substitute Party had originally been named in the Contract as a party instead of the Retiring Party.

(b) The Continuing Party will comply with the terms of the Contract on the basis that the Substitute Party has replaced the Retiring Party under the Contract in accordance with this deed.

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3.3 Release by Continuing Party

(a) The Continuing Party releases the Retiring Party from:

(i) any obligation or Liability under or in respect of the Contract; and

(ii) any action, claim and demand it has against the Retiring Party under or in respect of the Contract.

(b) This release does not affect any rights the Continuing Party may have against the Substitute Party as a result of the assumption by the Substitute Party under the terms of this deed of the obligations and Liability of the Retiring Party under the Contract.

3.4 Insurance

As from the Effective Date:

(a) the Substitute Party must replace any insurances effected and maintained by the Retiring Party under the terms of the Contract; and

(b) the Continuing Party will take the necessary steps to ensure that, for all insurances required to be effected by the Continuing Party under of the terms of the Contract, the Substitute Party is named in place of the Retiring Party as required by the Contract.

4. Ongoing Rights of Retiring Party

4.1 Direct Enquiries

In addition to any other rights which the Retiring Party may have, the Continuing Party and the Substitute Party each agree that the Retiring Party may make enquiries directly of the Continuing Party for the purpose of establishing whether the Continuing Party is complying with its obligations under the Contract.

4.2 Retiring Party to have benefit of Promises

(a) The Continuing Party warrants in favour of the Retiring Party that in performing the Services it will comply with its obligations under the Contract and that the Retiring Party will continue to have the benefit of all promises, undertakings, covenants and warranties made or given by the Continuing Party under the Contract as if the Retiring Party remained a party to the Contract.

(b) Without limiting the above, the Continuing Party undertakes to the Retiring Party that it will exercise all reasonable skill, care and diligence in performing the Services including in issuing any certificates it is required to issue under the Contract and further acknowledges that the Retiring Party will be relying upon the skill and judgment of the Continuing Party in issuing those certificates and acknowledges that:

(i) in performing the Services it will owe a duty of care to the Retiring Party; and

(ii) it is aware that the Retiring Party will be relying upon the skill and judgment of the Continuing Party in performing the Services and the warranties given by the Continuing Party in this deed.

4.3 Report by Continuing Party

The Continuing Party undertakes to the Retiring Party that it will exercise all reasonable skill, care and diligence to ensure that the design intent of the Works as contained in the Design

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Documentation in existence at the date of execution of this deed, is reflected in the completion of the Design Documentation and in the execution of the Works.

Without limiting the above, the Continuing Party must conduct such inspections of the Works at such times and in such detail as may reasonably be expected of a consultant engaged in a project of the size and complexity of the Works.

The Continuing Party must act in good faith and in the best interests of the Retiring Party and promptly advise the Retiring Party about any matter in which the Continuing Party has been instructed by the Substitute Party to provide the Services in a manner which is, or may result in an outcome which is, not in accordance with the requirements of the Contract, including:

(a) any instruction or direction which it receives, or any work or services it becomes aware of, which in the reasonable opinion of the Continuing Party, is not in accordance with any provision of the Contract including where the Substitute Party's instructions:

(i) in relation to design are not consistent with the Contract or may result in the Works to be constructed not being fit for their intended purpose; or

(ii) require the Continuing Party to issue a certificate under the Contract where the conditions for the issue of that certificate under the Contract have not been satisfied; and

(b) any non-conformity of any Design Documentation produced pursuant to the Contract, or to the Design Documentation in existence at the date of this deed, upon becoming aware of the non-conformity.

5. Overriding effect

The parties agree that the execution and operation of this deed will for all purposes be regarded as due and complete compliance with the terms of the Contract relating to any requirement for consent to assignment of the Contract so far as any such provisions would apply with respect to the novation of the Contract to the Substitute Party.

6. Representations and warranties

6.1 Authority

Each party represents and warrants to each other party that it has full power and authority to enter into and perform its obligations under this deed.

6.2 Authorisations

Each party represents and warrants to each other party that it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms.

6.3 Binding obligations

Each party represents and warrants to each other party that this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

7. Duties, costs and expenses

7.1 Stamp duty

The Substitute Party must pay all stamp duty, duties or other taxes of a similar nature (including but not limited to any fines, penalties and interest) in connection with this deed or any transaction contemplated by this deed (except to the extent the terms of the Contract provide otherwise).

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7.2 Costs

Each Party must pay its own legal costs and expenses in negotiating, preparing and executing this deed.

7.3 GST

The parties agree that:

(a) with any payment of amounts payable under or in connection with this deed including without limitation, by way of indemnity, reimbursement or otherwise, the party paying the amount must also pay any GST in respect of the taxable supply to which the amount relates;

(b) the party receiving the payment will provide a tax invoice; and

(c) the payment of any amount referred to in paragraph (a) which is a reimbursement or indemnification of a cost, expense, loss or liability will exclude any part of the amount for which the other party can claim an input tax credit.

8. General

8.1 Governing law

This deed is governed by and must be construed according to the laws of the State or Territory stated in Schedule 1.

8.2 Jurisdiction

Each party irrevocably:

(a) submits to the non-exclusive jurisdiction of the courts of the State or Territory stated in Schedule 1, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this deed; and

(b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 8.2(a).

8.3 Amendments

This deed may only be varied by a document signed by or on behalf of each party.

8.4 Waiver

(a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.

(b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.

(c) No waiver of a breach of a term of this deed operates as a waiver of any other breach of that term or of a breach of any other term of this deed.

8.5 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

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8.6 Severance

If at any time a provision of this deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

(a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or

(b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this deed.

8.7 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this deed.

8.8 Assignment

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

Schedule 1

Contract (Clause 1.1)	....
Governing Law and Jurisdiction (Clause 8.1 and 8.2)	....

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Executed as a deed.

Executed by **[Retiring Party and ABN]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

Executed by **[Continuing Party and ABN]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

Executed by **[Substitute Party and ABN]** by or in the presence of:

Signature of Director	Signature of Secretary/other Director
Name of Director in full	Name of Secretary/other Director in full

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Schedule 26 - Expert Determination Agreement

(Clauses 16.8(b) and 16.9)

Expert Determination Agreement made at on

Parties **[ ]** (**Principal**)

[Insert name and address of Contractor] (**Contractor**)

[Insert name and address of Expert agreed between the Parties or appointed pursuant to clause [to be inserted] of the Contract] (**Expert**)

Background

A. The Principal and the Contractor (together **"the Parties"** and each **"a Party"**) are parties to a contract (**Contract**) for ***[to be inserted]***.

B. By written notice dated ***[to be inserted]***, the ***[insert the Principal or Contractor as applicable]*** has required that the matter described in Schedule 1, being a matter that the Contract requires or permits to be referred to an Expert for determination, be determined by an Expert appointed under clause 15.7 of the Contract (**Matter**).

C. Pursuant to clause 15.7 of the Contract, the Expert has been appointed to determine the Matter in accordance with the process set out in this Agreement.

Operative part

1. Appointment of Expert

(a) The Parties appoint the Expert to determine the Matter in the manner and within the times set out in this Agreement and the Expert accepts the appointment on the basis set out in this Agreement.

(b) The Parties agree that:

(i) the Expert will act as an expert and not as an arbitrator;

(ii) neither the determination of the Matter, nor the process required by this Agreement is an arbitration and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;

(iii) the rules of evidence and natural justice do not apply to the determination; and

(iv) the Expert must conduct the determination of the Matter in accordance with the Rules for Expert Determination Process set out in Schedule 2;

(c) If, at any time during the determination, the Expert becomes aware of circumstances that might reasonably be considered to adversely affect the Expert's capacity to act independently or impartially, the Expert must inform the Parties immediately and, unless the Parties agree otherwise, terminate this Agreement.

2. Confidentiality

All proceedings and submissions relating to the determination (including the fact that any step in the determination is occurring), and all documents prepared for the purposes of the

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determination (including the Expert's determination), must be kept confidential between the Parties and the Expert. No such proceedings, submissions or documents, nor any other information relating to or arising out of the determination, may be divulged to any other person, except with the prior written consent of both Parties or as may be required by law or to the extent necessary to give effect to or enforce the Expert's determination.

3. Costs and Fees

(a) As between the Parties and the Expert, the Parties are jointly and severally liable for the payment of the Expert's fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Schedule 3. The Parties agree to comply with any direction from the Expert as to the provision of security deposits in respect of his or her fees and disbursements.

(b) The Parties agree as between themselves that:

(i) they will each pay one half of the Expert’s fees and disbursements, calculated in accordance with the Schedule of Fees and Disbursements set out in Schedule 3; and

(ii) they will each bear their own costs of and incidental to the preparation of this Agreement and their participation in the determination.

4. Exclusion of Liability and Indemnity

Except in the case of fraud, the Expert will not be liable to either Party for any act or omission by the Expert in the performance or purported performance of this Agreement. The Parties jointly and severally indemnify the Expert against all claims arising out of or in any way referable to any act or omission by the Expert (except fraud) in the performance or purported performance by the Expert of the terms of this Agreement.

5. Co-operation of the Parties

Each Party agrees to take part in the determination in good faith and to comply with the reasonable requests and directions of the Expert in relation to the conduct of the determination.

6. Governing Law

This Agreement is governed by and is to be construed in accordance with the laws in force in the State of New South Wales.

7. Jurisdiction

(a) The Parties and the Expert irrevocably submit to the non-exclusive jurisdiction of the courts of the State of New South Wales and the New South Wales courts to which the appeals from those courts may be made.

(b) The Parties and the Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within clause 7(a).

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Schedule 1 - The Matter

[To be inserted when it comes time for expert determination]

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Schedule 2 - Rules for Expert Determination Process

1. **Commencement**

1.1 Except as provided in clause 4.3 of these Rules, the expert determination process begins when the Expert accepts an appointment to determine the Matter in accordance with these Rules and the Code of Conduct appended to these Rules.

2. **Written Submissions**

2.1 Within 7 days after the date this process begins, Party A (ie the Party who gave notice under clause 15.1 of the Contract) must, in addition to any particulars provided by Party A under clause 15.1 of the Contract, give the other Party and the Expert a written statement of the Matter referred for Expert determination, any agreed statement of facts and a written submission on the Matter in support of Party A's contentions.

2.2 Within 7 days after the statement in clause 2.1 is served, the other Party must give Party A and the Expert a written response to Party A's submissions.

2.3 If the Expert considers it appropriate, Party A may reply in writing to the other Party's response in clause 2.2 within the time allowed by the Expert.

2.4 If the Expert decides further information or documentation is required for the determination of the Matter, the Expert may direct one or more Parties to provide such further submissions, information or documents as the Expert may require.

3. **Conference**

3.1 The Expert may, if he or she thinks appropriate, call a conference of the Parties. Unless the Parties agree otherwise, the conference will be held in Sydney.

3.2 At least 14 days before the conference, the Expert must inform the Parties of the date, venue and agenda for the conference.

3.3 The Parties must appear at the conference and may make submissions on the subject matter of the conference. If a Party fails to appear at a conference of which that Party had been notified under clause 3.2, the Expert and the other Party may nevertheless proceed with the conference and the absence of that Party will not terminate or discontinue the Expert determination process.

3.4 The Parties:

(a) may be accompanied at a conference by legal or other advisers; and

(b) will be bound by any procedural directions as may be given by the Expert in relation to the conference both before and during the course of the conference.

3.5 The conference must be held in private.

3.6 If required by any Party, transcripts of the conference proceedings must be taken and made available to the Expert and the Parties.

4. **General**

4.1 In making a determination or calling or holding a conference, the Expert must proceed in accordance with the Contract.

4.2 All proceedings and submissions relating to the Expert determination process must be kept confidential except:

(a) with the prior consent of the Parties;

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(b) as may be required by law; or

(c) as may be required in order to enforce the determination of the Expert.

4.3 The Expert must:

(a) inform the Parties of:

(i) any relationship or interest with the Parties or their respective officers, employees, contractors, consultants or agents;

(ii) any interest the Expert has in the matters in dispute; and

(iii) any circumstance which might reasonably be considered to adversely affect the expert's capacity to act independently or impartially,

(iv) immediately upon becoming aware of any such circumstances; and

(b) upon making any disclosure under this clause 4.3, unless and until the Parties agree otherwise terminate the proceedings.

5. **The Determination**

5.1 As soon as possible after receipt of the submissions or after any conference and, in any event not later than 90 days after the Expert's acceptance of appointment, the Expert must:

(a) determine the Matter between the Parties; and

(b) notify the Parties of that determination.

5.2 The determination of the Expert must:

(a) be in writing stating the Expert's determination and giving reasons;

(b) be made on the basis of the submissions (if any) of the parties, the conference (if any) and the Expert's own expertise; and

(c) meet the requirements of the Contract.

5.3 Subject to clause 5.4, to the extent permitted by law, the Expert’s determination will be final and binding on the Parties unless a notice of appeal is given in accordance with clause 16.10 of the Contract.

5.4 If the Expert's determination contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the determination.

6. **Costs**

6.1 Security for costs must be deposited by both Parties at the commencement of the Expert determination process in accordance with any direction of the Expert.

7. **Modification**

7.1 These rules may be modified only by agreement of the Parties and, if the Expert has been appointed, the Expert.

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APPENDIX 1 TO RULES FOR EXPERT DETERMINATION PROCESS

Code of Conduct for an Expert

1. The function of the Expert is to make a determination of the Matter in accordance with the Contract and the Expert Determination Agreement, including the Rules and this Code of Conduct.

2. The Expert must receive the written submissions and responses of the Parties in accordance with the procedures specified in the Rules and may require further information or documentation from the Parties which is reasonably necessary to determine the Matter.

3. The Expert must decide whether a conference is necessary to receive further information. The Expert must inform the Parties of the subject matter of any conference and may hear representations only on those matters during any such conference.

4. The Expert must disclose to both Parties all information and documents received.

5. If a Party fails to make a written submission, the Expert may continue with the process.

6. Subject to clause 3.3 of the Rules in relation to conferences, meetings and discussions with the Expert must only take place in the presence of both Parties.

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Schedule 3 - The Expert's Fees and Disbursements

[To be inserted when it comes time for expert determination]

Signed as an agreement.

Signed for and on behalf of the Principal by ***[insert name]*** in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed for and on behalf of the Contractor by ***[insert name]*** in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Signed by the Expert ***[insert name]*** in the presence of:

[Signature]

[Name of witness]

[Signature of witness]

Schedule 27 - Principal Supplied Items

(Clause 7.10)

Principal Supplied Items	None
Place of Availability	Not Applicable
Date of Availability	Not Applicable

Schedule 28 - Not used

Schedule 29 - Principal Deed of Novation

DEED OF NOVATION made at on 20

BETWEEN:

(1) [*Insert name and ABN*] of [*Insert*] (**Retiring Party**);

(2) [*Insert name and ABN*] of [*Insert*] (**Continuing Party**); and

(3) [*Insert name and ABN*] of [*Insert*] (**Substitute Party**).

RECITALS:

(A) The Retiring Party and the Continuing Party are parties to a [*insert title of Contract*] dated [*insert date*] (**Contract**).

(B) The Retiring Party and the Substitute Party have asked the Continuing Party to agree to the novation of the Contract on the terms of this deed.

(C) The Continuing Party has agreed to the novation of the Contract on the terms of this deed.

THIS DEED PROVIDES

1. Definitions and interpretation

1.1 Definitions

Defined terms in the Contract have the same meanings in this deed, unless the contrary intention appears.

In this deed:

Claim means any claim, notice, demand, action, proceeding, litigation, investigation or judgment whether based in contract, tort, statute or otherwise.

Continuing Party Retained Liabilities means the undischarged obligations and Liability of the Continuing Party arising prior to the Effective Date.

Contract means the agreement between the Retiring Party and the Continuing Party [described in Schedule 1 ***or insert description here***].

Contract Guarantees means the guarantees or bonds issued or required to be issued under the Contract in respect of the performance by a party to the Contract, by a bank or insurer and/or, where required by the Contract, by a Related Entity of that party.

Effective Date means [the date of this deed or the date agreed by the parties from which the novation will be effective].

GST means the Goods and Services Tax as defined in the A New Tax System (Goods and Services) Act 1999 (Cth).

Liability means all liabilities, losses, Claims, damages, outgoings, costs and expenses of whatever description.

Related Entity has the meaning ascribed to that term in section 9 of the Corporations Act 2001 (Cth).

Retiring Party Retained Liabilities means the undischarged obligations and Liability of the Retiring Party arising prior to the Effective Date.

2. INTERPRETATION

In this deed:

(a) headings are for convenience only and do not affect interpretation;

(b) and unless the context indicates a contrary intention:

(i) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;

(ii) "person" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;

(iii) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes a substituted or an additional trustee;

(iv) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;

(v) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;

(vi) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;

(vii) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;

(viii) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;

(ix) "includes" in any form is not a word of limitation; and

(x) a reference to "$" or "dollar" is to Australian currency.

3. NOVATION

3.1 Novation

From the Effective Date:

(a) the parties novate the Contract so that the Substitute Party and the Continuing Party are parties to a new agreement on the same terms as the Contract; and

(b) any reference in the Contract to the Retiring Party shall be read as a reference to the Substitute Party.

3.2 Assumptions of rights and obligations

(a) From the Effective Date the Substitute Party will be bound by and shall comply with the terms of the Contract as amended by this deed, and shall enjoy the rights and benefits conferred on the Retiring Party under the terms of the Contract in all respects as if the Substitute Party had originally been named in the Contract as a party instead of the Retiring Party.

(b) From the Effective Date the Continuing Party will comply with the terms of the Contract on the basis that the Substitute Party has replaced the Retiring Party under the Contract in accordance with this deed.

3.3 Release by Continuing Party

From the Effective Date:

(a) the Continuing Party releases the Retiring Party from:

(i) any obligation or Liability under or in respect of the Contract; and

(ii) any action, claim and demand it has, or but for this clause would have had against the Retiring Party under or in respect of the Contract,

except for the Retiring Party Retained Liabilities;

(b) subject to clause Schedule 293.3(c), this release does not affect any rights the Continuing Party may have against the Substitute Party as a result of the assumption by the Substitute Party under the terms of this deed of the obligations and Liability of the Retiring Party under the terms of the Contract; and

(c) the Continuing Party releases the Substitute Party from:

(i) any obligation or Liability under or in respect of the Contract; and

(ii) any action, claim and demand it has against the Retiring Party under or in respect of the Contract,

in respect of the Retiring Party Retained Liabilities.

3.4 Release by Retiring Party

(a) From the Effective Date the Retiring Party releases the Continuing Party from:

(i) any obligation or Liability under or in respect of the Contract; and

(ii) any action, Claim and demand it has, or but for this clause would have had against the Continuing Party under or in respect of the Contract,

except for the Continuing Party Retained Liabilities.

(b) Nothing in this clause affects the obligations of the Continuing Party to the Substitute Party under the Contract from the Effective Date.

3.5 Insurance

From the Effective Date:

(a) the Substitute Party must have in place insurances which replace the insurances required to be effected and maintained by the Retiring Party under the terms of the Contract; and

(b) the Continuing Party must take the necessary steps to ensure that, for all insurances required to be effected by the Continuing Party under the terms of the Contract, the Substitute Party is named in place of the Retiring Party as required by the Contract.

3.6 Replacement of Guarantees

From the Effective Date:

(a) the Substitute Party must have in place guarantees which replace the Contract Guarantees on similar terms in favour of the Continuing Party; and

(b) the Continuing Party must have in place guarantees which replace the Contract Guarantees on similar terms in favour of the Substitute Party.

4. OVERRIDING EFFECT

The parties agree that the execution and operation of this deed will for all purposes be regarded as due and complete compliance with the terms of the Contract relating to any requirement for consent to assignment of the Contract so far as any such provisions would apply with respect to the novation of the Contract to the Substitute Party.

5. REPRESENTATIONS AND WARRANTIES

5.1 Authority

Each party represents and warrants to each other party that it has full power and authority to enter into and perform its obligations under this deed.

5.2 Authorisations

Each party represents and warrants to each other party that it has taken all necessary action to authorise the execution, delivery and performance of this deed in accordance with its terms.

1.1 Binding obligations

Each party represents and warrants to each other party that this deed constitutes its legal, valid and binding obligations and is enforceable in accordance with its terms.

6. DUTIES, COSTS AND EXPENSES

6.1 Stamp Duty

The Substitute Party must pay all stamp duty, duties or other taxes of a similar nature (including but not limited to any fines, penalties and interest) in connection with this deed or any transaction contemplated by this deed (except to the extent the terms of the Contract provide otherwise).

6.2 Costs

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with negotiating, preparing, executing and performing this deed.

6.3 GST

(a) Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

(b) If GST is payable on a supply made under this deed by an entity (Supplier), the party providing the consideration for that supply must, in addition to any other amounts payable under any provision of this deed, pay an additional amount equal to the GST payable by the Supplier on that supply. The additional amount must be paid, and the Supplier must provide a tax invoice, at the same time as the other consideration for that supply is to be provided under this deed. Terms used in this clause 6.3 have the meanings given to those terms by the A New Tax System (Goods and Services Tax) Act 1999.

7. GENERAL

7.1 Governing Law

This deed is governed by and must be construed according to the laws of New South Wales.

7.2 Jurisdiction

Each party irrevocably:

(a) submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this deed; and

(b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause Schedule 297.2(a).

7.3 Amendments

This deed may only be varied by a document signed by or on behalf of each party.

7.4 Waiver

(a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.

(b) A waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.

(c) No waiver of a breach of a term of this deed operates as a waiver of any other breach of that term or of a breach of any other term of this deed.

7.5 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the deed of each party who has executed and delivered that counterpart.

7.6 Severance

If at any time a provision of this deed is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

(a) the legality, validity or enforceability in that jurisdiction of any other provision of this deed; or

(b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this deed.

7.7 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this deed.

7.8 Assignment

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

Schedule 1 [if needed]

Contract
(clause 1.1) .....

.....

EXECUTED by the parties as a deed:

Schedule 30 - Site Access Schedule

Site Access Date: 4 March 2024

EXHIBIT A – WORKS BRIEF

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EXHIBIT B – PRINCIPAL'S INSURANCE POLICIES

EXHIBIT C – PLANNING APPROVAL

The Planning Approval comprises the following documents:

(a) The Project Planning Approval (Chatswood to Sydenham) - (Critical State Significant Infrastructure – Sydney Metro City & Southwest Chatswood to Sydenham – Conditions of Approval)

(b) The Revised Mitigation Measures for the Project Planning Approval (Sydenham to Bankstown) are included as Attachment and are part of the Conditions for the Project Planning Approval (Sydenham to Bankstown).

Critical State Significant Infrastructure

Sydney Metro City & Southwest Chatswood to Sydenham

Conditions of Approval

Infrastructure approval

Section 115ZB of the *Environmental Planning & Assessment Act 1979*

I grant approval to the carrying out of the Critical State significant infrastructure (CSSI) referred to in Schedule 1, subject to the conditions in Schedule 2.

Minister for Planning

Sydney 2017

SCHEDULE 1

Application no.:	SSI 15_7400
Proponent:	Transport for NSW
Approval Authority:	Minister for Planning
Land:	Multiple properties and land comprised in Willoughby, Lane Cove, North Sydney, City of Sydney and Inner West Council areas.
Description of Critical State Significant Infrastructure:	Construction and operation of a metro rail line, approximately 16.5 kilometres long (of which approximately 15.5 kilometres is located in underground rail tunnels) between Chatswood and Sydenham, including the construction of a tunnel under Sydney Harbour, links with the existing rail network, seven metro stations, and associated ancillary infrastructure.
Declaration as Critical State Significant Infrastructure	The proposal is Critical State Significant Infrastructure by virtue of clause 5 of Schedule 5 of the *State Environmental Planning Policy (State and Regional Development) 2011* (NSW) and section 115V of the *Environmental Planning and Assessment Act 1979* (NSW).

TABLE OF CONTENTS

DEFINITIONS

The definitions below apply to terms used in this approval, unless otherwise stated or the context indicates otherwise.

Table 1: Definitions relevant to all CSSI projects

Term	Definition
Aboriginal object	The same meaning as in the *National Parks and Wildlife Act 1974* (NSW)
Ancillary facility	A facility established for construction of the project which will be decommissioned at the end of construction including an office and amenities compound, construction compound, material crushing and screening plant, materials storage compound, maintenance workshop, testing laboratory and material stockpile area
Annoying activities	As defined by the *Interim Construction Noise Guideline* to include: • use of 'beeper' style reversing or movement alarms, particularly at night-time • use of power saws, such as used for cutting timber, rail lines, masonry, road pavement or steel work • grinding metal, concrete or masonry • rock drilling • line drilling • vibratory rolling • rail tamping and regulating • bitumen milling or profiling • jackhammering, rock hammering or rock breaking • impact piling
CEMP	Construction Environmental Management Plan
Completion of construction	The date on which all construction works and activities described in the EIS as amended by the PIR are completed, all construction related requirements of the Secretary (if any) have been met
Consistency assessment	An assessment of whether a proposed activity for the purpose of the CSSI is consistent with the terms of this approval

Term	Definition
Construction	Includes all physical work required to construct the CSSI, including demolition, other than the following low impact work: (a) survey works including carrying out general alignment survey, installing survey controls (including installation of global positioning system (GPS)), installing repeater stations, carrying out survey of existing and future utilities and building and road dilapidation surveys; (b) investigations including investigative drilling and excavation*;* (c) heritage excavation and salvage works, subject to addressing related requirements of this approval, including Conditions E10-E27**;** (d) treatment of contaminated sites subject to the recommendations of a Site Contamination Report prepared in accordance with Condition E66. (e) establishment of ancillary facilities, except where demolition is required, in approved locations or in locations meeting the criteria identified in Condition A16 and Condition A18 of this approval, including constructing ancillary facility access roads and providing utilities to the facility; (f) operation of ancillary facilities if the ER has determined the operational activities will have minimal impact on the environment and community; (g) minor clearing and relocation of native vegetation, as identified in the EIS as amended by the description in the PIR*;* (h) installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and acoustic treatments; (i) property acquisition adjustment works including installation of property fencing, and relocation and adjustments of utilities to property including water supply and electricity; (j) relocation and connection of utilities where the relocation or connection has a minor impact to the environment as determined by the ER; (k) archaeological testing under the *Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010)* or archaeological monitoring undertaken in association with (a)-(j) above to ensure that there is no impact on heritage items; (l) other activities determined by the ER to have minimal environmental impact which may include construction of minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and (m) maintenance of existing buildings and structures required to facilitate the carrying out of the CSSI. However, where heritage items on the State heritage register, areas of known or expected archaeological potential, or threatened species, populations or ecological communities (within the meaning of the EP&A Act) are affected by any low impact work, that work is construction, unless otherwise determined by the Secretary in consultation with OEH or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation).

Term	Definition
	The low impact work described in this definition becomes construction with the approval of a Construction Environmental Management Plan. Where low impact works have already commenced, these are considered to remain as low impact works and are managed in accordance with the framework under which they commenced
CSSI	The Critical State Significant Infrastructure, as generally described in Schedule 1, the carrying out of which is approved under the terms of this approval
Department	NSW Department of Planning and Environment
DPI	NSW Department of Primary Industries including DPI Agriculture, DPI Biosecurity and Food Safety, DPI Land and Natural Resources, DPI Water and DPI Fisheries
EIS	The *Sydney Metro City and Southwest Chatswood to Sydenham* Environmental Impact Statement dated 3 May 2016 submitted to the Secretary seeking approval to carry out the CSSI and as revised if required by the Secretary under the EP&A Act
EMS	Environmental Management System
EP&A Act	*Environmental Planning and Assessment Act 1979* (NSW)
EPA	NSW Environment Protection Authority
EPL	Environment Protection Licence under the POEO Act
ER	The Environmental Representative for the CSSI
Heritage Division	The Heritage Division of OEH
Heritage item	A place, building, work, relic, archaeological site, tree, movable object or precinct of heritage significance that is listed under one or more of the following registers: the State Heritage Register under the *Heritage Act 1977* (NSW), a heritage item registered under a Local Environmental Plan under the EP&A Act, the World, National or Commonwealth Heritage lists under the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth), and an Aboriginal object or Aboriginal place as defined in section 5 of the *National Parks and Wildlife Act 1974* (NSW)
ICNG	*Interim Construction Noise Guideline*
Incident	An occurrence or set of circumstances that causes, or threatens to cause, material harm to the environment, community or any member of the community, being actual or potential harm to the health or safety of human beings or to threatened species, endangered ecological communities or ecosystems that is not trivial *Note: This meaning of "material harm" applies for the purpose of this approval only*
Land	Has the same meaning as in the EP&A Act
Landowner	Has the same meaning as "owner" in the *Local Government Act 1993* and in relation to a building means the owner of the building

Term	Definition
Minister	NSW Minister for Planning
Noise Management Level	As derived from the *Interim Construction Noise Guideline*
Non-residential zones	Any other zone than defined as *Residential zone* in this approval
NSW Heritage Council	Heritage Council of NSW (or delegate)
OEH	NSW Office of Environment and Heritage
OEMP	Operational Environmental Management Plan
Operation	The operation of the CSSI (whether in full or in part) for its intended purpose, excluding the following activities carried out during construction: • commissioning trials of equipment; • temporary use of any part of the CSSI; and • maintenance works *Note: Construction and Operation are not mutually exclusive*
Over Station Development	Includes non-rail related development that may occupy land or airspace above, within or in the immediate vicinity of the CSSI but excluding spaces and interface works such as structural elements may be constructed as part of the CSSI to make provision for future developments
Perceptible level of vibration	The value identified in the Preferred Peak velocity (mm/s) column in Table C1.1 *Criteria for exposure to continuous and impulsive vibration in the Assessing Vibration: A technical guideline* (DEC 2006)
PIR	The *Sydney Metro City and Southwest Chatswood to Sydenham Submissions and Preferred Infrastructure Report* dated October 2016 submitted to the Secretary under the EP&A Act
POEO Act	*Protection of the Environment Operations Act 1997* (NSW)
Proponent	The person or organisation identified as the proponent in Schedule 1 of this approval
Registered Aboriginal Parties	As defined in the *Aboriginal cultural heritage consultation requirements for proponents 2010*
Relevant Council(s)	Any or all as relevant, Willoughby, Lane Cove, North Sydney, City of Sydney or Inner West
Relevant Road Authority	The same meaning as the Roads authorities defined in the *Roads Act 1993*
Relic	The same meaning as in the *Heritage Act 1977* (NSW)
Residential zones	As defined by the relevant Local Environment Plan including Zone R1 General Residential, Zone R2 Low Density Residential, Zone R3 Medium Density Residential, Zone R4 high Density Residential
RMS	NSW Roads and Maritime Services
Secretary	Secretary of the NSW Department of Planning and Environment or nominee, whether nominated before or after the date on which this approval was granted

Term	Definition
Sensitive receiver	Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres, passive recreation areas (including outdoor grounds used for teaching), active recreation areas (including parks and sports grounds). Receivers that may be considered to be sensitive include commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, and retail spaces) and industrial premises, and others as identified by the Secretary
Sensitive periods	Period of time determined in consultation with affected sensitive receiver
SES	NSW State Emergency Services
TBM	Tunnel Boring Machine
TMC	Transport Management Centre of Transport for NSW
Tree	Long lived woody perennial plant greater than (or usually greater than) 3 m in height with one or relatively few main stems or trunks
Unexpected heritage Finds	A potential heritage item discovered unexpectedly (usually during construction) but not identified in the EIS, PIR, or Archaeological Method Statements prepared under Condition E17 or E24 where assessment is required to determine if the item is a relic, or is an Aboriginal object. Unexpected heritage finds does not include human remains
Works	All physical activities to construct the CSSI

SUMMARY OF REPORTING REQUIREMENTS

Reports and notifications that must be provided to the Secretary under the terms of this approval are listed in **Table 2**.

Table 2: Reports and Notifications that must be submitted to the Secretary

Where there is an inconsistency between Table 2 and a condition, the requirements of the condition prevail.

Condition	Report / Notification	Timing[1]	Purpose
Part A – Administrative			
A7	As Required	As required	As required
A9	Consultation Completed	As required by Condition of Approval	As Required
A12	Staging Report	No later than one month before the commencement of construction (or operation if only staged operation is proposed) of the first of the proposed stages or within another timeframe agreed with the Secretary	Information
A17	Ancillary Facilities Management Plan	One month before installation of the relevant ancillary facilities	Information
A21	Consideration of Alternatives – Victoria Cross	Before construction	Approval
A22	Approval of Environmental Representative	No later than one month before the commencement of works or another timeframe agreed with the Secretary	Approval
(f) (h)	ER Notified of Incident	As required by Condition of Approval 40	As required
(l)	Environmental Representative Report	Within seven days following the end of each month for the duration of works and construction or as otherwise agreed with the Secretary	Information
A25	Approval of Acoustic Advisor	Two months before commencement of works or within another timeframe agreed with the Secretary	Approval
A27 (b) (f) A27(g)(iii) A27(g)(vi)	Noise and Vibration Reports	Monthly and within seven days following the end of each month for the duration of construction or as otherwise agreed with the Secretary	Information
A29	Compliance Tracking Program	Before commencement of works or within another timeframe agreed with the Secretary	Information
A31	Pre-Construction Compliance Report	No later than one month before commencement of construction or within another timeframe agreed with the Secretary	Information

[1] Where a project is staged, all required approvals must be obtained before the commencement of the relevant stage.

Condition	Report / Notification	Timing[1]	Purpose
A34	Construction Compliance Reports	Every 6 months from the date of the commencement of construction or within another timeframe agreed with the Secretary, for the duration of construction	Information
A35	Pre-Operation Compliance Report	No later than one month before commencement of operation or within another timeframe agreed with the Secretary	Information
A37	Environmental Audit Program	No later than one month before commencement of construction or within another timeframe agreed with the Secretary	Information
A40	Environmental Audit Report	Within 6 weeks of completing the audit, or within another timeframe agreed with the Secretary.	Information
A41	Notification of incident	As soon as possible and within 24 hours of any incident	Information
A44	Notification of incident notified to the EPA under the POEO Act	Within 24 hours of notifying the Environment Protection Authority (EPA)	Information
Part B - Communication Information and Reporting			
B3	Community Communication Strategy	No later than three months from the date of this approval or one month before commencement of any work, whichever is the latter	Approval
B8	Complaints Register	On request during on request within the timeframe stated in the request	Information
B11	Nomination of the Community Complaints Mediator	Within one month of the date of this approval or within another timeframe agreed with the Secretary	Approval
Part C - Construction Environmental Management			
C5	Agency requests for CEMP	Where not included in the CEMP with CEMP submission	Information
C6	CEMP sub-plans	With or subsequent to CEMP submission but no later than one month before commencement of construction	Approval
C7	CEMP	No later than one months before the commencement of construction	Approval
C11	NVBMP – Real Time Data	Department must be provided with access to real time monitoring data	Information
C12	Construction Monitoring Programs	Include information requested by agencies during consultation to the written satisfaction of the Secretary with Construction Monitoring Program	For information as required
C13	Construction Monitoring Programs	At least one month before commencement of construction or within another timeframe agreed with the Secretary	Approval
C16	Construction Monitoring Report	As specified in Construction Monitoring Program	Information
Part D - Operation Environmental Management			

Condition	Report / Notification	Timing[1]	Purpose
D5	OEMP Sub-plans – Justification for not including Agency Comments	One month before commencement of operation or within another timeframe agreed with the Secretary	Information
D7	OEMP or EMS	No later than one month before commencement of operation or within another timeframe agreed with the Secretary	Information
D9	Ground-borne Noise Specialist	Ground borne noise specialist nominee must be submitted before the review commences	Approval
D9	Ground-borne Noise Review	The review must be submitted at least one month before the installation of track	As required for Information
D11	Approval of Independent Auditor	Within 15 months of the completion of construction, or any other timeframe as agreed with the Secretary, and prior to the Audit	Approval
D11	Operational Performance Audit	Within one month of the completion of the Audit or other timeframe as agreed with the Secretary	Information
D14	Operational Noise and Vibration Report	Within 3 months following the identification of an exceedance of the design objectives	Information
Part E – Key Issues			
Flora and Fauna			
E6	Tree Report	Before the removal, damage and/or pruning of any trees, including those affected by the site establishment works.	Information
E7	Assessment of potential impact to large fig at Blues Point Reserve	Any proposal to prune either canopy or tree roots of large fig tree at eastern end of Blues Point Reserve	Approval
Heritage			
E13	Heritage Archival Recording Report	Within two years of completing the archival recording	Information
E18	Nominate an Excavation Director	Before excavation of archaeological management sites	Information
E20	Relic discovery	At the same time as the Heritage Council of NSW and of consultation outcome with the Heritage Council of NSW	As required
E21	Heritage Interpretation Plan	Before commencement of construction	Information
E22.1	Approve a qualified heritage architect	Before commencement of demolition works at 9-19 Elizabeth Street	Approval
E27	Exhumation Management Plan	Before commencement of excavation works	Information
Noise and Vibration			
E28.1	Approve a qualified	Before commencement of excavation works	Approval

Condition	Report / Notification	Timing[1]	Purpose
	structural engineer	impacting 50 Martin Place	
E32	Construction Noise and Vibration Strategy	At least one month before construction commences	Approval
E47	Out of Hours Work Protocol	Before construction commences for work not subject to an EPL	Approval
E53	Blast Management Strategy	One month before blasting commence	Information
E54(b)(ii)	Approve a qualified structural engineer	Before commencement of blasting impacting heritage structures	Approval
E56	Notification of blasting schedule	Fortnightly and in advance of blasting schedule	Information
E62	Independent Property Impact Assessment Panel	Before relevant construction work commencing	Information
E63	Result of settlement monitoring	On request by Secretary	Information
E64 (f)	Monitoring Results	As part of Compliance Tracking Reports	As Required

Condition	Report / Notification	Timing[1]	Purpose
Contaminated Sites			
E68	Site Audit Statement and Site Audit Report	No later than one month before commencement of operation	Information
Sustainability			
E72	Sustainability Strategy	Within six months of the date of this approval or within another timeframe agreed with the Secretary	Information
Traffic, Transport and Pedestrian Access			
E76	Safety Audits	On request by Secretary	Information
E81	Construction Traffic Management Framework	No later than one (1) month before the commencement of construction or within any other timeframe agreed with the Secretary	Approval
E82	Construction Traffic Management Plans	Following approval by Roads and Maritime Services	Information
E84	Investigation of non-road spoil haulage and material delivery	Before commencement and before completion of tunnel spoil generation as relevant	For information as required
E87	Safety audits	Available to the secretary on request	Information
Interchange (Station) Access Plans			
E92	Interchange (Station) Access Plans delivery and implementation program	Before commencement of permanent aboveground facilities at any stations site.	Approval
Station Design and Precinct Plan			
E101	Station Design and Precinct Plans (SDPP)	Before commencement of permanent aboveground work	Approval

SCHEDULE 2

PART A

ADMINISTRATIVE CONDITIONS

GENERAL

A1 The CSSI must be constructed generally in accordance with the description of the CSSI in the EIS as amended by the:

(a) description in the PIR;

(b) Sydney Metro City and Southwest Chatswood to Sydenham Victoria Cross Station and Artarmon Substation Modification Report (Transport for NSW) as amended by the Victoria Cross and Artarmon Substation Modification Submission Report (Transport for NSW);

(c) Sydney Metro City and Southwest Chatswood to Sydenham Sydenham Station and Sydney Metro Trains Facility South Modification Report (Transport for NSW) as amended by the Sydney Metro City and Southwest Chatswood to Sydenham Sydenham Station and Sydney Metro Trains Facility South Submissions Report (Transport for NSW);

(d) Sydney Metro City and Southwest Chatswood to Sydenham Central Walk Modification Report (Transport for NSW) as amended by the Central Walk Modification Submission Report (Transport for NSW);

(e) Sydney Metro City and Southwest Chatswood to Sydenham Martin Place Metro Station Modification Report as amended by the Sydney Metro City and Southwest Chatswood to Sydenham Martin Place Station Modification Submissions Report;

(f) Sydney Metro City and Southwest Chatswood to Sydenham Blues Point Acoustic Shed Modification Report (Sydney Metro) as amended by the Response to Submissions (Sydney Metro) dated 2 October 2018;

(g) Sydney Metro Chatswood to Sydenham, SSI_7400, Request for administrative modification (Sydney Metro) dated 12 December 2018;

(h) Sydney Metro correspondence dated 17 April 2020 requesting modification to Condition E100 and correspondence dated 12 June 2020 requesting modification to E46; ~~and~~

(i) Sydney Metro City and South West Chatswood to Sydenham Blues Point Tunnel Fit Out Access Modification Report (Sydney Metro) as amended by the Response to Submissions (Sydney Metro) dated September 2020 and

(j) the terms of this approval.

A1.1 If SSD 17_8351 (Sydney Metro Martin Place Station Precinct) is not approved or the if the NSW Government chooses to not proceed, then the modifications to this approval as described in A1(e) must not proceed and the design must revert to the approved CSSI project as described in A1 as amended by A1(a), A1(b), A1(c), A1(d) and A1(f).

A2 The CSSI must be carried out in accordance with all procedures, commitments, preventative actions, performance criteria and mitigation measures set out in the EIS as amended by the documents listed in A1, unless otherwise specified in, or required under, this approval.

A3 In the event of an inconsistency between the EIS as amended by the description in Chapters 2, 3 and 9 of the PIR, or any other document required under this approval, and a term of this approval, the term of this approval prevails to the extent of the inconsistency. For the purpose of this condition, there will be an inconsistency between a term of this approval and any document if it is not possible to comply with both the term and the document.

A4 Except to the extent described in the EIS or any document listed in A1, any over station development or any development above or within the Sydney Metro Trains Facility South, including associated future uses, does not form part of this CSSI and will be subject to the relevant assessment pathway prescribed by the EP&A Act.

A5 The Proponent must comply with all requirements of the Secretary in relation to:

(a) the environmental performance of the CSSI;
(b) any document or correspondence;
(c) any notification given to the Secretary under the terms of this approval;
(d) any audit of the construction or operation of the CSSI;
(e) compliance with the terms of this approval (including anything required to be done under this approval); and
(f) the carrying out of any additional monitoring or mitigation measures.

A6 In the event that there are differing interpretations of the terms of this approval, including in relation to a condition of this approval, the Secretary's interpretation is final.

A7 Where the terms of approval provide the Secretary the discretion to alter the requirements of the approval, the Proponent must provide supporting evidence so that the Secretary can consider the need, environmental impacts and consistency of the alteration.

Note: Inaction and/or expedience will not be supported as justifications for need unless it can be demonstrated that there is beneficial environmental impacts for the project and the affected environment.

A8 Without limitation, all strategies, plans, programs, reviews, audits, report recommendations, protocols and the like required by the terms of this approval must be implemented by the Proponent and in accordance with all requirements issued by the Secretary from time to time in respect of them.

A9 Where the terms of this approval require consultation with identified parties, details of the consultation undertaken, matters raised by the parties, and how the matters were considered must accompany the strategies, plans, programs, reviews, audits, protocols and the like submitted to the Secretary.

A10 This approval lapses five (5) years after the date on which it is granted, unless works for the purpose of the CSSI are physically commenced on or before that date.

A11 The Proponent is responsible for any breaches of the conditions of this approval resulting from the actions of all persons that it invites onto any site, including contractors, sub-contractors and visitors.

STAGING

A12 The CSSI may be constructed and operated in stages. Where staged construction or operation is proposed, a **Staging Report** (for either or both construction and operation as the case requires) must be prepared and submitted to the Secretary for information. The **Staging Report** must be submitted to the Secretary no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation), or within another timeframe agreed with the Secretary.

A13 The **Staging Report** must:

(a) if staged construction is proposed, set out how the construction of the whole of the CSSI will be staged, including general details of work and other activities to be carried out in each stage and the general timing of when construction of each stage will commence;
(b) if staged operation is proposed, set out how the operation of the whole of the CSSI will be staged, including general details of work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence;
(c) specify the relevant conditions of approval that apply to each stage and how compliance with those conditions will be achieved across and between each of the stages of the CSSI; and
(d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.

A14 The CSSI must be staged in accordance with the **Staging Report,** as submitted to the Secretary.

A15 Where staging is proposed, the terms of this approval that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

ANCILLARY FACILITIES

A16 Ancillary facilities that are not identified by description and location in the EIS as amended by the documents listed in A1, must meet the following criteria, unless otherwise approved by the Secretary:

(a) the facility is development of a type that would, if it were not for the purpose of the CSSI, otherwise be exempt or complying development; or
(b) the facility is located as follows:
  i. at least 50 metres from any waterway unless an erosion and sediment control plan is prepared and implemented so as not to adversely affect water quality in the waterway in accordance with Managing Urban Stormwater series;
  ii. within or adjacent to land upon which the CSSI is being carried out unless it can be demonstrated that performance criteria established in this approval can be met and that there will be a reduction in impact at other sites and a reduction in the construction program;
  iii. with ready access to a road network;
  iv. to prevent heavy vehicles travelling on local streets or through residential areas in order to access the facility, except as identified in the EIS and amended by the documents listed in A1;
  v. on level land;
  vi. so as to be in accordance with the *Interim Construction Noise Guideline* (DECC 2009) or as otherwise agreed in writing with affected landowners and occupiers;
  vii. so as not to require vegetation clearing beyond the extent of clearing approved under other terms of this approval except as approved by the ER as minor clearing;

viii. so as not to have any impact on heritage items (including areas of archaeological sensitivity) beyond the impacts identified, assessed and approved under other terms of this approval;
ix. so as not to unreasonably interfere with lawful uses of adjacent properties that are being carried out at the date upon which construction or establishment of the facility is to commence;
x. to enable operation of the ancillary facility during flood events and to avoid or minimise, to the greatest extent practicable, adverse flood impacts on the surrounding environment and other properties and infrastructure; and
xi. so as to have sufficient area for the storage of raw materials to minimise, to the greatest extent practicable, the number of deliveries required outside standard construction hours.

A17 Before establishment of any ancillary facility that satisfies the criteria in Condition A16, the Proponent must prepare an **Ancillary Facilities Management Plan** which outlines the environmental management practices and procedures to be implemented for the establishment and operation of the ancillary facility. The **Ancillary Facilities Management Plan** must be prepared in consultation with the relevant council(s) and submitted to the Secretary and EPA for information one month before installation of the relevant ancillary facilities. The **Ancillary Facilities Management Plan** must detail the management of the ancillary facilities and include:

(a) a description of activities to be undertaken during construction (including scheduling of construction);
(b) a program for ongoing analysis of the key environmental risks arising from the activities described in subsection (a) of this condition, including an initial risk assessment undertaken before the commencement of construction of the CSSI; and
(c) details of how the activities described in subsection (a) of this condition will be carried out to:
i. meet the performance outcomes stated in the EIS as amended by the documents listed in A1*;* and
ii. manage the risks identified in the risk analysis undertaken in subsection (b) of this condition.

A18 Minor ancillary facilities comprising lunch sheds, office sheds, and portable toilet facilities, or the like, that are not identified in the EIS as amended by the documents listed in A1 and which do not satisfy the criteria set out in Condition A16 of this approval must satisfy the following criteria:

(a) have no greater environmental and amenity impacts than those that can be managed through the implementation of environmental measures detailed in the CEMP required under Condition C1 of this approval; and
(b) have been assessed by the ER to have:
i. minimal amenity impacts to surrounding residences and businesses, after consideration of matters such as compliance with the *Interim Construction Noise Guideline* (DECC 2009), traffic and access impacts, dust and odour impacts, and visual (including light spill) impacts;
ii. minimal environmental impact with respect to waste management and flooding; and
iii. no impacts on biodiversity, soil and water, and heritage items beyond those already approved under other terms of this approval.

A19 Boundary fencing that incorporates screening must be erected around all ancillary facilities that are adjacent to sensitive receivers for the duration of construction unless otherwise agreed with Relevant Council(s), and affected residents, business operators or landowners.

A20 Boundary screening required under Condition A19 of this approval must minimise visual, noise and air quality impacts on adjacent sensitive receivers.

A21 The Proponent must undertake a further detailed analysis of alternative locations for construction of a services building to support Victoria Cross Station. The analysis must include a rigorous options assessment which considers constructability, property impacts, operational efficiency and comparative impacts, including construction and operational noise impacts in consultation with the Acoustics Advisor required by Condition A25. The analysis must be submitted to the Secretary and where the analysis identifies a better alternative to the Victoria Cross North site identified in the EIS, the Proponent must submit the recommendation to the Secretary for approval before commencement of construction at the Victoria Cross North construction site.

ENVIRONMENT REPRESENTATIVE

A22 A suitably qualified and experienced Environmental Representative (ER) who is independent of the design and construction personnel must be nominated by the Proponent, approved by the Secretary and engaged for the duration of construction of the CSSI. Additional ERs may be engaged for the purpose of this condition in which case the obligations to be carried out by an ER under the terms of this approval may be satisfied by any ER that is approved by the Secretary. The details of nominated ER(s) must be submitted to the Secretary for approval no later than one month before the commencement of works, or within another timeframe agreed with the Secretary.

A23 Works must not commence until an ER nominated under Condition A22 of this approval in respect of such works has been approved by the Secretary.

A24 From commencement of construction until completion of construction, the approved ER must:

(a) receive and respond to communications from the Secretary in relation to the environmental performance of the CSSI;
(b) consider and inform the Secretary on matters specified in the terms of this approval;
(c) consider and recommend any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;
(d) review documents identified in **Conditions C1**, **C3** and **C9** and any other documents that are identified by the Secretary, to ensure they are consistent with requirements in or under this approval and if so:
    i. make a written statement to this effect before submission of such documents to the Secretary (if those documents are required to be approved by the Secretary), or
    ii. make a written statement to this effect before the implementation of such documents (if those documents are required to be submitted to the Secretary for information or are not required to be submitted to the Secretary);
(e) regularly monitor the implementation of environmental management related documents to ensure implementation is being carried out in accordance with what is stated in the document and the terms of this approval;
(f) review the Proponent's notification of incidents in accordance with Condition A41 of this approval;
(g) as may be requested by the Secretary, help plan, attend or undertake Department audits of the CSSI, briefings, and site visits;
(h) if conflict arises between the Proponent and the community in relation to the environmental performance of the CSSI, follow the procedure in the **Community Communication Strategy** approved under Condition B3 of this approval to attempt to resolve the conflict, and if it cannot be resolved, notify the Secretary;
(i) review any draft consistency assessment that may be carried out by the Proponent, and provide advice on any additional mitigation measures required to minimise the impact of the work;

(j) consider any minor amendments to be made to the documents listed in **Conditions C1**, **C3** and **C9** and any document that requires the approval of the Secretary (excluding noise and vibration documents) that comprise updating or are of an administrative or minor nature, and are consistent with the terms of this approval and the documents listed in **Conditions C1**, **C3** and **C9** or other documents approved by the Secretary and, if satisfied such amendment is necessary, approve the amendment. This does not include any modifications to the terms of this approval;
(k) assess the impacts of minor ancillary facilities as required by Condition A18 of this approval; and
(l) prepare and submit to the Secretary and other relevant regulatory agencies, for information, a monthly **Environmental Representative Report** detailing the ER's actions and decisions on matters for which the ER was responsible in the preceding month (or other timeframe agreed with the Secretary). The **Environmental Representative Report** must be submitted within seven (7) days following the end of each month for the duration of works and construction of the CSSI, or as otherwise agreed with the Secretary.

ACOUSTICS ADVISOR

A25 A suitably qualified and experienced Acoustics Advisor (AA), who is independent of the design and construction personnel, must be nominated by the Proponent and engaged for the duration of construction and for no less than six (6) months following operation of the CSSI.

The details of the nominated AA must be submitted to the Secretary for approval no later than one (1) month before commencement of works, or within another timeframe as agreed with the Secretary. The Proponent may nominate additional suitably qualified and experienced persons to assist the lead Acoustics Advisor for the Secretary's approval.

The Proponent must cooperate with the AA by:

(a) providing access to noise and vibration monitoring activities as they take place;
(b) providing for review of noise and vibration plans, assessments, monitoring reports, data and analyses undertaken; and
(c) considering any recommendations to improve practices and demonstrating, to the satisfaction of the AA, why any recommendation is not adopted.

A26 Any activities generating noise and vibration in excess of the Noise Management Level derived from the *Interim Construction Noise Guideline* must not commence until an AA, nominated under Condition A25 of this approval, has been approved by the Secretary.

A27 The approved AA must:

(a) receive and respond to communication from the Secretary in relation to the performance of the CSSI in relation to noise and vibration;
(b) consider and inform the Secretary on matters specified in the terms of this approval relating to noise and vibration;
(c) consider and recommend, to the Proponent, improvements that may be made to work practices to avoid or minimise adverse noise and vibration impacts;
(d) review all noise and vibration documents required to be prepared under the terms of this approval and, should they be consistent with the terms of this approval, endorse them before submission to the Secretary (if required to be submitted to the Secretary) or before implementation (if not required to be submitted to the Secretary);

(e) regularly monitor the implementation of all noise and vibration documents required to be prepared under the terms of this approval to ensure implementation is in accordance with what is stated in the document and the terms of this approval;
(f) review the Proponent's notification of noise and vibration incidents in accordance with Condition A41 of this approval;
(g) in conjunction with the ER (where required), the AA must:
  i. consider requests for out of hours construction activities and determine whether to endorse the proposed activities in accordance with Condition E47;
  ii. as may be requested by the Secretary or Complaints Mediator, help plan, attend or undertake audits of noise and vibration management of the CSSI including briefings, and site visits;
  iii. if conflict arises between the Proponent and the community in relation to the noise and vibration performance during construction of the CSSI, follow the procedure in the Community Communication Strategy approved under Condition B3 of this approval to attempt to resolve the conflict, and if it cannot be resolved, notify the Secretary;
  iv. consider relevant minor amendments made to any noise and vibration document approved by the Secretary that require updating or are of an administrative or minor nature, and are consistent with the terms of this approval and the document approved by the Secretary and, if satisfied such amendment is necessary, approve the amendment. This does not include any modifications to the terms of this approval;
  v. assess the noise impacts of minor ancillary facilities as required by Condition A18 of this approval; and
  vi. prepare and submit to the Secretary and other relevant regulatory agencies, for information, a monthly Noise and Vibration Report detailing the AAs actions and decisions on matters for which the AA was responsible in the preceding month (or another timeframe agreed with the Secretary). The Noise and Vibration Report must be submitted within seven (7) days following the end of each month for the duration of construction of the CSSI, or as otherwise agreed with the Secretary.

COMPLIANCE TRACKING PROGRAM

A28 A **Compliance Tracking Program** to monitor compliance with the terms of this approval must be prepared, taking into consideration any staging of the CSSI that is proposed in a **Staging Report** submitted in accordance with Condition A12 and Condition A13 of this approval.

A29 The **Compliance Tracking Program** must be endorsed by the ER then submitted to the Secretary for information before the commencement of works or within another timeframe agreed with the Secretary.

A30 The **Compliance Tracking Program** in the form required under Condition A28 of this approval must be implemented for the duration of construction and for a minimum of one (1) year following commencement of operation, or for a longer period as determined by the Secretary based on the outcomes of independent environmental audits, **Environmental Representative Reports** and regular compliance reviews submitted through **Compliance Reports**. If staged operation is proposed, or operation is commenced of part of the CSSI, the **Compliance Tracking Program** must be implemented for the relevant period for each stage or part of the CSSI.

CONSTRUCTION COMPLIANCE REPORTING

A31 A **Pre-Construction Compliance Report** must be prepared and submitted to the Secretary for information no later than one month before the commencement of construction or within another timeframe agreed with the Secretary.

A32 The **Pre-Construction Compliance Report** must include:

(a) details of how the terms of this approval that must be addressed before the commencement of construction have been complied with; and
(b) the commencement date for construction.

A33 Construction must not commence until the **Pre-Construction Compliance Report** has been submitted to the Secretary.

A34 **Construction Compliance Reports** must be prepared and submitted to the Secretary for information every six (6) months from the date of the commencement of construction or within another timeframe agreed with the Secretary, for the duration of construction. The **Construction Compliance Reports** must include:

(a) a results summary and analysis of environmental monitoring;
(b) the number of any complaints received, including a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
(c) details of any review of, and minor amendments made to, the **CEMP** as a result of construction carried out during the reporting period;
(d) a register of any consistency assessments undertaken and their status;
(e) results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;
(f) a summary of all incidents notified in accordance with Condition A41 and Condition A44 of this approval; and
(g) any other matter relating to compliance with the terms of this approval or as requested by the Secretary.

PRE-OPERATION COMPLIANCE REPORT

A35 A **Pre-Operation Compliance Report** must be prepared and submitted to the Secretary for information no later than one month before the commencement of operation or within another timeframe agreed with the Secretary. The **Pre-Operation Compliance Report** must include:

(a) details of how the terms of this approval that must be addressed before the commencement of operation have been complied with; and
(b) the commencement date for operation.

A36 Deleted

AUDITING

A37 An **Environmental Audit Program** for independent annual environmental auditing against the terms of this approval must be prepared in accordance with *AS/NZS ISO 19011:2014 - Guidelines for Auditing Management Systems* and submitted to the Secretary for information no later than one month before the commencement of construction or within another timeframe agreed with the Secretary.

A38 The **Environmental Audit Program**, as submitted to the Secretary**,** must be implemented for the duration of construction.

A39 All independent environmental audits of the CSSI conducted under Conditions A35 and A36 must be conducted by a suitably qualified, experienced and independent team of experts in auditing and be documented in an **Environmental Audit Report** which:

(a) assesses the environmental performance of the CSSI, and its effects on the surrounding environment;
(b) assesses whether the project is complying with the terms of this approval;
(c) reviews the adequacy of any document required under this approval; and
(d) recommends measures or actions to improve the environmental performance of the CSSI, and improvements to any document required under this approval.

A40 The Proponent must submit a copy of the **Environmental Audit Report** to the Secretary with a response to any recommendations contained in the audit report within six (6) weeks of completing the audit, or within another timeframe agreed with the Secretary.

INCIDENT NOTIFICATION

A41 The Secretary must be notified as soon as possible and in any event within 24 hours of any incident.

A42 Notification of an incident under Condition A41 of this approval must include the time and date of the incident, details of the incident and must identify any non-compliance with this approval.

A43 Any requirements of the Secretary or Relevant Public Authority (as determined by the Secretary) to address the cause or impact of an incident reported in accordance with Condition A41 of this approval, must be met within the timeframe determined by the Secretary or relevant public authority.

A44 If statutory notification is given to the EPA as required under the POEO Act in relation to the CSSI, such notification must also be provided to the Secretary for information within 24 hours after the notification was given to the EPA.

PART B

COMMUNITY INFORMATION AND REPORTING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

B1 A **Community Communication Strategy** must be prepared to facilitate communication between the Proponent, and the community (including Relevant Councils, adjoining affected landowners and businesses, and others directly impacted by the CSSI), during the design and construction of the CSSI and for a minimum of 12 months following the completion of construction of the CSSI.

B2 The **Community Communication Strategy** must:

(a) identify people or organisations to be consulted during the design and construction phases;
(b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the CSSI;
(c) identify opportunities to provide accessible information regarding regularly updated site construction activities, schedules and milestones at each construction site including use of construction hoardings to provide information regarding construction, specific to the location;
(d) identify opportunities for the community to visit construction sites (taking into consideration workplace, health and safety requirements);
(e) involve construction personnel from each construction site in engaging with the local community;
(f) provide for the formation of issue or location-based community forums that focus on key environmental management issues of concern to the relevant community(ies) for the CSSI;
(g) set out procedures and mechanisms:
    i. through which the community can discuss or provide feedback to the Proponent;
    ii. through which the Proponent will respond to enquiries or feedback from the community; and
    iii. to resolve any issues and mediate any disputes that may arise in relation to environmental management and delivery of the CSSI.

B3 The **Community Communication Strategy** must be submitted to the Secretary for approval no later than three months from the date of this approval or one (1) month before commencement of any work, whichever is the latter.

B4 Work for the purposes of the CSSI must not commence until the **Community Communication Strategy** has been approved by the Secretary, or within another timeframe agreed with the Secretary.

B5 The **Community Communication Strategy**, as approved by the Secretary, must be implemented for the duration of the works and for 12 months following the completion of construction.

COMPLAINTS MANAGEMENT SYSTEM

B6 A **Complaints Management System** must be prepared before the commencement of any works in respect of the CSSI and be implemented and maintained for the duration of works and for a minimum for 12 months following completion of construction of the CSSI.

B7 The **Complaints Management System** must include a **Complaints Register** to be maintained recording information on all complaints received about the CSSI during the carrying out of any works associated with the CSSI and for a minimum of 12 months following the completion of construction. The **Complaints Register** must record the:

(a) number of complaints received;
(b) number of people affected in relation to a complaint; and
(c) nature of the complaint and means by which the complaint was addressed and whether resolution was reached, with or without mediation.

B8 The **Complaints Register** must be provided to the Secretary upon request, within the timeframe stated in the request.

B9 The following facilities must be available within one (1) month from the date of this approval and for 12 months following the completion of construction and appropriately broadcast to collect community enquiries and complaints:

(a) a 24 hour telephone number for the registration of complaints and enquiries about the CSSI;
(b) a postal address to which written complaints and enquires may be sent;
(c) an email address to which electronic complaints and enquiries may be transmitted; and
(d) place-based community manager for each of the station locations available to meet with community members on request.

B10 The telephone number, postal address and email address required under Condition B9 of this approval must be published in a newspaper circulating in the local area and on site hoarding at each construction site before commencement of construction and published in the same way again before commencement of operation. This information must also be provided on the website required under Condition B15 of this approval.

B11 A **Community Complaints Mediator** that is independent of the design and construction personnel must be nominated by the Proponent, approved by the Secretary and engaged during all works associated with the CSSI. The nominated **Community Complaints Mediator** must be submitted to the Secretary for approval within one month of the date of this approval or within another timeframe agreed with the Secretary.

B12 The role of the **Community Complaints Mediator** must address any complaint where a member of the public is not satisfied by the Proponent's response. Any member of the public that has lodged a complaint which is registered in the Complaints Management System identified in Condition B6 may ask the Community Complaints Mediator to review the Proponent's response. The application must be submitted in writing and the Community Complaints Mediator must respond within 28 days of the request being made or other specified timeframe agreed between the Community Complaints Mediator and the member of the public.

B13 The **Community Complaints Mediator** will:

(a) review the Proponent's unresolved disputes between the project and members of the public if the procedures and mechanisms under Condition B2(g)(iii) do not satisfactorily address complaints; and
(b) make recommendations to the Proponent to satisfactorily address complaints, resolve disputes or mitigate against the occurrence of future complaints or disputes.

B14 The **Community Complaints Mediator** will not act before the Proponent has provided an initial response to a complaint and will not consider issues such as property acquisition where other dispute processes are provided for in this approval, or clear government policy and resolution processes are available, or matters which are not within the scope of the CSSI.

PROVISION OF ELECTRONIC INFORMATION

B15 A website providing information in relation to the CSSI must be established before commencement of works and maintained for the duration of construction, and for a minimum of 12 months following the completion of construction or other timeframe as agreed with the Secretary. The following up-to-date information (excluding confidential, private and commercial information or other documents as agreed to by the Secretary) must be published prior to the relevant works commencing, or in the case of documents prepared in accordance with E66 and E67 when finalised in accordance with the requirements of this approval, and maintained on the website or dedicated pages:

(a) information on the current implementation status of the CSSI;
(b) a copy of the documents listed in Condition A1 and Condition A2 of this approval, and any documentation relating to any modifications made to the CSSI or the terms of this approval;
(c) a copy of this approval in its original form, a current consolidated copy of this approval (that is, including any approved modifications to its terms), and copies of any approval granted by the Minister to a modification of the terms of this approval;
(d) a copy of any Environment Protection Licence obtained in relation to the CSSI or link to any existing Environment Protection Licence applied to the CSSI; and
(e) a current copy of each document required under the terms of this approval must be published within one week of its endorsement / approval or before the commencement of any works to which they relate or before their implementation as the case may be.

Note: Environment Protection Licences relevant to each stage of the project need to be clearly differentiated to identify how and where they specifically apply.

PART C

CONSTRUCTION ENVIRONMENTAL MANAGEMENT

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

C1 A **Construction Environmental Management Plan** (**CEMP**) must be prepared in accordance with the Construction Environmental Management Framework (CEMF) included in the PIR and the Department's *Guideline for the Preparation of Environmental Management Plans* to detail how the performance outcomes, commitments and mitigation measures specified in Chapter 11 of the PIR, as amended by the documents listed in A1, will be implemented and achieved during construction.

C2 The **CEMP** must provide:

(a) a description of activities to be undertaken during construction (including the scheduling of construction);
(b) details of environmental policies, guidelines and principles to be followed in the construction of the CSSI;
(c) a schedule for compliance auditing;
(d) a program for ongoing analysis of the key environmental risks arising from the activities described in subsection (a) of this condition, including an initial risk assessment undertaken before the commencement of construction of the CSSI;
(e) details of how the activities described in subsection (a) of this condition will be carried out to:
  i. meet the performance outcomes stated in the EIS as amended by the documents listed in A1; and
  ii. manage the risks identified in the risk analysis undertaken in subsection (d) of this condition;
(f) an inspection program detailing the activities to be inspected and frequency of inspections;
(g) a protocol for managing and reporting any:
  i. incidents; and
  ii. non-compliances with this approval and with statutory requirements;
(h) procedures for rectifying any non-compliance with this approval identified during compliance auditing, incident management or at any time during construction;
(i) a list of all the **CEMP sub-plans** required in respect of construction, as set out in Condition C3. Where staged construction of the CSSI is proposed, the **CEMP** must also identify which **CEMP sub-plan** applies to each of the proposed stages of construction;
(j) a description of the roles and environmental responsibilities for relevant employees and their relationship with the ER;
(k) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;
(l) for periodic review and update of the **CEMP** and all associated plans and programs.

C3 The following **CEMP sub-plans** must be prepared in consultation with the relevant government agencies identified for each **CEMP sub-plan** and be consistent with the **CEMF** and **CEMP** referred to in Condition C1.

	Required CEMP sub-plan	Relevant government agencies to be consulted for each CEMP sub-plan
(a)	Noise and vibration	Relevant Council(s)
(b)	Biodiversity	OEH and Relevant Council(s)
(c)	Air quality	N/A
(d)	Soil and Water	DPI Water, Relevant Council(s), OEH, SES, NSW Fire and Rescue
(e)	Groundwater	DPI Water
~~(f)~~	~~Blasting~~	~~N/A~~
(g)	Heritage	Heritage Council (or its delegate) and Relevant Council(s)
~~(h)~~	~~Construction Traffic~~	~~Relevant Road Authorities, RMS, Sydney Coordination Office~~

C4 The **CEMP sub-plans** must state how:

(a) the environmental performance outcomes identified in the EIS as amended by the documents listed in A1will be achieved;
(b) the mitigation measures identified in the EIS as amended by documents listed in A1 will be implemented;
(c) the relevant terms of this approval will be complied with; and
(d) issues requiring management during construction, as identified through ongoing environmental risk analysis, will be managed.

C5 The **CEMP sub-plans** must be developed in consultation with relevant government agencies. Where an agency(ies) request(s) is not included, the Proponent must provide the Secretary justification as to why. Details of all information requested by an agency to be included in a **CEMP sub-plan** as a result of consultation and copies of all correspondence from those agencies, must be provided with the relevant **CEMP sub-plan**.

C6 Any of the **CEMP sub-plans** may be submitted to the Secretary along with, or subsequent to, the submission of the **CEMP** but in any event, no later than one (1) month before commencement of construction.

C7 The **CEMP** must be endorsed by the ER and then submitted to the Secretary for approval no later than one (1) month before the commencement of construction or within another timeframe agreed with the Secretary.

C8 Construction must not commence until the **CEMP** and all **CEMP sub-plans** have been approved by the Secretary. The **CEMP** and **CEMP sub-plans**, as approved by the Secretary, including any minor amendments approved by the ER (or AA in regards to the Noise and Vibration sub-plan), must be implemented for the duration of construction. Where the CSSI is being staged, construction of that stage is not to commence until the relevant CEMP and sub-plans have been approved by the Secretary.

CONSTRUCTION MONITORING PROGRAMS

C9 The following **Construction Monitoring Programs** must be prepared in consultation with the relevant government agencies identified for each **Construction Monitoring Program** to compare actual performance of construction of the CSSI against predicted performance.

	Required Construction Monitoring Programs	**Relevant government agencies to be consulted for each Construction Monitoring Program**
(a)	Noise and Vibration	EPA and Relevant Council(s)
(b)	Blasting	EPA and Relevant Council(s)
(c)	Water Quality	EPA and Relevant Council(s)
(d)	Groundwater	DPI Water

C10 Each **Construction Monitoring Program** must provide:

(a) details of baseline data available;
(b) details of baseline data to be obtained and when;
(c) details of all monitoring of the project to be undertaken;
(d) the parameters of the project to be monitored;
(e) the frequency of monitoring to be undertaken;
(f) the location of monitoring;
(g) the reporting of monitoring results;
(h) procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory; and
(i) any consultation to be undertaken in relation to the monitoring programs.

C11 The **Noise and Vibration Construction Monitoring Program and Blast Construction Monitoring Program** must include provision of real time noise and vibration monitoring data. The real time data must be available to the construction team, Proponent, ER and AA in real time. The Department and EPA must be provided with access to the real time monitoring data in real time.

C12 The **Construction Monitoring Programs** must be developed in consultation with relevant government agencies as identified in Condition C9 of this approval and must include, to the written satisfaction of the Secretary, information requested by an agency to be included in a **Construction Monitoring Programs** during such consultation. Details of all information requested by an agency including copies of all correspondence from those agencies, must be provided with the relevant **Construction Monitoring Program**.

C13 The **Construction Monitoring Programs** must be endorsed by the ER (or AA in regards to the Noise and Vibration Construction Monitoring Program) and then submitted to the Secretary for approval at least one (1) month before commencement of construction or within another timeframe agreed with the Secretary.

C14 Construction must not commence until the Secretary has approved all of the required **Construction Monitoring Programs**, and all relevant baseline data for the specific construction activity has been collected.

C15 The **Construction Monitoring Programs**, as approved by the Secretary including any minor amendments approved by the ER (or AA in regards to the Noise and Vibration Construction

Monitoring Program), must be implemented for the duration of construction and for any longer period set out in the monitoring program or specified by the Secretary, whichever is the greater.

C16 The results of the **Construction Monitoring Programs** must be submitted to the Secretary for information, and relevant regulatory agencies, for information in the form of a **Construction Monitoring Report** at the frequency identified in the relevant **Construction Monitoring Program**.

C17 Where a relevant **CEMP sub-plan** exists, the relevant **Construction Monitoring Program** may be incorporated into that **CEMP sub-plan.**

PART D

OPERATIONAL ENVIRONMENTAL MANAGEMENT

OPERATIONAL ENVIRONMENTAL MANAGEMENT

D1 An **Operational Management Plan (OEMP)** must be prepared in accordance with the Department's *Guideline for the Preparation of Environmental Management Plans* to detail how the performance outcomes, commitments and mitigation measures made and identified in the EIS as amended by the documents listed in A1 will be implemented and achieved during operation. This condition does not apply if Condition D2 of this approval applies.

D2 An **OEMP** is not required for the CSSI if the Proponent has an **Environmental Management System** (**EMS**) or equivalent as agreed with the Secretary, and can demonstrate, to the written satisfaction of the Secretary, that through the **EMS**:

(a) the performance outcomes, commitments and mitigation measures, made and identified in the EIS as amended by the documents listed in A1, and requirements specified in the conditions of this approval can be achieved;
(b) issues identified through ongoing risk analysis can be managed; and
(c) procedures are in place for rectifying any non-compliance with this approval identified during compliance auditing, incident management or any other time during operation.

D3 Where an **OEMP** is required, the Proponent must include the following **OEMP sub-plans** in the **OEMP**:

	Required OEMP sub-plan	**Relevant government agencies to be consulted for each OEMP sub-plan**
(a)	Noise and vibration	
(b)	Groundwater Management	DPI Water
(c)	Traffic and Transport	Sydney Coordination Office, Relevant Road Authority and non-private transport operators
(d)	Flooding and hydrology (including emergency response planning)	Directly affected landowners, OEH, DPI Water, SES, Sydney Water and Relevant Council(s)

D4 Each of the **OEMP sub-plans** must include the requirements set out in Condition D2 (a), (b) and (c).

D5 The **OEMP sub-plans** must be developed in consultation with relevant government agencies as identified in Condition D3**.** Where an agency(ies) request(s) is not included in an **OEMP sub-plan,** the Proponent must provide the Secretary justification as to why. Details of all information requested by an agency to be included in an **OEMP sub-plan** as a result of consultation**,** including copies of all correspondence from those agencies, must be provided with the relevant **OEMP sub-plan**.

D6 The **OEMP sub-plans** must be submitted to the Secretary as part of the **OEMP**.

D7 The **OEMP** or **EMS** or equivalent as agreed with the Secretary, must be submitted to the Secretary for information no later than one (1) month before the commencement of operation unless another timeframe is agreed with the Secretary.

D8 The **OEMP** or **EMS** or equivalent as agreed with the Secretary, as submitted to the Secretary and amended from time to time, must be implemented for the duration of operation and the **OEMP** or **EMS** must be made publicly available before the commencement of operation.

OPERATIONAL PERFORMANCE

Track Attenuation and Operational Ground-borne Noise Review

D9 The Proponent must nominate, for the Secretary's approval, a ground-borne noise specialist who is independent of the design and construction personnel, to review:

(a) the appropriateness of the proposed design (noise) objectives for ground-borne noise sensitive receivers; and
(b) predictions for operational ground-borne noise impacts, before the installation of track, in order to confirm the appropriate track attenuation required to meet the design (noise) objectives identified in (a).

The ground borne noise specialist must be submitted for the Secretary's approval before the review commences and the review must be submitted to the Secretary at least one month before the installation of track.

Urban Design and Landscaping

D10 The ongoing maintenance and operation costs of urban design and landscaping items and works implemented as part of this approval must remain the Proponent's responsibility until satisfactory arrangements have been put in place for the transfer of the asset to the relevant entity. Before the transfer of assets, the Proponent will maintain items and works to the design standards established in the **Station Design and Precinct Plan** required by Condition E101.

Operational Performance Audit

D11 Within 15 months of the completion of construction, or any other timeframe as agreed with the Secretary, the Proponent must commission an independent, qualified person or team to undertake an Operational Performance Audit of the CSSI. The independent person or team must be approved by the Secretary before commencement of the Audit. The Operational Performance Audit Report must be submitted to the Secretary within one month of the completion of the Audit or other timeframe agreed with the Secretary. The Audit must:

(a) assess compliance with the requirement of this approval;
(b) assess the environmental performance of the CSSI against the predictions made and conclusions drawn in the EIS as amended by the documents listed in A1; and
(c) review the effectiveness of the environmental management of the CSSI, including any environmental impact mitigation.

OPERATIONAL MONITORING

Traffic

D12 Traffic on local roads around each station must be monitored 12 months before the CSSI commences operation and for a period of no less than 12 months after commencement of operation. If monitoring indicates unacceptable traffic intrusion on local roads/streets as a result of operation of the CSSI beyond those that could reasonably be predicted in the EIS and/or Interchange Access Plan(s) in Condition E92, appropriate traffic management measures to mitigate the monitored impacts must be implemented following consultation with the Sydney Coordination Office and Relevant Road Authorities.

Noise and Vibration

D13 The Proponent must prepare an **Operational Noise and Vibration Monitoring Program** to confirm that the operational noise and vibration levels meet the CSSI proposed design objectives as determined in the **Track Attenuation and Operational Ground-borne Noise Review** in Condition D9 following the commencement of operations.

D14 Should the operational noise and vibration levels exceed the CSSI design objectives, the Proponent is to prepare a report, outlining actions that will be taken so that the CSSI meets the design objectives in the future. The report is to be prepared within three (3) months following the identification of the exceedance and be forwarded to the Secretary for information. All recommendations in the report must be implemented within three (3) months of the date of the report or as agreed with the Secretary.

PART E

KEY ISSUE CONDITIONS

SUBURBAN AND INTER-URBAN RAIL

E1 The Proponent must manage operational and asset interface risks to ensure the successful operational integration of the CSSI and the heavy railway network and the protection of physical and operational Sydney Trains' assets and services during construction and operation.

UTILITIES AND SERVICES

E2 Utilities, services and other infrastructure potentially affected by construction must be identified before works affecting the item, to determine requirements for access to, diversion protection, and/or support. The relevant owner and/or provider of services must be consulted to make suitable arrangements for access to diversion, protection, and/or support of the affected infrastructure as required. The Proponent must ensure that disruption to any service is minimised and be responsible for advising local residents and businesses affected before any planned disruption of service.

E3 All excavations adjacent to RMS road infrastructure must meet the requirements of RMS Technical Direction (GTD 2012/0001) *Excavation adjacent to RMS infrastructure.*

MATERIALS STORAGE

E4 Dangerous goods, as defined by the *Australian Dangerous Goods Code,* must be stored and handled strictly in accordance with:

(a) all relevant Australian Standards;
(b) for liquids, a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund;
(c) *Storing and Handling Liquids: Environmental Protection – Participants Manual* (Department of Environment and Climate Change, May 2007); and
(d) the *Environmental Compliance Report: Liquid Chemical Storage, Handling and Spill Management – Part B Review of Best Practice and Regulation* (Department of Environment and Conservation (NSW), 2005).

In the event of an inconsistency between the requirements listed from (a) to (d) above, the most stringent requirement shall prevail to the extent of the inconsistency.

AIR QUALITY

E5 In addition to the performance outcomes, commitments and mitigation measures specified in PIR, all reasonably practicable measures must be implemented to minimise the emission of dust and other air pollutants during the construction and operation of the CSSI.

TREES

E6 The CSSI must be designed to retain as many trees as possible and provide replacement trees such that there a net increase in the number of trees. The Proponent must commission an independent, experienced and suitably qualified arborist to prepare a comprehensive **Tree Report** before removing any trees as detailed in the EIS, as amended by the documents listed in A1. The **Tree Report** must include:

(a) a description of the conditions of the tree(s) and its amenity and visual value;

(b) consideration of all options to avoid tree removal, including relocation of services, redesign or relocation of ancillary components (such as substations, fencing etc.) and reduction of standard offsets to underground services; and

(c) measures to avoid tree removal, minimise damage to, and ensure the health and stability of those trees to be retained and protected. This includes details of any proposed canopy or root pruning, root protection zone, excavation, site controls on waste disposal, vehicular access, materials storage and protection of public utilities.

In the event that tree removal cannot be avoided, then replacement trees are to be planted within, or in close proximity to the CSSI or other location in consultation with the Relevant Councils and agreed by the Secretary. The size of the replacement trees will be determined in consultation with the relevant Council. A copy of the Tree Report must be submitted to the Secretary before the removal, damage and/or pruning of any trees, including those affected by the site establishment works. All recommendations of the Tree Report must be implemented by the Proponent, unless otherwise agreed by the Secretary.

The Tree Report may be prepared for the entire CSSI or separate reports may be prepared for individual areas where tree removal and/or pruning is proposed.

E7 The large fig tree at the eastern end of Blues Point Reserve (approximate coordinates latitude:33.848764 and longitude: 151.204568) must be retained. Any proposal to prune either the canopy or roots of the tree must be submitted to the Secretary for approval and accompanied by an assessment of the potential impact to its long term viability by a suitably qualified arborist, consistent with Condition E6.

FLOODING

E8 Measures identified in Chapter 11 of the PIR to maintain or improve flood characteristics, as amended by the documents listed in A1, must be incorporated into the detailed design of the CSSI. The incorporation of these measures into the detailed design, including modelling, must be reviewed and endorsed by a suitably qualified and experienced person in consultation with directly affected landowners and businesses, Sydney Water, DPI Water, OEH, NSW State Emergency Service (SES) and Relevant Councils.

E9 Flood information including flood reports, models and geographic information system outputs, and work as executed information from a registered surveyor certifying finished ground levels and the dimensions and finished levels of all structures within the flood prone land, must be provided to the relevant Councils, Sydney Water, OEH and the SES. The Relevant Councils, Sydney Water, OEH and the SES must be notified in writing that the information is available no later than one month following the completion of construction and be provided with that information. Information requested by the relevant Council, Sydney Water, OEH or the SES must be provided no later

than six months following the completion of construction or within another timeframe agreed with the Relevant Council(s), Sydney Water, OEH and the SES.

HERITAGE

Non-Aboriginal Heritage

E10 The Proponent must not destroy, modify or otherwise physically affect any Heritage item not identified in documents referred to in Condition A1.

E11 The Proponent must design and construct the Sydney Yard Access Bridge so as to minimise its impact on the heritage value of Mortuary Station. The design must address the design objectives and principles identified in section 2.5 of the PIR.

E12 Bus shelters to be temporarily removed at Victoria Cross and Blues Point must be reinstated prior to operation, in consultation with North Sydney Council.

Heritage Archival and Salvage

E13 The Proponent must prepare a **Heritage Archival Recording Report,** including photographic recording of the heritage items identified in documents referred to in Condition A1.

Archival recording must include but not be limited to the following heritage items:

(a) any component of the Blues Point Waterfront Group and the McMahons Point South heritage conservation area to be directly affected or altered, including vegetation and significant landscape features;
(b) Hickson Road wall in the vicinity of proposed ventilation risers and skylights for Barangaroo Station or any other project elements to be located in front of the Hickson Road wall;
(c) Martin Place, between Elizabeth and Castlereagh Streets, Sydney;
(d) the Rolling Stock Officers' Garden, Rolling Stock Officers' Building and Cleaners' Amenities Building in Sydney Yard and any other component of the Sydney Terminal and Central Railway Stations group to be removed or altered;
(e) any component of Sydenham Station or Sydenham Pit and Pumping Station to be removed or altered;
(f) views from Mortuary Station before construction of the Sydney Yard Access Bridge; and
(g) Former "Metro Goldwyn Mayer' building including interior, 22-28 Chalmers Street, Surry Hills.

The archival recording must be undertaken by a suitably qualified heritage specialist and prepared in accordance with NSW Heritage Office's *How to Prepare Archival Records of Heritage Items* (1998) and *Photographic Recording of Heritage Items Using Film or Digital Capture* (2006).

Within two (2) years of completing the archival recording, or any other later time agreed by the Secretary, the Proponent must submit the **Heritage Archival Recording Report** to the Department, the OEH, Heritage Council of NSW, Relevant Council(s), relevant local libraries and local historical societies in the respective local government area(s).

E14 In addition to the archival recording as required by Condition E13, the Proponent must, prior to demolition, undertake external photography of all buildings and structures to be demolished, in consultation with and to the standards of the relevant Council. The recordings must be made available to the relevant Council.

E15 The Proponent must salvage items of heritage value from heritage listed buildings and structures to be demolished before demolition, and assess options for its sympathetic reuse (including integrated heritage displays) on the project or other options for repository, reuse and display. Suitable repository locations must be established in consultation with Relevant Council(s). Any State listed items or elements suitable for salvage must be determined in consultation with the Heritage Division of the OEH.

E16 The Proponent must prepare a **Salvage Report,** including photographic recording of the heritage items identified for salvage in documents referred to in Condition A1. The **Salvage Report** must include:

(a) the internal heritage fabric removed from within the curtilage of Mowbray House, Chatswood;
(b) the interior, exterior and setting of the shop at 187 Miller Street, North Sydney;
(c) the fabric and setting of the North Sydney bus shelters;
(d) the interior, exterior and setting of the 'Flat Building' at 7 Elizabeth Street, Sydney;
(e) the heritage fabric of the existing Martin Place Station affected by the project;
(f) the heritage fabric of the existing Sydenham Station affected by the project;
(g) directly impacted parts of the Congregational Church at Waterloo; and
(h) the former 'Metro Goldwyn Mayer' building including interior, 22-28 Chalmers Street, Surry Hills.

Archaeology

E17 **The Archaeological Assessment Research Design Report (AARD)** in the documents listed in A1 must be implemented. Final Archaeological Method Statements must be prepared in consultation with the Heritage Council of NSW (or its delegate) before commencement of archaeological excavation works. The final methodology must:

(a) provide for the detailed analysis of any heritage items discovered during the investigations;
(b) include detailed site specific archaeological management and artefact management strategies;
(c) include cored soil samples for soil and pollen for the Pitt Street site within the Tank Stream Valley; and
(d) provide for a sieving strategy.

E18 Before excavation of archaeological management sites, the Proponent must nominate a suitably qualified Excavation Director who complies with the Heritage Council of NSW's *Criteria for Assessment of Excavation Directors* (July 2011) to oversee and advise on matters associated with historic archaeology and advise the Department and OEH.

Where archaeological excavation is required, the Excavation Director must be present to oversee excavation and advise on archaeological issues. The Excavation Director must be given the authority to advise on the duration and extent of oversight required as informed by the provisions of the approved AARD and Excavation Methodology.

A final archaeological report must be submitted to the Heritage Council of NSW within two (2) years of the completion of archaeological excavation on the project. The report must include information on the entire historical archaeological program relating to the CSSI.

E19 An **Unexpected Heritage Finds Procedure** must be prepared:

(a) to manage unexpected heritage finds in accordance with any guidelines and standards prepared by the Heritage Council of NSW or OEH; and
(b) by a suitably qualified and experienced heritage specialist.

The procedure must be included in the **AARD** and must be implemented for the life of the project.

E20 In the event that a potential relic/s is/are discovered, relevant construction must cease in the affected area and the **Excavation Director** must be notified and assess the significance level of the find/s and provide mitigation advice according to the significance level and the impact proposed. The Excavation Director must attend the site in accordance with E18 to oversee the excavation where relics of State significance are found.

The Secretary must be notified at the same time as the Heritage Council of NSW (or its delegate) of any relic of State significance found.

An **Archaeological Relic Management Plan** specific to the relic of State significance must be prepared in consultation with the Heritage Council of NSW (or its delegate) to outline measures to be implemented to avoid and/or minimise harm to and/or salvage the relic of State significance.

Construction in the vicinity of the discovery must not recommence until the requirements of the ARMP have been implemented, in consultation with the **Excavation Director.** The Proponent must notify the Secretary in writing of the outcome of consultation on the Archaeological Relic Management Plan with the Heritage Council of NSW.

Heritage Interpretation

E21 The Proponent must prepare a **Heritage Interpretation Plan** which identifies and interprets the key Aboriginal and Non-Aboriginal heritage values and stories of heritage items and heritage conservation areas impacted by the CSSI. The **Heritage Interpretation Plan** must inform the **Station Design and Precinct Plan** referred to in Condition E101. The **Heritage Interpretation Plan** must be prepared in accordance with the *NSW Heritage Manual,* the *NSW Heritage Office's Interpreting Heritage Places and Items: Guidelines* (August 2005), and the *NSW Heritage Council's Heritage Interpretation Policy* and include, but not be limited to:

(a) a discussion of key interpretive themes, stories and messages proposed to interpret the history and significance of the affected heritage items and sections of heritage conservation areas including, but not limited to the Sydney Terminal and Central Railway Stations Group, Martin Place Station, Sydenham Station and Sydenham Pit and Drainage Pumping Station Precincts;
(b) identification and confirmation of interpretive initiatives implemented to mitigate impacts to archaeological Relics, heritage items and conservation areas affected by the CSSI including;
    i. use of interpretative hoardings during construction
    ii. community open days
    iii. community updates
    iv. station and precinct design; and

(c) Aboriginal cultural and heritage values of the project area including the results of any archaeological investigations undertaken.

The **Heritage Interpretation Plan** must be prepared in consultation with the Heritage Council of NSW (or its delegate), Relevant Councils and Registered Aboriginal Parties, and must be submitted to the Secretary before commencement of construction.

E22 The design and construction of the Martin Place Railway Station must minimise the removal of identified heritage fabric. Any items removed must be:

(a) salvaged and opportunities for reuse as part of the station maximised in accordance with Condition E15; and
(b) documented as required by the **Heritage Interpretation Plan**.

E22.1 If the modifications to this approval as described in A1(e) proceed, any internal and external finishes of infilled openings between 9-19 Elizabeth Street and 50 Martin Place must be developed in consultation with a suitably qualified heritage architect, approved by the Secretary.

Aboriginal Heritage

E23 The Proponent must take all reasonable steps so as not to harm, modify or otherwise impact any Aboriginal object associated with the CSSI except as authorised by this approval.

E24 Before excavation, the Proponent must implement the **Aboriginal Cultural Heritage Assessment** prepared for the CSSI and included in the PIR. Excavation and/or salvage must be undertaken by a qualified archaeologist in consultation with the Registered Aboriginal Parties for the CSSI.

E25 Where previously unidentified Aboriginal objects are discovered during construction of the CSSI, construction must stop in the vicinity of the affected area and a suitably qualified and experienced Aboriginal heritage expert must be contacted to provide specialist heritage advice, before works recommence. The measures to consider and manage this process must be specified in the **Heritage Management sub-plan** required by Condition C3 and, where relevant, include registration in the OEH's Aboriginal Heritage Information Management System (AHIMS).

Human Remains

E26 This approval does not allow the Proponent to harm, modify, or otherwise impact human remains uncovered during the construction and operation of the CSSI, except in accordance with the **Exhumation Management Plan** (Condition E27).

E27 An **Exhumation Management Plan** must be prepared to guide the relocation of recovered human remains. The **Exhumation Management Plan** must be prepared:

(a) in consultation with, and meeting the requirements of, the OEH and NSW Health; and
(b) in accordance with the *Guidelines for Management of Human Skeletal Remains* (NSW Heritage Office, 1998b) and *NSW Health Policy Directive – Exhumation of human remains* (December, 2013), and other relevant guidelines and standards prepared by the Heritage Council of NSW or OEH.

The **Exhumation Management Plan** must be provided to the Secretary for information before the commencement of excavation works.

Note: Human remains that are found unexpectedly during works are under the jurisdiction of the NSW State Coroner and must be reported to the NSW Police immediately.

NOISE AND VIBRATION

Vibration

E28 The Proponent must ensure that vibration from construction activities does not exceed the vibration limits set out in the British Standard BS 7385-2:1993 *Evaluation and measurement for vibration in buildings. Guide to damage levels from groundborne vibration*

E28.1 If the modifications to this approval as described in A1(e) proceed, the vibration screening criterion for 50 Martin Place must remain at 7.5 mm/s, unless a detailed investigation of the construction of the building determines that increasing the screening criterion to 25 mm/s is acceptable. The investigation must be undertaken by a suitably qualified structural engineer with experience assessing heritage structures and approved by the Secretary and must be supported by evidence to demonstrate the higher criterion is appropriate.

E29 Owners of properties at risk of exceeding the screening criteria for cosmetic damage must be notified before construction that generates vibration commences in the vicinity of those properties. The management of construction works in the vicinity of properties at risk of exceeding the screening criteria for cosmetic damage must be considered in the **Noise and Vibration management sub plan** required by Condition C3.

E30 The Proponent must conduct vibration testing before and during vibration generating activities that have the potential to impact on heritage items to identify minimum working distances to prevent cosmetic damage. In the event that the vibration testing and monitoring shows that the preferred values for vibration are likely to be exceeded, the Proponent must review the construction methodology and, if necessary, implement additional mitigation measures.

E31 The Proponent must seek the advice of a heritage specialist on methods and locations for installing equipment used for vibration, movement and noise monitoring of heritage-listed structures.

Construction Noise and Vibration Strategy

E32 The Proponent must review the *Sydney Metro City and Southwest Construction Noise and Vibration Strategy* in the PIR during detailed construction planning to consider scale and duration of impacts, the requirements of this approval and all measures to limit construction noise impacts to sensitive receivers including:

(a) at property or architectural treatment;
(b) relocation; and
(c) other forms of mitigation where impacts are predicted to be long term and significant.

The revised *Sydney Metro City and Southwest Construction Noise and Vibration Strategy* must be submitted to the Secretary for approval at least one (1) month before construction commences.

E33 Construction Noise and Vibration Impact Statements must be prepared for each construction site before construction noise and vibration impacts commence and include specific mitigation measures identified through consultation with affected sensitive receivers.

E34 Noise generating works in the vicinity of potentially-affected, religious, educational, community institutions and noise and vibration-sensitive businesses and critical working areas (such as theatres, laboratories and operating theatres) must not be timetabled within sensitive periods, unless other reasonable arrangements to the affected institutions are made at no cost to the affected institution or as otherwise approved by the Secretary.

E35 The Proponent must review alternative methods to rock hammering and blasting for excavation as part of the detailed construction planning with a view to adopting methods that minimise impacts on sensitive receivers. Construction Noise and Vibration Impact Statements must be updated for each location or activity to adopt the least impact alternative in any given location unless it can be demonstrated, to the satisfaction of the AA, why it should not be adopted.

Standard Construction Hours

E36 Construction, except as allowed by Condition E48 (excluding cut and cover tunnelling), must only be undertaken during the following standard construction hours:

(a) 7:00am to 6:00pm Mondays to Fridays, inclusive;
(b) 8:00am to 6:00pm Saturdays; and
(c) at no time on Sundays or public holidays.

Respite for Receivers

E37 The Proponent must identify all receivers likely to experience internal noise levels greater than $L_{eq(15\ minute)}$ 60 dB(A) inclusive of a 5 dB penalty, if rock breaking or any other annoying activity likely to result in regenerated (ground-borne) noise or a perceptible level of vibration is planned (including works associated with utility adjustments), between 7am – 8pm at:
(a) Crows Nest, Victoria Cross, Blues Point, Barangaroo, Martin Place, Pitt Street, and Central; and
(b) Marrickville, Newtown, St Peters, Sydenham and Tempe for works specified in SSI 7400_MOD 4 referenced in Condition A1 (c).

E38 The Proponent must consult with all receivers identified in accordance with Condition E37 with the objective of determining appropriate hours of respite so that construction noise (including ground-borne noise), does not exceed internal noise levels of:

(a) $L_{eq(15\ minute)}$ 60 dB(A) inclusive of a 5 dB penalty if rock breaking or any other annoying activity likely to result in ground-borne noise or a perceptible level of vibration is planned between 7am – 8pm for more than 50 percent of the time; and
(b) $L_{eq(15\ minute)}$ 55 dB(A) inclusive of a 5 dB penalty if rock breaking or any other annoying activity likely to result in ground-borne noise or a perceptible level of vibration is planned between 7am – 8pm for more than 25 percent of the time,

unless an agreement is reached with those receivers. This condition does not apply to noise associated with the cutting surface of a TBM as it passes under receivers.

Note This condition requires that noise levels be less than $L_{eq(15\ minute)}$ 60 dB(A) for at least 6.5 hours between 7am and 8pm, of which at least 3.25 hours must be below $L_{aeq(15\ minute)}$ 55

dB(A). Noise equal to or above $L_{eq(15\ minutes)}$ 60 dB(A) is allowed for the remaining 6.5 hours between 7am and 8pm.

E39 The Proponent must consult with proponents of other construction works in the vicinity of the CSSI and take reasonable steps to coordinate works to minimise cumulative impacts of noise and vibration and maximise respite for affected sensitive receivers.

E40 The Proponent must ensure all works (including utility works associated with the CSSI where undertaken by third parties) are coordinated to provide the required respite periods identified in accordance with the terms of this approval.

Mitigation – Non Residential Zones

E41 The Proponent must ensure that residential receivers, located in non-residential zones, likely to experience an internal noise level exceeding $L_{eq(15\ minute)}$ 60 dB(A) between 8pm and 9pm or $L_{eq(15\ minute)}$ 45 dB(A) between 9pm and 7am (inclusive of a 5 dB penalty if rock breaking or any other annoying activity likely to result in ground-borne noise, or a perceptible level of vibration is planned (including works associated with utility adjustments)) must be offered additional mitigation in accordance with the *Sydney Metro City and South West Noise and Vibration Strategy* referenced in Condition E32.

Mitigation – Residential receivers in residential zones

E42 The Proponent must ensure that residential receivers in residential zones likely to experience an internal noise level of $L_{eq(15\ minute)}$ 45 dB(A) or greater between 8pm and 7am (inclusive of a 5 dB penalty if rock breaking or any other annoying activity likely to result in ground-borne noise, or a perceptible level of vibration is planned (including works associated with utility adjustments)) must be offered additional mitigation in accordance with the *Sydney Metro City and South West Noise and Vibration Strategy* referenced in Condition E32.

Workplace health and safety for nearby workers

E43 At no time can noise generated by construction exceed the National Standard for exposure to noise in the occupational environment of an eight-hour equivalent continuous A-weighted sound pressure level of $L_{Aeq,8h}$, of 85dB(A) for any employee working at a location near the CSSI.

Variation to Standard Construction Hours

E44 Notwithstanding Condition E36 construction associated with the CSSI may be undertaken outside the hours specified under those conditions in the following circumstances:

(a) for the delivery of materials required by the NSW Police Force or other authority for safety reasons; or
(b) where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm; or
(c) where different construction hours are permitted or required under an EPL in force in respect of the construction; or
(d) construction that causes $L_{Aeq(15\ minute)}$ noise levels:
    i. no more than 5 dB(A) above the rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (DECC, 2009), and

ii. no more than the noise management levels specified in Table 3 of the *Interim Construction Noise Guideline* (DECC, 2009) at other sensitive land uses, and

iii. continuous or impulsive vibration values, measured at the most affected residence are no more than those for human exposure to vibration, specified in Table 2.2 of *Assessing Vibration: a technical guideline* (DEC, 2006), and

iv. intermittent vibration values measured at the most affected residence are no more than those for human exposure to vibration, specified in Table 2.4 of *Assessing Vibration: a technical guideline* (DEC, 2006); or

(e) where a negotiated agreement has been reached with a substantial majority of sensitive receivers who are within the vicinity of and may be potentially affected by the particular construction, and the noise management levels and/or limits for ground-borne noise and vibration (human comfort) cannot be achieved. All agreements must be in writing and a copy forwarded to the Secretary at least one (1) week before the works commencing; or

(f) construction approved through an **Out of Hours Work Protocol** referred to in Condition E47, provided the relevant council, local residents and other affected stakeholders and sensitive receivers are informed of the timing and duration at least five (5) days and no more than 14 days before the commencement of the works.

Note: This condition does not apply where an EPL is in force in respect of the construction.

E45 On becoming aware of the need for emergency construction in accordance with Condition E44(b), the Proponent must notify the AA, the ER and the EPA (if an EPL applies) of the need for those activities or work. The Proponent must also use best endeavours to notify all affected sensitive receivers of the likely impact and duration of those works.

E46 Notwithstanding Conditions E44 and E48, rock breaking and other particularly annoying activities for station shaft or cut and cover stations is not permitted outside of standard construction hours, except at Central (excluding Central Walk works at 20-28 Chalmers Street, Surry Hills); or

(a) where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm; or

(b) where different construction hours are permitted or required under an EPL in force in respect of the construction; or

(c) where an EPL is not required or in force, approved through an Out of Hours Work Protocol developed in accordance with Condition E47; or

(d) construction that causes $L_{Aeq(15\ min)}$ noise levels:

i. no more than 5 dB(A) above the rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (DECC, 2009); and

ii. no more than the noise management levels specified in Table 3 of the Interim *Construction Noise Guideline* (DECC, 2009) at other sensitive land uses; and

iii. continuous or impulsive vibration values, measures at the most affected residence are no more than those for human exposure to vibration, specified in Table 2.2 of *Assessing Vibration: a technical guideline* (DEC, 2006); and

iv. intermittent vibration values measured at the most affected residence are no more than those for human exposure to vibration, specified in Table 2.4 of *Assessing Vibration: a technical guideline (DEC, 2006).*

Out of Hours Work Protocol for works not subject to an EPL

E47 An **Out of Hours Work Protocol** for the assessment, management and approval of work outside of standard construction hours, as defined in Condition E36 of this approval, must be prepared in consultation with the EPA and submitted to the Secretary for approval before construction commences for works not subject to an EPL. The protocol must include:

(a) the identification of low and high risk construction activities;
(b) a risk assessment process in which the AA reviews all proposed out of hours activities and identifies their risk levels;
(c) a process for the endorsement of out of hours activities by the AA and approval by the ER for construction activities deemed to be of:
    i. low environmental risk; or
    ii. high risk where all construction works cease by 9pm.

All other high risk out of hours construction must be submitted to the Secretary for approval unless otherwise approved through an EPL.

The protocol must detail standard assessment, mitigation and notification requirements for high and low risk out of hours works, and detail a standard protocol for referring applications to the Secretary.

24 Hour Construction

E48 Notwithstanding Condition E36 of this approval and subject to Condition E47, the following activities may be undertaken 24 hours per day, seven (7) days per week:

(a) tunnelling and associated support activities (excluding cut and cover tunnelling, and excluding the installation and decommissioning of the Blues Point acoustic shed except where compliance with Condition E44 is achieved);
(b) excavation within an acoustic enclosure (excluding the Blues Point temporary site except where compliance with Condition E44 is achieved);
(c) excavation at Central (excluding Central Walk works at 20-28 Chalmers Street, Surry Hills) without an acoustic enclosure;
(d) station and tunnel fit out; and
(e) haulage and delivery of spoil and materials.

E48.1 Notwithstanding E48(a), the Proponent must use best endeavours to schedule annoying activities, including steel hammering and movement of the self-propelled modular trailer, at the Blues Point temporary site between 7am and 8pm.

E48.2 Heavy vehicles deliveries to the Blues Point temporary site are only permitted between 7 am and 10 pm except where permitted otherwise through an EPL or where oversized vehicle movement is directed by NSW Police and/or Transport for NSW at other times.

E49 All acoustic sheds must be erected as soon as site establishment works at the facilities are completed and before undertaking any works or activities which are required to be conducted within the sheds.

Blasting Management

E50 A **Blast Management Strategy** must be prepared and include:

(a) sequencing and review of trial blasting to inform blasting;
(b) regularity of blasting;
(c) intensity of blasting;
(d) periods of relief; and
(e) blasting program.

E51 The **Blast Management Strategy** must be endorsed by a suitably qualified and experienced person and reviewed by an independent specialist.

E52 The **Blast Management Strategy** must be prepared so that all blasting and associated activities are carried out so as not to generate unacceptable noise and vibration impacts or pose a significant risk to sensitive receivers. The **Blast Management Strategy** must be prepared in accordance with relevant guidelines including the principles outlined in *Hazardous Industry Planning Advisory Paper No 6: Hazard Analysis* (Department of Planning, January 2011) and *Assessment Guideline: Multi-Level Risk Assessment* (Department of Planning and Infrastructure, May 2011) for the handling and storage of hazardous materials and include:

(a) details of blasting to be performed, including location, timing, method and justification of the need to blast;
(b) identification of all potentially affected noise and vibration sensitive sites including heritage buildings and utilities;
(c) establishment of appropriate criteria for blast overpressure and ground vibration levels at each category of noise sensitive site;
(d) details of the storage and handling arrangements for explosive materials and the proposed transport of those materials to the construction site;
(e) identification of hazardous situations that may arise from the storage and handling of explosives, the blasting process and recovery of the blast site after detonation of the explosives;
(f) determination of potential noise and vibration and risk impacts from blasting and appropriate best management practices; and
(g) community consultation procedures.

E53 The **Blast Management Strategy** must be submitted to the Secretary one (1) month before blasting commences, or as agreed by the Secretary. The **Blast Management Strategy** as submitted to the Secretary, must be implemented for all blasting activities.

E54 Blasting associated with the CSSI must not exceed the following criteria, measured at the most affected residence or other sensitive receiver as specified below:

(a) airblast overpressure ($dB_{(Lin\ Peak)}$) 125 dBL; and
(b) vibration (PPV):
    i. 25 mm/s generally; or
    ii. 7.5mm/s for heritage structures except where detailed investigation of the construction of the building determines that increasing the screening criterion to 25 mm/s is acceptable. The investigation must be undertaken by a suitably qualified structural engineer with experience assessing heritage structures that is approved by the

Secretary. Any decision to adopt the higher vibration criterion must be supported by evidence to demonstrate the higher criterion is appropriate.

E55 Blasting must be limited to a single detonation in any one day, and a maximum of six per week, at each station location, or any other frequency agreed by the Secretary.

Note: for the purpose of this Condition, a single detonation may involve a number of individual blasts fired in quick succession in a discrete area.

E56 Blasting associated with the project must be undertaken at a time to have the least impact on the nearby sensitive receivers determined in consultation with those receivers. All sensitive receivers affected by any blast must be advised fortnightly of the proposed blasting schedule. The Secretary must also be advised of the advance blasting schedule for any location.

SOCIO-ECONOMIC, LAND USE AND PROPERTY

Blues Point

E57 Works at the Blues Point Temporary site must be avoided during key harbour viewing events (with the key harbour viewing events determined in consultation with Events NSW, North Sydney and City of Sydney council(s)).

E57.1 Notwithstanding E57, the acoustic shed at Blues Point must not be in place for more than two Christmas/New Yeas periods

Note: Christmas/New Year period is defined as 18 December to 28 January.

Building Condition Survey

E58 The CSSI must be designed and constructed with the objective of minimising impacts to, and interference with, third party property and infrastructure, and that such infrastructure and property is protected during construction.

E59 Before commencement of construction, all property owners of buildings identified as being at risk of damage must be offered a building condition survey. Where an offer is accepted a structural engineer must undertake the survey. The results of the surveys must be documented in a **Building Condition Survey Report** for each building surveyed. Copies of **Building Condition Survey Reports** must be provided to the owners of the buildings surveyed, and if agreed by the owner, the Relevant Council within three (3) weeks of completing the Survey Report and no later than one (1) month before the commencement of construction.

E60 Within three (3) months of the completion of construction, all property owners of buildings for which a building condition survey was carried out in accordance with Condition E59 must be offered a second building condition survey. Where an offer is accepted, building condition surveys must be undertaken by a structural engineer. The results of the surveys must be documented in a **Building Condition Survey Report** for each building surveyed. Copies of **Building Condition Survey Reports** must be provided to the owners of the buildings surveyed within one (1) month of the survey being completed.

E61 The Proponent must install appropriate equipment to monitor areas in proximity to construction sites and the tunnel route during construction and for a period of not less than six (6) months after settlement has stabilised with particular reference to risk areas identified in the building and infrastructure condition surveys required by conditions E59 and E60 and/or the geotechnical analysis as required. If monitoring during construction indicates exceedance of the criteria, then all construction affecting settlement must cease immediately and must not resume until fully rectified or a revised method of construction is established that will ensure protection of affected buildings.

E62 The Proponent must establish an **Independent Property Impact Assessment Panel** before relevant works commencing. The Secretary must be informed of the Panel Members and the Panel must comprise geotechnical and engineering experts independent of the design and construction team. The Panel will be responsible for independently verifying surveys undertaken under conditions E59 and E60, the resolution of property damage disputes and the establishment of ongoing settlement monitoring requirements.

Either the affected property owner or the Proponent may refer unresolved disputes arising from potential and/or actual property impacts to the Panel for resolution. All costs incurred in establishing and implementing the Panel must be borne by the Proponent.

E63 The Proponent must monitor settlement for any period beyond the minimum timeframe requirements of condition E61 if directed so by the Independent Property Impact Assessment Panel following its review of the monitoring data from the period not less than six (6) months after settlement has stabilised, consistent with Condition E61. The results of the monitoring must be made available to the Secretary on request.

Business Management Plan

E64 The Proponent must prepare and implement a **Business Management Plan** to minimise impact on businesses adjacent to major construction sites during construction of the CSSI. The Plan must be prepared before construction and must include but not necessarily be limited to:

(a) measures to address amenity, vehicular and pedestrian access during business hours and visibility of the business appropriate to its reliance on such, and other reasonable matters raised in consultation with affected business;
(b) a Business Consultation forum linked to the Community Communication Strategy required by Condition B1;
(c) Business Management Strategies for each construction sites (and/or activity), identifying affected businesses and associated management strategies, including the employment of place managers and specific measures to be put in place to assist small business owners adversely impacted by the construction of the CSSI;
(d) a Small Business Owners' Support Program to provide assistance to small business owners adversely impacted by construction of the CSSI. The Program must be administered by a Retail Advisory/Support Panel established by the Proponent. The Program must have appropriate specialist representatives and must report to the Proponent;
(e) a monitoring program to assess the effectiveness of the measures including the nomination of performance parameters and criteria against which effectiveness of the measures will be measured; and
(f) provision for reporting of monitoring results to the Secretary, as part of the **Compliance Tracking Program** required in Condition A28.

SOILS

E65 All reasonably practicable erosion and sediment controls must be installed and appropriately maintained to minimise any water pollution. When implementing such controls, any relevant guidance in the *Managing Urban Stormwater Series* must be considered.

Contaminated sites

E66 A **Site Contamination Report**, documenting the outcomes of Phase 1 and Phase 2 contamination assessments of land upon which the CSSI is to be carried out, that is suspected to be, or known to be, contaminated must be prepared by a suitably qualified and experienced person in accordance with guidelines made or approved under the *Contaminated Land Management Act 1997* (NSW).

E67 If a **Site Contamination Report** prepared under Condition E66 finds such land contains contamination, a site audit is required to determine the suitability of a site for a specified use. If a site audit is required, a **Site Audit Statement** and **Site Audit Report** must be prepared by a NSW EPA Accredited Site Auditor. Contaminated land must not be used for the purpose approved under the terms of this approval until a **Site Audit Statement** is obtained that declares the land is suitable for that purpose and any conditions on the **Site Audit Statement** have been complied with.

E68 A copy of the **Site Audit Statement** and **Site Audit Report** must be submitted to the Secretary and Council for information no later than one (1) month before the commencement of operation.

E69 An **Unexpected Contaminated Land and Asbestos Finds Procedure** must be prepared and must be followed should unexpected contaminated land or asbestos be excavated or otherwise discovered during construction.

E70 The **Unexpected Contaminated Land and Asbestos Finds Procedure** must be implemented throughout construction.

SUSTAINABILITY

E71 The proponent must seek to achieve a best practice level of performance for the CSSI using market leading sustainability ratings tools (including a minimum 'Design' and 'As built' rating score of 65 using the Infrastructure Sustainability Council of Australia infrastructure rating tool, or an equivalent level of performance using a demonstrated equivalent rating tool).

E72 The Proponent must prepare a **Sustainability Strategy** to be submitted to the Secretary within six (6) months of the date of this approval, or within another timeframe agreed with the Secretary, which must be implemented throughout design, construction and operation of the CSSI. The Sustainability Strategy must include:

(a) details of the sustainability objectives and targets for the design, delivery and operation of the CSSI;
(b) details of the sustainability initiatives which will be investigated and / or implemented; and
(c) a description of how the strategy will be implemented for the CSSI.

E73 Opportunities to reduce operational greenhouse gas emissions must be investigated during detailed design. The sustainability initiatives identified must be implemented, reviewed and updated regularly throughout design development and construction, and annually during operation.

E74 The Proponent must fully offset the greenhouse gas emissions associated with consumption of electricity during operation of the CSSI.

TRAFFIC, TRANSPORT AND PEDESTRIAN ACCESS

E75 The CSSI must be designed, constructed and operated with the objective of integrating with existing and proposed road and related transport networks and minimising adverse changes to the safety, efficiency and, accessibility of the networks, and facilitate an improved level of service in relation to permanent and operational changes. Detailed design and assessment of related traffic, parking, pedestrian and cycle accessibility impacts and changes shall be undertaken:

(a) in consultation with, and to the reasonable requirements of the Traffic and Transport Liaison Group(s) established under Condition E77;
(b) in consideration of existing and future demand, connectivity (in relation to permanent changes), performance and safety requirements;
(c) to minimise and manage local area traffic impacts;
(d) to ensure access is maintained to property and infrastructure; and
(e) to meet relevant design, engineering and safety guidelines, including Austroads, Australian Standards, and RMS (RTA) requirements.

Copies of civil, structural and traffic signal design plans shall be submitted to the Relevant Road Authority for consultation before the commencement of the relevant works.

E76 Permanent road works, including vehicular access, signalised intersection works, and works relating to pedestrians, cyclists, and public transport users must be subject to safety audits demonstrating consistency with relevant design, engineering and safety standards and guidelines. Safety audits must be prepared in consultation with the Traffic and Transport Liaison Group before the completion and use of the subject infrastructure and must be made available to the Secretary upon request.

Traffic and Transport Liaison Group

E77 The Proponent must establish a Traffic and Transport Liaison Group(s) (TTLGs) to inform traffic and transport management measures during construction and operation of the CSSI. Management measures must be coordinated with and approved by the RMS following endorsement by the Sydney Coordination Office and consultation with the Relevant Roads Authority.

The TTLG must comprise representatives from the Relevant Road Authority(ies) (including the RMS, relevant Councils, and the Barangaroo Delivery Authority as appropriate), transport operators (including bus and taxi operators), emergency services and Port Authority of NSW as required. The TTLG must be consulted on to inform the preparation of the Construction Traffic Management Plan(s) and Interchange Access Plan(s).

E78 The Proponent must undertake supplementary analysis and modelling as required by the TTLG to demonstrate that construction and operational traffic can be managed to minimise disruption to traffic network operations, public including changes to and the management of pedestrian, bicycle and public transport networks transport services, pedestrian and cyclist movements. Revised traffic management measures must be incorporated into the Construction Traffic Management Plan(s), Interchange Access Plan(s) and Station Design and Precinct Plan(s).

Construction Transport and Access

E79 The Proponent must consult with the Relevant Road Authority regarding the use of any weight restricted road by heavy vehicles.

E80 The Proponent must minimise truck movements during peak periods within commercial centres. Peak periods are 7am to 10am and 4pm to 7pm Monday to Friday.

E81 The Proponent must prepare and implement a Construction Traffic Management Framework (CTMF). The CTMF must be prepared in consultation with TTLG(s) and submitted to the Secretary for approval no later than one (1) month before the commencement of construction (or within any other timeframe agreed with the Secretary). The CTMF will set out the approach to managing issues across the CSSI and include but not be limited to:

(a) construction site access, including the efficient and safe egress and ingress of vehicles, consistent relevant Austroads, Australian Standards and RMS requirements;
(b) the erection and maintenance of hoardings, scaffolds and associated structures on roads;
(c) short and long term lane and road closures including those associated with plant, crane and other operations between the road reservation and construction site;
(d) cumulative construction vehicle management from surrounding developments;
(e) bus stop and associated facilities relocation and service rerouting;
(f) short and long term works zones on roads adjacent to the construction site;

(g) mail zone and associated facilities relocation;
(h) short and long term works within the road reservation;
(i) regulatory, advisory and other signage changes and modifications;
(j) parking management, including on and off street and remote parking and access;
(k) heavy vehicle management, the restriction (unless otherwise approved) of heavy vehicles to certain routes and the minimisation of heavy vehicle traffic in peak traffic periods;
(l) special event management;
(m) the retention and reinstatement of emergency and property access;
(n) the retention of user and passenger safety, including pedestrians, cyclists, public transport users, including at stops and related facilities;
(o) incident response planning around construction worksites; and
(p) monitoring of transport and access related impacts attributable to the CSSI.

E82 Construction Traffic Management Plans (CTMPs), consistent with the CEMF and CTMF required in Condition E81, must be prepared for each construction site in consultation with the TTLG(s), and submitted to the RMS for approval following Sydney Coordination Office endorsement before construction commences at the relevant construction site. A copy of any Construction Traffic Management Plans approved by the RMS must be submitted to the Secretary for information.

E83 Where construction results in a worsening of the matters identified in Condition E81(a)-(o), the Proponent must review the measures identified in the CTMPs in consultation with the TTLG(s), as relevant. Any changes to the CTMPs must be submitted to the RMS for approval following Sydney Coordination Office endorsement and implemented.

E84 Notwithstanding the above, the Proponent must investigate opportunities to maximise spoil removal by non-road methods and schedule final track laying as soon as practicable following completion of tunnelling with a view to transporting materials and equipment for station fit-out, systems and commissioning by rail to minimise truck movements in town centres and the Sydney CBD. The findings of the investigation must be reported to the Secretary before commencement and before completion of tunnel spoil generation as relevant. A decision to not adopt spoil haulage or materials delivery by non-road methods must be demonstrated to the satisfaction of the Secretary.

E85 Heavy vehicle haulage must not use local roads unless no feasible alternatives are available.

E86 During construction, measures must be implemented to maintain pedestrian and vehicular access to, and parking in the vicinity of, businesses and affected properties. Alternative pedestrian and vehicular access, and parking arrangements must be developed in consultation with affected businesses. Such arrangements must be outlined in the **Business Management Plan** required in Condition E64 and implemented as required. Adequate signage and directions to businesses must be provided before, and for the duration of, any disruption.

E86.1 Construction traffic is not to use Elliot Street, North Sydney except where required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm.

E87 Permanent road works, including vehicular access, signalised intersection works, and works relating to pedestrians, cyclists and public transport users will be subject to safety audits demonstrating consistency with relevant design, engineering and safety standards and guidelines. Safety audits must be included within each relevant CTMP and carried out in

consultation with the TTLG before the completion and use of the subject infrastructure and must be made available to the Secretary on request.

E88 Details of haulage routes and heavy vehicle sizes to transport material to and from any construction site must be specified in the **Construction Traffic Management Plan(s)** and be approved by the RMS following endorsement by Sydney Coordination Office and consultation with the TTLG(s).

E89 The Proponent must implement traffic and transport management measures with the aid of a truck marshalling and logistics facility located within close proximity to the Sydney and North Sydney CBDs. The facility must be operational in advance of tunnel spoil generation. Details of the facility must be documented in the **Ancillary Facilities Management Plan** required by Condition A16.

E89.1 Access to basement car parking to properties off Randle Lane must be maintained at all times except in consultation with affected occupiers and agreement with affected owners for alternative parking, storage or other forms of compensation.

Road Dilapidation

E90 A **Road Dilapidation Report** must be prepared for local roads proposed to be used by heavy vehicles for the purposes of the CSSI before the commencement of use by such vehicles. Copies of the **Road Dilapidation Report** must be provided to the Relevant Council within three (3) weeks of completing the surveys and no later than one (1) month before the use of local roads by heavy vehicles.

E91 If damage to roads occurs as a result of construction of CSSI, the Proponent must either (at the landowner's discretion):

(a) compensate the landowner for the damage so caused. The amount of compensation may be agreed with the landowner; or
(b) rectify the damage so as to restore the road to at least the condition it was before construction commenced as identified in the Road Dilapidation Report(s).

Interchange Access Plans

E92 The Proponent must develop an **Interchange Access Plan** for each station to inform the final design of transport and access facilities and services, including footpaths, cycleways, passenger facilities, parking, traffic and road changes, and integration of public domain and transport initiatives around and at each station. The Interchange Access Plan(s) must consider walking and cycling catchments and take into account:

(a) station access hierarchy consistent with the transport planning principles defined in the EIS;
(b) safe, convenient, efficient and sufficient access to stations and transfer between transport modes (including subterranean connections and the safeguarding of additional entrances in response to land use change and patronage demand);
(c) the maintenance or improvement of pedestrian and cyclists level of service within a justified proximity to stations;
(d) current transport initiatives and plans;
(e) opportunities and constraints presented by existing and proposed transport and access infrastructure and services;

(f) patronage changes resulting from land use, population, employment, transport infrastructure and service changes;
(g) integration with existing and proposed transport infrastructure and services;
(h) pedestrian, cycle, bus, taxi, vehicle and emergency vehicle access and parking infrastructure and service changes;
(i) legislative requirements and applicable guidelines;
(j) safety audits, including but not limited to a review of traffic facility and cycle changes to ensure compliance with Austroads design criteria;
(k) final design, infrastructure, management and service measures and the level of access and service to be achieved for all users; and
(l) the contents of the Interchange Operations and Maintenance Plan (IOMP) and operational management provisions for future operational requirements, including maintenance, security and management responsibilities.

The Interchange Access Plan(s) must be prepared in consultation with the TTLG and the Design Review Panel and must be supported by traffic and transport analysis. Where necessary, consultation must also be undertaken with major landholders adjoining station precincts. The Plan(s) must detail a delivery and implementation program which must be provided to and agreed by the Secretary before commencement of permanent aboveground facilities at any station site.

E93 In developing the Interchange Access Plan(s), the Proponent must consider:

(a) traffic and accessibility design requirements; and
(b) the Station Design and Precinct Plan(s) required by Condition E101.

E94 The Proponent must in consultation with the TTLG review the need and opportunities for lift access between Hickson Road and High Street and which the meets the objective of increasing the patronage catchment to Barangaroo Station and improved community accessibility. The review must be presented in the Interchange Access Plan and the findings implemented by the Proponent.

E95 The Proponent must in consultation with the TTLG review the need and opportunities for a pedestrian and cycle bridge across the rail corridor to replace the Nelson Street Bridge. The review must be presented in the Interchange Access Plan(s) and the findings implemented by the Proponent.

E95.1 Before approval of the Interchange Access Plan or Station Design and Precinct Plan relevant to the Sydenham Station upgrade and Sydney Metro Trains Facility South, the Proponent must, in consultation with the TTLG, investigate opportunities for dedicated cycle connections between Sydenham Station and Marrickville Station. Where opportunities for such connections are identified, the relevant Interchange Access Plan and/or Station Design and Precinct Plan must include provision for delivery of any connections.

E96 The Interchange Access Plan(s) must be reviewed by a qualified traffic and transport professional(s), independent of the detailed design process for the CSSI, having regard to the requirements of this approval.

Bicycle Infrastructure

E97 The Proponent must provide adequate bicycle infrastructure at stations that form part of the project and provide adequate areas for future expansion of that infrastructure.

E98 The Proponent must undertake an audit of bicycle patronage at stations and end-of-trip facility adequacy 12 and 36 months following commencement of operation of the project to ensure the level of bicycle parking and end-of-trip facilities available are adequate in terms of both quantity and quality. The audit must be undertaken with the Relevant Council(s), RMS, Bicycle NSW and relevant local bike user groups.

URBAN DESIGN AND VISUAL AMENITY

Visual Amenity

E99 The CSSI must be constructed in a manner that minimises visual impacts of construction sites, including, providing temporary landscaping where appropriate to soften views of the construction sites, minimising light spill, and incorporating architectural treatment and finishes within key elements of temporary structures that reflect the context within which the construction sites are located.

Design Review Panel

E100 The Proponent must establish a Design Review Panel (DRP) to refine design objectives for place making, public realm and urban and heritage integration applicable to the length of the project and provide advice on the application of the objectives to key design elements in relation to place making, architecture, heritage, urban and landscape design and artistic aspects of the CSSI.

The DRP must:

(a) comprise five members who are experts in one of the identified design elements;
(b) include the NSW Government Architect as Chair (or their representative);
(c) invite the Heritage Council (or delegate) to participate in meetings on matters that have been referred to it by the Proponent in consultation with the Heritage Office. The independent heritage architect must also be invited to advise on matters relating to other heritage issues where this capability is not held by one of the members referred to in (a) or (b);
(d) invite relevant Council(s) and other key stakeholders (such as UrbanGrowth NSW) to participate in meetings to advise on local issues and applicability of design review outcomes as they relate to the local context of each station;
(e) meet at least four times a year, or any other timeframe agreed by the DRP; and
(f) keep meeting minutes and a schedule of action items arising from each meeting.

E101 Before commencement of permanent built surface works and/or landscaping, the Proponent must prepare **Station Design and Precinct Plans (SDPP)** for each station. The SDPP must be prepared by a suitably qualified and experienced person(s), in collaboration and consultation with relevant stakeholders including but not limited to relevant council(s), the Department, and the local community. The SDPP(s) must present an integrated urban and place making outcome for each station or end state element. The SDPP(s) must be approved by the Secretary following review by the DRP and before commencement of permanent aboveground work.

Each SDPP must include, but not be limited to:

(a) identification of specific design objectives, principles and standards based on -
  i. the project design objectives as refined by the DRP;
  ii. maximising the amenity of public spaces and permeability around entrances to stations;
  iii. local environmental, heritage and place making values;
  iv. urban design context;
  v. sustainable design and maintenance;
  vi. community safety, amenity and privacy, including 'safer by design' principles where relevant;
  vii. relevant urban design and infrastructure standards and guidelines (including relevant council standards, policies and guidelines);
  viii. minimising the footprint of the project (including at operational facilities);

(b) opportunities for public art;
(c) landscaping and building design opportunities to mitigate the visual impacts of rail infrastructure and operational fixed facilities (including the Chatswood Dive, Marrickville Dive, Sydney Metro Trains Facility South, Artarmon Substation, station structures and services, noise walls etc.);
(d) the incorporation of salvaged historic and artistic elements onto the project design, including but not limited to the Tom Bass P&O fountain, the Douglas Annand glass screen (if present), the Douglas Annand wall frieze and heritage fabric from Martin Place Station, unless otherwise agreed by the Secretary;
(e) details on the location of existing vegetation and proposed landscaping (including use of endemic and advanced tree species where practicable). Details of species to be replanted/revegetated must be provided, including their appropriateness to the area and habitat for threatened species;
(f) a description of the CSSI design features, including graphics such as sections, perspective views and sketches for key elements of the CSSI;
(g) the location, design and impacts of operational lighting associated with the CSSI and measures proposed to minimise lighting impacts;
(h) details of where and how recommendations from the DRP have been considered in the plan;
(i) the timing for implementation of access, landscaping and public realm initiatives;
(j) monitoring and maintenance procedures for vegetation and landscaping (including weed control), performance indicators, responsibilities, timing and duration and contingencies where rehabilitation of vegetation and landscaping measures fail; and
(k) evidence of consultation with the community, local Councils and agencies in the preparation of on the SDPP(s) and how feedback has been addressed before seeking endorsement by the DRP.

Elements covered by SDPP(s) must be complete no later than the commencement of operation of the Sydney Metro to paid services, unless otherwise agreed with the Secretary.

Note: The SDPP may be submitted in stages to address the built elements of the CSSI and landscaping aspects of the CSSI.

E102 The SDPP must achieve a minimum visual impact rating of at least "Minor Benefit" as defined in the EIS, as amended by the documents listed in A1, for all design elements of the project, where feasible and reasonable. Where it can be demonstrated, to the DRP's satisfaction, that a "Minor Benefit" is not achievable, then a "Negligible" visual impact rating must be achieved as a minimum.

E103 The Proponent must apply reasonable endeavours to negotiate with the Barangaroo Delivery Authority to integrate station ancillary components (i.e. traction substation, ventilation risers and skylights) associated with Barangaroo Station within the Barangaroo development complex. Should an integrated outcome for ancillary components not be achieved, the location and design outcome must be consistent with design objectives and endorsed by the DRP.

Lighting and Security

E104 All permanent external lighting must be the minimum level of illumination necessary and must comply with *AS: 4282:1997 – Control of the Obtrusive Effects of Outdoor Lighting* and relevant Australian Standards in the series *AS/NZ 1158 – Lighting for Roads and Public Spaces*.

E105 The placement of CCTV cameras associated with the CSSI must be undertaken in consultation with the relevant public authority and the NSW Police.

WASTE

E106 Waste generated during construction and operation is to be dealt with in accordance with the following priorities:

(a) waste generation is to be avoided and where avoidance is not reasonably practicable, waste generation is to be reduced;
(b) where avoiding or reducing waste is not possible, waste is to be re-used, recycled, or recovered; and
(c) where re-using, recycling or recovering waste is not possible, waste is to be treated or disposed of.

WATER

E107 The CSSI must be constructed and operated so as to maintain the *NSW Water Quality Objectives* where they are being achieved as at the date of this approval, and contribute towards achievement of the *NSW Water Quality Objectives* over time where they are not being achieved as at the date of this approval, unless an EPL in force in respect of the CSSI contains different requirements in relation to the *NSW Water Quality Objectives*, in which case those requirements must be complied with.

E108 Drainage feature crossings (permanent and temporary watercourse crossings and stream diversions) and drainage swales and depressions must be undertaken in accordance with relevant guidelines and designed by a suitably qualified and experienced person.

E109 Any works within Sydney Harbour will be undertaken in consultation with the Harbour Master and RMS as owner of the seabed.

Revised environmental mitigation measures

Table 1 provides the consolidated environmental mitigation measures with colour coding relevant to each modification as follows:

- Victoria Cross and Artarmon Substation modification
- Sydenham Station and Sydney Metro Trains Facility South
- Central Walk
- Martin Place
- Blues Point

New mitigation measures or additions to mitigation measures since the EIS are shown in **bold** text, with deletions shown with a ~~strikethrough~~.

The location(s) applicable to each mitigation measure are identified by using a unique identifier as follows:

- STW – Surface track works
- CDS – Chatswood dive site
- AS – Artarmon substation
- CN – Crows Nest Station
- VC – Victoria Cross Station
- BP – Blues Point temporary site
- GI – Ground improvement works
- BN – Barangaroo Station
- MP – Martin Place Station
- PS – Pitt Street Station
- CS – Central Station
- WS – Waterloo Station
- MDS – Marrickville dive site (this area also includes the necessary mitigation measures for the Sydney Metro Trains Facility South)
- SS – Sydenham Station
- STWS – Surface track works south
- Metro rail tunnels – Metro rail tunnels not related to other sites (eg TBM works)
- PSR – Power supply routes.

Table 1 Revised environmental mitigation measures

ID	Mitigation measure	Applicable location(s)
Construction traffic and transport		
T1	Ongoing consultation would be carried out with (as relevant to the location) the CBD Coordination Office, Roads and Maritime Services, Sydney Trains, NSW Trains, the Port Authority of NSW, Barangaroo Delivery Authority, local councils, emergency services and bus operators in order to minimise traffic and transport impacts during construction.	All except metro rail tunnels
T2	Road Safety Audits would be carried out at each construction site. Audits would address vehicular access and egress, and pedestrian, cyclist and public transport safety.	All except metro rail tunnels
T3	Directional signage and line marking would be used to direct and guide drivers and pedestrians past construction sites and on the surrounding network. This would be supplemented by Variable Message Signs to advise drivers of potential delays, traffic diversions, speed restrictions, or alternate routes.	All except metro rail tunnels
T4	In the event of a traffic related incident, co-ordination would be carried out with the CBD Coordination Office and / or the Transport Management Centre's Operations Manager.	All except metro rail tunnels
T5	The community would be notified in advance of proposed road and pedestrian network changes through media channels and other appropriate forms of community liaison.	All except metro rail tunnels
T6	Vehicle access to and from construction sites would be managed to ensure pedestrian, cyclist and motorist safety. Depending on the location, this may require manual supervision, physical barriers, temporary traffic signals and modifications to existing signals or, on occasions, police presence.	All except metro rail tunnels
T7	Additional enhancements for pedestrian, cyclist and motorist safety in the vicinity of the construction sites would be implemented during construction. This would include measures such as: ▪ Use of speed awareness signs in conjunction with variable message signs near construction sites to provide alerts to drivers ▪ Community educational events that allow pedestrians, cyclists or motorists to sit in trucks and understand the visibility restrictions of truck drivers, and for truck drivers to understand the visibility from a bicycle; and a campaign to engage with local schools to educate children about road safety and to encourage visual contact with drivers to ensure they are aware of the presence of children ▪ Specific construction driver training to understand route constraints, expectations, safety issues, human error and its relationship with fitness for work and chain of responsibility duties, and to limit the use of compression braking ▪ Use of In Vehicle Monitoring Systems (telematics) to monitor vehicle location and driver behavior ▪ Safety devices on construction vehicles that warn drivers of the presence of a vulnerable road user located in the vehicles' blind spots and warn the vulnerable road user that a vehicle is about to turn.	All except metro rail tunnels
T8	Access to existing properties and buildings would be maintained in consultation with property owners.	All except metro rail tunnels

ID	Mitigation measure	Applicable location(s)
T9	All trucks would enter and exit construction sites in a forward gear, where feasible and reasonable.	All except metro rail tunnels
T10	Any relocation of bus stops would be carried out by Transport for NSW in consultation with Roads and Maritime Services, the CBD Coordination Office (for relevant locations), the relevant local council and bus operators. Wayfinding and customer information would be provided to notify customers of relocated bus stops.	All except metro rail tunnels
T11	For special events that require specific traffic measures, those measures would be developed in consultation the CBD Coordination Office (for relevant locations), Roads and Maritime Services, Barangaroo Delivery Authority (for relevant locations) and the organisers of the event.	BN, MP, PS, CS
T12	Construction sites would be managed to minimise construction staff parking on surrounding streets. The following measures would be implemented: ▪ Encouraging staff to use public or active transport ▪ Encouraging ride sharing ▪ Provision of alternative parking locations and shuttle bus transfers where feasible and reasonable. Transport for NSW would work with local councils to minimise adverse impacts of construction on parking and other kerbside use in local streets, such as loading zones, bus zones, taxi zones and coach zones.	All except metro rail tunnels
T13	Construction site traffic would be managed to minimise movements in the AM and PM peak periods.	All except metro rail tunnels
T14	Construction site traffic immediately around construction sites would be managed to minimise movements through school zones during pick up and drop off times.	All except metro rail tunnels
T15	Pedestrian and cyclist access would be maintained at Crows Nest during the temporary closure of Hume Street, and at Martin Place during the temporary partial closure of Martin Place. Wayfinding and customer information would be provided to guide pedestrians and cyclists to alternative routes.	CN, MP
T16	Timing for the temporary closure of the Devonshire Street tunnel would avoid periods of peak pedestrian demand. Wayfinding and customer information would be provided to guide pedestrians to alternative routes.	CS
T17	Consultation would occur with the Harbour Master, Roads and Maritime Services and Sydney Ferries' to ensure shipping channels are maintained during the Sydney Harbour ground improvement works.	GI
T18	During the closure of existing entrances to Martin Place Station, marshalls would be provided during the AM and PM peak periods to direct customers to available access and egress points.	MP
T19	Where existing parking is removed to facilitate construction activities, alternative parking facilities would be provided where feasible and reasonable.	All except metro rail tunnels

ID	Mitigation measure	Applicable location(s)
T20	Alternative pedestrian routes and property access would be provided where these are affected during the construction of the power supply routes.	PSR
T21	The potential combined impact of trucks from multiple construction sites would be further considered during the development of Construction Traffic Management Plans.	All except metro rail tunnels
T22	Where existing footpath routes used by pedestrians and / or cyclists are affected by construction, a condition survey would be carried out to confirm they are suitable for use (eg suitably paved and lit), with any necessary modifications to be carried out in consultation with the relevant local council.	All except metro rail tunnels
T23	**Specific station management measures would be implemented during pedestrian movement Phase 2. This would include strategies such as encouraging passengers to exit platforms at the closest stair case or escalator, signage and marshalling of passengers waiting to board to minimise those waiting adjacent to hoarding and to direct passengers so that that there is even distribution along the platform.**	**CS**
T24	**The temporary closures of footpaths on Chalmers Street would not occur at the same time as the temporary closure of the Devonshire Street Tunnel.**	**CS**
T25	**During the closure of Randle Lane, traffic control would be provided at either end. Reversing movements out of Randle Lane onto Elizabeth Street would not be carried out during the peak periods of 7 am to 10 am and 3 pm to 7 pm.**	**CS**
T26	**During the closure of Randle Lane, access to basement car parking would be maintained where feasible and reasonable. If access cannot be maintained, alternative parking would be arranged subject to consultation and agreement of affected owners or residents.**	**CS**
T27	**Detailed construction planning would be coordinated with the Sydenham to Bankstown project and the Temporary Transport Strategy arrangements to minimise impacts on the traffic and transport network.**	**SS**
T28	**The connectivity provided by the pedestrian route that extends from Elliot Street along the eastern boundary of 52 McLaren Street to McLaren Street would be retained during construction (in conjunction with suitable pedestrian management measures along the McLaren Street frontage).**	**VC**
Operational traffic and transport		
OpT1	Enhancement of pedestrian infrastructure in the vicinity of Victoria Cross and Martin Place stations would be investigated further in consultation with (as relevant to the location) the CBD Coordination Office, Roads and Maritime Services and the relevant local council.	VC, MP
OpT2	Access would be maintained to neighbouring properties.	All except metro rail tunnels
OpT3	The design of the interface between the Frank Channon Walk extension and the signalised intersection at Mowbray Road / Hampden Road (including any shared zone proposal) would be developed in consultation with Roads and Maritime Services and Willoughby Council.	CDS

ID	Mitigation measure	Applicable location(s)
OpT4	Transport for NSW would work with local councils to minimise adverse impacts of operation on parking and other kerbside use in local streets, such as loading zones, bus zones, taxi zones and coach zones.	All except metro rail tunnels
OpT5	During detailed design, Transport for NSW would consult with Inner West Council, Roads and Maritime Services and other stakeholder on strategies to reduce the number of staged pedestrian marked foot crossings at the Edinburgh Road / Edgeware Road intersection.	MDS
OpT6	**Transport for NSW would work with the Inner West Council to facilitate staged completion of relevant sections of the proposed active transport corridor between Sydenham and Bankstown subject to funding.**	**SS**
OpT7	**Transport for NSW would work with the Inner West Council to complete a parking study to manage the long term impacts of parking loss around Sydenham Station.**	**SS**
Construction noise and vibration		
NV1	The Construction Noise and Vibration Strategy would be implemented with the aim of achieving the noise management levels where feasible and reasonable. This would include the following example standard mitigation measures where feasible and reasonable: ▪ Provision of noise barriers around each construction site ▪ Provision of acoustic sheds at Chatswood dive site, Crows Nest, Victoria Cross, **Blues Point**, Barangaroo, Martin Place, Pitt Street, Waterloo and Marrickville dive site ▪ The coincidence of noisy plant working simultaneously close together would be avoided ▪ Offset distances between noisy plant and sensitive receivers would be increased ▪ Residential grade mufflers would be fitted to all mobile plant ▪ Dampened rock hammers would be used ▪ Non-tonal reversing alarms would be fitted to all permanent mobile plant ▪ High noise generating activities would be scheduled for less sensitive period considering the nearby receivers ▪ The layout of construction sites would consider opportunities to shield receivers from noise. This would also include carrying out the requirements in relation to construction noise and vibration monitoring.	All
NV2	Unless compliance with the relevant traffic noise criteria can be achieved, night time heavy vehicle movements at the Chatswood dive site, Crows Nest Station, Victoria Cross Station (southern) and Waterloo Station sites would be restricted to: ▪ The Pacific Highway and Mowbray Road at the Chatswood dive site ▪ The Pacific Highway, Hume Street and Oxley Street at the Crows Nest Station construction site ▪ McLaren Street, Miller Street and Berry Street at the Victoria Cross Station southern construction site ▪ Botany Road and Raglan Street at the Waterloo Station construction site.	CDS, CN, VC, WS

ID	Mitigation measure	Applicable location(s)
NV3	Where vibration levels are predicted to exceed the screening criteria, a more detailed assessment of the structure and attended vibration monitoring would be carried out to ensure vibration levels remain below appropriate limits for that structure. For heritage items, the more detailed assessment would specifically consider the heritage values of the structure in consultation with a heritage specialist to ensure sensitive heritage fabric is adequately monitored and managed.	All except metro rail tunnels
NV4	Feasible and reasonable measures would be implemented to minimise ground borne noise where exceedences are predicted.	All
NV5	Feasible and reasonable mitigation measures would be implemented where power supply works would result in elevated noise levels at receivers. This would include: ▪ Carrying out works during the daytime period when in the vicinity of residential receivers ▪ Where out of hours works are required, scheduling the noisiest activities to occur in the evening period (up to 10 pm) ▪ Use of portable noise barriers around particularly noisy equipment such as concrete saws.	PSR
NV6	Transport for NSW would engage an Independent Acoustic Advisor to act independently of the design and construction teams and provide oversight of construction methods, construction noise and vibration planning, management and mitigation, and construction noise and vibration monitoring and reporting. The key responsibilities of the Independent Acoustic Advisor would include : ▪ Assurance of contractor noise and vibration planning, modelling, management and monitoring practices ▪ Verification of compliance with relevant guidelines and approval requirements ▪ Audit noise and vibration management practices.	All
NV7	Alternative demolition techniques that minimise noise and vibration levels would be investigated and implemented where feasible and reasonable. This would include consideration of: ▪ The use of hydraulic concrete shears in lieu of hammers/rock breakers ▪ Sequencing works to shield noise sensitive receivers by retaining building wall elements ▪ Locating demolition load out areas away from the nearby noise sensitive receivers ▪ Providing respite periods for noise intensive works ▪ Methods to minimise structural-borne noise to adjacent buildings including separating the structural connection prior to demolition through saw-cutting and propping, using hand held splitters and pulverisers or hand demolition ▪ Installing sound barrier screening to scaffolding facing noise sensitive neighbours ▪ Modifying demolition works sequencing / hours to minimise impacts during peak pedestrian times and / or adjoining neighbour outdoor activity periods.	All except metro rail tunnels
NV8	**Opportunities to minimise heavy vehicles movements on Randle Lane at night would be further investigated during detailed construction planning.**	**CS**

ID	Mitigation measure	Applicable location(s)
NV9	**Measures would be implemented to reduce work health and safety noise exposure for station workers, retail staff and members of the public within Central Station. These would include:** ▪ **The use of hoarding and / or temporary noise barriers around construction sites** ▪ **Providing hearing protection to station staff employees where appropriate** ▪ **Providing specific work health and safety noise training to commercial receiver employers including guidance on managing their employees during highly noisy periods** ▪ **The use of signage around construction sites to inform the general public of high noise exposure areas.**	**CS**
NV10	**Further background monitoring would be conducted at a receiver addressing McLaren Street during the preparation of the Construction Noise and Vibration Impact Statements to confirm the applicable noise management levels for construction.**	**VC**
NV11	**Opportunities to minimise heavy vehicle movements from the Victoria Cross Station northern construction site at night would be further investigated during detailed construction planning.**	**VC**
NV12	**Ballast tamping and rock breakers would not be undertaken during the night-time period (10pm to 7am) except where circumstances arise that require the use of this plant to ensure the rail corridor is made safe for the operation of trains by the conclusion of a scheduled rail possession.**	**STWS**
Operational noise and vibration		
OpNV1	The height and extent of noise barriers adjacent to the northern **and southern** surface track works would be confirmed during detailed design with the aim of not exceeding trigger levels from the R*ail Infrastructure Noise Guidelines* (Environment Protection Authority, 2013). At property treatments would be offered where there are residual exceedances of the trigger levels.	STW, **STWS**
OpNV2	Track form would be confirmed during the detailed design process in order to meet the relevant ground-borne noise and vibration criteria from the *Rail Infrastructure Noise Guidelines* (EPA, 2013) and the *Interim Guideline for the Assessment of Noise from Rail Infrastructure Projects* (DECC, 2007a).	Metro rail tunnels
OpNV3	Stations and ancillary facilities including train breakout noise from draught relief shafts would be designed to meet the applicable noise criteria derived from the *Industrial Noise Policy* (EPA, 2000).	All except metro rail tunnels

ID	Mitigation measure	Applicable location(s)
OpNV4	**Procedural mitigation measures would be implemented to minimise noise emissions from the Sydney Metro Trains Facility South with the aim of meeting the relevant criteria derived from the *Industrial Noise Policy* (Environment Protection Authority, 2000). This would consider measures such as:** ▪ **Minimising the number of trains being cleaned simultaneously** ▪ **Cleaning trains without air conditions systems in use** ▪ **Limit cleaning and start-up operations during the night-time and early morning periods to the trains stabled furthest from the most affected residences.** **In the event that procedural measures are not sufficient to achieve compliance with the criteria derived from the Industrial Noise Policy, at-property treatments would be offered to affected receivers.**	**MDS**
OpNV5	**Further detailed investigations would be undertaken of the phased operations once the detail of these changes are determined. This investigation would include determination of the likely change in noise levels at receivers and consideration of the need for any feasible and reasonable mitigation measures taking into consideration the likely duration of the phased operations.**	**STWS**
Land use and property		
LP1	**Opportunities to integrate the eastern entry with local strategic planning initiatives would be investigated in consultation with City of Sydney Council.**	**CS**
Business impacts		
BI1	Specific consultation would be carried out with businesses potentially impacted during construction. Consultation would aim to identify and develop measures to manage the specific construction impacts for individual businesses.	All
BI2	A business impact risk register would be developed to identify, rate and manage the specific construction impacts for individual businesses.	All
BI3	Appropriate signage would be provided around construction sites to provide visibility to retained businesses.	All except metro rail tunnels

ID	Mitigation measure	Applicable location(s)
Non-Aboriginal heritage		
NAH1	Archival recording and reporting of the following heritage items would be carried out in accordance with the NSW Heritage Office's *How to Prepare Archival Records of Heritage Items* (1998a), and *Photographic Recording of Heritage Items Using Film or Digital Capture* (2006): ▪ The internal heritage fabric and any non-original elements removed from within the curtilage of Mowbray House, Chatswood ▪ The interior, exterior and setting of the shop at 187 Miller Street, North Sydney ▪ The fabric and setting of the North Sydney bus shelters requiring removal and temporary relocation at Victoria Cross Station and Blues Point temporary site ▪ Any component of the Blues Point Waterfront Group and the McMahons Point South heritage conservation area to be directly affected or altered, including vegetation and significant landscape features ▪ Hickson Road wall in the vicinity of proposed ventilation risers and skylights for Barangaroo Station ▪ The interior, exterior and setting of the 'Flat Building' at 7 Elizabeth Street, Sydney ▪ Martin Place, between Elizabeth and Castlereagh streets, Sydney ▪ The heritage fabric of areas of the existing Martin Place Station affected by the project ▪ The Rolling Stock Officers Garden, Rolling Stock Officers Building and Cleaners Amenities Building in Sydney Yard and any other component of the Sydney Terminal and Central Railway Stations group to be removed or altered ▪ **The Bounce Hostel building (former MGM building)** ▪ Directly impacted parts of the Congregational Church at Waterloo ▪ **Sydenham Pit and Drainage Pumping Station 1** ▪ **Sydenham Railway Station Group: Platform 6 building and Platform 1 Parcels Office.**	CDS, VC, BP, MP, CS, WS, **MDS, SS**
NAH2	The archaeological research design would be implemented. Significant archaeological findings would be considered for inclusion in heritage interpretation (as per NAH8) for the project and be developed in consultation with the relevant local council.	CDS, CN, VC, BP, BN, MP, PS, CS, WS, PSR
NAH3	An Exhumation Policy and Guideline would be prepared and implemented. It would be developed in accordance with the *Guidelines for Management of Human Skeletal Remains* (NSW Heritage Office, 1998b) and NSW Health Policy Directive – Exhumation of human remains (December, 2013). It would be prepared in consultation with NSW Heritage Office and NSW Health.	All except metro rail tunnels
NAH4	The method for the demolition of existing buildings and / or structures at Chatswood dive site, Victoria Cross Station, Martin Place Station, Pitt Street Station, Central Station, Waterloo Station **and Sydenham Station** would be developed to minimise direct and indirect impacts to adjacent and / or adjoining heritage items.	CDS, VC, MP, PS, CS, WS, **SS**

ID	Mitigation measure	Applicable location(s)
NAH5	Prior to total or partial demolition of heritage items at Victoria Cross and Martin Place stations, **and the Bounce Hostel building (former MGM building at Central Station),** heritage fabric for salvage would be identified and reuse opportunities for salvaged fabric considered. This would include salvage and reuse of heritage tiles to be impacted at Martin Place Station.	VC, MP, CS
NAH6	An appropriately qualified and experienced heritage architect would form part of the Sydney Metro Design Review Panel and would provide independent review periodically throughout detailed design.	All
NAH7	The project design would be sympathetic to heritage items and, where reasonable and feasible, minimise impacts to the setting of heritage items. The detailed design for Martin Place Station, Central Station, **Sydenham Station and the aqueduct over the Sydenham Pit and Drainage Pumping Station** would be developed with input from a heritage architect.	STW, CDS, CN, VC, BN, MP, PS, CS, WS, MDS, **SS**
NAH8	Appropriate heritage interpretation would be incorporated into the design for the project in accordance with the NSW Heritage Manual, the NSW Heritage Office's *Interpreting Heritage Places and Items: Guidelines* (August 2005), and the NSW Heritage Council's *Heritage Interpretation Policy*.	CDS, CN, VC, BP, BN, MP, PS, WS
NAH9	A Central Station heritage interpretation plan would be developed and implemented. It would be consistent with the *Central Station Conservation Management Plan* (Rappoport and Government Architects Office, 2013) and in accordance with the guidelines identified in NAH8.	CS
NAH10	The detailed design of the Sydney Yard Access Bridge would be carried out in accordance with the relevant specific element principles in the Design Guidelines.	CS
NAH11	Except for heritage significant elements affected by the project, direct impact on other heritage significant elements forming part of the following items would be avoided: ▪ The Blues Point Waterfront Group (including the former tram turning circle, stone retaining wall, bollards and steps) ▪ The Millers Point and Dawes Point Village Precinct ▪ The existing Martin Place Station ▪ Sydney Terminal and Central Railway Stations group ▪ Sydney Yard (including the Shunters Hut and Prince Alfred Sewer) ▪ **The existing Sydenham Station** ▪ **Brick retaining walls near Sydenham Station.**	BP, BN, MP, CS, **SS, STWS**
NAH12	Power supply works would be designed and constructed to avoid impacts to the Tank Stream and Bennelong Stormwater Channel.	PSR
NAH13	The design and detailed construction planning of work at Central Station would consider the requirements of the *Central Station Conservation Management* Plan (Rappoport and Government Architects Office, 2013) and include consideration of opportunities for the retention, conservation and / or reuse of original and significant heritage fabric and movable heritage items. Consultation would be carried out with Sydney Trains and the Heritage Council of NSW during design development.	CS

ID	Mitigation measure	Applicable location(s)
NAH14	The final design and location of the new connection and opening at Martin Place Railway Station would minimise removal of the significant red ceramic tiling where feasible and reasonable.	MP
NAH15	Opportunities for the reuse of any tiles at Martin Place Railway Station that are removed would be investigated.	MP
NAH16	Opportunities for the reuse of the circular seating within Martin Place Station would be investigated.	MP
NAH17	Opportunities for the salvage and reuse of the bus shelters temporarily removed at Victoria Cross and Blues Point would be investigated in consultation with North Sydney Council.	VC, BP
NAH18	Works at Central Station would be carried out with the oversight of heritage specialists.	CS
NAH19	Subject to outcomes of consultation with the church, temporary and permanent works at the Congregational Church would: ▪ Minimise impacts to heritage fabric ▪ Be sympathetic to the heritage values and architectural form of the building.	WS
NAH20	**The design and detailed construction planning of works directly impacting the Sydenham Pit and Drainage Pumping Station would consider the requirements of the *Sydenham Pit & Drainage Pumping Station 1 Conservation Management Plan* (Sydney Water, 2004).**	**MDS**
NAH21	**The internal and external finishes of the infilled openings between 9-19 Elizabeth Street and the Commonwealth Bank of Australia building would be developed in consultation with a heritage architect.**	**MP**
Aboriginal heritage		
AH1	Aboriginal stakeholder consultation would be carried out in accordance with the NSW Office of Environment and Heritage's Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010.	All
AH2	The cultural heritage assessment report would be implemented.	All
AH3	Archaeological test excavation (and salvage when required) would be carried out where intact natural soil profiles with the potential to contain significant archaeological deposits are encountered at the Blues Point temporary site, Barangaroo Station, Martin Place Station, Pitt Street Station, Central Station, Waterloo Station and Marrickville dive site. Excavations would be conducted in accordance with the methodology outlined in the Aboriginal cultural heritage assessment report	BP, BN, MP, PS, CS, WS, MDS
AH4	Appropriate Aboriginal heritage interpretation would be incorporated into the design for the project in consultation with Aboriginal stakeholders.	All
AH5	Feasible and reasonable mitigation at the ground improvement locations would be identified in consultation with the Office of Environment and Heritage.	GI
AH6	The Aboriginal cultural heritage assessment report would address areas of archaeological potential associated with the power supply routes.	PSR
AH7	**The cultural heritage assessment report would be updated to include the scope of the proposed modification.**	**CS**

ID	Mitigation measure	Applicable location(s)
Landscape character and visual amenity		
Construction		
LV1	Where feasible and reasonable, the elements within construction sites would be located to minimise visual impacts, for example materials and machinery would be stored behind fencing.	All except metro rail tunnels
LV2	Existing trees to be retained would be protected prior to the commencement of construction in accordance with *Australian Standard AS4970 the Australian Standard for Protection of Trees on Development Sites and Adjoining Properties*.	All except metro rail tunnels
LV3	Lighting of construction sites would be oriented to minimise glare and light spill impact on adjacent receivers.	All except metro rail tunnels
LV4	Visual mitigation would be implemented as soon as feasible and reasonable after the commencement of construction, and remain for the duration of the construction period.	All except metro rail tunnels
LV5	Opportunities for the retention and protection of existing trees would be identified during detailed construction planning.	All except metro rail tunnels
LV6	The design and maintenance of construction site hoardings would aim to minimise visual amenity and landscape character impacts, including the prompt removal of graffiti. Public art opportunities would be considered.	All except metro rail tunnels
LV7	The selection of materials and colours for acoustic sheds would aim to minimise their visual prominence.	CDS, CN, VC, BN, MP, PS, WS, MDS
LV8	Tunnel boring machine retrieval works at the Blues Point temporary site would be timed **so that impacts from the acoustic shed would be minimised during** key harbour viewing events**, where possible. The installation of the acoustic shed at the Blues Point temporary site would occur after the New Year's period of 2018/2019 and the shed would be dismantled prior to the New Year's period of 2020/2021.**	BP
LV9	Benching would be used where feasible and reasonable at Blues Point temporary site to minimise visual amenity impacts.	BP
LV10	Temporary impacts to public open space would be rehabilitated in consultation with the relevant local council and / or landowner.	All except metro rail tunnels
LV20	**The colour palette of the temporary acoustic shed at the Blues Point temporary site should adopt the following recommended colours, or similar:** ▪ **Acoustic shed roof: Colorbond monument** **Acoustic shed walls: Colorbond mangrove.**	**BP**
Operation		
LV11	Cut off and direct light fittings (or similar technologies) would be used to minimise glare and light spill onto private property.	CDS, AS, CS, MDS
LV12	Where feasible and reasonable, vegetation would be provided to screen and visually integrate sites with the surrounding area.	STW, CDS, AS, MDS

ID	Mitigation measure	Applicable location(s)
LV13	Identify and implement appropriate landscape treatments for Frank Channon Walk.	STW, CDS
LV14	The architectural treatment of Artarmon substation would minimise visual amenity and landscape character impacts.	AS
LV15	The Harbour cycles sculpture at North Sydney would be reinstated at a location determined in consultation with North Sydney Council.	VC
LV16	The P&O Fountain, the mid-20th century bas relief sculpture and the Douglas Annand glass screen at 55 Hunter Street would be reinstated at a location determined in consultation with City of Sydney Council.	MP
LV17	Opportunities would be investigated to provide a permanent wall for street art at Marrickville dive site in consultation with Marrickville Council.	MDS
LV18	Noise barriers would be transparent where they are augmenting existing transparent noise barriers.	STW
LV19	Notification processes in relation to moral rights for public art and architecture under Commonwealth *Copyright Act 1968* would be carried out.	All except metro rail tunnels
Groundwater and geology		
GWG1	A detailed geotechnical model for the project would be developed and progressively updated during design and construction. The detailed geotechnical model would include: ▪ Assessment of the potential for damage to structures, services, basements and other sub-surface elements through settlement or strain ▪ Predicted changes to groundwater levels, including at nearby water supply works. Where building damage risk is rated as moderate or higher (as per the CIRIA 1996 risk-based criteria), a structural assessment of the affected buildings / structures would be carried out and specific measures implemented to address the risk of damage. With each progressive update of the geotechnical model the potential for exceedance of the following target changes to groundwater levels would be reviewed: ▪ Less than 2.0 metres – general target ▪ Less than 4.0 metres – where deep building foundations present ▪ Less than 1.0 metre – residual soils ▪ Less than 0.5 metre – residual soils (Blues Point) (fill / Aeolian sand). Where a significant exceedance of target changes to groundwater levels are predicted at surrounding land uses and nearby water supply works, an appropriate groundwater monitoring program would be developed and implemented. The program would aim to confirm no adverse impacts on groundwater levels or to appropriately manage any impacts. Monitoring at any specific location would be subject to the status of the water supply work and agreement with the landowner. The geotechnical model and groundwater monitoring program would be developed in consultation with the Department of Primary Industries (Water).	All
GWG2	Condition surveys of buildings and structures in the vicinity of the tunnel and excavations would be carried out prior to the commencement of excavation at each site.	All

ID	Mitigation measure	Applicable location(s)
Soils, contamination and water quality		
Construction		
SCW1	Updated desktop contamination assessments would be carried out for Chatswood dive site, **Victoria Cross Station, Artarmon substation,** Blues Point temporary site, Barangaroo Station, Central Station, Waterloo Station **and the Sydenham Maintenance Centre site within surface track works south**. If sufficient information is not available to determine the remediation requirements and the impact on potential receivers, then detailed contamination assessments, including collection and analysis of soil and groundwater samples would be carried out. Detailed contamination assessment would also be carried out for the Barangaroo power supply route within Hickson Road and the Marrickville power supply route adjacent to Sydney Park and Camdenville Oval. In the event a Remediation Action Plan is required, these would be developed in accordance with *Managing Land Contamination: Planning Guidelines SEPP 55 – Remediation of Land* (Department of Urban Affairs and Planning and Environment Protection Authority, 1998) and a site auditor would be engaged.	CDS, **AS, VC,** BP, BN, CS, WS, **STWS,** PSR
SCW2	Prior to ground disturbance in high probability acid sulfate areas at Barangaroo Station, Waterloo Station, Marrickville dive site, **Sydenham Station and the surface track works south,** testing would be carried out to determine the presence of acid sulfate soils. If acid sulfate soils are encountered, they would be managed in accordance with the *Acid Sulfate Soil Manual* (Acid Sulfate Soil Management Advisory Committee, 1998).	BN, WS, MDS, **SS, STWS**
SCW3	Erosion and sediment control measures would be implemented in accordance with *Managing Urban Stormwater: Soils and Construction Volume 1* (Landcom, 2004) and *Managing Urban Stormwater: Soils and Construction Volume 2* (Department of Environment and Climate Change, 2008a). Measures would be designed as a minimum for the 80th percentile; 5-day rainfall event.	All except metro rail tunnels
SCW4	Discharges from the construction water treatment plants would be monitored to ensure compliance with the discharge criteria in an environment protection licence issued to the project.	All except metro rail tunnels
SCW5	A silt curtain would be used around the Sydney Harbour ground improvement work barges.	GI
SCW6	A water quality monitoring program would be implemented to monitor water quality within Sydney Harbour during ground improvement work. The water quality monitoring program would be carried out to detect any potential impacts on the water quality of Sydney Harbour from the ground improvement work and inform management responses in the event any impacts are identified. Specific monitoring locations and frequencies would be determined during the development of the program in consultation with the Environment Protection Authority.	GI
Operation		
SCW7	Discharges from the tunnel water treatment plant would be monitored to ensure compliance with the discharge criteria determined in consultation with the NSW Environment Protection Authority.	MDS

ID	Mitigation measure	Applicable location(s)
Social impacts and community infrastructure		
SO1	Direct impacts to public open space at the Blues Point temporary site would be minimised.	BP
SO2	Specific consultation would be carried out with sensitive community facilities (including aged care, child care centres, educational institutions and places of worship) potentially impacted during construction. Consultation would aim to identify and develop measures to manage the specific construction impacts for individual sensitive community facilities.	All except metro rail tunnels
Biodiversity		
B1	An ecologist would be present during the removal of any hollow-bearing trees.	CDS
B2	Potential bat roosting locations at Central Station, Waterloo Station and Marrickville dive site, **Sydenham Station and the surface track works south** would be checked by a qualified ecologist or wildlife handler prior to demolition. Any bats found would be relocated, unless in torpor, in which case the relocation would be delayed until the end of the torpor period.	CS, WS, MDS, **SS, STWS**
B3	The local WIRES group and / or veterinarian would be contacted if any fauna are injured on site or require capture and / or relocation.	All except metro rail tunnels
B4	Procedures would be developed and implemented, in accordance with the National System for the Prevention and Management of Marine Pest Incursions, during Sydney Harbour ground improvement works to avoid transportation of marine pests from other locations, particularly the marine alga *Caulerpa taxifoli*.	GI
Flooding and hydrology		
Construction		
FH1	Detailed construction planning would consider flood risk at Barangaroo Station, Martin Place Station and the Waterloo Station construction sites. This would include identification of measures to, where feasible and reasonable, not worsen existing flooding characteristics up to and including the 100 year annual recurrence interval event in the vicinity of the project. Not worsen is defined as: ▪ A maximum increase flood levels of 50mm in a 100 year Average Recurrence Interval flood event ▪ A maximum increase in time of inundation of one hour in a 100 year Average Recurrence Interval flood event ▪ No increase in the potential for soil erosion and scouring from any increase in flow velocity in a 100 year Average Recurrence Interval flood event.	BN, MP, WS
FH2	The site layout and staging of construction activities at Marrickville dive site would avoid or minimise obstruction of overland flow paths and limit the extent of flow diversion required.	MDS

ID	Mitigation measure	Applicable location(s)
FH3	Overland flow diversions during construction at the Marrickville dive site would meet the following criteria, where feasible and reasonable: ▪ Not worsen existing flooding characteristics up to and including the 100 year annual recurrence interval event in the vicinity of the project ▪ Dedicated evacuation routes would not be adversely impacted in flood events up to and including the probable maximum flood. This may include the requirement for changes to existing arrangements for flood warning systems and signage. Construction planning for the Marrickville dive site would be carried out in consultation with the State Emergency Services and Inner West Council. Not worsen is defined as: ▪ A maximum increase flood levels of 50mm in a 100 year Average Recurrence Interval flood event ▪ A maximum increase in time of inundation of one hour in a 100 year Average Recurrence Interval flood event ▪ No increase in the potential for soil erosion and scouring from any increase in flow velocity in a 100 year Average Recurrence Interval flood event.	MDS
Operation		
FH4	Where feasible and reasonable, detailed design would result in no net increase in stormwater runoff rates in all storm events unless it can be demonstrated that increased runoff rates as a result of the project would not increase downstream flood risk.	STW, AS, MDS, **SS, STWS**
FH5	Where space permits, on-site detention of stormwater would be introduced where stormwater runoff rates are increased. Where there is insufficient space for the provision of on-site detention, the upgrade of downstream infrastructure would be implemented where feasible and reasonable.	STW, AS, MDS, **SS, STWS**
FH6	Detailed design would occur in consultation with Inner West Council to ensure future drainage improvement works around the Marrickville dive site, **Sydenham Station and the surface track works south** would not be precluded.	MDS, **SS, STWS**
FH7	Consultation would be carried out with Inner West Council to ensure flood-related outcomes of the project are consistent with any future floodplain risk management study and / or plan developed for the Marrickville Valley Catchment.	MDS, **SS, STWS**
FH8	The frequency of Sydney Trains rail service disruptions due to flooding would not be increased in the vicinity of the Marrickville dive structure, **Sydenham Station and the surface track works south**.	MDS, **SS, STWS**

ID	Mitigation measure	Applicable location(s)
FH9	Design of the project would be reviewed to, where feasible and reasonable, not worsen existing flooding characteristics up to and including the 100 year annual recurrence interval event in the vicinity of the project. Detailed flood modelling would consider: ▪ Potential changes to flood prone land and flood levels ▪ Potential changes to overland flow paths ▪ Redistribution of surface runoff as a result of project infrastructure ▪ Behaviour of existing stormwater runoff ▪ Potential changes required to flood evacuation routes, flood warning systems and signage. Flood modelling to support detailed design would be carried out in accordance with the following guidelines: ▪ *Floodplain Development Manual* (NSW Government, 2005b) ▪ *Floodplain Risk Management Guideline: Practical Consideration of Climate Change* (DECC, 2007b) ▪ *Floodplain Risk Management Guide: Incorporating Sea Level Rise Benchmarks in Flood Risk Assessments* (DECCW, 2010c) ▪ *New guideline and changes to section 117 direction and EP&A Regulation on flood prone land, Planning Circular PS 07-003* (NSW Department of Planning, 2007). Flood modelling and consideration of mitigation measures would be carried out in consultation with the relevant local councils, the Office of Environment and Heritage and the State Emergency Services. Not worsen is defined as: ▪ A maximum increase flood levels of 50mm in a 100 year Average Recurrence Interval flood event ▪ A maximum increase in time of inundation of one hour in a 100 year Average Recurrence Interval flood event ▪ No increase in the potential for soil erosion and scouring from any increase in flow velocity in a 100 year Average Recurrence Interval flood event.	All except metro rail tunnels
FH10	During detailed design, project infrastructure would be designed to meet the following criteria, where feasible and reasonable: ▪ Locate station and service entrances to underground stations above the greater of the 100 year annual recurrence interval flood level plus 500mm or the probable maximum flood level ▪ Provide site surface grading and drainage collection systems at the Chatswood and Marrickville dive structures to manage the risk of local catchment and overland flooding for events up to and including the probable maximum flood event ▪ Locate aboveground rail system facilities (such as traction power supply sub stations) at least above the 100 year annual recurrence interval flood level plus 500mm ▪ Protect facilities that are identified as being critical to emergency response operations from the probable maximum flood level.	All except metro rail tunnels
Air quality		
AQ1	The engines of all on-site vehicles and plant would be switched off when not in use for an extended period.	All

ID	Mitigation measure	Applicable location(s)
AQ2	Plant would be well maintained and serviced to minimise emissions. Emissions from plant would be considered as part of pre-acceptance checks.	All
AQ3	Construction site layout and placement of plant would consider air quality impacts to nearby receivers.	All except metro rail tunnels
AQ4	Hard surfaces would be installed on long term haul routes and regularly cleaned.	All except metro rail tunnels
AQ5	Unsurfaced haul routes and work area would be regularly damped down in dry and windy conditions.	All except metro rail tunnels
AQ6	All vehicles carrying loose or potentially dusty material to or from the site would be fully covered.	All except metro rail tunnels
AQ7	Stockpiles would be managed to minimise dust generation.	All except metro rail tunnels
AQ8	Demolition would be managed to minimise dust generation.	All except metro rail tunnels
AQ9	Ventilation from acoustic sheds would be filtered.	CDS, CN, VC, BN, MP, PS, WS, MDS
Hazard and risk		
Construction		
HR1	All hazardous substances that may be required for construction would be stored and managed in accordance with the *Storage and Handling of Dangerous Goods Code of Practice* (WorkCover NSW, 2005) and *Hazardous and Offensive Development Application Guidelines: Applying SEPP 33* (Department of Planning, 2011).	All
HR2	Dial before you dig searches and non-destructive digging would be carried out to identify the presence of underground utilities.	All
HR3	A hazardous material survey would be completed for those buildings and structures suspected of containing hazardous materials (particularly asbestos) prior to their demolition. If asbestos is encountered, it would be handled and managed in accordance with relevant legislation, codes of practice and Australian standards.	CDS, CN, VC, MP, PS, CS, WS, MDS, **SS**
HR4	The method for delivery of explosives would developed prior to the commencement of blasting in consultation with the Department of Planning and Environment and be timed to avoid the need for on-site storage.	CN, VC, BN, MP, PS, WS

ID	Mitigation measure	Applicable location(s)
Operation		
HR5	All hazardous substances that may be required for operation would be stored and managed in accordance with the *Storage and Handling of Dangerous Goods Code of Practice* (WorkCover NSW, 2005) and *Hazardous and Offensive Development Application Guidelines: Applying SEPP 33* (Department of Planning, 2011).	All
Waste management		
Construction		
WM1	All waste would be assessed, classified, managed and disposed of in accordance with the *NSW Waste Classification Guidelines*.	All
WM2	100 per cent of spoil that can be reused would be beneficially reused in accordance with the project spoil reuse hierarchy.	All
WM3	A recycling target of at least 90 per cent would be adopted for the project.	All
WM4	Construction waste would be minimised by accurately calculating materials brought to the site and limiting materials packaging.	All
Operation		
WM5	Generation of operation phase waste would be minimised.	All
Sustainability		
Construction		
SUS1	Sustainability initiatives would be incorporated into the detailed design and construction of the project to support the achievement of the project sustainability objectives.	All
SUS2	A best practice level of performance would be achieved using market leading sustainability rating tools during design and construction.	All
SUS3	A workforce development and industry participation strategy would be developed and implemented during construction.	All
SUS4	Climate change risk treatments would be incorporated into the detailed design of the project including: ▪ Ensuring that adequate flood modelling is carried out and integrated with design ▪ Testing the sensitivity of air-conditioning systems to increased temperatures, and identify potential additional capacity of air-conditioning systems that may be required within the life of the project, with a view to safeguarding space if required ▪ Testing the sensitivity of ventilation systems to increased temperatures and provide adequate capacity.	All
SUS5	An iterative process of greenhouse gas assessments and design refinements would be carried out during detailed design and construction to identify opportunities to minimise greenhouse gas emissions. Performance would be measured in terms of a percentage reduction in greenhouse gas emissions from a defined reference footprint.	All
SUS6	25 per cent of the greenhouse gas emissions associated with consumption of electricity during construction would be offset.	All

ID	Mitigation measure	Applicable location(s)
Operation		
SUS7	Sustainability initiatives would be incorporated into the operation of the project to support the achievement of the project sustainability objectives.	All
SUS8	Periodic review of climate change risks would be carried out to ensure ongoing resilience to the impacts of climate change.	All
SUS9	A workforce development and industry participation strategy would be developed and implemented during operation.	All
SUS10	100 per cent of the greenhouse gas emissions associated with consumption of electricity during operation would be offset.	All
Cumulative impacts		

CU1	Transport for NSW would manage and co-ordinate the interface with projects under construction at the same time. Co-ordination and consultation with the following stakeholders would occur, where required:
	▪ CBD Coordination Office
	▪ Department of Planning and Environment
	▪ Roads and Maritime Services
	▪ Sydney Trains
	▪ NSW Trains
	▪ Sydney Buses
	▪ Sydney Water
	▪ Port Authority of NSW
	▪ Willoughby Council
	▪ North Sydney Council
	▪ City of Sydney Council
	▪ Marrickville Council
	▪ Sydney Motorways Corporation
	▪ Barangaroo Delivery Authority
	▪ Emergency service providers
	▪ Utility providers
	▪ Construction contractors.
	Co-ordination and consultation with these stakeholders would include:
	▪ Provision of regular updates to the detailed construction program, construction sites and haul routes
	▪ Identification of key potential conflict points with other construction projects
	▪ Developing mitigation strategies in order to manage conflicts. Depending on the nature of the conflict, this could involve:
	  ▪ Adjustments to the Sydney Metro construction program, work activities or haul routes; or adjustments to the program, activities or haul routes of other construction projects
	  ▪ Co-ordination of traffic management arrangements between projects.
		All

EXHIBIT D – REPORTS

[redacted]

EXHIBIT E – NOT USED

EXHIBIT F – PRELIMINARY DESIGN

Not applicable.

EXHIBIT G – ABORIGINAL PARTICIPATION PLAN

Aboriginal Procurement Plan Spend

This template provides an outline to guide Contractors in developing their planned spend.. The plan is a projection of proposed initiatives and estimated spend and should be reviewed throughout the life of the project.
Please note Aboriginal owned businesses are required to complete Q1-7 and 9-13 only.

1. Project name	Sydney Metro Chatswood Precinct
2. Geographic location of project by postcode	2067
3. Project start date	Dec 2023
4. Expected project end date	Sept 2024
5. Supplier name and contact details	RMA Contracting Pty Ltd [redacted]
6. Supplier ABN	28 092 116 704
7. Contracting agency (Government) name and contact details	Sydney Metro

(Aboriginal owned businesses are not required to complete Q 8)

8. Estimated project value ($)	Exclusions ($)	Project spend $ (estimated project value minus exclusions)	Percentage of of project spend (%) for Aboriginal participation	Aboriginal participation ($)
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

9. Are you an Aboriginal owned business?	[redacted]
10. Is your business recognised as an Aboriginal owned business?	
11. Total number of employees	
12. Total number of Aboriginal employees	
13. Projected estimated number of Aboriginal Full-Time Employment (FTE) opportunities supported by the project	

Eligible Spend for Aboriginal Participation

(Aboriginal owned businesses are not required to complete this eligible spend section)

Activity	Description of proposed opportunities, initiatives, and procurement packages within each category that will support compliance with workforce and procurement targets. Please include recipients/partners/stakeholders if these are known	Estimated spend $ of proposed opportunities
Direct Employment		
Supply Chain Employment		
Engagement of Aboriginal owned businesses that may be contracted in the supply chain		
Education and training		
Engagement and consultation		
Other type of expenditure if approved by the contracting agency		

Approved by:	Date of approval:

ITEM	APP EXCLUSION CATEGORY	Value ($) non-APP spend	Supporting COMMENT	Sydney Metro comments
[redacted]	[redacted]	[redacted]	[redacted]	
[redacted]				
[redacted]				
Total				

Exclusions from project spend are determined by Agencies and may include the following categories:

1. Specialised capital equipment (e.g. tunnel exhaust fans, tunnel boring machines, batch plants) where no suitable Australian supplier exists in the market

2. Materials imported from overseas where no suitable Australian supplier exists in the market

3. Existing and/or new non-contract/project specific assets apportioned to the contract/ project, where they are used in delivery of the contract/project

4 Property (i.e. acquisitions, indirect leasing costs, extra land, adjustments)

5 Non-construction related services.

The application of any exclusion is at the discretion of the agency.

CONTRACT EXECUTION PAGE

DATED .....21..... day of .....December 2023....

Executed and delivered as a deed in Sydney

EXECUTED by **SYDNEY METRO (ABN 12 354 063 515) BY ITS AUTHORISED DELEGATE** electronically pursuant to the *Electronic Transactions Act 1999* (Cth) and *Electronic Transactions Act 2000* (NSW).

[redacted]

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EXECUTED by RMA Contracting Pty Ltd (ABN 28 092 116 704) electronically pursuant to the *Electronic Transactions Act 1999* (Cth) and *Electronic Transactions Act 2000* (NSW) and in accordance with section 127 of the *Corporations Act 2001* (Cth):

[redacted]

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