



New South Wales Government

GC21 (Edition 2)

General Conditions of Contract

Preface

GC21 (Edition 2) General Conditions of Contract

- **Contract framework**
- **Carrying out the Works**
- **Claim and Issue resolution**
- **Termination**
- **Meanings**

Contract Agreement

Contract Information

Schedules

Attachments

GC21 (Edition 2) General Conditions of Contract

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- Department of Finance & Services
- Land and Housing Corporation
- Roads and Maritime Services
- Health Infrastructure
- Sydney Water Corporation

Government Codes and Guidelines

Copies of the Codes and Guidelines referred to in the GC21 (Edition 2) General Conditions of Contract may be obtained from the ProcurePoint website. These are as follows:

- NSW Government *Code of Practice for Procurement*
www.procurepoint.nsw.gov.au
- Work Health and Safety Management Systems and Auditing Guidelines (Edition 5)
- Quality Management Systems Guidelines for Construction
- Environmental Management Systems Guidelines (Edition 3)
- Training Management Guidelines
- Policy on Aboriginal Participation in Construction
- NSW Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (NSW Guidelines)
www.industrialrelations.nsw.gov.au

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Preface

The GC21 Edition 2 General Conditions of Contract

The GC21 Edition 2 General Conditions of Contract build on the experience and project success delivered with Edition 1 which had a highly effective emphasis on co-operative contracting and enhanced communication between the parties.

Edition 2 focuses on streamlining, updating and improving the operation of the contract to reflect experience and practice.

The requirement for Contractors to use the GC21 Subcontract has been discontinued in Edition 2, and replaced with a short list of mandatory requirements to give the Contractor and subcontractors flexibility in their commercial arrangements.

Using this document

All defined words and phrases have initial capitals and are in italics in the GC21 General Conditions of Contract unless they are one of the following basic terms, which appear too often for italics to be used:

- | | |
|------------------------|--|
| • Contract | • Site |
| • Contract Information | • Subcontract |
| • Contractor | • Subcontractor |
| • Consultant | • Supplier |
| • Date of Contract | • work in connection with the Contract |
| • Principal | • Works |

Attachments 1, 2, and 3 do not form part of the Contract.

Contract framework

Roles and relationships

1 General responsibilities

- .1 The Contractor must:
 - .1 demolish and dispose of the *Demolished Infrastructure* in accordance with the Contract;
 - .2 where the Contract requires part of the *Demolished Infrastructure* to be dismantled and sold, dismantle the relevant part of the *Demolished Infrastructure* and store it in accordance with the Contract;
 - .3 obtain the *Planning Approval (Stage 2)*;
 - .4 remediate the Site as required by the Contract;
 - .5 design and construct the Works in accordance with the Contract; and
 - .6 perform and observe all its other obligations under the Contract.
- .2 The Principal must:
 - .1 pay the Contractor the *Contract Price* for its performance, in accordance with and subject to the Contract; and
 - .2 perform and observe all its other obligations under the Contract.
- .3 The Principal may give instructions to the Contractor concerning the Works and anything connected with the work in connection with the Contract, and the Contractor must comply at its own cost unless the Contract expressly provides otherwise.

1A Authorities

- .1 This Contract will not in any way unlawfully restrict or affect the unfettered discretion of the Principal to exercise any of its functions and powers pursuant to any *Statutory Requirements*.
- .2 The Contractor acknowledges and agrees that, without limiting clause 1A.1, anything which the Principal does, fails to do or purports to do pursuant to its functions and powers under any *Statutory Requirements* will be deemed not to be an act or omission by the Principal under this Contract and will not entitle the Contractor to make any *Claim* against the Principal.
- .3 The Contractor acknowledges and agrees that:
 - .1 there are many authorities (other than the Principal) with jurisdiction over aspects of the work in connection with the Contract, parts of the Site and areas affected by the work in connection with the Contract;
 - .2 such authorities may from time to time exercise their functions and powers (whether statutory or otherwise) in such a way as to disrupt, interfere with or otherwise affect the work in connection with the Contract; and
 - .3 it bears the full risk of all occurrences of the kind referred to in clause 1A.3.2 and any associated delay, disruption or interference and will have no *Claim* against the Principal arising out of or in any way in connection with such occurrences (including in circumstances where the Principal may have become involved in matters relating to the work in connection with the Contract with a relevant authority).

2 Authorised persons

Contractor's Authorised Person

- .1 The Contractor must ensure that, at all times, there is a person appointed to act as the *Contractor's Authorised Person*. The *Contractor's Authorised Person* acts with the Contractor's full authority in all matters relating to the Contract. The Contractor must promptly notify the Principal of the name and contact details of the *Contractor's Authorised Person* and of any change in those details. If the Principal reasonably objects

to the *Contractor's Authorised Person* at any time, the Contractor must replace that person.

Principal's Authorised Person

- .2 The Principal must ensure that, at all times, there is a person appointed to act as the *Principal's Authorised Person*. The Principal must promptly notify the Contractor of the name and contact details of the *Principal's Authorised Person* and of any change in those details.
- .3 The *Principal's Authorised Person* does not act as an independent certifier, assessor or valuer. The *Principal's Authorised Person* acts only as an agent of the Principal.
- .4 The *Principal's Authorised Person* may delegate any of its contractual functions and powers to others by written notice to the Contractor. Delegation of any functions or powers of the *Principal's Authorised Person* does not prevent the *Principal's Authorised Person* from exercising those functions or powers.

3 Co-operation

- .1 The parties must do all they reasonably can to co-operate in all matters relating to the Contract, but their rights and responsibilities under the Contract (or otherwise) remain unchanged unless the parties agree in writing to change them.

4 Duty not to hinder performance

- .1 Each party must do all it reasonably can to avoid hindering the performance of the other under the Contract.

5 Early warning

- .1 Each party must promptly inform the other if it becomes aware of anything that is likely to affect the time for *Completion*, the cost or quality of the Works, cause loss of or damage to property or the *Environment* or affect the health and safety of any person. The parties must then investigate how to avoid or minimise any adverse effect on the Works, *Scheduled Progress*, property, *Environment* or the health and safety of any person.

6 Evaluation and monitoring

Reports

- .1 From the Date of Contract until the *Actual Completion Date*, the Contractor must give the Principal:
 - .1 weekly progress reports on the work in connection with the Contract covering such matters as the Principal shall require; and
 - .2 monthly progress reports on the work in connection with the Contract covering such matters as the Principal shall require.
- .2 The Contractor must provide:
 - .1 the weekly progress report under clause 6.1.1 at least 2 *Business Days* before each weekly site meeting under clause 6.5.2; and
 - .2 the monthly progress report under clause 6.1.2 within 5 *Business Days* after the end of each month.
- .3 From the *Actual Completion Date* until the end of the *Defects Liability Period*, the Contractor must give the Principal regular reports on the rectification of *Defects* and the completion of outstanding work in connection with the Contract.
- .4 The Contractor must undertake a dilapidation survey and produce a dilapidation report in accordance with the requirements of section 4.6 of the *Preliminaries*.

Meetings

- .5 The parties must meet:
 - .1 monthly, at a location agreed by the parties (or at the Site if the parties fail to agree); and
 - .2 weekly at the Site,
 to evaluate and monitor performance of the Contract.

- .6 The Principal shall notify the Contractor who must participate in the meetings. Participants may include Subcontractors, Suppliers, Consultants and, if appropriate, representatives of government authorities, stakeholders, end users and local communities. Participation in meetings does not give the participants any additional rights or responsibilities.
- .7 Nothing concerning or in connection with completed evaluation forms changes either party's rights and responsibilities, or can be relied on or used by one party against another in any proceedings.
- .8 Participants in the evaluation and monitoring meetings must meet their own costs for attendance.

Contractor's records

- .9 During the performance of the works in connection with the Contract, the Contractor must ensure that a complete set of:
 - .1 the Contract;
 - .2 the *Contractor's Documents*, including the *Design Documentation*;
 - .3 the *Contractor's Project Plans*;
 - .4 *Approvals* obtained for the work in connection with the Contract; and
 - .5 all other written information supplied by or produced by the Principal and the Contractor in connection with the Contract,
 is kept at the Site and is be available at all times for inspection by the Principal, the *Principal's Authorised Person* and any persons nominated in writing by them upon reasonable notice.
- .10 During the manufacture or assembly of any *Materials* off Site, a set of the information and documents referred to in clause 6.9 relevant to that part of the work in connection with the Contract must:
 - .1 be kept at the place of manufacture or assembly; and
 - .2 be available for inspection by the Principal, the *Principal's Authorised Person* and any persons nominated in writing by them upon reasonable notice.
- .11 The Contractor must, and must ensure all Subcontractors, Suppliers and Consultants keep and maintain complete and detailed records in respect of the Contract ("**Records**"). Such *Records* must be kept in accordance with generally accepted accounting principles.
- .12 The Contractor must provide the Principal, the *Principal's Authorised Person* and any persons nominated in writing by them with access to the *Records*, allow them to take copies of the *Records* and allow them to extract *Records* from data stored on computer files to enable the Principal to verify, to its reasonable satisfaction:
 - .1 the proper performance of the work in connection with the Contract; and
 - .2 the Contractor's compliance with its obligations under the Contract.
- .13 The Contractor must allow the Principal, the *Principal's Authorised Person* and any persons nominated in writing by them access to the *Contractor's Personnel* and provide reasonable assistance to the Principal, the *Principal's Authorised Person* and any persons nominated in writing by them in accessing and reviewing the *Records*.
- .14 The Contractor must preserve the *Records* until 7 years after the expiry of the last *Defect Liability Period*.

6A Contractor's obligations unaffected

- .1 The Contractor's warranties and obligations under the Contract, including to perform the work in connection with the Contract in accordance with the Contract, remain unaffected notwithstanding:
 - .1 any receipt, review, comment, approval or silence by or on behalf of the Principal or the *Principal's Authorised Person* in relation to:
 - .1 the documents prepared or provided by the Contractor or the *Contractor's Personnel*, including the *Concept Design*, the *Design Documentation* or the *Contractor's Project Plans*;

- .2 the design, *Materials*, construction equipment and methods of working used by the Contractor;
- .3 the Subcontractors, Suppliers and Consultants engaged by the Contractor;
- .4 any work in connection with the Contract performed or the way any work in connection with the Contract is performed;
- .5 the Principal's consent to subcontract under clause 29;
- .2 any test or inspection witnessed by or carried out by or on behalf of the Principal or the *Principal's Authorised Person* or any failure to witness by the Principal or the *Principal's Authorised Person*; or
- .3 the Contractor's use of any information, design, *Materials*, construction equipment or work methods prepared, provided or suggested by or on behalf of the Principal or the *Principal's Authorised Person*.

The Contract

7 Separable Portions

- .1 The interpretation and application of:
 - .1 *Completion*;
 - .2 *Contractual Completion Date*; and
 - .3 *Actual Completion Date*;
 and clauses 50, 51, 64, 65 and 67 apply separately to each *Separable Portion* and references to the Works and the work in connection with the Contract means those parts of the Works or the work in connection with the Contract comprised in the relevant *Separable Portion*.
- .2 *Separable Portions* may be directed by the *Principal's Authorised Person* from time to time who will clearly identify, for each *Separable Portion*, the:
 - .1 scope of Works;
 - .2 *Contractual Completion Date*; and
 - .3 rate of liquidated damages.

8 Scope of the Works, Temporary Work and work methods

- .1 The Works and the work in connection with the Contract are described in brief in Contract Information item 3 and in more detail in the *Contract Documents*, and include:
 - .1 all work specifically referred to in or contemplated by the Contract;
 - .2 all work and items necessary to achieve the effective and efficient use and operation of the Works; and
 - .3 all work and items necessary for the Works to be fit for the purposes required by the Contract.
- .2 The working connection with the Contract includes:
 - .1 all work and items, other than the Works, specifically referred to in or contemplated by the Contract;
 - .2 all work and items necessary to carry out and complete the Works properly; and
 - .3 all work and items reasonably inferred from the *Contract Documents* as necessary to properly perform the other obligations of the Contractor under the Contract.
- .3 The Contractor acknowledges that:
 - .1 it is both experienced and expert in work of the type, complexity and scale of the Works;
 - .2 it has made full allowance in the *Contract Price* for the matters referred to in clauses 8.1 and 8.2; and
 - .3 unless the Contract expressly provides an entitlement to payment, everything required to be done by the Contractor under the Contract is to be done at the Contractor's own cost.

- .4 The Contractor acknowledges that *Variations* instructed by the Principal may change the scope of the Works or the work in connection with the Contract.
- .5 Unless the Contract specifies that the Contractor use a particular work method or perform particular *Temporary Work*, the Contractor is solely responsible for determining the work methods and the requirements for all *Temporary Work*.
- .6 The Contractor must:
 - .1 provide all *Temporary Works* required to perform its obligations under the Contract;
 - .2 ensure that all *Temporary Works* are of suitable quality and maintained in excellent condition; and
 - .3 ensure the *Temporary Works* are established at locations and positions on the *Site* that minimise the impact on the Works, the Site and adjoining properties.

9 Assignment and Change in Control

No assignment by Contractor

- .1 The Contractor must not assign a right or benefit under the Contract without first obtaining the Principal's written consent (which may be withheld in the Principal's absolute discretion).
- .2 Subject to clause 9.3, the Contractor must ensure that no *Change in Control* occurs in respect of it or the *Guarantor* without the Principal's prior written consent (which may be withheld in the Principal's absolute discretion). For the purposes of this clause, the Principal will not unreasonably withhold its consent where the *Change in Control* is constituted solely by a corporate restructure where there is no material adverse change to the ability of the Contractor to perform its obligations under the Contract and the Contractor remains a subsidiary of the *Guarantor*.
- .3 The consent referred to in clause 9.2 is not required for a *Change in Control* resulting from a transfer of any share or unit or other interest in the nature of equity which is listed on a recognised stock exchange.

Transfer by the Principal

- .4 The Contractor acknowledges and agrees that following the *Actual Completion Date*, the Principal may elect to transfer, assign or novate this Contract, and any of its rights, benefits, interests or obligations under or in connection with the Contract to:
 - .1 Venues New South Wales; or
 - .2 any other entity which is owned or controlled by the State of New South Wales or to any agency of the State of New South Wales that will be the owner and operator of the Works.
- .5 If the Principal elects to transfer, assign or novate this Contract pursuant to clause 9.4, the Contractor:
 - .1 consents to any such transfer, assignment or novation; and
 - .2 acknowledges that such transfer, assignment or novation may be effected by way of:
 - .1 vesting orders;
 - .2 a deed of assignment between the Principal and the relevant assignee; or
 - .3 entry by the parties and the relevant transferee or novatee into a *Novation Deed*.
- .6 Where the Principal proposes to transfer or novate its rights and obligations under this Contract by way of *Novation Deed*, the Contractor must promptly following notice from the Principal, execute a *Novation Deed*.

9A Contractor Warranty Deed

- .1 Within 10 *Business Days* of the Date of Contract, the Contractor must provide the Principal with a *Contractor Warranty Deed* in favour of Venues NSW, duly executed by the Contractor.

10 Governing law of the Contract

- .1 The Contract is governed by the laws of New South Wales, and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

11 Notices and instructions

- .1 Notices must be sent to the relevant persons at the addresses in Contract Information items 4 to 11 or 52, or at the address for service most recently notified in writing by the addressee.
- .2 All notices must be in writing, and all instructions by the Principal must be in writing or, if given orally, must be confirmed in writing as soon as practicable.
- .3 Notices are taken to be received:
 - .1 if sent by post, 3 days after posting; or
 - .2 if sent by email:
 - .1 when the sender receives an automated message confirming delivery; or
 - .2 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

11A Benefit of indemnities

- .1 The Principal holds the benefit of any indemnity given by the Contractor in favour of an *Indemnified Party* (including the right to recover any *Loss*) for itself and on trust for each *Indemnified Party* and is entitled to enforce this Contract (including any indemnity), whether by way of equitable, legal or statutory relief, for itself and on behalf of any *Indemnified Party*.

11B Information Documents

- .1 The parties acknowledge that:
 - .1 at the Date of Contract, the Principal has provided in good faith the *Information Documents*;
 - .2 the *Information Documents* do not form part of the Contract;
 - .3 the Principal does not guarantee or warrant the accuracy, quality or completeness of the *Information Documents*;
 - .4 the Principal has no duty of care in connection with the *Information Documents*, or with having provided them; and
 - .5 The Principal makes no representation, gives no warranty and assumes no duty of care, in respect of:
 - .1 the Site, the *Site Conditions* or the *Information Documents*; or
 - .2 the adequacy or suitability of the Site, *Site Conditions* or the *Information Documents* for the performance of the work in connection with the Contract.
- .2 The Contractor warrants that it:
 - .1 has made its own inquiries concerning the Site, *Site Conditions* and the *Information Documents*, including the *Information Documents*;
 - .2 has examined the Site and surrounds and satisfied itself through its own investigation as to the *Site Conditions* which might reasonably be expected;
 - .3 has made its own assessment of the risks, contingencies and other circumstances which might affect the work in connection with the Contract and has allowed fully for these in the *Contract Price*;
 - .4 did not, and will not, rely on the accuracy, quality or completeness of the *Information Documents*; and
 - .5 has made its own interpretations, deductions and conclusions and did not in any way rely on interpretations, deductions and conclusions made by or for the Principal.

- .3 The Contractor is not entitled to any *Claim* arising out of or in connection with, the inaccuracy, incompleteness or inadequacy of, or the reliance by the Contractor upon, any *Information Documents*.
- .4 The Contractor acknowledges that the Principal has entered into the Contract in reliance on the acknowledgments and warranties given by the Contractor in clause 11B.2.

Statutory and Government Requirements

12 Statutory Requirements and Approvals

- .1 The Principal must ensure that the *Approvals* listed in Contract Information item 14 are obtained and paid for.
- .2 The Contractor is responsible for:
 - .1 compliance with all *Statutory Requirements*;
 - .2 giving all notices necessary to comply with *Statutory Requirements*;
 - .3 obtaining:
 - .1 subject to clause 12A.1, the *Planning Approval (Stage 2)*; and
 - .2 all other *Approvals* necessary to carry out the work in connection with the Contract, other than those listed in Contract Information item 14;
 - .4 the payment of all necessary fees and charges, other than those listed in Contract Information item 14.
- .3 The Contractor must:
 - .1 carry out the work in connection with the Contract in accordance with, and ensure the Works comply with, all *Statutory Requirements* and *Approvals*, including the conditions and requirements attached to any *Approval*; and
 - .2 comply with and discharge the conditions and requirements of all *Approvals* (whether obtained by the Contractor or the Principal) including those conditions and requirements which the Principal is expressly or impliedly required under the terms of the *Approvals* to comply with, carry out and discharge, other than those conditions listed in Contract Information item 14A.
- .4 The Contractor must:
 - .1 give the Principal copies of all notices, reports and submissions it gives to authorities at the time it submits such notices, reports and submissions and responses from, and details of any consultations with, authorities; and
 - .2 give the Principal copies of all documents (including *Approvals* and other notices) that authorities issue to it.
- .5 As a condition of achieving *Completion*, the Contractor must give to the Principal originals of all *Approvals* and other documents issued by or to authorities or providers of services in connection with the Works or the Site.

12A Planning Approval (Stage 2)

- .1 Subject to this clause 12A, the parties agree that the Principal will submit the application for the *Planning Approval (Stage 2)* in its name.
- .2 Notwithstanding clause 12A.1, the Contractor acknowledges and agrees that:
 - .1 the Contractor must prepare all documentation required to be prepared for the purpose of seeking, obtaining or otherwise in connection with the *Planning Approval (Stage 2)* (**Approval Related Documentation**); and
 - .2 subject to clauses 12A.3, 12A.10 and 12A.13, the Contractor bears all risk associated with obtaining the *Planning Approval (Stage 2)*, including the risk of any delay by the relevant authority in issuing the *Planning Approval (Stage 2)* or the risk that the *Planning Approval (Stage 2)* is not granted.

.3 Where:

- .1 a legal challenge occurs to the *Planning Approval (Stage 1)* or the *Planning Approval (Stage 2)* which relates to a matter which is outside the reasonable control of the Contractor;
- .2 a relevant authority fails to issue the *Planning Approval (Stage 2)* within 14 weeks of submission of the relevant application to the authority; or
- .3 any conditions are imposed on the *Planning Approval (Stage 2)* which are materially disadvantageous to the Contractor and which are materially different to conditions that should reasonably have been expected by a competent and experienced contractor that had done all of the things which the Contractor is obliged to do under the Contract,

the Contractor will be entitled to claim:

- .4 an extension of time under clause 50.1 in respect of an *Excusable Delay Event*; and
- .5 in respect of clause 12A.3.3 only:
 - .1 delay costs under clause 51.1; and
 - .2 an increase in the Contract Price to be valued in accordance with clause 47 for unavoidable additional costs incurred by the Contractor as a result of the unexpected planning conditions,

provided that such events or circumstances did not arise as a result of an act or omission of the Contractor or the *Contractor's Personnel*.

.4 Subject to clause 12A.13, the Contractor will have no Claim against the Principal arising out of or in connection with obtaining the *Planning Approval (Stage 2)*, including in respect of any failure to obtain the *Planning Approval (Stage 2)* or a delay by the relevant authority in issuing the *Planning Approval (Stage 2)* save as provided for in clauses 12A.3 and 12A.10.

.5 The Contractor must:

- .1 throughout the preparation of the *Approval Related Documentation*, give the *Principal's Authorised Person* the opportunity to monitor the preparation of, and to review and comment on, the *Approval Related Documentation* as contemplated in this clause 12A;
- .2 progressively develop and prepare the *Approval Related Documentation* and, at regular and frequent intervals, give the *Principal's Authorised Person* drafts of the *Approval Related Documentation* as it is being prepared;
- .3 allow the *Principal's Authorised Person* (if it elects to do so) to consult with the Contractor and to comment on the *Approval Related Documentation* submitted under clause 12A.5.2;
- .4 consider and, to the extent the Contractor considers necessary, address any comments made by the *Principal's Authorised Person* under clause 12A.5.3 in the Contractor's further preparation of the *Approval Related Documentation*;
- .5 give the *Principal's Authorised Person* any information which the *Principal's Authorised Person* may reasonably request in order for any of them to review and consider the *Approval Related Documentation*;
- .6 submit to the *Principal's Authorised Person* a draft of the final version of the applicable *Approval Related Documentation* which the Contractor proposes be submitted to an authority for approval, together with a schedule detailing all the comments received from the *Principal's Authorised Person* under clause 12A.5.3 and the actions (if any) taken by the Contractor to address those comments;
- .7 allow 5 *Business Days* from the date the final version of the applicable *Approval Related Documentation* is submitted to the *Principal's Authorised Person* under clause 12A.5.6 for the *Principal's Authorised Person* (if it elects to do so) to consult with the Contractor and:
 - .1 comment on that documentation to the extent to which the *Principal's Authorised Person* considers that it is not of a suitable standard or content

- having regard to the nature of the *Planning Approval (Stage 1)* or *Planning Approval (Stage 2)* (which comments the Contractor must address); or
 - reject that documentation if it does not comply with the requirements of this Contract or any *Statutory Requirement*; and
 - if any *Approval Related Documentation* is rejected by the *Principal's Authorised Person* under clause 12A.5.7.2, promptly amend the documentation to comply with the requirements of this Contract, and the process in clause 12A.5.7 will re-apply to the amended documentation; and
 - following finalisation of the process set out in this clause 12A.5, provide the final version of the *Approval Related Documentation* to the Principal for submission to the relevant authority.
- If the Contractor wishes to revise the final *Approval Related Documentation* that has been submitted to the Principal under clause 12A.5.9, the Contractor must submit the revised *Approval Related Documentation* to the *Principal's Authorised Person* and clauses 12A.5.6 and 12A.5.7 will reapply to that *Approval Related Documentation*.
- The Contractor must:
 - following submission of the *Approval Related Documentation* to the relevant authority:
 - liaise with, and attend any meetings required by, the relevant authority in relation to the *Planning Approval (Stage 2)*; and
 - prepare any further documentation or information required by the relevant authority and provide copies of such documentation or information to the Principal for review prior to submitting them to the relevant authority;
 - not amend, or seek to amend, any *Approval Related Documentation* that has been submitted to the relevant authority without the prior written consent of the Principal; and
 - not comment on any draft conditions issued by the relevant authority in respect of the *Planning Approval (Stage 2)* without the prior written consent of the Principal.
- In respect of any documentation submitted:
 - by the Contractor to the *Principal's Authorised Person* under clause 12A.5, including whether or not the *Principal's Authorised Person* reviews it for errors, omissions, compliance with this Contract or suitability for submission to the relevant authority and whether or not the *Principal's Authorised Person* comments on it or engages in any act or omission in respect of it; or
 - by the Principal to an authority following the process in clauses 12A.5 or 12A.7, then:
 - neither the Principal nor the *Principal's Authorised Person* owes a duty to the Contractor;
 - neither the Principal nor the *Principal's Authorised Person* is responsible for any error, deficiency or omission in such documents; and
 - the Contractor's liabilities or responsibilities and the Principal's rights under this Contract or otherwise will not be changed from what they otherwise would be.
- The Principal must provide the Contractor with a copy of the *Planning Approval (Stage 2)* issued by the relevant authority promptly following receipt by the Principal.
- If the Principal is not satisfied with any condition of the *Planning Approval (Stage 2)*, the Principal may:
 - notify the Contractor of any conditions of the *Planning Approval (Stage 2)* it is not satisfied with;
 - require the Contractor to meet and consult with the Principal and any relevant stakeholder in relation to such conditions; and

- .3 challenge the conditions of the *Planning Approval (Stage 2)* it is not satisfied with itself in accordance with any applicable *Statutory Requirements* (for the avoidance of doubt, this may be by way of merits appeal or judicial review),
and the Contractor will be entitled to claim:
 - .4 an extension of time under clause 50.1, and delay costs under clause 51.1, in respect of any delay caused by any notification, requirement or other act of the Principal under this clause 12A.10, and any such notification, requirement or other act shall be deemed to be an *Excusable Delay Event*; and
 - .5 an increase in the *Contract Price* to be valued in accordance with clause 47 for unavoidable additional costs incurred by the Contractor as a result of compliance with the Principal's requirements under this clause 12A.10.
- .11 If the Principal challenges the conditions of the *Planning Approval (Stage 2)* pursuant to clause 12A.10.3, the Contractor must prepare all documentation and provide all assistance required by the Principal to do so.
- .12 The process in this clause 12A is separate from, and does not in any way limit the operation of, any other review process set out in this Contract.
- .13 If the Contractor fails to obtain *Planning Approval (Stage 2)* on conditions satisfactory to the Principal due solely to the Principal not being satisfied with a condition of the *Planning Approval (Stage 2)*, the Contractor shall not be in breach of its obligations under this Contract, including under this clause 12A.

13 Codes of Practice and Implementation Guidelines

Terminology

- .1 In addition to terms defined in this document, terms used in this clause have the same meaning as is attributed to them in the New South Wales Government's Implementation Guidelines to the NSW Code of Practice for the Building and Construction Industry (NSW Guidelines) (as published by the NSW Treasury July 2013). The NSW Code and NSW Guidelines are available at www.industrialrelations.nsw.gov.au.

Primary Obligation

- .2 The Contractor must comply with and meet any obligations imposed by the NSW Government Code of Practice for Procurement (NSW Code) and the NSW Guidelines.
- .3 The Contractor must notify the Construction Compliance Unit (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.
- .4 Where the Contractor engages a Subcontractor or Consultant, the Contractor must ensure that that contract imposes on the Subcontractor or Consultant equivalent obligations to those in this clause, including that the Subcontractor or Consultant must at all times comply with, and meet any obligations imposed by, the NSW Code and the NSW Guidelines.
- .5 The Contractor must not appoint or engage another party in relation to the Contract where that appointment or engagement would breach a sanction imposed on the other party in relation to the NSW Code or NSW Guidelines.

Access and information

- .6 The Contractor must maintain adequate records of compliance with the NSW Code and NSW Guidelines by it, its Subcontractors, Consultants and related entities.
- .7 The Contractor must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:
 - .1 enter and have access to sites and premises controlled by the Contractor, including but not limited to the Site;
 - .2 inspect any work, material, machinery, appliance, article or facility;
 - .3 access information and documents;
 - .4 inspect and copy any record relevant to the project;
 - .5 have access to personnel; and

- .6 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, Consultants, and related entities.
- .8 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.

Sanctions

- .9 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.
- .10 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.
- .11 Where a sanction is imposed:
 - .1 it is without prejudice to any rights that would otherwise accrue to the parties; and
 - .2 the State of NSW (through its agencies, Ministers and the CCU) is entitled to:
 - .1 record and disclose details of noncompliance with the NSW Code or NSW Guidelines and the sanction; and
 - .2 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.

Compliance

- .12 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.
- .13 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.
- .14 Where a change in the Contract or 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:
 - .1 the circumstances of the proposed change;
 - .2 the extent to which compliance with the NSW Code and NSW Guidelines will be, or is likely to be, affected by the change; and
 - .3 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 Work Health and Safety (WHS) Management Plan); and
 the Principal will direct the Contractor as to the course it must adopt within 10 *Business Days* of receiving notice.

Commonwealth Building Code 2013

- .15 If required by Contract Information item 16A, the Contractor must comply with the requirements of the Building Code 2013 and Schedule 12 (Compliance with Building Code 2013) applies.

14 No collusive arrangements

- .1 The Contractor warrants that it has not engaged in any collusive or anti-competitive arrangement or understanding in connection with its tender for, or entry into, the Contract.

- .2 Without limiting any other right or remedy, the Principal may recover from the Contractor the value of any payment or other benefit made directly or indirectly to an unsuccessful tenderer or a trade or industry association in breach of the warranty in clause 14.1.

15 Compliance with NSW Government Requirements

- .1 The Contractor must implement and maintain the systems, strategies and procedures required to comply with the following NSW Government Policy and Guidelines, and meet other obligations as specified in Contract Information item 15:
 - .1 NSW Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction (NSW Guidelines);
 - .2 the Work Health and Safety Management Systems and Auditing Guidelines;
 - .3 the Quality Management Systems Guidelines for Construction (including any requirements set out in section 4.1 of the *Preliminaries*);
 - .4 the Environmental Management Systems Guidelines;
 - .5 the NSW Government Procurement Guideline *Skills and Training in the Construction Industry* (including any requirements set out in section 4.3 of the *Preliminaries*); and
 - .6 the NSW Government Policy on Aboriginal Participation in Construction (including any requirements set out in section 4.2 of the *Preliminaries*).
- .2 The requirements of relevant NSW Government Guidelines are additional to any other requirements of the Contract and *Statutory Requirements*.
- .3 The *Contractor's Project Plans* must comply with all requirements of the relevant NSW Government Guidelines and the Contract, including sections 4.1, 6 and 9 of the *Preliminaries*.
- .4 The Contractor must:
 - .1 systematically manage its obligations under the Contract and applicable *Statutory Requirements* according to the systems, and procedures required under clauses 15.1 and the *Contractor's Project Plans*;
 - .2 review and update its systems, procedures and the *Contractor's Project Plans* to ensure ongoing compliance with the Contract;
 - .3 control non-conformances and undertake corrective and preventive action as and when necessary; and
 - .4 provide sufficient access to the workplace, and to information, records and other relevant documentation, resources (including *Contractor's Personnel*) and all other things necessary to allow the Principal to carry out reviews and audit of the *Contractor's Project Plans*, systems and procedures and confirm compliance with the Contract.

16 Workplace Health and Safety

Compliance and Co-operation

- .1 The Contractor warrants to the Principal that it is familiar with and has the capability and resources to comply with all applicable *WHS Legislation*.
- .2 The Contractor must:
 - .1 comply with, and ensure that any and all of the *Contractor's Personnel* comply with:
 - .1 all applicable *WHS Legislation*;
 - .2 the provisions of this clause 16;
 - .3 the workplace health and safety requirements set out in section 9 of the *Preliminaries*; and
 - .4 the *WHS Plan*;
 - .2 upon reasonable request by, or on behalf of, the Principal, demonstrate such compliance including by providing written evidence of measures taken to achieve such compliance;

- .3 allow the Principal, the *Principal's Authorised Person* or a person nominated by the Principal to audit the Contractor's compliance with this clause 16;
- .4 if the Principal exercises its right to audit compliance pursuant to clause 16.2.3, promptly provide reasonable assistance and access to information to enable the Principal or a person nominated by the Principal to carry out such audit;
- .5 cooperate with *Separate Contractors* as necessary to ensure (where reasonably practicable) safety practices at the *Site* are consistent;
- .6 cooperate with the Principal to enable the Principal to comply with its obligations under applicable *WHS Legislation*;
- .7 immediately advise the Principal in writing of any act, fact or circumstances relevant to the ability of the Contractor to carry out the its obligations under the Contract without risk to health or safety;
- .8 supply all items necessary to ensure the work in connection with the Contract is being performed without risk to health or safety; and
- .9 ensure that all items supplied by it, including *Materials*, are maintained in a safe condition and without risk to any person including providing written evidence of measures taken to achieve compliance with this clause 16.

WHS Plan

- .3 The Contractor's high level draft *WHS Plan* at the Date of Contract is included in Schedule 22.
- .4 The Contractor must, within 15 *Business Days* after the Date of Contract and at least 40 *Business Days* before first mobilising to the Site, prepare and submit a *WHS Plan* to the Principal under clause 32A.3.
- .5 The *WHS Plan* must:
 - .1 be consistent with the high level draft *WHS Plan* in Schedule 22;
 - .2 set out in detail how the Contractor proposes to comply with its obligations under the *WHS Legislation* and the Contract;
 - .3 detail the interface arrangements between the Principal, *Separate Contractors* and the Contractor for health and safety, including emergency response, incident reporting and security, including assigned responsibilities;
 - .4 comply with:
 - .1 the Contract, including the *Project Brief* and the workplace health and safety requirements set out in section 9 of the *Preliminaries*;
 - .2 all applicable *Statutory Requirements*; and
 - .3 all relevant NSW Government Guidelines and
 - .5 include any other information required by the Contract, any applicable *Statutory Requirements* or the Principal.
- .6 The Contractor acknowledges that:
 - .1 the *WHS Plan* is only an aid to achieve and document compliance with the Contract, and will not limit the Contractor's responsibility to comply with the Contractor's obligations under the Contract; and
 - .2 compliance with the *WHS Plan* does not of itself modify or release the Contractor from any of the Contractor's obligations arising under or in connection with the Contract.
- .7 The Contractor must not commence any works on Site unless and until the *WHS Plan* has been submitted to the *Principal's Authorised Person* in accordance with clause 32A.3 and has not been commented on by the *Principal's Authorised Person* pursuant to clause 32A.4.

Contractor's responsibilities

- .8 The Contractor must:
 - .1 before commencement of the work in connection with the Contract, undertake an assessment of the risks associated with the Site and the work in connection with

- the Contract and identify and implement appropriate measures to control all such risks;
- .2 provide details of the risk assessment and evidence of implementation of adequate risk control measures to the Principal in accordance with any reasonable request by, or on behalf of, the Principal;
 - .3 immediately notify the Principal and any relevant authority in accordance with applicable *WHS Legislation* and the *WHS Plan* (and, in any case, within 24 hours) of any accident, notifiable incident (being an incident which is notifiable under applicable *WHS Legislation*), injury, property or environmental damage which:
 - .1 occurs during the performance of the Contractor's obligations;
 - .2 is associated with the Site or the work in connection with the Contract; or
 - .3 is otherwise required by *WHS Legislation* to be notified;
 - .4 within 24 hours of any such accident, notifiable incident, injury, property or environmental damage, provide the Principal with a written report giving details of the accident, notifiable incident, injury, property or environmental damage and evidence that the requirements of the *WHS Legislation* have been met;
 - .5 promptly provide investigation reports and details of root causes, action and remedial work to be undertaken in connection with any such accident, notifiable incident, injury, property or environmental damage; and
 - .6 appoint statutory position holders for the purposes of applicable *WHS Legislation* as requested by the Principal or the *Principal's Authorised Person*.
- .9 Without limiting any other provision of this clause 16, the Contractor must ensure, so far as is reasonably practicable:
- .1 the health and safety of workers carrying out the work in connection with the Contract;
 - .2 that the workers under its control and supervision take reasonable care while carrying out the work in connection with the Contract;
 - .3 the provision and maintenance of safe systems of work;
 - .4 that workers:
 - .1 receive the necessary information, training, instruction and supervision in order to comply with the *WHS Legislation* and the *Additional WHS Requirements* and any rules, regulations, policies and guidelines issued from time to time by the Contractor; and
 - .2 are aware of, and comply with, all requirements and directives relating to work health and safety which is issued by the Contractor from time to time; and
 - .5 the health and safety of other persons is not put at risk from activities in connection with the Works.
- .10 The Principal may request the Contractor to:
- .1 immediately cease or modify any activity that does not materially comply with the *WHS Plan* or the *WHS Legislation*; and
 - .2 provide evidence of action taken to meet the Contractor's obligations under this clause 16.10.
- .11 If the Contractor receives a direction or instruction from the Principal or the *Principal's Authorised Person* that it considers will:
- .1 require it to breach this clause 16 or any applicable *WHS Legislation*; or
 - .2 give rise to circumstances which present actual or potential risk to life or serious injury,
- the Contractor shall, as soon as is reasonably practicable, and in any event prior to complying with such direction or instruction, notify the *Principal's Authorised Person* in writing.
- .12 The Contractor acknowledges and agrees that:
- .1 the audits referred to in clause 16.2.3 do not relieve, limit or otherwise affect the Contractor's responsibilities under *WHS Legislation* and the Contract; and

- .2 any corrective work or action which the audit identifies as necessary to rectify any departure from the Contractor's responsibilities under *WHS Legislation* and the Contract must be undertaken by the Contractor at its expense and within a reasonable time, given the nature of the departure.
- .13 Where the Contractor or the *Contractor's Personnel* are required to visit or work on any site that is not part of the Site or is not otherwise controlled by the Contractor, the Contractor must, and must ensure that the *Contractor's Personnel*, comply with all directions, procedures and policies of the person that has control or management of that site.
- .14 The Contractor indemnifies the *Indemnified Parties* from and against all claims (including *Claims*) made or brought against the *Indemnified Parties* and any *Loss* suffered or incurred by the *Indemnified Parties* arising out of or in connection with the Contractor's failure to comply with this clause 16.

16A Appointment of principal contractor for WHS

- .1 Unless otherwise stated in the Contract the Contractor:
 - .1 is engaged as principal contractor for the construction project in accordance with Clause 293 of the *Work Health and Safety (WHS) Regulation 2011 (NSW)*;
 - .2 is authorised to have management and control of the workplace as necessary to enable it to discharge the duties of a principal contractor and of a person having management or control of a workplace;
 - .3 must perform the duties of:
 - .1 a principal contractor, as specified in the *WHS Regulation 2011 (NSW)*, and
 - .2 a person with management or control of a workplace as specified in the *Work Health and Safety Act 2011 (NSW)* and the *WHS Regulation 2011 (NSW)*; and
 - .4 must notify the Principal promptly of any matter affecting workplace health and safety where consultation with the Principal is necessary.
- .2 The Contractor indemnifies the *Indemnified Parties* from and against all claims (including *Claims*) made or brought against the *Indemnified Parties* and any *Loss* suffered or incurred by the *Indemnified Parties* arising out of or in connection with the Contractor's failure to comply with this clause 16A.

17 Commonwealth OHS Accreditation

- .1 If required by Contract Information item 16B, the Contractor must maintain accreditation under the Australian Government Building and Construction OHS Accreditation Scheme (the Scheme) established by the *Building and Construction Industry Improvement Act 2005 (Cwlth)* (BCII Act) while building work (as defined in section 5 of the BCII Act) is carried out. The Contractor must comply with all conditions of Scheme accreditation.

18 Working hours and working days

- .1 The Contractor must observe:
 - .1 *Statutory Requirements* which regulate working hours and working days; and
 - .2 any requirements in Contract Information item 18.

19 Authorisation to release and use information

- .1 The Contractor authorises the Principal to:
 - .1 provide information about the Contractor, including information provided by the Contractor and information related to the Contractor's performance, to other Commonwealth, State or local government agencies at any time or for any reason; and
 - .2 take account of information about the Contractor, including reports of unsatisfactory performance, from any government agency or other reputable source, when deciding whether to offer the Contractor future opportunities for work.

- .2 The Contractor agrees and acknowledges that the Principal is entitled to rely on the defence of qualified privilege for the purposes of section 30 of the *Defamation Act 2005* (NSW) in making information available to others as contemplated by clause 19.1.1.
- .3 The Contractor releases and indemnifies the *Indemnified Parties* from and against any claim, action, loss, damage, expense or liability the *Indemnified Parties* may sustain or incur in connection with anything authorised by clause 19 or anything done by a recipient of the information.

20 Long service levy

- .1 Before starting construction work, the Contractor must:
 - .1 pay to the Building and Construction Industry Long Service Corporation or the Corporation's agent the amount of the long service levy payable under the *Building and Construction Industry Long Service Payments Act 1986* (NSW) in respect of the building and/or construction work; and
 - .2 give the Principal documentary evidence of payment of the levy.

21 Registration and licences

- .1 All vehicles and plant used in carrying out work in connection with the Contract must be registered as required by law.
- .2 All drivers who operate vehicles or plant in carrying out work in connection with the Contract must be licensed to operate those vehicles or plant as required by law.
- .3 Whenever requested, the Contractor must promptly provide documentary evidence of compliance with clause 21.

21A PPSA

PPSA further steps

- .1 If either party ("Party A") determines that the Contract (or a transaction in connection with it) is or contains a security interest for the purposes of the *PPSA*, the other party ("Party B") agrees to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which Party A asks and considers necessary for the purposes of:
 - .1 ensuring that the security interest is enforceable, perfected (including, where possible, by control in addition to registration) and otherwise effective; or
 - .2 enabling Party A to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by Party A; or
 - .3 enabling Party A to exercise rights in connection with the security interest.

Costs of further steps and undertaking

- .2 The parties will bear their own costs in complying with, and performing, their respective obligations under this clause 21A.

Negative pledge for the purposes of the PPSA

- .3 For the purposes of this clause 21A.3, "Personal Property" means all personal property of the Principal or the Contractor (as applicable) the subject of a security interest granted in favour of the other party under the Contract.
- .4 Each party agrees:
 - .1 not to create any security interest or lien over any of the other party's Personal Property;
 - .2 not to sell, lease or dispose of its interest in the other party's Personal Property;
 - .3 not to give possession of the other party's Personal Property to another person except where the other party expressly authorises it to do so;
 - .4 not to permit any of the other party's Personal Property to become an accession to or commingled with any asset that is not part of the Works;
 - .5 to give the other party details about any "motor vehicle", "watercraft", "aircraft" or "intellectual property" (each as defined in the *PPSA* or the *PPSA* Regulations)

(as applicable)) used for the purpose of carrying out the Works comprising part of the other party's Personal Property that has a value of more than A\$500,000;

- .6 to notify the other party at least 14 days before:
 - .1 it changes its name, principal place of business or place of registration or incorporation;
 - .2 any ABN, ARBN or ARSN allocated to it changes, is cancelled or otherwise ceases to apply to it (or if it does not have an ABN, ARBN or one is allocated, or otherwise starts to apply, to it); and
 - .3 it becomes trustee of a trust, or a partner in a partnership.

Exclusion of PPSA provisions

- .5 If the Contract (or a transaction in connection with it) is or contains a security interest for the purposes of the *PPSA*, each party agrees that to the extent the law permits them to be excluded:
 - .1 sections 142 and 143 of the *PPSA* are excluded and the relevant secured party need not comply with the following provisions of the *PPSA*: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and any other provision of the *PPSA* notified to the grantor by the relevant secured party after the Date of Contract; and
 - .2 the Principal need give any notice required under any provision of the *PPSA* (except section 135).
- .6 This clause applies despite any other clause in the Contract.

Management duties

22 Time management

Contract Program

- .1 The Contractor must submit a *Contract Program* to the Principal within 14 days after the Date of Contract. The program set out in Schedule 16 is the *Contract Program* until the Contractor submits a *Contract Program* under this clause 22.1.
- .2 The *Contract Program* must:
 - .1 in respect of the *Contract Program* submitted under clause 22.1, be consistent with the *Contract Program* set out in Schedule 16;
 - .2 reflect *Scheduled Progress* and show the *Contractual Completion Date* for the whole of the Works;
 - .3 show, and be consistent with, all constraints on access, performance and coordination;
 - .4 show the start and finish dates or, in the case of future activities, the intended start and finish dates, of all design and construction activities and other significant events;
 - .5 show the logical relationship between activities and events, the sequence of activities which constitute the critical path or paths, time leads and lags, and resource and other constraints;
 - .6 show the dates when the Contractor will require information, documents, instructions or materials from the Principal and the dates when the Contractor will provide information or documents to the Principal; these dates must be consistent with dates which the Principal could reasonably have anticipated at the Date of Contract;
 - .7 be accurate, comprehensive and complete;
 - .8 comply with any other specific requirements of the Contract, including any specified format or software; and
 - .9 comply with section 5.7 of the *Preliminaries* and any reasonable requirements of the Principal.
- .3 The Contractor must update the *Contract Program* at the following times:
 - .1 whenever there is a significant change in scheduling;

- .2 within 7 days after receiving an instruction from the Principal to do so;
- .3 when required to comply with clause 50.4; and
- .4 following the granting of an extension of time under clause 50.
- .4 Updated *Contract Programs* must take account of the Contractor's actual progress to the date of the update and must be submitted promptly to the Principal.
- .5 The Principal need not respond to the Contractor about a *Contract Program*, but if the Principal advises the Contractor that the *Contract Program* submitted does not comply with the requirements of the Contract, or otherwise instructs the Contractor, the Contractor must revise the *Contract Program* so that it complies with the requirements of the Contract and the instructions of the Principal, and must submit the revised *Contract Program* to the Principal within 7 days after receiving the Principal's advice or instructions.

Scheduled Progress

- .6 The Contractor must carry out all work in connection with the Contract so as to achieve *Scheduled Progress*.
- .7 Whenever requested, the Contractor must demonstrate to the Principal that it is achieving *Scheduled Progress*.
- .8 If the Contractor does not demonstrate to the Principal that it is achieving *Scheduled Progress*, the Principal may instruct the Contractor to take all reasonable steps to achieve *Scheduled Progress* at its own cost. An instruction under this clause is not an *Acceleration Notice*.

Minimisation of delay

- .9 When there is any change in work in connection with the Contract, or the program or sequence of the work, the Contractor must take all reasonable steps to:
 - .1 carry out any additional work concurrently with other work; and
 - .2 otherwise minimise any effects on the time for *Completion*.

23 Intellectual property

Project IP

- .1 All *Project IP* vests in the Principal upon its creation.
- .2 To the extent clause 23.1 does not vest ownership of the *Project IP* in the Principal, the Contractor assigns or otherwise transfers the *Project IP*, upon its creation, to the Principal. The Contractor, at its own cost, will do all things necessary, including execution of all necessary documentation, to vest ownership of all such *Project IP* in the Principal.
- .3 The Contractor must include provisions in all Subcontracts and agreements with Consultants to ensure that *Project IP* is assigned or otherwise transferred to the Principal upon its creation.
- .4 The Contractor, Subcontractors and Consultants are granted royalty-free licences to use the *Project IP* solely for the purposes of performing the Contractor's obligations under the Contract.

Contractor Background IP

- .5 The Contractor grants to the Principal and Venues NSW a perpetual, world-wide royalty-free, non-exclusive, transferable, irrevocable licence to use, copy, reproduce, modify and adapt the *Contractor Background IP* for any purpose relating to the work in connection with the Contract and the Works, including the operation, maintenance and use of the Works.
- .6 The licence granted pursuant to clause 23.5 shall be capable of sub-licence and will be assignable by the Principal.
- .7 Licences referred to in clause 23.4 apply in perpetuity from the Date of Contract or (if the *Contractor Background IP* has not then been created) from the date the *Contractor Background IP* is created.
- .8 The Contractor is responsible for the timely payment of all royalties and fees for *Intellectual Property Rights* it uses in connection with the Contract and the Works.