

[Contract Name]

[Contract Number]

**Minor Construction and Services**

General Conditions of Contract (Panel)

Template Edition: 17 August 2018

# FORMAL INSTRUMENT OF AGREEMENT



**AGREEMENT FOR MINOR CONSTRUCTION AND SERVICES**

**[Contract Name]**

**[Contract Number]**

**AGREEMENT** made the date it is signed by the last party

**BETWEEN:**

|  |  |
| --- | --- |
| **PRINCIPAL:** | The Minister for Transport, Infrastructure and Local Government  Level 12  Roma Mitchell House  136 North Terrace  Adelaide, South Australia  ABN 92 366 288 135  or  The Commissioner of Highways  50 Flinders Street  Adelaide, South Australia  ABN 45 751 448 902  or  The Rail Commissioner  50 Flinders Street  Adelaide, South Australia  ABN 23 251 040 528  (the **Principal**) |

**AND:**

|  |  |
| --- | --- |
| **CONTRACTOR:** | [insert] |
| **Address:** | [insert] |
| **ACN:** | [insert] |
| **ABN:** | [insert] |
|  | (the **Contractor**) |

**IT IS AGREED THAT:**

1. The Contract consists of the following documents:
   1. this Formal Instrument of Agreement;
   2. the General Conditions of Contract and their Annexure;
   3. the Tender Form, set out at Attachment 1;
   4. the Specification, set out in Attachment 2; and
   5. the Purchase Order,

in descending order of precedence.

1. The Contractor is a member of a panel of contractors (**"Panel"**) that has been established by the Principal to provide the Works as described in the Specification. Any engagements for Works under this Panel will be by individual purchase order provided to the Contractor by the Principal (**“Purchase Order”**).
2. The Principal may select any member of the Panel to provide the Works. If selected by the Principal, the Contractor shall execute and complete the Works upon the terms and conditions of this Agreement.
3. The Principal may:
   1. request that all or any members of the Panel provide a quotation for the provision of the Works, notwithstanding that pre-agreed rates may form part of this Contract;
   2. seek quotation from providers not on the Panel; or
   3. appoint new providers as members of the Panel at any time.
4. If the Principal engages the Contractor to provide Works and does not seek a quotation, the Works shall be paid for at any pre-agreed rates forming part of this Contract.
5. The Works are offered to the Principal on a standing offer basis, as part of a panel of multiple contractors. This Contract is non-exclusive. The Principal is under no obligation to purchase a minimum quantity of Works from the Contractor.
6. Notwithstanding any methodology of allocating work or ranking Panel members which has been specified in the Specification, the Principal may adjust the methodology or ranking as a consequence of the Contractor’s performance or availability to perform the Works.
7. This Contract expires on the Expiry Date.
8. The documents which comprise the Contract shall be read as a whole. Anything included, defined or reasonably inferred from one or more of the documents forming part of the Contract shall be read as included in the Contract unless the context requires otherwise.
9. This Contract constitutes the entire agreement of the parties in respect of the matters dealt with in this Contract and supersedes all prior agreements, understandings, representations or negotiations in respect of the matters dealt with in this Contract.
10. Any modification to the terms of this Contract must be in writing and signed by each party.
11. The obligations of the Contractor, if more than one person, under this Contract, are joint and several and each person constituting the Contractor acknowledges and agrees that it will be causally responsible for the acts and omissions (including breach of this Contract) of the other as if those acts or omissions were its own.
12. A waiver by either party in respect of a breach of a provision of the Contract by the other party is not a waiver in respect of any other breach of that or any other provision of the Contract. The failure of either party to enforce at any time any of the provisions of the Contract shall not be interpreted as a waiver of that provision.

|  |  |  |
| --- | --- | --- |
| **SIGNED** by a duly authorised officer for and on behalf of **THE PRINCIPAL** in the presence of: |  |  |
| Witness signature    Witness name    Date | | Authorised officer signature    Authorised officer name    Date |
| **SIGNED** by **THE CONTRACTOR** in accordance with section 127 of the *Corporations Act 2001* (Cth) by two directors or by one director and the company secretary: | |  |  |
| Director signature    Director name    Date | | Director/Company Secretary signature    Director/Company Secretary name    Date |  |

**GENERAL CONDITIONS OF CONTRACT**

1. **DEFINITIONS AND INTERPRETATIONS**

In this Contract:

**Annexure** means the annexure to these General Conditions of Contract.

**Business Day** means a day which is not a Saturday, Sunday or public holiday in South Australia.

**Completion Date** means the date by which the relevant package of Works must be completed by Contractor in accordance with clause 8 of this Contract.

**Contract** means the documents listed in Item 1 of the Formal Instrument of Agreement.

**Contractor** means the second party identified in the Formal instrument of Agreement.

**Defects Liability Period** means the period specified in the Annexure within which this Contractor must rectify any defective or non-compliant Works in accordance with clause 7 of this Contract.

**DPTI** means the Department of Planning, Transport and Infrastructure.

**Expiry Date** means the date set out in the Annexure.

**Price** means the price calculated according to the fees set out in the annexure, and the requirements of each Purchase Order.

**Principal** means the first party identified in the Formal instrument of Agreement.

**Principal’s Authorised Person** means the person named in the Annexure.

**Site** means the site/s stated in the Annexure the subject of the Works.

**Specification** means the documents set out in Attachment 2.

**Works** means the whole of the work, construction, goods and/or services to be executed in accordance with this Contract, including variations provided for in this Contract.

1. **NATURE OF CONTRACT**
2. The Contractor must execute and complete the Works set out in the Specification and the Purchase Order, and in accordance with any direction given by the Principal’s Authorised Person.
3. The Principal must pay the Contractor the Price:
   1. for work for which the Principal accepted a lump sum, by lump sum; or
   2. for work for which the Principal accepted rates, by amounts ascertained by multiplying the measured quantity of each item of work actually carried out under this Contract by the rate accepted by the Principal for the item,

adjusted by any additions or deductions made pursuant to this Contract.

1. **PRINCIPAL’S AUTHORISED PERSON**
2. The Principal must:
   1. ensure that there is a person appointed to act as the Principal’s Authorised Person at all times; and
   2. promptly notify the Contractor if the name and/or contact details of the Principal’s Authorised Person change.
3. The Principal’s Authorised Person:
   1. is authorised to act on behalf of the Principal; and
   2. by notice in writing to the Contractor, may further delegate any of the Principal’s functions and powers under this Contract, except those under clause 20 or clause 26(d)(iv)(D).
4. Any reference to the Superintendent in the Specification is a reference to the Principal’s Authorised Person.
5. With regard to any matter that affects or has the potential to affect the safety of the Adelaide Metropolitan Rail Network, the powers, duties, discretions and authorities vested in the Principal under this Contractmay also be exercised by the Rail Commissioner established according to the *Rail Commissioner Act 2009* (SA).
6. **ASSIGNMENT AND SUBCONTRACTING**
7. The Contractor must not assign this Contract or subcontract the whole or any part of the Works under this Contract without the prior written approval of the Principal. Subcontracting does not relieve the Contractor of its responsibility and liability under this Contract.
8. If the Contractor is a corporation (not being a company with its shares listed on any Stock Exchange in Australia), any change in the beneficial ownership of 50% or more of the voting shares in the corporation or any change in the effective control of the corporation, is deemed to be an assignment of this Contract requiring the Principal’s prior written approval.
9. **INSURANCE**
10. Unless advised otherwise by the Principal, the Contractor, before commencing any work on the Site, must hold or effect a policy of insurance as specified in the Annexure.
11. The policy must be maintained until the Works have been completed. The Contractor must, on request of the Principal, promptly produce evidence of the insurance required under this clause. If the Contractor does not provide evidence of compliance satisfactory to the Principal, the Principal may obtain the relevant insurances and any costs and expenses incurred by the Principal in doing so will be a debt due and payable by the Contractor to the Principal. The Principal may withhold payment until evidence of compliance with the Contractor’s obligations under this clause is produced by the Contractor.
12. **PROTECTION OF PERSONS AND PROPERTY**
13. Unless directed otherwise by the Principal, the Contractor:
    1. must provide all things and take all measures necessary to protect people and property in connection with the Works, including erection, maintenance and removal of barricades and signs where necessary for the safety and convenience of the public and others;
    2. must avoid unnecessary interference with the passage of people and vehicles (where applicable);
    3. must prevent nuisance and unreasonable noise and disturbance;
    4. is responsible for the care of the whole of the Works under this Contract from the commencement until the Works are completed and handed over to the Principal; and
    5. must make good at its own cost any loss or damage for which the Contractor is responsible.
14. The Contractor indemnifies the Principal in respect of for any death, personal injury, loss or damage to any property arising out of, or as a consequence of, the Contractor carrying out any work under this Contract, but the Contractor’s liability under this clause shall be reduced proportionately to the extent that the Principal or its employees, agents, consultants or other contractors of the Principal contributed to death, personal injury, loss or damage to the Works.
15. **MATERIALS AND QUALITY OF WORK**
16. The Works must comply with the Specification, and the Contractor must rectify any known defect or non-compliant Works prior to the Completion Date. Prior to the expiry of the Defects Liability Period specified in the Annexure (if any), the Contractor must promptly repair any defective or non-compliant Works with minimal disruption to the use of the Works.
17. Unless otherwise specified, materials incorporated into the Works must be new and suitable for the purpose and consistent with the nature and character of the Works.
18. Unless otherwise specified, construction methods and standards of finish must be in accordance with relevant Australian Standards.
19. All work must be carried out by experienced and qualified persons in accordance with industry recognised methods.
20. **COMMENCEMENT AND COMPLETION OF WORKS**
21. The Contractor must complete the Works in accordance with this Contract by the Completion Date or within such extended time as agreed in writing by the Principal.
22. If the Contractor is delayed by an event outside of its reasonable control and the Contractor can provide evidence of such delay satisfactory to the Principal, then the Contractor is entitled to an extension to the date for completion for such period as agreed in writing by the Principal.
23. **COMPLIANCE WITH LAWS**

The Contractor must comply with the laws in force in the State of South Australia in performing its obligations under this Contract.

The Contractor must obtain and hold, and ensure that its subcontractors, agents and employees obtain and hold, all licences, registrations, permits, approvals and certificates required by law in order to carry out the Works.

The Principal is a public authority for the purposes of the *Independent Commissioner Against Corruption Act 2012* (SA) (“ICAC Act”). For the term of this Contract the Contractor is considered a public officer under the ICAC Act and must comply with the ICAC Act and the directions and guidelines published by the Independent Commissioner Against Corruption.

1. **CONTRACTOR’S CONDUCT**

The Contractor warrants, represents and undertakes to the Principal that it will conduct itself in a manner that does not invite, directly or indirectly, the Principal’s officers, employees or agents or any public sector employee (as defined in the *Public Sector Act 2009*) to behave unethically, to prefer private interests over the Principal’s interests or to otherwise contravene the Code of Ethics for the South Australian Public Sector issued under the *Public Sector Act 2009* (SA)

1. **VARIATIONS**

The Principal may direct the Contractor to vary the Works under this Contract or execute additional Works. Unless otherwise agreed, the variation may be valued by the Principal using the rates and prices that constitute the Price, if applicable, or if such rates and prices are not applicable, direct costs substantiated by the Contractor plus a margin of ten percent to cover profit, overheads, supervision and attendance.

1. **PAYMENT**
2. Unless the Principal directs otherwise, the Contractor must submit an invoice to the Principal at monthly intervals for work carried out in accordance with this Contract. These invoices must be consistent with the Price. Within 10 business days of receipt of such an invoice, the Principal’s Authorised Person will:
   1. assess the amount claimed;
   2. determine the amount to be paid to the Contractor for work satisfactorily carried out; and
   3. if the amount to be paid if is different from the amount claimed by the Contractor, provide a payment schedule to the Contractor which includes the reasons for the difference.
3. Within 30 days of the receipt of the payment claim, the Principal will pay the Contractor the amount determined by the Principal’s Authorised Person pursuant to clause 12(a), less any Retention Money withheld pursuant to clause 13.
4. Payment shall be payment on account only and shall not be evidence that the work relevant to that payment has been carried out satisfactorily.
5. **RETENTION**
6. The Principal may withhold cash retention in the amounts stated in the Annexure (**Retention Money**).
7. The Principal may have recourse to Retention Money in the event that:
   1. the Principal is entitled to payment from the Contractor and that payment has not been received when due; or
   2. the Principal’s Authorised Person reasonably determines that the Contractor has failed to fulfil an obligation under this Contract,

and the Principal has given at least five Business Days’ notice to the Contractor of the Principal’s intention to have recourse to the Retention Money.

1. The Principal must release and return fifty percent of any remaining Retention Money upon completion of the Works, and the remainder of the Retention Money upon expiry of the Defects Liability Period and the Contractor’s fulfilment of its remaining obligations under the Contract.
2. **GOODS AND SERVICES TAX**

Payment from the Principal to the Contractor will include the GST payable. Any invoice for payment under this Contract must be a Tax Invoice in accordance with *A New Tax System (Goods and Services Tax) Act 1999* (Cth)*.* The Principal is not obliged to make any payment under this Contract unless the Contractor has provided a Tax Invoice in respect of that payment. The Contractor represents that it is registered under the *A New Tax System (Australian Business Number) Act* and that the ABN provided is the Contractor’s ABN.

1. **CLEANING OF SITE**

The Contractor must:

1. ensure that the Site remains in a condition no worse than that encountered at the commencement of this Contract;
2. keep the Site tidy and regularly remove any rubbish or surplus material arising from the execution of the Works; and
3. on completion of the Works, remove from the Site:
4. all plant and equipment and all temporary works; and
5. all rubbish and surplus material resulting from the execution of the work under this Contract.
6. **CO-OPERATING WITH OTHERS**

The Contractor must cooperate in a courteous manner with the Principal’s employees, members of the public, business proprietors and all other contractors during the course of work. The Contractor must permit the execution of the Work on the Site by other contractors engaged by the Principal.

1. **MEETINGS**

The Contractor must attend any meetings as reasonably required by the Principal. During these meetings the Contractor’s performance, Work Health and Safety (**WHS**), environmental matters and any other relevant issues may be discussed.

1. **CONTRACTOR’S PERFORMANCE**
2. At any time during the term of this Contract, the Principal may undertake:
3. an audit of the Contractor’s compliance with any requirement of this Contract or applicable laws; and
4. an evaluation of the Contractor’s performance using a DPTI contractor performance evaluation procedure.
5. A copy of the evaluation procedure will be made available to the Contractor if requested. Any evaluation report, which will include reasons for any below acceptable scores, will be forwarded to the Contractor when completed. If the Contractor disagrees with the evaluation, they may forward a request to the Principal for a review, along with reasons why it should be reviewed. Following reasonable consideration of the request, the Principal’s decision will be final. The evaluation may be taken into account in the assessment of future tenders.
6. **CONSEQUENCES OF FAILURE TO ADEQUATELY CARRY OUT WORKS**

If:

1. the Contractor fails to execute the Works to the standard required under this Contract;
2. notice has been given to the Contractor to rectify the default and it has not been rectified within 14 days of the notice or such other time as permitted by the Principal; or
3. the standard of performance in executing the Works is such that the Principal’s efficiency or the proper, safe and cost effective performance of the Principal’s functions is affected,

the Principal may engage another Contractor to execute the Works or any part of the Works. In this event, the cost of having the Works so carried out will be deducted from the amount owing to the Contractor.

1. **TERMINATION**
2. This Contract may be terminated by the Principal if, in its reasonable opinion, any of the following events occur:
3. a substantial, repeated or persistent breach by the Contractor of any provision of this Contract;
4. the Contractor has failed to effect specific remedial action within the time specified by the Principal in a written notice;
5. the Contractor suffers or is in jeopardy of becoming subject to any form of insolvency administration; or
6. the Contractor fails to comply with any of its obligations under any applicable WHS legislation or any applicable safety policies of the Principal or any other relevant authority.
7. If the Principal terminates this Contract pursuant to this clause 20, it must pay the Contractor for that part of the Works performed by the Contractor in accordance with this Contract up to the date of termination.
8. **REPUDIATION**
9. If the Contractor’s conduct (whether by act or omission) constitutes a repudiation of this Contract (or of the Contractor’s obligations under this Contract) the Principal can elect to accept that repudiation and rescind this Contract.
10. If the Contractor repudiates this Contract (or the Contractor’s obligations under this Contract) and the Principal accepts that repudiation and rescinds this Contract, then the Contractor must compensate the Principal for the damage or loss suffered by the Principal because of the Contractor’s repudiation.
11. In the event that the Contractor repudiates this Contract (or the Contractor’s obligations under this Contract) the Principal must take reasonable steps to mitigate its losses.
12. **ISSUES AND DISPUTES**
13. The Contractor may dispute an assessment, determination or instruction of the Principal, or seek resolution of an unresolved claim, by giving notice to the Principal’s Authorised Person within 28 days after notification of the assessment, determination or instruction, or within 28 days after it becomes an unresolved claim.
14. If the matter has not been resolved within 28 days of the notice being given to the Principal’s Authorised Person, each party must submit the dispute to one of its senior executives who has not previously been involved in the dispute and has the authority to resolve the dispute.
15. The senior executives must meet as soon as possible to resolve the dispute, but in any case within 7 days of its reference to them. Each party must authorise and inform its senior executives sufficiently so that he or she can undertake that meeting without detailed reference to another person.
16. If within 28 days of the dispute being referred to the senior executives, the dispute is not resolved by agreement or a means to resolve the dispute agreed upon, either party may refer the dispute to the Chairperson or President for the time being of the Institute of Arbitrators and Mediators Australia (SA Chapter) to appoint an arbitrator and determine the rules to conduct an arbitration to resolve the matter.
17. **WORK HEALTH AND SAFETY**
18. The Principal is committed to the provision of a safe working environment and expects the Contractor to accept the same commitment to WHS. The Contractor must:
19. comply with the *Work Health and Safety Act 2012* (SA) (**WHS Act**) and the *Work Health and Safety Regulations 2012* (SA) (**WHS Regulations**) as varied from time to time;
20. comply with any reasonable instruction issued by the Principal in relation to WHS;
21. if requested by the Principal, provide evidence satisfactory to the Principal of its capacity to comply with the WHS Act and WHS Regulations (including the provision of any Safe Work Method Statements required by the WHS Regulations); and
22. provide the Contractor’s Return to Work registration number.
23. The Contractor must permit the Principal to carry out any inspections which are reasonably necessary to verify that the Contractor is complying with the WHS Act and the WHS Regulations.
24. If all or part of the Works under this Contract are to be provided on any site controlled by the Principal or under the direction of the Principal (**Principal’s Premises**), then the Contractor must comply with the Principal’s WHS policies, procedures and instructions.
25. The Contractor must immediately notify the Principal of any potentially hazardous situation on or at the Principal’s Premises of which the Contract becomes aware. In the event that the Contractor notifies the Principal of a potentially hazardous situation at the Principal’s Premises, the Principal may determine, in its absolute discretion, to give a direction to the Contractor in respect of such hazardous situation.

1. **CONSTRUCTION INDUSTRY TRAINING FUND**

Attention is drawn to the *Construction Industry Training Fund Act 1993*, which imposes a levy of 0.25% of the value of building and construction works over a prescribed value in South Australia (**CITB Levy**). If applicable, payment of the CITB Levy shall be the responsibility of the Contractor if the Works are building or construction work as defined in the Act. Proof of payment of the levy may be required prior to the first or any progress payment being made under this Contract.

1. **RESPECTFUL BEHAVIOUR**

1. The Contractor acknowledges the Principal’s zero tolerance towards men’s violence against women in the workplace and the broader community.
2. The Contractor agrees that, in performing the Works, the Contractor*’s* personnel will at all times:
3. act in a manner that is non-threatening, courteous, and respectful; and
4. comply with any instructions, policies, procedures or guidelines issued by the Principal regarding acceptable workplace behaviour.

1. If the Principal believes that the Contractor*’s* personnel are failing to comply with the behavioural standards specified in this clause, then the Principal may in its absolute discretion:
2. prohibit access by the relevant Contractor’s personnel to the Principal’s premises; and
3. direct the Contractor to withdraw the relevant Contractor’s personnel from providing the Works.
4. **SAFETY CULTURE**
5. General
6. For the purposes of this clause 26:
7. **Expectations** means the Principal’s Minimum Construction Safety Expectations;
8. **Measures** means the Principal’s Outcome Based Safety Culture Measures; and
9. **Tool** means the Principal’s Safety Culture Assessment Tool,

each provided at <https://www.dpti.sa.gov.au/contractor_documents/whs>.

1. The documents set out in clause 26(a) are subject to change during performance of this Contract.
2. Minimum Construction Safety Expectations

The Expectations operate in addition to the WHS Act and do not vary any rights or obligations under the WHS Act or any other applicable law. In the event of any inconsistency between the Expectations and any applicable law, the applicable law will prevail to the extent of that inconsistency.

1. Self-Assessment

The Contractor must provide a completed Tool within ten working days of execution of this Contract, showing a self-assessment of how it will comply with the Measures. If the Tool is not completed to the Principal’s satisfaction, the Contractor must act on all feedback from the Principal to bring the Tool up to a satisfactory standard as soon as practicable. Site access will not be granted until the Principal approves this version of the Tool.

1. Safety Audits
2. The Contractor must:
3. meet or exceed the Expectations; and
4. comply with the Measures to the Principal’s satisfaction,

at all times during performance of this Contract.

1. The Principal may conduct an on-site safety culture audit (Audit) at any time during performance of this Contract. To facilitate an Audit, the Contractor must, at no additional cost to the Principal:
2. give the Principal or its agents full access to the Site, within two business days of notification of the Audit;
3. provide access to or copies of any document related to the safety of the Works; and
4. promptly comply with all reasonable requests from the Principal or its agents regarding the Audit.
5. During an Audit, the Principal may use the Tool or any other method to document evidence of compliance with the Expectations and Measures.
6. Following an Audit, if the Principal determines that the Contractor’s performance against any of the Expectations or Measures is unsatisfactory, then the Principal may:
7. initiate discussions with the Contractor regarding its safety culture, and make recommendations for improvement;
8. issue a formal notice requesting that the Contractor show cause for any practice, process or procedure used in performance of the Works, and if the Principal is not satisfied with the response, direct the Contractor to remedy that practice, process or procedure immediately;
9. perform subsequent Audits;
10. direct the Contractor to change or cease any practice, process or procedure used in performing the Works immediately;
11. direct that all or part of the Works are suspended immediately pending satisfactory compliance with the Expectations or Measures; or
12. terminate this Contract.

The Contractor must promptly comply with any direction under this clause 26(d)(iv) at no additional cost to the Principal.

1. Failure by the Contractor to comply with a direction under clause 26(d)(iv)(B), 26(d)(iv)(D) or 26(d)(iv)(E) or repeated unsatisfactory performance by the Contractor against any of the Expectations or Measures will be deemed a fundamental breach of this Contract. In this event, the Principal may terminate this Contract without notice.
2. **INDEMNITY**
3. The Contractor indemnifies the Principal and its employees, officers and consultants against all claims, demands, expenses, loss or damage in respect of loss or damage to any property, or the death of or personal injury to any person, caused or contributed to by the Contractor, a breach by the Contractor of this Contract, a breach of any permit, authorisation, licence or other rights granted to the Principal under the *Environmental Protection Act 1993* (SA) caused or contributed to by the Contractor, a wilful unlawful or negligent act or omission of the Contractor, and any claim action or proceeding by a third party against the Principal or its employees officers and consultants caused or contributed to by the Contractor.
4. This indemnity is reduced by the extent to which the Principal contributes to the event giving rise to the claim for the indemnity.
5. The Contractor undertakes the Works at its own risk in all things and releases the Principal and its employees, officers, members and consultants from all claims, actions, proceedings, costs, expenses, losses, suffering, and liabilities incurred by the Contractor or its employees, agents, subcontractors and third parties which arise from the undertaking of the Works.
6. **NOTICE**
7. A notice under this Contract (**Notice**) must be:
8. in writing, in the English language and signed by a person authorised by the sender of the Notice; and
9. hand delivered or sent by pre-paid post to the recipient’s address specified below, as varied by any Notice given by the recipient to the sender.
10. At the date of this Contract, the addresses for Notices are as set out in the Annexure, unless otherwise notified in writing by a party to the other party.
11. A Notice is deemed to be received:
12. if hand delivered, on delivery; or
13. if sent by prepaid mail, two Business Days after posting (or seven Business Days after posting if posting to or from a place outside Australia);

However if the Notice is deemed to be received on a day that is not a Business Day or after 5:00pm, the Notice is deemed to be received at 9:00am on the next Business Day.

1. If two or more people comprise a party, Notice to one is effective Notice to all.
2. **NOVATION**

The Contractor must, at its own cost, within 5 Business Days of a request from the Principal, enter into a deed of novation in a form to be agreed by the Principal which novates this Agreement from the Principal to another party.

1. **MISCELLANEOUS**
2. Entire Agreement

This Contract:

1. constitutes the entire agreement between the parties about the Works; and
2. supercedes any prior understanding, agreement, condition, or representation about the Works.
3. Approvals and consents

Unless otherwise provided in this Contract, the Principal must act reasonably in giving (conditionally or unconditionally) or withholding any approval or consent under this Contract.

1. Alteration to Contract

This Contract may only be altered by written instrument executed by each party to this Contract.

1. Waiver

A waiver of a right under this Contract:

1. must be in writing signed by the party giving the waiver;
2. is effective only to the extent set out in the written waiver.
3. Principal’s exercise of power
4. The failure or delay by the Principal in exercising a power or right under this Contract is not a waiver of that power or right by the Principal.
5. An exercise of a power or right under this Contract by the Principal does not preclude a further exercise of it or the exercise of another right or power.
6. Survival

Each indemnity and other term capable of taking effect after the expiration or termination of this Contract, remains in force after the expiration or termination of this Contract.

1. Interpretation

In this Contract, wording in the singular includes the plural, and vice versa.

1. Information Documents

Where a document (or part thereof) is designated as an “information document” or “for information only”, 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 such documents and the Contractor acknowledges that it has taken this into account.

The Principal may have carried out investigations for the primary purposes of project planning, estimating, feasibility studies and obtaining statutory approvals. Any such investigation or resulting documentation:

1. has not been undertaken for the purpose of determining methods of providing the Works;
2. is deemed to be an "information document" in accordance with this clause 30(h);

The Contractor warrants that it has not relied on any such interpretations, opinions or documentation. The use of any such information, opinions and documents is entirely at the Contractor's risk.

1. Media

The Contractormust not disclose any information concerning theWorks or this Contract for distribution through any communications media without the Principal'sprior written approval (which may be withheld at the Principal's discretion). The Contractor shall refer to the Principal any enquiries from any media concerning theWorks or this Contract.

1. Disclosure

The Contractor agrees to disclosure of this Contract in accordance with Premier and Cabinet Circular PC027 either generally to the public, or to a particular person as a result of a specific request.

Nothing in this clause derogates from:

1. the *Contractor’s* obligations under any other provision of this *Contract*; or
2. the provisions of the *Freedom of Information Act 1991* (SA).
3. Licences, Registrations, Permits, Approvals and Certificates

The Contractor must obtain and hold, and ensure that its subcontractors, agents and employees obtain and hold, all licences, registrations, permits, approvals and certificates required by law in order to carry out the Works.

The Contractor must give the Principal copies of documents issued to the Contractor by any authority in respect of the Worksand, in particular, any approvals of relevant parts of the Works.

**ANNEXURE TO THE GENERAL CONDITIONS OF CONTRACT**

|  |  |
| --- | --- |
| **The Price**: | As set out in the Tender Form at Attachment 1 unless varied in accordance with this Contract. |
| **Principal’s Authorised Person**: | The person occupying the position of:  DPTI Director Contracting, of  77 Grenfell Street, ADELAIDE SA 5000 |
| **Insurance Required**: | Public Liability Insurance: $10,000,000  Product Liability Insurance: $10,000,000 |
| **Defects Liability Period**: | One year from completion of the relevant Works. |
| **Completion Date**: | As directed by the Principal for each package of Works. |
| **Site:** | As directed by the Principal for each package of Works. |
|  |  |
| **Retention Money:** | Up to ten percent of each payment determined by the Principal’s Authorised Person pursuant to clause 12(a), up to a maximum equal to five percent of the Price. |
| **Expiry Date:** | [insert expiry date of panel] |
|  |  |
| **Addresses for Notices:** | **Principal**  Address: Level 13, 77 Grenfell Street, ADELAIDE SA 5000  Attention: Director, Contracting  **Contractor**  Address: [insert]  Attention: [insert] |
|  |  |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**ATTACHMENT 1 – TENDER FORM**

[insert tender form]

**ATTACHMENT 2 – SPECIFICATION**

[insert specification / statement of requirements / other scope documents]