

Annexure to the General Conditions of Contract
Part A

Contract Particulars			
Item	Relevant Clause		
1	1	<i>Principal:</i>	ABN:
		<i>Principal's address:</i>	
2	1	<i>Contractor:</i>	ABN:
		<i>Contractor's address:</i>	
3	23	<i>Superintendent:</i>	
		<i>Superintendent's address:</i>	
4	2.2	State or territory:	
5	33	<i>Date for practical completion:</i>	
6	5	Amount of <i>security</i> :	("Nil" applies if not filled in)
		Form of <i>security</i> :	
		Amount or percentage of <i>security</i> returned at <i>practical completion</i> .	("50%" applies if not filled in)
		Period for return of remaining <i>security</i> :	("12 months" applies if not filled in)
7	6.1	The <i>Contract documents</i> are:	
	6.2	Is a formal instrument of agreement required?	("No" applies if not filled in)
8	9	Is any of the work to be undertaken by a novated subcontractor?	("No" applies if not filled in)
		If yes, the extent of work to be novated and the subcontractor:	
9	12.1	<i>Reliance information</i> (Documents not guaranteed for completeness):	
10	12.1	<i>Non-reliance information</i> (Documents not guaranteed for accuracy, quality or completeness):	

Contract Particulars			
Item	Relevant Clause		
11	12.3	Are there any <i>latent conditions</i> for which the <i>Contractor</i> has no entitlement to additional costs?	("No" applies if not filled in)
		If yes, the <i>latent conditions</i> for which the <i>Contractor</i> has no entitlement to additional costs are:	
12	14	<i>Statutory requirements</i> to be satisfied by or on behalf of the <i>Principal</i> :	("None" applies if not filled in)
		fees and charges paid by the <i>Principal</i> :	("None" applies if not filled in)
13	18	Insurance of the Works – the alternative applying:	("Alternative 1 (Contractor to insure)" applies if not filled in)
14	18.1	Amount or percentage of contract sum for the costs of demolition and removal of debris:	
		Amount or percentage of contract sum for consultant's fees:	
		Value of materials or things to be supplied by the <i>Principal</i> :	
		Additional amount or percentage:	
15	18.2	Reference or hyperlink to obtain the <i>Principal Arranged Insurance Works Policy</i> (if applicable):	
16	19	Public Liability Insurance – the alternative applying:	("Alternative 1 (Contractor to insure)" applies if not filled in)
	19.1	Amount of Contractor's Public Liability insurance:	
17	19.2	Reference or hyperlink to obtain the <i>Principal Arranged Public Liability Insurance Policy</i> (if applicable):	

Contract Particulars			
Item	Relevant Clause		
18	20	Is the <i>Contractor</i> required to take out Professional Indemnity Insurance for the design of <i>temporary Works</i> ?	("No" applies if not filled in)
	20	If yes, the Professional Indemnity Insurance must be for not less than:	
19	27.1	Time for giving possession of site:	(If nothing stated, 10 <i>business days</i>)
		Maximum delay in the <i>Principal</i> giving possession of site:	(If nothing stated, within 90 <i>business days</i>)
20	30.6	Is the <i>Contractor</i> required to implement a quality management system?	("Yes" applies if not filled in)
21	32	<i>Working days</i> and working hours:	
22	33.1	<i>Contract program</i> - times or stages for revision and submission:	
23	35.5	Events outside of the <i>Contractor's</i> reasonable control for which the <i>Contractor</i> is not entitled to an extension of time for <i>practical completion</i> :	("None" applies if not filled in)
24	35.6	Do liquidated damages apply?	("Yes" applies if not filled in)
		If yes, amount of liquidated damages per day:	
25	35.6	Limiting amount or percentage of the contract sum for liquidated damages:	("No limit" applies if not filled in)
26	37	<i>Defects liability period</i> :	("12 months" applies if not filled in)
27	42.1	Time for payment claims or Stages of the work for payment claims:	("the last <i>business day</i> prior to the end of each calendar month" applies if not filled in).
		Interest rate on overdue payments:	(must not be less than any rate specified in the relevant <i>SOP Act</i>)

Contract Particulars			
Item	Relevant Clause		
28	42.4	Unfixed materials, plant, machinery or equipment - the Alternative applying:	("Alternative 2" applies if not filled in)
		If Alternative 1 applies, the Unfixed materials, plant, machinery or equipment for which payment may be claimed:	
29	43.1	Form of documentary evidence of payment of <i>subcontractors</i> and workers:	("A statutory declaration to the reasonable satisfaction of the Superintendent" applies if not filled in)
30	47.2	Dispute resolution process:	("Alternative 1 – Expert Determination" applies if not filled in)
31	47.2	If the parties fail to agree on an Expert, the person to nominate the Expert:	("the Chair of The Resolution Institute." applies if not filled in)
		Lowset amount determined by the Expert which may be subject to litigation:	("\$1 million" applies if not filled in)
32		If the parties fail to agree on an Arbitrator, the person to nominate the Arbitrator:	("the Chair of The Resolution Institute." applies if not filled in)

Annexure to the General Conditions of Contract

Part B

Commercial Framework

Introduction and Instructions

The Commercial Framework must be completed and issued as part of the tender documents and, subject to any amendments, it is incorporated into the Contract.

It does not have a prescribed format, but at a minimum, it should address the following:

- *The definition / interpretation of schedule of rates, schedule of prices, bill of quantities and lump sum, to the extent they are used in this Contract.*
- *Whether or not rates and amounts are inclusive or exclusive of GST.*
- *Whether or not rates and amounts are inclusive or exclusive of overheads and profit.*
- *Whether the Contractor is entitled to additional costs / extension of time for latent conditions. (note that if nothing is mentioned, the Contractor is entitled to additional costs / extension of time).*
- *Any other events for which the Contractor has no entitlement to additional costs / extension of time.*
- *Whether the Contractor is entitled to an extension of time for the consequences of inclement weather or industrial conditions outside of its control.*
- *Calculation of delay costs.*
- *Any rise and fall adjustment or currency fluctuation adjustment.*

Example clauses follow:

1. Overview and defined terms

The following definitions are in addition to those included in clause 2.1 of the Contract:

Contract Sum means the aggregate of:

- a) lump sum (if any); and
- b) the sum of the products ascertained by multiplying the rates included in a schedule of rates (if any) by the corresponding quantities of work actually carried out,

including *provisional sums* and including any additions or deductions which may be required to be made under the *Contract*. The contract sum includes *GST*.

Refer also to clauses 3 and 4 (as applicable) of this Commercial Framework

Schedule of Rates means a schedule described as such and included in the Contract which shows the applicable rates of payment for elements of work and corresponding estimated quantities.

Schedule of Prices means a schedule described as such and included in the Contract in respect of the work for which the Principal has accepted a lump sum.

2. General

The Contract Sum is not subject to adjustment, except as expressly provided for under the Contract.

3. Schedule of Rates

Quantities in a *schedule of rates* are estimated quantities only and the Principal does not warrant, guarantee or make any representation with respect to the completeness, accuracy or adequacy of the Items and quantities in a *schedule of rates*.

A direction is not required to be given by the Superintendent by reason of the actual quantity of an Item required to perform the Contract being greater or less than the quantity shown in the *schedule of rates*.

The rates and amounts in the *schedule of rates* are deemed to include the cost of:

- c) all survey, inspection, measuring and testing necessary to comply with the Contract (unless specified otherwise); and
- d) all works, services, fees, charges, minor items and incidentals associated with or necessary for the proper execution of the work under the Contract whether or not such items are specifically referred to in the Contract.

If no rate or price is shown in a *schedule of rates* for an Item, the rate or price for that Item shall be deemed to have been included elsewhere in the *schedule of rates*.

Where otherwise than by reason of a direction of the Superintendent to vary the work under the Contract, the actual quantity of an Item required to perform the Contract is greater or less than the quantity shown in the *schedule of rates*, the tendered rate shall apply to the greater or lesser quantities within the limits of accuracy Item 44C of Annexure A, and quantities outside the limits shall be valued under Clause 40.5 of the General Conditions of Contract as if they were varied work directed by the Superintendent as a variation. However total payment for a reduced quantity of work will not exceed the amount calculated by multiplying the quantity of work, at the lower limit of accuracy, by the tendered rate.

If, in the opinion of the Superintendent, a *schedule of rates* omits an Item which should have been included and the value of that Item exceeds \$2,000, the provisions of Clause 8.2 of the General Conditions of Contract shall apply.

The quantity of work under the Contract completed shall be measured in accordance with the standard method of measurement specified in Clause 2 of Specification (Measurement).

MRS01 *Introduction to Specifications*, as amended or updated from time to time by the Principal.

3.10 Where the unit of measurement for an Item in the Schedule of Rates is stated as 'lump sum', the Contractor may include part of the relevant amount in a Claim for payment under Clause 42.1 of the General Conditions of Contract. Valuations of such Items will be made based on the Superintendent's assessment of the percentage of completed and conforming work under the Contract or, where an appropriate formula is included in the Specifications associated with the particular work under the Contract, in accordance with that formula.

4. Lump sum

Example wording:

This clause 4 only applies to that part of the Works for which the Principal has accepted a lump sum.

The Superintendent may use a *schedule of prices* to assist with the valuation of variations

pursuant to Clause 40.5 of the General Conditions of Contract and for the valuation of Claims for payment under Clause 42.1 of the General Conditions of Contract, but is under no obligation to do so.

The lump sum is deemed to be full payment for all necessary work, services, fees, charges, incidentals, inspection and testing in respect of the work under the Contract to be paid for by lump sum, regardless of whether or not such work, services, fees, charges, incidentals, inspection and testing are specifically referred to in the Contract

The Principal does not warrant, guarantee or make any representation with respect to the completeness, accuracy or adequacy of any sections and Items in a Schedule of Prices and the Principal has no liability for any Claim from the Contractor arising out of or in connection with the quantities included in a Schedule of Prices.

The Contractor may include part of Items contained in the Schedule of Prices in a Claim for payment under Clause 42.1 of the General Conditions of Contract. Valuations of such Items will be made based on the Superintendent's assessment of the value of conforming work under the Contract completed or, where an appropriate formula is included in the Specification associated with the particular work under the Contract, in accordance with that formula.

5. Bill of Quantities

Example wording:

A priced bill of quantities must be lodged with the Principal by

The aggregate of the product of prices and quantities must equal the lump sum accepted by the Principal for the whole of the work to which the bill of quantities relates.

If the aggregate amount in a priced bill of quantities does not equal the lump sum accepted by the Principal for the whole of the work to which the bill of quantities relates, the Superintendent, acting reasonably, must determine an appropriate correction of errors and inconsistencies in the rates and prices, so that the aggregate amount equals such lump sum.

Quantities in a bill of quantities are estimated quantities only.

The Superintendent is not required to give a direction by reason of the actual quantity of an item required to perform the Contract being greater or less than the quantity shown in a bill of quantities.

Additional clauses if the bill of quantities does not form part of the Contract

The lump sum accepted by the Principal is not to be adjusted for a difference between the bill of quantities and actual quantities.

Alternative to clause 5.6 if the bill of quantities forms part of the Contract

Where, otherwise than by reason of a direction to vary the work under the Contract, the actual quantity of an item required to perform the Contract is greater or less than the quantity shown in that bill of quantities, then the rate accepted by the Principal for the item applies to the greater or lesser quantities, and the item of work is to be valued by the Superintendent pursuant to clause 40.5

if the bill of quantities omits an item which should have been included, the item is to be included and valued by the Superintendent pursuant to clause 40.5.

6. GST

Example wording:

Unless specified otherwise, rates and amounts are *inclusive / exclusive* of GST.

7. Overheads and Profit

Example wording:

Unless specified otherwise, rates and amounts are *inclusive / exclusive* of overheads and profit.

8. Latent Conditions (refer clause 12)

Insert details if the Contractor has no entitlement for an extra costs / extension of time from latent conditions or a particular class of latent conditions. (if nothing stated, the Contractor is entitled to extra costs / extension of time from latent conditions) Example wording:

The Contractor is entitled to an adjustment to the contract sum and / or extension of time as a result of latent conditions

or

The Contractor has no entitlement to an adjustment to the contract sum or extension of time from any latent condition

or

The Contractor has no entitlement to an adjustment to the contract sum or extension of time from the following causes:

level of water table...

9. Extension of time (refer clause 35.5)

Insert details if the Contractor has no entitlement for an extension of time from certain causes: eg

The Contractor has no entitlement to an adjustment to the contract sum or extension of time from the following causes:

eg inclement weather and industrial conditions outside of its reasonable control

If a threshold applies to inclement weather before an extension of time entitlement arises (eg more than xx mm of rain in a day), insert details here

10. Delay Costs (refer clause 36)

Example wording:

The amount payable for delay costs is determined by applying the applicable rate to the number of days that the Contractor is entitled to delay costs.

The applicable rates is \$..... per day

11. Rise and fall

This Contract is not subject to rise and fall.

or

Insert applicable clause here.

Annexure to the General Conditions of Contract

Part C

Subcontracting Framework

Introduction and Instructions

The Subcontracting Framework is optional. It is used to prescribe any agency requirements for the engagement of subcontractors and the subcontract documents.

Example clauses follow:

1. Prior consent required

The *Contractor* must not subcontract or allow a *Subcontractor* to subcontract any *Work Under the Contract*, if:

- a) the value of the *Work Under the Contract* to be subcontracted exceeds the amount specified in Item 15A, or
- b) the *Work Under the Contract* to be subcontracted is subject to the requirements in Clause 9.3 in relation to registered suppliers

The *Contractor* must seek the *Superintendent's* written approval of *subcontractor*, which may be given or withheld in the *Superintendent's* absolute discretion.

2. Details of proposed Subcontractors

In seeking approval to subcontract any part of the *Work Under the Contract*, the *Contractor* must provide to the *Superintendent*:

- 2.1.1. particulars in writing of the work to be subcontracted and the name and the address of the proposed *Subcontractor*, and
- 2.1.2. any other information which the *Superintendent* reasonably requests, including the proposed subcontract documents (without prices).

Within 10 *Business Days* of receiving the information required to be provided by the *Contractor* pursuant to Clause 9.2.2(a), the *Superintendent* must consider the request for approval and advise the *Contractor* of its approval or provide reasons why approval is not given.

In considering a request for approval to subcontract under this Clause 9.2.2, the *Superintendent* may consider the proposed *Subcontractor's*:

- 2.1.3. management capability in quality, work health and safety and environmental management, and
- 2.1.4. technical experience and capability.

The *Superintendent's* approval to subcontract under this Clause 9.2.2 may be conditional upon the subcontract, including:

- 2.1.5. provision that the *Subcontractor* must not assign or subcontract without the consent in writing of the *Contractor*, and
- 2.1.6. provisions which may be reasonably necessary to enable the *Contractor* to fulfil the *Contractor's* obligations to the *Principal*.

3. Registered suppliers

Without limiting the *Contractor's* obligations under Clause 9, the *Contractor* must only use registered suppliers in respect of the *Work Under the Contract* which is covered by the *Principal's* relevant registration categories.

The registered suppliers and registration categories may be amended at any time and from time to time by the *Principal* and are available at the *Principal's* website.

Where a registered supplier is removed from *the* register after the *Superintendent* has granted approval of that *Subcontractor*, the *Contractor* must continue to fulfil that registered supplier's obligations under the *Contract*.

The *Contractor* must ensure that any special conditions imposed on the Registered Suppliers as part of registration be complied.

Annexure to the General Conditions of Contract

Part D

Dispute Resolution Framework

Introduction and Instructions

The use of a Dispute Resolution Framework is optional. However, it must be used if Alternative 1 – Expert Determination or Alternative 3 - Alternative Dispute Resolution is selected in Item 30.

The detail of the process to be followed if Expert Determination or Alternative Dispute Resolution is specified must be included.

Example clauses for Expert Determination follow:

1 Questions to be determined by the Expert

- .1 For each matter in dispute, the Expert must determine the following questions, to the extent that they are applicable to the issue and unless otherwise agreed by the parties:
 - .1 Is there an event, act or omission which gives the claimant a right to compensation, or assists in otherwise resolving the Issue if no compensation is claimed:
 - .1 under the Contract,
 - .2 for damages for breach of the Contract, or
 - .3 otherwise in law?
 - .2 If so:
 - .1 what is the event, act or omission?
 - .2 on what date did the event, act or omission occur?
 - .3 what is the legal right which gives rise to the liability to compensation or resolution otherwise of the Issue?
 - .4 is that right extinguished, barred or reduced by any provision of the Contract, estoppel, waiver, accord and satisfaction, set-off, cross-claim or other legal right?
 - .3 In light of the answers to the questions in clauses 1.1.1 and 1.1.2 of this Expert Determination Procedure:
 - .1 what compensation, if any, is payable by one party to the other and when did it become payable?
 - .2 applying the rate of interest specified in the Contract, what interest, if any, is payable when the Expert determines that compensation?
 - .3 if compensation is not claimed, what otherwise is the resolution of the Issue?
- .2 The Expert must determine, for each Issue, any other questions identified or required by the parties, having regard to the nature of the Issue.

2 Submissions

- .1 The procedure for submissions to the Expert is as follows:
 - .1 The party to the Contract which referred the Issue to Expert Determination must make a submission in respect of the Issue, within 15 Business Days after the date of the letter of engagement of the Expert.
 - .2 The other party must respond within 15 Business Days after receiving a copy of that submission or such longer period as the other party may reasonably require, having regard to the nature and complexity of the Issue and the volume of the submission.

If the parties do not agree on that longer period, the party desiring the longer period may make a submission on the point to the Expert, within the time specified by the Expert, and the Expert will promptly determine any extra time permitted. The response to the submission in clause 2.1.1 may include cross-claims.

- .3 The party referred to in clause 2.1.1 may reply to the response of the other party, but must do so within 10 Business Days or such longer period as that party may reasonably require (in the same terms as in clause 2.1.2) after receiving the response, and must not raise new matters.
- .4 The other party may comment on the reply, but must do so within 10 Business Days or such longer period as that party may reasonably require (in the same terms as in clause 2.1.2) after receiving the reply, and must not raise new matters.
- .2 The Expert must ignore any submission, response, reply, or comment not made within the time given in clause 2.1 of this Expert Determination Procedure, unless the Principal and the Contractor agree otherwise.
- .3 The Expert may request further information from either party. The request must be in writing, with a time limit for the response. The Expert must send a copy of the request and the response to the other party, and give the other party a reasonable opportunity to comment on the response.
- .4 All submissions, responses, replies, requests and comments must be in writing. If a party to the Contract gives information to the Expert, it must at the same time give a copy to the other party. All documents to be sent to the Principal under this Expert Determination Procedure must be sent to the relevant person in accordance with clause 7 of NCW4.

3 Conference

- .1 The Expert may request a conference with both parties to the Contract. The request must be in writing, setting out the matters to be discussed.
- .2 The parties agree that such a conference is not to be a hearing which would give anything under this Expert Determination Procedure the character of an arbitration.

4 Role of Expert

- .1 The Expert:
 - .1 acts as an Expert and not as an arbitrator;
 - .2 must make its determination on the basis of the submissions of the parties, including documents and witness statements, and the Expert's own expertise; and
 - .3 must issue a certificate in a form the Expert considers appropriate, stating the Expert's determination and giving reasons, within 16 weeks, or as otherwise agreed by the parties, after the date of the letter of engagement of the Expert.
- .2 If a certificate issued by the Expert contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the Expert must correct the certificate.