

Conditions of Order for Contractor's Works and Services



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This Order is subject to the following terms and conditions:

1 Terminology

- (a) Capitalised terms are defined in the Order or in these Conditions.
- (b) Where used, **Business Days** means those days so defined in the *Building and Construction Industry Security of Payment Act (1999) NSW (as amended) (SOP Act)*.
- (c) Where used, **White Card** means the card or evidence for completing a construction induction training course issued by a registered training organisation as per the requirements in the jurisdiction that the Work is being provided in.

2 Contractor's Obligations

- (a) The Contractor must carry out and complete the Work for the amount(s) and by the Date for Completion stated on this Order.
- (b) The Contractor shall be deemed to have carefully examined the requirements of the Order and to be satisfied as to the nature, extent and location of the Work, the character, quantity and kind of materials and equipment needed for all conditions (including site conditions, hazards and risks and access requirements) and requirements associated with the Work and all other matters which may affect the Work or completion by the Date for Completion.
- (c) Where the Work includes any materials, plant or equipment to be supplied by the Principal, then it is the responsibility of the Contractor to inspect the items and confirm that they are suitable for use prior to taking control of the Site or using the materials, plant or equipment (whichever comes first). Where the Contractor does not notify the Principal of the unsuitability of the materials, plant or equipment then it will be assumed that the Contractor has accepted them as being suitable for use and no claims may be made regarding their suitability for use.
- (d) The Contractor must proceed diligently, in a competent manner and in accordance with any approved programme determined or varied by the Principal, and with each and every instruction given or made by the Principal.

3 What the Contractor must do

3.1 Contractor Warranties

The Contractor warrants that:

- (a) the Work shall:
 - (i) be of a good, tradesman-like quality or good merchantable quality and acceptable to the Principal;
 - (ii) comply in every respect with all relevant Legislative Requirements and other standards and specifications (refer to clause 10);
 - (iii) not infringe any patent, trademark, design or copyright;
 - (iv) not cause unnecessary delays, inconveniences to the Principal or motorists, or unnecessary damage including the removal of the Principal's property or assets, unless agreed otherwise in the Order; and
 - (v) comply with all relevant applicable labour and human rights International laws, statutes, standards and regulations relating to the ethical sourcing of goods.
- (b) where plans or documentation are prepared as part of the Works then ownership of the plans or documentation is transferred to Principal on completion of the Work. On completion the Contractor must provide all copies of the plans or documentation to the Principal;
- (c) where materials, equipment or plant is specially designed by or through the Contractor and installed on Site then ownership of the intellectual property (whether registrable or not) in the design, shall be transferred to the Principal;
- (d) it is practicable to complete the Work in the manner envisaged and by the Date of Completion; and
- (e) the completed Works will remain free from all faults and defects, and remain fit for service for a period of one year from the date of the completion certificate issued under clause 14(c) unless otherwise specified in the Order.

3.2 Supervision

The Contractor must supervise all Work, including all subcontractor's work, and is responsible for:

- (a) sufficient control of the Site;
- (b) protection of the Work until the date of the completion certificate issued under clause 14(c) unless otherwise specified by the Principal;
- (c) co-ordination with other contractors on the Site, regardless of whether they work for or are engaged by the Contractor or Principal;
- (d) keeping the Work in a reasonably clean and tidy condition;
- (e) providing operating manuals, inspection and test plans, and as built drawings before the Date for Completion; and
- (f)
 - (i) removing all plant, equipment and materials including debris and litter;
 - (ii) leaving the Site ready for immediate use or occupation on completion; and
 - (iii) reinstating any infrastructure, asset or property that was removed or damaged as a result of undertaking the Works,unless otherwise required by the Principal.

If the Contractor fails to comply with this clause, the Principal may do whatever may be required for the proper compliance of this clause and the cost incurred may be deducted from any money due or becoming due to the Contractor.

4 Payment

Subject to these conditions and the Order, the Principal will pay the Contractor the Price progressively on account, and when all of the Work is completed in accordance with the Order.

4.1 Progress claims

- (a) The Contractor must make progress claims on the first day of each month for work performed during the month prior to service of a progress claim.
- (b) The Contractor is not entitled to make a progress claim earlier than the date for making that claim. Each progress claim must be given in writing to the Principal and must:
- (i) include the value and quantity of each item complete (for the schedule of rates), the percentage of work completed (where works are lump sum) and all amounts due to the Contractor arising out of or in connection with the Order, together with evidence in writing of the amounts due to the Contractor;
 - (ii) include such information as the Principal may require;
 - (iii) in circumstances where the Contractor is registered for GST purposes, attach an approved tax invoice;
 - (iv) attach a "Subcontractor's Statement regarding Workers Compensation, Pay-roll Tax and Remuneration" in the form set out in Annexure A;
 - (v) attach a written statement complying with the requirements under paragraph 18 of Schedule 2 of the Payroll Tax Act 2007 (NSW), section 127 of the Industrial Relations Act 1996 (NSW) and section 175B of the Workers Compensation Act 1987 (NSW), in the form set out in Annexure A.

4.2 Progress Certificate

Within 10 Business Days after receipt of a progress claim in accordance with clause 4.1, the Principal may provide to the Contractor a progress certificate. The progress certificate must set out the calculations employed to arrive at the sum which the Principal proposes to pay and may include:

- (a) the gross value of the Work carried out by the Contractor as at the date of the progress claim. If requested by the Principal, the Contractor shall attend a site inspection to confirm the extent of the completed works and quantities;
- (b) amounts already paid to the Contractor under the Order;
- (c) amounts otherwise due from the Principal to the Contractor and/or due from the Contractor to the Principal arising out of or in connection with the Order or otherwise; and
- (d) the reasons for any difference between the amount in the progress certificate and the amount claimed in the progress claim, including reasons for withholding payment.

If the Contractor does not make a progress claim in accordance with clause 4.1, the Principal may nevertheless issue a progress certificate.

4.3 Payment

The Principal shall pay the Contractor an amount not less than the amount shown in the progress certificate by the later of:

- (a) 30 days from the end of the month in which the progress certificate is received;
- (b) the date upon which the Principal receives all items set out in clauses 4.1(b)(i) to (v); or
- (c) the date upon which the Contractor delivers to the Principal evidence satisfactory to the Principal that all insurances required under the Order have been taken out and that the policies are current in all respects.

Payment is not due and payable to the Contractor until the items listed at clauses 4.1(b)(i) to 4.1(b)(v) above are provided. Payment under this clause is not evidence of the value of the Work or an admission of liability that the Work has been satisfactorily performed, but is payment on account only. The Principal will not be responsible for any losses suffered by the Contractor as a result of a withheld or late payment.

4.4 Set off

The Principal may deduct from any moneys due to the Contractor:

- (a) any debt or other moneys due from the Contractor to the Principal; or
- (b) any claim to money which the Principal may have against the Contractor whether for damages or otherwise, whether under the Order or otherwise.

4.5 Payment of Subcontractors

- (a) If a subcontractor is entitled to suspend work (forming part of the Work) pursuant to section 17.4 of the SOP Act, the Principal may at its absolute discretion pay that subcontractor all or any part of the relevant amount owing to the subcontractor.
- (b) Any amount paid by the Principal under this clause is recoverable from the Contractor as a debt due to the Principal.

5 Price

- (a) The Price for the Work is fixed where the Order is nominated as a lump sum.
- (b) Where the Order is to be undertaken as a schedule of rates then agreed unit rates shall remain fixed for the term of the Works.
- (c) The Contractor warrants that the Price includes everything necessary for, and incidental to, the complete and proper performance of the Work.
- (d) No prices listed on the Order are subject to escalation unless both the Contractor and the Principal expressly agree in writing.
- (e) The Price includes all taxes, levies, duties and fees (including goods and services tax) which are payable in relation to the Work. The Contractor must pay any such taxes, levies, duties and fees.
- (f) Unless otherwise stated in the Order, the Price for the Work will cover all the Contractors' costs, including all fees relating to the delivery of goods and/or performance of the services.

6 Quantities

- (a) Where quantities are specified in this Order or in quotations by the Contractor forming part of this Order, the accuracy of these quantities shall be the responsibility of the Contractor.

- (b) Any work necessary to carry out the Work which is additional to that stated in the Order shall be supplied and installed by the Contractor at its own cost.
- (c) Where the Principal has supplied the quantities, the Contractor, on finding any discrepancies in stated quantities and actual quantities, shall notify the Principal in writing. For lump sum contracts no variations will be permitted. For schedule of rates contracts, the schedule of quantities will be varied as agreed by the Principal.
- (d) Where the schedule of rates quantities vary by more than 20% then the agreed rates will be adjusted by the Principal to take into account the change in the scope.

7 Variations

- (a) The Contractor must not vary the Work except as directed by the Principal.
- (b) The Principal may, at any time, direct the Contractor to perform any reasonable variation and the Contractor must perform the variation subject to clause 7(d). The direction must be in writing and must state that it is a direction for a variation.
- (c) The Contractor, at any time, may request a variation from the Principal. The Contractor shall provide the Principal least 5 Business Days' notice for values up to \$10,000.00 and 10 Business Days' notice for values over \$10,000.00 prior to requiring a response from the Principal. Where the Principal fails to provide a response it will be assumed that the variation has been rejected by the Principal.
- (d) Where the Principal has given the Contractor a direction to perform a variation which complies with clause 7(b) or the Contractor has requested a variation under 7(c), the value of the variation must be agreed between the Principal and the Contractor, otherwise clause 7(e) will apply.
- (e) In the event that the Principal and the Contractor are unable to agree on the value of a variation in accordance with clause 7(d), the Principal may engage other contractors to perform the variation.
- (f) Where the variation is not critical for the completion of the Work, the Principal may decide to obtain quotations from other contractors.
- (g) Where provisional quantities or items are included in the Order then payment will only be made on these items once a variation has been approved for their use.
- (h) No variation shall vitiate this Order.

8 Insurances

8.1 Insurance to be effected

The Contractor must take out and maintain, on terms and with reputable insurers approved by the Principal, for the term of the Order, the following policies of insurance for amounts not less than as stated:

- (a) public liability insurance in the amount stated in the Order, or, if nothing is stated in the Order, not less than \$20 million per occurrence, unless otherwise agreed, in respect of accidental damage or loss to any property and accidental injury (including death) to any person arising out of the performance of the Work and in respect of product liability;
- (b) professional indemnity insurance for not less than the amount stated in the Order;
- (c) insurance required by law;
- (d) construction plant and equipment insurance in respect of the replacement value of all constructional plant, equipment, supplies, materials and services, including temporary works and materials not for incorporation in the Work, used or to be used by the Contractor in connection with the Order;
- (e) contract works insurance in respect of the loss or destruction of or damage to the Work in the course of construction or in performance of the Order, including all materials, supplies and equipment (other than the Contractor's constructional plant), in the amount not less than the Price, or as stated in the Order; and
- (f) any other insurances required by the Principal.

8.2 Evidence of insurances

The Contractor shall supply the Principal with evidence that the insurance required under clause 8.1 has been effected and is current from time to time, as requested by the Principal.

8.3 Failure to insure

If the Contractor fails to effect and maintain the insurances required by clause 8.1, the Principal may effect insurance on behalf of the Contractor and deduct any cost so incurred from any money due to or becoming due to the Contractor.

8.4 Insurance by Subcontractors

The Contractor shall also ensure that each of its subcontractors effects similar insurances as described in clauses 8.1(a) and 8.1(b).

8.5 Contractor not to prejudice insurance cover

The Contractor must not do anything or allow anything to be done which might cause the insurances referred to in clause 8.1 to be cancelled, avoided or otherwise prejudiced.

9 Liability

9.1 Indemnity

Subject to clauses 9.2, 9.3 and 9.4, the Contractor indemnifies the Principal and its officers, employees, agents and contractors against:

- (a) all loss or damage to the Principal's property;
- (b) any loss or damage arising from any claim, demand, action, suit or proceeding that may be made or brought by any person against the Principal, or any officer, employee, contractor or agent of the Principal;
- (c) any loss or damage suffered or incurred by the Principal in respect of personal injury to or death of any person;
- (d) loss of or damage to any property (including any suit for an injunction in respect of any loss, apprehended loss or interference with enjoyment of any property); and
- (e) if included in the Work Order, any loss of revenue up to the cap included in the Work Order, arising directly out of or as a consequence of the performance or non-performance of the Work by the Contractor, its employees, agents or subcontractors.

- 9.2 Exclusions**
The indemnity in clause 9.1 does not apply to the extent that the loss, damage, injury, death, cost or expense is caused by a breach by the Principal of any provision of the Order or any negligent act or omission of the Principal, or any employee, contractor or agent of the Principal.
- 9.3 Limitation of indemnity**
(a) Subject to clause 9.3(b), the total aggregate liability of the Contractor to the Principal under clause 9.1 is limited to an amount equal to the Price.
(b) The limitation of liability in clause 9.3(a) does not apply in respect of personal injury or death, property damage, IP infringement, wrongful disclosure of confidential information, abandonment, fraud and insurance proceeds actually recovered.
- 9.4 Consequential loss**
(a) Neither party has any liability to the other party, not will either party be entitled to make any claim, for any loss that does not arise directly or naturally from the relevant breach.
- 10 Legislative Requirements**
- 10.1 Definition**
For the purpose of this clause 10, **Legislative Requirements** includes:
(a) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the state or territory in which any part of the Work is being carried out;
(b) certificates, licenses, consents, permits, approvals and requirements of any statutory or local authority concerning the performance of all or any part of the Work; and
(c) fees and charges payable in connection with the above.
- 10.2 Compliance with Legislative Requirements**
(a) The Contractor must, at its own cost, comply with all Legislative Requirements. If a Legislative Requirement is inconsistent with a provision of the Order or the Principal's requirements, as soon as the Contractor discovers the inconsistency, the Contractor must notify the Principal in writing specifying the inconsistency.
(b) The Contractor is responsible for complying fully with the requirements and regulations specified by the Principal, the Roads and Maritime Services Authority of NSW (**RMS**), Work Cover (NSW), the NSW Environment Protection Authority (**EPA**), and other road authorities and operators when working in, partially in or outside of the M5 South West motorway lease area.
- 11 Working Hours**
(a) The Contractor may only work during the hours stated in the Order, unless the Contractor obtains written consent from the Principal in writing at least 2 Business Days prior to the change in working hours being required, which consent must not be unreasonably withheld.
(b) For works that require traffic control, or changes to the hours, dates or location that traffic control is required the Contractor must obtain the Principal's consent in principle prior to applying to the RMS to obtain its approval to occupy the road and change the speed zones through and around the Site. The Principal on receiving a copy of the RMS's approval must provide to the Contractor a written consent to the change in writing, which consent must not be unreasonably withheld.
- 12 Contractor's Employees & Subcontractors**
The Contractor shall pay the rates and wages, and observe and perform the conditions, that are provided for in any relevant award or industrial agreement.
- 13 Assignment**
(a) The Contractor must not assign or subcontract a substantial portion of the Works without the prior written consent of the Principal, which may be withheld by the Principal in its absolute discretion.
(b) Any purported dealing by the Contractor in breach of this clause is of no effect.
(c) The Principal may assign or deal with its interest under this Order at any time by notice in writing to the Contractor.
- 14 Completion**
(a) The Contractor shall complete the Works by the Date for Completion set out in the Order or as instructed by the Principal and must proceed with the Work with due expedition and without delay.
(b) The Contractor must, within 5 Business Days of commencing the Work, deliver to the Principal a program for the performance of the Work. The Contractor must update the program when directed to do so by the Principal.
(c) The Principal must issue a certificate of completion when, in the opinion of the Principal, the Work has reached completion.
- 15 Delays**
- 15.1 Notice of extension of completion**
The Principal may, at any time, from time to time, and for any reason, by notice in writing to the Contractor, extend the Date for Completion. The Principal is under no obligation to exercise this discretion for the benefit of the Contractor.
- 15.2 Entitlement to extension**
The Contractor shall only be entitled to an extension to the Date for Completion when:
(a) it can demonstrate to the reasonable satisfaction of the Principal that it has been or will be delayed in reaching the Date for Completion by a cause in clause 15.3 (having regard to clauses 15.4 and 15.5);
(b) the Order does not provide that the Contractor has no entitlement in relation to that cause; and
(c) the Contractor has given all notices strictly in accordance with the requirements of clause 15.
- 15.3 Allowable causes of delay**
The causes of delay referred to in clause 15.2 are:
(a) a variation directed by the Principal under clause 7;
(b) any act or omission of the Principal or any of its employees, consultants or agents (whether or not that act or omission is a breach of this Order); and

- (c) any other cause which is expressly stated in the Order to justify an extension of time.
(Together the **Allowable Causes of Delay**).
- 15.4 Entitlement**
The Allowable Causes of Delay will only give rise to an entitlement to an extension of time if:
- (a) the cause was beyond the reasonable control of the Contractor;
 - (b) the Contractor has not contributed to the cause; and
 - (c) the Contractor has taken all reasonable steps to mitigate the effect of the delay.
- 15.5 Claim for extension**
Should the Contractor wish to make a claim for an extension of time then it must give a notice in writing to the Principal within 5 Business Days of the commencement of the Allowable Cause of Delay which provides full detailed particulars of the cause of the delay, how that cause has delayed or will delay completion, the period of the delay (including the dates of commencement and, if applicable, conclusion of the delay) and the extension of time claimed.
- 15.6 Review of Claim by Principal**
The Principal must, within a reasonable time but in any event no later than 10 Business Days after receiving a claim for an extension of time under this clause, determine the period of the extension of time to which the Contractor is entitled (which must be reasonable) and the Date for Completion shall be extended by that period.
- 15.7 Costs**
The Contractor shall not be entitled to any reimbursement of cost, loss, expense or damage suffered or incurred by the Contractor as a result of their act or omission that causes a delay or an extension of time.
- 16 Inspections**
- (a) The Work may be subject to inspection by the Principal. Any acceptance of the Work upon an inspection shall not relieve the Contractor of its obligations pursuant to these Conditions or the Order.
 - (b) Following an inspection, or an instruction of the Principal given to the Contractor prior to the expiration of one year from the date of the completion certificate issued under clause 14(c), the Contractor must make good at no cost to the Principal any defects or other faults in the Work. The Principal, in addition to any other rights and remedies, may reject any Work that does not conform to the requirements of this Order or the Principal's satisfaction, and any of the Work so rejected is at the Contractor's risk.
 - (c) The Contractor shall be liable to pay to the Principal, or the Principal may deduct from moneys due and payable, as the case may be, the cost of making good any damage, defects or other faults caused by the Contractor or those for whom he is responsible to the work of the Principal or of any other sub-contractor or Contractor.
- 17 Default and insolvency**
- 17.1 Default by the Contractor**
If the Contractor commits a breach of any obligation in these Conditions or the Order, the Principal may give the Contractor written notice of default specifying the breach and the date by which the Contractor must rectify the breach.
- 17.2 Rights of the Principal**
If the Contractor fails to rectify the default within the time specified in a notice given under clause 17.1, the Principal may, by notice in writing, do either or both of the following:
- (a) suspend payments due or which may become due under this Order; and
 - (b) either:
 - (i) immediately take over the incomplete Work and at its option have the Work completed by itself or others; or
 - (ii) terminate this Order, in which case the respective rights and liabilities of the parties will be the same as they would be at common law if the Contractor had wrongfully repudiated the Order.
- 17.3 Rights of the Contractor**
If the Principal commits a breach of any of its obligations under these Conditions or the Order, the Contractor may give the Principal written notice of default specifying the breach. The Principal must rectify the breach within 30 days of the Contractor's notice.
- 17.4 Rights of the Principal**
If the Principal fails to rectify the default within the time specified in a notice given under clause 17.3, the Contractor may, by notice in writing, do either or both of the following:
- (a) suspend the Work; and
 - (b) terminate the Order, in which case the respective rights and liabilities of the parties will be the same as they would be at common law if the Principal had wrongfully repudiated the Order.
- 17.5 Adjustment on completion of the work taken out of the hands of the Contractor**
If the Principal exercises the power in clause 17.2(b)(i) then, when the Work has been completed, the Principal must calculate the difference between:
- (a) the additional cost of having the Work completed by itself or others, and any other loss or damage suffered or incurred by reason of the Contractor's default; and
 - (b) the amount of suspended payments and security called on by the Principal.
- If the calculation results in a shortfall to the Principal, the Contractor must pay the amount of the shortfall to the Principal within 5 Business Days of a written demand for payment by the Principal.
- 17.6 Insolvency default**
The Principal may exercise any power under clause 17.2 (in which case clause 17.5 will also apply):
- (a) where the Contractor is an individual person or a partnership including an individual person, and if the Contractor:
 - (i) is or states that it is unable to pay its debts as and when they become due and payable;
 - (ii) is taken or must be presumed to be insolvent under any applicable legislation;
 - (iii) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under Part X of the Bankruptcy Act 1966 (Cth); or

- (b) where the Contractor is a corporation; if:
- (i) the Contractor is or states that it is unable to pay its debts as and when they become due and payable;
 - (ii) the Contractor is taken or must be presumed to be insolvent under any applicable legislation;
 - (iii) an application or order is made for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of the Contractor;
 - (iv) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of the Contractor, or any action is taken to appoint any such person and the action is not stayed, withdrawn or dismissed within 5 Business Days;
 - (v) a receiver or receiver and manager is appointed in respect of any property of the Contractor;
 - (vi) the Contractor is deregistered under the Corporations Act 2001 (Cth) or notice of its proposed deregistration is given to the Contractor;
 - (vii) a distress, attachment or execution is levied or becomes enforceable against any property of the Contractor;
 - (viii) the Contractor enters into or takes any action to enter into an arrangement (including a scheme of arrangement or deed of company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of the Contractor's creditors or members or a moratorium involving any of them;
 - (ix) a petition for the making of a sequestration order against the estate of the Contractor is presented and the petition is not stayed, withdrawn or dismissed within 5 Business Days or the Contractor presents a petition against itself;
 - (x) the Contractor presents a declaration of intention under section 54A of the Bankruptcy Act 1966(Cth); or
- (c) anything analogous to or of a similar effect to anything described above in clauses 17.6(a) or 17.6(b) under the law of any relevant jurisdiction occurs in respect of the Contractor.

18 Dispute Resolution

18.1 Notice of Dispute

If a difference or dispute (together called a 'dispute') between the parties arises in connection with the Order, then either party shall, by hand or by registered post, give the other party a written notice of dispute adequately identifying and providing details of the dispute.

Notwithstanding the existence of a dispute, the parties shall, subject to clause 17.2 and clause 18.4, continue to perform their obligations under this Order.

18.2 Conference

Within 14 days after receiving a notice of dispute, the parties shall confer at least once to resolve the dispute or to agree on methods of doing so. At every such conference each party shall be represented by a person having authority to agree to such resolution or methods of resolution. All aspects of every such conference except the fact of its occurrence shall be privileged. If the dispute has not been resolved within 28 days of service of the notice of dispute then, unless clause 18.4 applies, that dispute shall be and is hereby referred to expert determination.

18.3 Expert Determination

If within 28 days of service of a notice of dispute, the dispute has not been resolved, the dispute shall be referred to expert determination. If within a further 10 Business Days of the dispute being referred to expert determination the parties have not agreed upon an expert, the expert shall be nominated by the President of the Institute of Arbitrators and Mediators, Australia (IAMA). The expert determination shall be conducted in accordance with the IAMA's rules for expert determination.

Except where the parties otherwise agree in writing or the rules otherwise provide:

- (a) each party shall bear its own costs and pay one half of the expert's fees and expenses;
- (b) the expert shall not act as an arbitrator; and
- (c) the determination of the expert shall be final and binding on the parties.

18.4 Summary Relief

Nothing in these Conditions or the Order shall prejudice the right of a party to institute proceedings to enforce payment due under the Order or to seek injunctive or urgent declaratory relief.

19 Governing Law

The law of New South Wales shall govern this Order.

20 Waiver

- (a) A single or partial exercise or waiver by a party of a right relating to this Order does not prevent any other exercise of that right or the exercise of any other right.
- (b) A party is not liable for any loss of any other party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

21 Principal's rights to order the Contractor to vacate the Site or to stop work

- (a) The Principal may at any time request the Contractor to vacate the Site or stop the Works. On receipt of such request from the Principal, the Contractor shall immediately comply with request and make the Site safe after seeking directions from the Principal. All costs and any loss of time in complying with the request may be claimed as a variation to the Contract.
- (b) The Principal may request the Contractor to immediately remove a person or subcontractor from site where the Principal believes that the person or subcontractor is not acting in accordance with any relevant legislation, the Principal's requirements, or for any other reason, at no additional cost or extension of time to the Principal.

22 Prestart site inspection and site inductions.

- (a) A prestart site inspection and meeting shall be undertaken by the Principal and the Contractor. The Principal will be responsible for taking minutes of the meeting, which will form part of the Order.

- (b) The Contractor is responsible for familiarising itself with the Site, all site conditions and work requirements including the associated hazards and risks, and has included allowances for these conditions in the tendered or quoted amount prior to commencing the Works or taking possession of the Site, whichever comes first.
- (c) Upon a request by the Principal, the Contractor must undertake a site induction held by the Principal prior to commencing the Works and ensure that all of its employees, subcontractors, agents and visitors undertake a site induction (carried out by the Contractor in accordance with the Principal's requirements). The Contractor shall ensure that all persons entering the Site have attended the relevant site induction, hold a current "White Card" and obtain appropriate licences to access the Works and perform the duties the person is undertaking on Site.

23 Materials and Equipment that are on site.

- (a) The Contractor is responsible for all existing materials, equipment, plant and other assets located on site.
- (b) All existing materials, equipment, plant and other assets made redundant as a result of the Works shall remain the property of the Principal. The Contractor shall obtain instructions from the Principal on how to dispose of these items. Where these items are to be re-used or returned to the Principal for future use then the Contractor shall relocate and store the items in such a manner so as to prevent any unnecessary damage. The Principal may claim up to the replacement value including overheads against the Contractor for any lost or damaged materials, equipment, plant or other assets.
- (c) The Contractor is responsible for the disposal of all debris, materials, plant and equipment at approved EPA sites and all tipping documentation shall be provided to the Principal. Disposal of debris, materials, plant and equipment will only be permitted on site with written approval from the Principal.

24 Confidentiality

All documentation and communications between the Principal and the Contractor shall remain confidential. The Contractor shall not provide any information to the media or public unless otherwise directed by the Principal.

25 Entire Agreement

The parties acknowledge that the Order constitutes the entire agreement between the parties and that no prior or subsequent representations or agreements whether verbal or in writing by the Principal or the Contractor or any employee or agent thereof shall bind the parties unless set out in or subsequently endorsed by the parties.

26 Electronic Signatures

The Contractor and Principal agree that the electronic signature of a party to this Order will be accepted as valid as an original signature and will be effective to bind such party to this Order.

27 Order is paramount

These Conditions and the Order prevail over any other terms or conditions, including those issued by the Supplier.