



TERMS AND CONDITIONS OF CONTRACT

Form #	4.1205 / 1
Reviewed:	14 Sep 2015

- 1 **CONTRACT**
Contract means:
 - 1.1 where this Works Order is issued to the Contractor under a Local Government Works Contract ("the Head Contract") then the general conditions and any specifications contained in the Head Contract together with the attached order shall constitute the contract documents and the entire terms of the agreement.
 - 1.2 in any other case, the terms and conditions contained herein together with any specifications and the attached order shall constitute the contract documents and the entire terms of the agreement.
- 2 **WORKS**
"Works" means all works and/or services specified in the Works Order and any additional works and/or services necessary for the performance of the contract and includes all variations agreed between the parties.
- 3 **SPECIFICATIONS**
"Specifications" means any specifications issued by the Principal in relation to the Contract.
- 4 **STATUS OF CONTRACTOR**
Nothing in the Contract constitutes the Contractor as the partner, joint venturer, servant, agent or employee of the Principal for any purpose whatsoever.
- 5 **OBLIGATIONS OF THE CONTRACTOR**
The Contractor shall:
 - 5.1 Perform and complete the works and, subject to any conditions provided elsewhere in the contract, provide all supervision, labour, materials, plant, transport and temporary works which may be necessary.
 - 5.2 Not vary the works from the description in the Works Order or the specifications without the prior written consent of the Principal.
 - 5.3 Be responsible for the care of the works from the date of commencement until completion including the care, storage and protection of unfixed items and items provided by the Principal.
 - 5.4 Provide, erect and maintain all barricades, fences, signs, lighting and temporary works necessary for the protection of the works, other property and for the safety and convenience of the public.
 - 5.5 Complete the works to the satisfaction of the Principal with due expedition, without delay and within the time specified in the Works Order or such further time as agreed in writing by the Principal.
 - 5.6 Not vary the price of the works from the price agreed or undertake works which will incur additional fees or charges without the prior written consent of the Principal.
- 6 **QUALITY**
 - 6.1 The Contractor shall exercise reasonable skill, care and diligence in performing the works and shall comply with all applicable standards, safety regulations, codes of practice and any specific requirements resulting from the Contractor's trade, profession or expert knowledge.
 - 6.2 The Contractor shall correct any defects in the works at its own cost within fourteen (14) days of any notice in writing by the Principal requesting correction. Failing such correction, the Principal may correct such defects itself at the cost of the Contractor.
- 7 **WARRANTY**
The Contractor warrants that all materials provided to the Principal as part of the works:
 - 7.1 will conform with the description in the Works Order and with the specifications;
 - 7.2 will be of good merchantable quality and be for the known purpose for which it is provided;
 - 7.3 will be new unless otherwise notified in writing by the Principal.
- 8 **STATUTORY REQUIREMENTS**
The Contractor must comply with and give all notices required by any Act of Parliament, ordinance, regulation or by-law relating to the works including the Ombudsman Act 1972.
- 9 **TERMS OF PAYMENT**
Unless otherwise agreed, payment shall be made within twenty eight days of receipt of invoice subject to:
 - 9.1 the price being in accordance with this contract;
 - 9.2 all works and/or services, materials and equipment being received and accepted by the Principal as satisfying the contract documents.
- 10 **INDEMNITY**
The Contractor agrees to indemnify and keep indemnified the Principal, its servants and agents and each of them from and against all actions, costs, claims, damages or charges and expenses whatsoever which may be made or brought or claimed against them or any of them arising out of or in relation to the contract and the undertaking of the works.
- 11 **PUBLIC LIABILITY INSURANCE**
The Contractor shall take out and keep current during the period of this contract a public risk insurance policy in the name of the Contractor for a minimum sum of ten million dollars (\$10,000,000) insuring against all actions, costs, claims, damages or charges and expenses which may be brought or made or claimed against the Contractor arising out of or in any way relating to the contract. The Contractor shall not commence the works until confirmation of such policy of insurance is given to the Principal.
- 12 **SUB-CONTRACTING**
The Contractor shall not assign or sub-contract the works or any part thereof.
- 13 **WORK HEALTH & SAFETY**
 - 13.1 The Contractor shall comply with the provisions of the Work Health & Safety Act, 2012 and all associated regulations and will ensure that its employees comply with all regulations, improvement notices, prohibition notices and codes of practice issued thereunder and having application to this contract.
 - 13.2 The Contractor acknowledges that both itself and the Council have duties as PCBU's and commit to consult and manage identified risks.
 - 13.3 The Contractor shall comply with all reasonable directions and procedures relating to security and work health and safety as required by the Council when the works are to be undertaken at premises or facilities of the Council.
 - 13.4 The Contractor agrees to immediately notify the Council of any incident or accident arising from the undertaking of the contract including those involving the public.
- 14 **Return To Work**
Where applicable:
 - 14.1 The Contractor must ensure that it is registered with Return To Work SA as an employer or Self Insured under the Return To Work Act, 2014 and that it pays all levies due thereunder in respect of its employees engaged in or about the works.
 - 14.2 The Contractor agrees to indemnify the Principal in respect of any action, claim, demand, suit or proceedings made by an employee of the Contractor brought in connection with the Return To Work Act, 2014.
 - 14.3 The Contractor shall have or take out and keep current a personal accident and sickness insurance policy for a period from the commencement of the works extending until the completion date of this contract.
- 15 **DISPUTES**
All disputes or differences between the Principal and the Contractor shall be referred to an arbitrator who shall be mutually agreed upon by the parties.