

# ***Summary File ONLY***

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**IT IS BROWSABLE ON-SCREEN ONLY AND IS PROVIDED  
FOR YOUR INFORMATION TO DECIDE WHETHER TO  
BECOME A PROSPECTIVE TENDERER ONLY**

Note: This file may contain a brief scope statement, or an extract from the RFT documents, or a full exhibited copy – depending on the specific circumstances.

To participate in this tender process you **MUST** first download or order a full copy of the Request for Tender (RFT) documents, including the responsible components, and any addenda issued to date.

To do this return to the RFT web page on this web site and copy the RFT documents to your own computer or network – the blue “**DOWNLOAD A SOFT COPY**” link at the bottom provides access to the page from which you can do this.



# **Tender Document**

## **Low Level Glazing Survey, Report and Rectification for DET Facilities**

**RFT No: 0700282**

**Volume 1**

**January 08**



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# Conditions of Tendering

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# Conditions of Tendering

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This section includes notices to tenderers.

The Conditions of Tendering section does not form part of the Contract.

## 1 General

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### 1.1 Contact Person

Refer requests for information or advice regarding documents only to:

Contact Person's name:	<b>Sidar Yau</b>
Telephone number:	<b>02 9372 7358</b>
Facsimile Number:	<b>02 9372 7552</b>
e-mail address:	<b>Sidar.Yau@commerce.nsw.gov.au</b>

### 1.2 NSW Government Code of Practice for Procurement

#### Compliance

All tenderers must comply with the:

*NSW Government Code of Practice for Procurement*

Copies of the *NSW Government Code of Practice for Procurement* may be obtained from:

- the Treasury's Office of Financial Management Internet web site at  
<http://www.treasury.nsw.gov.au/procurement/cfp ig.htm>
- or
- Tenders Section, Department of Commerce, Level 3, McKell Building, 2-24 Rawson Place, Sydney, 2000, Telephone 93728900.

#### Complaints and Reports

Complaints alleging breaches of the *NSW Government Code of Practice for Procurement* will be investigated and acted upon where substantiated. Forms to facilitate reporting alleged breaches of the code may be obtained from the above addresses.

Reports of alleged breaches or other complaints may be submitted to the Contact person or to the Principal at the address shown in General Conditions of Contract - Contract Information item 6 **Notices to the Principal**.

Any complaint or any representation if a tenderer or Contractor believes that it is unnecessarily precluded from tendering or penalised in any way by the Contract terms, may be submitted to the Chairperson, State Contracts Control Board, Department of Commerce, McKell Building, 2-24 Rawson Place, Sydney, 2000.

#### Collusive Arrangements

In consideration of being permitted to tender, the tenderer promises as a fundamental condition that:

- it has no knowledge of the tender price of any other tenderer for the work under the Contract;
- except as disclosed in the tender, it has not entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to a trade or industry association (above the published standard fee) or to or on behalf of any other tenderer in relation to this tender or any contract to be entered into consequent thereon, nor paid or allowed any money on that account, nor will it pay or allow any money on that account;
- it has not entered into any contract, arrangement or understanding to receive any money directly or indirectly from or on behalf of any other tenderer nor received any money or allowance from or on behalf of any other tenderer in relation to this tender or any



contract to be entered into consequent thereon, nor will it receive any money as aforesaid;

- in the event of the Tenderer receiving any money or allowance from or on behalf of another tenderer in relation to this tender, the Tenderer shall immediately give the Principal written notice of such an event and such money or the value of any allowance shall be held in trust for and become immediately payable to the Principal; and
- in the event of the tenderer paying or allowing to or on behalf of a trade or industry association or another tenderer any money in breach of these conditions, the tenderer shall immediately give the Principal written notice of such an event and the Principal shall be entitled to deduct from any payment due to the tenderer on any account an equivalent sum as liquidated damages.

## **2 Tenderer Eligibility**

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### **2.1 Acceptable Legal Entities**

The Principal contracts only with recognised and acceptable legal entities having appropriate financial assets. Tenders submitted by an unincorporated business such as a sole trader, partnership, or business name must identify the legal entity that proposes to enter the contract.

The Principal does not contract with trusts or with entities under any form of external administration. The Principal will not award this Contract to a tenderer that is a trustee.

### **2.2 Quality management**

The Principal may elect to pass over a tender from a tenderer that does not demonstrate the capacity to systematically plan and manage the quality of its work in accordance with the NSW Government *Quality Management Systems Guidelines*, which are available at:

<http://www.construction.nsw.gov.au/cppm/guidelines.html>

Submit with the Tender the information identified in Tender Schedules - **Schedule of Quality Management Information.**

### **2.3 Occupational health and safety management**

Tenderers must demonstrate their capacity to manage occupational health and safety in accordance with the *NSW Government Occupational Health and Safety Management Systems Guidelines 4<sup>th</sup> Edition (OHSM Guidelines)*. The *OHSM Guidelines* are available at:

<http://www.construction.nsw.gov.au/ohs/index.html#Publications>

Submit with the Tender the information identified in Tender Schedules - **Schedule of Occupational Health and Safety Management Information.**

### **2.4 Environmental Management System**

A tender will not be accepted from a tenderer that does not have a Corporate Environmental Management System complying with the *NSW Government Environmental Management Systems Guidelines* and accredited by a NSW Government Construction Agency. The Guidelines are available at:

<http://www.construction.nsw.gov.au/publications/strategic-area.shtml>

Submit when requested evidence that the Tenderer has an accredited Corporate Environmental Management System.

### **2.5 Financial assessment criteria**

The main criteria considered in financial assessment of tenderers are:

- Net Worth (total assets, excluding any assets of company directors, less total liabilities less intangible assets);
- Current Ratio (ratio of current assets to current liabilities); and
- Working Capital (current assets less current liabilities).

The Principal considers tenders with the following financial capacity, and no other significant detrimental financial characteristics to be financially satisfactory in respect of tenders:

- Net Worth exceeds 5% of the Contract Sum or initial Contract Price;

- Current Ratio exceeds 1; and
- Working Capital exceeds 10% of the Contract Sum or initial Contract Price.

Deviations below these indicative criteria will not necessarily prevent the Principal from considering any tender.

### **3 Contract details**

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#### **3.1 Site**

##### **Other Site Activities**

- The work under this Contract will be carried out in facilities in use throughout the period of the Contract including some facilities, which may be in use outside normal hours.

##### **Other Contracts**

During the course of this Contract other works will be carried out by others including, but not limited to, contracts for:

- Asset Maintenance and Facility Management
- Building Services and Equipment Maintenance
- Major and minor construction work - extensions or modifications to the facility
- Security
- Electronic security system – installations/repairs
- Grounds maintenance
- Servicing of fire extinguishers, fire hose reels and fire blankets
- Telephone system – installation/servicing
- Computer systems
- Works organised by the Facility Manager
- Condition assessments
- Bulk gas tank filling
- Any other work at the discretion of the Principal or the Facility Manager

#### **3.2 General Conditions of Contract**

The tender documents include a copy of the General Conditions of Contract.

#### **3.3 Cost adjustment**

The work is subject to Cost Adjustment for labour and materials. See the General Conditions of Contract - **Schedule 5**.

#### **3.4 Insurance**

##### **Works and public liability insurance**

The Principal will arrange insurance of the Works (and any temporary works) and public liability, as required under General Conditions of Contract clause – **Insurance**. Tenderers are not required to allow in tenders for payment of premiums for insurance of the Works or public liability.

The insurance policy is available at:

[www.managingprocurement.commerce.nsw.gov.au/system/index\\_contract\\_management\\_insurance\\_policies.doc](http://www.managingprocurement.commerce.nsw.gov.au/system/index_contract_management_insurance_policies.doc)

The insurance broker is Jardine Lloyd Thompson Pty Ltd.

For projects valued at more than \$20 million, the Principal may agree to waive the requirements for Principal arranged insurance and permit the Contractor to arrange insurance, provided that:

- terms and conditions of the contractor arranged insurance are not significantly less favourable to the Principal than the applicable Principal arranged insurance, and
- there is a significant overall cost saving to the Principal.

The Principal has arranged insurance of the Works (and any temporary works) and public liability. The Contractor must maintain the policy by paying the insurance premiums.

For the purpose of this tender, the following defined amounts are relevant:

Item	Minimum Cover
Public Liability Cover	\$20 million any one occurrence
Workers Compensation Insurance	As required by law
Personal Accident Insurance	<ul style="list-style-type: none"> <li>- Death and permanent disability \$400,000.00</li> <li>- Temporary disablement: \$800.00 each week</li> </ul>

The insurance policy is at:

[http://www.managingprocurement.commerce.nsw.gov.au/system/index\\_contract\\_management\\_insurance\\_policies.doc](http://www.managingprocurement.commerce.nsw.gov.au/system/index_contract_management_insurance_policies.doc).

The insurance broker is Marsh Pty Ltd.

For projects valued at more than \$20 million, the Principal may agree to waive the requirements for Principal arranged insurance and permit the Contractor to arrange insurance, provided that:

- terms and conditions of the contractor arranged insurance are not significantly less favourable to the Principal than the applicable Principal arranged insurance, and
- there is a significant overall cost saving to the Principal.

The Contractor must arrange insurance of the Works (and any temporary works) and public liability and pay all premiums in accordance with General Conditions of Contract clause – **Insurance**.

The Principal will arrange insurance of the Works (and any temporary works) and public liability, as required under General Conditions of Contract clause – **Insurance**. Tenderers are not required to allow in tenders for payment of premiums for insurance of the Works or public liability.

The Principal will provide a copy of the insurance policy on request.

#### **Asbestos liability insurance**

The Principal has arranged a policy for asbestos liability insurance. The Contractor must effect insurance under the policy if asbestos decontamination work is undertaken.

The insurance policy is at:

[http://www.managingprocurement.commerce.nsw.gov.au/system/index\\_contract\\_management\\_insurance\\_policies.doc](http://www.managingprocurement.commerce.nsw.gov.au/system/index_contract_management_insurance_policies.doc)

The insurance broker is Marsh Pty Ltd.

The Contractor must arrange any required asbestos liability insurance and pay all insurance premiums in accordance with General Conditions of Contract clause – **Insurance**.

The Principal will arrange the asbestos liability insurance required in accordance with General Conditions clause - **Insurance**.

#### **Other Insurance**

The Contractor must arrange and pay all premiums for all other insurance required under General Conditions of Contract clause – **Insurance**.

For professional indemnity insurance, a Certificate of Currency or evidence of the ability to obtain the required insurance, such as a letter from a broker or insurer, may be required as a condition of acceptance of tender.

### **3.5 Proposed Subcontractors**

Provide, in Tender Schedules - **Schedule of Proposed Subcontractors**, the names of the Subcontractors, and the type of work they will be carrying out. Submit the schedule with the tender.

The provision of this information will be taken into account in the assessment of tenders. Selection of quality Subcontractors before the award of the Contract will be an indication of

the team approach to be used by the Contractor and demonstration that the Contractor will not trade off different subcontractor's prices to obtain a lower price (a practice that is unacceptable under the *NSW Government Code of Practice for Procurement*).

### **3.6 Disclosure of Contract information**

In accordance with NSW Government Policy to publicly disclose details of its contracts, the Principal may publish the following information about a contract awarded under this tender:

- Details of contract (description of project to be completed or goods/services to be provided or property to be transferred; commencement date of the contract; the period of the contract);
- The full identity of the successful Tenderer including details of cross ownership of relevant companies;
- The price payable by the agency and the basis for future changes in this price;
- The significant evaluation criteria and the weightings used in tender assessment;
- Provisions for re-negotiation (where applicable).

The Principal will not disclose the following information about any contract awarded under this tender unless the Tenderer agrees, or release is determined under the Freedom of Information Act 1989 or is otherwise legally required:

- The Contractor's financing arrangements;
- The Contractor's cost structure or profit margins;
- Items of the Contractor having an intellectual property characteristic (eg. non-tangible property that is the result of creativity, such as patentable ideas or inventions, trademarks, copyrights, etc.); and
- Any other matters where disclosure would place the Contractor at a substantial commercial disadvantage with its competitors both at the time of entering into the contract and at any later date when there would be an effect on future competitive arrangements.

Tenderers may request that the Principal not disclose particular information included in their tender but must give the reasons for requesting this. The Principal will advise a Tenderer in contention for a contract what information it agrees not to disclose. If the Principal and a Tenderer cannot agree about what should be disclosed, the Principal will seek the advice of the Chair of the State Contracts Control Board. The Principal's decision is however final and is at the Principal's absolute discretion. Neither a decision by the Principal, nor a recommendation by the Chair of the State Contracts Control Board under this paragraph is a decision which falls within any dispute resolution procedures specified in the Contract being tendered for.

The Principal may publish the identities of all Tenderers, but will not disclose other information included in an unsuccessful tender unless the Tenderer agrees, or release is determined under the Freedom of Information Act 1989 or is otherwise legally required.

For contracts valued at more than \$100,000, the Principal will normally publish the names of Tenderers when tenders close, and the other information about the contract specified above, on the internet, within 60 days after award of the contract. For other contracts the Principal will disclose the specified information on request.

### **3.7 Exchange of information between Government Agencies**

By tendering for this Contract, the Tenderer authorises the Principal to make available to other NSW government departments or agencies or local government authorities information including, but not limited to, any information provided by the Tenderer to the Principal and information relating to the Tenderer's performance or financial position. The Tenderer acknowledges that any information about the Tenderer, from any source, including but not limited to substantiated reports of unsatisfactory performance may be taken into account by the Principal, other NSW government departments or agencies or local government authorities in considering whether to offer the Tenderer opportunities for NSW government work including but not limited to assessment of suitability for registration, pre-qualification, selective tender lists or the award of a contract.

The Principal regards the provision of information about the Tenderer to any NSW government department or agency or local government authority as privileged under Section 22 of the Defamation Act 1974. The Principal and the State of NSW will reject claims in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the Tenderer arising out of the communication.

### **3.8 Contractor performance**

During the course of the Contract, the successful tenderer's performance may be monitored and assessed.

For details refer to the *Performance management system* guidelines which are available at:

[http://www.managingprocurement.commerce.nsw.gov.au/system/index\\_performance\\_management.doc](http://www.managingprocurement.commerce.nsw.gov.au/system/index_performance_management.doc)

### **3.9 Financial assessment**

By tendering for this Contract, the Tenderer agrees that the Principal may engage private sector consultants to financially assess tenderers. Financial details of tenderers may be obtained by an external Financial Assessor for assessment. Financial Assessors have a contract with the Principal to safeguard the financial details obtained. Financial Assessors must not disclose such details, either in whole or in part to any party other than NSW Government departments or agencies without the express written permission of the tenderer.

The Financial Assessor is Kingsway Financial Assessments Pty Ltd

Submit, when requested, the Financial Assessment information shown in Tender Schedule **Schedule of Financial Assessment Information**.

### **3.10 Statutory Declarations**

The Contract requires the Contractor to provide the Principal with approved statutory declarations regarding payments to workers, subcontractors and suppliers with all submitted claims for payment as well as at any other times when requested by the Principal, and to obtain equivalent statutory declarations from certain of the Contractor's subcontractors.

Failure to do so may result in the Principal not being required to make payments otherwise due to the Contractor.

Refer to General Conditions of Contract clause 45 - **Payment**.

### **3.11 Security of documents**

All tender documents marked as "restricted" are classified maximum security documents. No copies are to be made by Tenderers, their agents or anyone else other than for tendering purposes. All such documents and copies are to be returned to the Principal on completion of the tendering process.

The following documents are deemed to be marked and classified as "Restricted"-

- All contract records, in electronic and hardcopy format;
- All contract documents (Volumes 1);

### **3.12 Industrial Relations management**

Tenderers must demonstrate their capacity to plan and manage industrial relations (IR) and implement effective IR plans in accordance with the *NSW Government Industrial Relations Management Guidelines*. The Guidelines are available at:

<http://www.construction.nsw.gov.au/publications/strategic-area.shtml>

Submit when requested:

- Copies of any enterprise, workplace or other enforceable industrial relations agreements to which the Tenderer is bound; and
- Tender Schedules - **Schedule of Industrial Relations Information**.

### **3.13 Unconditional undertakings - approved institutions**

For the purpose of giving unconditional undertakings, the Principal has approved banks, building societies, credit unions and insurance companies listed by the Australian Prudential Regulation Authority (APRA) as being regulated by the APRA. Lists appear at the APRA website at:

<http://www.apra.gov.au/>

The Principal is prepared to consider proposals from tenderers for the approval of Unconditional Undertakings by substantial financial institutions, not registered by APRA, which lawfully carry on business in Australia. The Principal may require the submission of evidence demonstrating the substance and status of any proposed financial institution without cost to the Principal.

## **4 Further information**

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### **4.1 Addenda to Tender Documents**

Tenderers may ask for clarification of anything in the tender documents. The Principal will issue any instruction resulting from such request in writing to all tenderers in the form of an Addendum which becomes part of the tender documents. Similarly, should the Principal require documents to be amended an Addendum will be issued. Written Addenda issued by the Principal are the only recognised explanations of, or amendments to, the tender documents.

If tender documents have not been obtained directly from the Principal, tenderers should advise the Contact Person before submitting tenders to ensure that they receive any addendum or variation to the original document, which may be issued.

### **4.2 Site access restrictions**

Tenderers and their agents or representatives must observe the following access restrictions:

- they must obtain permission to inspect the Site from the Client's Representative at least 48 hours prior to requiring access to the Site;
- upon arrival they must introduce themselves at the Client Representative's office, at the pre-arranged time, prior to undertaking their inspection of the Site.

Tenderers should telephone the Contact Person if they experience difficulty in securing an appointment with the Client's Representative concerning site inspection.

### **4.3 Mandatory pre-tender meeting**

A pre-tender meeting will be held on the date, at the time and at the place nominated in the newspaper advertisement or the invitation to tender.

The Contact Person will be available at that time to answer any Tenderer's queries regarding the contract.

Attendance by Tenderers at the pre-tender meeting is mandatory. Failure to attend will result in the tender being passed over.

## **5 Preparation of Tenders**

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### **5.1 Alternative Tenders**

#### **Alternative Tenders Generally**

Submit a conforming tender, in full compliance with the work as specified without any conditions or qualifications attached. Submit any mandatory or optional alternative tender described earlier, in full compliance with the work as specified without any conditions or qualifications attached.

The Principal may consider other alternative tenders, provided the alternative tender meets the scope, functional intent and design concept expressed in the tender document. Where such alternative tender is proposed, a detailed description of the alternative must be submitted, stating clearly the manner in which it differs from the detailed requirements of the tender documents.

### **5.2 Schedule of Contract Information**

Submit, when requested, the details shown in Tender Schedules - **Schedule of Contract Information**.

### **5.3 Technical data**

Submit, when requested, the details shown in Tender Schedules - **Schedule of Technical Data**.

#### **5.4 Program**

Submit a program, when requested, based on the requirements stated in Section 3: Scope of the Works, in the form of a bar chart or network diagram, showing scheduled dates of site works for each school/facility site under the Contract, and including allowance for holidays; restraints imposed by the Principal's Documents; any Milestones; any external dependencies including provision of access and work by others. This program is provided for the Principal's better understanding of the planning of the Works by the Tenderer and may form part of the Contract under General Conditions of Contract clause 23 - **Time management**.

## **6 Submission of Tenders**

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### **6.1 Documents to be submitted**

The following documents need to be completed and submitted by the Tenderer:

- Tender Form
- Schedule of Rates (submit with Tender Form)
- Schedule of Regional Preferences (Submit with Tender Form)
- Schedule of Management System (Submit with Tender Form)
- Schedule of Contract Information (Submit When Requested)
- Schedule of Technical Data (Submit with Tender Form)
- Schedule of Proposed Subcontractors (Submit with Tender Form)
- Schedule of Financial Assessment information (Submit with Tender Form)

Submit all information called for in the tender documents.

Where any alternative tender is offered, submit alternative Tender Schedules describing where the alternative tender(s) differ from the conforming tender. Identify each schedule and the alternative to which it applies.

Where applicable, refer to each Addendum and state that the tender allows for the instructions given in the Addendum.

### **6.2 Submission procedure**

Submit the Tender Form, Tender Schedules marked "Submit with the Tender Form" and other required documents or information by the date and time given in the advertisement or invitation, by any of the following methods:

- eTendering,
- Tender Box,
- Facsimile.

If more than one tender submission is made, mark each submission clearly as to whether it is a copy, an alternative tender, or whether the submission supersedes another submission.

Submit when requested, by the date, time and method stipulated in the request, Tender Schedules marked "Submit when requested" and any other information required to allow further consideration of the Tender. Failure to meet this requirement may result in the Tender being rejected.

### **6.3 eTendering**

The NSW Government electronic Tendering system has the capacity to allow viewing of documents, downloading or ordering of Requests for Tender (RFT) and submission of tenders.

Tenderers are encouraged to obtain RFT and submit tenders through the eTendering website at:

<https://tenders.nsw.gov.au>.

#### **Legal status**

Tenders submitted electronically will be treated in accordance with the *NSW Electronic Transactions Act 2000*, and given no lesser level of confidentiality, probity and attention than tenders submitted by other means.

Tenderers, by electronically submitting a tender, are taken to have accepted any conditions shown on the NSW Government eTendering web site.

The Principal may decline to consider for acceptance, tenders that cannot be effectively evaluated because they are incomplete or corrupt.

### **Lodging Tenders**

RFT for which electronic lodgement is available through the web site can be identified by the blue 'LODGE A RESPONSE' button on the web pages for the RFT.

To lodge tender responses electronically the files containing the tender response must be up-loaded through the website. Access to the up-loading process is through the blue 'LODGE A RESPONSE' button, then follow the steps and the instructions on the Department of Commerce eTendering website and any instructions which may have been supplied with the VIEWABLE COPY, and/or RESPONDABLE COPY.

On receipt of tenders they are encrypted and stored in a secure 'electronic tender box'. For reasons of probity and security the Department's officers are prevented from interrogating the electronic system to ascertain whether tenders have been received, or for any other reason, until after the closing time and date specified on the RFT documentation. The e-mail receipt that is sent to the tenderer after successfully up-loading the tender response is the only evidence of tender lodgement provided.

### **Viewing RFT**

To locate a RFT, and view RFT summary details, follow the instructions on the Department of Commerce eTendering website. First locate the RFT using the RFT Search, or by looking at the Current RFT listings screen where the additional Search function may also be used. You may see some details of the RFT by accessing them through the blue 'VIEWABLE COPY' button. This function is provided to assist in making a decision to obtain a RESPONDABLE COPY of the RFT, through processes that may be detailed on the web site.

### **Downloading**

Downloading of the RESPONDABLE COPY files from the website is accessed through the blue 'RESPONDABLE COPY' button and then follow the steps and the instructions on the Department of Commerce eTendering website.

### **Electronic Format for Submissions**

Electronically lodged tenders must be lodged in a file format that can be read, formatted, displayed and printed by Microsoft Word 97, or any format required by the RFT.

### **File Compression**

Tenderers may, optionally, compress electronically submitted tenders in any format that can be decompressed by WinZip. Tenderers must not submit self-extracting (\*.exe) zip files.

### **Change of Tender Form Text**

Tenderers must not change existing text in electronic tender forms other than to insert required information.

### **Signature**

Signatures are not required on tenders submitted electronically. Tenderers must ensure that electronically submitted tenders are authorised by the person or persons who may do so on behalf of the Tenderer, and appropriately identify the person and indicate the person's approval of the information communicated.

### **Virus Obligations**

Electronically submitted tenders may be made corrupt or incomplete by computer viruses. To reduce the likelihood of viruses, Tenderers must not include any macros, applets, or executable code or executable files in tenders, unless required to by the RFT.

Tenderers should ensure that electronically submitted files are free from viruses by checking the files with an up to date virus-checking program before submission.

### **Special Provisions About Closing Time for Electronic Submission of Tenders**

If Tenderers experience any persistent difficulty with accessing the Department of Commerce eTendering website, in submitting tenders, or otherwise, they are invited to inform the Contact Officer.



Tenderers should note that there are usually alternative tender lodgement methods described in the RFT, and it is the Tenderers responsibility to lodge the tender response on time.

If there is a defect or failure of the Department of Commerce eTendering website, and the Contact Officer has been advised, consideration may be given to the time for closing tenders being extended, by Addendum to the RFT.

#### **Receipting and E-Mail Acknowledgment**

When a Tender is received in the Department of Commerce eTendering website a unique receipt acknowledgment number will be displayed on the screen and an e-mail confirming receipt of the tender will be sent to the e-mail address shown in the tenderer's registration on the system.

### **6.4 Tender Box**

The Tender may be submitted in the Tender Box at:

**NSW Department of Commerce  
McKell Building Level 3,  
2-24 Rawson Place, Sydney NSW 2000  
Facsimile number: (02) 9372-8974**

Submit the Tender in a sealed envelope addressed to the Secretary of the Tender Opening Committee and marked with "Tender for Low Level Glazing Survey, Report and Rectification For DET Schools" and the closing date and time.

### **6.5 Facsimile**

The Tender may be submitted to the following facsimile number:

**(02) 9372-8974**

Address the Tender to the Secretary of the Tender Opening Committee and mark the first page of the facsimile with "Tender for Low Level Glazing Survey, Report and Rectification For DET Schools" and the closing date and time.

Tenders sent by facsimile and not completely received by the close of tenders may be excluded from consideration for acceptance even if transmission or receipt is delayed due to the receiving facsimile machine being engaged, faulty or otherwise inoperative.

### **6.6 Late Tenders**

In accordance with the *NSW Government Code of Practice for Procurement*, late tenders will not be accepted, except where the integrity and competitiveness of the tendering process will not be compromised.

Late tenders will generally not be considered for acceptance if they are:

- hand delivered, including courier deliveries;
- received through Australia Post unless the envelope is clearly postmarked or time stamped with a date or time and date before the time and date of tender closing; or
- received by an electronic communication dispatched after close of tenders.

## **7 Procedures after closing of Tenders**

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### **7.1 Informal Tenders**

Tenders which do not comply with any requirement of, or which contain conditions or qualifications not required or allowed by the tender documents may be passed over.

### **7.2 Evaluation of Tenders**

In addition to prices tendered, the Principal may take into consideration the following criteria:

- whole-of-life costs, including initial costs, life expectancy and warranties;
- ability to meet *NSW Code of Practice for Procurement* requirements;
- innovation offered;

- quality services, including after services offered;
- quality of products and workmanship offered;
- previous performance of tenderer;
- experience of tenderer and personnel proposed;
- capability of tenderer, including technical, management, human resource, organisational and financial capability and capacity;
- tenderer's occupational and health and safety management practices and performance;
- tenderer's workplace and industrial relations management practices and performance;
- tenderer's environmental management practices and performance;
- tenderer's quality management practices and performance;
- value adding components such as economic, technologies and environmental development initiatives, if appropriate and relevant to the procurement; and
- conformity of tender with requirements.

The Principal may treat any detail required by the tender documents which is omitted, illegible or unintelligible as failing to fulfil the relevant requirement. The Principal may assess any such detail in the way least favourable to the Tenderer.

### **7.3 Acceptance of Tender**

The Principal may accept tenders that do not conform strictly with all requirements of the tender documents.

The Principal is not bound to accept the lowest or any tender.

No tender, or qualification or departure from a contract condition or specification is accepted unless the Principal gives an acceptance or formal agreement in writing.

### **7.4 Protection of privacy**

The Tenderer warrants, in respect of any personal information provided in this Tender or any contract arising from this Tender, that the information is accurate, up to date and complete, and that nominated individuals authorise its collection and are aware:

- that the information is being collected, and will be only held at the address shown in the Tender Form, and not distributed to any unauthorised parties by any means;
- that the information is being collected for the purpose of evaluating tenders and administering any contracts arising from those tenders and may be made available to other NSW government agencies or local government authorities for those purposes;
- whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided; and
- of the existence of any right of access to, and correction of, the information.

**END OF SECTION – CONDITIONS OF TENDERING**



# Tender Schedules

---

## Table of Contents

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# 1 Tender Form

---

## Tender Closing Office

Address: NSW Department of Commerce  
Level 3 McKell Building  
2 – 24 Rawson Place  
Sydney NSW 2000

Facsimile number: (02) 9 372 8974

## Tenderer's details

Name: .....  
(in block letters) .....  
ABN .....

Address: .....  
.....  
.....

Telephone number: .....  
Facsimile number: .....  
e-mail address: .....

hereby tender(s) to perform the work for

## Tender details

Contract title: DET Schools Low Level Glazing Upgrade Program

Contract number: **RFT: 0700282**  
in accordance with the following documents:

## Tender Document Volume 1 - Specification

and Addenda Numbers: .....

## Tenderer's offer

**As per attached schedule of Rates**

Signed for the Tenderer by: ..... Date:.....  
Name (in block letters): ..... (Authorised Officer)  
In the Office Bearer capacity of: .....

## 2 Schedule of Rates

(SUBMIT WITH TENDER FORM)

Refer to General Conditions of Contract .

Tenderers are to complete this Schedule of Rates by inserting a tendered rate for each item.

### **NOMINATE THE CONTRACT PACKAGE SCHEDULE RATES ARE APPLICABLE TO**

(Tenderers are to submit one completed schedule 2 – Schedule of Rates for **EACH** Region they are tendering on and nominate the applicable Region below)

#### Contract Package

Item No.	Description	Unit	A\$ Rate	Tender Evaluation Quantity
<b>1.1</b>	<b>Survey &amp; Report of Glazing for Schools of Special Purposes and Infant Schools in Normal Work Hours</b>			
1.1.1	One (1) school on a same day	school		
1.1.2	Two (2) schools on a same day	school		
1.1.3	Three (3) schools on a same day	school		
1.1.4	Four (4) schools on a same day	school		
1.1.5	Five (5) schools on a same day	school		
<b>1.2</b>	<b>Survey and Report of Glazing for Primary Schools in Normal Work Hours</b>			
1.2.1	One (1) school on a same day	school		
1.2.2	Two (2) schools on a same day	school		
1.2.3	Three (3) schools on a same day	school		
1.2.4	Four (4) schools on a same day	school		
1.2.5	Five (5) schools on a same day	school		
<b>1.3</b>	<b>Survey and Report of Glazing for High Schools in Normal Work Hours</b>			
1.3.1	One (1) school on a same day	school		
1.3.2	Two (2) schools on a same day	school		
1.3.3	Three (3) schools on a same day	school		
1.3.4	Four (4) schools on a same day	school		
1.3.5	Five (5) schools on a same day	school		
<b>2.0</b>	<b>Supply &amp; Install Grad-A Safety Film Rates in Normal Work Hours</b>			
2.0.1	Up to 0.5 m <sup>2</sup>	each pane		

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

Item No.	Description	Unit	A\$ Rate	Tender Evaluation Quantity
2.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
2.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
2.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
2.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>3.0</b>	<b>Supply &amp; Install Grade-A Safety + Solar Film Rates in Normal Work Hours</b>			
3.01	Up to 0.5 m <sup>2</sup>	each pane		
3.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
3.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
3.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
3.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>4.0</b>	<b>Supply &amp; Install Solar Film Rates in Normal Work Hours (Optional)</b>			
4.01	Up to 0.5 m <sup>2</sup>	each pane		
4.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
4.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
4.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
4.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>5.0</b>	<b>Supply &amp; Install Intrusion Film Rates in Normal Work Hours (Optional)</b>			
5.01	Up to 0.5 m <sup>2</sup>	each pane		
5.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
5.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
5.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
5.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>7.0</b>	<b>Supply &amp; Install Icon Protection Film Rates in Normal Work Hours (Optional)</b>			
7.01	Up to 0.5 m <sup>2</sup>	each pane		
7.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
7.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
7.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
7.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

Item No.	Description	Unit	A\$ Rate	Tender Evaluation Quantity
<b>8.0</b>	<b>Replacement of Clear and Obscure Glass (5mm thick and above) – Supply and Install Rates in Normal Work Hours</b>			
8.01	Up to 0.5 m <sup>2</sup>	each pane		
8.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
8.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
8.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
8.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>9.0</b>	<b>Replacement of Laminated Clear Glass (6.38mm thick) – Supply and Install Rates in Normal Work Hours</b>			
9.01	Up to 0.5 m <sup>2</sup>	each pane		
9.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
9.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
9.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
9.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>10.0</b>	<b>Replacement of Laminated Obscure Glass (6.38mm thick) – Supply and Install Rates in Normal Work Hours</b>			
10.01	Up to 0.5 m <sup>2</sup>	each pane		
10.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
10.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
10.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
10.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		
<b>11.0</b>	<b>Replacement of Clear and Obscure Wired Safety Glass with Laminated Clear or Obscure Glass (6.38mm thick) – Supply and Install Rates in Normal Work Hours</b>			
11.01	Up to 0.5 m <sup>2</sup>	each pane		
11.02	Over 0.5 m <sup>2</sup> to 1.0 m <sup>2</sup>	each pane		
11.03	Over 1.0 m <sup>2</sup> to 1.5 m <sup>2</sup>	each pane		
11.04	Over 1.5 m <sup>2</sup> to 2.0 m <sup>2</sup>	each pane		
11.05	Over 2.0 m <sup>2</sup> to 2.5 m <sup>2</sup>	each pane		

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....



Item No.	Description	Unit	A\$ Rate	Tender Evaluation Quantity
<b>12.0</b>	<b>Replacement of Clear and Obscure Louvres (in metal or timber frame) with Laminated Clear or Obscure Glass (6.38mm thick) – Supply and Install Rates in Normal Work Hours</b>			
12.01	Up to 10 louvre on a single occasion	each louvre		
12.02	Over 10 louvre on a single occasion	each louvre		
<b>13.0</b>	<b>Replacement of Laminated or Safety Wired Glass Louvres (in metal or timber frame) with Laminated Glass (6.38mm thick) – Supply and Install Rates in Normal Work Hours</b>			
13.01	Up to 10 louvre on a single occasion	each louvre		
13.02	Over 10 louvre on a single occasion	each louvre		
<b>14.0</b>	<b>Percentage Multiplier For Site Works Outside Normal Work Hours</b>			
14.01	Percentage multiplier on items 1.01 to 13.02 inclusive for on-site works Outside Normal Work Hours	NA	..... %	NA

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

The tenderer may specify any discounts applicable to items 1.01 to 7.06 inclusive, on the basis of bulk quantities. Tenderers are to provide details of the discount offered for consideration by the Principal.

This image shows a blank sheet of white paper with horizontal blue or grey ruling lines, typical of notebook paper. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Where a tenderer is submitting Schedule of Rates for more than one (1) Region, the tenderer may specify any discounts offered on the basis of acceptance of multiple Regions by the Principal (if applicable). Tenderers are to provide details of the discount offered for consideration by the Principal.

[illegible]

In the Office Bearer capacity of: .....

### 3 Schedule of Regional Preferences

(SUBMIT WITH TENDER)

Tenderers are to nominate in the Contract Package Table below they wish to be considered for in order of preference.

Place number **1** in the first preference followed by **2, 3, 4** etc for further preferences.

For packages where the tenderer does not wish to nominate a preference, place an “X” in the preference field

Also refer Section 3 Specifications – Clause 8 for further details.

Contract Package	DET AMU Region	Approx. Number of Buildings	Approx Number of Rooms	Preference Rank
A	Western Sydney	2,258	40,598	
	Western NSW	1,682	22,569	
	<b>Package A Total =</b>	<b>3,940</b>	<b>63,167</b>	
B	South Western Sydney	2,760	50,845	
	Riverina	1,473	18,466	
	<b>Package B Total =</b>	<b>4,233</b>	<b>69,311</b>	
C	Northern Sydney	1,625	41,852	
	Hunter/Central Coast	2,575	31,381	
	<b>Package C Total =</b>	<b>4,200</b>	<b>74,534</b>	
D	Sydney	1,719	41,852	
	Illawarra/South Coast	2,000	31,381	
	<b>Package D Total =</b>	<b>3,719</b>	<b>73,233</b>	
E	New England	994	12,859	
	North Coast	2,189	31,150	
	<b>Package F Total =</b>	<b>3,183</b>	<b>44,009</b>	

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

Provide the following information in relation to the tenderers organisation structure, personnel and past experience.

#### 4.1 Organisation's Quality System

[illegible]

In the Office Bearer capacity of: .....

## 4.2 Organisations Personnel

Nominate below the names of the key personnel. Include a C.V. for each person, highlighting the relevant expertise, list of qualifications and experience relevant to the work under this Contract, especially work with government agencies and occupied premises with young occupants, such as schools, etc.

(Attach additional pages to this returnable schedule if insufficient space)

Position	Name	Qualifications / Experience

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

Detail below the Organisations structure.

Identify how the Organisation proposes to ensure a focus on service, responsiveness for urgent requests and the proposed methodology for ensuring appropriate quality and OHS control.

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

In the Office Bearer capacity of: .....

#### 4.4 Organisations Past Experience

Demonstrate the Organisations past experience in providing Services of a similar nature to those required under this contract.

(Attach additional pages to this returnable schedule if insufficient space)

Client / End Consumer (Include contact name and phone number)	* Services provided	Value \$	Year /s

**Note:** \*Illustrate in details the Services provided, especially:

- work with government agencies and occupied premises with young occupants, such as schools,
- a large number of sites with multiple facilities,
- total area of glazing, film types, number of panes, number of geographical sites etc.

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

## 5 Schedule of Contract Information

(SUBMIT WHEN REQUESTED)

Provide the information in the table below to enable completion of the General Conditions of Contract - Contract Information items.

### Contractor's details

#### 9 Contractor

The *Contractor* is:

»

»

»

»

ABN

#### 10 Contractor's Authorised Person

The *Contractor's Authorised Person* is:

»

*Mentioned in clause 2*

#### 11 Senior Executive

The *Contractor's senior executive* is:

»

*Mentioned in clause 54 and 55*

#### 12 Notices to Contractor

Notices must go to the personnel listed above, at the address or number shown here.

Office address:

(for delivery by hand)

»

»

»

»

Postal address:

(for delivery by registered post)

»

»

»

»

Facsimile number:

e-mail address

»

»

The Contractor's account details for  
electronic payments:

»

»

»

»

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....



## Insurance - General

*Mentioned in clause 34*

### 22 Public liability insurance

Minimum cover for carrying out the Services:

\$10,000,000.00 for any one occurrence.  
Refer to Preliminaries Clause "Insurance".

Insurer:

»

Policy number:

»

Period of cover:

Commencement of the *Services* until issue of *Final Payment Schedule* for the *Services*.

### 23 Workers compensation insurance policies

Minimum cover:

As required by law

Insurer:

»

Policy number:

»

Period of cover:

Before starting any work for or in connection with the Contract until issue of *Final Payment Schedule* for the *Services*.

### 24 Personal accident insurance

Minimum cover:

Death and permanent disability \$400,000.  
Temporary disablement: \$800 each week.

Insurer:

»

Policy number:

»

Period of cover:

Before those to be covered start any work for or in connection with the Contract until issue of the *Final Payment Schedule* for the *Services*.

## Insurance - Specific

*Mentioned in clauses 34.1.3*

### 25 Other Specific Insurance

Asbestos liability insurance – Minimum cover:

Not Required

Insurer:

»

Policy number:

»

Period of cover:

Until issue of *Final Payment Schedule*.

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

## 6 Schedule of Technical Data

(SUBMIT WITH TENDER)

List all information required by this Schedule, and attach details of manufactures product data together with illustrations as necessary to fully describe the Tenderer's offer.

(Attach additional pages to this returnable schedule if insufficient space)

## 6.1 Product Specifications

Tenderers are to provide technical details of the films and glazing they propose to use for glass rectifications. The details are to include make, model, manufacturers specifications, and life expectancy etc. Provide samples and a copy of the product brochure if available, including: -

- A. Product Data: Manufacturer's data sheets on each product to be used, including:
  1. Record of product certification for safety requirements.
  2. Preparation instructions and recommendations.
  3. Storage and handling requirements and recommendations.
  4. Installation methods.
- B. Shop Drawings: Detailing installation of film.
- C. Verification Samples: For each product specified, two samples, minimum size 4 inches (102 mm) by 6 inches (152 mm), representing actual product, color, and patterns.

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....



### 6.3 Product Warranty Scheme

Refer to Preliminaries Product Certification and Warranty.

Refer also to SECTION 3: SPECIFICATIONS Clause 3.21 Technical Specification – Warranties.

Tenderers are to provide the following to illustrate in details their proposed Warranty to be provided under the Contract.

- Written endorsement
- Condition
- Evidence of warranty commitment / adherence, including examples of rectification if available
- The statistical **likelihood of product defects** (in percentage) as advised by the
- manufacturer
- Sample of Warranty

#### 6.3.1 Product Warranty

DET will have at the completion of this project a very large area of film applied. It wishes to ensure that film is replaced only when needed, in future years.

Tenderers are required to provide a minimum of 12 years warranty period for the defect films to be replaced free of charge. Indicate warranty offered for films below.

Warranty Form		Warranty period offered under this Contract (Indicate number of years or months covered from the date of installation)	* Extension period after expiry of the warranty period (Indicate number of years or months covered from the date of installation)
Film / Material			
Glass	Fixed		
	Moving		

**Note:** \* Tenderers are also required to illustrate as to how an **extended life warranty** could be provided by limited testing of film product in various locations/orientations in school, ie at 12 years, protected south facing film may be given a 4-year extension, exposed west facing will not get any extension, etc. Advice from the manufacturer is recommended.

Tenderers are also required to provide warranty against glass failure as direct result of film application. Indicate warranty offered for films below:

Warranty Form		Warranty period offered under this Contract (Indicate number of years or months covered from the date of installation)	* Extension period after expiry of the warranty period (Indicate number of years or months covered from the date of installation)
Glass Replacement ~ supply & application (against glass failure as direct result of film application)	Thermal Fracture		
	Seal Fracture		

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

#### 6.4 Installation/Workmanship Warranty Scheme

Refer to Preliminaries Product Certification and Warranty.

Refer also to SECTION 3: SPECIFICATIONS Clause 3.21 Technical Specification – Warranties.

Tenderers are to provide the following to illustrate in details their proposed Warranty to be provided under the Contract.

- Written endorsement
- Condition
- Evidence of warranty commitment / adherence, including examples of rectification if available
- The statistical **likelihood of workmanship defects** (in percentage)
- Sample of Warranty

Installation / Workmanship Warranty		Warranty period offered under this Contract (Indicate number of years or months covered from the date of installation)	* Extension period after expiry of the warranty period (Indicate number of years or months covered from the date of installation)
Film			
Glass	Fixed		
	Moving		

(Attach additional pages to this returnable schedule if insufficient space)

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

## 7 **Schedule of Proposed Subcontractors**

---

(SUBMIT WITH TENDER)

Where a tenderer proposes to use subcontractors to either provide the services or assist in providing the services under this contract, provide the following details.

Name and address, entity (company, sole trader etc), past experience in providing similar services, details of projects where similar services were provided.

(Attach additional pages to this returnable schedule if insufficient space)

**Subcontractor Names and addresses**

**Supporting Information**

---

Signed for the Tenderer by: ..... Date:.....

Name (in block letters): ..... (Authorised Officer)

In the Office Bearer capacity of: .....

## 8 Schedule of Financial Assessment information

(SUBMIT WHEN REQUESTED)

Provide documents and information listed below in accordance with Conditions of Tendering clause "Financial Assessment".

- 1 Financial Statements for last three years for the entity under consideration, including:
  - i) Balance Sheets;
  - ii) Profit and Loss Statement;
  - iii) detailed Profit and Loss Statement;
  - iv) statement of Cash Flows;
  - v) notes to and Forming Part of the Accounts;
  - vi) an Accountant's Report;
  - vii) where existing, Auditor's Reports.

Consolidated accounts of a parent organisation or group to which the entity belongs are not acceptable
- 2 Where latest financial statement is more than 6 months old, the latest management report showing:
  - i) a trading statement;
  - ii) a profit and loss statement;
  - iii) a trial balance.
- 3 Where the company is required to lodge audited financial statements with ASIC, copies of these statements for the last three years.
- 4 Where any financial statement supplied is not audited, copies of the entity's tax returns for last three years.
- 5 A letter from the Tenderer's banker providing details of overdraft and guarantee facilities including:
  - i) Bank, Branch, and Account Names,
  - ii) type and limit of bank overdraft facility,
  - iii) type and limit of bank guarantee facility,
  - iv) current bank overdraft balance,
  - v) number and amount of bank guarantees outstanding
  - vi) details of other bank funding facilities available to the Tenderer, such as term loans, lines of credit, commercial bills and other debt instruments
- 6 Current and projected cash flows for all work on hand.
- 7 Forecast budget for forthcoming financial year including Revenue and Profit and Loss.
- 8 Names and contact numbers of:
  - i) major suppliers
  - ii) major subcontractors.
- 9 Details relating to the Tenderer's history and Directors Profiles.

### END OF SECTION –TENDER SCHEDULES

Signed for the Tenderer by: ..... Date:.....  
Name (in block letters): ..... (Authorised Officer)  
In the Office Bearer capacity of: .....



# **New South Wales Government GC21 (Service Contract) General Conditions of Contract**

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## **Preface**

### **GC21 (Service Contract) General Conditions of Contract**

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

### **Contract Information**

### **Schedules**



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**GC21 (Service) General Conditions of Contract**  
July 2003 including revisions to 26 September 2006

Report number 03048

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## Acknowledgments

This New South Wales Government GC21 (Edition 1) General Conditions of Contract was developed by the NSW Construction Agency Coordination Committee based on the C21 Construction Contract (Edition 2).

GC21 (Edition 1) General Conditions of Contract was developed in consultation with representatives of:

- Department of Commerce (formerly the Department of Public Works and Services)
- Department of Housing
- Roads and Traffic Authority
- State Rail Authority
- Sydney Water

Legal advice was provided by Baker & McKenzie, Solicitors and Attorneys.

## Government Codes and Guidelines

Copies of the Codes and Guidelines referred to in the GC21 (Edition 1) General Conditions of Contract may be obtained from either the NSW Treasury web-site or the NSW Construction Agency Coordination Committee's web-site; as indicated below:

NSW Government *Code of Practice for Procurement*

[www.treasury.nsw.gov.au/procurement/pdf/code\\_of\\_prac-curr.pdf](http://www.treasury.nsw.gov.au/procurement/pdf/code_of_prac-curr.pdf)

Occupational Health and Safety Management Systems

[www.construction.nsw.gov.au/ohs/#publications](http://www.construction.nsw.gov.au/ohs/#publications)

Industrial Relations Management

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## Contact details for Government Codes and Guidelines

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SYDNEY NSW 2000

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# Preface

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## Role of State Contracts Control Board

The State Contracts Control Board is established by s. 135 of the *Public Sector Employment and Management Act 2002* NSW. The Board represents and is an agency of the Crown. It has the functions conferred by the Act and regulations under that or any other Act.

The *Public Sector Management (Goods and Services) Regulation 2000*, clause 16, authorises the Board to arrange contracts for the supply of all Services necessary for the operation of the Public Service of NSW. Under clause 16(4) the Board may authorise a Department for whom a contract is arranged to enter into the contract with the supplier as a principal party to the contract. Under clause 18 the Board may allow public sector agencies to have access to the arrangements of the Board for the Public Service or to make separate arrangements. The bodies that are “public sector agencies” are prescribed in clause 18(4) of the Regulation.

The Contract has been arranged for the supply of certain Services to Departments and public sector agencies. The Departments and public sector agencies allowed to have access to the arrangements created by this Contract are called the “Customers”.

Each Department and public sector agency listed in Contract Information item 2 is a Customer. The Board may, by notice in writing to the Contractor, add additional Departments and public sector agencies as a Customers.

In so far as Services are to be supplied to a Customer, the Customer is a principal to a separate contract with the Contractor. Except where otherwise provided expressly or by necessary implication, the terms of the Contract and these General Conditions will separately apply to each separate contract. The Board will not be liable for payment for Services provided to a Customer and will not be liable for the acts or omissions of a Customer. The Contractor must invoice each Customer separately for Services provided to the Customer.

A breach by the Contractor of the separate contract with a customer will not only be a breach of the separate contract but will also be a breach of the Contract.

## Using this document

All defined words and phrases have initial capitals (except for ‘day’ and ‘end users’) and are in italics in the GC21 General Conditions of Contract unless they are one of the following 12 basic terms, which appear too often for italics to be used:

- |                    |                 |
|--------------------|-----------------|
| • day              | • Consultant    |
| • Contract         | • Contractor    |
| • Date of Contract | • Subcontractor |
| • Site             | • Principal     |
| • Subcontract      | • Supplier      |
| • Services         | • Customer      |

Notes are provided to guide the parties and these notes form part of the Contract.

# Contract framework

This section deals with the purpose and structure of the Contract. It allocates responsibilities and sets up the procedures for making the Contract work. Underlying it are the basic principles of GC21: co-operative contracting, enhanced communication, clear definition of roles, responsibility for outcomes, and focus on enabling best practice.

---

## Roles and relationships

Although the parties have different responsibilities, co-operation is a key element of the Contract. In the case of a contract between the Contractor and a Customer, references to the parties are to be taken as reference to the Customer and the Contractor.

### 1 General responsibilities

- .1 The Contractor must
  - .1 provide the Services in accordance with the Contract; and
  - .2 perform and observe all its other obligations under the Contract.
- .2 The Customers at the Date of Contract and the Site or Sites applicable to a particular Customer are listed in *Contract Information* Item 2.
- .3 The Principal contracts on the Principal's own account and on behalf of each Customer.
- .4 The Principal may give instructions to the Contractor concerning the Services and anything connected with the Services, and the Contractor must comply at its own cost unless an entitlement to payment is specified under clause 46.1.

### 2 Authorised persons

- .1 The Contractor must ensure that at all times there is a person appointed to act with its full authority in all matters relating to the Contract as the *Contractor's Authorised Person* and must keep the Principal informed in writing of the name of that person, and of any change. If the Principal reasonably objects to the person appointed from time to time, the Contractor must replace that person.
- .2 The Principal must ensure that there is a person appointed to act on behalf of the Principal in relation to the Contract as the *Principal's Authorised Person* and will advise the Contractor in writing of any limitations or qualifications to the powers of the *Principal's Authorised Person*. The Principal must keep the Contractor informed in writing of the name of that person and of any change. The person does not act as independent certifier, assessor or valuer. The person acts only as agent of the Principal.
- .3 The Principal will advise the Contractor in writing if the *Principal's Authorised Person* delegates any of its powers to others.

### 3 Co-operation

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

### 4 Duty not to hinder performance

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

### 5 Early warning

- .1 Each party must do all it reasonably can to promptly inform the other of anything of which it becomes aware which is likely to affect the delivery of Services, cost or quality of the Services, and the parties must then investigate how to avoid or minimise any adverse effect on the Services.
- .2 Clause 5.1 does not change the rights and responsibilities of either party under the Contract, unless they agree in writing to change them.
- .3 Neither party may disclose in any *Issue* resolution proceedings (including *Expert Determination* and litigation) anything discussed or provided under clause 5.1.



## 6 Evaluation and monitoring

As the project proceeds, regular meetings (usually monthly) allow the parties to evaluate performance and identify priorities for improvement. These meetings allow others concerned with the Services to participate, where appropriate.

- .1 The parties must meet regularly to evaluate and monitor performance of the Contract.
- .2 The parties must decide jointly on participation in the meetings by others concerned with the Services, including Subcontractors, Suppliers, Consultants and, if appropriate, persons such as representatives of government authorities, *end users* and local community representatives. Participation in meetings does not give the participants any additional rights or responsibilities.
- .3 Each party and any others who participate in the evaluation and monitoring meetings must meet their own costs for attendance at the meetings and the parties will share equally the other costs.

---

## The Contract

### 7 The Contract

The Contract is formed by the signing of the *Deed of Contract Agreement* by the parties, or by the Principal sending a letter awarding the Contract to the Contractor (*Letter of Award*). For Customers listed in the Contract information item 2 a separate contract between the Contractor and the Customer will automatically come into existence at the same times. For a Customer subsequently added to the Contract, a contract will come into existence when the Principal notifies the Contractor of the inclusion of the Customer in the Contract.

- .1 The Contract is made up solely of the *Contract Documents*, which supersede all understandings, representations and communications between the parties related to the subject matter of the Contract made before the Date of Contract. The *Contract Documents* are:
  - .1 these GC21 General Conditions of Contract;
  - .2 the *Contract Information*;
  - .3 annexed Schedules;
  - .4 *Principal's Documents* (at the Date of Contract); and
  - .5 any documents listed in *Contract Information* item 16 as *Reference Contract Documents*.

*The Letter of Award (or the Deed of Contract Agreement, if used instead) is a Reference Contract Document.*

- .2 The *Contract Documents* must be read as a whole, and anything in one such document must be read as included in all other such documents, unless the context requires otherwise.
- .3 The terms of the Contract cannot be amended or waived unless both parties agree in writing.
- .4 Where a *Letter of Award* is used to form the Contract, if requested in writing by the Principal, the Contractor must also execute two copies of the *Deed of Contract Agreement* and return them to the Principal within 14 days of these being forwarded by the Principal. The Principal will return an executed copy to the Contractor.

### 8 Assignment

- .1 The Contractor must not assign a right or benefit under the Contract without first obtaining the Principal's consent in writing.

### 9 Governing law of the Contract

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

## 10 Scope of the Services, and work methods

### The Services

- .1 The scope of the Services is described in brief in *Contract Information* item 3 and more specifically in the *Principal's Documents* and other *Contract Documents* (as applicable), and includes:
  - .1 all the work specifically referred to in or otherwise contemplated by the Contract;
  - .2 all items not specifically referred to or described in the Contract which nonetheless are required to complete the Services;
  - .3 all items referred to in one or more of the *Contract Documents* or otherwise necessary for the Services to be fit for the purposes required by the Contract but omitted from other *Contract Documents* (those omitted items are included in the scope of the Services, unless the context requires otherwise); and
  - .4 all items of work reasonably inferred from the *Contract Documents* as necessary to properly execute and complete the Services.
- .2 The Contractor acknowledges that:
  - .1 it is both experienced and expert in work of the type and scale of the Services; and
  - .2 it has made full allowance in the *Contract Price* for the matters referred to in clause 10.1.
- .3 The Contractor acknowledges that *Variations* instructed by the Principal will cause the scope of the Services to change.
- .4 The Contractor must carry out and be responsible for all things used by the Contractor in, or for the performance of, the Services; and must carry out, perform, provide and do everything necessary including all ancillary, or other work for, or in connection with, the provision of the Services.

### Work methods

- .5 The Contractor is free to use any work method, subject to the following:
  - .1 The Contractor is solely responsible for all work methods, whether specified in the Contract or not.
  - .2 The Contractor warrants that it has undertaken all necessary investigation and inquiry to satisfy itself that all work methods specified in the Contract or which the Contractor otherwise proposes to use are appropriate for the purposes of the Contract.
  - .3 If a particular work method is specified in the Contract, the Contractor must use it.
  - .4 If a particular work method is specified in the Contract but it is not possible to use that method, the Contractor must use another method without entitlement to extra cost or an extension of time.
  - .5 If a particular work method for which the Contractor is responsible is impractical and the Contractor, with or without the instruction of the Principal, uses another work method by necessity to complete the Services, the Contractor is not entitled to an extension of time or extra cost.
  - .6 The Principal may instruct the Contractor at any time to use a particular work method.

---

## Statutory Requirements and Guidelines

### 11 Statutory Requirements

- .1 The Contractor is responsible for:
  - .1 compliance with all *Statutory Requirements*, subject to clause 42, except if (because of the nature of the requirement) only the Principal can comply; and

- .2 the giving of all notices necessary to comply with *Statutory Requirements* and the payment of all necessary fees, charges and other imposts, other than those notices and imposts to be given or paid by the Principal under the Contract (or given or paid by the Principal prior to the Date of Contract).

*Clause 42 deals with changes in Statutory Requirements*

- .2 Upon request by the Principal and as a condition of achieving *Completion*, the Contractor must give to the Principal all original documents issued by authorities or providers of services, including those evidencing approvals, authorisations and consents in connection with the Services and the Site.

## 12 Goods and Services Tax

*The Contract Price and any associated amount, and all amounts and rates in the Schedule of Rates, are Goods and Services Tax inclusive.*

- .1 In this clause 12 the expressions “adjustment note”, “consideration”, “Goods and Services Tax”, “GST”, “input tax credit”, “supply”, “tax invoice”, “recipient”, “Recipient Created Tax Invoice” (“RCTI”) and “taxable supply” have the meanings given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

### Calculation of GST

- .2 Unless otherwise expressly stated in the Contract, all prices, rates or other sums payable or for which payment is to be made under or in accordance with the Contract, include an amount for GST.
- .3 No additional amount on account of GST is payable by a party who receives a taxable supply under or in connection with the Contract. All amounts payable reflect the GST-inclusive market value of the taxable supply.
- .4 Any contract entered into by a party to the Contract with a third party which involves supplies being made, the cost of which will affect the cost of any supplies made under or in connection with the Contract, must include a clause including equivalent terms to clauses 12.2, 12.3 and 12.4.

### GST invoices

- .5 The Principal will issue a tax invoice for each taxable supply it makes to the Contractor without request.
- .6 The Principal will issue to the Contractor an RCTI for each taxable supply (other than an excluded supply) made by the Contractor to the Principal, and will issue an adjustment note for any adjustment event. The parties may agree in writing from time to time which supplies are excluded supplies.
- .7 The Contractor must not issue a tax invoice in respect of any supply it makes to the Principal, other than for an excluded supply. The Contractor must give the Principal a tax invoice for an excluded supply at or before the time the Contractor invoices the Principal for that supply.
- .8 Each party must immediately notify the other party if it ceases to be registered for GST or it ceases to comply with any of the requirements of any taxation ruling issued by a taxation authority relating to the creation of RCTIs.
- .9 Each party acknowledges and warrants that at the time of entering into the Contract, it is registered for the GST.
- .10 The Principal will not issue a document that will otherwise be an RCTI, on or after the date when the Contractor or the Australian Taxation Office notifies the Principal that the Contractor does not comply with any of the requirements of any taxation ruling issued by a taxation authority relating to the creation of RCTIs.

### Reimbursable expenses

- .11 If the Contract requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (“reimbursable expense”) suffered or incurred by the other party, the amount required to be paid, reimbursed or contributed by the first party must be the sum of:

- .1 the amount of the reimbursable expense net of input tax credits (if any) to which the other party (or its representative member) is entitled in respect of the reimbursable expense; and
- .2 to the extent that the other party's recovery from the first party is consideration for a taxable supply to the first party, any GST payable in respect of that supply.

### **Principal supplies**

- .12 If the Principal makes any supply to the Contractor as a consequence of any matter arising under or in connection with this Contract, the Contractor must pay to the Principal on demand an amount equal to any GST payable in relation to that supply.

### **Pay As You Go**

- .13 If the Contractor does not quote its ABN in its tender (to be provided in *Contract Information* item 8) or on its *Payment Claims* or invoices, or the Contractor does not otherwise advise the Principal of its ABN relating to the service, the Principal will withhold tax from payments in accordance with the *A New Tax System (Pay As You Go) Act 1999* (Cwlth).

### **Recipient Created Tax Invoice**

- .14 References in clause 12 to Recipient Created Tax Invoices apply notwithstanding any other provision unless:
  - .1 the Contractor is not required to be registered for GST under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and is not registered for GST, and has so notified the Principal before entering into the Contract; or
  - .2 the Contractor and the Principal enter into a Voluntary Agreement for the withholding of Pay as You Go taxation in accordance with the *A New Tax System (Pay As You Go) Act 1999* (Cwlth).

### **Fines and penalties**

- .15 Nothing in this clause requires the Principal to pay any amount on account of a fine, penalty, interest or other amount for which the Contractor is liable as a consequence of failure by the Contractor to comply with legislation which governs GST.

## **13 Compliance with codes**

The NSW Government has established codes of practice, which address principles and standards of behaviour in the construction industry.

- .1 Subject to the express provisions of the Contract, the parties must comply with the relevant provisions of the codes of practice listed in *Contract Information* item 13.

## **14 Collusive arrangements**

- .1 The Contractor warrants and represents to the Principal and agrees with the Principal that it is a fundamental condition of the Contract that:
  - .1 the Contractor has no knowledge of the tender price of any other tenderer for the Contract;
  - .2 except as disclosed in its tender, and by agreement in writing with the Principal, it has not entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to a trade or industry association or to or on behalf of any other tenderer in relation to its tender or this Contract, nor paid or allowed any money on that account, nor will it pay or allow any money on that account; and
  - .3 if the Contractor pays to a trade association, industry association or another tenderer or pays to anyone on behalf of a trade association, industry association or another tenderer any money in breach of clause 14.1.2, the Contractor must immediately give the Principal written notice of such an event and such money is deemed to be held on trust for and becomes immediately payable to the Principal. The Contractor must use its best endeavours to recover the money and pay it to the Principal. If it fails to do so within the time specified in a notice by

the Principal to the Contractor or otherwise (in the absence of a notice) within a reasonable time, the Principal will be entitled to withhold, deduct or set off from any payment due to the Contractor on any account an equivalent sum or make a demand against the *Undertakings* provided under clause 34.

## 15 Occupational health and safety management

The Contractor must be committed to creating a safe working environment and to continuous improvement in occupational health and safety.

- .1 The Contractor is responsible for and must comply with the requirements of the Contract for occupational health and safety, subject to the express provisions of the *Occupational Health and Safety Act 2000* (NSW) and the *Occupational Health & Safety Regulation 2001* (NSW). This includes, without limitation, compliance with the NSW Government “Occupational Health and Safety Management Systems Guidelines”.
- .2 Unless specified otherwise in *Contract Information* item 14, the Principal hereby appoints the Contractor as principal contractor for the Services under the Contract, and authorises the Contractor to exercise such authority of the Principal as is necessary to enable the Contractor to discharge the responsibilities imposed on a principal contractor by the *Occupational Health & Safety Regulation 2001* (NSW).
- .3 Where applicable, as indicated in *Contract Information* item 15A, at least 14 days before starting *Design* and construction, and at least 14 days before starting the *Maintenance*, the Contractor must document, submit and implement an occupational health and safety management plan which complies with the *Occupational Health & Safety Regulation 2001* and the NSW Government “Occupational Health and Safety Management Systems Guidelines”.
- .4 The Contractor must systematically manage its occupational health and safety management processes in accordance with the systems, plans, standards and codes specified in the Contract.
- .5 The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under clauses 15.1 to 15.4.

## 16 Industrial relations management

The Contractor must implement a strategic approach to the management of industrial relations at the enterprise level, and to integrate industrial relations management activities into project planning and management.

- .1 The Contractor must manage all aspects of industrial relations on the Site and otherwise in connection with the Contract, and keep the Principal informed of industrial relations issues which affect or are likely to affect the carrying out of the Services.
- .2 Subject to the provisions of any relevant *Statutory Requirement* and the express provisions of the Contract, the Contractor must comply with the NSW Government “Industrial Relations Management Guidelines”.
- .3 Where applicable, as indicated in *Contract Information* item 15B, at least 14 days before starting work on the Site, the Contractor must document, submit and implement a Project IR Plan which complies with the NSW Government “Industrial Relations Management Guidelines”. The Project IR Plan must be consistent with any IR Strategy submitted with or in conjunction with the Contractor’s tender and any amendments to that IR Strategy.
- .4 The Contractor must systematically manage its industrial relations management processes in accordance with the strategies, plans, standards and codes specified in the Contract.
- .5 The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under clauses 16.1 to 16.4.

## 17 Quality management

The Contractor must and it must also ensure that its Subcontractors, Suppliers and Consultants systematically plan and manage their work to achieve specified quality outcomes, reduce the occurrence and costs of error and waste and to achieve continuous improvement in the quality of the product or service provided.

- .1 The Contractor must systematically manage its processes in accordance with the quality management systems, plans, standards and codes specified in the Contract.
- .2 The Contractor must:
  - .1 submit documentation required by the Contract by the time or times specified in the Contract;
  - .2 review and update the Contractor's quality management procedures and documentation so they remain adequate at all times to manage and ensure the quality of the Services complies with the requirements of the Contract;
  - .3 control non-conforming services and/or products and undertake corrective and preventative action as and when necessary;
  - .4 establish, maintain and keep records of all activities related to the management of quality; and
  - .5 provide sufficient access to the workplace, and to information, records and other relevant documentation, resources (including personnel), and all other things necessary to allow the Principal to carry out reviews, surveillance and audit of the Contractor's procedures and conformance with the contractual quality management requirements.
- .3 The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under clauses 17.1 to 17.2.

## 18 Environmental management

The Principal requires the Contractor to implement a systematic approach to the management of environmental impacts of the Contract.

- .1 Subject to the provisions of any relevant *Statutory Requirements* and the express provisions of the Contract, the Contractor must comply with the NSW Government "Environmental Management Systems Guidelines".
- .2 Where applicable, as indicated in *Contract Information* item 15C, at least 14 days before starting *Design* and construction and the *Maintenance*, the Contractor must document, submit and implement an Environmental Management Plan for that work which complies with the NSW Government "Environmental Management Systems Guidelines".
- .3 The Contractor must systematically manage its environmental management processes in accordance with the systems, plans, standards and codes specified in the Contract.
- .4 The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under clauses 18.1 to 18.3.

## 19 Training management

The Contractor must integrate training and skills development into its enterprise planning and management.

- .1 Subject to the express provisions of the Contract, the Contractor must comply with the NSW Government "Training Management Guidelines".
- .2 Training management requirements specified in the Contract and the NSW Government "Training Management Guidelines" may be in addition to, but are not in substitution for, any training obligations of the Contractor under statute, industrial award, enterprise or workplace agreement, or other workplace arrangements approved under Federal or NSW law.
- .3 Where applicable, as indicated in *Contract Information* item 15D, at least 14 days before starting work on the Site the Contractor must document and submit a Training Management Plan which complies with the NSW Government "Training Management Guidelines".
- .4 The Contractor must systematically manage its training management processes in accordance with the systems, plans, standards and codes specified in the Contract.
- .5 The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under clauses 19.1, 19.3 and 19.4.

## 20 Authorisation for access to other records

### Release of information

- .1 The Principal may make information concerning the Contractor available to other NSW Government authorities. This information may include, but is not limited to, any information provided by the Contractor to the Principal and any information relating to the Contractor's performance under the Contract.

### Use of information

- .2 Information about the Contractor from any source, including substantiated reports of unsatisfactory performance, may be taken into account by NSW Government authorities in considering whether to offer the Contractor future opportunities for NSW Government work.

### Qualified privilege

- .3 In making available any information under clause 20.1, the Contractor acknowledges that the Principal will be entitled to rely on the defence of qualified privilege for the purposes of section 30 of the *Defamation Act 2005* (NSW).

### Release and indemnity

- .4 The Contractor releases and indemnifies the Principal from and against any *Claim* in respect of any matter arising out of:
  - .1 information being made available under clause 20.1; and
  - .2 the use of such information by a recipient of the information.

## 21 Media releases and enquiries

- .1 The Contractor must obtain the Principal's prior written consent to:
  - .1 any press release or advertisement it wishes to make or place concerning the Contract, the Principal or the Services; or
  - .2 the release for publication in any media of any information, publication, document or article concerning the Contract, the Principal or the Services.
- .2 The Contractor must refer any media enquiries concerning the Contract, the Principal or the Services to the Principal, for the Principal's prior written consent to any response, which consent may be given or withheld, in the Principal's absolute discretion.
- .3 The Contractor must ensure that all Consultants, Subcontractors and Suppliers engaged by the Contractor for the performance of the Contract, comply with the requirements of this clause 21 and obtain the Principal's prior written consent (through the Contractor) before responding to enquiries or publishing anything of the type referred to in clause 21.

## 22 Registration and licences

- .1 All vehicles and plant used in performing work in connection with the Contract must be properly registered by the Contractor, if required by law to be registered.
- .2 The Contractor must ensure that all drivers who operate vehicles or plant in performing work in connection with the Contract must be properly and appropriately licensed as required by law to operate those vehicles or plant.
- .3 Whenever requested by the Principal, the Contractor must provide promptly, documentary evidence of compliance with clauses 22.1 and 22.2.

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## Management duties

### 23 Time management

- .1 The Contractor must commence and proceed with the Services in accordance with the *Contract Program*.



- .2 Whenever requested, the Contractor must demonstrate to the Principal that it is complying with the requirements of clause 23.1.
- .3 If the Contractor is not complying with the requirements of clause 23.1, the Principal may instruct the Contractor to take all reasonable steps to do so, at the Contractor's cost.

## **24 Working days and hours of work**

- .1 The Contractor must observe *Statutory Requirements* which regulate working days and hours of work and any requirements of the Principal which regulate working days and hours of work, as specified in *Contract Information* item 27.

## **25 Intellectual property**

- .1 The Contractor assigns or otherwise transfers *Intellectual Property Rights* in all *Data* created specifically for the Contract, upon its creation, to the Principal. The Contractor, at its own cost, will do all things necessary, including execution of all necessary documentation, to vest ownership of all such *Intellectual Property Rights* in the Principal.
- .2 The Contractor must include provisions in all Subcontracts and agreements with Consultants to ensure that *Intellectual Property Rights* in all *Data* created specifically for the Contract is assigned or otherwise transferred to the Principal upon its creation. The Contractor, Subcontractors and Consultants are granted licences to use the *Data* for the purposes of the Contract.
- .3 For *Data* provided by or for the Contractor, but not created specifically for the Contract, the Contractor must obtain irrevocable royalty-free licences to allow the Principal to use, operate, maintain, modify and decommission the Services.
- .4 Licences referred to in clause 25.3 must apply from the Date of Contract or (if the *Data* has not then been created or is not then available) from the date the *Data* is created or becomes available (as applicable) in perpetuity.
- .5 The Contractor is responsible for the timely payment of all royalties and fees for *Intellectual Property Rights* in connection with the Contract and the Services. The Contractor indemnifies the Principal against any claims (including *Claims*), actions, and loss or damage arising out of any failure to make these payments or any infringement or alleged infringement of *Intellectual Property Rights* in relation to the *Data* provided by or for the Contractor and used under the Contract or required to use, operate, maintain, modify or decommission the Services.
- .6 The Contractor must ensure that *Data* created specifically for the Contract by or for the Contractor is only used by the Contractor and Subcontractors, Suppliers and Consultants for the purposes of the Contract.
- .7 The Contractor must maintain all *Data* secret and confidential and disclose it only to those persons to whom disclosure is reasonably necessary for the purposes of the Contract. This provision does not relate to *Data* which is generally available to the public or which is required to be disclosed by law. This provision survives termination or expiry of the Contract or of the Contractor's employment under the Contract.

## **26 Licences and approvals**

- .1 The Contractor must obtain at its own cost all licences, authorisations, approvals and consents necessary to carry out the Services in accordance with the Contract.

## **27 Care of people, property and the environment**

- .1 The Contractor is liable for and indemnifies the Principal against loss or damage to:
  - .1 the Services, from the date the Contractor begins carrying out the Services; and
  - .2 the Site and anything brought onto the Site for the purposes of the Contract, from the date the Contractor is given possession of the Site (or the relevant part of the Site), arising out of carrying out work for or in connection with the Contract,until and including the *Completion* of the whole of the Services for each nominated *Site* under the Contract for the purposes of clause 27.1.1 and until the completion of the remainder of the Services under the Contract for the purposes of 27.1.2.



- .2 After the *Completion* of the whole of the Services, the Contractor remains liable for and indemnifies the Principal against loss or damage arising out of performing *Variations*, making good *Defects*, and removing *Materials* from the Site.
- .3 The Contractor is liable for and indemnifies the Principal against all claims (including *Claims*), actions, and loss or damage and all other liability arising out of carrying out the Services:
  - .1 to or in connection with any property (other than property covered under clause 27.1); and
  - .2 arising out of personal injury or death.
- .4 The Contractor's liability for and responsibility to indemnify the Principal under clauses 27.1, 27.2 and 27.3 is reduced to the extent that an *Excepted Risk* contributes to an injury or death or loss or damage to property.
- .5 The Contractor is responsible for all of the following:
  - .1 preventing personal injury or death, or loss or damage to the Site, the Services and the *Materials* used by Contractor in carrying out the Services;
  - .2 preventing loss or damage to adjoining and other properties and the environment arising out of carrying out the Services;
  - .3 the locating and care of existing services;
  - .4 repairing or making good loss or damage to the Services, the environment and the Site arising out of carrying out the Services; and
  - .5 bearing the cost of repairing, or making good, loss or damage to adjoining and other properties and the environment arising out of carrying out the Services.
- .6 If urgent action is required to avoid death, injury, loss or damage, and the Contractor does not take the necessary action immediately when the Principal requests it, the Principal may take the action (without relieving the Contractor of its obligations), at the Contractor's cost with the Principal's costs being recoverable as a deduction from the *Contract Price*.

## 28 Notices and instructions in writing

- .1 Notices must be sent to the relevant persons at the relevant postal or other addresses specified in *Contract Information* items 4 to 11.
- .2 All notices must be in writing, and all instructions by the Principal must be in writing or confirmed in writing as soon as practicable, where given orally when urgent action is required.

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## Subcontractors, Suppliers and Consultants

Contractual relationships between the Contractor, Subcontractors, Suppliers and Consultants must be on a similar basis to those between the Principal and Contractor. Clause 34 specifies which clauses also apply to Consultants and Suppliers.

## 29 Subcontractor relationships

- .1 The Contractor is solely responsible for all Subcontractors (including any *Preferred Subcontractors*) and for their acts and omissions, and for the termination of any Subcontract and replacement of any Subcontractor.
- .2 The Contractor indemnifies the Principal against all claims (including *Claims*), actions, and loss or damage and all other liability arising out of any acts or omissions of Subcontractors.
- .3 The Contractor must pay all Subcontractors within the number of days given in *Contract Information* item 17 and must keep in a separate trust account all retention moneys and cash security.
- .4 The Contractor must include provisions equivalent to clause 29.3 in all sub-subcontracts.
- .5 The Contractor must maintain proper records to account for all money received in trust and show them to the Principal on request.

### 30 Engaging Subcontractors

- .1 The Contractor must not subcontract the whole of the Services, but may subcontract parts of the Services in accordance with this clause 30.
- .2 When requested, before engaging any Subcontractors and at any other times, the Contractor must provide to the Principal unpriced copies of any Subcontracts, the names and addresses of proposed Subcontractors and the names and addresses of Subcontractors. The Principal may object to the appointment of any proposed Subcontractor on reasonable grounds. If the Principal objects to any proposed Subcontractor, the Contractor must at its own cost propose another Subcontractor.
- .3 For each trade or area of work for which the Principal has provided a list of *Preferred Subcontractors* before the Date of Contract, the Contractor may only engage a Subcontractor from that list. If no *Preferred Subcontractor* on the list will subcontract to perform the work, the Contractor must provide a separate list and the provisions of clause 30.2 will then apply.

*When applicable, lists of any Preferred Subcontractors are included as Reference Contract Documents in Contract Information item 18.*

- .4 For each trade or area of work specified in *Contract Information* item 19 as a category requiring use of a *Prequalified Contractor*, the Contractor must use only Subcontractors prequalified in that category. Upon request, the Principal will provide to the Contractor a list of *Prequalified Contractors* for each specified category.
- .5 If instructed by the Principal, the Contractor must take a novation of the contracts of specified Principal's consultants, contractors or suppliers, on the terms specified in the Contract.
- .6 If the Contractor terminates a Subcontract, clauses 29, 30, and 31 apply to any replacement Subcontract.

### 31 Subcontractors' warranties

- .1 For each trade or area of work listed in *Contract Information* item 20, the Contractor must obtain from each relevant Subcontractor, before that Subcontractor completes its work, a warranty to the Principal in the form of Schedule 1 (Subcontractor's Warranty) to remedy any *Defects* and to remedy or replace *Design, Materials* or workmanship which does not comply with the Contract.
- .2 Clause 31.1 does not affect any of the Contractor's other obligations under the Contract.

### 32 Consultant and Supplier relationships

- .1 Clauses 29.1, 29.2, and 30 apply to Consultants in the same way they apply to Subcontractors, unless the context requires otherwise.
- .2 Clauses 29.1, 29.2, 29.3, (excluding clause 29.3.1), 29.4, 30 and 31 apply to Suppliers in the same way they apply to Subcontractors, unless the context requires otherwise.

# Carrying out the Services

This section deals with design and construction activities. It contains most of the provisions in the GC21 General Conditions of Contract that apply to the physical carrying out of the Services, and also covers procedures for payment.

## Starting

### 33 Insurance

The provisions of clauses 33.1.1, 33.1.2, 33.3, 33.4, 33.5 and 33.8 apply unless the Principal has notified the Contractor in writing within 7 days of the Date of Contract that the Principal has effected Services, public liability, asbestos liability and marine liability policies of insurance which includes cover for the Contractor, Consultants, Subcontractors and Suppliers. The provisions of clauses 33.1.3, 33.2, 33.6, 33.7 and 33.9 to 33.12 apply in all circumstances.

- .1 Before starting any work for or in connection with the Contract, the Contractor must arrange and have in place insurance (irrespective of whether it has then been invoiced by or on behalf of the insurer for the cost of the insurance premiums) for the minimum amounts specified in *Contract Information* items 21 to 24, and pay all premiums for:
  - .1 a public liability policy of insurance to cover loss or damage to property or injury or death to persons arising out of or in connection with carrying out the Services, as specified in *Contract Information* item 21;
  - .2 Workers Compensation and related liability insurance in accordance with the requirements of the *Workers Compensation Act 1987* (NSW), as specified in *Contract Information* item 22, and where possible, extended to indemnify the Principal against statutory liability to persons employed by the Contractor; and
  - .3 other specific insurance, if any, referred to in *Contract Information* item 24.
- .2 The Contractor must ensure that every Subcontractor, Supplier and Consultant is insured at all times:
  - .1 for Workers Compensation and related liability in accordance with the requirements of the *Workers Compensation Act 1987* (NSW); or
  - .2 (if Workers Compensation cover cannot legally be obtained) under a personal accident policy of insurance to cover personal accidents and related liability, as specified in *Contract Information* item 23.
- .3 The Contractor is responsible for insuring the Contractor's own plant and equipment. The Principal (and any customer) will not be liable for loss of or damage to any of the Contractor's plant or equipment. This will apply notwithstanding that the loss or damage occurs on the premises of a Customer.
- .4 The Contractor must obtain the written approval of the Principal for all insurers and for the terms and conditions of the policies and provide copies of the approved policies to the Principal.
- .5 The Contractor must ensure that each policy required to be effected and maintained under the Contract or under Subcontracts is in effect for the relevant period specified in the Contract.
- .6 All policies must:
  - .1 require the insurer to notify the Principal (other than in relation to Workers Compensation and professional indemnity) at the same time as the insurer receives or gives any notice concerning the policy, and at least 7 days before any proposed cancellation of a policy; and
  - .2 provide that a notice of claim given to the insurer by the Principal, the Contractor, or a Subcontractor, Supplier or Consultant will be accepted by the insurer as a notice of claim given by all of the insured.
- .7 The policies referred to in clauses 33.1.1, 33.1.2, 33.3 and 33.4 must be in the name of the Contractor with the Principal as an additional named insured and must cover the Contractor, the Principal, the *Principal's Authorised Person* and all Subcontractors, Suppliers and Consultants employed from time to time for or in relation to the Contract

and the Services for their respective rights and interests and cover their liabilities to third parties.

The policies must include a cross-liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons covered and for the purpose of which the insurer accepts the term 'insured' as applying to each of the persons covered as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased as a result).

The Contractor must:

- .1 ensure that in respect of each insurance required to be effected or taken out as required by clause 33 by the Contractor or any Subcontractor, Supplier or Consultant, it:
  - (1) does not do anything which prejudices any insurance;
  - (2) if necessary, rectifies anything which might prejudice any insurance;
  - (3) reinstates an insurance policy if it lapses;
  - (4) does not cancel, vary or allow an insurance policy to lapse without the prior written consent of the Principal;
  - (5) immediately notifies the Principal of any event which may result in an insurance policy lapsing or being cancelled; and
  - (6) gives full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance;
- .2 ensure that any insurance required to provide coverage to Subcontractors acknowledges that the same coverage applies to Suppliers and Consultants;
- .3 ensure that any non-disclosure by one insured does not prejudice the right of any other insured to claim on the policy; and
- .4 ensure that a notice to the insurer by one insured will be deemed to be notice by all insured parties.

The policies must be effected before commencing work and be maintained until the *Final Payment Schedule* is issued under Clause 49.3.

- .8 Before the Contractor starts any work for or in connection with the Contract and whenever requested in writing by the Principal, the Contractor must supply proof that all insurance policies required under the Contract and under Subcontracts and Consultant agreements are current. However, for asbestos decontamination work, the proof must be supplied initially within 60 days after starting that work.
- .9 The Principal need not make any payment under the Contract to the Contractor unless the Contractor has complied with and continues to comply with clause 33.9.
- .10 If the Contractor fails to comply with clauses 33.1, 33.3, 33.4, and 33.9, the Principal may effect and maintain that insurance and pay the necessary premiums. The Principal may recover from the Contractor the cost of the premiums and the Principal's reasonable costs of effecting and maintaining the insurance, as a debt due by the Contractor.
- .11 The Contractor must, as soon as practicable, inform the Principal in writing of the occurrence of an event that may give rise to a claim under a policy of insurance effected as required by the Contract and must ensure that the Principal is kept fully informed of subsequent action and developments concerning the claim. The Contractor must take such steps as are necessary or appropriate to ensure that a Subcontractor, Supplier or Consultant (as applicable) will, in respect to an event or claim of a like nature arising out of or relating to the operations or responsibilities of the Subcontractor, Supplier or Consultant (as applicable), take in relation to the Principal similar action to that which the Contractor is required to take under this clause 33.11.
- .12 The requirements for insurance to be effected and maintained do not affect or limit the Contractor's liabilities or other obligations under the Contract.

### 34 Undertakings

The Contractor is required to provide security to the Principal in the form of unconditional *Undertakings* to pay on demand, provided by financial institutions on the Contractor's behalf.

- .1 Within 14 days after the Date of Contract the Contractor must give the Principal the *Undertaking* for the amount as specified in *Contract Information* item 25. The *Undertakings* must be in the form specified in Schedule 2 (Undertaking).
- .2 Unless the Principal has made or intends to then make a demand against any *Undertaking*, the Principal must return *Undertakings* to the Contractor as follows:
  - .1 the *Completion Undertaking* within 28 days after the *Actual Completion Date* of the whole of the Services.
- .3 All *Undertakings* must be provided by a bank, building society, credit union or insurance company acceptable to the Principal.
- .4 The Contractor must not prevent the Principal making any demand against the *Undertakings*, or prevent the provider of an *Undertaking* complying with the *Undertaking* or any demand by the Principal.

### 35 Site access

- .1 So far as concerns each Customer there will be a separate Site (or Sites). Access to a Customer's Site must be arranged with the Customer. In accessing a Site the Contractor must comply with the Customer's policies and procedures as to use of a Customer's Site. The Contractor will not have possession of any Site.
- .2 Subject to compliance by the Contractor with all conditions precedent to commencing work on Site, each Customer must give the Contractor sufficient access to the Customer's Site to allow the Contractor to perform the Services.
- .3 The Contractor must meet all its obligations under the Contract to provide *Undertakings* and effect insurance before it is entitled to start any work for or in connection with the Contract.

*Refer to clauses 33 (Insurance) and 34 (Undertakings).*
- .4 Before work commences the Contractor must comply to the extent specified in the Contract with requirements for industrial relations, environmental, safety (including under all occupational health & safety legislation and acting as principal contractor and controller of work sites under the Occupational Health & Safety Regulation 2001) and quality management, other *Statutory Requirements* and any other requirements specified in the Contract to be complied with by the Contractor before work commences. The Contractor is not entitled to access to any Site until the Contractor demonstrates to the Principal that it complies with those requirements.
- .5 The Contractor will have no entitlement to make any claim on account of any difference between the site conditions actually encountered and those anticipated by the Contractor at the time of tendering.

#### Access for the Principal

- .6 Where required for the purposes of the Contract, at all reasonable times the Contractor must permit the Principal (including its authorised employees and agents) to have access to the work of the Contractor and to the premises of the Contractor and must arrange for such access to the premises of Subcontractors and Suppliers. This may include for the purpose of surveillance, audit, inspection, *Testing*, certification and recording of information in any form or for any other reasonable purpose required by the Principal in connection with the Contract.

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## Carrying out Services

### 36 Ambiguities

Clause 36 applies to all *Contract Documents* .

- .1 The Contractor must check the *Contract Documents* and notify the Principal of any ambiguities, inconsistencies or discrepancies at least 21 days before the Contractor proposes to use them (including for procurement, manufacture or fabrication of any part of the Services) or for other Contract purposes.
- .2 The Principal must resolve any ambiguities, inconsistencies or discrepancies in the *Contract Documents* which are notified by the Contractor to the Principal for resolution and the Contractor must abide by the Principal's resolution of any ambiguities, inconsistencies or discrepancies.
- .3 The Contractor must carry out all necessary design to complete the Services and, in doing so, must meet the requirements of all of the following:
  - .1 the Contract;
  - .2 Principal's instructions concerning Services;
  - .3 Statutory Requirements;
  - .4 the Building Code of Australia;
  - .5 relevant Australian Standards; and
  - .6 if no other standard is specified in the Contract, then good industry standards applicable to the Services.
- .4 The Contractor acknowledges that the Contractor must not depart from the Principal's instructions concerning the Services particularly those set out in the *Contract Documents* without the Principal's prior written approval.
- .5 The requirements of clause 36.4 are not reduced or affected by any *Variations*.

### 37 Innovation

- .1 The Contractor may submit in writing to the Principal, at its own cost, a detailed proposal for changes to the Services which are likely to offer significant benefits (including long-term or repeated benefits) to the Principal.
- .2 The proposal must not include anything which might adversely affect the quality of the Services. Proposed changes must be consistent with the purpose and intent of the Contract and the Services.
- .3 The Principal must consider the Contractor's proposal, but is not bound to accept any proposal or proposed changes. No *Claim* will arise out of the Principal's consideration of or failure to accept any proposal or proposed changes.
- .4 Subject to Clause 37.7 and 37.8 if the Principal accepts any changes proposed by the Contractor, any actual direct saving in the cost to the Contractor of the Services resulting from the changes will be for the benefit of the Contractor.
- .5 Not used.
- .6 The Principal may accept the proposed changes subject to conditions.
- .7 The Contractor is fully responsible to the Principal for the compliance of the Services and for the changes and their consequences.
- .8 Notwithstanding the provisions of clause 37.4, if indicated in *Contract Information* item 29, the savings in the cost to the Contractor of the Services with the changes proposed by the Contractor and accepted by the Principal under clause 37 must be shared by the Contractor and the Principal in the proportions of the savings stated in *Contract Information* item 29. The calculated savings must include the assessed reduction in the costs of the Services to the Contractor and Subcontractors and Suppliers, less any costs incurred by the Principal in assessing or implementing the changes.

### 38 Carrying out Services

- .1 The Contractor must carry out and supply the Services including the supply of all things necessary to carry out the Services in accordance with all of the following:
  - .1 the Contract;
  - .2 the Principal's instructions concerning the Services;
  - .3 *Statutory Requirements*;
  - .4 the Building Code of Australia;

- .5 relevant Australian Standards ; and
- .6 if no other standard is specified in the Contract, then good industry standards applicable to the Services.
- .2 The Contractor must comply with this clause 38 and ensure that the Services and every part of them are fit for the purposes required by the Contract.
- .3 The provisions of clause 38.2 are not reduced or affected by any *Variations*.

### 39 Testing

- .1 The Contractor must:
  - .1 *Test* (at its own cost) all parts of the Services specified in the Contract to be *Tested*;
  - .2 give the Principal the opportunity to witness the *Tests* by giving reasonable notice; and
  - .3 make the results available to the Principal.
- .2 The Principal may instruct the Contractor at any time to *Test* any part of the Services. The Principal must pay for the *Tests* if the results of the *Tests* show full compliance with the Contract. Otherwise, the Contractor must pay.
- .3 The Contractor must repeat the *Tests* (at its own cost) of all parts of the Services where *Defects* have been found, until the results of these *Tests*, as reported in writing to the Principal, confirm that all *Defects* have been made good and that the Services comply with the Contract.

### 40 Defects

- .1 The Contractor must identify and promptly make good all *Defects* so that the Services comply with the Contract. This requirement does not affect any other remedy or right of the Principal.
- .2 At any time the Principal may instruct the Contractor to make good *Defects* within the time specified by the Principal.
- .3 If the Contractor fails to make good the *Defects* in the time specified, the Principal may have the *Defects* made good by others and then:
  - .1 the cost will be a debt due to the Principal, and
  - .2 the Contractor will be responsible for the work involved in making good the *Defects* as if the Contractor had performed the work.
- .4 Nothing in this clause 40:
  - .1 reduces the Contractor's other liabilities and obligations under the Contract; or
  - .2 affects the Principal's common law right of damages.

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## Changes to work

### 41 Variations

- .1 The Principal may instruct *Variations* in writing and the Contractor must comply with these instructions. The Contractor must not make any change to the Services without a written instruction from the Principal.
- .2 Unless the Principal considers that urgent or special circumstances exist and instructs the Contractor to proceed, the Contractor must not begin to carry out a *Variation* until the parties have agreed on its value.
- .3 When requested to by the Principal, the Contractor must advise the Principal of its price for a proposed *Variation* and its effect (if any) on any other matter specified, within the time specified in the request.
- .4 If the parties agree that a *Variation* applies, then the rates or prices included in the Contract will apply to the *Variation*.
- .5 If a variation involves the omission of work, the amount which would otherwise be payable to the Contractor will be reduced by the amount agreed by the parties (the

Principal and the Contractor or the Customer and the Contractor, as the case may require) or, if no agreement, by a reasonable amount.

- .6 If a variation involves the additional work or a change for which the Contractor wishes to claim extra, the Contractor may claim extra in the payment claim for the Month in which the additional work or change is performed or in the two Months following. The amount which the Contractor may claim is the amount agreed by the parties or, if no agreement, by a reasonable amount
- .7 If the Contractor does not claim the agreed amount or a reasonable amount in the Month in which the additional work or change is performed or the two Months following, the Contractor will not be entitled to be paid any extra.
- .8 *Variations* instructed by the Principal must be generally consistent with or of a similar nature to the type of work included in the Services.
- .9 The Contractor may propose in writing to the Principal a *Variation* for the Contractor's convenience. The Principal may approve the *Variation* but is not obliged to do so. The Principal's approval may be conditional. Subject to the conditions of the Principal's approval, the other relevant provisions of clause 41 apply to any *Variation* proposed by the Contractor and approved as a *Variation* by the Principal.

## 42 Changes in Statutory Requirements

- .1 If *Statutory Requirements* change after the closing date for the tender for the Contract and a change to the Services may be required as a result, the Contractor must promptly notify the Principal. The Principal must instruct a *Variation* under clause 41 if the Principal requires a change to the Services as a result. The Contractor will not be entitled to additional recompense to claim *Variation* on account of a change to Statutory Requirements. Without limiting the generality of the preceding sentence, changes in matters covered by statute (including enterprise agreements) include, but not limited to, public holidays, school days, awards, allowances, taxes, superannuation, loadings, hours, work methods or materials (including chemicals) which may be used, protection of children, etc.

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## Suspensions

### 43 Principal's suspension

- .1 The Principal may instruct the Contractor to suspend progress of the Services, and the Contractor must comply.
- .2 The Contractor must resume carrying out the Services when instructed to by the Principal.
- .3 The Contractor has no other remedies in connection with the suspension.

### 44 Contractor's suspension

- .1 The Contractor must not suspend work except pursuant to statutory entitlement or the written permission of the Principal.
- .2 If the Contractor suspends work, the Contractor will not be entitled to delay costs or damages.

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## Payment

### 45 Schedule of Rates

*If specified in Contract Information item 28 that rise and fall adjustments are to be made, the provisions of Schedule 5 Cost Adjustment Formula apply.*

- .1 At the Date of Contract, quantities provided in the Contract documents are estimated only, and the Principal does not guarantee either the estimated quantities or the descriptions of the items.
- .2 The *Contract Price* is the sum of the products of the quantities and the relevant rate for each item in the *Schedule of Rates*, plus all lump sums (if any). Before an item is



completed, the estimated quantity will be used in the calculation of the *Contract Price*. After an item is completed, the actual quantity measured in accordance with the Contract will be used in the calculation of the *Contract Price*.

- .3 The Contractor is entitled to payment of the *Contract Price* calculated for actual quantities measured in accordance with the Contract.

#### 46 Entitlements

- .1 Except as otherwise expressly stated under the Contract, the *Contract Price* is only to be increased if required under any of the following clauses:
  - .1 clause 10.4 (Work methods);
  - .2 clause 41.5 (Variations);
  - .3 clause 43.3 (Principal's suspension);
  - .4 clause 50 (Interest on late payments).
- .2 The *Contract Price* may be decreased if required by the Contract. Clauses that allow decreases in the *Contract Price* include:
  - .1 clause 40.3 (Defects);
  - .2 clause 41.5 (Variations);
  - .3 clause 45.3 (The Contract Price – Schedules of Rates);
- .3 The Contractor is not entitled to any other payments related to the subject matter of the Contract, under the Contract or otherwise, except:
  - .1 under clauses 59 and 60;
  - .2 for breach of the Contract; or
  - .3 where this exclusion is not permitted by law.

#### 47 Payment Claims

- .1 Unless otherwise specified in the Contract, each *Month* on the day stated in *Contract Information* item 30 the Contractor must make one (and only one) payment claim on each Customer.
- .2 At the same time as the Contractor serves a payment claim on a Customer, the Contractor must send a copy to the Board at the address in *Contract Information* item 6.
- .3 The Contractor must submit *Payment Claims* in the form specified by the Customer. A *Payment Claim* must:
  - .1 identify the Facilities and the Services to which the *Payment Claim* relates;
  - .2 indicate the how the claim is calculated by reference to the Schedules of Rates; and
  - .3 comply with the Goods and Services Tax requirements (see clause 12)
- .4 *Payment Claims* must be accompanied by all relevant calculations and other information.
- .5 *Payment Claims* must must include:
  - .1 a statutory declaration executed not before the date of the Payment Claim in the form of Schedule 4 (Statutory Declaration) relating to payment of employees, Subcontractors and Suppliers, and workers compensation insurance premiums and payroll tax payments, which meet the requirements of the Industrial Relations Act 1996, the Pay-roll Tax Act 1971, the Workers Compensation Act 1987 and all other relevant legislation; and
  - .2 Such *Conformance Records* as may be specified in the Contract, signed by the Contractor and verifying that Services have been provided in accordance with the Contract.

#### 48 Payments

- .1 When given a *Payment Claim* by the Contractor, the Principal must pay the claim within the time provided in the Contract Information Item 31:
  - .1 if it agrees with the *Payment Claim*, adopt it as its assessment; or

- .2 if it disagrees with the *Payment Claim*, prepare its own assessment, in consultation with the Contractor if appropriate, and give to the Contractor a *Payment Schedule*.
- .2 The Customer's assessment in the *Payment Schedule* must:
  - .1 identify the *Payment Claim* to which it relates;
  - .2 indicate the amount of the payment (if any) that the Principal proposes to make as the *Scheduled Amount*; and
  - .3 if the *Scheduled Amount* is less than the *Claimed Amount* indicate why it is less and (if it is less because the Customer is withholding payment for any reason), the Customer's reasons for withholding payment.
- .3 If the *Scheduled Amount* which the Customer proposes to pay is less than the *Claimed Amount*, the Contractor may give notice of an *Issue* under clause 53.
- .4 Reasons why the *Scheduled Amount* may be less than the *Claimed Amount* or for withholding payment include but are not limited to:
  - .1 disagreement with the *Claimed Amount*;
  - .2 the costs and estimated costs associated with remedying *Defects*; and
  - .3 amounts the Customer is otherwise entitled to withhold, set-off or otherwise deduct.
- .5 The Customer must pay to the Contractor as a *Progress Payment* the Customer's assessment of the payment due, by the later of:
  - .1 the time, if any, specified in *Contract Information* item 32;
  - .2 20 business days after receiving the statutory declaration and the *Conformance Records* (which under clause 47 must accompany the payment claim); and
  - .3 the period specified in the Contract, after the Contractor takes any other actions and complies with any other obligations required which are stated in the Contract to be pre-conditions to payment before any payment is payable.
- .6 Unless stated otherwise in the Contract, all payments to the Contractor must be made by electronic funds transfer to the Contractor's account specified in *Contract Information* item 11.
- .7 Payment by the Customer is not evidence that the Customer accepts the value, quantity or quality of work or that the Contractor has complied with the Contract or that the Contractor has any particular entitlement, and is payment on account only.
- .8 The Principal (and or any Customer) will have the right to set off against a progress payment the estimated cost of remedying any *Defects* and of any damages suffered by the Principal (or the Customer) as a consequence of any breach by the Contractor and any outstanding amount of the Management Fee.

#### **49 Final payment**

- .1 After the end of the period for which the Contractor is required to provide Services to a Customer, the Contractor is not entitled to any payment from a Customer except:
  - .1 a payment to which the Contractor is entitled under clause 48 for the *Month* in which services were last provided;
  - .2 an amount which the Customer has agreed to pay the Contractor in respect of a *Claim*; and
  - .3 an amount that an *Expert* determines under clause 55 must be paid by the Customer to the Contractor.

#### **50 Interest on late payments**

- .1 A party which fails to make a payment by the time or by the last day of the period prescribed by the Contract must pay interest to the other party, at the rate in *Contract Information* item 33, for the period the payment is late.

#### **51 Set-off**

- .1 If the Principal claims a sum under or arising out of the Contract or any other contract between the Principal and the Contractor, the Principal may:

- .1 withhold, deduct or set-off the claimed sum against any sum to which the Contractor is otherwise entitled under or arising out of the Contract; and
- .2 make a demand against the *Undertakings* provided under clause 34 for any amount of the claimed sum in excess of the sum to which the Contractor is then otherwise entitled.

# Claim and Issue resolution

This section provides a step-by-step procedure for handling *Claims* and *Issues*. Generally, the aim of the Contract is for the parties to resolve matters through discussions as soon as possible and within the times specified. Further steps are only needed if the parties have been unable to resolve matters between themselves.

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## Claim resolution

### 52 Contractor's Claims

- .1 Any *Claim* not made, assessed and determined under another provision of the Contract must be made, assessed and determined under this clause 52 (unless determination of the *Claim* is regulated by a separate procedure under any applicable legislation).

*These clauses deal with Claims made, assessed and determined under another provision of the Contract:*

*clause 41 (Variations) (in part);*

*clause 42 (Changes in Statutory Requirements);*

*clause 47 (Payment Claims);*

*clause 49 (Final payment) (in part).*

- .2 Where the Contractor is entitled to make a *Claim* under a provision of the Contract, including under clause 49.4, which does not specify a time for making the *Claim* or otherwise in relation to the Contract or the Services, then the *Claim* must be made within 28 days from:
  - .1 the start of the event giving rise to it; or
  - .2 the time the event should have become known to the Contractor, with reasonable diligence on its part.
- .3 If the Contractor fails to make a *Claim* within the specified time, the Contractor will not be entitled to interest on any amount involved in the *Claim* for the period before the Contractor made the *Claim*. However, any *Claim* not made within the times specified in clause 49 is barred.
- .4 Each *Claim* must include information sufficient for the Principal to assess the *Claim*, without the need for further information. This includes the factual and legal basis, detailed quantification and responses by the Contractor to the questions set out in paragraphs 1.1 and 1.2 of the Schedule 3 (Expert Determination Procedure).
- .5 The Principal must assess a *Claim*, and reach agreement about it with the Contractor or reject it, within 28 days after receiving the *Claim* with all information required by clause 52.4.
- .6 If the Principal agrees to a *Claim* involving money, the Contractor may claim the agreed amount only by including it in a *Payment Claim* under clause 47.9 or 49.1 (excluding a *Claim* made under clause 49.4, for which the Principal will make payment within 28 days of such agreement or of it being determined in accordance with the Contract).
- .7 If a *Claim* is rejected or not agreed it will be an *Unresolved Claim*, and then the Contractor may notify the Principal that it disputes the rejection or failure to agree as an *Issue*, within 14 days after the end of the 28 day period referred to in clause 52.5.
- .8 The provisions of clauses 52.2 to 52.7 (where no alternative provision applies or these provisions are consistent with the context) apply generally to all *Claims* whether made under clause 52 or under another provision of the Contract.

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## Issue resolution

### 53 Notification of Issue

- .1 The Contractor may dispute an assessment, determination or instruction of the Principal, or an *Unresolved Claim*, by giving notice to the Principal (copied to the Principal's senior executive named in *Contract Information* item 7A) of an *Issue* within 28 days

after the assessment, determination or instruction, or within 14 days as provided in clause 52.7 for an *Unresolved Claim*.

- .2 Either party may give notice to the other (copied to that party's senior executive) of an *Issue* (excluding an *Issue* referred to in clause 53.1, but including a claim by the Principal) about the meaning or effect of the Contract, or about any matter arising under, out of or in any way connected with the Contract, within 28 days after becoming aware of the *Issue*.
- .3 The parties must follow the *Issue* resolution procedure in clauses 53, 54 and 55 before either commences proceedings or takes similar action
- .4 Subject to clauses 49 and 52, if the Principal or the Contractor (as applicable) gives notice of an *Issue* but not within the time provided by clauses 53.1 and 53.2, (in the case of the Contractor) or within the time provided by the clause 53.2 (in the case of the Principal) and it is resolved in favour of the party giving notice of the *Issue*, that party will not be entitled to interest on any amount involved in the *Issue* for the period before notice of the *Issue* was given.
- .5 The Principal is not liable to pay damages (whether in contract, for negligence or otherwise) for making an incorrect assessment, determination or instruction.  

*However, the Contractor will be entitled to the amount determined by an expert or the court, with simple interest as referred to in clause 50, from the date the expert or the court decides that the amount should have been paid.*
- .6 The Principal's assessments, determinations or instructions may, subject to this Contract, be reviewed and revised in any *Expert Determination* or court proceedings which might follow this *Issue* resolution procedure.
- .7 This *Issue* resolution procedure does not prevent a party from seeking an urgent declaration or injunction from a court.

#### **54 Resolution by senior executives**

- .1 If a party gives notice of an *Issue* under clause 53, the senior executives named in *Contract Information* items 7 and 10 must promptly confer to try to resolve the *Issue*.
- .2 A party is not entitled to refer an *Issue* to *Expert Determination* until 21 days after giving notice of an *Issue* under clause 53.
- .3 A party may only refer an *Issue* to *Expert Determination* by giving notice to the other party (specifying the *Issue* to be decided and copied to that party's senior executive) within the number of days specified in *Contract Information* item 35 or if no such period is specified, then within 28 days of becoming entitled to under clause 54.2.
- .4 An *Issue* for which notice has not been given within the time limited by and in the form prescribed by clause 54.3 is barred from *Expert Determination* or any other action or proceedings (including court proceedings).

#### **55 Expert Determination**

- .1 If an *Issue* is to be referred to *Expert Determination* under clause 54, the parties must endeavour to agree on the *Expert* to be engaged. If they cannot agree within 28 days of the receipt of a notice under clause 54.3, the *Expert* will be nominated (on the application of either party) by the person named in *Contract Information* item 36. That person must nominate:
  - .1 an employee of the Principal or the Contractor;
  - .2 a person who has been connected with the Services or the Contract; or
  - .3 a person who the Principal and the Contractor have not been able to agree on.
- .2 When the person to be the *Expert* has been agreed or nominated, the Principal, on behalf of both parties, must engage the *Expert* by letter of engagement (copied to the Contractor) setting out:
  - .1 the *Issues* referred to the *Expert* for determination;
  - .2 the *Expert's* fees;
  - .3 the procedure for *Expert Determination* in Schedule 3 (*Expert Determination Procedure*); and

- .4 any other matters which are relevant to the engagement.
- .3 The Principal and the Contractor must share equally the fees and out-of-pocket expenses of the *Expert* for the determination, and bear their own costs.
- .4 The procedure for *Expert Determination* is set out in Schedule 3 (Expert Determination Procedure).
- .5 In answer to any *Issue* referred to the *Expert* by a party, the other party may raise any defence, set-off or cross-claim.
- .6 If the *Expert* determines that one party must pay the other an aggregated amount exceeding the amount in *Contract Information* item 37 (calculating the amount without including interest on it, and after allowing for set-offs), or if the *Expert's* determination involves a finding which does not involve paying a sum of money, then either party may commence litigation in respect of the amount referred to above (which amount exceeds the amount in *Contract Information* item 37) or the finding which does not involve paying a sum of money, as applicable, but only within 56 days after receiving the determination.
- .7 Unless a party has a right to commence litigation under clause 55.6:
  - .1 the parties must treat each determination of the *Expert* as final and binding and give effect to it; and
  - .2 if the *Expert* determines that one party owes the other money, that party must pay the money within 28 days.
- .8 The representative of the Principal for all of the purposes of this clause 55 is the person specified in *Contract Information* item 35. This person (and his/her address) may differ from the person (and his/her address) for the giving of notices to the Principal, as specified in clause 28.1.

## **56 Parties to perform the Contract**

- .1 During *Claim* and *Issue* resolution procedures under clauses 52 to 55, the parties must continue to perform their obligations under the Contract.

# Termination

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## 57 Termination for Contractor's Default or Insolvency

- .1 The Principal may terminate the Contractor's employment under the Contract for *Contractor's Default* or *Contractor's Insolvency* by giving notice, as set out in this clause 57.
- .2 In the case of *Contractor's Default*, the Principal must first give notice to the Contractor that it has 7 days after the notice is given to the Contractor to remedy the *Contractor's Default*.
- .3 If the Contractor fails to give the Principal a notice containing clear evidence that it has remedied a *Contractor's Default*, or fails to propose steps reasonably acceptable to the Principal to remedy the *Contractor's Default*, the Principal may give the Contractor a notice terminating its employment under the Contract.
- .4 Nothing in this clause 57 affects or negates the Principal's common law rights to terminate or for damages.

*If a right to terminate exists at common law, a notice to terminate at common law may be given without first giving notice to remedy a default.*

- .5 In the case of *Contractor's Insolvency*, the Principal may give the Contractor a notice terminating its employment under the Contract.
- .6 If the Principal terminates the Contractor's employment under this clause 57, it may at its sole discretion, employ others to complete the Services and all the following will then apply:
  - .1 The Contractor must leave the Site as soon as reasonably practicable and remove all *parts* and *equipment* it has brought onto the Site, but must leave any *parts* and *equipment* required by the Principal to have the Services completed.
  - .2 The Contractor must assign to the Principal the Contractor's rights and benefits in all its contracts concerning the Services, warranties and unconditional undertakings, bank guarantees, insurance bonds, other security of a similar nature or purpose and retention held by the Contractor, with effect from the date of termination of its employment under the Contract.
  - .3 The Contractor must consent to a novation to the Principal or its nominee of all Subcontracts and its other contracts concerning the Services, as required by the Principal and must procure at the time of entering into each Subcontract and other contracts, the consent in writing of all of its Subcontractors, Suppliers and Consultants to the novation. The Principal may at any time make payments and may deduct, withhold or set-off any amounts to be paid under the novated contracts from amounts otherwise payable to the Contractor or from any *Undertakings* given on the Contractor's behalf.
  - .4 The Contractor must do everything and sign all documents necessary to give effect to this clause 57, and it irrevocably appoints the Principal as its attorney to do this in its name if it fails to do so.
  - .5 If, on *Completion* of the Services, the cost to the Principal of completing the Services exceeds the amount that would have been paid to the Contractor to complete them, then the difference will be a debt due by the Contractor to the Principal.
  - .6 The Principal may make provisional assessments of the amounts payable to the Principal under clause 57.6.5 and may demand them under the *Undertakings*.

## 58 Termination for Principal's convenience

- .1 The Principal may terminate the Contract, by giving notice with effect from the date stated in the notice, for its convenience and without the need to give reasons.
- .2 The Contractor must comply with any instructions of the Principal to wind down and stop work.

- .3 The Contractor must leave the Site by the date stated in the termination notice and remove all *Temporary Work* it has brought onto the Site for constructing the Services, except for those items identified in the termination notice as to be retained on the Site.
- .4 After termination under clause 58.1, subject to its rights under the Contract, including clause 51, the Principal must pay the Contractor:
  - .1 the amounts due under Clause 47 for Services provided to the date the termination notice takes effect, after taking into account previous payments, and any deductions, retentions or set-offs, to which the Principal is entitled under clauses 48 or 51;
- .5 The Principal must return the *Undertakings*, subject to its rights under the Contract.
- .6 The payments referred to in clause 58.4 are full compensation for termination under this clause 58, and the Contractor has no *Claim* for damages or other entitlement whether under the Contract or otherwise.
- .7 The Contractor must, wherever possible, include in all Subcontracts and other contracts an equivalent provision to this clause 58.

## **59 Termination for Principal's default**

- .1 If the Principal fails to pay the Contractor any amount in accordance with the Contract which is not in dispute, or commits any fundamental breach of the Contract, then the Contractor may give notice requiring the Principal to remedy the default within 28 days after receiving the notice.
- .2 If the Principal fails to remedy the default, or fails to propose steps reasonably acceptable to the Contractor to do so, the Contractor may issue a notice terminating the Contract and clauses 58.3 to 58.6 will then apply and the Principal must pay the Contractor the applicable amounts referred to in clause 58.4 as its sole remedy and in full compensation for the Principal's breach.
- .3 The Contractor has no other right to terminate the Contract, under the common law or otherwise.

## **60 Termination by frustration**

- .1 If the Contract or a contract with a Customer is terminated by the doctrine of frustration, the Frustrated Contracts Act 1978 NSW will not apply. Instead, the Contractor will be entitled to payment in accordance with the Contract for Services provided up to the date of termination and neither party will have any entitlement to recover from the other any loss consequent upon the termination.

## **61 Termination notices**

- .1 Notices under clauses 57, 58, 59 and 60 must be in writing and be delivered by hand, registered post or equivalent, or facsimile.



# Meanings

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## Meanings

### 62 Interpretation

- .1 Words in the singular must be interpreted to include the plural, and vice versa.
- .2 No legal interpretation applies to the disadvantage of any party on the basis that the party provided the *Contract Documents*, or any part of them.

### 63 Definitions

Some words and phrases have special meanings in the Contract. In some cases, the defined meaning is different from the meaning that the word or phrase might have in ordinary usage, or it might include conditions that don't normally apply. In order to understand the Contract, you need to take these special meanings into account.

All defined words and phrases have initial capitals (except for 'day' and 'end users') and are in italics in the GC21 General Conditions of Contract unless they are one of the following 12 basic terms, which appear too often for italics to be used:

- |                    |                 |
|--------------------|-----------------|
| • day              | • Consultant    |
| • Contract         | • Contractor    |
| • Date of Contract | • Subcontractor |
| • Site             | • Principal     |
| • Subcontract      | • Supplier      |
| • Services         | • Customer      |

- .1 Wherever the following words and phrases are used in this Contract with initial capitals (except for 'day' and 'end users' ), they have the special meanings set out opposite them in this clause 63 unless the context requires otherwise.

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## Meanings of words and phrases

### Board

The State Contracts Control Board.

### Business Day

Any day other than a Saturday, Sunday, public holiday in New South Wales, or 27, 28, 29, 30 or 31 December.

### Claim

A claimed entitlement of the Contractor under or arising out of or connected with the Contract, in tort, in equity, under any statute, or otherwise. It includes a claimed entitlement to an extension of time or for breach of Contract by the Principal.

### Claimed Amount

The amount claimed by the Contractor in a *Payment Claim*.

### Conformance Records

Records which show conformance by the Contractor with particular requirements of the Contract, as provided in the Contract and as referred to in clause 63.

### Consultant

A consultant engaged by the Contractor to design parts of the Services or to provide other professional services. It includes a consultant whose contract with the Principal is novated to one with the Contractor.

**Contract**

The agreement between the Contractor and the Principal constituted by the *Contract Documents*.

**Contract Documents**

All the documents listed or referred to in clause 7.1.

**Contract Information**

The document described as such in the *Contract Documents*, which sets out information for the purposes of the Contract.

**Contract Price**

The amount stated as such in *Contract Information* item 43, subject to adjustment in accordance with the Contract.

**Contract Program**

The program described in clause 23 and Section 3 of of the Contract Documents.

**Contractor**

The party named as such in *Contract Information* item 8, and including its successors and permitted assigns.

**Contractor's Authorised Person**

The person appointed to act for the Contractor under clause 2, including as named in *Contract Information* item 9.

**Contractor's Default**

A substantial breach of the Contract by the Contractor, including, without limitation, any of the following:

- .1 abandoning the carrying out of the Services;
- .2 suspending progress of the carrying out of the Services in whole or part without the written agreement of the Principal, except for suspension under clause 36;
- .3 failing to comply with an instruction in writing or confirmed in writing by the Principal;
- .4 failing to carry out the Services with professional skill and care and competence;
- .5 failing to maintain any registration or licence required by law to carry on activities required under the Contract;
- .6 failing to provide security as required under clause 34 of the Contract; or
- .7 failing to effect and maintain insurance policies as required under the Contract.
- .8 failing to comply with any requirement of Preliminaries.

**Contractor's Insolvency**

Any of the following applying to the Contractor:

- .1 insolvency;
- .2 the Contractor indicates it does not have the resources to perform the Contract;
- .3 an application for winding up is made which is not stayed within 14 days;
- .4 a winding-up order is made;
- .5 a controller, administrator, receiver, receiver and manager, provisional liquidator, or liquidator is appointed;
- .6 a mortgagee enters into possession of any property of the Contractor;
- .7 notice is given of a meeting of creditors for the purposes of a deed of arrangement; or
- .8 any actions having a similar effect are taken.

### Customer

A Customer is a person listed in Contract Information Item 2 and a party that by direction of the Board is added as a Customer.

### Data

Drawings, sketches, specifications, digital records and computer software and all other data and information relating to the Contract.

### Date of Contract

The date of the *Letter of Award* or if no *Letter of Award* is issued by the Principal to the Contractor, the date the *Deed of Contract Agreement* is signed by the Principal after the Contractor has signed it.

### day

A calendar day, including all *Business Days* and non-Business Days.

### Deed of Contract Agreement

A deed of agreement in the form annexed to the Contract.

### Defect

Includes an error, omission, shrinkage, blemish in appearance or other fault in the Services or which affects the Services, which results from a failure of the Contractor to comply with the Contract.

### Excepted Risks

Any of the following:

- .1 any negligent act or omission of the Principal, the *Principal's Authorised Person* or the employees, consultants or agents of the Principal;
- .2 any risk specifically excepted in the Contract;
- .3 war, invasion, act of foreign enemies, hostilities, (whether war be declared or not), act of terrorism, civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any Government or public authority; or
- .4 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the Contractor or the Contractor's employees or agents.

### Expert

A person engaged to determine *Issues* under clause 55.

### Expert Determination

The process of determination of an *Issue* by an *Expert*, under clause 55 and the procedure in **Error! Reference source not found.** (Expert Determination Procedure).

### Fault

Ambiguity, inconsistency, discrepancy, omission, error or other fault.

### Further Site Information

Site information obtained after the Date of Contract by the Contractor.

### Intellectual Property Rights

Includes copyright, patent right, registered design, trade mark or name and other protected rights.

### Issue

Any issue, dispute or difference raised by either party under clause 73.

**Letter of Award**

A letter from the Principal to the Contractor awarding the Contract to the Contractor as referred to in clause 7.

**Materials**

Includes materials, plant, equipment and other goods.

**Payment Claim**

A *Claim* for payment made by the Contractor to the Principal under clauses 62 or 65.

**Payment Schedule**

A payment schedule containing the Principal's assessment of a *Payment Claim* and stating the amount the Principal proposes to pay as the *Scheduled Amount*, as referred to in clause 63.

**Preferred Subcontractor**

A Subcontractor included on the list in *Contract Information* item 18 and provided by the Principal to the Contractor for a specified trade or area of work.

**Prequalified Contractor**

A *Preferred Subcontractor* who has been notified in writing by the Principal that it has met the Principal's prequalification criteria for the type of work involved.

**Principal**

The entity named as such in *Contract Information* item 4.

**Principal's Authorised Person**

The person appointed to act for the Principal in terms of clause 2 including as named in *Contract Information* item 5.

**Principal's Documents**

The design and other documents prepared by the Principal for the Contract and provided to the Contractor at the Date of Contract and included in the *Contract Documents*, and any modified or further such documents later provided by the Principal to the Contractor for the Contract.

**Reference Contract Documents**

The documents expressly referred to as such in *Contract Information* item 16 and forming part of the Contract.

**Schedule of Rates**

Any schedule in the Contract stated to be a *Schedule of Rates*, and which shows rates payable for carrying out items of work described in the schedule.

**Scheduled Amount**

The amount of payment (if any) stated in a *Payment Schedule*, that the Principal proposes to make in relation to a *Payment Claim* as referred to in clause 48.2.2.

**Section**

Any part of the Contract Documents contained in any Volume and described as Section.

**Services**

The services to be *provided* by the Contractor, as referred to in clause 10, including all service and items of the type referred to in clause 10.1 and *Variations*; it applies to the Services as a whole and also to any part of the Services unless stated otherwise or the context requires otherwise.

**Site**

The lands and other places to be made available by the Principal to the Contractor for the purpose of executing the Services, and including any existing buildings, services or other improvements, as specified in *Contract Information* item 2.

**Site Conditions**

Any physical conditions of the Site (including sub-surface conditions, but excluding weather conditions or physical conditions which are a consequence of weather conditions) encountered in the execution of the Services.

**Statutory Requirements**

The laws relating to the Services, the Site, or the environment or the lawful requirements of any authority or provider of services having jurisdiction over the Services, the Site, or anyone or anything connected with the Services, the Site or otherwise relating to the Contract.

**Subcontract**

An agreement between the Contractor and a Subcontractor or a Supplier.

**Subcontractor**

An entity engaged by the Contractor to carry out part of the Services, or both, other than a Consultant or a Supplier.

**Sub-Subcontract**

An agreement between a Subcontractor or Supplier and its subcontractor or supplier.

**Supplier**

An entity engaged by the Contractor to supply part of the Services.

**Test**

Examine, inspect, measure, prove and trial, including opening up of any part covered up, if necessary; *Testing* and other derivatives of *Test* have a corresponding meaning.

**Undertaking**

An unconditional undertaking to pay on demand, in the relevant form of Schedule 2 (Undertaking), provided as security to the Principal.

**Unresolved Claim**

A *Claim* rejected or not agreed under clause 52.7.

**Variation**

Any change to the Services including additions, increases, omissions and reductions to and from the Services, but not including such changes or otherwise in respect of the development by the Contractor of *Design* (including without limitation development of shop drawings and other *Contractor's Documents*) in accordance with the requirements of the Contract, and not including omissions of the type referred to in clause 10.1.3.

**Volume**

Set of the documents issued in numerical order by the Principal as the basis of the Contract Documents relating to Contract No. and includes all parts and Sections thereof.

# Contract Information

[http://www.managingprocurement.commerce.nsw.gov.au/service\\_provider\\_selection/s\\_m\\_completion\\_of\\_gc21\\_contract\\_information.doc](http://www.managingprocurement.commerce.nsw.gov.au/service_provider_selection/s_m_completion_of_gc21_contract_information.doc) The *Contract Information* is part of the Contract. Words and phrases are defined in clause 63.

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## Project and Contract

### Item

#### 1 Project and Contract name

The Project and Contract name is: Low Level Glazing Survey, Report And Rectification For DET Schools

The Contract number is:

#### 2 Principal Customer and Site

*Mentioned in clause 63*

The Principal Customer is: Department of Education and Training

The Site is: To be advised after award of the Contract

#### 3 Description of the Services (including purpose)

*Mentioned in clauses 10 & 63*

The Services are: Carrying out survey for low level glazing for nominated DET schools then rectifying by priority order, based on the survey results to comply with AS 1288-2006, as directed by the Principal.

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## Principal's details

#### 4 Principal

The Principal is: The State Contracts Control Board of NSW, and so far as concerns a separate contract with a Customer, the Principal is the Department of Education and Training

#### 5 Principal's Authorised Person

*Mentioned in clause 2*

The *Principal's Authorised Person* is: To be advised after award of the Contract

#### 6 Notices to the Principal

*Mentioned in clause 28*

Notices must go to the *Principal's Authorised Person* listed above, at the address or number shown here.

Office address:  
(for delivery by hand) To be advised after award of the Contract

Postal address:  
(for delivery by post) To be advised after award of the Contract

Facsimile number: To be advised after award of the Contract

e-mail address: To be advised after award of the Contract

## 7 Senior executive

### A - Principal's senior executive

*Mentioned in clauses 53 & 54*

The Principal's senior executive is: Manager, Facilities Management, Office of Public Works and Services, Department of Commerce

### B - Documents copied to the Principal's senior executive

*Mentioned in clause 53*

When notices must be copied to the Principal's senior executive the address is as follows:

Office address:  
(for delivery by hand) Department of Education and Training  
Level 17 McKell Building  
2-24 Rawson Place  
Sydney NSW 2000

Postal address:  
(for delivery by post) Department of Commerce  
Level 17 McKell Building  
2-24 Rawson Place  
Sydney NSW 2000

Facsimile number: 02 9372 7552

e-mail address: To be advised after award of the Contract

## Contractor's details

## 8 Contractor

The Contractor is: » .....  
» .....  
ABN » .....

## 9 Contractor's Authorised Person

The Contractor's Authorised Person is: » .....  
*Mentioned in clause 2*

## 10 Senior executive

The Contractor's senior executive is: » .....  
*Mentioned in clause 54*

## 11 Notices to Contractor

*Mentioned in clause 28*

Notices must go to the personnel listed above, at the address or number shown here.

Office address:  
(for delivery by hand)

» .....  
» .....  
» .....  
» .....

Postal address:  
(for delivery by post)

» .....  
» .....  
» .....  
» .....

Facsimile number:

» .....

e-mail address

» .....

## Dates and times

### 12 Date of Contract

*Mentioned in clause 63*

This is the date the Principal signs the Contract after the Contractor has signed, or the date of the Principal's *Letter of Award* to the Contractor (as applicable).

Date of Contract is:

The date of the Letter of Award

[http://www.managingprocurement.commerce.nsw.gov.au/procurement\\_method\\_selection/ps\\_estimating\\_contract\\_times.doc](http://www.managingprocurement.commerce.nsw.gov.au/procurement_method_selection/ps_estimating_contract_times.doc)

## NSW Government requirements

### 13 Codes

*Mentioned in clause 13*

The NSW Government codes that apply are:

NSW Government *Code of Practice for Procurement*

### 14 Principal contractor

*Mentioned in clause 15.2*

Is the Contractor appointed as principal contractor? (Yes/No)

Yes.

### 15 NSW Government construction Guidelines requirements

#### A - OHS Management Plan

*Mentioned in clause 15.3*

Is the Contractor required to submit a Project OHS Management Plan?  
(Yes/No)

Yes.

Is the Contractor required to submit a Site-specific Safety Management Plan?  
(Yes/No)

No.

#### B - Industrial Relations Plan

*Mentioned in clause 16.3*



Is the Contractor required to submit a Project IR Plan? (Yes/No)

No.

### **C - Environmental Management Plan**

*Mentioned in clause 18.2*

Is the Contractor required to submit a Environmental Management Plan? (Yes/No)

No.

### **D - Training Management Plan**

*Mentioned in clause 19.3*

Is the Contractor required to submit a Training Management Plan? (Yes/No)

No.

## **Reference Contract Documents**

### **16 Reference Contract Documents**

*Mentioned in clause 7.1.5*

The *Reference Contract Documents* are:

*Letter of Award*; and the content thereof, the content of Volume 1 including all sections and Specifications, any electronic files provided with the contract documents.

## **Subcontract work**

### **17 Payment for Subcontract**

*Mentioned in clause 29.3*

Maximum period before payment for minor Subcontract:

15 Business Days

### **18 Preferred Subcontractors**

*Mentioned in clause 30*

*Preferred Subcontractors* referred to in clause 32 are:

Not applicable.

### **19 Prequalified Contractors**

*Mentioned in clause 30*

Trades or areas of work requiring use of *Prequalified Contractors* are

Not applicable.

### **20 Subcontractor's warranty**

*Mentioned in clause 31.1*

Trades or areas of work requiring a Subcontractor's warranty are:

Workmanship and Materials.

## **Insurance - General**

*Mentioned in clauses 33.1 & 33.2*

### **21 Public liability insurance**

Minimum cover:	\$20 million any one occurrence
Insurer:	»
Policy number:	»
Period of cover:	Until issue of <i>Final Payment Schedule</i> .

## 22 Workers compensation insurance

Minimum cover:	As required by law.
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## 23 Personal accident insurance

Minimum cover:	Death and permanent disability \$400,000-00 Temporary disablement: \$800-00 each week
----------------	--

## Insurance - Specific

*Mentioned in clauses 33.1.4, 33.3 and 33.4*

## 24 Other specific insurance

Not Required.

## Security

### 25 Undertaking

Amount	<i>Mentioned in clause 34.1</i> \$25,000 per Contract Package awarded.
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## Site information

### 26 Site information

*Mentioned in clause 36*

*Information contained in the documents listed in Contract Information items 26A and 26B does not form part of the Contract.*

#### A. Documents not guaranteed for completeness

Documents not guaranteed for completeness are:	Electronic files provided to tenderers marked as "Information Only".
--	--

#### B. Documents not guaranteed for accuracy, quality or completeness

Documents not guaranteed for accuracy, quality or completeness are:	Electronic files provided to tenderers marked as "Information Only".
---	--

## Scope of activities

### 27 Working days and hours of work

*Mentioned in clause 24*

Working days and hours of work:	8am to 5pm Monday to Friday, excluding
---------------------------------	--

Public Holidays and  
Comply with *Statutory Requirements*

## 28 Rise or fall adjustments

*Mentioned in clause 45.1*

Are rise or fall adjustments applicable to the Contract? (Yes/No) Yes.

## Innovation

### 29 Innovation

*Mentioned in clause 37.8*

Do the parties agree to share the savings in the cost to the Contractor of the Services resulting from changes accepted by the Principal? (Yes/No) Yes.

If “No”, the Contractor keeps the direct saving in the cost to the Contractor of the Services, as provided in clause 37.5.

Percentage of saving to be allocated to the Contractor is: 50%.

Percentage of saving to be allocated to the Principal is: 50%.

## Payments

### 30 Date for making payment claims

*Mentioned in clause 47*

Date in each Month for making payment claims: 28th

### 31 Time for issue of Payment Schedule

*Mentioned in clause 48*

The time for issue of Payment Schedule For all services it is the date of the payment of the payment claims.

### 32 Time for making Payment

*Mentioned in clause 48*

The time for making Payment: For all services as provided for in Preliminaries Clause 3.1

### 33 Interest on late payments

*Mentioned in clause 50*

Rate of interest per annum is: Rate prescribed under the Supreme Court Act 1970 NSW on unpaid judgments.

## Expert Determination

### 34 Time to refer *Issue* to *Expert Determination*

*Mentioned in clause 54.3*

Maximum number of days for either party to refer an *Issue* to *Expert Determination* is:

Within 28 days of becoming entitled to refer an *Issue* to *Expert Determination* under clause 54.2.

### 35 *Expert Determination* representative

*Mentioned in clause 55*

The name of the representative of the Principal for all of the purposes in clause 75, to whom all documents must be copied under Schedule 6 (*Expert Determination Procedure*) is:

Manager,  
Commerce Dispute Resolution Unit,  
Policy Support Services,  
NSW Department of Commerce.

Office address:  
(for delivery by hand)

Policy Support Services,  
Level 11, McKell Building,  
2-24 Rawson Place  
Sydney, NSW, 2000.

Postal address:  
(for delivery by post)

NSW Department of Commerce  
Policy Support Services,  
Level 11, McKell Building,  
2-24 Rawson Place,  
Sydney, NSW, 2000.

Attention: Mr. R. Berrington.

Facsimile number:

(02) 9372 8033

e-mail address:

[Manager.cdru@commerce.nsw.gov.au](mailto:Manager.cdru@commerce.nsw.gov.au)

### 36 Person to nominate *Expert*

*Mentioned in clause 55.1*

Person to nominate *Expert* is:

Chief Executive Officer,  
Australian Commercial Disputes Centre,  
Level 6,  
50 Park Street,  
Sydney, NSW, 2000

Telephone number:

(02) 9267 1000

Facsimile number:

(02) 9267 3125

### 37 Threshold amount for litigation

*Mentioned in clause 55.6*

Threshold amount for litigation following a determination is:

\$500,000.00



# Schedules

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<b>Schedule 1</b>	<b>Subcontractor's Warranty</b>
<b>Schedule 2</b>	<b>Undertaking (on behalf of the Contractor)</b>
<b>Schedule 3</b>	<b>Expert Determination Procedure</b>
<b>Schedule 4</b>	<b>Statutory Declaration</b>
<b>Schedule 5</b>	<b>Cost Adjustment Formula</b>



## Schedule 1

# Subcontractor's Warranty

The Contractor has entered into the Contract with the Principal for the carrying out of the Services.

The Subcontractor has entered into an agreement with the Contractor for the Subcontract Work or Products, which are a part of the Services.

In return for the Principal allowing the Subcontract Work or Products to be used in the Services, the Subcontractor agrees to give the warranties, indemnities and other promises in this Deed. The obligations created by this Deed are in addition to the obligations of the Subcontractor to the Contractor and do not affect any other rights or remedies available to the Principal against the Contractor or the Subcontractor.

Refer to clause 33.1 of the GC21 General Conditions of Contract.

## Definitions

Deed dated:	» .....
	<b>between</b>
Subcontractor or Supplier:	» .....
	» .....
	ABN » .....
	<b>and</b>
The Principal:	» .....
	<b>concerning</b>
The Contract:	The contract between the Principal and the Contractor
Contract title:	» .....
Contract number:	» .....
Services:	The services and product provided by the Contractor, as described in the Contract.
The Contractor:	» .....
	ABN » .....
Subcontract Services/Product	» .....
Warranty Period:	» .....years from the <i>Actual Installtion Date</i> of glass glazing.

Other words and phrases in this Deed have the meanings given in the General Conditions of Contract.

In this Deed, the term Subcontractor includes Supplier. The terms Subcontractor, Contractor and Principal include their successors and permitted assigns.

## Terms of Deed

### 1 Warranty

- .1 The Subcontractor warrants that all work performed and all *Materials* supplied by the Subcontractor as part of the Subcontract Work or Products will:
  - .1 comply in all respects with the requirements of the Contract;
  - .2 comply with the applicable industry standards, including (without limitation) the Building Code of Australia and any applicable Australian Standards, to the extent that the quality of *Materials* or standard of workmanship is not specified in the Contract; and



- .3 be fit for the purposes for which they are required.
- .2 The Subcontractor warrants that it will use reasonable skill and care in performing all work associated with the Subcontract Work or Products.

## **2 Replacement or making good**

- .1 The Subcontractor promises to replace or make good, to the reasonable satisfaction of the Principal, any of the Subcontract Work or Products which, within the Warranty Period, are found to:
  - .1 be of a lower standard or quality than referred to in clause 1 of this Deed; or
  - .2 have deteriorated to such an extent that they are no longer fit for the purposes for which they were required.
- .2 Nothing in this clause 2 affects the Subcontractor's liability until any limitation period under statute expires.
- .3 The liability of the Subcontractor under this clause is reduced to the extent that deterioration is caused by:
  - .1 mishandling, damage before installation, or incorrect installation, in each case caused by others;
  - .2 normal wear and tear;
  - .3 incorrect operational procedures or maintenance, in each case not attributable to the Subcontractor; or
  - .4 any other cause beyond the control of the Subcontractor.

## **3 Costs**

- .1 The Subcontractor promises to undertake and meet the reasonable cost of any work necessary:
  - .1 to carry out any part of the Services to enable the requirements of clause 2 of this Deed to be carried out; or
  - .2 restore or make good the Services after carrying out those requirements, whichever the Principal requires.

## **4 Indemnity**

- .1 The Subcontractor indemnifies the Principal against claims (including *Claims*, actions and loss or damage arising out of breach by the Subcontractor of clauses 1 or 2 of this Deed.

## **5 Notice of Defects**

- .1 The Principal may notify the Subcontractor in writing if it considers there has been any breach of any provision of this Deed.

## **6 Time to remedy**

- .1 The Subcontractor must do everything to remedy the breaches notified to it under clause 5 of this Deed within a reasonable time after the Principal's notice.

## **7 Failure to remedy**

- .1 If the Subcontractor fails to carry out and complete the work specified in the Principal's notice under clause 5 of this Deed within a period determined by the Principal to be reasonable in the circumstances, the Principal may give written notice to the Subcontractor that the Principal intends to have that work carried out by others. This notice must allow a reasonable period for the Subcontractor to respond.
- .2 If the Subcontractor fails to complete the work by the date specified in clause 7.1, or another date agreed by the parties, the Principal may have the work carried out by others, and the Subcontractor indemnifies the Principal for the reasonable costs and expenses of doing so.

## **8 Urgent action by Principal**

- .1 The Principal may take any urgent action necessary to protect the Services, other property or people as a result of a breach of clause 1 of this Deed.

- .2 The Subcontractor agrees that the Principal taking such action does not affect any obligation of the Subcontractor under this Deed.
- .3 The Subcontractor indemnifies the Principal for the reasonable costs and expenses paid or payable in taking that action.

## 9 Assignment

- .1 The Principal may assign the benefit of this Deed to the owner or operating authority of the Services and must give notice of that assignment to the Subcontractor.

## 10 Operation of Deed

- .1 This Deed comes into effect when executed by the Subcontractor, and is effective whether or not executed by the Principal.

### Executed as a deed

The common seal of the Subcontractor was affixed in accordance with its Articles of Association in the presence of:

Signature of Director/Secretary: » .....

Name of Director/Secretary: » .....

Signature of Director: » .....

Name of Director: » .....

or (if the Subcontractor is not a corporation)

Signed, sealed and delivered on behalf of the Subcontractor by:

Signature of Authorised Person: » .....

Name of Authorised Person: » .....

### and witnessed by:

Signature of witness: » .....

Name of witness (in full): » .....

Signed, sealed and delivered on behalf of the Principal by:

Signature of Authorised Person: » .....

Name of Authorised Person: » .....

### and witnessed by:

Signature of witness: » .....

Full name of witness: » .....

Place: » .....



## Schedule 2

# Undertaking

Refer to clauses 37 and 61 of the GC21 General Conditions of Contract.

## On behalf of the Contractor

Name of Financial Institution: » .....  
The Principal: » .....  
The Contractor: » .....  
ABN » .....  
Security Amount \$ » .....  
The Contract: The contract between the Principal and the Contractor  
Contract Title: » .....  
Contract Number: » .....

Other words and phrases in this *Undertaking* have the meanings given in the General Conditions of Contract.

## Undertaking

- .1 At the request of the Contractor and the Financial Institution, and in consideration of the Principal accepting this *Undertaking* from the Financial Institution in connection with the Contract, the Financial Institution unconditionally undertakes to pay on demand any amount or amounts demanded by the Principal to the maximum aggregate sum of the Security Amount.
- .2 The Financial Institution unconditionally agrees that, if notified in writing by the Principal (or someone authorised by the Principal) that it requires all or some of the Security Amount, the Financial Institution will pay the Principal at once, without reference to the Contractor and despite any notice from the Contractor not to pay.
- .3 The Principal must not assign this *Undertaking* without the prior written agreement of the Financial Institution, which must not be unreasonably withheld.
- .4 This *Undertaking* continues until one of the following occurs:
  - .1 the Principal notifies the Financial Institution in writing that the Security Amount is no longer required;
  - .2 this *Undertaking* is returned to the Financial Institution; or
  - .3 the Financial Institution pays the Principal the whole of the Security Amount, or as much as the Principal may require overall.
- .5 At any time, without being required to, the Financial Institution may pay the Principal the Security Amount less any amounts previously paid under this *Undertaking* (or a lesser sum specified by the Principal), and the liability of the Financial Institution will then immediately end.

Dated »..... at » .....

## Execution by the Financial Institution:

### Schedule 3

# Expert Determination Procedure

Refer to clause 75 of the GC21 General Conditions of Contract

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## 1 Questions to be determined by the Expert

- .1 The *Expert* must determine for each *Issue* the following questions (to the extent that they are applicable to the *Issue*):
  - .1 Is there an event, act or omission which gives the claimant a right to compensation, or otherwise assists in 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 the light of the answers to clauses 1.1.1 and 1.1.2 of this Expert Determination Procedure:
    - (1) what compensation, if any, is payable from 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 has 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* referred to in clause 75.2 of the General Conditions of Contract.
  - .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 *Expert* will promptly determine any extra time permitted, following a submission on the point by a party desiring to make a submission, within the time specified by the *Expert*. 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 copied to the Principal under this Expert Determination Procedure must be sent to the relevant person at the relevant postal or other address specified in *Contract Information* item 54. This address may be different to the address for the giving of notices to the Principal under clause 30.1.

### 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* referred to in clause 55.2 of the General Conditions of Contract.
- .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.



## Schedule 4

# Statutory Declaration

Refer to clause 62.6.2 of the GC21 General Conditions of Contract

### *Oaths Act 1900 (NSW)*

#### Definitions

The Principal is: »  
The Contractor is: » .....  
ACN/ABN » .....  
The Contract: The contract between the Principal and the Contractor  
Contract Title: »  
Contract Number: »  
Dated: » ..... (Date of Contract) between the party  
identified as the Principal and the party identified as  
the Contractor.

#### Declaration

Full name: I, » .....  
Address: of » .....  
» .....

do hereby solemnly declare and affirm that:

- .1 I am the representative of the Contractor in the Office Bearer capacity of:  
» .....  
*Insert position title of the Declarant.*

- .2 I am in a position to make this statutory declaration about the facts attested to.

#### Remuneration of Contractor's employees engaged to carry out work in connection with the Contract

- .3 All remuneration payable to the Contractor's relevant employees for work done in connection with the Contract to the date of this statutory declaration has been paid and the Contractor has made provision for all other benefits accrued in respect of the employees.

*Relevant employees are those engaged in carrying out the work done in connection with the Contract.*

*Remuneration means remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees [s127(6) of the Industrial Relations Act 1996 (NSW)].*

- .4 The Contractor *is / is not\** a principal contractor for the work done in connection with the Contract, as defined in section 127 of the *Industrial Relations Act 1996* (NSW).

*\* Delete the words in italics that are not applicable.*

- .5 Where the Contractor is also a principal contractor for work done in connection with the Contract, the Contractor has been given a written statement in its capacity of principal contractor under section 127(2) of the *Industrial Relations Act 1996* (NSW) by each subcontractor in connection with that work stating that all remuneration payable by each subcontractor to the subcontractor's relevant employees for work done in connection with the Contract to the date of this declaration has been paid, and each subcontractor has made provision for all other benefits accrued in respect of each subcontractor's employees.



- .6 I am aware that the *Industrial Relations Act 1996* (NSW) requires any written statement provided by subcontractors must be retained for at least 6 years after it was given and declare that the Contractor has accordingly made arrangements for the secure retention of the written statements.

#### **Workers Compensation Insurance of the Contractor's workers**

- .7 All workers compensation insurance premiums payable by the Contractor to the date of this statutory declaration in respect of the work done in connection with the Contract have been paid. This statutory declaration is accompanied by a copy of any relevant certificate of currency in respect of that insurance.

#### **Workers Compensation Insurance for workers of Subcontractors**

- .8 The Contractor *is / is not*\* a principal contractor for work done in connection with the Contract, as defined in section 175B of the *Workers Compensation Act 1987* (NSW).

*\* Delete the words in italics that are not applicable.*

- .9 Where the Contractor is also a principal contractor for work done in connection with the Contract, the Contractor has been given a written statement under section 175B of the *Workers Compensation Act 1987* (NSW) in the capacity of principal contractor in connection with that work to the intent that all workers compensation insurance premiums payable by each subcontractor in respect of that work done to the date of this statutory declaration have been paid, accompanied by a copy of any relevant certificate of currency in respect of that insurance.
- .10 I am aware that the *Workers Compensation Act 1987* (NSW) requires any written statement provided by subcontractors and any related certificate of currency must be retained for at least 7 years after it was given and declare that the Contractor has accordingly made arrangements for the secure retention of the written statements.

#### **Employer under the Pay-roll Tax Act**

- .11 The Contractor *is registered as / is not required to be registered as*\* an employer under the *Pay-roll Tax Act 1971* (NSW).

*\* Delete the words in italics that are not applicable.*

- .12 All pay roll tax payable by the Contractor in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this statutory declaration has been paid.
- .13 The Contractor *is / is not*\* a principal contractor for work done in connection with the Contract as defined in section 31G of the *Pay-roll Tax Act 1971* (NSW).

*\* Delete the words in italics that are not applicable.*

- .14 Where the Contractor is also a principal contractor for work done in connection with the Contract, the Contractor has been given a written statement under section 31H of the *Pay-roll Tax Act 1971* (NSW) in the capacity of principal contractor in connection with that work to the intent that all pay roll tax payable by each subcontractor in respect of the wages paid or payable to the relevant employees for that work done to the date of this statutory declaration has been paid.
- .15 I am aware that the *Pay-roll Tax Act 1971* (NSW) requires any written statement provided by subcontractors must be retained for at least 5 years after it was given and declare that the Contractor has accordingly made arrangements for the secure retention of the written statements.

#### **Payments to Subcontractors**

- .16 The Contractor has paid every Subcontractor, Supplier and Consultant all amounts payable to each of them by the Contractor as at the date of this statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the Contract.
- .17 The provisions of clause "Subcontractor relationships", if included in the Contract, have been complied with by the Contractor.
- .18 The Contractor has been informed by each Subcontractor and Consultant to the Contractor (except for Subcontracts and agreements not exceeding \$25,000 at their

commencement) by written statement in equivalent terms to this declaration (made no earlier than the date 14 days before the date of this declaration):

- .1 that their sub-contracts with their subcontractors, consultants and suppliers comply with the requirements of clause "Subcontractor relationships" if included in the Contract as they apply to them; and
  - .2 that all of their employees, subcontractors, consultants and suppliers, as at the date of the making of such a statement have been paid all remuneration and benefits due and payable to them by, and had accrued to their account all benefits to which they are entitled from, the Subcontractor or Consultant of the Contractor or from any other of their subcontractors or consultants (except for subcontracts and agreements not exceeding \$25,000 at their commencement) in respect of any work for or in connection with the Contract.
- .19 I am not aware of anything to the contrary of any statutory declaration referred to in paragraph 18 of this declaration and on the basis of the statements provided, I believe the matters set out in paragraph 18 to be true.
- .20 And I make this solemn declaration, as to the matters aforesaid, according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

### Subcontract Cash Security

- .21 All Subcontract security held in the form of cash and all cash retentions from Subcontractor payments are held in trust by the Contractor. The cash security and retentions are held in trust for whichever party is entitled to them, until payment is made to that party.
- .22 The Contractor is maintaining complete records to account for the cash. The records are available to the relevant Subcontractors and the Principal on request

Signature of Declarant: » .....  
**declared at:**  
 Place: » .....  
 Date: on » .....  
**before me:**  
 Signature of legally authorised person\* before whom the declaration is made: » .....  
 Name and title of person\* before whom the declaration is made: » .....

### Notes

1. *In this declaration:*
  1. *the words "principal contractor", "employee", "employees" and "relevant employees" have the meanings applicable under the relevant Acts;*
  2. *the word "subcontractor" in paragraphs 5, 6, 9, 10, 14 and 15 has the meaning applicable under the relevant Act; and*
  3. *otherwise the words "Contractor", "Subcontractor", "Supplier", "Consultant", "subcontractor", "supplier" and "consultant" have the meanings given in or applicable under the Contract.*
2. *\* The declaration must be made before one of the following persons:*
  1. *where the declaration is sworn within the State of New South Wales:*
    - (i) *a justice of the peace of the State of New South Wales;*
    - (ii) *a solicitor of the Supreme Court of New South Wales with a current practising certificate;*
    - (iii) *a notary public; or*
    - (iv) *another prescribed person legally authorised to administer an oath under the Oaths Act 1900 (NSW), or.*

2. *where the declaration is sworn in a place outside the State of New South Wales:*
- (i) a notary public; or*
  - (ii) any person having authority to administer an oath in that place.*

## Schedule 5

# Costs Adjustment Formula

## General

Amounts payable for Services provided in the first Contract Year will not be subject to Cost Adjustment. Amounts payable for Services provided in subsequent Contract Years will be subject to Cost Adjustment in accordance with this schedule. Amounts which are calculated otherwise than according to the rates in the Schedule of Rates (e.g. variations to be paid at current prices) will not be subject to Cost Adjustment.

## Glazing Survey & Rectifications

Amounts tendered in the Schedule of Rates will remain firm for the first Contract Year. For work carried out in each subsequent Contract Year, the amounts (in dollars) will be adjusted as follows.

- a) The Rates for Surveying and Measurement Work [Schedule of Rates items 1.01 to 1.16 inclusive] will be adjusted by the following formula:

$$NewAmount = TenderedAmount \times AdjustmentFactor$$

$$AdjustmentFactor = 1 + \left( \frac{CIL - BIL}{BIL} \right) \times PL$$

Where

CIL = the Current Index Number for Labour;

BIL = the Base Index Number for Labour;

PL = the Portion Applicable to Labour = 0.90.

and

The Labour Index Number is the index number in the Australian Bureau of Statistic's Catalogue 6345.0, Labour Price Index, Australia Table 11:

Private Sector, Electricity, gas and water supply (base 2003-04 = 100).

- b) The Rates for Supply & Install [Schedule of Rates items 2.01 to 7.04 inclusive] will be adjusted by the following formula:

$$AdjustmentFactor = 1 + \left( \frac{CIL - BIL}{BIL} \right) \times PL + \left( \frac{CIM - BIM}{BIM} \right) \times PM$$

Where

CIL = the Current Index Number for Labour;

BIL = the Base Index Number for Labour;

PL = the Portion Applicable to Labour = 0.35.

CIM = the Current Index Number for Material;

BIM = the Base Index Number for Material;

PM = the Portion Applicable to Material = 0.55.

and

The Materials Index Number is the index number in the Australian Bureau of Statistics Catalogue 6427.0 – Producer Price Indexes Table 17: Materials used in House Building, Sydney (base 1989/90 = 100).

If an index is discontinued or the basis on which the index is calculated is altered, there shall be substituted the nearest index consistent with the intention of the clause.

Amounts other than amounts in the Tendered Schedule of Rates are not to be adjusted. Where the Contractor is entitled to be paid actual costs (eg. for materials or Variations) as distinct from a rate or lump sum in the Schedule of Rates, no adjustment will be made.

Where the Contractor should have performed work in a particular Contract Year and fails to do so, then notwithstanding any provision of this Schedule, the Contractor will not be entitled to be paid any more for that work or so much thereof as is carried out in another Contract Year than would have been payable had the work been carried out in the Contract Year in which it should have been carried out.

## **End of Section 1 - General Conditions of Contract**

## 2 Preliminaries

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# 2 Preliminaries

*THERE ARE 16 PAGES IN THIS SECTION*

## 1 General

### 1.1 Meanings

#### Interpretation

1. Unless the context otherwise requires, words in the singular must be interpreted to include the plural, and vice versa.
2. any words or expressions which are defined in the General Conditions shall be given the same meaning unless the context otherwise requires.
3. No legal interpretation applies to the disadvantage of any party on the basis that the party provided the *Contract Documents*, or any part of them.
4. For maintenance services except where a term is defined in this Contract or the context otherwise requires, terms used have the meanings in SAA HB50-1994 Glossary of Building Terms.

**Asset Management Directorate** (AMD) is the section of the DET Corporate Services area charged with the management and coordination of the Government's physical assets that support the provision of education and training in NSW.

**Asset Management Unit** (AMU) is the unit of the DET that is responsible for the operational aspects of the Asset Management Directorate for DET facilities within its respective regional areas.

The **Board** is the State Contracts Control Board.

**Contractor Employee** means any person engaged in the provision of the Services. Neither the Principal nor the Customer has any responsibility for or in connection with the employees of the Contractor who carry out the Services.

**Demountable Building** is a temporary building placed at a School.

**DET** means the Department of Education and Training, which has the legislative obligation to deliver educational services in NSW through schools and TAFE colleges.

**DET Asset Maintenance Standards** (AMS) define the minimum Performance Standard for every Assembly.

**DET Facility Manager** is the person who, in respect of a School, is acting in the position of school principal and includes a person who is designated by the school principal to give directions to a Contractor. It may also mean the manager of an office or other DET facilities.

**DET Asset Maintenance Coordination Unit** (AMCU) is the unit that is responsible for coordination and review all aspects of asset maintenance within the Department of Education and Training.

**Facility** is the premises where the Services are to be performed. Each facility has a name designated in the School Data Assembly (Refer to Section 3, Clause 3.2). A facility may comprise one or more sites. A facility includes all land and structures within the boundaries of the facility and also all things attached to the land, fences, retaining walls, bridges, rights of way, easements, and encroachments, even if any of these extend beyond the boundaries.

**Normal Hours in relation to Services** are defined as between 8.00am to 5.00pm – Monday to Friday, excluding Public Holidays.

A **Progress Claim** for Maintenance Work is a payment claim within the meaning of section 13 of the Building and Construction Industry Security of Payment Act 1999 NSW.

**Region** is a Location within New South Wales based on the Department of Education & Training school and TAFE geographic boundaries. There are currently ten regions across the State.

**Schedule of Prices** means the Schedule of Prices set out in the Tender Schedules to the Conditions of Tendering.

>Insert CONTRACT NAME by overwriting these words in "File", "Properties", "Summary".

Contract No: > Insert Contract No. by overwriting this in "File", "Properties", "Summary".

File Catalog1



## 2: PRELIMINARIES

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**School Data Assembly** is the database (designated with the title 'School Data Assembly') of information made available to the Contractor at the time of tendering.

**Site** is the area where the low level glazing survey and rectification works are to be performed. A site includes all land and structures within the boundary of all campuses of each DET Facility (School) with a unique DET School Code. A Site may consist of multiple campuses.

### 1.2 Electronic communications

The parties agree and consent that notices and communications may be by electronic communication in accordance with the Electronic Transactions Act 2000.

### 1.3 Exchange of information between government agencies

The Contractor authorises the Principal and its employees and agents to make information concerning the Contractor available to other NSW government departments or agencies or local government authorities. Such information may include, but is not limited to, any information provided by the Contractor to the Principal and any information relating to the Contractor's performance under the Contract.

The Contractor acknowledges that any information about the Contractor from any source, including substantiated reports of unsatisfactory performance may be taken into account by the Principal and NSW government departments and agencies in considering whether to offer the Contractor future opportunities for NSW government work.

The Principal regards the provision of information about the Contractor to any NSW government department or agency or local government authority as privileged under Section 22 of the Defamation Act 1974. The Principal and the State of NSW will reject claims in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the Contractor arising out of the communication.

## 2 Documents

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### 2.1 Restricted documents

All documents marked "Restricted", and any other documents the Principal notifies as "Restricted" are classified maximum security documents. No copies are to be made or retained by the Contractor, subcontractors, suppliers, agents or anyone else other than for the Contract.

All originals and copies of restricted classification documents are to be returned to the Principal on Completion.

### 2.2 Information supplied by the Principal

#### Asset Details

The information made available by the Principal does not necessarily detail all assets and facilities.

The Principal is not responsible for any interpretation, deductions or conclusions made by the Contractor from the information made available and the Contractor shall accept full responsibility for any such interpretations, deductions or conclusions.

#### Errors and Omissions

The following documents supplied by the Principal to the Contractor before the Date of Contract could include errors or omissions or could be misleading.

Notwithstanding that the Principal may have been negligent, or would but for this clause be vicariously liable for the negligence of others, in preparing or supplying the information, the Contractor will have no claim in contract, tort, restitution or equity or under any statute or otherwise against the Principal arising from the errors or omissions or the fact that the Contractor might have been misled:

- The School Data Assembly;
- All contract records, in electronic and hardcopy format
- All contract documents (Volume 1).

**Indemnity**

If the Contractor supplied to anyone else, including a subcontractor any information supplied by the Principal, the Contractor must indemnify the Principal against any claim by that person arising out of errors or omissions or the misleading nature of the advice.

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## **3 Contracting**

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### **3.1 Application of Schedule of Rates**

Refer to General Conditions of Contract clause - **The Contract Price**.

**GENERAL**

The Contractor will be paid for Services ordered at the applicable schedule of rates as tendered, under items 1.01 to 7.04 inclusive of Tender Schedules “**Schedule of Rates**”, for the first three (3) years of the contract and the extension contract years where approved.

All rates will be subject to Cost Adjustment (Rise and Fall) (The details of the cost adjustment for this contract are included **Schedule 4** to the General Conditions of Contract) over the two contract years and extension years where approved.

The Contractor acknowledges that:

- (a) the Principal:
  - I. are funded out of consolidated revenue;
  - II. have their budgets and funding set on an annual basis; and
  - III. have obligations to report to their relevant Ministers on the financial aspects of their operations, including on the work performed by the Contractor under this contract;
- (b) the lodgement of an invoice more than two months following the month in which an item of work is completed has impacts on the Principal’s, Facility Managers’, or the Customers’ (as the case may be) ability to comply with their respective obligations set out in paragraph (a) above;

**Site Services (Items 1.01 to 7.04)**

The schedule rates tendered for items 1.01 to 7.04 inclusive will be used to calculate the contractor’s entitlement for all works provided, as required and/or where requested, under the contract. In calculating the contractor’s entitlement the total number of items worked will be multiplied by the applicable schedule rate that falls within the total number of items identified.

The rates tendered are deemed to include all Labour, materials, plant and testing equipment required to carry out the Services, as required and/or where requested, under the contract, travel to and from the sites, provision of all reports to the Principal as required by the contract and general clean up of the work areas on completion.

The rates tendered are deemed to include all other requirements detailed in the contract not specifically mentioned in this clause.

**Rates Outside Normal Work Hours (Multiplier M1)**

The percentage multiplier tendered for Multiplier M1 will be used to calculate the contractor’s additional entitlement over and above the rates tendered for items 1.01 to 7.04 inclusive for all works ordered outside normal working hours under the contract.

Multiplier M1 will only be applied where the Principal specifically requests Services to be carried out outside of normal working hours. Where the contractor decides to carry out services out of normal hours that have not been requested by the Principal the percentage multiplier tendered for Multiplier M1 will not apply.

The percentage multiplier tendered at Multiplier M1 is deemed to include all costs associated with carrying out the Services and requirements covered by items 1.01 to 7.04 and clause 3.1.3, out of normal working hours.

**Submission of Payment Claims**

The Contractor will submit monthly claim directly to the respective Principal (DET AMU Officers). The monthly claim shall itemise the followings:

- payment sought for the services provided in the previous month as required and/or where requested.

## 2: PRELIMINARIES

The contractor is to provide *summary reports* for tanks on a monthly basis during the year, as a cover report for each group of tanks when payment is sought.

### 3.2 Insurance

#### Claims and deductibles

The Contractor is responsible for making and managing claims and meeting the costs of any deductibles.

#### Works and public liability insurance

The Principal must effect insurance of the Works and public liability for a minimum of \$10,000,000 for any one occurrence.

The Principal must make a copy of the policy for insurance of the Works and public liability available to the Contractor.

The Contractor must provide public liability insurance covering liabilities of the Contractor, Subcontractors, Suppliers and Consultants in carrying out the works/service.

#### Contractor's default in effecting and maintaining insurance.

If, when required in writing by the Principal to do so, the Contractor fails to produce evidence of having paid insurance premiums and other compliance with insurance obligations under General Conditions of Contract clause - **Insurance** to the satisfaction of the Principal, and the Principal pays insurance premiums, the Principal may deduct from payments due to the Contractor, or otherwise recover, the amounts paid plus an additional amount of \$250 to cover the Principal's costs.

## 4 Administration

### 4.1 Quality management

#### Quality Management System

Maintain the Contractor's Quality Management System. Obtain evidence from proposed Subcontractors and certify that Subcontractors' quality management systems meet the requirements of the Contractor's Quality Management System.

#### Project Quality Management Plan

Develop and implement a Project Quality Management Plan that complies with the NSW Government *Quality Management Systems Guidelines (QMS Guidelines)*. The *QMS Guidelines* are available at:

<http://www.construction.nsw.gov.au/cppm/guidelines.html>

Submit the Project Quality Management Plan within 28 days of the Date of Contract together with *QMS Guidelines* Appendix D, **Quality Management Plan assessment checklist**, completed by the Contractor, with cross-referencing of the AS/NZS ISO 9001:2000 clause numbers to the Contractor's Project Quality Management Plan.

The Project Quality Management Plan must cover the relevant elements of the Contractor's Quality Management System and include an index of the Contractor's quality procedures and proposed Inspection and Test Plans and associated checklists.

Include a schedule of internal audits for the Contract. Submit a copy of each audit report within 14 days of the date of audit.

#### Managing work quality

Prepare, document and implement Inspection and Test Plans and checklists covering the work under the contract, and complying with the *QMS Guidelines*, incorporating the Hold and Witness points required for the Contract.

For each of the activities listed below and as otherwise required by the Principal, submit copies of an Inspection and Test Plans and checklists not less than 7 days before commencing the work to which they apply. Also submit certification that the relevant quality management plans and Inspection and Test Plans of Subcontractors and Consultants meet the requirements of the *QMS Guidelines*. Do not start any work before this documentation is submitted.

Give at least 24 hours notice prior to reaching a Hold or Witness point.

## 2: PRELIMINARIES

The Contractor must not proceed beyond a Hold point without endorsement by the Principal or its authorised representative.

The Principal, at its discretion, may inspect the work at a Witness point, but work may proceed without endorsement.

Endorsement by the Principal at a Hold or Witness point does not release the Contractor from its obligations to achieve the specified requirements of the Contract.

Surveillance (monitoring) by the Principal will apply to all work associated with the Contract.

### Inspection and Test Plans Schedule

Prepare and use Inspection and Test Plans for the following activities. Incorporate the listed Hold and Witness points which require attendance by the Principal.

Activity requiring Inspection & Test Plan	Stage of work requiring Inspection or Test	H or W point (for attendance by Principal)
Complete Inspection & Test Plan output and associated checklist and other conformity records	With each Payment Claim for signed off documents and as otherwise required by the Principal.	W – With each Payment Claim.
Safe Work Method Statements and Safety Management Plan completion and implementation	In accordance with clause – <b>OHS Management</b>	H – No further work to commence until submission been reviewed and approval to commence site work given by Principal's Authorised Person.
Environmental Management Plan completion and implementation	In accordance with clause – <b>Environmental Management</b>	H – No further work to commence until submission been reviewed and approval to commence site work given by Principal's Authorised Person.
Samples and product catalogues of proposed glazing films and glass	Within four weeks following Award of Contract	H – No further work to commence until submission been reviewed and approval to commence site work given by Principal's Authorised Person.
Site works, including surveying and/or glass rectifications as directed, for single sites	Whole process from arrival at site to completion of inspection including provision of reports as required under the contract.	W – Completion of inspection at each site signed off by the Head contractor & sub contractor. Submitted with payment claims
As specified elsewhere in the Contract	As specified elsewhere in the Contract	As specified elsewhere in the Contract

### Records

Submit copies of conformity records as specified, including:

Conformance records	Time when records are required
Completed Inspection & Test Plans and associated checklists (including test results/records obtained from testing laboratories, manufacturers and suppliers, and the like, and certification of quality conformance and performance	With each Payment Claim and as otherwise required by the Principal.
Register of product and service conformity records.	Within 14 days of the Date of Contract.
Contractor's certification of quality conformity and performance, product and installation warranty certificates and/or warranty endorsements.	With Payment Claim as work progresses and as otherwise required by the Principal.

## 2: PRELIMINARIES

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The Maintenance Documentation	With each Payment Claim and as otherwise required by the Principal.
As specified elsewhere in the Contract	As specified elsewhere in the Contract.

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### Failure to comply

If the Contractor fails to comply with the requirements of this clause **Quality management**, the Principal may implement such inspections and tests as the Principal determines are required and the cost incurred by the Principal will be a debt due from the Contractor.

## 4.2 Industrial Relations management

### Verification of Compliance with Industrial Relations Obligations

Submit before beginning works on the Site, a statement on the Contractor's letterhead, signed by an authorised person, attesting to the Contractor's compliance, in the preceding twelve months, with all employment and legal obligations including, but not limited to:

- payment of remuneration to employees
- annual leave
- Long Service Leave Payment Scheme registration
- workers' compensation insurance, including self- insurance arrangements
- superannuation fund membership and contributions
- over-award payments such as redundancy fund contributions

If the Contractor engages an independent industry or employer association or other specialist organisation to provide an auditing service to verify compliance with employment and legal obligations, a statement or declaration from that organisation may be submitted instead of the statement by the Contractor.

### Project IR Management Details

Submit, before beginning work on the Site, a statement detailing:

- the location of time and wage records and other documents that are required to be kept to verify ongoing compliance with all employment and legal obligations; and
- the names of Federal or NSW awards that are likely to cover subcontractors and other contractors on the project.
- the names of those responsible for coordinating industrial relations on the project;
- an outline of:
  - the Contractor's consultation and communication mechanisms with workers, unions, and employer or industry associations
  - the measures to be implemented to coordinate the interface on the project with subcontractors, unions and other contractors
  - the measures for assessing subcontractor's ability to comply with industrial relations and employment obligations
  - the measures to monitor and verify subcontractors' ongoing compliance

### Failure to comply

If at any time the Contractor has not carried out its obligations under this clause - **Industrial Relations Management**, then notwithstanding any other provision of the Contract, no payment is due to the Contractor until the 7<sup>th</sup> day after the required action has been carried out.

## 4.3 Protection of children and other vulnerable people

### Employees

The Contractor must not employ or permit to be employed on work under the contract at the site or sites a person where the Principal advises the Contractor that, in the opinion of the Principal, that person poses unacceptable risks to children or other vulnerable people cared for at that site.

## 2: PRELIMINARIES

The Contractor must not employ or permit to be employed on work under the contract at the site or sites a person who has been convicted of a serious sex offence and is a prohibited person under the Child Protection (Prohibited Employment) Act 1998.

The Contractor must not employ a person or permit a person to be employed on work under the contract at the site or sites continuously for more than 20 working days or intermittently for more than 20 working days out of any 12 weeks, unless the Contractor has provided the Principal with personal particulars and a consent to employment screening in the form instructed by the Principal.

### Code of behaviour

The Contractor must ensure that all persons working on the site or sites under the Contract, including but not limited to the Contractor's employees and managers, consultants, subcontractors and suppliers (Contractor Employees) understand and comply with the requirements shown below:

- All Contractor Employees must gain permission to enter the school or facility before commencing work and they may only enter approved areas. The Contractor's representative or where a subcontractor is working without the supervision of the Contractor, the subcontractor's representative must report their presence to the person in charge of the school or facility on arrival each day and record, in the Site Visit Log, the details of all Contractor's or subcontractor's employees working at the site or sites that day.
- Contractor Employees should avoid talking with, touching or interacting with any children or residents or other users of the school or facility except where the work requires it or in an emergency or safety situation.
- Contractor Employees must only use approved toilets and other facilities, unless the person in charge of the school or facility gives written authority to use alternative arrangements.
- The work area must not be able to be used or accessed by children, or residents or other users of the school or facility while work is in progress. Clear signs and barricades (where appropriate) must be used to prevent any inadvertent or unauthorised access.
- Appropriate privacy must be maintained when working on toilets and similar facilities. Contractor Employees must ensure that toilets and similar facilities are not occupied or in use by children, residents or other users before entering to perform work, and that work does not continue when use of the facilities is required. Where practicable male employees should perform work on male facilities and female employees on female facilities.
- Contractor Employees must wear clothing that is tidy and in good condition, including a shirt, shorts or trousers or skirts at all times.
- Contractor Employees should report any concerns about children's behaviour or child abuse to the person in charge of the school or facility.
- Contractor Employees must wear or carry an identity card at all times when on the site or sites.

### 4.4 Audit and review

Make available, on request, all records, including those of or relating to Subcontractors or suppliers, relevant to compliance with requirements of the Contract, for the purposes of audit, review or surveillance. Provide all reasonable assistance during the audits or reviews including attendance by the Contractor.

Promptly implement effective corrective action on matters disclosed by audit or review.

### 4.5 Programming of Work

DET is likely to prioritise works under this Contract in the following order. The Contractor shall only proceed works as directed by DET.

1. Schools for Special Purposes
2. Infants' Schools
3. Primary Schools
4. Secondary Schools

### 5. Other Facilities

The Contractor shall liaise with the Facility Manager for each facility/school/site undertaken when programming glazing survey and installation works.

The Contractor is to submit their proposed program within four (4) weeks of Award of Contract. The program shall indicate the intended start and finish dates for each facility/school/site to be undertaken.

As work progress, the Contractor is to review and update their program monthly. Should any changes be required in the program, the Contractor is to advise Principal / Customer in writing as soon as possible, and provide an updated copy of the program.

## 5 Site

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### 5.1 Site access and limitations

The Contractor is responsible for providing and maintaining access to the areas where services are required and must liaise with the Facility Manager of each Facility regarding suitable access routes, vehicle access and parking, times to minimise disruption to the operation of the Facility and any other limitations which may be applicable and must so far as practicable use existing roads and tracks. In accessing a Facility the Contractor must comply with a Customer's policies and procedures as to use of a Customer's Facility.

Repair any damage caused by, or as result of, gaining access to the facility or carrying out services.

If access is obtained from adjacent properties obtain the written permission of the owner. No access and parking is allowed in the grounds of the Facility unless special permission is given by the Facility Manager.

For all services install temporary barricades, fences, gates, signs, temporary access bridges, lighting, etc necessary for the safety of, staff, children, residents or other users.

For all services the Contractor and/or representatives must always register attendance in the Site Visit Log Book kept at each facility and complete all details required.

For all Services the Contractor and/or representatives must always examine the Hazardous Substances Register prior to carrying out any works at each facility and be aware of the locations of such materials.

### 5.2 Occupied premises

#### Occupancy by Principal

The Facility Manager or persons authorised by the Facility Manager will continue in possession and occupancy of all sites/facilities.

#### Contractor's Responsibility

Take responsibility for the suitability of all workers and Subcontractors/Suppliers on the Site, set reasonable standards of conduct, investigate complaints about their behaviour and take appropriate action including removal from the Site and the work under the Contract if so warranted.

#### Specific requirements

##### General Access

All facilities are occupied and they must be able to continue to operate with the minimum of disruption. Plan and execute the service to minimise the duration and extent of such disruption through close liaison with the Facility Manager.

##### After Hours Access

Liaise with the Facility manager to avoid disruption of after hours activities at the facility. Such activities may be regular eg. evening classes, or irregular eg school socials, office meetings, etc.

## 2: PRELIMINARIES

### Higher School Certificate and Other Exams

Liaise with the Facility Manager and ensure that services being carried on a site does not in any way disrupt or distract students sitting for examinations.

### Required to Report Arrival at the Facility Site

For low level glazing survey and rectification works, all Contractor's and Subcontractor's Staff attending a facility must report their presence to the Facility Manager immediately on arrival at any facility.

### Photo Identification Cards

Provide all Contractor's and Subcontractor's Employees attending all facilities with photo identification cards and authorisation to carry out work on the Contractor's behalf.

This must take the form of an Identification Card including the person's photograph worn by the Employee. Employee must present this card on request.

Ensure all Identification Cards issued are registered and monitored and that cards for persons no longer authorised are returned immediately. Submit an updated copy of the register to the Principal every three months or as required by the Principal.

### Access to Sensitive Areas

Special care must be taken when accessing or carrying out work in change rooms, bathrooms, sick bays, toilets, showers, etc. Generally work in such areas shall be undertaken outside normal facility hours except where alternative facilities are available and with the written approval of the Facility Manager. Erect appropriate signs directing users elsewhere if work is undertaken during normal facility hours.

### Fraternalisation with School Students

Fraternalisation with school students by workers and subcontractors is strictly prohibited. Refer also to Preliminaries Clause - Protection of Children and other Vulnerable People.

## 5.3 Existing services

### **General**

The Contractor is responsible for locating the required services at each facility.

Where an existing service (such as drains, watercourses, public utility and other service equipment) is damaged by the Contractor for any reason whatsoever, the Contractor will bear all costs for repairing or disconnecting/reconnecting the service.

Where in the course of the works the contractor or sub-contractors cause the Principal to incur a loss due to negligence, the Contractor will be responsible for payment of compensation to cover the loss.

### **Notification**

Notify the Principal immediately upon the discovery of services obstructing the Works not shown in the Principal's Documents.

## 5.4 Occupational health and safety management

### **Appointment as principal contractor**

The Contractor, having responsibility for the construction work at all times until the work is completed under the Contract, is appointed principal contractor and controller of the premises for the construction work under Clause 210 of the *Occupational Health and Safety Regulation 2001 (OHS Regulation 2001)*, and is authorised to exercise such authority of the owner as is necessary to enable it to discharge the responsibilities of principal contractor and controller of premises imposed by the *Occupational Health and Safety Act 2000* and Chapter 8 of the *OHS Regulation 2001*.

### **Project OHS Management Plan**

Develop, document and implement a Project OHS Management Plan that covers the work under the Contract and complies with the *NSW Government Occupational Health and Safety Management Systems Guidelines (OHSM Guidelines)*.

Submit the Project OHS Management Plan no later than 14 days before design or construction or maintenance work for which it applies commences, covering that work. Do not start site inspection work before complying documents are submitted.

Ensure the following risks are covered in the Project-Specific Safety Management Plan:

- electrical installations and use of power tools (including explosive tools)
- scaffolding and temporary supports



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## 2: PRELIMINARIES

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- working at heights
- working with glass
- work at public places that are occupied with young children

This list of risks is not exhaustive and must not be relied upon by the Contractor. The Contractor must undertake its own identification detailed analysis of all occupational health and safety risks with work under the Contract.

Include a program indicating the timetable and resources allocated for *Inspection, testing and servicing* and *Internal review* ( *OHSM Guidelines* Section 4, elements 8 and 11).

Nominate the resources allocated for *Incident management and corrective action* ( *OHSM Guidelines* Section 4, element 9).

### **Project-specific Safety Management Plan**

Develop, document and implement a Project-specific Management Plan that covers the work under the Contract and complies with the *NSW Government Occupational Health and Safety Management Systems Guidelines (OHSM Guidelines)*.

Submit the Project-specific Safety Management Plan no later than 14 days before design or construction or maintenance work for which it applies commences, covering that work. Do not start site inspection work before complying documents are submitted.

Ensure the following risks are covered in the Project-Specific Safety Management Plan:

- electrical installations and use of power tools (including explosive tools)
- scaffolding and temporary supports
- working at heights
- working with glass
- work at public places that are occupied with young children

This list of risks is not exhaustive and must not be relied upon by the Contractor. The Contractor must undertake its own identification detailed analysis of all occupational health and safety risks with work under the Contract.

Include a program indicating the timetable and resources allocated for *Inspection, testing and servicing* and *Internal review* ( *OHSM Guidelines* Section 4, elements 8 and 11).

Nominate the resources allocated for *Incident management and corrective action* ( *OHSM Guidelines* Section 4, element 9).

### **OHS Management Monthly Report**

Submit an OHS Management Monthly Report with each *Payment Claim*, detailing *Inspection, testing and servicing* activities, *Internal reviews* and *Incident management and corrective action*, and including the information listed below, as evidence of the implementation of the Project OHS Management Plan.

As a minimum, the OHS Management Monthly Report must include the following information:

#### **Contract Details**

- Contract
- Contractor
- Contractor's representative
- Signature and Date
- Period Covered

**Implementation of *Inspection, testing and servicing* procedures** ( *OHSM Guidelines* Section 4, element 8)

Summary of OHS inspections and tests carried out for:

- plant and equipment
- work site conditions
- adherence to and completeness of Risk Assessments, Safe Work Method Statements and Site Safety Rules
- work site access and exits
- personal protective equipment

## 2: PRELIMINARIES

### **Implementation of Incident management and corrective action procedures** (OHSM Guidelines Section 4, element 9)

Details of:

- any OHS incidents or OHS issues, including non-compliance with OHS processes and procedures and near misses
- implementation of incident management
- implementation of corrective action
- OHS statistics for entire the Contract including:

	This Month	Total Cumulative
Number of Lost Time Injuries		
Number of Hours Worked		
Number of Hours Lost Due to Injury		
Lost Time Injury Frequency Rate LTIFR		
Number of OHS Management Audits		
Number of OHS Inspections		

### **Implementation of Internal Reviews** (OHSM Guidelines Section 4, element 11)

Details of internal reviews, including audits and inspections, undertaken to verify that on-site OHS processes and practices conform with the Project OHS Management Plan including:

- System element(s) and activities audited and/or reviewed
- Non-conformance(s), improvement(s) identified and corrective action(s) taken
- Details of auditors and reviewers and dates and durations of audits and reviews
- Copies of third party audit reports and details of the Contractor's responses to the reports.

### **Incident Reports**

Ensure compliance with the notification and other requirements of *OHS Regulation 2001* Clauses 341 and 344 for accidents, incidents and non-disturbance occurrences, including immediate notification of WorkCover where required.

Immediately notify the Principal of any accident or incident defined in *OHS Regulation 2001* Clauses 341 and 344.

Provide a written report to the Principal within twenty-four hours of the incident, giving details of the incident and evidence that notification requirements have been met.

When requested, provide an incident investigation report, including identification of the cause of the incident and corrective actions taken, in the form directed.

### **Prohibition and Improvement Notices and On-The-Spot Fines**

Immediately notify the Principal of any Prohibition and Improvement Notice (PIN) or on-the-spot fine issued by WorkCover. Provide the Principal with a copy of the PIN or fine notice and written details of the corrective action taken by the Contractor and/or the applicable subcontractor to rectify the breach and to prevent recurrence.

### **Failure to Comply**

If at any time the Contractor has not carried out its obligations under the Contract in relation to occupational health and safety management, then notwithstanding any other provisions of the Contract, no payment will be due to the Contractor until the 7<sup>th</sup> day after the required action has been carried out.

## **5.5 Site safety rules for maintenance services**

Site safety rules must, as a minimum, effectively identify and implement the provisions shown below. Site safety rules must make it a condition of entry to the applicable facility that all Contractor Employees and visitors comply with the provisions:

- **OHS Induction.** All persons working must complete OHS Induction prior to commencing service at the facility.

## 2: PRELIMINARIES

- **Site Induction.** All persons working at the facility must attend a Site Induction prior to commencing work. Visitors may enter a facility if accompanied by a person who has attended a Site Induction.
- **Safe Work Method Statements.** Before service starts Safe Work Method Statements must be prepared and used for all work activities assessed as having health and safety risks. They must be revised when conditions change.
- **Manual Handling.** Manual handling risk assessments must be carried out for all work activities assessed. They must be revised when equipment changes.
- **Alcohol and Drugs.** The consumption of alcohol and illegal drugs site is prohibited.
- **Accidents and Incidents.** Accidents and injuries must be reported immediately to the Contractor's Supervisor.
- **First Aid.** All persons requiring first aid treatment must contact the first aid officer who will administer the treatment and record the injury in the WorkCover Register of Injuries, including; the person's name and the nature of the injury.
- **Fire Prevention.** Fire prevention must be employed by all persons on the work site.
- **Pressure Equipment.** In-service safety inspection and certifying of pressure equipment must comply with AS/NZ 3788.
- **Housekeeping.** Work areas must be kept clean and tidy, with rubbish and other safety hazards, cleaned up promptly.
- **Leads and Power Tools.** Every owner must ensure all leads and power tools are inspected and tagged by a Competant Person prior to their use and thereafter at yearly intervals. All details of their inspection must be recorded in a site log book. Details on the tags and in the log book must include the licence number of the electrician, date of the inspection and the owners plant number of the item inspected. The maximum length of any power lead must not exceed 30 metres.
- **Mobile Plant.** Every owner of plant must ensure that the plant is registered with WorkCover when required and operators are appropriately qualified. Mobile plant must be fitted with working hazard lights/reversing lights and beepers.
- **Hazardous Substances.** Chemicals and other hazardous substances must be used and stored in compliance with Material Safety Data Sheets (MSDS) and details must be recorded on the Register of Hazardous Substances.
- **Working at Height.** Working at heights above 2 metres must be in accordance with WorkCover requirements, including OHS Regulation 2001, clause 233, regarding formwork certification.
- **Toolbox Talks.** There must be regular discussions between and consultation with those working at the facility on site health and safety matters.

### 5.6 Accident and Incident Management

Before commencing any work at a facility, nominate to the Principal the persons who will be responsible for investigating accidents and incidents and initiating corrective actions outside normal working hours. Nominate procedures for contacting them. Notify promptly any changes to such nominations and procedures.

### 5.7 Hazardous substances

#### Definition

Hazardous Substance means a substance that is listed in the document entitled *List of Designated Hazardous Substances* published by Worksafe Australia; or a substance that fits the criteria for a hazardous substance set out in the document entitled *Approved Criteria for Classifying Hazardous Substances* published by Worksafe Australia.

Asbestos, material containing asbestos, polychlorinated biphenyl (PCB) and lead based paints are recognised as hazardous substances. Other substances in certain situations are also considered hazardous and therefore require controlled handling. Examples are glues, solvents, cleaning agents, paints, and water treatment chemicals.

Work involving stone, rock, concrete, masonry and such materials containing silica, is work under the Contract whether explicitly identified in the Specification or not. The Contractor is responsible for the control of any hazard which may arise from the presence of silica.

## 2: PRELIMINARIES

### Response to Unexpected Discovery

If any hazardous substance not specified in work under the Contract is discovered on the Site the Contractor must suspend all work which may result in exposure to such hazardous substance and notify the Principal immediately of the type of substance and its location.

With the initial notification, or as soon as practicable thereafter, submit details, including:

- the additional work and additional resources the Contractor estimates to be necessary to deal with the substance so that work and subsequent use of the Works may proceed safely and without risk to health
- the Contractor's estimate of the cost of the measures necessary to deal with the substance; and
- other details reasonably required by the Principal.

The Contractor must, in planning and carrying out any work dealing with the substance take all reasonable steps:

- to carry out the work concurrently with other work wherever possible; and
- to otherwise minimise effects of the work on the Contractual Completion Date.

### Responsibility For Decontamination

Control and decontamination of any hazardous substances is the responsibility of:

- the Principal, in respect of any such substances not identified in the Contract Documents, which are discovered on the Site; and
- the Contractor, in respect of any such substances identified in the Contract Documents.

### Decontamination By Principal

Where the Principal is responsible for the control and decontamination of any hazardous substances, the Principal may suspend the whole or any part of the Works until the hazardous substances are isolated or removed. Should such suspension occur, the provisions of General Conditions of Contract clause - **Principal's Suspension** must apply.

### Decontamination By Contractor

Where the Contractor is responsible for the control and decontamination of the Site following the discovery of hazardous substances, handle, use, isolate, remove and dispose of such substances in accordance with statutory requirements.

The Environment Protection Authority or Waste Service NSW may advise of suitable disposal sites.

### Working Hours

When the Contractor is required to decontaminate hazardous substances on occupied Sites, all such decontamination shall be carried out outside normal hours of occupation, unless otherwise approved in writing by the Principal. Normal hours of occupation are generally 8AM to 5PM Monday to Friday, excluding Public Holidays.

## 5.8 Asbestos decontamination

### Requirement

Where the Contractor is responsible for asbestos decontamination work, including stripping, encapsulation or removal, comply with and carry out all work in accordance with the relevant statutory requirements, standards, codes and guidelines including but not limited to the following, where applicable:

- Occupational Health and Safety Act 2000
- Occupational Health and Safety Regulation 2001
- WorkCover Authority of NSW requirements
- WorkSafe Australia - Asbestos: Code of Practice and Guidance Notes
- Environmentally Hazardous Chemicals Act 1985
- Waste Avoidance and Resource Recovery Act 2001

Where the regulations require registration or a licence for the asbestos decontamination work, submit a copy of the current licence or registration certificate.

### Notification

Notify the local office of WorkCover and the Principal of the intention to commence any asbestos decontamination not less than seven days prior to such work commencing.

## 2: PRELIMINARIES

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### Work Method

In addition to any other occupational health and safety provisions of the Contract, provide also the following details of the proposed work:

- description of work to be done, proposed methods and work area
- description and location of decontamination units and changing areas
- location of drains to be used and type of liquid waste filters
- type of respirators or air hoods
- description of what will take place if an asbestos fibre leak occurs
- what emergency plans including communications will be in place.

Notwithstanding any other provisions of the Contract, submit a program which outlines how requirements of this subclause will be met.

### Monitoring

Provide dust monitoring by an independent testing authority on each day during decontamination and on completion of each area where decontamination occurred.

### 5.9 Temporary services provided by the Principal

The Principal will provide no temporary services to the Contractor. The Contractor may use, free of charge, water and electricity from existing outlets within the facility, subject to the use of those services not disrupting the operation of the facility in any way, not causing any associated problems such as overloading and not being abused or misused. Generally, only single-phase power is available.

The Contractor must liaise with the Facility Managers at the start of any works to ensure that no disruption occurs and to ensure that access to services does not adversely impact on other aspects of the facility such as security, irrigation systems and mechanical plant.

The Contractor must satisfy itself that the existing water and electrical services meet its needs and, where required, supplement them from other sources at no cost to the Principal.

## 6 Environmental protection

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### 6.1 Environmental management

#### Plan

Submit the Environmental Management Plan, complying with the *NSW Government Environmental Management Systems Guidelines (EMS Guidelines)*, required under the General Conditions of Contract and covering the work under the Contract no later than 14 days before work for which it applies commences, at least covering that work. Do not start the work before complying documents are submitted.

The *EMS Guidelines* are available at: <http://construction.nsw.gov.au/environment/>.

Ensure the following risks are covered in the Environment Management Plan

- loose small glass pieces in public area that occupied with young children

This list of risks is not exhaustive and must not be relied upon by the Contractor. The Contractor must undertake its own identification and detailed analysis of all environmental risks with work under the Contract.

#### Incident Reports

Ensure compliance with the notification and other requirements of the *Protection of the Environment Operations Act 1997 (POEO Act)*.

Immediately notify the Principal of any pollution incident that may cause material harm to the environment, providing evidence that notification requirements of the POEO Act have been met, if applicable.

When requested, provide an incident investigation report, including identification of the cause of the incident and corrective actions taken, in the form directed.

#### Failure to comply

If at any time the cContractor has not carried out its environmental management obligations under the Contract, then notwithstanding any other provisions of the Contract, no payment is due to the Contractor until the 7<sup>th</sup> day after the required action has been carried out.

**6.2 Ecologically sustainable development****Restricted Timbers**

Do not use the following timbers or their products for work under the Contract:

- rainforest timbers, unless certification is provided that they are plantation grown;
- timber from Australian high conservation forests.

**6.3 Waste management****Requirement**

Recycle and divert from landfill surplus soil, rock, and other excavated or demolition materials, wherever this is practical. Also separately collect and stream quantities of waste concrete, bricks, blocks, timber, metals, plasterboard, paper and packaging, glass and plastics and offer them for recycling where practical.

Ensure that no waste from the site is conveyed to or deposited at any place that cannot lawfully be used as a waste facility for that waste.

**Monitoring**

Monitor waste volumes and record their method and location of disposal and whether or not that location was a place that could lawfully be used as a waste facility for that waste. Submit a progress report every two months, and a summary report before Completion, on the implementation of waste management measures, including the total quantity of material - purchased, quantity purchased with recycled content and the total quantity of waste - generated, total quantity recycled, total quantity disposed of and the method and location of disposal in the form of a *Waste Recycling and Purchasing Report*. A template for the *Waste Recycling and Purchasing Report* is available at:

[http://www.managingprocurement.commerce.nsw.gov.au/contract\\_management/cm\\_sf\\_waste\\_recycling\\_and\\_purchasing\\_report.doc](http://www.managingprocurement.commerce.nsw.gov.au/contract_management/cm_sf_waste_recycling_and_purchasing_report.doc)

Report immediately the details of any waste from the site which has been conveyed to or deposited at any place that cannot lawfully be used as a waste facility for that waste.

**6.4 Pest control****Restrictions**

Do not use any chemical pesticides and termiticides for new construction work. Use preventive treatment by physical means to minimise the risk of pest infestations.

Chemical treatments may be used in existing buildings only as a last resort for the eradication of pest and termite infestations. Chemical pesticides used for this purpose must be registered by the National Registration Authority for Agricultural and Veterinary Chemicals and applied by a Pest Control Operator licensed by WorkCover.

Pest preventive methods must comply with AS 3660.1-2000 Protection of Buildings From Subterranean Termites except for references to chemical soil barriers), as well as supplementary standards for existing buildings.

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**7 Materials and workmanship**

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**7.1 Standards****Requirement**

Where the Contract requires compliance with a standard or code, unless otherwise specified that standard or code shall be the one current at the closing date for tenders, except for the Building Code of Australia, which shall be the one current at the Actual Completion Date of the Works/Services.

Where the Contract refers to an *Australian Standard* it does not preclude the adoption of a relevant international standard.

**7.2 Cleaning up****Requirement**

All visible external and internal surfaces, including fittings, fixtures and equipment, must be free of marks, dirt, dust, vermin and unwanted materials, at Completion.

**7.3 Testing****Independent Testing Authority**

Any testing required to be by an independent authority shall be carried out by an authority registered with the National Association of Testing Authorities Australia (NATA) to perform the specified testing.

**7.4 Proprietary items****Implication**

Identification by the Principal of a proprietary item does not necessarily imply exclusive preference for the item so identified, but indicates the required properties of the item.

**Alternative Offer**

The Contractor may offer an alternative to any proprietary item. Apply in writing for approval to use the alternative. The request must be accompanied by all available technical information and shall describe how, if at all, the alternative differs from the proprietary item and how it will affect other parts of the Works and performance of the Works.

Except to the extent that the approval, if any, of the Principal includes a contrary provision, the approval is deemed to include the conditions that:

- the variation must not directly or indirectly result in any increase in the cost to the Principal of the Works;
- the Contractor must indemnify the Principal against any increase in costs;
- the variation must not directly or indirectly cause any delay to the Works and if it does, the Contractor will compensate the Principal for any loss which the delay causes.

**Guarantees**

Ensure that all schools/facilities of the Department of Education and Training under this Contract will have the benefit of, all warranties and guarantees for all items under this Contract for which a guarantee would be reasonably expected.

**END OF SECTION – PRELIMINARIES**

## **SECTION 3 SPECIFICATIONS**



### 3. SPECIFICATIONS

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# General

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### 3. SPECIFICATIONS

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## SECTION 3: SPECIFICATIONS

### 1 GENERAL CONTEXT

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The purpose of the **Low Level Glazing Survey, Report And Rectification For DET Schools** program is to survey, report and rectify low level glazing (as defined in this section) in the nominated DET schools to ensure compliance with current legislative requirements and standards, principally AS/NZS 2208, AS2047, AS1288, HB125-2007, Occupational Health and Safety Regulations and WorkCover requirements.<sup>7</sup>

This contract looks to establish a panel of contractors that can provide the services detailed in an efficient, responsive and cost effective manner for an extended period.

Each engagement of a contractor would be in two phases:

1. **Surveying, Measuring & Reporting**, where surveying & measuring in the nominated schools are undertaken and associated costs for the glass rectification is determined, and then reported by the risk rating in accordance to AS1288-2006;
2. **Rectifications**, engagement of contractor to undertake the necessary rectification works within the financial year as funds permit, with unfunded works to be the priority the following year.

There is no guarantee on the level or value of services that will be required and ordered by the Principal in any of the ten Regions over the life of the contract, this is solely at the discretion of the Principal.

### 2 SCOPE OF SERVICES

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The Contractor is required to survey, measure and rectify all **non-conforming** glass in windows, sliding doors, adjustable louvers and any other framing element as specified in AS2047, in the nominated Schools under the Contract as directed, to comply with current legislative requirements and standards, principally AS/NZS 2208.

#### 2.1 GLAZING COVERED UNDER THE CONTRACT

The Contractor is required to survey, measure and rectify all **non-conforming** low level glazing in windows, sliding doors, adjustable louvers and any other framing element to AS2208, AS1288 and AS2047, in the nominated Schools under the Contract as directed. Under this Contract, low level glazing include:

1. **Glazing on Doors/Side panels/confused openings:**

Where glazing not exceeding 1200mm from floor level or ground level;

2. **Glazing elsewhere:**

Where glazing not exceeding 1000mm from floor level or ground level;

3. **Glazing in proximity to playgrounds, courts and marked out playing areas:**

Where glazing faces activity area within 5000mm proximity and not exceeding 2000.

4. **Other glazing:**

All mirrors/other glazing as specified;

#### 2.2 TYPE OF SERVICES

The **Low Level Glazing Survey, Report And Rectification For DET Schools** program requires the contractor to undertake a coordinated and planned approach including the activities of:

- Communicating and consulting with the Facility Manager and Principal's Representative; Successful tenderers will be required to endorse a common liaison and information protocol with schools;
- Surveying the non-conforming glass;
- Confirming the accuracy of data supplied during the Tender period;
- Measuring the areas to be rectified;
- Assessing the structural condition of frames and determining the most cost-effective solution to be used for rectification to AS 1288-2006 and WorkCover OHS Regulations 2001 requirements;

### 3. SPECIFICATIONS

- Reporting of survey findings and results, including risk ratings, according to Clause 3 SURVEYING AND REPORTING;
- Installing appropriate film and/or glass to rectify non-conforming glazing, as directed by DET, to AS 1288-2006 and WorkCover OHS Regulations 2001 requirements.
- Undertaking audits of the processes to ensure that the Project Management Plan is being implemented as documented;
- Performing Quality Control and Assurance activities to demonstrate and verify compliance against the stated specification requirements; and
- Providing product and labour warranties as specified in the Tender; and
- Attend all meetings as required under the Contract and/or requested by the Principal.

## 3 SURVEYING AND REPORTING

DET requires reporting of survey for two purposes, (1) to inform individual facilities or schools of glass rectification undertaken on their site and (2) to provide feedback to DET regarding the status of low level glazing in schools on a regional and State wide basis.

Contractors are required to submit a Regional Glazing Survey Report at completion of surveying for all schools/facilities under the Contract, containing all information for the Region as shown in Sample Survey Report (to be issued during the Mandatory Pre-Tender Meeting) either on compact disks or via File Transport Protocol (FTP).

### 3.1 SURVEYING AND REPORTING

The Contractor is to:

- Examine the existing conditions of glass and frames; identify most cost-effective and appropriate rectification solutions to comply with AS2047 and AS1288, e.g. application of films or replacement of glass;
- Report where glass is cracked, chipped, broken, or damaged;
- Report where frames are NOT securely anchored and/or showing defects; and
- Report non-compliant glazing of higher risk areas (refer Clause 3.2 RISK RATINGS below).

### 3.2 RISK RATINGS

The Contractor is required to:

- survey in all those glazing of buildings situated within 5000 mm of areas where the planned activity can generate a risk of breakage from human impact, unless otherwise protected by a permanent barrier;
- identify risks based on the risk ratings specified in AS 1288-2006 Section 5;
- report the identified risk ratings as specified below:
  - ☐ *Glazing in proximity to Doors/Side panels/confused openings:*
    - Very High Risk = 5: as per AS1288-2006, Figure 5.1
    - High Risk = 4: as per AS1288-2006, Figure 5.1
    - Medium Risk = 3: as per AS1288-2006, Figure 5.1, where level is  $\leq 1200\text{mm}$
    - Low Risk = 2: as per AS1288-2006, Figure 5.1, where level is  $>1200\text{mm}$  and  $\leq 2000$
    - No Risk or not considered = 1: as per AS1288-2006, Figure 5.1, where level is  $>2000\text{mm}$
  - ☐ *Glazing elsewhere, from floor level or ground level:*
    - Low Risk = 3: as per AS1288-2006, clause 5.10.3, where level is  $\leq 1000\text{mm}$
  - ☐ *Mirrors/other glazing as specified:*
    - Medium Risk = 3: as per AS1288-2006.
  - ☐ *Glazing in proximity to playgrounds, courts and marked out playing areas, ~ measure and report where glazing is non-compliant:*
    - Medium Risk = 3: as per AS1288-2006, clause 5.24, where glazing faces unprotected activity area within 5000mm proximity, where

### 3. SPECIFICATIONS

the floor/ground level is >1200mm and ≤2000.

- Where risk level is deemed medium (3) and higher, exact measurements of size and quantity must be taken and reported for installation purposes;
- Where risk level is deemed low (2), locations and estimate of sizes & quantity of panels of non-compliant are to be reported.
- For all locations where risk level is deemed ignorable (i.e. no risk or not considered (1)), no work is required.

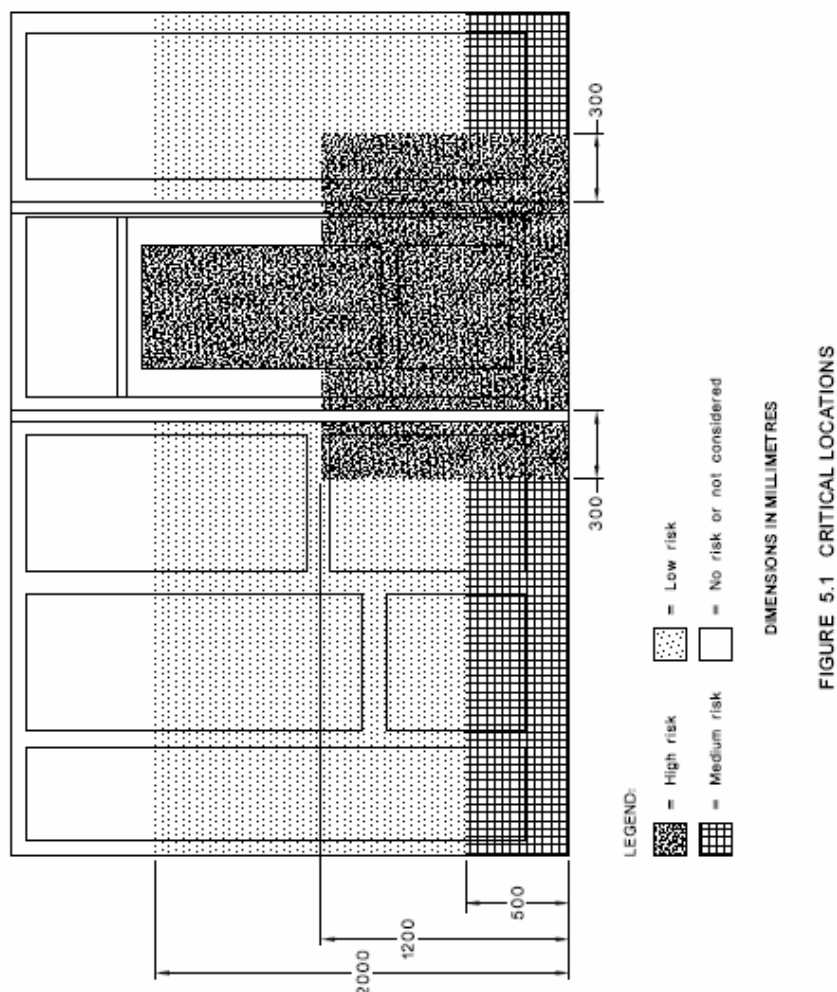
The risk ratings and the work/services required are summarised in the **Table 3.1** below:

**Table 3.1 – Non-Compliance Low Level Glazing Rectification Requirements**

Locations	Risk Level	Ratings	References	Work Required
Glazing in proximity to Doors/Side panels/confused openings	Very High	5	As per AS1288-2006, Figure 5.1	Report critical locations, risk ratings and exact measurements <sup>1</sup> of size & quantities of non-compliant glazing for rectification.
	High	4	As per AS1288-2006, Figure 5.1	
	Medium	3	As per AS1288-2006, Figure 5.1, where level is ≤1200mm	
	Low	2	As per AS1288-2006, Figure 5.1, where level is >1200mm and <2000mm	Report locations, risk ratings and estimate of sizes <sup>1</sup> & quantity of panels of non-compliant glazing.
	No risk or not considered	1	As per AS1288-2006, Figure 5.1, where level is >2000mm	No work required.
Glazing elsewhere, from floor level or ground level	Medium	3	As per AS1288-2006 clause 1.10.3, where level is ≤1000mm	Report critical locations, risk ratings and exact measurements <sup>1</sup> of size & quantities of non-compliant glazing for rectification.
Mirrors/other glazing as specified	Medium	3	As per AS1288-2006	Report critical locations, risk ratings and exact measurements <sup>1</sup> of size & quantities of non-compliant glazing for rectification.
Glazing in proximity to playgrounds, courts and marked out playing areas	Medium	3	As per AS1288-2006 Clause 24, where glazing faces unprotected activity area within 5000mm proximity, and where the floor/ground level is >1200mm and ≤2000	Report critical locations and exact measurements <sup>1</sup> of size & quantities of non-compliant glazing for rectification.

The Contractor is required to report the critical locations with appropriate risk rankings according to AS1288-2006 Fig 5.1.

<sup>1</sup> **Measurements:** Where areas are not readily accessible by a single person using step ladder for glass less than 2000mm off floor surface, measurements may be approximated to the nearest 100mm; where areas are readily accessible, measurements are to be taken to the nearest 10mm



**Critical Locations** (AS1288-2006 Figure 5.1, Page 61)

### 3.3 SURVEY TOOL

It is anticipated that during the first Contract Year, the Contractor is to record survey results electronically in EXCEL format. Contractor is to provide own computer laptops.

It is anticipated that the Principal will provide the survey tool (Access database operating on pen tablet) on loan basis. Contractor must ensure all loaned equipments are to be returned in original condition. The Contractor will be required to sign a Loan Agreement to obtain any loan equipments.

### 3.4 SURVEY RETURNS

Glazing survey returns must be submitted monthly accompanying monthly Invoices, in both electronic and hard copies.

Electronic submissions must comply with nominated formats and file naming convention, which may include the following requirements:

1. Excel files, listing specific details in the following format:  
One file with details of schools as individual (sheet/tab), list the AMS room descriptor, type of window/door etc, risk rating, DET preferred solution, cost. This information will be used by DET State Office, to prioritise and commission works. (Examples to be provided during the mandatory Pre-Tender Briefing)

pdf files of individual school survey results, which excludes pricing information, with the following format. (Note: This information may be made available to schools.) (Examples to be provided during the mandatory Pre-Tender Briefing)

2. File formats, are required to enable ready retrieval using the DET Asset Information System:

### 3. SPECIFICATIONS

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school code\_GLZ\_date\_fretext.FileType

*For example, the file for Survey Reports for Grafton South High School, may be named as:*

8406\_GLZ\_060308\_Survey.pdf

8406\_GLZ\_060308\_SurveyReport.pdf

3. The following reports are required for each School:

- A pdf report of glazing survey findings and results, as read only non-disturbance file, which maybe provided to schools without costing information, e.g. 8406\_GLZ\_060308\_Survey.pdf
- A csv file, for use in Excel, Access, on a regional basis (details to be provided) e.g. 8406\_GLZ\_060308\_Survey.csv

Contractors are required to provide a copy of the summary report and glass auditing results, either in hardcopy or on Compact Disk (CD), to the individual facility/school within two (2) weeks following completion of glass auditing for that facility/school. Electronic data submissions must be in two formats, pdf and csv.

In all instances the contractor must retain a copy of all Reports provided under this contract for the life of the contract and any extension periods. Contractors may be required to re supply reports at various times in the contract.

Electronic sample file of the excel report formats will be provided to the successful contractors at the commencement of the contract.

Reports on a regional basis are for DET review and planning, these will be in the format similar to the nominated sample Survey Report (to be issued at the mandatory pre-tender meeting). Only Excel format is required, with data only required in fields, i.e. macros or formulas are not required.

The Principal may request change of any nominated report/survey returnable formats to meet business planning needs. Although the Principal will endeavour to minimise the need for change of report formats, the Contractor is required to comply to these format change request at no extra cost to the Principal should needs occur.

The Principal is not prescribing the programming method used, but the calculations must be able to be justified. Where errors in calculations and reports occur all corrections will be a contractor responsibility, and will be taken as non-compliance with the terms of the contract.

At the end of the Contract year (4<sup>th</sup> quarter) the contractor will also be required to include a work summary in Annual Report (refer Clause 4 ANNUAL REPORTING & PERFORMANCE), summarising all works carried out over the previous 12 months.

#### 3.5 REVIEW REQUIREMENTS

Reports and auditing results for first primary school and first high school undertaken by each contractor to be provided within five (5) business days following completion of auditing and tagging for the corresponding school, to ensure compliance of DET Risk Assessment and Implementation requirements. Contractor(s) will be required to meet with the Principal / Customer (DET AMD) to discuss issues concerning reporting and data results.

#### 3.6 SUBMISSIONS TO DET

Hard copy of submissions and CDs containing reports are to be sent to:

**Mr Alan Smith**

Department of Education & Training

Manager Compliance and Energy

Asset Management Directorate

Level 13, 55 Market Street

Sydney NSW 2000

### 4 ANNUAL REPORTING & PERFORMANCE

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### 3. SPECIFICATIONS

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To facilitate the continued monitoring of the performance of the contract the Contractor must present the information as required in this clause.

DET will be reviewing the progress of the program by undertaking QA inspections of selected sites both after glazing surveys and after installation of glazing solutions.

DET would consider the following as non-compliance with the contract requirements:

- a variation of more than 5% (by area) with the DET-Risk Categories,
- a variation of more than 5% (by area) with DET prioritised glazing solutions,
- poor quality of film applications 0.5% (by area) with demonstrated failure within a 12 month period - not including vandalism.

School audits being undertaken by contractors independent of DET and the Department of Commerce.

The Contractor is to provide an Annual report as detailed in Clause 4 to the Authorised Person.

#### MINIMUM REQUIREMENTS FOR THE CONTRACTOR'S ANNUAL REPORT

The following headings and specific information outlined below will be thoroughly documented by the Contractor, and provided as a bound hard copy report and an electronic version to the Authorised Person within 4 weeks following completion of surveying services under the Contract.

- ❑ **A spreadsheet detailing the current status of works for**  
All services **completed** over the last 12 months for each individual Facility / School, as specified in Clause 3 SURVEYING AND REPORTING, including total (Number) of;
  - Facility / School code
  - Facility / School name
  - Region
  - School Education Area (SEA)
- ❑ **OHS & R Reports**
  - Report on any OHSR incidents, accidents.
- ❑ **Child Protection / Identification / Site Log Books**
  - Report on any incidents or issues related to Child Protection / Contractor Identification / Site Log Books
  - DET child protection investigation unit/directorate Child Protection / Contractor Identification EPAC issues/involvement
  - Internal audits of Contractor Identification / Site Log Book compliance carried out during past 12 months, non-conformances and corrective action
  - Changes to organisation / resources during past 12 months
- ❑ **Contractor's Feedback**
  - Contractor is provide in the Annual Report their feedback / comments on service delivery related issues that require Principal's attention, including:
    - Technical issues
    - School liaison issues
    - Efficiency issues
    - Reporting issues
- ❑ **External factors affecting contractor performance**

NOTE – The requirements of Clause 4 do not replace the requirements for reporting described elsewhere in the Contract Document. The requirements of Clause 4 are in addition to those requirements.

#### AUDITING & CONTRACTOR PERFORMANCE

During the period of this contract the performance of the contractor will be reviewed by the Principal using:

- Annual reports from Contractors on a Regional and State-wide basis;

### 3. SPECIFICATIONS

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- Detailed Auditing of whole schools by DET (2 Infant's Schools, 2 Special Purposed Schools, and 4 Primary Schools, and 2 High Schools) per Contract Area, as needed;
- Annual feedback meetings with contractors;
- Feedback from Facility Managers;
- Quality and content of Quarterly Reports.

## 5 CONTRACT MEETINGS

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To facilitate the performance of the contract, the Contractor and Principal are to ensure attendance at the meetings listed below.

**Start-up Workshop:** A contract start-up meeting will occur approximately **one week** following LOA, at a location appropriate at the time. The start-up workshop will plan all aspects of the contract. Those attending are expected to include the Contractor's Supervisory staff involved in the management and administration of the contract.

**Contract Meetings:** Contract Meetings will occur monthly at a location appropriate at the time. These meetings will review and consider all aspects of the contract. Those attending are expected to include the Contractor's Supervisory staff involved in the management and administration of the contract.

The Contractor must provide, prior to each Contract meeting, a certified copy of the current maintenance program, marked up to show actual progress achieved.

**Review Meetings:** Review Meetings will occur approximately every **twelve** months at a central location. These meetings will review the performance of the contract at a higher level with particular focus on communications, contractor performance, client service and feedback, co-ordination, relationships and resolution of issues and other matters that the parties agree upon.

The Contractor's representatives must include a senior executive such as the state or divisional manager or a director, not necessarily involved in the day-to-day management of the contract, but who is able to represent the Contractor at a corporate level.

## 6 DET FACILITIES INCLUDED IN THE CONTRACT

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All Department of Education and Training (DET) facilities/schools where services may be requested under this Contract are listed in more detail in the Electronic Data Assembly provided with the contract documents.

Types of DET schools covered by this Contract include but are not limited to:

- Special Schools
- Infants Schools
- Preschools
- Primary Schools
- High Schools
- *Other DET Facilities that on above-mentioned school sites:*
  - *AMU Area Offices*
  - *Saturday Schools of Community Languages*
  - *Field Studies Centres*
  - *Intensive English Centres*
  - *Central Schools*

## 7 THE SCHOOL DATA ASSEMBLY

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The School Data Assembly is a database of selected details for the facilities covered by this contract. This is provided to the Contractor in electronic form for information only.

Below is a general list of the information included and it should be noted that not all fields have data entered.

### 3. SPECIFICATIONS

Region	S.E.A.	School Code	School Name	Town / Suburb	Street Address	Post Code	Mailing 1	Mailing 2	Phone 1	Phone 2	Fax	Email Address

The Principal will not be providing updates on this information. Some of this data will change during the period of the contract.

Refer also to PRELIMINARIES CLAUSE – INFORMATION SUPPLIED BY THE PRINCIPAL

## 8 DET REGIONS COVERED BY THE CONTRACT

There are ten (10) DET Asset Management Unit (AMU) Regions. A contractor will be selected to provide the services detailed in this contract for the life of the contract and any extension periods where approved.

The contractor selected for each Contract Package (refer **Tender Schedule 3**) will be determined by the Tender Evaluation Team (TET), and the selection process will be based on the information provided in the Returnable tender schedules and Conditions of Tendering clause 8.2.

There are ten (10) DET AMU Regions by geographic areas.

The table below shows the indicative number and types of the schools per region.

	Primary School	Infants School	Central School	Secondary School	Schools for Specific Purpose	Environmental Education Centre	Total
Hunter/Central Coast	249	8	3	48	17	6	331
Illawarra and South Coast	188	0	2	37	12	4	243
New England	104	1	12	17	5	2	141
North Coast	249	1	8	39	9	4	310
Northern Sydney	128	2	0	44	16	4	194
Riverina	174	1	18	27	8	2	228
South Western Sydney	184	3	0	64	29	6	286
Sydney	154	12	3	64	27	6	266
Western NSW	158	0	23	31	9	6	227
Western Sydney	178	0	0	51	21	3	253
Total	1766	28	67	422	153	43	2479

The following table provides approximate number of all DET Facilities within each DET AMU Region and the approximate total glazing (for all buildings) that exist in the Region. The figures quoted are estimations based on a survey conducted in Liverpool area during 2005 and may not represent the exact number. This table is for **information only**.

Tenderers will be given electronic copies of the Liverpool survey records.

### 3. SPECIFICATIONS

Package	Region	Districts	Pane Area [Estimation Only]	Gross Floor Area (GFA) [Estimation Only]
A	Western NSW	Bathurst	4,785	2,709
A	Western NSW	Bourke	1,787	1,076
A	Western NSW	Broken Hill	2,081	1,326
A	Western NSW	Dubbo	4,397	3,262
A	Western NSW	Orange	3,875	2,884
A	Western Sydney	Blacktown	3,847	4,245
A	Western Sydney	Mount Drutt	4,456	5,236
A	Western Sydney	Parramatta	4,492	4,893
A	Western Sydney	Penrith	4,870	4,853
A	Western Sydney	Windsor	2,786	1,840
			<b>37,376</b>	<b>32,324</b>
B	Riverina	Albury	4,972	2,682
B	Riverina	Deniliquin	2,588	1,269
B	Riverina	Griffith	4,380	2,168
B	Riverina	Wagga Wagga	5,366	2,896
B	South Western Sydney	Bankstown	3,368	3,545
B	South Western Sydney	Campbelltown	5,825	6,055
B	South Western Sydney	Fairfield	4,456	5,223
B	South Western Sydney	Granville	3,956	4,278
B	South Western Sydney	Liverpool	4,631	6,463
			<b>39,542</b>	<b>34,579</b>
C	Hunter/Central Coast	Central Coast	7,063	6,902
C	Hunter/Central Coast	Lake Macquarie	5,145	3,257
C	Hunter/Central Coast	Maitland	5,591	3,536
C	Hunter/Central Coast	Muswellbrook	3,471	1,943
C	Northern Sydney	Hornsby	4,321	4,837
C	Northern Sydney	Northern Beaches	4,694	5,861
C	Northern Sydney	Ryde	5,034	4,738
			<b>35,319</b>	<b>31,074</b>
D	Hunter/Central Coast	Newcastle	4,925	4,123
D	Illawarra/South Coast	Batemans Bay	4,251	2,557
D	Illawarra/South Coast	Queanbeyan	4,712	2,750
D	Illawarra/South Coast	Shellharbour	5,286	4,491
D	Illawarra/South Coast	Wollongong	5,327	4,830
D	Sydney	Bondi	4,419	4,050
D	Sydney	Port Jackson	5,107	5,060
D	Sydney	St George	4,446	4,868
D	Sydney	Sutherland	5,009	5,109
			<b>43,482</b>	<b>37,838</b>
E	New England	Armidale	3,991	2,322
E	New England	Moree	2,826	1,453
E	New England	Tamworth	4,485	2,509
E	North Coast	Clarence/Coffs Harbour	5,350	3,848
E	North Coast	Lismore	5,552	2,830
E	North Coast	Port Macquarie	4,477	2,756
E	North Coast	Taree	4,176	2,345
E	North Coast	Tweed Heads/Ballina	5,224	3,533
			<b>36,081</b>	<b>21,596</b>

## 9 CONTRACTOR RECORDS, MANUALS AND REGISTERS

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### GENERAL REQUIREMENTS

The Contractor must establish and maintain reports on activities carried out as part of this contract. These will need to be kept at the facilities in the administration areas and be provided to the Principal / Customer as required by the contract.

### RECORDS AND SERVICE MANUALS AT THE DET FACILITIES

The Contractor must ensure all staff and subcontractors are made aware of the requirements to keep accurate records of all visits to a DET facility.

#### a) SITE VISIT LOG BOOK

Each DET facility has been supplied with a DET Site Visit Log book. An entry in this booklet is to be completed by the Contractor or its representative(s) visiting the facility. It is a condition of entry to each facility that the Contractor or its representative(s) when attending the facility during normal operating hours must sign the Site Visit Log book. The Contractor and/or its representative(s) must record all visits to the facility and the purpose of the visit in the site visit log.

A sample of the site visit log is included in Attachment 3A.

## 10 GENERAL PROVISIONS

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### TRAINING OF CONTRACTOR EMPLOYEES

Only appropriately trained Contractor Employees, supervisors, subcontractors and managers may carry out work at the facilities. The Contractor must ensure that all Contractor Employees, Supervisors, subcontractors, and managers employed or engaged by it are appropriately trained to carry out their duties. The training must meet all regulatory and legislative requirements.

### TRADE QUALIFICATIONS

Only appropriately trained and qualified tradespersons and/or apprentices under the direct supervision of a person who holds the appropriate and relevant NSW licence may carry out any trades work. A person so licensed must be on the site of the works at all times when work is being carried out where required by NSW trade licensing requirements.

### WORK DONE BY OTHERS

During the course of this Contract, works will be carried out by others at the facilities including, but not limited to:

- Building maintenance
- Building services and equipment maintenance;
- Major and minor construction work - extensions or modifications;
- Security;
- Electronic security system – installations/repairs;
- Electrical testing and tagging;
- Grounds maintenance;
- Servicing of fire extinguishers, fire hose reels and fire blankets;
- Telephone system – installation/servicing;
- Computer systems;
- Condition assessments
- Bulk gas tank filling;
- LPG tank maintenance;
- Any other work at the discretion of the Principal or the Customer or the Facility Manager.

### 3. SPECIFICATIONS

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The Contractor must liaise and work with these other contractors to minimise any disruption to their activities and to the operation of the facility.

## 11 LIAISON WITH THE FACILITY MANAGER

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Successful tenderers will be required to endorse a common liaison and information protocol with schools ensure that the impact of the services on the operation or use of the facility is minimised.

DET will issue all DET Facilities a brochure communicating the DET Glazing Survey/Rectification Contract which will provide specific advice regarding:

- Contact and programming of site surveying/installation in schools i.e. phone contact and confirming email/fax to be acknowledged by school; etc.

Where the services prevent the use of a facility, the carrying out of the services outside of the hours of use may be necessary. Any costs related to work required outside of normal working hours and approved by the Facility Manager will be deemed to be included in the applicable after hours schedule rate tendered.

The decision on whether the work activities will prevent the use or operation of the facility will rest solely with the Facility Manager, at his/her absolute discretion.

Where the Facility Manager considers that the services will cause an unavoidable disruption to the use or operation of the facility, The Contractor must liaise with the Facility Manager and ensure that the disruption is minimised.

The Contractor must provide 2 weeks prior notification of all intended visits to facilities covered by the contract and confirm in writing 48 hours prior.

## 12 DET RESPONSIBILITIES

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A brochure outlining the DET Glazing Survey & Rectification program will provide specific advice regarding:

- Contact and programming of site works in schools i.e. phone contact and confirming email/fax to be acknowledged by school.

## 13 GENERAL WORK AREA

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All work areas, including rooms, windows, doorways, floor areas within reasonable proximity, and furniture moved for purposes of carrying out the services, must be returned to the same condition as prior to site works.

The Contractor must make good any damage resulting from work under the Contract.

## 14 SECURITY OF FACILITIES

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The Facility Manager is responsible for ensuring that all windows, doors and external gates are shut and secure at the closure of each day as a matter of good security practice.

The Contractor must take all reasonable steps to ensure that no thefts or unauthorised use of furnitures, electrical appliances, including computers, telephones, photo-copiers, facsimile machines, modems, video recording equipment or any other equipment by its personnel at any Facility.

Where keys are supplied to the Contractor for the purpose of entering and securely locking premises, the Contractor must make all efforts to ensure security in case of theft or loss. For example, keys must not to be labelled with identifying tags or indications that show which facility or rooms they operate.

The Contractor will be responsible for safeguarding the keys in a manner satisfactory to the Facility Manager.

The Contractor must not cut additional keys without the prior consent in writing of the Facility Manager.

### 3. SPECIFICATIONS

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The Contractor must report any loss of keys immediately to the Facility Manager. Any costs incurred resulting from the loss of or damage to keys, including the replacement of locks or barrels, will be borne by the Contractor.

#### 15 ACCESS TO ALL ELEMENTS/ASSEMBLIES

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The Contractor must provide all permanent or temporary safe access it may require to access all elements/assemblies whilst all works under this contract are being carried out at any location.

No additional costs whatsoever will be borne by the Principal for the Contractor to comply with this Clause and all Statutory Requirements.

Refer also to PRELIMINARIES CLAUSE – OCCUPATIONAL HEALTH, SAFETY AND REHABILITATION.

#### 16 DET FACILITIES WITH HERITAGE SIGNIFICANCE

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The Contractor is advised that some facilities have heritage significance.

The Contractor must ensure that all of its staff and subcontractor's staff are aware that some DET facilities or parts of DET facilities have been identified as having heritage significance or may have heritage significance. In these circumstances the Contractor is required to ensure that the heritage elements of DET facilities are preserved.

#### 17 ALTERATIONS/ADDITIONS TO FACILITIES AND NEW FACILITIES

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During the period of the contract new facilities may be built and/or new buildings /areas added/or refurbishment carried out to the existing buildings. However, any of these changes shall not result in any variations to this Contract. The Contractor is only required to carry out works as directed under this Contract.

#### 18 DEVELOPING TECHNOLOGY

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Due to the length of the contract the development of technology may bring some changes in the materials, products and methods available for use in carrying out or managing the activities under this contract.

The Principal acknowledges that these developments will occur and alerts the Contractor to the possibility that changes to the technical specifications and/or communications technology specified may be required during the contract.

The changes and developments referred to above will only be adopted if the Principal is satisfied that they are viable, in both economic and practical terms.

#### 19 RESOLUTION OF ISSUES ARISING WITH FACILITY MANAGERS

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The Contractor will be required to interface with Facility Managers or their representatives in relation to provision of the services, including the Facility Manager's concerns for the wellbeing of the staff and students.

The flow chart in this clause illustrates, in a simplified format, how issues which may arise, can be resolved.

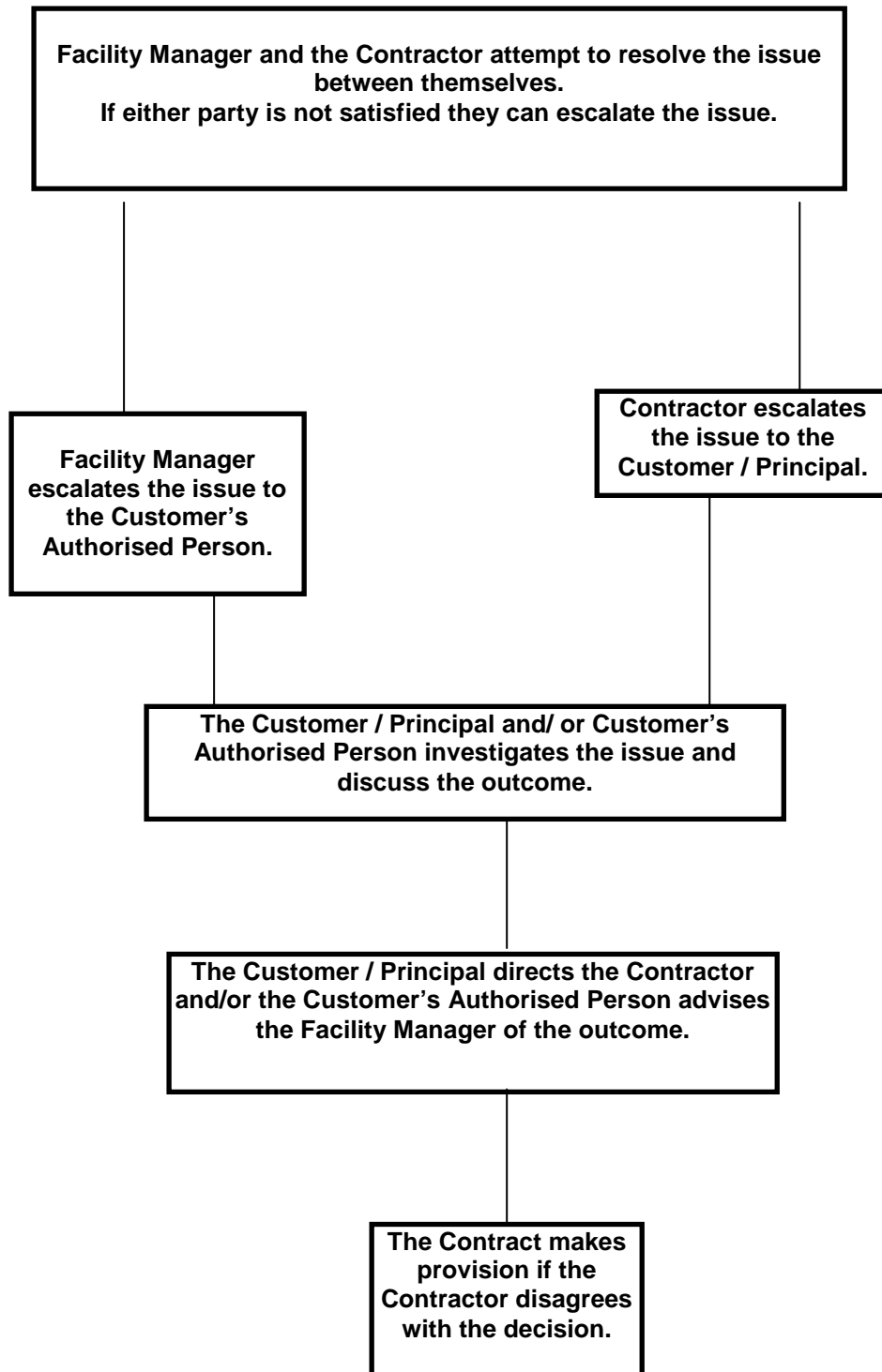
The Contractor must develop and implement procedures to manage the interface with all the Facility Managers and to make all reasonable efforts to avoid issues being escalated. These procedures must be regularly reviewed and updated.

The Facility Manager may refer issues to the Customer's Authorised Person for consideration.

### 3. SPECIFICATIONS

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#### SIMPLIFIED ISSUE RESOLUTION FLOWCHART





## 20 CONTRACT PROGRAM

The Contract Program is:

- b) Three Contract Years, being the two periods shown as Contract years 1 to 2 in the Table in Clause **Error! Reference source not found.**; and
- c) If the Extension I is opted, the two periods of one year each being Contract Years 3 and 4 in the Table.
- d) If the Extension II is opted following Extension I, the two periods of one year each being Contract 5 and 6 in the Table.

Contract Year	Date of Commencement of Contract Year	Date of expiry of Contract Year
1	Date of Letter of Award	12 months after Date of Letter of Award
2	12 months and 1 day after Date of Letter of Award	12 months after date of commencement of Contract year 2
<b>If the Extension I is opted:</b>		
3	24 months and 1 day after Date of Letter of Award	12 months after date of commencement of Contract year 3
4	36 months and 1 day after Date of Letter of Award	12 months after date of commencement of Contract year 4
<b>If the Extension II is opted following Extension I:</b>		
5	48 months and 1 day after Date of Letter of Award	12 months after date of commencement of Contract year 5
6	60 months and 1 day after Date of Letter of Award	12 months after date of commencement of Contract year 6

Within **6 weeks** of the Letter of award the Contractor must have systems in place to provide all the required Services included in the contract i.e. any of the Services may be required from that date.

In each Contract Year the Contractor must provide the Services as requested by the Customer / Facility Managers.

Not later than 3 months prior to the end of Contract Year 2 the Principal may, by notice in writing to the Contractor, opt to extend that term of the Contract by two years [Contract year 3 and 4].

Not later than 3 months prior to the end of Contract Year 4 the Principal may, by notice in writing to the Contractor, opt to extend that term of the Contract by a further two years [Contract year 5 and 6].

### 3. SPECIFICATIONS

## 21 TECHNICAL SPECIFICATIONS

### STANDARDS

All works under this contract are to be carried out in accordance with current statutory requirements, principally AS/NZS 1288-2006 and AS/NZS 2208. The Contractor shall clearly identify in their Project Management Plan the product quality characteristics which are required to be provided and the methods to be adopted to assure conformance with AS 1288 and AS/ NZS 2208.

The Contractor is to ensure that glazing material used is free of defects, imperfections and other surface markings that will affect the final aesthetic quality of the product.

The contractor shall provide independent assurance of the claims made by the supplier or manufacturer that products comply with the stated standards.

Independent test results by an accredited laboratory or organisations such as the CSIRO to verify that the products consistently conform to the stated requirements are also required. The criteria for a certification scheme are set out in SAA HB18.28.

### DET GLAZING TYPES AND SOLUTIONS

The provision of safety film to glazing is the primary method by which glazing will be upgraded in DET school to comply with AS 1288-2006 and AS/NZS 2208. There may be circumstances where the application of film cannot be undertaken or is inappropriate e.g. louvers and textured glazing, in these circumstances the preferred solutions are specified below:

Window Type	Selection	Nominated Glazing
<b>Windows</b>		
3 - 6 mm Float Glass	Most Preferred	4.0 mm Toughened Glass (Clear)
	Most Preferred	6.38 mm Laminated (Clear)
		5.0 mm Toughened Glass (Clear)
		6.0 mm Toughened Glass (Clear)
3 - 6 mm Obscure Float Glass	Most Preferred	5.0 mm Toughened (Obscure)
	Most Preferred	6.76 mm Obscure Laminated
<b>Shower Screens</b>		
6 - 10 mm Wired Glass	Most Preferred	6.38 mm Laminated (Clear)
6 - 10 mm Float Glass	Most Preferred	6.76 mm Showertex Laminated (Obscure)
		6.00 mm Toughened Clear & Obscure
<b>Sliding Glass</b>		
6 mm Float Glass	Most Preferred	6.38 Clear Laminated (including edgework)
<b>Sliding Framed Doors</b>		
6 mm Float Glass	Most Preferred	6.38 mm Laminated (Clear)
<b>Louvres</b>		
6 mm Float Glass	Most Preferred	6.38 mm Clear Laminated
	Most Preferred	6.0 mm Obscure Toughened PA 2 long
		6.76 mm Obscure Laminated
		6.0 mm Obscure Toughened RA only
<b>Mirrors</b>		
4 - 6 mm Glass (Silver)	Most Preferred	4mm vinyl backed silver PA
	Most Preferred	6mm vinyl backed silver PA
<b>Miscellaneous</b>		
3 - 6 mm Float Glass		8.38 mm Laminated (Clear)
		10.38 mm Laminated (Clear)
		6.38 mm Grey Tinted Laminated Glass
		6.38 mm Bronze Tinted Laminated Glass
		8.38 mm Grey Tinted Laminated Glass
		8.38 mm Bronze Tinted Laminated Glass
		10.38 mm Grey Tinted Laminated Glass
		10.38 mm Bronze Tinted Laminated Glass

### 3. SPECIFICATIONS

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#### GLAZING MATERIAL

For the whole quantity of each material or product use the same manufacturer or source and provide consistent type, size, quality and appearance.

The glazing material may include:

- plastic glazing film
- glass

**Only Grade-A glazing material is to be used for this Contract.**

#### GLAZING FILMS

Under this Contract, application of safety films to glazing is the primary method by which glazing will be upgraded in DET schools to comply with AS1288-2006 and AS/NZS 2208. The safety film shall be applied to 3mm and 4mm annealed glass to meet Grade-A impact test requirements of AS/NZS 2208.

#### Manufacturer

Use ONLY glazing films from an experienced, high quality window film manufacturer

- with at least ten (10) years experience of window film manufacture
- producing window film under Class 10000 clean conditions
- accredited to ISO 9001 / 9002

#### Product Specification

All glazing films shall have the following properties when applied, but not limited to:

- have durable abrasion resistant coating over the surface
- at least 95% UV rejection
- the film colour shall be clear and will not contain dyed polyester
- acceptable level of haze < 1%, according to ASTM D1003
- high resistance to colour change
- have a nominal thickness of 100-175 micrometre (µm)
- shall not evident coating voids
- shall have a high mass pressure sensitive weather able acrylic adhesive surface (opposite the abrasion resistant coated surface);
- with a warranty of minimum 12 years backed by the manufacturer of the product

After application, the adhesive glazing film shall be essentially optically flat and shall meet the following criteria:

- viewing the film from a distance of three metres at angles up to 45-degrees from either side of the glass, the film itself shall not appear distorted;

#### INSTALLATION

The Contract is to strictly comply with manufacturer's installation recommendations.

#### Installer

Use experienced, high quality glazing film installers who are approved / accredited by the manufacturer or distributor.

#### Work Area

The Contractor is responsible to make sure all work areas, including access and paths to the windows, floor, carpet and furniture within proximity, and window ledge are protected with suitable material throughout the process and returned to original state prior leaving the work site.

#### Window Preparations

The Contractor shall ensure that:

- Manufacturer's installation instructions are strictly complied;
- the work site be as clean as possible to prevent dust settling on the glass after cleaning;

### 3. SPECIFICATIONS

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- Clean glass of dust, dirt, paint, oil, grease, mildew, mould, and other contaminants that would inhibit adhesion;
- Immediately prior to applying film, thoroughly wash glass with neutral cleaning solution;
- Protect adjacent surfaces, including painted, decorated or stained work;
- Do not apply glazing film when surface temperature is less than 4 °C;
- Do not apply glazing film if precipitation is imminent;
- putty stains and labels from glass are removed;
- glass washed and polished both inside and outside and left free of dirt, marks, labels and spots;
- marks, stains, fingerprints, soil and dirt from adjacent surface are removed;
- do not begin installation until substrates have been properly prepared; and
- extra care is exercised not to scratch glass.

#### Film Application

The Contractor shall ensure that:

- Install strictly in accordance with manufacturer's instructions, without air bubbles, wrinkles, streaks, bands, thin spots, pinholes, or gaps;
- Materials to be delivered to the job site with the manufacturer's labels intact and legible;
- Many DET schools supply only bore water for general use; where clear and clean water is required to remove the water-soluble overcoat that protects the pressure sensitive of the film, the Contractor is responsible to provide clean water and manage waste water appropriately; alternatively, films with protection liner are encouraged;
- Accurately cut film with straight edges to required sizes allowing 1/16 inch (2 mm) to 1/8 inch (3 mm) gap at perimeter of glazed panel;
- Extra care is exercised not to scratch glass and frame surfaces.

#### POST INSTALLTION

Following installation, the contract is to:

- verify that installation is complete and complies with requirements and manufacturer's instructions to specified blast resistance level, correcting deficiencies if any exist;
- clean glass and anchoring accessories following installation;
- clean up cleaning solutions, run-off cleaning water and adhesive mounting solution; and
- remove labels and protective covers.

## 22 WARRANTIES / GUARANTIES

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#### GLAZING FILMS

For glazing films to AS/NZS 2208, a minimum product warranty of 12 years (from the date of installation) shall be provided by the suppliers/manufacturer prior to approval for installation.

The warranty shall be supported by test analysis conducted by a recognised national organisation which attests to the product durability for the stated period of time under the requirements set out in AS /NZS 2208.

The products shall be guaranteed against defects arising from faulty workmanship or material, and the warranty shall include the maintenance of:

- The solar reflective properties without bubbling, cracking, crazing or peeling;
- Adhesive properties without blistering, bubbling or delaminating from the glass;
- Appearance without discoloration;

In the event that the product is found to be defective under the warranty the Contractor/Manufacturer shall:

- Replace and make good the film proven to be defective;
- Provide full service of removal and re-application, including labour and material, free of charge.

The Contractor shall also obtain a seller/manufacturer warranty against **glass failure** caused as a direct result of the application of the film product.

### 3. SPECIFICATIONS

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#### GLASS

For glass replacements to AS/NZS 1288 a minimum product warranty of 7 years from the date of delivery by manufacturer, shall be provided by the suppliers/manufacturers prior to approval for installation.

The products shall be guaranteed against defects arising from faulty workmanship or material, and the warranty shall include the maintenance of:

- The solar reflective properties without bubbling, cracking, crazing or peeling;
- Degradation;
- Appearance without discoloration;

#### WARRANTY SUBMISSIONS

##### General

Name the principal as warrantee. Register with manufacturers as necessary. Retain copies delivered with components and equipment.

##### Commencement

Commence warranty periods at acceptance of installation.

##### Approval of installer

If installation is not by manufacturer, and product warranty is conditional on the manufacturer's approval of the installer, submit the manufacturers written approval of the installing firm.

## 23 ATTACHMENTS

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The following are the attachments to this Section: -

ATTACHMENT 3A SAMPLE OF SCHOOL SITE VISIT LOG  
ATTACHMENT 3B CHECKLIST - REPORTS & SUBMISSIONS

Sample reports will be distributed at the mandatory Pre-Tender Meeting, in which the Principal nominates the desired formats and etc.

### 3. SPECIFICATIONS

#### ATTACHMENT 3B CHECKLIST - REPORTS & SUBMISSIONS

Reports containing survey findings and results must be submitted according to Contract requirements. This checklist is DRAFT ONLY.

Report / Submission	Submit to DET	Submit to individual Facility/School	Compliance	Target Submission Date	Actual Submission Date
Work Program	Within 4 weeks following Award of Contract and update as required.		Preliminaries clause 4.5 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Samples and product catalogues of proposed glazing films and glass.	Within 4 weeks following Award of Contract.		Preliminaries clause 4.1 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Report & survey results - First Public School	Within 5 business days following completion of surveying the first public school undertaken.		Section 3 - clause 3.4 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Report & survey results - First High School	Within 5 business days following completion of surveying the first high school undertaken.		Section 3 - clause 3.4 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Report & survey results - Individual Facility / School	On 28 <sup>th</sup> of each month with accompanying Monthly Invoices.	Within 10 business days following completion of surveying.	Section 3 - clause 3.4 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Contract Summary Report by Priority	On 28 <sup>th</sup> of each month with accompanying Monthly Invoices.		Section 3 - clause 3.4 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Contract Summary Report by Window Type	At end of each school term.		Section 3 - clause 3.4 Yes <input type="checkbox"/> No <input type="checkbox"/>		
Annual Report	At end of each Contract Year.		Section 3 - clause 3.4 Yes <input type="checkbox"/> No <input type="checkbox"/>		

**END OF SECTION 3 – SPECIFICATIONS**



## Appendix 3A – Sample of School Site Visit Log

### WITH CHILD PROTECTION POLICY FOR DET FACILITIES (SCHOOLS)

#### Child Protection Policy & Procedures for Contractors

The Department of Education and Training has a responsibility for the care and welfare of students. It has a charter to protect young people in its care from sexual, physical and emotional abuse.

All contractors must conduct themselves in a manner consistent with the Department's responsibilities and community expectations.

#### Contractors must:

- notify the Facility Manager of their presence, the nature of the work to be performed, the anticipated duration and location where work is to be carried out
- be suitably attired at all times, including the wearing of a shirt, shorts or trousers and appropriate footwear
- refrain from talking, touching or interacting with students
- not use the toilets or amenities: bubblers, showers, canteens etc; only approved separate toilets and other facilities are to be used and these must be kept separate from any area used by students
- ensure two persons are present when working in unsecured toilets wherever possible; at least one male should be present when male toilets are being maintained and at least one female should be present when female toilets are being maintained
- secure the work area from students; clear signs and barricades (wherever possible) must be used to prevent any inadvertent and/or unauthorised access
- report any incident involving students to the Facility Principal immediately

#### Facility Site Visit Log

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COMPLETE ONE LOG ENTRY FOR EVERY SITE VISIT.		SCHOOL NAME SCHOOL NO. LOCATION OF WORK	TYPE OF WORK
date: _____		building no. _____ room no. _____	<input type="checkbox"/> insurance work
time in: _____			<input type="checkbox"/> essential urgent repair
time out: _____			<input type="checkbox"/> programmed maintenance work
hours worked: _____		Work done or reason for visit	<input type="checkbox"/> reactive maintenance
			<input type="checkbox"/> demountable work
			<input type="checkbox"/> condition assessment
			<input type="checkbox"/> meeting
			<input type="checkbox"/> other
			<input type="checkbox"/> preventive/statutory maintenance
			<input type="checkbox"/> maintenance extra task
			<input type="checkbox"/> facility initiated works
For insurance work, essential urgent repairs, maintenance extra task, programmed maintenance work or demountable work, also complete a Service Report			
		<b>WAS THE JOB COMPLETED?</b>	
		<input type="checkbox"/> yes	
		<input type="checkbox"/> no if no, what further action is required?	
		<input type="checkbox"/> site visit	
		<input type="checkbox"/> other	
		Details _____	
<b>CONTRACTOR'S COMPANY NAME:</b> _____			
<b>Contractor's rep./ Visitor</b>	Name _____	signature _____	
<b>DET Facility Manager.</b>	Name _____	signature _____	

**NOTE:** The DET Facility Manager must check that all entries are legible before signing this log.