MEDIUM WORKS CONTRACT – DESIGN AND CONSTRUCTION

Contract Number: ISD-16-5312C

SYDNEY GROWTH TRAINS
MAINTENANCE FACILITY WORKS

Between
Transport for NSW
[PRINCIPAL]
ABN 18 804 239 602

and
Downer EDI Rail Pty Limited
[CONTRACTOR]
ABN 92 000 002 031

Level 5, Tower A
821 Pacific Highway
CHATSWOOD NSW 2067
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<td>THIRD PARTY AGREEMENTS</td>
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<td>K</td>
<td>INDICATIVE SITE LAYOUT</td>
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Parties

1. Transport for NSW (ABN 18 804 239 602), a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, Chatswood NSW 2067 (Principal).

2. Downer EDI Rail Pty Ltd (ABN 92 000 002 031) of Triniti Business Campus, 39 Delhi Road, North Ryde NSW 2113 (the Contractor).

Recitals

A Transport for NSW is a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), and is responsible for developing certain major railway systems and other major projects.

B Transport for NSW intends to introduce changes to the timetable for rail passenger services in New South Wales during, or prior to, 2018.

C In order to achieve the intended timetable changes, Transport for NSW has agreed (on behalf of RailCorp and the Operator) to procure, and the Contractor has agreed to design, develop, manufacture, test, commission, supply and deliver new passenger Sets and other related Assets on the terms and conditions of the Delivery Deed.

D The Contractor has agreed to design, procure, supply, install, commission and integrate the Works to enable the TLS Phase Activities under the TLS Deed to be performed at the maintenance facility at the Site.

E The Contractor acknowledges that Completion under this Contract must be achieved in order to achieve Provisional Acceptance of the first Set under the Delivery Deed.

It is agreed as follows

1. Definitions and Interpretation

1.1 Definitions

In this Contract, unless the context otherwise indicates:
"Accreditation" means accreditation (including provisional accreditation, conditions or restrictions in respect of accreditation or any variation to the accreditation) under Part 3 of the Rail Safety National Law (or an exemption from same).

"ACICA" has the meaning given in paragraph 1.4(c)(ii) of Schedule 26.

"ACICA Arbitration Rules" has the meaning given in paragraph 1.7(a)(iii) of Schedule 26.

"ACICA Expedited Arbitration Rules" has the meaning given in paragraph 1.7(a)(iv) of Schedule 26.

"Arbitration Expedition Notice" has the meaning given in paragraph 1.7(b)(i) of Schedule 26.

"ASA Authorisation" means an authorisation (other than a Project Limited Authorisation) issued by the ASA to a legal entity which verifies that it has the relevant systems in place to carry out the class of Asset Lifecycle work specified in the authorisation, subject to any specified conditions of the authorisation.

"ASA Charter" means the document which identifies the ASA's objectives, functions, powers and governance and the duties of Rail Transport Agencies and AEOs in relation to the ASA (as amended from time to time), a copy of which can be found on www.asa.transport.nsw.gov.au.

"ASA Requirements" has the meaning assigned to it in the ASA Charter.

"Asset" has the meaning given to it in the Delivery Deed.

"Asset Lifecycle" has the meaning assigned to it in the ASA Charter.

"Asset Lifecycle Services" means the aspects of the Contractor's Activities which relate to the Asset Lifecycle of Transport Assets.

"Asset Standards Authority" or "ASA" means the unit within Transport for NSW which functions include setting, controlling, maintaining, owning and publishing the network and asset standards for Transport Assets for the Asset Lifecycle. Information about the ASA and the network and asset standards can be found on www.asa.transport.nsw.gov.au.

"Associate" has the meaning given in the Delivery Deed.

"Actual Planning Approval Conditions" means the requirements and conditions of a Planning Approval.

"Anticipated Conditions" means the example conditions set out in Exhibit D.

"Authorised Engineering Organisation" or "AEO" means a legal entity to whom the ASA has issued an ASA Authorisation.

"Authority" includes any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, Minister, statutory corporation or instrumentality (and includes ASA).
and any private electricity, telecommunications, gas or other utility company having statutory rights in relation to the Works or the Contractor's Activities.

"Authority Approval" means any licence, permit, consent, approval, determination, exemption, certificate, memorandum of understanding, notification or permission from any Authority or under any Law, or any requirement made under any Law, which must be obtained or satisfied (as the case may be) to:

(a) carry out the Contractor's Activities including for the avoidance of doubt all things required for conducting work within the Rail Corridor or affecting rail operations and all things required for dealing with, transporting and disposing of Contamination, Hazardous Material or waste; or

(b) occupy and use for its intended purpose the completed Works or a completed Portion,

and for the avoidance of doubt includes:

(c) the Planning Approvals; and

(d) the EPL.


"Business Day" means any day other than a Saturday, Sunday, public holiday in New South Wales or 27, 28, 29, 30 or 31 December.

"CCU" means Construction Compliance Unit, the unit established within NSW Industrial Relations to monitor compliance with and receive reports of alleged breaches of the NSW Guidelines.

"Change in Authority Approval" means a change:

(a) in an Authority Approval which is in existence as at the date of this Contract; and

(b) which occurs after the date of this Contract.

"Change in Codes and Standards" means a change in the Codes and Standards taking effect after the date of this Contract, excluding a change in the Codes and Standards which, as at the date of this Contract:

(a) was published or of which public notice had been given (even as a possible change in the Codes and Standards); or

(b) a party experienced and competent in the delivery of works and services similar to the Works or the Contractor's Activities (as applicable) would have reasonably foreseen or anticipated,

in substantially the same form as the change in the Codes and Standards eventuating after the date of this Contract.
"Change in Law" means (if it takes effect after the date of this Contract):

(a) a change in an existing Law (other than a change in an Authority Approval); or

(b) a new Law (other than a new Authority Approval),

compliance with which:

(c) has a direct effect on the Contractor carrying out the Contractor's Activities; and

(d) directly results in an increase or decrease in the Contractor's costs of carrying out the Contractor's Activities, or a delay to the Contractor achieving Completion of the Works or a Portion by the relevant Date for Completion in accordance with clause 10.7(a),

but excludes:

(e) a change in an existing Law in respect of Taxes or a new Law in respect of Taxes; and

(f) a change in an existing Law or a new Law which, as at the date of this Contract was published or of which public notice had been given (even as a possible change in an existing Law or a possible new Law) in substantially the same form as the change in an existing Law or new Law eventuating after the date of this Contract.

"Claim" includes any claim for an increase in the Contract Sum, for payment of money (including damages), for an extension of time to a Date for Completion or for any other form of relief:

(a) under, arising out of, or in any way in connection with, this Contract, including any direction of the Principal's Representative;

(b) arising out of, or in any way in connection with, the Contractor's Activities or the Works or either party's conduct prior to the date of this Contract; or

(c) otherwise at Law or in equity including:

(i) under or for breach of statute;

(ii) in tort for negligence or otherwise, including negligent misrepresentation; or

(iii) for restitution, including restitution based on unjust enrichment.

"Codes and Standards" means:

(a) the relevant building codes (including the Building Code of Australia), Standards Australia codes, standards, specifications, guidelines, rules, procedures or other publications current at the date of this Contract (including the Disability (Access to Premises – Buildings) Standards 2010), including any specified or required by this Contract;

(c) if (and to the extent) the codes and standards referred to in paragraphs (a) or (b) are irrelevant, then relevant international codes, standards, specifications, guidelines, rules, procedures or other publications current at the date of this Contract.

"Commonwealth" means the Commonwealth of Australia.

"Commissioning" has the meaning given to that term in the TfNSW Standard Requirements.

"Completion" means the stage in the execution of the Contractor's Activities when:

(a) the Works are, or a Portion is, complete in accordance with this Contract except for minor Defects:

(i) that do not prevent the Works or the Portion from being reasonably capable of being used for the intended purpose of the Works or the Portion;

(ii) that can be rectified without prejudicing the convenient intended use of the Works or the Portion; and

(iii) in respect of which the Contractor has reasonable grounds for not promptly rectifying;

(b) the Contractor has:

(i) carried out and passed all tests that:

A. are required under this Contract to be carried out and passed before the Works or a Portion reaches Completion; or

B. must necessarily be carried out and passed to verify that the Works or a Portion is in the condition this Contract requires the Works or Portion (as the case may be) to be in at Completion;

(ii) without limiting clause 2.3(c)(iv), obtained all Authority Approvals that it is required under this Contract to obtain before Completion of the Works or a Portion and provided such Authority Approvals to the Principal's Representative;
(iii) given to the Principal's Representative all other documents and information:

A. required (including in accordance with the TfNSW Standard Requirements and the Works Brief) for the use, operation, maintenance and repair of the Works or a Portion; and

B. that are to be handed over to the Principal's Representative before Completion of the Works or a Portion;

(iv) complied with all performance requirements that this Contract requires to be verified before Completion of the Works or a Portion; and

(v) provided the Principal's Representative with the Contractor's Certificate of Completion in the form of Schedule 21 for the Works or a Portion; and

(c) the Contractor has done everything else that it is required to do under this Contract before Completion of the Works or a Portion including those things referred to in Schedule 1.

"Configuration Change Acceptance Notice" means a notice of that name issued by the Configuration Control Board in respect of Design Documentation.

"Configuration Control Board" means the board established by TfNSW to manage configuration changes for the Infrastructure & Services Division of TfNSW's programs and projects in accordance with the Configuration Management Framework.

"Configuration Management Framework" means the framework established by the ASA from time to time for configuration management.

"Construction Environmental Management Plan" means the plan which forms part of the Contract Management Plan which is required to be provided and implemented by the Contractor pursuant to the TfNSW Standard Requirements.

"Construction Plant" means equipment, appliances, machinery and things used in the execution of the Contractor's Activities but not forming part of the Works.

"Contamination" means the presence in, on or under land or any other aspect of the Environment of a substance, gas, chemical, liquid or other matter (whether occurring naturally or otherwise) which is at a concentration above the concentration at which the substance, gas, chemical, liquid or other matter (whether occurring naturally or otherwise) is normally present in, on or under land or any other aspect of the Environment in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment.

"Contemporaneous Work" means work carried out:

(a) by Other Contractors on or after the date of this Contract:
(b) on or adjacent to the Site; and

(c) upon or by which the proper execution of the Contractor's Activities is dependent or may be appreciably affected by it being unsuitable, unsatisfactory or detrimental in any way.

"Contract" means the contract between the Principal and the Contractor in respect of the Works constituted by the documents referred to in Schedule 1.

"Contract Documentation" means all documentation in computer readable or written forms brought into (or required to be brought into) existence as part of, or for the purpose of, performing the Contractor's Activities (whether before or after the date of this Contract) including:

(a) the Works Brief and all Design Documentation; and

(b) all plans, manuals, programs and other documents.

"Contract Management Plan" means the documents required to be provided and implemented by the Contractor pursuant to the TfNSW Standard Requirements as developed, amended or updated from time to time in accordance with the Contract.

"Contract Sum" means the Original Contract Price increased or decreased by the amounts by which this Contract requires the Contract Sum to be increased or decreased.

"Contractor" means the person named as the Contractor in Schedule 1.

"Contractor's Activities" means all things or tasks which the Contractor is, or may be, required to do to comply with its obligations under this Contract, including:

(a) the design, construction, commissioning and hand-over of the Works;

(b) the provision of Temporary Works and Construction Plant;

(c) Commissioning and Operational Readiness; and

(d) anything incidental or ancillary to the obligations in paragraphs (a) to (c).

"Contractor's Investigation Access Notice" means a written notice issued by the Contractor to the Principal that:

(a) provides at least 10 Business Days notice of the date that the Contractor requires access to a part of the Site to perform survey, testing or investigation work; and

(b) includes the following details:

(i) the part of the Site to which access is required;

(ii) the date the Contractor requires access to the relevant part of the Site;

(iii) the period for which the Contractor requires access to the relevant part of the Site; and
(iv) the extent of the work to be carried out in the relevant part of the Site.

"Contractor's Construction Access Notice" means a written notice issued by the Contractor to the Principal that:

(a) provides at least 10 Business Days notice of the date that the Contractor requires access to a part of the Site to perform construction work; and

(b) includes the following details:

(i) the part of the Site to which access is required;

(ii) the date the Contractor requires access to the relevant part of the Site;

(iii) the period for which the Contractor requires access to the relevant part of the Site; and

(iv) details of the nature of the Works and/or Temporary Works to be carried out in the relevant part of the Site.

"Contractor's Outline Design" means the design set out in Exhibit H.

"Contractor's Program" means the program prepared and provided by the Contractor in accordance with clause 10.2, as developed and updated in accordance with clause 10.2 from time to time.

"Contractor's Representative" means the person notified to the Principal's Representative in accordance with clause 9.4(a) as being the Contractor's Representative.

"Crown Building Work" has the meaning given to that term in section 109R of the Environmental Planning and Assessment Act 1979 (NSW).

"Date for Completion" means in respect of the Works or a Portion the date, or the last day of the period of time, specified in Schedule 1 for the Works or that Portion, as adjusted under this Contract by an extension of time determined by the Principal's Representative or pursuant to any determination by an expert or any litigation.

"Date of Completion" means:

(a) the date of Completion of the Works or a Portion, set out in a Notice of Completion; or

(b) where another date is determined in any determination by an expert or any arbitrator pursuant to the Dispute Resolution Procedures as the date upon which Completion was achieved, that date.

"Date of Final Completion" means;

(a) the date determined in accordance with clause 12.8(e)(i) as the date Final Completion was achieved; or
(b) where another date is determined in any determination by an expert or any arbitrator pursuant to the Dispute Resolution Procedures as the date upon which Final Completion was achieved, that date.

"Defect" means any:

(a) defect, deficiency, fault, error or omission in the Works or Temporary Works, including subsidence, shrinkage and movement outside the required tolerances; or

(b) other aspect of the Works, Temporary Works or Contractor's Activities that is not in accordance with the requirements of this Contract, including non-compliances, non-conformances and non-conformities.

"Defects Rectification Period" means the period stated in Schedule 1, as extended by clause 8.6.

"Delivery Deed" means the "Sydney Growth Trains - Delivery Deed" between the Principal, the Contractor and RailCorp dated on or about the date of this Contract.

"Design Documentation" means all design documentation (including design standards, design reports, durability reports, construction descriptions, specifications, models, samples, prototypes, calculations, drawings, digital records, computer software and all other relevant data) in computer readable and written forms, or stored by any other means required by this Contract or necessary to be produced by the Contractor to design and construct the Works and the Temporary Works and documentation (including certificates and check lists) to evidence that the design documentation complies with the requirements of this Contract.

"Difference in Conditions" has the meaning given to that term in clause 2.12(b)(iv).

"Difference in Planning Approval Conditions" means Actual Planning Approval Conditions for a Planning Approval which are not contemplated by, and are different to, the Anticipated Conditions for that Planning Approval.

"Dispute" means any dispute, difference or controversy under or in connection with any Project Agreement or the Project.

"Dispute Resolution Procedures" means the procedures for hearing and resolving Disputes set out in clause 15 and Schedule 26.

"Document" means any document which is required to be submitted for the review of the Principal's Representative under this Contract.

"Draft Third Party Agreement" has the meaning given to that term in clause 2.12(b)(iA).

"Environment" means components of the earth, including:

(a) land, air and water;

(b) any layer of the atmosphere;
(c) any organic or inorganic matter and any living organism;
(d) human-made or modified structures and areas; and
(e) interacting natural ecosystems that include components referred to in paragraphs (a) to (c).

"Environmental Representative" means any person notified to the Contractor by the Principal’s Representative from time to time.


"Excepted Risk" means any one of:
(a) war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, act of terrorism, insurrection or military or usurped powers, martial law or confiscation by order of any government or public authority;
(b) 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 its Subcontractors or either’s employees or agents; or
(c) any other event so described in Schedule 1.

"Excluded Claim" means any claim:
(a) with respect to a Change in Law under clause 2.3(d);
(b) for a Variation directed in accordance with clause 6.2 or a direction by the Principal’s Representative to which clause 18.1 applies;
(c) for an extension of time to any Date for Completion under clause 10.8; or
(d) for payment under clause 11, including claims under clauses 11.9 and 11.11.

"Extra Land" means the land referred to in clause 3.4(a).

"Final Completion" means the stage in the execution of the Contractor’s Activities when:
(a) all Defects Rectification Periods (including any extension under clause 8.6) have expired and the Contractor has rectified all Defects in accordance with the Contract;
(b) the Contractor has:
   (i) carried out and passed all tests which:
      A. are required under this Contract to be carried out and passed before the Works reach Final Completion; or
B. must necessarily be carried out and passed to verify that the Works are in the condition this Contract requires them to be in at Final Completion;

(ii) obtained all Authority Approvals that it is required under this Contract to obtain which:
A. were not obtained before Completion of the Works or the last Portion to reach Completion; or
B. are to be obtained prior to Final Completion, and provided such Authority Approvals to the Principal's Representative;

(iii) given to the Principal's Representative all other documents or information referred to in this Contract:
A. which are required for the use, operation, maintenance and repair of the Works but which were not obtained before Completion of the Works or the last Portion to reach Completion; or
B. which are required to be handed over to the Principal's Representative before Final Completion; and

(iv) complied with all performance requirements under this Contract that must be verified before Final Completion; and

(c) the Contractor has done everything else which it is required to do under this Contract before Final Completion.

"Financial Assessment" has the meaning given to that term in clause 9.11(a).

"Force Majeure Event" means earthquake, flood, bushfire, act of terrorism, act of a public enemy, war (declared or undeclared) or revolution.

"General Conditions" means clauses 1 to 21 of this Contract.

"Greenhouse Data" means all data, information, records and reports of the type that a registered corporation or any other person may be required or entitled to provide under the NGER Legislation, including as to:

(a) greenhouse gas emissions, energy production or energy consumption; and

(b) reduction of greenhouse gas emissions, removal of greenhouse gases or offsets of greenhouse gas emissions from any greenhouse gas project, relating to any aspect of any of the Contractor's Activities or the activities of any of the Contractor's personnel in connection with the Contractor's Activities.

"GREP" means the NSW Government Resource Efficiency Policy.

"GST" has the meaning given in the GST Act.

"GST Amount" has the meaning given in clause 19(c).

"GST Supplier" has the meaning given in clause 19(c).

"Hazardous Material" means any natural or artificial substance whether solid, liquid or gas (alone or in combination with any other substance) which is toxic, flammable or otherwise capable of causing harm to humans or damage to the Environment including asbestos, toluene, polychlorine biphenyls, lead based paints, glues, solvents, cleaning agents, paints and water treatment chemicals.

"Incident" means:

(a) any work health and safety or environmental or security incident arising from the performance of (or failure to perform) the Contractor's Activities including:

(i) a fatality or injury to any person including any incident which must be reported to New South Wales WorkCover Authority;

(ii) loss of containment, escape of or migration of Contamination off-Site and into the Environment;

(iii) any fire or dangerous event on the Site or Extra Land;

(iv) a security breach;

(v) any unauthorised removal of trees;

(vi) a non-compliance with an Authority Approval; or

(vii) any public complaint; or

(b) any unplanned and/or undesired event which results in or has the potential to result in injury, ill-health, damage to or loss of property, interruption to operations or environmental impairment,

and includes:

(c) a near miss, breach of procedure, quality failure and/or injuries to contractors and members of the public; and

(d) a "notifiable incident" under the WHS Legislation and a "notifiable occurrence" under the Rail Safety National Law.

"Indirect or Consequential Loss" means any loss of opportunity, contract, profit, anticipated profit, business, business opportunities or revenue, goodwill, loss of use or loss of production or any failure to realise anticipated savings.

"Independent Expert" means an Independent Expert appointed in accordance with paragraph 1.4(a) of Schedule 26.

"Independent Expert Determination Agreement" has the meaning given in paragraph 1.4(f) of Schedule 26.
"Independent Expert Determination Rules" has the meaning given in paragraph 1.4(h) of Schedule 26.

"Information Documents and Materials" means:
(a) the items specified in Schedule 9;
(b) the Reports; and
(c) all other documents, core and other samples, exhibits and materials in any format or medium including any electronic form provided to the Contractor unless expressly identified as forming part of this Contract, including anything which is expressly stated by this Contract to form part of the Information Documents and Materials.

"Insolvency Event" means when:
(a) one party informs the other party in writing, or its creditors generally, that the party is insolvent or is unable to proceed with its obligations under this Contract for financial reasons;
(b) in relation to an individual, the individual (being a party) commits an act of bankruptcy, a bankruptcy petition is presented against the individual or the individual is made bankrupt;
(c) execution is levied against a party by a creditor, debenture holders or trustees or under a floating charge; or
(d) in relation to a corporation any one of the following:
   (i) notice is given of a meeting of creditors with a view to the corporation entering into a deed of company arrangement or scheme of arrangement (other than a solvent scheme of arrangement);
   (ii) the corporation enters a deed of company arrangement or composition with creditors;
   (iii) an application is made for, a resolution is passed by the directors for the appointment of, or an order is made for, a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator to be appointed to the corporation;
   (iv) a controller, administrator, receiver, receiver and manager, provisional liquidator or liquidator is appointed to the corporation;
   (v) an application is made to a court for the sequestration or winding up of the corporation and not stayed, dismissed or discontinued within 21 days;
   (vi) a sequestration order or winding up order is made in respect of the corporation;
(vii) the corporation resolves by special resolution that it be wound up voluntarily (other than for a members' voluntary winding-up), or a meeting of creditors of a party under administration or a deed of company arrangement resolves that the corporation be wound up;

(viii) a mortgagee of any property of the corporation takes possession of that property; or

(ix) the corporation ceases, suspends or threatens to cease or suspend the conduct of all or a substantial part of its business, or disposes or threatens to dispose of all or a substantial part of its assets.

"Inspection" includes auditing, surveillance, monitoring, testing, review, examination and measuring.

"Institution" means any:

(a) authorised deposit taking institution holding an authority to carry on banking business in Australia under the terms of the Banking Act 1959 (Cth); or

(b) insurance company which is regulated by the Australian Prudential Regulatory Authority and has the Required Rating.

"Intellectual Property" means all rights in copyright, inventions (including patents and innovation patents), registered and unregistered trademarks or name, registered and registrable designs, confidential information, trade secrets, technical data and know how, circuit layout rights, and all other protected rights of intellectual property defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967.

"Interface Agreement" means the Third Party Agreement of that name set out in Exhibit I.

"Interface Party" means a person listed in Schedule 1 or otherwise identified by the Principal's Representative, as an Interface Party that is carrying out, or that will carry out, Interface Work.

"Interface Works" means the activities to be executed by Interface Parties, which will interface with or affect or be affected by the Contractor's Activities and the Works, including that described in the Works Brief.

"Law" means:

(a) Commonwealth, New South Wales or local government legislation, including ordinances, instruments, codes of practice, policy and statutory guidance (but excluding the Building Code of Australia, any other building codes or Standards Australia codes), requirements, regulations, by-laws and other subordinate legislation;

(b) principles of law or equity established by decisions of courts; and

(c) Authority Approvals (including any condition or requirement under them).
"Loss" means:

(a) any cost, expense (including legal expenses on an indemnity basis), loss, charge, fee, payment (including payment made under any indemnity), damage, liability or other amount; and

(b) without being limited by paragraph (a) and only to the extent not prohibited by law, any fine or penalty,

whether direct, indirect or consequential (including financial or pure economic loss), present or future, fixed, ascertained or unascertained, actual or contingent howsoever sustained, whether in contract, tort, statute or otherwise and, for the avoidance of doubt, it includes Indirect or Consequential Loss.

"Management Plans" has the meaning given in the TSRs.

"Mediation Cut Off Date" has the meaning given in paragraph 1.7(a)(ii) of Schedule 26.

"Milestone" means the payment milestone items specified in the Payment Breakdown Schedule.

"Mitigation Measure" means a measure, action, standard or precaution to mitigate the impact of the Works.

"Monument" has the meaning given to that term in the Surveying and Spatial Information Regulation 2006 (NSW).

"NGER Legislation" means National Greenhouse and Energy Reporting Act 2007 (Cth), related regulations and legislative instruments.

"Notice" has the meaning given in clause 16.1.

"Notice of Completion" means a notice issued under clause 12.3(d)(i) by the Principal’s Representative stating that Completion of the Works or a Portion has been achieved.

"Notice of Dispute" has the meaning given in paragraph 1.1(b) of Schedule 26.

"NSW Code" has the meaning given in clause 21.2.

"NSW Guidelines" has the meaning given in clause 21.1.

"NSW Rail Entity" means RailCorp, the Operator, NSW Trains and any other Authority in New South Wales that owns or operates railway infrastructure or rolling stock.

"NSW Trains" means the corporation by that name constituted by part 2B of the Transport Administration (General) Regulation 2005 (NSW).

"Operational Readiness" means the activities referred to in section 7.7 of TfNSW Technical Note - TN 037: 2015.

"Operations Planning Approval" means:

(a) an Authority Approval issued from time to time by either the Principal or the Minister for Planning and Infrastructure (acting in their capacity as determining
authority) under the *Environmental Planning and Assessment Act 1979* (NSW) in respect of the use of the Works in accordance with the TLS Deed following Completion of the Works; and

(b) any Mitigation Measures and statement of commitments that are required to be complied with or fulfilled in the documents referred to in paragraph (a) of this definition.

"Operator" means the person so identified in Schedule 1.

"Option" means an option referred to in Schedule 15.

"Original Contract Price" means the amount set out in Schedule 1, which is, and all components of which are, exclusive of GST.

"Other Contractor" means:

(a) any Interface Party; and

(b) any contractor, consultant, artist, tradesperson or other person engaged by the Principal or others to do work, other than the Contractor and its Subcontractors.

"Other Contractor Work" means the works to be undertaken by an Other Contractor on a part of the Site during any period in which the Contractor has been engaged as principal contractor in respect of that part of the Site.

"Overhead Costs" means the costs referrable to the items described in Part B of Schedule 10.

"Panel of Mediators" means a panel of qualified mediators nominated at the request of the parties by the President of the Resolution Institute (or by whichever entity subsequently replaces that entity, from time to time).

"Payment Breakdown Schedule" means Schedule 2.

"Payment Claim Date" means the latter of:

(a) the date when the Contractor has complied with the requirements in clause 11.6; and

(b) the following dates:

(i) prior to the time for submission of the Final Payment Claim, within 5 Business Day after the end of each month;

(ii) for the Completion Payment Claim, within the time required by clause 11.9; and

(iii) for the Final Payment Claim, within the time required by clause 11.11.
"PDCS" means TfNSW's web based 'TeamBinder' project data and collaboration system, or such other electronic project data and collaboration system notified by the Principal's Representative under clause 16.1(b).

"Personnel" of an entity, includes all officers, employees, contractors, agents, advisers and consultants of the entity and of the Associates of the entity.

"Planning Approval" means each of:
(a) the Works Planning Approval; and
(b) the Operations Planning Approval.

"Pollution" has the meaning given to "pollution" in the Dictionary to the Protection of the Environment Operations Act 1997 (NSW).

"Portion" means a part of the Contractor's Activities or Works, as described in Schedule 1 or as directed under clause 12.6(a).

"PPS Act" means the Personal Property Securities Act 2009 (Cth).

"PPS Law" means:
(a) the PPS Act and any regulations made at any time under the PPS Act, as amended from time to time; and
(b) any relevant amendment made at any time to any other legislation as a consequence of paragraph (a).

"Principal" means TfNSW.

"Principal Supplied Items" means the items listed in Schedule 27.

"Principal's Representative" means:
(a) the person nominated in Schedule 1; or
(b) any other person appointed from time to time by the Principal under clause 9.2, and includes any appointee under clause 9.3.

"Prohibited Subcontractor" means:
(a) any Subcontractor:
(i) who has made an admission to the Independent Commission Against Corruption that it has engaged in; or
(ii) in respect of whom the Independent Commission Against Corruption has made a finding that it has engaged in,

TfNSW
any Subcontractor employing an employee in respect of whom paragraph (a)(i) or (a)(ii) apply.

"Project" has the meaning given to it in the Delivery Deed.

"Project Agreement" has the meaning given to it in the Delivery Deed.

"Project Limited Authorisation" means an authorisation that may in limited circumstances be issued by the ASA to a legal entity that does not have ASA Authorisation, confirming that the proposed approach to engineering assurance made by that legal entity has satisfied the ASA that the legal entity can carry out particular Asset Lifecycle Services.

"Project Work Health and Safety Management Plan" means the plan which forms part of the Contract Management Plan which is required to be provided and implemented by the Contractor pursuant to the TfNSW Standard Requirements and which must:

(a) set out in adequate detail the procedures the Contractor will implement to manage the Works and the performance of the Contractor's Activities from a work health and safety perspective; and

(b) describe how the Contractor proposes to ensure the Works and Contractor's Activities are performed consistently with Law in relation to work health and safety.

"Proposal" means the response provided by a Proponent to the Principal's invitation to submit a proposal to undertake the Contractor's Activities.

"Proponent" means an entity or entities that submitted a Proposal for the Contractor's Activities.

"Provisional Acceptance" has the meaning given to it in the Delivery Deed.

"Provisional Sum Work" means the work detailed in Schedule 1.

"RailCorp" means Rail Corporation New South Wales, a corporation constituted by section 4(1) of the Transport Administration Act 1988 (NSW).

"Rail Corridor" means the area containing the Rail Tracks, rail junctions, level crossings, station buildings, platforms, signal boxes, tunnels, bridges and other associated structures. This area is often defined by railway boundary fencing and in the absence of such fencing, is defined by a physical boundary (i.e. tunnel, building or retaining walls) or everywhere within 15 metres of the outermost rails.

"Rail Infrastructure Manager" has the meaning given to that term in the Rail Safety National Law.

"Rail Safety National Law" means the Rail Safety National Law (NSW), as defined in the Rail Safety (Adoption of National Law) Act 2012, and any associated regulations.

"Rail Transport Agency" means Transport for NSW (and each of its divisions), RailCorp, Sydney Trains and NSW Trains.
"Railway Track" or "Rail Track" or "Track" or "Line" means the rails fastened on sleepers or transoms and founded on ballast or bridge decking or concrete slab, associated signalling and overhead wiring components (in electrified areas).

"RCTI" has the meaning given to that term in clause 19(h).

"Recipient" has the meaning given to that term in clause 19(c).

"Reimbursable Expense" has the meaning given to that term in clause 19(e).

"Relevant Matters" has the meaning given to that term in clause 9.15(a).

"Remediation Action Plan" has the meaning given to that term in clause 3.9(c)(ii)B.

"Remediation Steps" has the meaning given to that term in clause 3.9(c)(ii)A.1.

"Replacement Third Party Agreement" has the meaning given to that term in clause 2.12(b)(i)B.

"Report" means each report referred to in Schedule 1.

"Required Rating" means a credit rating of at least A- by Standard & Poor's (Australia) Pty. Ltd. or A3 by Moody's Investors Service, Inc.

"Revised Allocation" has the meaning given to that term in clause 2.12(b)(iii)D.

"Rolling Stock Operator" has the meaning given to that term in the Rail Safety National Law.

"Safety Management System" has the meaning given to that term in the Rail Safety National Law.

"Security Interest" has the meaning given to that term in clause 17.25(a).

"Service" includes any service facility or item of public or private infrastructure, including railway systems, pedestrian and vehicular corridors, water, electricity, gas, fuel, telephone, existing drainage, sewerage, industrial waste disposal and electronic communications service.

"Set" has the meaning given to it in the Delivery Deed.

"Site" means:

(a) the lands and other places described in Schedule 1; and

(b) any other lands and places made available to the Contractor by the Principal for the purpose of this Contract.

"Site Conditions" means any physical conditions above, upon, under or over the surface, or in the vicinity, of the Site or Extra Land and includes:

(a) surface water, ground water, ground water hydrology and the effects of any de-watering;
(b) physical and structural conditions, above, upon and below the Site or Extra Land, including old footings, underground structures, buildings, improvements, partially completed structures or in-ground works;

(c) topography of the Site or Extra Land, ground surface conditions and geology, including rock and sub-surface conditions or other materials encountered at the Site or Extra Land;

(d) climatic and weather conditions including rain, surface water runoff and drainage, floods, water seepage, windblown dust and sand, seasons and physical conditions that are a consequence of climatic and weather conditions;

(e) all existing systems and Services, above or below ground level and all facilities with which such systems and Services are connected;

(f) all improvements, including any artificial things, foundations, retaining walls and other structures installed by or on behalf of the Principal or others;

(g) any Contamination, Hazardous Materials or other spoil or waste; and

(h) underground strata forming part of the Site or Extra Land.

"Site Interface Agreement" means an agreement between an Interface Party, the Contractor and any other relevant interface party identified by the Principal's Representative in the form agreed between the Interface Party, the Contractor and any other relevant interface party identified by the Principal's Representative.


"Statement of Business Ethics" means TfNSW's Statement of Business Ethics, which may be obtained from TfNSW and is located at: www.transport.nsw.gov.au.

"Subcontract" includes an agreement for supply of goods or services (including professional services and plant hire) or both.

"Subcontractor" includes a consultant or a supplier of goods or services (including professional services and plant hire) or both.

"Survey Certificate" has the meaning given to that term in the Surveying and Spatial Information Regulation 2006 (NSW).

"Survey Plan" has the meaning given to that term in the Surveying and Spatial Information Act 2002 (NSW).

"Sydney Trains" means the corporation by that name constituted by Part 2A of the Transport Administration (General) Regulation 2005 (NSW).

"Taxes" means income, stamp, indirect or other taxes levies, impost, deductions, charges, duties (including import duty), compulsory loans and withholdings (including financial institutions duty, debits tax or other taxes whether incurred by, payable by return or passed on to another person) together with interest thereon or penalties, if any, and charges, fees or other amounts made on, or in respect thereof.
"Technical Dispute Matter" means:

(a) a Dispute or an issue or matter in relation to a Dispute about directions of a Principal's Representative in respect of the clause 2.3(d)(ii), 2.12(b)(vi), 2.12(b)(viii), 2.14(e), 2.14(f), 3.1(e)(ii), 3.8 (final paragraph), 6.4, 6.7, 7.3, 8.5, 8.6, 9.8(c)(ii), 10.10, 10.11, 10.13, 10.14(b), 11.3, 12.3(b), 12.3(d), 14.6(b), 14.10(a) or 14.12(a);

(b) any other matter expressly stated to be a Technical Dispute Matter under any other Project Agreement; or

(c) any other matter which the parties mutually determine, pursuant to paragraph 1.3(a) of Schedule 26, is a Technical Dispute Matter.

"Technical Dispute Panel" has the meaning given in paragraph 2 of Schedule 26.

"Temporary Works" means any temporary works required to be carried out or provided by the Contractor for the purpose of the execution of the Contractor's Activities but not forming part of the Works.

"TfNSW" means Transport for NSW, a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW).

"TfNSW Standard Requirements" or "TSRs" means the documents which appear as Exhibit A to this Contract.

"Third Party" means a party to a Third Party Agreement other than the Principal.

"Third Party Agreement" means an agreement which appears in Exhibit I.

"TLS Deed" means the deed entitled "Sydney Growth Trains- TLS Deed" between TfNSW, RailCorp and the Contractor, dated on or about the date of this Contract.

"Training Target" has the meaning given to that term in clause 9.14(f)(i).

"Transport Assets" has the meaning assigned to it in the ASA Charter.

"Trigger Event" has the meaning given to that term in clause 2.12(b)(iv)G.

"Variation" means any change to the Works or the Temporary Works including:

(a) any addition or increase to, or decrease, omission or deletion from, the Works or the Temporary Works;

(b) any change to the character or quality, or demolition or removal, of any material or work; or

(c) any change to the levels, lines, positions or dimensions of any part of the Works or the Temporary Works,

but it excludes any changes to the Works or the Temporary Works that are required as a result of the exercise of an Option by the Principal's Representative under clause 6.3.

"WHS" means work health and safety.
"WHS Accreditation Scheme" means the Australian Government Building and Construction OH&S Accreditation Scheme established by the Fair Work (Building Industry) Act 2012 (Cth).

"WHS Guidelines" means the NSW Government Work Health and Safety Management Systems and Auditing Guidelines (5th edition), May 2014 or any document issued from time to time which amends or substitutes this document.

"WHS Legislation" means:

(a) the Work Health and Safety Act 2011 (NSW) and the Work Health and Safety Regulation 2011 (NSW); and

(b) any legislation in other States and Territories of Australia addressing work health and safety which applies to the Works.

"Workplace Relations Management Plan" means the plan described in the NSW Guidelines developed in relation to the Works.

"Works" means the whole of the works, including:

(a) any changes to the Works that are required solely as a result of the exercise of an Option by the Principal's Representative under clause 6.3; and

(b) all Variations to the Works, that the Contractor must design, construct, commission, integrate and hand-over to the Principal (or its nominee) under this Contract.

"Works Brief" means the written requirements for the Works described in Exhibit B.

"Works Planning Approval" means:

(a) an Authority Approval issued from time to time by either the Principal or the Minister for Planning and Infrastructure (acting in their capacity as determining authority) under the Environmental Planning and Assessment Act 1979 (NSW) in respect of the Works; and

(b) any Mitigation Measures and statement of commitments that are required to be complied with or fulfilled in the documents referred to in paragraph (a) of this definition.

1.2 Interpretation

In this Contract unless the context otherwise requires:

(a) references to a person include an individual, a body politic, the estate of an individual, a firm, a corporation, an authority, an association or joint venture (whether incorporated or unincorporated), or a partnership;

(b) the words "including", "includes" and "include" will be read as if followed by the words "without limitation";
(c) a reference to any party to this Contract includes that party's executors, administrators, successors, and permitted substitutes and assigns, including any person taking part by way of novation;

(d) a reference to any Authority, institute, association or body is:

(i) if that Authority, institute, association or body is reconstituted, renamed or replaced or if the powers or functions of that Authority, institute, association or body are transferred to another organisation, deemed to refer to the reconstituted, renamed or replaced organisation or the organisation to which the powers or functions are transferred, as the case may be; and

(ii) if that Authority, institute, association or body ceases to exist, deemed to refer to the organisation which serves substantially the same purposes or objects as that Authority, institute, association or body;

(e) a reference to this Contract or to any other deed, agreement, document or instrument is deemed to include a reference to this Contract or such other deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;

(f) a reference to any legislation or to any section or provision of it includes:

(i) any statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and

(ii) ordinances, by-laws, regulations of and other statutory instruments issued under that legislation, section or provision;

(g) words in the singular include the plural (and vice versa) and words denoting any gender include all genders;

(h) headings are for convenience only and do not affect the interpretation of this Contract;

(i) a reference to:

(i) a party, clause, Schedule or Exhibit is a reference to a party, clause, Schedule or Exhibit of or to this Contract; and

(ii) a paragraph or a sub-paragraph is a reference to a paragraph or sub-paragraph in the clause in which the reference appears;

(j) subject to clause 3.6, a reference to this Contract includes all Schedules and Exhibits;

(k) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning;

(l) where under this Contract:
(i) a direction is required to be given or must be complied with;
(ii) payment of money must be made;
(iii) an unconditional undertaking must be released; or
(iv) a default must be remedied,
within a period of 7 days or less from a specified event, then only Business Days will be counted in computing the number of days;

(m) for the purposes of clauses 10.10, 10.11, 10.12 and 10.13:
(i) any extension of time to any Date for Completion stated in days; or
(ii) any reference to "day",
will include only those days indicated in Schedule 1, or otherwise approved by the Principal's Representative, as working days;

(n) for all purposes (other than as set out in clauses 1.2(i) and 1.2(m), or where otherwise designated as a Business Day), "day" means calendar day;

(o) for the avoidance of doubt, a reference to an Other Contractor includes an Interface Party;

(p) a reference to "$" is to Australian currency;

(q) a reference to "direction" in the definition of "Claim" in clause 1.1 or in any of clauses 7.1(a)(i)B, 9.1, 9.8(i), 15 and 18 will be read as also including certificate, decision, demand, determination, instruction, notice, order, rejection, request or requirement but will not include any failure to reject a Document;

(r) no rule of construction applies to the disadvantage of a party on the basis that the party put forward or drafted this Contract or any part;

(s) any reference to "information" will be read as including information, representations, statements, data, samples, calculations, assumptions, deductions, determinations, drawings, design, specifications, models, plans and other documents in all forms including the electronic form in which it was generated;

(t) the interpretations of the terms Date for Completion, Date of Completion and Completion, and clauses 8, 10, 12 and 13, will apply separately to each Portion and references therein to the Works and to the Contractor's Activities will mean so much of the Works and the Contractor's Activities as is comprised in the relevant Portion; and

(u) any reference to "intended purpose" in:
(i) the definition of "Completion" in clause 1.1; or
(ii) clauses 1.4, 2.1, 2.3(c), 3.2, 4.1, 5.1, 5.2, 7.1 or 11.7,
will be read as referring to the intended use or intended purpose having regard to any intended use or intended purpose stated in, contemplated by or ascertainable from the terms of this Contract including the requirement that the Works, when completed will be designed and constructed in compliance with all health and safety requirements of the WHS Legislation.

1.3 Ambiguous terms

(a) If the Principal's Representative considers, or if the Contractor notifies the Principal's Representative in writing that it considers, that there is an ambiguity, inconsistency or discrepancy in the Contract (including in any Exhibit), the Principal's Representative must, subject to clause 1.4, direct the interpretation of this Contract which the Contractor must follow.

(b) The Principal's Representative, in giving a direction in accordance with clause 1.3(a), is not required to determine whether or not there is an ambiguity, inconsistency or discrepancy in this Contract.

1.4 Order of Precedence

(a) In the event of any inconsistency, ambiguity or discrepancy between the requirements of the Contractor's Outline Design and the requirements of the remainder of this Contract (including any aspect of the Works Brief) then to the extent of any inconsistency, ambiguity or discrepancy, the higher, or more onerous, or more rigorous, requirement will apply.

(b) In the event of any other inconsistency, ambiguity or discrepancy between the various documents comprising this Contract then:

(i) where the inconsistency, ambiguity or discrepancy is between two or more documents that together comprise the Works Brief, then to the extent of any inconsistency, ambiguity or discrepancy, the higher, or more onerous, or more rigorous, requirement will apply; and

(ii) otherwise, to the extent of any inconsistency, ambiguity or discrepancy, the order of precedence in Schedule 1 applies.

(c) The Works Brief, the Contractor's Outline Design and the Planning Approvals are to be regarded as mutually explanatory and anything contained in one but not in the other will be equally binding as if contained in all, so as to ensure that the Works comply with this Contract and are fit for their intended purposes.

1.5 Deed Poll by Contractor

If required by Schedule 1 the Contractor must:

(a) within 10 days of the date of this Contract and as a condition precedent to any obligation of the Principal to pay the Contractor any amount under clause 11.4, provide to the Principal's Representative an executed deed poll in the form set out in Schedule 16 in favour of the persons named in Schedule 1;

(b) where the Interface Agreement is identified in Schedule 1 as a "Draft" Third Party Agreement, promptly following execution of the Interface Agreement, and
as a condition precedent to any obligation of the Principal to pay the Contractor any amount which becomes due under clause 11.4 following execution of the Interface Agreement, provide to the Principal's Representative an executed deed poll in the form set out in Schedule 24 in favour of the persons named in Schedule 1; and

(c) where the Interface Agreement has been executed as at the date of this Contract, on or before the date of this Contract and as a condition precedent to any obligation of the Principal to pay the Contractor any amount under clause 11.4, provide to the Principal's Representative an executed deed poll in the form set out in Schedule 24 in favour of the persons named in Schedule 1.

1.6 Authorities

(a) This Contract will not in any way unlawfully restrict or otherwise unlawfully affect the unfettered discretion of:
   (i) the Principal or any other Rail Transport Agency to exercise any of their respective functions and powers pursuant to any legislation; or
   (ii) the ASA to exercise any of its functions and powers pursuant to the ASA Charter.

(b) Without limiting clause 1.6(a), anything the Principal, any other Rail Transport Agency or ASA do, or fail to do or purport to do, pursuant to their respective functions and powers either as an AEO or under any legislation or the ASA Charter, will be deemed not to be an act or omission by the Principal under this Contract.

1.7 Contract of no effect until Delivery Deed Conditions Precedent satisfied

This Contract has no effect unless and until each of the Conditions Precedent (as defined in the Delivery Deed) are satisfied, or waived by the Principal and the Delivery Deed (other than the Day One Clauses, as defined in the Delivery Deed) comes into effect in accordance with clause 2 of the Delivery Deed.

2. Contractor's obligations

2.1 General

The Contractor:

(a) must execute the Contractor's Activities, including design, construct, commission and hand-over the Works and each Portion, in accordance with this Contract;

(b) warrants that the Temporary Works will at all reasonable times be fit for their intended purposes;

(c) warrants that the Works and each Portion will upon Completion be, and remain, fit for their intended purposes;
must, unless otherwise agreed by the Principal's Representative in writing, employ the person or persons specified in Schedule 1, including the Contractor's Representative, in the performance of the Contractor's Activities; 

must use all reasonable efforts to inform itself of the requirements of the Principal and regularly consult with the Principal during the performance of the Contractor's Activities; and

must liaise, cooperate and confer with others as directed by the Principal.

2.2 Subcontracts

(a) Subject to clause 2.2(b), the Contractor may enter into Subcontracts for the vicarious performance of its obligations under this Contract.

(b) The Contractor must not enter into any Subcontract:

(i) with:

A. a Prohibited Subcontractor; or

B. an initial subcontract price equal to or over the amount specified in Schedule 1 without the prior written approval of the Principal's Representative (which may be conditional but which will not be unreasonably withheld); or

(ii) for the parts of the Works specified in Schedule 1 without the prior written approval of the Principal's Representative to the relevant subcontractor (which may be conditional but which will not be unreasonably withheld).

Any request by the Contractor for approval to subcontract under this clause 2.2(b) must be in writing and include such details as may be required by the Principal's Representative, including details of the proposed Subcontract conditions, and the proposed Subcontractor's capacity to undertake the relevant work, past performance in undertaking similar work, safety (including work health, safety and rehabilitation issues and providing evidence of compliance with clause 2.2(h)), environmental compliance (including any environmental management system) and other performance, management systems and proposed safe working procedures.

Within 14 days after a request by the Contractor for approval, the Principal's Representative will advise the Contractor whether the request is approved (and, if approved, any relevant Conditions) or not and, where it is not approved, the reasons why approval is not given.

(c) The Contractor must ensure that each Subcontractor referred to in Schedule 1:

(i) effects and maintains professional indemnity insurance which:

A. covers the Subcontractor's liability in respect of breaches of professional duty (whether owed in contract or otherwise) by the Subcontractor or its Subcontractors in carrying out the work under the relevant Subcontract;
B. covers the Subcontractor for liability to the Principal or the Contractor for the relevant minimum amount listed in Schedule 1;

C. unless the Subcontractor using its best endeavours is unable reasonably to procure such a term in the policy, includes at least one automatic reinstatement of the total limit of liability per annum after claims have been paid; and

D. remains in place at least until the expiration of a 7 year period from completion of the relevant Subcontract works or professional services; and

(ii) is obliged under the relevant Subcontract to comply with clause 13.7(c) of this Contract in relation to the insurance referred to in subparagraph (i).

(d) The Contractor will be:

(i) fully responsible for the Contractor's Activities despite subcontracting the carrying out of any part of the Contractor's Activities; and

(ii) vicariously liable to the Principal for all acts, omissions and defaults of its Subcontractors (and those of the employees, Subcontractors and other agents of its Subcontractors) relating to, or in any way connected with, the Contractor's Activities.

(e) The Contractor must:

(i) without limiting clause 17.21(c), ensure that each of its Subcontracts that has an initial subcontract price of the amount specified in Schedule 1 or more includes provisions to the effect set out in Schedule 5 and a clause to the same effect as this clause 2.2(e)(i) that is binding on the Subcontractor and provide evidence of this to the Principal's Representative when requested by the Principal's Representative;

(ii) where a Subcontractor is to carry out design work or other professional services, unless not required by the Principal's Representative, procure that Subcontractor to execute a Deed in the form of Schedule 6 and provide this to the Principal's Representative within 7 days of the engagement of that Subcontractor;

(iii) ensure that each Subcontractor (and their Subcontractors) executes a Confidentiality Undertaking in the form of Schedule 3 and provides this to the Principal's Representative within 7 days of the engagement of that Subcontractor;

(iv) procure that each of its Subcontractors:

A. engaged under a Subcontract that has an initial subcontract price equal to or greater than the amount specified in Schedule 1; or
B. in respect of the categories of work set out in Schedule 1 (regardless of subcontract price),

executes a deed in the form of Schedule 14 and provides this to the Principal's Representative within 7 days of being engaged by the Contractor; and

(v) in respect of all Subcontracts in which it holds retention money from the Subcontractor, comply with all requirements under the Building and Construction Industry Security of Payment Amendment (Retention Money Trust Account) Regulation 2015 (NSW).

(f) The Contractor must, as a condition precedent to Completion of the Works or a Portion, procure and provide the Principal's Representative with those warranties described in Schedule 1 or elsewhere in this Contract from relevant Subcontractors undertaking or supplying the work or items the subject of the warranty.

These warranties:

(i) must be in the form set out in Schedule 11 and must be in favour of the Principal and any other entity nominated by the Principal's Representative from time to time, including any Rail Transport Agency; and

(ii) will not derogate from any rights that the Principal may have against the Contractor in respect of the subject matter of these warranties.

(g) If directed by the Principal, the Contractor must, without being entitled to compensation, within 5 Business Days of the date of receipt by the Contractor of the direction, execute and deliver to the Principal a deed of novation in the form which appears in Schedule 18, such deed being between the Principal, the Contractor and the Subcontractor stated in Schedule 1.

The Contractor irrevocably and severally appoints the Principal and any authorised representative of the Principal to be the Contractor's attorney to execute, sign, seal and deliver in the name of the Contractor, the deed referred to in this clause 2.2(g) and all notices, deeds and documents for that purpose.

Any direction given by the Principal and any novation occurring pursuant to this clause 2.2(g) will not:

(i) relieve the Contractor from its liabilities or obligations (including those arising out of any warranties given under this Contract);

(ii) limit or otherwise affect the Principal's rights against the Contractor (including those arising out of any warranties given under this Contract); or

(iii) entitle the Contractor to make any Claim, whether under this Contract or otherwise according to any Law.

(h) The Contractor must:
ensure that, if any Law, including in the State or Territory in which the Works are situated or the Works are carried out (as the case may be), require that:

A. a person:

1) be authorised or licensed (in accordance with the WHS Legislation) to carry out any work at that workplace, that person is so authorised or licensed, and complies with any conditions of such authorisation or licence; and/or

2) has prescribed qualifications or experience or, if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the WHS Legislation), that person has the required qualifications or experience or is so supervised; or

B. a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed;

(ii) not direct or allow a person to carry out or use plant or substance at a workplace unless the requirements of subparagraph (i) are met (including any requirement to be authorised, licensed, qualified or supervised); and

(iii) if requested by the Principal's Representative or required by the WHS Legislation, produce evidence of any approvals, certificates, authorisations, licences, prescribed qualifications or experience, or any other information relevant to work health and safety (as the case may be) to the satisfaction of the Principal’s Representative before the Contractor or Subcontractor (as the case may be) commences such work.

2.3 Compliance with Law

(a) Subject to clause 2.3(c)(i), the Contractor must in carrying out the Contractor's Activities:

(i) comply with, and ensure that the Works and the Temporary Works comply with, all applicable Law;

(ii) give all notices and pay all fees, bonds and other amounts which it is required to pay in respect of the performance of its obligations under this Contract and give the Principal's Representative copies of all notices it gives to Authorities at the time or before it submits such notices to Authorities;

(iii) give the Principal's Representative copies of all documents (including Authority Approvals and other notices) that Authorities issue to it;
(iv) at all times conform and comply with, and ensure that the Works and the Temporary Works conform and comply with, all Codes and Standards; and

(v) not engage in any fraud, bribery or corruption.

(b) Where there is a Change in Codes and Standards:

(i) the Contractor must give a written notice to the Principal's Representative within 20 Business Days of the Change in Codes and Standards containing:

A. details of the Change in Codes and Standards; and

B. an estimate of the Contractor's increased or decreased costs of complying with the Change in Codes and Standards including sufficient information to support the estimate; and

(ii) if a notice is given by the Contractor which complies with clause 2.3(b)(i), then within 10 Business Days of the notice being given, the Principal's Representative will either:

A. direct the Contractor to disregard the Change in Codes and Standards; or

B. direct a Variation under clause 6.2(a) in respect of the Change in Codes and Standards after which the relevant adjustments will be made under clause 6.4.

If there is any change in the Codes and Standards which does not constitute a Change in Codes and Standards the Contractor must comply with the change and will not be entitled to make any Claim against the Principal arising out of or in any way in connection with the change.

(c) The Contractor must:

(i) obtain all Authority Approvals required for the execution of the Contractor's Activities and occupation and use of the completed Works or Portions (and for that purpose prepare and submit all applications and associated documents to relevant Authorities), except for those Authority Approvals specified in Schedule 7 that either:

A. were obtained by the Principal prior to the date of this Contract; or

B. will be obtained by the Principal after the date of this Contract where required;

(ii) unless otherwise expressly specified in Schedule 4, comply with, satisfy, carry out and fulfil the conditions and requirements of all
Authority Approvals (whether obtained by the Contractor or the Principal), including those conditions and requirements that the Principal is required, under the terms of the Authority Approvals, including the Planning Approvals, to comply with, satisfy, carry out and fulfil;

(iii) in respect of any:

A. Authority Approvals which are to be obtained by the Principal after the date of this Contract; or

B. conditions and requirements of Authority Approvals which pursuant to Schedule 4 are to be satisfied or fulfilled by the Principal,

provide the Principal with such reasonable assistance as may be reasonably required by the Principal to enable the Principal to obtain the Authority Approvals or satisfy or fulfil the conditions and requirements;

(iv) for the purpose of obtaining all Authority Approvals as required by clause 2.3(c)(i), prepare all associated studies and reports required because of the design of the Works or Temporary Works proposed by the Contractor;

(v) as a condition precedent to Completion of the Works or a Portion, ensure that it has:

A. obtained all Authority Approvals it is required to obtain under this Contract;

B. complied with, carried out and fulfilled all conditions and requirements of all Authority Approvals it is required to comply with, carry out and fulfil under this Contract;

C. without limiting clauses 2.3(c)(v)A and 2.3(c)(v)B, complied with, carried out and fulfilled all conditions and requirements of the Planning Approvals which it is required to comply with, carry out and fulfil (including obtaining the approval of any person for anything) under this Contract; and

D. unless it is included in Schedule 7 as an Authority Approval which the Principal will obtain, obtained and supplied to the Principal’s Representative certification that the Works or the Portion, as designed and built, comply with the requirements of the Building Code of Australia to the extent applicable,

including for the avoidance of doubt any Authority Approvals, conditions or requirements which must be obtained, carried out or fulfilled to enable the Principal and any Rail Transport Agency to occupy and use the Works or Portion for its intended purpose.
(d) Where there is a Change in Law:

(i) if either party wishes this clause 2.3(d)(i) to apply, then that party must, within 14 days of the Change in Law, give a written notice to the other and the Principal's Representative stating that clause 2.3(d)(i) applies and containing details of the Change in Law, including, where the notice is given by the Contractor, its impact on the Contractor's costs of carrying out the Contractor's Activities and any effect it will have on the Contractor's Program;

(ii) if such a notice is given the Principal's Representative will determine:

A. where the Change in Law decreases the Contractor's costs of carrying out the Contractor's Activities in compliance with the Change in Law, a reasonable amount as the amount of the decrease; or

B. where the Change in Law increases the Contractor's costs of carrying out the Contractor's Activities in compliance with the Change in Law, the amount of the increased costs reasonably incurred by the Contractor on the basis that the Contractor took all reasonable steps to mitigate those increased costs,

and the Contract Sum will be increased or decreased by that amount; and

(iii) the Contractor must comply with the Change in Law.

(e) If a Change in Authority Approval occurs which necessitates a Variation, the Contractor must:

(i) if the relevant Authority Approval was obtained by the Principal, within 14 days of the date on which the Contractor becomes aware or ought reasonably to have become aware of the Change in Authority Approval taking effect; or

(ii) otherwise within 14 days of the Change in Authority Approval taking effect,

notify the Principal's Representative in writing with detailed particulars of the reason why the Change in Authority Approval necessitates a Variation. If the Contractor gives such a notice and the Change in Authority Approval does necessitate a Variation the Principal's Representative will direct a Variation under clause 6.2(a) after which relevant adjustments will be made under clause 6.4.

(f) Other than as set out in clause 2.3(e), the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with:

(i) any Change in Authority Approval;
(ii) an Authority Approval obtained or issued or which otherwise takes effect after the date of this Contract;

(iii) a change in an Authority Approval after the date of this Contract; or

(iv) any:

A. assumptions the Contractor makes; or

B. failure by the Contractor to adequately satisfy itself, as to what work methodologies and Temporary Works might be permissible under all Authority Approvals.

(g) Without limiting the Contractor's obligations under any other clause of this Contract, insofar as the Contractor, in carrying out the Contractor's Activities, is:

(i) a person conducting a business or undertaking that designs plant, substances or structures to whom section 22 of the Work Health and Safety Act 2011 (NSW) applies;

(ii) a person conducting a business or undertaking that manufactures plant, substances or structures to whom section 23 of the Work Health and Safety Act 2011 (NSW) applies;

(iii) a person conducting a business or undertaking that imports plant, substances or structures to whom section 24 of the Work Health and Safety Act 2011 (NSW) applies;

(iv) a person conducting a business or undertaking that supplies plant, substances or structures to whom section 25 of the Work Health and Safety Act 2011 (NSW) applies; or

(v) a person conducting a business or undertaking that installs, constructs or commissions plant or structures to whom section 26 of the Work Health and Safety Act 2011 (NSW) applies,

the Contractor shall comply with the applicable obligations under the WHS Legislation.

(h) The parties acknowledge and agree that as at the date of this Contract, the Principal is preparing applications for the Planning Approvals and that the Contractor may not commence any work on the Site until the Works Planning Approval has been obtained.

(i) The:

(i) Principal must obtain:

A. the Works Planning Approval no later than the last date referred to in clause 3.1(b)(i); and
B. the Operations Planning Approval no later than the Date of Completion; and

(ii) Principal's Representative will give notice to the Contractor, together with a copy of the applicable Planning Approval, as soon as reasonably practicable following the grant of a Planning Approval.

(j) If the Contractor considers that there is a Difference in Planning Approval Conditions, and that Difference in Planning Approval Conditions necessitates a Variation:

(i) the Contractor must, within 10 Business Days of the receipt of a notice from the Principal's Representative given pursuant to clause 2.3(i)(ii), notify the Principal's Representative in writing with detailed particulars of the reason why the Difference in Planning Approval Conditions necessitates a Variation; and

(ii) where the Contractor gives such notice and the Difference in Planning Approval Conditions does necessitate a Variation, the Principal's Representative will direct a Variation under clause 6.2(a) after which relevant adjustments will be made under clause 6.4.

(k) Irrespective of whether or not the Contractor has given the notice under clause 2.3(j)(i), the Principal's Representative may (in its absolute discretion) direct a Variation under clause 6.2(a) if it believes a Difference in Planning Approval Conditions necessitates a Variation, after which relevant adjustments will be made under clause 6.4.

(l) The parties acknowledge and agree that the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with any Difference in Planning Approval Conditions other than where a Variation is directed as contemplated by clause 2.3(j) or clause 2.3(k).

2.4 Legal Challenge to Approval

(a) If there is a legal challenge, proceedings or action in relation to the assessment or determination of an application for an Authority Approval or a modification of an Authority Approval, performance of the Contractor's Activities or the Works, or compliance with any Authority Approval under:

(i) the Environmental Planning and Assessment Act 1979 (NSW);

(ii) the Protection of the Environment Operations Act 1997 (NSW);

(iii) the Environment Protection and Biodiversity Conservation Act 1999 (Cth); or

(iv) any other Law,

the Contractor must continue to perform its obligations under this Contract unless, as a result of that legal challenge, proceedings or action, it is otherwise:
(v) ordered or directed by an Authority;
(vi) ordered by a court or tribunal; or
(vii) directed by the Principal or the Principal's Representative.

(b) Subject to clause 2.4(c), the Principal must pay the Contractor the costs reasonably incurred by the Contractor as a direct result of:

(i) an Authority order referred to in clause 2.4(a)(v);
(ii) a court order referred to in clause 2.4(a)(vi); or
(iii) a direction by the Principal referred to in clause 2.4(a)(vii),

to the extent that such Authority order, court order, or direction prevents the Contractor from achieving Completion of the Works or a Portion by the relevant Date for Completion.

(c) Clause 2.4(b) does not apply to the extent that a legal challenge, proceedings or action of the kind referred to in clause 2.4(a) is brought or upheld due to the Contractor's non-compliance with its obligations under this Contract or any Authority Approval.

2.5 Services

The Contractor must:

(a) obtain and pay for any Service it needs to perform its obligations under this Contract;
(b) relocate, remove, modify, support, protect, reinstate and provide all Services necessary for the Contractor to comply with its obligations under this Contract;
(c) assume the risk of the existence, location, condition and availability of all Services required for the execution of the Contractor's Activities;
(d) provide and maintain all signage, line marking, flagmen, barriers and other road traffic devices needed by the Contractor to comply with its obligations under this Contract, including any such devices reasonably required by the Principal's Representative;
(e) despite any other provision in the Contract to the contrary, ensure that no Services are:
   (i) damaged or destroyed; or
   (ii) disconnected, disrupted, interfered with or interrupted during normal operating hours,

by reason of the performance of the Contractor's Activities;

(f) cooperate and coordinate with the owners of all Services, and implement their requirements as part of the Contractor's Activities; and
(g) indemnify the Principal against any claim, damages, expense, costs, loss, liability, fine or penalty the Principal suffers or incurs arising out of or in any way in connection with any disconnection, interference with, interruption or disruption to any Service arising out of or in any way in connection with the Contractor's Activities, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal contributed to the claim, damages, expense, costs, loss, liability, fine or penalty.

The Contractor agrees it is responsible for, and assumes the risk of all additional work, increased costs and any damages, expense, loss, liability, delay or disruption (including any delay in achieving Completion) it suffers or incurs arising out of or in any way in connection with the existence, location, condition and availability of all Services required for the execution of the Contractor's Activities.

2.6 Crown Building Work

(a) The Contractor must, in relation to any part of the Works that is a Crown Building Work, certify (on behalf of the Principal) as required by section 109R of the Environmental Planning and Assessment Act 1979 (NSW).

(b) Any certification under clause 2.6(a) will not lessen or otherwise affect:

(i) the Contractor's other liabilities or responsibilities under this Contract or otherwise according to law; or

(ii) the Principal's rights against the Contractor, whether under this Contract or otherwise according to law.

2.7 Unconditional Undertakings

(a) Without limiting clause 2.7(d), the unconditional undertakings to be provided under this clause 2.7 are for the purpose of ensuring the due and proper performance by the Contractor of its obligations under this Contract.

(b) The Contractor must give the Principal within 10 days of the date of this Contract, two unconditional undertakings:

(i) each for of the Original Contract Price;

(ii) each in the form of Schedule 8;

(iii) each in favour of the Principal;

(iv) each issued by an Institution approved by the Principal that maintains the Required Rating; and

(v) where required by Law, duly stamped.

(c) Subject to its rights to have recourse to the unconditional undertakings and subject to clauses 2.7(f), 14.10 and 14.12, the Principal must:

(i) within 28 days after the Date of Completion of the Works or the last Portion to reach Completion, release so much of the unconditional
undertakings provided by the Contractor under clause 2.7(b) as may be then held by the Principal, so that it then holds ______ of the Original Contract Price; and

(ii) within 28 days after the expiration of all the Defects Rectification Periods (excluding any extensions under clause 8.6), release so much of the unconditional undertakings provided by the Contractor under clause 2.7(b) as may be then held by the Principal, to such amount as the Principal's Representative determines to be reasonable, having regard to the work to which the remaining Defects Rectification Periods (including any extensions under clause 8.6) apply; and

(iii) within 28 days after the Date of Final Completion, release the balance of the unconditional undertakings provided by the Contractor under clause 2.7(b) as may be then held by the Principal.

(d) The Principal:

(i) may have recourse to any unconditional undertaking provided under this clause 2.7 or clause 11.7(b) at any time;

(ii) is not obliged to pay the Contractor interest on:

A. any unconditional undertaking; or

B. the proceeds of any unconditional undertaking if it is converted into cash; and

(iii) does not hold the proceeds referred to in clause 2.7(d)(ii)B on trust for the Contractor.

(e) The Contractor must not take any steps to injunct or otherwise restrain:

(i) any issuer of any unconditional undertaking provided under this clause 2.7 or clause 11.7(b) from paying the Principal pursuant to the unconditional undertaking;

(ii) the Principal from taking any steps for the purposes of making a demand under any unconditional undertaking provided under this clause 2.7 or clause 11.7(b) or receiving payment under any such unconditional undertaking; or

(iii) the Principal using the money received under any unconditional undertaking provided under this clause 2.7 or clause 11.7(b).

(f) Despite any other provision of this Contract to the contrary, where this Contract may otherwise require the Principal to release an unconditional undertaking or this Contract is terminated by the Principal either pursuant to clause 14 or by reason of the Contractor repudiating this Contract (or otherwise at law), the Principal may continue to hold the unconditional undertaking after the date for its release or the termination of this Contract to the extent of any claim which the Principal may have against the Contractor arising out of, or in any way in
connection with, this Contract or the Contractor's Activities whether for damages (including liquidated damages) or otherwise.

2.8 Long Service Leave Levy

Where the Contractor is specified in Schedule 1 as being responsible for payment of the long service leave levy, then, before commencing any construction work under this Contract (including any construction of Temporary Works), the Contractor must:

(a) pay to the Long Service Corporation or that body's agent all amounts payable for the long service leave levy in respect of the Contractor's Activities under the Building and Construction Industry Long Service Payments Act 1986 (NSW); and

(b) produce to the Principal's Representative the documents evidencing payment of the amounts referred to in clause 2.8(a).

2.9 Co-operation and coordination with Interface Parties

(a) The Contractor:

(i) acknowledges that:

A. the Contractor's Activities may interface with the Interface Works;

B. Interface Parties will be executing work or performing services on parts of the Site or Extra Land, or adjacent to the Site or Extra Land, at the same time as the Contractor is performing the Contractor's Activities;

C. the timing of the Interface Parties' activities will be as discovered by the Contractor;

D. it may require certain design and work methodology input from Interface Parties to coordinate the design of the Works and Temporary Works with the Interface Works;

E. Interface Parties may require the Contractor to provide information (including design and work methodology information) to them to coordinate the design of the Interface Works with the Works and Temporary Works, and this must be provided in a timely manner by the Contractor; and

F. any delay in the performance of the Contractor's Activities or in the Contractor providing information to, or co-operating and co-ordinating with any Interface Party, may adversely impact upon, delay or disrupt any one or more Interface Parties or the Contractor's Activities in a way which may lead to the Principal suffering or incurring additional costs, losses and damages; and
must at all times:

A. permit Interface Parties to carry out the Interface Works on the applicable parts of the Site or Extra Land, or on any adjacent property to the Site or Extra Land:
   1) at the same time as the Contractor is performing the Contractor's Activities; and
   2) at the times agreed with the Interface Parties, or failing agreement at the times determined by the Principal's Representative,

and for this purpose ensure they have safe, clean and clear access to those parts of the Site or Extra Land, or property adjacent to the Site or Extra Land, required by them for the purpose of carrying out their work;

B. protect the Works, Temporary Works and other improvements on the Site or Extra Land from accidental damage by Interface Parties and provide means of receiving, storing and protecting goods and equipment supplied by Interface Parties;

C. fully co-operate with Interface Parties, and do everything reasonably necessary to:
   1) facilitate the Interface Works, including providing Interface Parties with such assistance as may be directed by the Principal's Representative;
   2) ensure the effective coordination of the Contractor's Activities with the Interface Works;

D. do everything reasonably necessary to carefully coordinate and interface the Contractor's Activities with the Interface Works and for this purpose:
   1) make proper allowance in all programs for the Interface Works;
   2) review all programs provided by Interface Parties and confirm that they adequately allow for the Contractor's Activities and the interfaces of the Interface Works with the Contractor's Activities;
   3) monitor the progress of the Interface Works;
   4) notify the Principal's Representative of any interface or sequence of activities that may affect the commencement, progress or Completion of the Works or any Portion;
5) provide the Interface Parties with sufficient information about the current and expected Contractor's Activities to assist them to coordinate their Interface Works with the Contractor's Activities; and

6) it must cooperate, meet with, liaise, and share information so that the Contractor and the relevant Interface Party each comply with the provisions of the relevant EPL (if applicable);

E. do everything reasonably necessary to perform the Contractor's Activities so as to minimise any interference with or disruption or delay to the Interface Works;

F. be responsible for coordinating the Contractor's Activities, including work sequencing, testing and commissioning, safety and industrial relations matters with those affecting, and influenced by, Interface Parties' Personnel and work, including providing to the Principal's Representative copies of working method statements for those parts of the Works or Temporary Works which are adjacent to or interface with any Interface Works, at least 15 Business Days prior to commencing the work described in the work method statement;

G. provide for the purposes of clause 2.9(a)(ii)F (unless otherwise directed by the Principal's Representative), the number and form of copies of the work method statements specified in Schedule 1;

H. work directly with Interface Parties where required to complete the design of the Works and Temporary Works and provide all necessary information to Interface Parties in respect of the Works and Temporary Works to permit the Interface Parties to complete the design of any works which are Interface Works so that they are acceptable to the Principal and otherwise comply with this Contract, including the Works Brief and the Contractor's Outline Design;

I. work in accordance with:

1) the Contract Management Plan that has been submitted for review under clause 9.8, and, in respect of which:

   a) the Contractor has received the notice referred to in clause 9.8(c)(ii)C; or

   b) the relevant period of time in clause 9.8(c)(ii) has expired and the Principal's Representative has not
rejected the Contractor Management Plan or made any comments on it (except, in the case of comments, where the Contractor has responded to the comments within the required time period and in a manner satisfactory to the Principal's Representative as referred to in clause 9.8(d)); and

2) the TfNSW Standard Requirements;

J. attend interface coordination meetings chaired by the Principal's Representative with Interface Parties and others at such times as may be reasonably required by the Principal's Representative, to review current and future issues, including the exchange of information, status, problems, solutions, and newly identified interfaces;

K. when information is required from an Interface Party, provide reasonable written notice which must be at least 10 days (except in special circumstances) or any longer period of notice required under the Works Brief to that Interface Party requesting such information and specifying the date by which such information is required, with a copy to the Principal's Representative;

L. ensure that any written notice given under clause 2.9(a)(ii)K provides the Interface Party with the longest possible time for the provision of the information;

M. when any information is requested by Interface Parties, including confirming the compatibility or suitability of the design of, work methods to be used in, or any other aspect of, the Interface Works with the Works or the Contractor's Activities:

1) provide the information to the Interface Party, with a copy to the Principal's Representative, within the time requested by the Interface Party provided that this time period is reasonable;

2) ensure that such information is provided to Interface Parties by the requested dates; and

3) ensure and warrant that the information provided is accurate; and

N. use its best endeavours to resolve any problems, and work closely and iteratively, with Interface Parties, including providing design options, iterations, and work methodologies, to achieve the best solution to such problems, related to:
1) the provision of information;
2) the obtaining of information;
3) the adequacy of information provided to, or received from, Interface Parties;
4) the compatibility of the Works and Temporary Works with the Interface Works;
5) coordination in accordance with this clause 2.9(a); and
6) technical issues with the information provided to, or received from, Interface Parties;

(iii) must, in the event that despite using its best endeavours, and working closely and iteratively with the Interface Parties, the Contractor and any Interface Parties fail to resolve a problem between them:

A. give written notice to the Principal's Representative with a copy to the Interface Party describing the problem; and
B. attend any coordination meetings as requested, and to be chaired, by the Principal's Representative, and in good faith work with those present to attempt to resolve the problem;

(iv) must promptly advise the Principal's Representative of all matters arising out of the liaison with Interface Parties that may involve a change to design or construction work under this Contract or otherwise have an adverse effect upon the Contractor's Activities; and

(v) if required by the Principal's Representative, must enter into a Site Interface Agreement.

(b) The parties acknowledge that conditions similar to those in clause 2.9(a) applying to the Contractor will apply to all Interface Parties engaged by the Principal, whether working on the Site or on any other site.

(c) Where the Contractor has complied with all its obligations in clause 2.9(a), the Contractor must promptly give the Principal's Representative written notice of any interface issue or dispute with any Interface Party.

(d) Upon receipt of the Contractor's notice under clause 2.9(c), the Principal's Representative must:

(i) within 5 Business Days convene a meeting between the Contractor, the relevant Interface Party and any other relevant person (as reasonably determined by Principal's Representative); and
(ii) work in good faith with the Contractor and the Interface Party to resolve the issues or dispute.

(e) The Contractor:

(i) acknowledges and agrees:

A. no act or omission by an Interface Party will, whether or not it causes any delay, disruption or interference to the Contractor's Activities, constitute an act or omission of the Principal or the Principal's Representative (including any breach of Contract or Variation directed by the Principal's Representative); or

B. that except where the Principal's Representative directs a Variation in circumstances where the Contractor has fully complied with clause 2.9(a), the Principal will not be liable upon any Claim by the Contractor arising out of or in any way in connection with:

1) the Interface Parties carrying out their work; or

2) any act or omission of an Interface Party; and

(ii) warrants that the Original Contract Price and the Contractor's Program contain sufficient allowances for the assumption by the Contractor of the obligations and risks under clause 2.9(a) and this clause 2.9(e), including the cost of all the design iterations required to accommodate Interface Works.

2.10 Incident Management Reporting

(a) The Contractor must identify clear guidelines for responding to any Incident arising from the performance of the Contractor's Activities and establish procedures to ensure that the Principal's Representative is promptly notified of any Incident in accordance with the TfNSW Standard Requirements.

(b) Should an Incident occur which:

(i) is reportable under any relevant Law, the Contractor must immediately report the Incident to the relevant Authority and the Principal's Representative in accordance with the TfNSW Standard Requirements; and

(ii) relates to rail safety, the Contractor must notify the Principal and any relevant Rail Transport Agency management centre or the nearest network control officer.

(c) In relation to any environmental or safety Incident involving Hazardous Material, Contamination, Pollution or other waste that arises during the performance of the Contractor's Activities, the Contractor must:
at its own cost promptly take all appropriate action to manage and dispose of all Hazardous Material, Contamination, Pollution or other waste arising from the Incident;

(ii) comply with all relevant Laws including any requirements to give notice to a relevant Authority; and

(iii) at its own cost manage the Incident in a manner which minimises damage to the reputation of the Principal including complying with any reasonable request of the Principal's Representative.

(d) If the Contractor causes or contributes to the occurrence of an Incident and fails to ensure that the Principal is promptly notified, the Principal, may without prejudice to any other right it has under this Contract, immediately terminate the Contract by written notice to the Contractor.

(e) Without prejudice to the Principal's other rights under this Contract, if the Principal forms the reasonable view, upon the occurrence (or imminent risk of the occurrence) of an Incident, that the Contractor is not taking adequate measures to manage the Incident or control or eliminate the adverse impact or the risk of such an Incident arising in the future, the Principal may (but has no obligation) to take such actions as it deems necessary to overcome and alleviate the cause and consequences of any Incident. If the Principal takes any such action it will be entitled to recover its reasonable costs and expenses from the Contractor as a debt due from the Contractor to the Principal.

(f) Without prejudice to the Principal's other rights under this Contract, the Principal's Representative may issue a direction under clause 10.14 requiring the Contractor to suspend the carrying out of the whole or any part of the Contractor's Activities in the event:

(i) of any Incident involving:

A. a significant spill of Contamination;

B. any accident or release of Contamination which it believes may pose a danger to health, life or property; or

C. any actual damage or harm to the Environment or a significant risk of harm to the Environment; or

(ii) any safety incident occurs which leads to, or has the potential to lead to, a fatality or injury to person (including any incident which must be reported to New South Wales WorkCover Authority) or damage to property.

The Principal will not be liable upon any Claim by the Contractor for any cost, expense, loss, delay, disruption or penalty arising out of or in connection with:

(iii) any suspension due to a direction to suspend issued, or for the failure to issue a notice to suspend, in the circumstances set out in this clause 2.10(f); and
(iv) complying with a direction issued under clause 2.10(g), including complying with the steps which Principal's Representative directs that the Contractor must take before the Principal's Representative will issue a direction to recommence the Contractor's Activities.

(g) If the Principal's Representative issues a notice to suspend in the circumstances set out in clause 2.10(f), the Contractor may not recommence the Contractor's Activities in respect of the part of the Contractor's Activities to which the notice relates until the Principal's Representative issues a direction to the Contractor permitting the Contractor to recommence the Contractor's Activities affected by the notice to suspend.

If the Principal's Representative issues a notice to suspend in the circumstances set out in clause 2.10(f) the Principal's Representative may also direct the Contractor as to the steps which the Contractor must take before the Principal's Representative will issue a direction pursuant to clause 10.14 permitting the Contractor to recommence the Contractor's Activities affected by the notice to suspend. In these circumstances the Contractor must, at its cost, comply with the direction of the Principal's Representative, and only once the Principal's Representative is satisfied that the Contractor has complied with the requirements of the direction issued under this clause 2.10(g) will the Principal's Representative issue a direction to the Contractor permitting the Contractor to recommence the Contractor's Activities affected by the notice to suspend.

(h) The Principal will be entitled to recover its reasonable costs and expenses for any action the Principal's Representative deems necessary to avoid the issue of any notice to suspend in the circumstances set out in clause 2.10(f), as a debt due and payable from the Contractor to the Principal.

2.11 Principal Contractor

(a) In this clause 2.11 the terms 'construction project', 'construction work', 'principal contractor' and 'workplace' have the same meanings assigned to those terms under the WHS Legislation.

For the purpose of the WHS Legislation and the Contract, the Works and any Other Contractor Work is taken to be part of the same construction project.

(b) If the Contractor is specified in Schedule 1 as being the principal contractor:

(i) the Principal engages the Contractor as the principal contractor in respect of the Contractor's Activities and all Other Contractor Work carried out on the Site;

(ii) the Principal authorises the Contractor to have management and control over the Site and of each workplace at which the Contractor's Activities and the Other Contractor Work is to be carried out and to discharge the duties of a principal contractor under the WHS Legislation; and
the Contractor accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Legislation.

(c) To the extent not prohibited by law, the Contractor must indemnify the Principal against any damage, expense, loss (including reasonable legal fees) or liability suffered or incurred by the Principal arising out of or in connection with the Contractor's failure to discharge the duties imposed on a principal contractor by the WHS Legislation that the Contractor is required to discharge in accordance with this clause 2.11.

(d) Where the Contractor is not specified in Schedule 1 to be the principal contractor, the Contractor:

(i) acknowledges that the person who is specified in Schedule 1 is the principal contractor in respect of all construction work carried out by or on behalf of the Principal on that Site during the period which that person is specified as being the principal contractor in Schedule 1; and

(ii) must comply with any exercise by the person referred to in subparagraph (i) of such authority as is necessary to enable that person to discharge the responsibilities imposed on a principal contractor by the WHS Legislation.

(e) Without limiting anything else in this clause 2.11, the Contractor must, in respect of any construction work carried out on all or part of the Extra Land, discharge the duties of a principal contractor under the WHS Legislation in respect of such construction work.

2.12 Third Party Agreements

(a) The Contractor:

(i) acknowledges that the Principal has entered or will enter into the Third Party Agreements;

(ii) must:

A. unless otherwise expressly specified in Schedule 4, comply with, satisfy, carry out and fulfil the conditions and requirements of all Third Party Agreements, including those conditions and requirements that the Principal is required, under the terms of the Third Party Agreements, to comply with, satisfy, carry out and fulfil; and

B. comply with and fulfil any conditions, obligations or requirements allocated to the Contractor in Schedule 4 that are additional to or more stringent or onerous than the conditions and requirements described in clause 2.12(a)(ii)A;
must assist the Principal in any way that the Principal reasonably requires to enable the Principal to perform the obligations identified for the Principal to perform in Schedule 4;

must comply with any reasonable directions of the Principal's Representative (who will have regard to any reasonable submissions made by the Contractor to the Principal's Representative) in relation to compliance with the relevant conditions and requirements of each Third Party Agreement;

must, where a Third Party Agreement provides for the Principal to provide a document, notice or information to the Third Party, provide such document, notice or information to the Principal (and not to the Third Party) within a reasonable time sufficient for the Principal to review and comment on the document, notice or information and provide it to the Third Party within the time period required by a Third Party Agreement;

must, in carrying out the Contractor's Activities:

A. ensure that no act or omission of the Contractor constitutes, causes or contributes to any breach by the Principal of its obligations to the Third Party under the Third Party Agreement; and

B. otherwise act consistently with the terms of the Third Party Agreement;

agrees that whenever, pursuant to the terms of a Third Party Agreement, the Principal makes an acknowledgment or gives a release or warranty, indemnity, or covenant to the Third Party under any clause of the Third Party Agreement then, subject to what is provided in Schedule 4 and the other terms of this Contract, the Contractor is deemed to make the same acknowledgment or give the same release or warranty, indemnity or covenant to the Principal on the same terms and conditions as the acknowledgment, release or warranty, indemnity or covenant made or given by the Principal under a Third Party Agreement in the same way as if the relevant terms of the acknowledgment, release or warranty, indemnity or covenant were set out in full in this Contract; and

acknowledges that to the extent that a Third Party Agreement contains a provision pursuant to which the Third Party is stated to make no representation as to a state of affairs, the Contractor agrees that the Principal similarly makes no representation to the Contractor in respect of that state of affairs in the same way as if the relevant terms of the Third Party Agreement were set out fully in this Contract.

The parties acknowledge that:

(i) as at the date of this Contract:
A. the terms and conditions of the Third Party Agreements identified in Schedule 1 as "Draft" have not been finalised between the Principal and the relevant Third Party (each a "Draft Third Party Agreement"); and

B. certain Third Party Agreements may need to be replaced with new agreements on different terms (each a "Replacement Third Party Agreement");

(ii) the Contractor has reviewed the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements and has included in the Original Contract Price all of its costs (including the cost of all physical works and allowance for any delay or disruption) in complying with its obligations under clause 2.12(a) and the Principal's obligations under the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements other than those identified in Schedule 4 for the Principal to perform;

(iii) following:

A. finalisation of any Draft Third Party Agreement; or

B. the execution of any Replacement Third Party Agreement, after the date of this Contract, the Principal must promptly give the Contractor a copy of the:

C. executed version of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable), together with (in the case of a Replacement Third Party Agreement) details of the Third Party Agreement that is replaced; and

D. amendments (if any) to Schedule 4 arising out of the execution of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable) ("Revised Allocation");

(iv) within 28 days of receipt of an executed copy of a Draft Third Party Agreement or a Replacement Third Party Agreement (as applicable), and the associated Revised Allocation, the Contractor must notify the Principal's Representative in writing if any terms and conditions of:

A. the executed version of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); or

B. the associated Revised Allocation, are substantially more onerous than those contained in:

C. the relevant Draft Third Party Agreement; and

D. Schedule 4,
(“Difference in Conditions”) and:

E. where the Difference in Conditions or Revised Allocation will result in additional administration, details of such additional administration costs to be incurred by the Contractor;

F. where the Difference in Conditions or Revised Allocation will result in additional physical works:

1) not forming part of the Contractor’s Activities; and

2) which is otherwise in addition to any physical works contemplated by the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements,

details of such additional physical works and the cost of carrying out such additional physical works; and

G. where the Difference in Conditions or Revised Allocation alters the Contractor’s risk profile under this Contract and creates a contingent liability which the Contractor did not previously bear and which may convert to an actual liability on the happening of another event (“Trigger Event”),
details of the altered risk profile, contingent liability and Trigger Event and a notice of intention to claim;

(v) if the Principal does not receive a notice from the Contractor under clause 2.12(b)(iv) within the 28 day period:

A. Schedule 4 is amended in accordance with the Revised Allocation as and from the date of receipt by the Contractor of the:

1) executed copy of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); and

2) Revised Allocation,

under clause 2.12(b)(iii); and

B. the Contractor must carry out its obligations under this Contract on the basis of:

1) the executed version of the Draft Third Party Agreement or Replacement Third Party Agreement (rather than the Third Party Agreement that is replaced) (as applicable); and

2) the Revised Allocation,
without any adjustment to the Contract Sum or any entitlement to make any other Claim;

(vi) if the Principal's Representative receives a notice from the Contractor under clause 2.12(b)(iv) within the 28 day period, then:

A. Schedule 4 is amended in accordance with the Revised Allocation as and from the date of receipt by the Contractor of the:

1) executed copy of the Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); and

2) Revised Allocation, under clause 2.12(b)(iii);

B. the Contractor must carry out its obligations under this Contract on the basis of:

1) the executed version of the Draft Third Party Agreement or Replacement Third Party Agreement (rather than the Third Party Agreement that is replaced) (as applicable); and

2) the Revised Allocation;

C. the Principal's Representative must:

1) where the Contractor has provided the details referred to in clause 2.12(b)(iv)E, give the Contractor a notice setting out the Principal's Representative's determination of the reasonable, additional administration costs incurred or to be incurred by the Contractor in complying with the executed version of the Draft Third Party Agreement, the Replacement Third Party Agreement or Revised Allocation and the Contract Sum will be increased by that amount; and

2) where the Contractor has provided the details referred to in clause 2.12(b)(iv)F, if the terms of any executed version of a Draft Third Party Agreement, the relevant Replacement Third Party Agreement or Revised Allocation require the Contractor to carry out any physical work which:

a) does not form part of the Contractor's Activities; and
b) is additional to any physical works contemplated by the Third Party Agreements executed at the date of this Contract and the Draft Third Party Agreements,

direct the Contractor to carry out such physical work as a Variation under clause 6.2; and

D. where the Contractor has provided the details referred to in clause 2.12(b)(iv)G, the Principal’s Representative’s obligation to make a determination in relation to the altered risk profile or contingent liability referred to in clause 2.12(b)(iv)G is deferred until the Trigger Event occurs;

(vii) if:

A. the Contractor issues a notice under clause 2.12(b)(iv) and provides the details referred to in clause 2.12(b)(iv)G; and

B. a Trigger Event occurs during the implementation of:

1) the executed Draft Third Party Agreement or the Replacement Third Party Agreement (as applicable); and

2) the Revised Allocation,

the Contractor may issue a notice to the Principal’s Representative providing details of the reasonable costs incurred in satisfying the actual liability which has arisen;

(viii) if the Principal’s Representative receives a notice under clause 2.12(b)(vii), the Principal’s Representative must give the Contractor a notice setting out the Principal’s Representative’s determination of the reasonable, additional costs incurred by the Contractor in satisfying the actual liability which has arisen and the Contract Sum will be increased by that amount; and

(ix) notwithstanding the provisions of clause 2.12(b), the amount of any additional costs incurred by the Contractor as a result of the circumstances referred to in clause 2.12(b) will not be added to the Contract Sum unless the Contractor has taken all proper and reasonable measures to:

A. avoid the Trigger Event; and

B. avoid or minimise the extra costs resulting from such circumstances.

(c) The Contractor:

(i) must indemnify the Principal from and against:
A. any claim by a Third Party against the Principal; or

B. any liability of the Principal, to a Third Party,

arising out of or in any way in connection with a Third Party Agreement (including a Draft Third Party Agreement or a Replacement Third Party Agreement executed after the date of this Contract) to the extent that the claim or liability arises out of or in any way in connection with the Contractor's Activities, provided that the Contractor's responsibility to indemnify the Principal will be reduced to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal contributed to the claim or liability; and

(ii) agrees that it:

A. bears the full risk of:

1) complying with the obligations under this clause 2.12; and

2) any acts or omissions of Third Parties; and

B. will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with the risks referred to in clause 2.12(c)(ii)A.

2.13 Commissioning and Operational Readiness

The Contractor acknowledges that:

(a) Commissioning and Operational Readiness are part of the Contractor's Activities; and

(b) Commissioning and Operational Readiness must be completed as a condition precedent to Completion of the Works.

2.14 Contemporaneous Work

This clause 2.14 applies if Schedule 1 so provides.

The Contractor must:

(a) inspect all Contemporaneous Work within the periods set out in Schedule 1 after the Principal's Representative gives written notice to the Contractor to do so;

(b) if it discovers any defects, omissions or other matters in or connected with any Contemporaneous Work that in its opinion will render or are likely to render the Contemporaneous Work unsuitable, unsatisfactory or detrimental in any way to the proper execution of the Works or carrying out of the Contractor's Activities, within 10 Business Days of the Inspection notify the Principal's Representative in writing providing:
(i) full particulars of the defects, omissions or other matters identified; and

(ii) the reasons for the opinion formed by it in respect to the defects, omissions or matters identified;

(c) not commence or continue with the execution of any part of the Contractor's Activities dependent upon or appreciably affected by the Contemporaneous Work that is the subject of the notice referred to in clause 2.14(b), until the Principal's Representative issues a Variation Order under clause 2.14(e) or issues a direction under clause 2.14(f); and

(d) commence or continue with all other parts of the Contractor's Activities and mitigate any additional costs and delays resulting from the matters notified.

On receipt of the Contractor's notice under clause 2.14(b), the Principal's Representative will investigate the Contemporaneous Work that is the subject of the Contractor's notice, and within 10 Business Days of the receipt of the notice:

(e) if the Principal's Representative agrees that the defect, omission or other matter in relation to the Contemporaneous Work necessitates a Variation in order for the proper execution of the Works and carrying out of the Contractor's Activities, issue a Variation Order to the Contractor pursuant to clause 6.2 directing it to carry out a Variation; or

(f) if the Principal's Representative disagrees with the Contractor, issue a direction to the Contractor to commence or continue with the Contractor's Activities, whereupon the Contractor must nevertheless take such steps as may be necessary to ensure that the part of the Works or Contractor's Activities dependent upon or appreciably affected by the Contemporaneous Work complies with the requirements of this Contract.

If the Contractor fails to:

(g) inspect any Contemporaneous Work as required by this clause 2.14; or

(h) notify the Principal's Representative of any defects, omissions or other matters that should have been detected at the time of such Inspection by a competent and experienced contractor and that may render the Contemporaneous Work unsuitable, unsatisfactory or detrimental in any way for the proper execution of the Works or for carrying out the Contractor's Activities,

and the Contemporaneous Work subsequently proves to be unsuitable, unsatisfactory or detrimental for the proper execution of the Works or the carrying out of the Contractor's Activities, then:

(i) any work that is required to be executed in order to render the Contemporaneous Work suitable, satisfactory and non-detrimental for the proper execution of the Works or the carrying out of the Contractor's Activities must be performed by the Contractor at its own cost and expense; and

(j) the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with any work carried out or to be carried out by the Contractor under clause 2.14(i).
3. The Site and location of the Works

3.1 Access

(a) The Contractor acknowledges and agrees that access to the Site will be provided progressively to the Contractor as set out in Schedule 1.

(b) Subject to clause 3.1(c) and any other provision of this Contract affecting access, the Principal must:

(i) give, or ensure the Contractor has, access to the Site by the dates set out in Schedule 1 (and if a period is specified in relation to access to a part of the Site, then for the duration of that period); and

(ii) once access to a part of the Site is provided to the Contractor, thereafter continue to allow, or ensure that the Contractor is continued to be allowed, access to that part of the Site.

(c) The Contractor acknowledges and agrees that:

(i) access to the Site or any part thereof will only confer on the Contractor a right to such management and control as is necessary to enable the Contractor to execute the Contractor’s Activities in accordance with this Contract and to discharge its responsibilities under the WHS Legislation, including to discharge its responsibilities as principal contractor;

(ii) the Principal is not obliged to give the Contractor access to any part of the Site until the Contractor has:

A. complied with clause 2.7(b) of this Contract;

B. submitted the Project Work Health and Safety Management Plan, the Construction Environmental Management Plan and the Construction and Site Management Plan, as required by the TfNSW Standard Requirements, to the Principal’s Representative under clause 9.8 and the Principal’s Representative has not rejected the proposed Construction Environmental Management Plan, Construction and Site Management Plan or Project Work Health and Safety Management Plan within 15 Business Days after such submission in accordance with clause 9.8(c);

C. effected the insurance policies required under clauses 13.4, 13.5 and 13.6;

D. complied with clauses 13.4, 13.5 and 13.6 with respect to each insurance policy; and

E. complied with the matters set out in Schedule 1;
(iii) the Principal is not obliged to provide, and the Contractor may not be given, exclusive access to the Site;

(iv) the Principal is not obliged to carry out any work or provide any facilities to the Contractor which may be necessary to enable the Contractor to obtain access to the Site or carry out the Contractor's Activities; and

(v) the Principal and others will engage Other Contractors to work upon or in the vicinity of the Site and Extra Land at the same time as the Contractor.

(d) The Principal's obligations under clause 3.1(a) and 3.1(b) in respect of each part of the Site will cease upon the issue of a Notice of Completion in respect of the last Portion occupying that part of the Site, except to the extent required to allow the Contractor to comply with its obligations during the Defects Rectification Periods.

(e) Failure by the Principal to give access as required by clause 3.1(b) will not be a breach of this Contract but will entitle the Contractor to:

(i) an extension of time to any relevant Date for Completion under clause 10.10 if the requirements of that clause are satisfied; and

(ii) have the Contract Sum increased by the costs reasonably incurred by the Contractor as a direct result of the failure of the Principal to give access as required by clause 3.1(b) as determined by the Principal's Representative who must, where they are applicable, use the rates and prices in Schedule 1.

(f) The Contractor's entitlement under clause 3.1(e)(ii) will be its only right to payment of money arising out of or in any way in connection with the Principal's failure to give access as required by clauses 3.1(a), 3.1(b)(i) or 3.1(b)(ii).

3.2 Temporary Works

The Contractor must carry out all Temporary Works required to execute the Contractor's Activities so that the Temporary Works will be fit for their intended purpose.

3.3 Management and Control of the Site

At all times after being given access to the Site or a part of the Site under clause 3.1 and before the Date of Completion of the Works or the last Portion to reach Completion, the Contractor:

(a) without limiting any right of the Principal or the Principal's Representative under this Contract, and subject to clause 2.11, will be responsible for the management and control of the Site;

(b) must control access to, and the security and maintenance of, the Site or that part, except where the Principal's Representative advises otherwise;

(c) must ensure public safety on and adjacent to the Site or that part;
must provide for the continuous safe passage of the public, road and railway system users on existing roads, footpaths access ways, cycleways and Rail Tracks affected by the Contractor's Activities in accordance with this Contract;

must, subject to clauses 3.1 and 3.10 and the TfNSW Standard Requirements, and any relevant Law, limit access to the Site to its employees, Subcontractors and their employees and Subcontractors, and those with a legitimate interest in being on the Site as part of the Contractor's Activities;

must not impede access or Services to private property without the consent of the Principal's Representative and the relevant owner or occupier; and

must ensure that existing buildings (including residences, whether occupied or unoccupied) on the Site are preserved and protected from damage (including from theft and vandalism) until (where relevant) they are due for demolition by the Contractor if that forms part of the Contractor's Activities.

3.4 Land in Addition to the Site

The Contractor must:

(a) procure for itself and at its own cost the occupation or use of or relevant rights over any land or buildings in addition to the Site, including any land owned by a Rail Transport Agency, which is necessary or which it may require for the purposes of carrying out the Contractor's Activities;

(b) at its own cost carry out all activities and procure all Services necessary to make the Extra Land suitable for use by the Contractor;

(c) as a condition precedent to Completion of the Works or any Portion:

(i) rehabilitate any Extra Land in accordance with the requirements of all relevant Authorities and other relevant persons; and

(ii) unless not required by the Principal's Representative, provide to the Principal's Representative a properly executed certificate in the form of Schedule 13 or a release on terms otherwise satisfactory to the Principal's Representative from all claims or demands (whether for damages or otherwise howsoever arising) from the owner or occupier of, and from other persons having an interest in, such Extra Land; and

(d) indemnify the Principal against any damage, expense, loss, cost or liability suffered or incurred by the Principal arising out of or in any way in connection with a claim by the owner or occupier of, or any other person having any interest in any Extra Land, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal contributed to the damage, expense, loss, cost or liability.
3.5 **Site Conditions**

(a) Without limiting or otherwise affecting clause 3.6, the Contractor warrants and for all purposes it will be deemed to be the case that, prior to the date of this Contract the Contractor:

(i) examined, and relied solely upon its own assessment, skill, expertise and inquiries in respect of, all information relevant to the risks, contingencies and other circumstances having an effect on its Proposal and its obligations under this Contract and which was obtainable by the making of reasonable enquiries;

(ii) was given the opportunity prior to the date of this Contract to itself undertake, and to request others to undertake, tests, enquiries and investigations:

A. relating to the subject matter of Information Documents and Materials and the Site Conditions; and

B. for design purposes and otherwise;

(iii) had a sufficient opportunity to obtain and obtained all necessary legal, geotechnical and other technical advice in relation to the terms of this Contract, the Information Documents and Materials or the Site Conditions, as well as the risks, contingencies and other circumstances having an effect on its Proposal, the performance of its obligations and its potential liabilities under this Contract; and

(iv) undertook sufficient tests, enquiries and investigations, had sufficient information and obtained a sufficient understanding of the risks involved to enable it to make an informed decision about whether or not to enter into this Contract and assume the obligations and potential risks and liabilities which it imposes on the Contractor.

(b) Without limiting or otherwise affecting clause 3.6, the Principal makes no representation and gives no warranty to the Contractor in respect of:

(i) the Site Conditions likely to be encountered during the execution of the Contractor's Activities or otherwise in respect of the condition of:

A. the Site, Extra Land or their surroundings; or

B. any structure or other thing on, under, above or adjacent to the Site or Extra Land;

(ii) the existence, location, condition or availability of any Service on, under, above, adjacent to or related to the Site or Extra Land; or

(iii) the feasibility or fitness for purpose of the Contractor's Outline Design including, in respect of the constructability of the Contractor's Outline Design, having regard to the physical conditions and characteristics of the Site or Extra Land.
Subject to clauses 3.7(h) and 3.9(f), the Contractor accepts:

(i) the Site and Extra Land; and

(ii) any structures or other thing on, under or adjacent to the Site and Extra Land, and any Site Conditions,

in their existing condition subject to all sub-surface conditions and defects, and:

(iii) agrees it is responsible for, and assumes the risk of all additional work, increased costs and any damages, expense, loss, liability, delay or disruption (including any delay in achieving Completion) it suffers or incurs arising out of or in any way in connection with; and

(iv) must investigate, design and construct the Works and Temporary Works in accordance with this Contract, and will not be relieved of its obligations under this Contract irrespective of,

any of the following:

(v) the Site Conditions encountered in performing the Contractor’s Activities;

(vi) whatever may be the condition or characteristics (including all sub-surface conditions) of:

A. the Site or any Extra Land, the Environment or their surroundings; or

B. any structure or other thing on, above or adjacent to, or under the surface of, the Site or any Extra Land, the Environment or their surroundings; and

(vii) any assumptions, projections, estimates, contingencies or otherwise that the Contractor may have made in relation to the Site Conditions or the conditions or the characteristics of any of the matters referred to in sub-paragraph (vi),

including:

(viii) the existence of any Contamination or any decontamination;

(ix) the suitability or otherwise of any material or condition upon, under, over or in any way associated with the Site or Extra Land for use in the Contractor’s Activities;

(x) water, atmospheric, sub-surface and other conditions or characteristics or aspects; and

(xi) all existing systems and Services, above or below ground level and the location of all facilities with which such systems and Services are connected.
3.6 Information Documents and Materials

(a) Whether or not any Information Documents and Materials or any part thereof form an Exhibit to this Contract, the Contractor acknowledges that:

(i) the Information Documents and Materials or part thereof do not form part of this Contract and that clause 3.6(c) applies to the Information Documents and Materials or part thereof; and

(ii) where Information Documents and Materials or any part thereof form an Exhibit to this Contract, they do so only for the purposes of identification of that document or part thereof.

(b) Without limiting clause 3.6(c):

(i) the Contractor acknowledges that the Principal does not warrant, guarantee, assume any duty of care or other responsibility for or make any representation about the accuracy, adequacy, suitability or completeness of the Information Documents and Materials, and the Information Documents and Materials do not form part of this Contract;

(ii) the Principal will not be liable upon any Claim by the Contractor arising out of or in any way in connection with:

A. the provision of, or the purported reliance upon, or use of the Information Documents and Materials to or by the Contractor or any other person to whom the Information Documents and Materials are disclosed; or

B. a failure by the Principal to provide any other information, data or documents to the Contractor.

(c) The Contractor:

(i) warrants that it did not in any way rely upon:

A. any information, data, representation, statement or document made, or provided to the Contractor, by the Principal or anyone on behalf of the Principal or any other information, data, representation, statement or document for which the Principal is responsible or may be responsible whether or not obtained from the Principal or anyone on behalf of the Principal; or

B. the accuracy, adequacy, suitability or completeness of such information, data, representation, statement or document,

for the purposes of entering into this Contract except to the extent that any such information, statement or document forms part of this Contract;
(ii) warrants that it enters into this Contract based on its own investigations, interpretations, deductions, information and determinations; and

(iii) acknowledges that it is aware that the Principal has entered into this Contract relying upon the warranties, acknowledgements and agreements in clauses 3.6(c)(i) and 3.6(c)(i)A.

(d) The Contractor releases and indemnifies the Principal from and against:

(i) any claim against them by, or liability of them to, any person; or

(ii) (without being limited by clause 3.6(d)(i)) any costs, expenses, losses or damages suffered or incurred by them, arising out of or in any way in connection with:

(iii) the provision of, or the purported reliance upon, or use of the Information Documents and Materials, as referred to in clauses 3.6(b) and 3.6(c)(i), to or by the Contractor or any other person to whom the Information Documents and Materials are disclosed or a failure by the Principal to provide any information, data or documents to the Contractor (other than any information, data or documents which the Principal is required to provide to the Contractor by the terms of this Contract);

(iv) any breach by the Contractor of this clause 3.6; or

(v) the Information Documents and Materials being relied upon or otherwise used in the preparation of any information or document, including any information or document which is "misleading or deceptive" or "false or misleading" (within the meaning of those terms in sections 18 and 29 of Schedule 2 of the Competition and Consumer Act 2010 (Cth) or any equivalent provision of State or Territory legislation.

3.7 Hazardous Material

(a) The Contractor acknowledges and agrees that:

(i) there may be Hazardous Material in structures which are located on, in or under the Site; and

(ii) the Contractor’s Activities include taking the appropriate steps referred to in this clause 3.7 in respect of any Hazardous Material the Contractor discovers on the Site, regardless of whether the Contractor provides the report and notice referred to in clause 3.7(d) and 3.7(e) (respectively).

(b) Without limiting clause 3.7(a), the Principal does not make any representation or warranty (express or implied) as to the nature or extent of any Hazardous Material that may be present in structures on, in or under the Site.
The Contractor must provide for the management of any Hazardous Material in any structures in the Construction Environmental Management Plan and Project Work Health and Safety Management Plan and take all measures required to protect workers and others from Hazardous Material in accordance with Law, the WHS Guidelines and the TfNSW Standard Requirements.

Without limiting clauses 2.3(a)(i), 3.5 or 3.7(a), the Contractor must carry out a Hazardous Material audit prior to commencing any demolition work or construction work on structures which could potentially contain Hazardous Material and provide a copy of the audit report to the Principal's Representative.

Without limiting any obligation of the Contractor to comply with the Authority Approvals, the Contractor must submit a notice for the review of the Principal's Representative under clause 9.8 containing details of the works necessary to remove and dispose of any Hazardous Material identified in accordance with clause 3.7(d).

After the Principal's Representative has had the period referred to in clause 9.8(c)(ii) (or such shorter period as the Principal's Representative may advise to the Contractor in writing) and has not rejected the Contractor's notice under clause 3.7(e) the Contractor must comply with the notice and remove and dispose of any Hazardous Material in structures on, in or under the Site in accordance with relevant Laws, Authority Approvals and any direction of a relevant Authority where applicable.

Subject to clause 3.7(h), the Contractor will not be entitled to receive payment or make any Claim:

(i) for the costs of complying with this clause 3.7;

(ii) in respect of carrying out the Hazardous Material audit required by clause 3.7(d);

(iii) for any costs incurred arising out of or in connection with any delay or disruption to the Contractor's Activities resulting from the presence of any Hazardous Material;

(iv) in respect of any investigation of structures on the Extra Land and any removal and disposal of Hazardous Material from such structures; or

(v) for an extension of time in respect of any delay arising out of or in connection with the discovery of Hazardous Material or the discharge of the obligations under this clause 3.7.

Where:

(i) there is Hazardous Material in structures which are located on, in or under the Site;

(ii) the Contractor has complied with its obligations under this clause 3.7;
(iii) the Contractor has removed and disposed of any Hazardous Material in structures on, in or under the Site in accordance with relevant Laws, Authority Approvals and any direction of a relevant Authority where applicable,

the Principal will be liable to pay the Contractor:

(iv) an amount, as determined by the Principal's Representative, on the basis of rates set out in Part C of Schedule 10 as a result of such disposal; or

(v) to the extent that clause 3.7(h)(iv) does not apply, the additional costs (excluding the costs of delay or disruption or any other items set out in clause 3.7(g)) reasonably incurred by the Contractor as a result of such removal and disposal, as determined by the Principal's Representative, together with the percentage referred to in Schedule 1 in respect of clause 6.4(b)(ii) applied to those additional costs.

3.8 Things of Value Found

All valuable minerals, fossils, coins, articles or objects of value or antiquity, and other remains or things of geological, archaeological, anthropological or other special interest found on the Site (all "Valuable Finds") are, and will as between the Contractor and the Principal be and remain, the property of the Principal.

The Contractor must:

(a) immediately notify the Principal's Representative if it discovers a Valuable Find;

(b) ensure the Valuable Find is protected and not lost, removed, disturbed or damaged; and

(c) comply with any directions of the Principal's Representative in relation to the Valuable Find.

Despite clause 3.5 and the acknowledgements, warranties, releases and indemnities referred to in clauses 3.6(a) to 3.6(d):

(d) the Contract Sum will be increased by the extra costs reasonably incurred by the Contractor as determined by the Principal's Representative in complying with the Principal's Representative's directions under this clause 3.8; and

(e) the Contractor will be entitled to make a claim for an extension of time under clause 10.7 in respect of any delays the Contractor suffers in complying with the Principal's Representative's directions,

as determined by the Principal's Representative, but only to the extent that the Valuable Find could not have been reasonably anticipated by a competent and experienced contractor at the time of the Contractor's Proposal if such a contractor had:

(f) examined all information made available in writing by the Principal to the Contractor for the purpose of tendering (including the Reports);
(g) examined all information (including the Reports) relevant to the risks, contingencies and other circumstances having an effect on the Proposal and obtainable by the making of reasonable enquiries; and

(h) inspected the Site and its surroundings.

3.9 Contamination

(a) The Contractor acknowledges and agrees that:

(i) there may be Contamination on, in, under or migrating from the Site including in areas under Tracks, surface soils generally and locations which have been filled; and

(ii) part of the Contractor's Activities include taking the appropriate steps referred to in this clause 3.9 in respect of any Contamination the Contractor discovers on the Site, regardless of whether the Contractor provides the notice and report referred to in clause 3.9(c).

The Contractor must provide for the management of any Contamination that may be present on, in, under or migrating from the Site in the Construction Environmental Management Plan and the Project Work Health and Safety Management Plan and take all measures required to protect workers and others in accordance with the Law, the WHS Guidelines and the TfNSW Standard Requirements.

(b) Without limiting clauses 2.3(a)(i), 3.5 or 3.9(a), the Contractor must undertake any other investigations it considers reasonable or necessary, undertake any investigation to delineate the nature and extent of any Contamination on, in, under or migrating from the Site prior to commencing any part of the Contractor's Activities on the Site in order to identify the steps necessary to deal with any Contamination as part of the Contractors Activities.

(c) Without limiting any obligation of the Contractor to comply with all Authority Approvals, the Contractor must in respect of all Contamination:

(i) notify the Principal's Representative in writing within 5 Business Days of becoming aware of the existence of any Contamination on, in, under or migrating from the Site, and thereafter provide the Principal's Representative with such further written details as the Principal's Representative may request including a copy of any investigation report prepared pursuant to clause 3.9(b);

(ii) promptly after providing a notice under clause 3.9(c)(i), submit a notice for the review of the Principal's Representative under clause 9.8 containing:

A. details of the steps which the Contractor proposes to take to:

1) investigate, remediate, dispose of, manage, monitor, contain or otherwise deal with the Contamination so that the Site is remediated to a
standard suitable for the proposed use of the Site ("Remediation Steps"). For the avoidance of doubt, the Contractor is permitted to incorporate Remediation Steps to address the Contamination which was present on, in under or migrating off the Site prior to the date of this Contract into the Works where such incorporation is specified in the Works Brief;

2) unless the Principal's Representative directs otherwise, incorporate the Contamination into the Works in preference to its disposal off site where this is technically and economically feasible;

3) dispose of Contamination off-site to a licensed waste disposal facility in accordance with clause 3.13 if:
   a) this more economically viable than remediating and or otherwise dealing with the Contamination in situ; or
   b) the Principal's Representative has directed the Contractor to do so; and

4) report to all relevant Authorities if required to do so,

in each case in accordance with any relevant Law, Authority Approvals and any written direction from a relevant Authority; and

B. a plan documenting the Remediation Steps determined pursuant to the criteria in clause 3.9(c)(ii)A ("Remediation Action Plan");

(iii) only after the Principal's Representative has had the period referred to in clause 9.8(c)(ii) (or such shorter period as the Principal's Representative may advise to the Contractor in writing) and has not rejected the Contractor's notice under clause 3.9(c)(ii), implement the Remediation Action Plan in accordance with relevant Laws, Authority Approvals and any direction of a relevant Authority where applicable; and

(iv) in dealing with any Contamination:

A. take all measures necessary to protect workers and others in accordance with Law and the WHS Guidelines;

B. take all reasonable steps to ensure that the Contamination is quarantined from other in-situ or excavated materials so as to prevent cross-contamination; and
C. provide waste classification reports and documents demonstrating that cross-contamination has not occurred.

(d) The Contractor must indemnify the Principal against any claim, damage, expense, loss, liability, fine or penalty suffered or incurred by the Principal arising out of or in any way in connection with any failure by the Contractor to comply with any obligation under this clause 3.9, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, Other Contractors or an agent of the Principal may have contributed to the claim, damage, expense, loss, liability, fine or penalty.

(e) Subject to clause 3.9(f), the Contractor will not be entitled to receive payment or make any Claim:

(i) for complying with this clause 3.9;

(ii) in respect of carrying out investigations of the Site or Extra Land to determine the presence and extent of any Contamination present on, in, under or migrating from the Site or Extra Land;

(iii) in respect of any costs incurred in the management, handling and disposal of the following types of General Solid Waste (non-putrescible) as defined in the Department of Environment, Climate Change and Water NSW Waste Classification Guidelines dated December 2009:

A. glass, plastic, rubber, plasterboard, ceramics, bricks, concrete or metal;

B. paper and cardboard;

C. household waste from municipal clean ups that does not contain food waste;

D. grit, sediment, litter and gross pollutants from stormwater treatment devices that does not contain free liquids;

E. building and demolition waste;

F. green waste;

G. virgin excavated natural material; and

H. wood waste;

(iv) for any costs incurred arising out of or in connection with any delay or disruption to the Contractor's Activities resulting from the presence of any Contamination on, in, under or migrating from the Site or Extra Land including arising out of or in connection with complying with its obligations under this clause 3.9;

(v) for managing the remediation works on the Site or Extra Land; or
for an extension of time in respect of any delay arising out of or in connection with the discovery of Contamination or the discharge of its obligations under this clause 3.9.

(f) Where:

(i) there is Contamination on, in, under or migrating from the Site;

(ii) the Contractor has complied with its obligations under this clause 3.9;

(iii) it is not technically feasible or permitted by Law to incorporate the Contamination into the Works as contemplated by clause 3.9(c)(ii)A.2; and

(iv) the Contractor has disposed of the Contamination off-site to a licensed waste disposal facility in accordance with clause 3.13,

the Principal will be liable to pay the Contractor:

(v) an amount, as determined by the Principal's Representative, on the basis of rates set out in Part C of Schedule 10 as a result of such disposal; or

(vi) to the extent that clause 3.9(f)(v) does not apply, the additional costs (exceeding the costs of delay or disruption or any other items set out in clause 3.9(e)) reasonably incurred by the Contractor as a result of such disposal, as determined by the Principal's Representative, together with the percentage referred to in Schedule 1 in respect of clause 6.4(b)(ii)A applied to those additional costs.

3.10 Principal's Right to Access and Inspect

Subject to clause 3.14, the Contractor must:

(a) without limiting clauses 3.3 and 3.4, minimise disruption or inconvenience to:

(i) the Principal, occupiers (including railway system or rail passengers and other users), tenants and potential tenants of the Site, Extra Land or any other land or buildings on or adjacent to the Site or any Extra Land or a part thereof in their occupation or use of, or attendance upon, any part of the Site and Extra Land, including any occupation or use of the Works, a Portion or a part thereof under clause 12.6; and

(ii) others having a right of access to the Site, Extra Land or any other land or buildings on or adjacent to the Site or any Extra Land; and

(b) at all times:

(i) give the Principal's Representative, the Principal and any person authorised by either the Principal's Representative or the Principal access to:
A. the Works;
B. the Site; or
C. any other areas where the Contractor’s Activities are being carried out,

including unobstructed vehicular access through the Site; and

(ii) provide the Principal and the Principal’s Representative with every reasonable facility necessary for the Inspection of the Contractor’s Activities, including the Contractor’s compliance with the Authority Approvals.

3.11 Works to be constructed within Site

The Contractor must ensure that the Works are constructed within the relevant boundaries of the Site stipulated in Schedule 1.

3.12 Condition Surveys

The Principal has undertaken a condition survey of the properties listed in Schedule 1. The Contractor may undertake further condition surveys of these properties.

The Contractor must:

(a) identify and prepare a condition survey of all property that could be affected or damaged by the Contractor’s Activities and as required by the Planning Approvals;

(b) prepare this condition survey a minimum of two weeks prior to commencing any work on the Site, or on any other land which is necessary for performing the Contractor’s Activities or undertaking the Works, where that work could damage property on or off the Site;

(c) without limiting clause 3.4 or 13.3, as a condition precedent to Completion of the Works or any Portion:

(i) rehabilitate all parts of the Site and other property referred to in clause 3.12(a) to the condition shown in the condition survey prepared under clause 3.12(a);

(ii) otherwise repair any damage or degradation to such a part arising out of or in any way in connection with the performance of the Contractor’s Activities; and

(iii) provide to the Principal’s Representative a further condition survey of all parts of the Site and other property referred to in clause 3.12(a) which:

A. is prepared within four weeks prior to the Date of Completion; and
B. demonstrates that the Contractor has complied with clauses 3.12(c)(i) and 3.12(c)(ii); and

(d) in preparing the condition surveys referred to in clauses 3.12(a) and 3.12(c)(iii) must use suitably skilled, qualified, and experienced personnel or Subcontractor.

3.13 Waste Disposal

(a) The Contractor must remove from the Site and Extra Land and dispose of any Hazardous Material, Contamination or other waste pursuant to its obligations under this Contract to a licensed waste facility in accordance with all relevant Law and Authority Approvals.

(b) The Contractor must:

(i) ensure that the entity that carries out the storage, treatment, transport and disposal of the Hazardous Material, Contamination or other waste from the Site holds all relevant Authority Approvals that are necessary; and

(ii) procure and provide evidence of such Authority Approvals to the Principal's Representative upon request.

(c) The Contractor must ensure that its employees and agents, as applicable, are suitably trained in correct and safe methods of loading, unloading and handling any Hazardous Material, Contamination or other wastes and that they comply with all applicable Laws.

(d) The Contractor must indemnify the Principal against any claim, damage, expense, loss, liability, fine or penalty suffered or incurred by the Principal arising out of or in any way in connection with any failure by the Contractor to comply with any obligation under this clause, provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, Other Contractors or an agent of the Principal may have contributed to the claim, damage, expense, loss, liability, fine or penalty.

3.14 Principal not in Control

The Contractor and Principal acknowledge that nothing in this Contract including the right to inspect pursuant to clause 3.10 or any audit by the Principal or the Principal's Representative at any time will be construed to mean or imply that:

(a) the Principal has any management or control over the Contractor's Activities or the Site or Extra Land; or

(b) the Principal has any responsibility for any act or omission by the Contractor or its Subcontractors or agents including compliance or non-compliance with any relevant Laws, Authority Approvals or this Contract.
4. Compliance

4.1 Quality of Work

The Contractor must in carrying out the Contractor's Activities use the materials and standard of workmanship required by this Contract, and otherwise comply with this Contract in the execution of the Contractor's Activities. In the absence of any other requirement, the Contractor must use suitable new materials and ensure that all workmanship and materials are fit for their intended purpose.

4.2 TfNSW Standard Requirements

The Contractor must comply with the requirements of the TfNSW Standard Requirements.

4.3 Environmental Management

The Contractor must:

(a) hold and maintain an environmental management system which complies with the requirements of TfNSW Standard Requirements for so long as any Contractor's Activities are carried out;

(b) as part of the Contract Management Plan, document, implement and maintain a contract specific Construction Environmental Management Plan for the management of environmental matters in accordance with the TfNSW Standard Requirements;

(c) carry out the Contractor's Activities in accordance with the Construction Environmental Management Plan;

(d) supervise Subcontractor's activities and ensure that they are complying with all relevant Law, Authority Approvals and TfNSW Standard Requirements in relation to environmental management on the Site and Extra Land; and

(e) use, and be able to demonstrate the use of, ecologically sustainable development principles (including any TfNSW sustainability initiatives) in the design and construction of the Works, Temporary Works and all other Contractor's Activities.

4.4 WHS Management

The Contractor must:

(a) hold and maintain an WHS management system for so long as any Contractor's Activities are carried out that complies with the WHS Guidelines and the TfNSW Standard Requirements;

(b) as part of the Contract Management Plan, develop, document and implement a contract specific Project Work Health and Safety Management Plan in accordance with the WHS Guidelines and TfNSW Standard Requirements;
(c) carry out the Contractor’s Activities in accordance with the Project Work Health and Safety Management Plan;

(d) create a safe working environment for ensuring the safety of all authorised personnel on the Site and Extra Land and that no unauthorised individual gains access to the Site; and

(e) supervise any Subcontractor’s activities and ensure that they are complying with all relevant Law, Authority Approvals and the TfNSW Standard Requirements in relation to the WHS management on the Site and Extra Land.

4.5 No Relief from Obligations

The Contractor will not be relieved from any of its liabilities or responsibilities under this Contract (including under clause 8 or otherwise according to law) nor will the rights of the Principal whether under this Contract or otherwise according to law be limited or otherwise affected, by:

(a) the implementation of, and compliance with, any management system or plan by the Contractor;

(b) compliance with the Contract Management Plan by the Contractor;

(c) any release, authorisation, approval or agreement by the Principal’s Representative, or any other person acting on behalf of the Principal or the Principal’s Representative, particularly those concerning or relating to the Contractor proceeding past any hold point or witness point identified in the Works Brief, the TfNSW Standard Requirements or otherwise directed by the Principal’s Representative;

(d) any failure by the Principal, the Principal’s Representative or any other person acting on behalf of the Principal or engaged by the Principal to detect any Defect, particularly whilst participating in any hold point or witness point procedure, including where such a failure is the result of a negligent act or omission; or

(e) any inspections arranged by the Principal’s Representative under the Contract or any related discussions between the Contractor’s Representative and the Principal’s Representative.

4.6 Engineering Authorisation

(a) The Contractor represents and warrants that:

(i) if it or any of its Subcontractors will carry out Asset Lifecycle Services that they are either:

A. an AEO and have obtained ASA Authorisation to carry out the Asset Lifecycle Services; or

B. have been granted Project Limited Authorisation for the Contractors Activities; and
(ii) any Project Limited Authorisation granted by the ASA was granted based on true and accurate information provided by the Contractor and its Subcontractors, including the procedures of, and undertakings given by, the Contractor and its Subcontractors as set out in the Contractor’s Proposal.

(b) If Project Limited Authorisation has been granted, the Contractor acknowledges and agrees that:

(i) it is limited to the Contractor’s Activities; and

(ii) the Contractor must make an application to the ASA to become an AEO within 45 Business Days (or a longer period agreed by the parties) of the date of this Contract, unless otherwise directed in writing by the Principal to the Contractor.

4.7 ASA Compliance

(a) Without limiting or otherwise restricting clauses 4.7(c) and 4.7(d), if a Project Limited Authorisation has been granted, the Contractor must:

(i) ensure that the Project Limited Authorisation is held and maintained for so long as the Contractor’s Activities are carried out;

(ii) provide to the ASA any document, information or other things reasonably required by the ASA under, out of or in connection with the Project Limited Authorisation within any time period required by the ASA (acting reasonably); and

(iii) comply (and must ensure that its Subcontractors and all personnel for which the Contractor is responsible comply) with the conditions of the applicable Project Limited Authorisation.

(b) Without limiting or otherwise restricting clauses 4.7(c) and 4.7(d), if the Contractor or its Subcontractors have ASA Authorisation to carry out the Asset Lifecycle Services or obtain that ASA Authorisation prior to Completion, the Contractor must:

(i) ensure that ASA Authorisation to carry out the Asset Lifecycle Services is held and maintained for so long as the Contractor’s Activities are carried out; and

(ii) on and from the date that ASA Authorisation was granted, comply (and must ensure that its Subcontractors and all personnel for which the Contractor is responsible comply) with the conditions of the applicable ASA Authorisation.

(c) The Contract must (and must ensure that its Subcontractors and all personnel for which the Contractor is responsible):

(i) implement and comply with any ASA Requirements applicable to the Asset Lifecycle Services;
(ii) immediately notify the Principal's Representative in writing of any non-compliance with clauses 4.6 and 4.7;

(iii) cooperate fully with the ASA in the performance of the ASA's functions;

(iv) provide access to premises and resources as reasonably required by the ASA, including so that the ASA can effectively carry out its review, surveillance and audit functions;

(v) comply with the directions, instructions and requirements issued by the ASA;

(vi) notify the ASA of any matter that could reasonably be expected to affect the exercise of the ASA's functions;

(vii) provide the ASA with any information relating to its activities or any documents or other things reasonably required by the ASA in the exercise of its functions; and

(viii) provide the Principal with such reasonable assistance as may be reasonably required by the Principal to enable the Principal to cooperate fully with the ASA and to implement and comply with ASA Requirements.

(d) The Contractor acknowledges and agrees that it is not entitled to make (and neither the Principal nor the ASA will be liable upon) any Claim arising out of or in connection with the requirements to obtain, or any delays or failure by the ASA in granting the Contractor or its Subcontractors, Project Limited Authorisation or ASA Authorisation or the obligation to comply with ASA Requirements with respect to Project Limited Authorisation or ASA Authorisation.

5. Design and Design Documentation

5.1 Contractor's Design

The Contractor:

(a) must:

(i) continue to develop the Contractor's Outline Design into the Design Documentation; and

(ii) prepare and complete the design of the Works and the Temporary Works (including the Design Documentation), so that the design (including the Design Documentation) is fit for its intended purpose and otherwise complies with the requirements of this Contract; and

(b) warrants that:
(i) it has fully and carefully reviewed the Works Brief and the Contractor's Outline Design;

(ii) the completed design of the Works and the Temporary Works as represented in the Design Documentation will:

A. satisfy the requirements of the Works Brief and the other requirements of this Contract; and

B. be fit for their intended purposes; and

(iii) construction in accordance with the completed design of the Works and the Temporary Works will satisfy the requirements of the Works Brief and the other requirements of this Contract.

5.2 Not Used

5.3 Design Documentation

(a) The Contractor must submit all Design Documentation:

(i) progressively to the Principal's Representative in accordance with the Contract Management Plan and the requirements of clause 9.8; and

(ii) at the times set out in:

A. the Works Brief;

B. the TfNSW Standard Requirements; and

C. the Contractor's Program.

(b) The Contractor must upon each submission of the Design Documentation to the Principal's Representative for review (including at the completion of the design of each design package) ensure that the Design Documentation is accompanied by the following documents:

(i) the Contractor’s Certificate of Design Compliance in the form of Schedule 19;

(ii) a register of records of design verification and reviews applicable to the design package and other compliance records required by this Contract (all records being satisfactorily completed and signed);

(iii) a register of any outstanding design non-conformities and unresolved issues;

(iv) a register of deficiency notices and evidence of their close out; and

(v) a register of concessions (if any) granted for non-conforming Design Documentation.
5.4 Review of Design Documentation

(a) The Design Documentation must be submitted to the Principal's Representative.

(b) Clause 9.8 applies to all Design Documentation.

(c) Where any Design Documentation comprises a design package which the Contract requires the Principal to submit to the Configuration Control Board, after this Design Documentation has been submitted for the review of the Principal's Representative under clause 9.8, and:

(i) the Principal's Representative gives the Contractor the notice referred to in clause 9.8(c)(ii) in respect of that Design Documentation; or

(ii) the relevant period of time in clause 9.8(c)(ii) has expired and the Principal's Representative has not rejected the Design Documentation or made any comments on the Design Documentation (except, in the case of comments, where the Contractor has responded to the comments within the required time period required by clause 9.8(d)(ii) in a manner satisfactory to the Principal's Representative),

the Principal will use reasonable endeavours to obtain a Configuration Change Acceptance Notice (where relevant) for the relevant design package from the Configuration Control Board.

(d) Where:

(i) the Design Documentation for the relevant Contractor's design package to which clause 5.4(c) applies, complies with the requirements of this Contract;

(ii) the Configuration Change Acceptance Notice (where relevant) for that design package is not issued within 10 Business Days after the commencement of the Principal's obligation under clause 5.4(c) to use reasonable endeavours to obtain the Configuration Change Notice; and

(iii) as a result, the Contractor is actually or will be delayed in achieving Completion,

the Contractor will be entitled to make a claim for an extension of time under clause 10.7.

(e) The Principal's obligations under clause 5.4(c) do not:

(i) create any liability for the Principal in respect of the content of the Design Documentation; or

(ii) relieve the Contractor of its obligations in this Contract in respect of the Design Documentation.
5.5 Copies of Design Documentation

(a) The Contractor must, in accordance with clause 5.3, progressively submit to the Principal's Representative the number of copies specified in Schedule 1 of all Design Documentation, whether complete or work in progress, which it intends to use for design or construction purposes.

(b) The Contractor must give the Principal's Representative the number of copies specified in Schedule 1 of:

(i) all survey information used in the design of the Works and the Temporary Works; and

(ii) all final Design Documentation.

5.6 Availability of Design Documentation

The Contractor must keep available for the use of the Principal's Representative and any person authorised by the Principal's Representative:

(a) on the Site, at least one complete set of all Design Documentation that the Contractor is entitled to use for construction purposes pursuant to clauses 5.4 and 9.8, and any construction related documents provided by the Principal; and

(b) at any area on or off the Site where the Contractor's Activities are being carried out, one copy of each of those items specified in paragraph (a) insofar as they are relevant to the Contractor's Activities being carried out in that area.

5.7 Contractor's Outline Design

(a) The Contractor acknowledges that prior to the date of this Contract it prepared the Contractor's Outline Design. The Contractor agrees that it bears absolutely all risks howsoever that may arise as a result of the use by the Contractor of, or the reliance by the Contractor upon, the Contractor's Outline Design in performing the Works and that such use and reliance will not affect any of its obligations under this Contract.

(b) Without limiting clause 5.7(a), the parties acknowledge that the Contractor's Outline Design was submitted by the Contractor as part of its Proposal and was used by the Principal in assessing the proposals for the Works.

(c) The Contractor further acknowledges and agrees that:

(i) the Contractor's Outline Design does not impose any obligations, liabilities or responsibilities upon the Principal or the Principal's Representative with respect to the Works;

(ii) the Contractor must, unless otherwise directed by the Principal's Representative, comply with the promises and undertakings given or made by the Contractor in the Contractor's Outline Design; and
(iii) the Contractor bears the risk of any costs, losses, damages or delay or disruption it suffers or incurs arising out of or in any way in connection with any assumptions, projections, activities, statements, risk mitigation measures or otherwise that the Contractor may have expressly or impliedly made in the Contractor's Outline Design turning out to be incorrect, not eventuating or not being capable of being implemented, and any such assumptions, projections, activities, statements, risk mitigation measures or otherwise do not impose any obligation or duty upon the Principal or the Principal's Representative to assist the Contractor in these circumstances.

(d) The Contractor is responsible for, and assumes the risk of any costs, losses or damages it suffers or incurs arising out of or in any way in connection with:

(i) the undertaking of the Contractor's Activities or the design or construction of the Works in accordance with the Contractor's Outline Design costing more or taking longer than anticipated; and

(ii) any differences between:

A. the Works which the Contractor is required to design and construct (ignoring for this purpose any differences which are subject of a Variation Order issued under clause 6.2); and

B. the Contractor's Outline Design,

including differences required to ensure that the Works will be fit for their intended purposes and satisfy the requirements of this Contract, irrespective of any assumptions, projections, estimates, contingencies or otherwise that the Contractor may have made in relation to any of the matters set out in paragraphs (i)-(ii) above.

(e) Without limiting clause 5.1, the Contractor warrants that:

(i) it has fully and carefully reviewed the Works Brief in preparing the Contractor's Outline Design;

(ii) it remains responsible for ensuring that the Works will satisfy the requirements of this Contract despite the Contractor's Outline Design;

(iii) the completed design of the Works as represented in the Design Documentation will satisfy the requirements of the Contract; and

(iv) construction in accordance with the completed design prepared in respect of the Works will satisfy the requirements of the Contract.

5.8 Ownership of Contract Documentation and Methods of Working

(a) Subject to clause 5.8(c)(vii):
(i) title to and Intellectual Property in or in relation to the Contract Documentation prepared by the Contractor will vest upon its creation for the purposes of this Contract in the Principal;

(ii) to the fullest extent permitted by Law, the Contractor hereby assigns to the Principal all of its rights, titles, and interests in, and to, all Intellectual Property in or in relation to the Contract Documentation prepared by the Contractor, whenever created; and

(iii) upon request by the Principal, the Contractor must do all things necessary to vest that title or that Intellectual Property in the Principal.

(b) The Principal grants to the Contractor a licence to use and reproduce the Contract Documentation for the Contractor's Activities.

(c) The Contractor:

(i) warrants and must ensure that the Contract Documentation and any methods of working do not and will not infringe any Intellectual Property;

(ii) must indemnify the Principal against any claims against, and costs, expenses, losses and damages suffered or incurred by the Principal arising out of, or in any way in connection with, any actual or alleged infringement of any Intellectual Property in connection with the Works, the Temporary Works, the Contractor's Activities or the Contract Documentation, except to the extent that such actual or alleged infringement arises as a direct result of:

A. the Principal having provided the Contractor with material which this Contract permits the Contractor to use for the purpose of the Works, the Contractor's Activities or the Contract Documentation; and

B. the provision of that material to the Contractor being an infringement of a third party's Intellectual Property rights;

(iii) must ensure that all Subcontracts between the Contractor and all Subcontractors for design and documentation contain provisions to the same effect as clause 5.8(a);

(iv) must obtain confirmation of the inclusion of such provisions in the form of a signed acknowledgment from such Subcontractors for design and documentation;

(v) must, where requested by the Principal's Representative, obtain such an acknowledgement from other Subcontractors;

(vi) must obtain an assignment to the Principal from any third party who owns any Intellectual Property right in the Contract Documentation;
(vii) must if it is unable to obtain the assignment referred to in clause 5.8(c)(vi), grant or have granted to the Principal an irrevocable licence:

A. to use the Contract Documentation for the completion of the Works;

B. which arises immediately upon the creation of the Contract Documentation;

C. which extends to any subsequent repairs to, maintenance or servicing of, or additions or alterations to the Works; and

D. which will survive the termination of this Contract on any basis; and

(viii) must ensure that the Intellectual Property created for the purposes of this Contract is not used, adapted or reproduced other than for the purposes of this Contract without the prior written approval of the Principal (which will not be unreasonably withheld, but may be given subject to terms and conditions).

5.9 Delivery Up of Contract Documentation

If this Contract is frustrated or terminated the Contractor must:

(a) immediately deliver the original and all sets and copies of all Contract Documentation (whether complete or not), including fully detailed electronic versions in unlocked native format (with all logic links intact and nothing hidden or protected), then in existence to the Principal; and

(b) provide such details, memoranda, explanations, documentation and other assistance as the Principal reasonably requires in relation to the Contract Documentation.

5.10 Moral Rights

(a) The Contractor:

(i) warrants that the Principal’s use of the Contract Documentation, or any other work provided by the Contractor under this Contract, will not infringe any author’s moral rights under the Copyright Act 1968 (Cth) or similar legislation in any jurisdiction; and

(ii) must indemnify the Principal against any claims against, or costs, expenses, losses or damages suffered or incurred by the Principal arising out of, or in any way in connection with, any actual or alleged infringement of any author’s moral rights under the Copyright Act 1968 (Cth) or similar legislation in any jurisdiction in connection with the Works, the Contractor’s Activities or the Contract Documentation.

(b) For the purposes of clause 5.10(a), the Principal’s use of the Contract Documentation includes the Principal’s right to reproduce, publish, copy, adapt,
communicate to the public, materially distort, destroy, mutilate or in any way change the Contract Documentation or part of the Works to which the Contract Documentation or any other work provided by the Contractor under this Contract relates:

(i) with or without attribution of authorship;
(ii) in any medium; and
(iii) in any context and in any way it sees fit.

6. Variations

6.1 Proposed Variations

At any time prior to the Date of Completion of the Works or the last Portion to reach Completion (but without limiting clauses 8 and 13.3) the Principal's Representative may issue a document titled "Variation Proposal Request" to the Contractor, which will set out details of a proposed Variation that the Principal is considering.

Within 10 Business Days of the receipt of a "Variation Proposal Request", or at such other time as is approved by the Principal's Representative, the Contractor must provide the Principal's Representative with a written notice in which the Contractor sets out such details as may be reasonably required by the Principal's Representative.

The Principal will not be obliged to proceed with any proposed Variation that is the subject of a "Variation Proposal Request".

6.2 Variation Orders

(a) Whether or not the Principal's Representative has issued a "Variation Proposal Request" under clause 6.1, the Principal's Representative may at any time prior to the Date of Completion of the Works or the last Portion to reach Completion (but without limiting clauses 8 and 13.3) direct the Contractor to carry out a Variation by issuing a written document titled "Variation Order", in which the Principal's Representative will state one of the following:

(i) the proposed adjustments to the Contract Sum and the Payment Breakdown Schedule set out in the Contractor's notice under clause 6.1 are agreed and the Contract Sum and Payment Breakdown Schedule will be adjusted accordingly;

(ii) any adjustment to the Contract Sum will be determined under clause 6.4(b); or

(iii) the Variation is to be carried out as daywork and any adjustment to the Contract Sum will be determined under clause 6.7.

(b) There is no limitation on the power of the Principal's Representative to direct a Variation, and no Variation or direction to carry out a Variation will invalidate this Contract.

(c) The Contractor must comply with a "Variation Order" irrespective of:
(i) the nature, extent or value of the work the subject of the Variation;

(ii) the location or timing (including the impact on any Date for Completion) of the work involved in the Variation; or

(iii) any Dispute related to the Variation.

(d) The Contractor's entitlement (if any) to an extension of time and delay costs arising out of or in connection with a Variation will be dealt with under clause 10 and not this clause 6. The valuation of Variations under clause 6.4 and clause 6.7 will exclude any amount for costs incurred by the Contractor as a result of any delay or disruption caused by the Variation.

6.3 Options

The Principal's Representative may, by written notice given to the Contractor at any time within the period stated in Schedule 15, exercise any Option. Commencing upon the issue of such a notice by the Principal's Representative, the Principal and the Contractor must perform their obligations under this Contract on the basis that the Contract Sum, the Works Brief and the provisions of this Contract will be adjusted as set out in Schedule 15 for the relevant Option.

For the avoidance of doubt:

(a) the Principal is not under any obligation whatsoever to exercise; and

(b) the Contractor is not entitled to make, nor will the Principal be liable upon, any Claim in respect of the Principal not exercising,

any Option.

Where the Principal does not exercise its discretion to exercise an Option, the Principal may, either by itself or by third parties, undertake the work contemplated by the relevant Option.

The exercise of an Option by the Principal's Representative under this clause 6.3 will not:

(c) relieve the Contractor from its liabilities or obligations (including those arising out of any warranties given under this Contract);

(d) limit or otherwise affect the Principal's rights against the Contractor or the Contractor's rights against the Principal (including those arising out of any warranties given under this Contract); or

(e) entitle the Contractor to an extension of time,

whether under this Contract or otherwise according to any Law.

6.4 Valuation

Subject to clauses 15 and 18, the Contract Sum and the Payment Breakdown Schedule will be adjusted for all Variations that have been directed by the Principal's Representative by:
(a) to the extent that clause 6.2(a)(i) applies, the agreed amount as specified in the Variation Order;

(b) to the extent that clause 6.2(a)(ii) applies:

(i) an amount in respect of the Variation to be determined by the Principal's Representative on the basis of (where applicable or where it is reasonable to use them for valuing the Variation):

A. the prices and rates set out in Part A of Schedule 10; and

B. any other applicable data in this Contract; or

(ii) to the extent sub-paragraph (i) does not apply, an amount determined by the Principal's Representative on the basis of reasonable prices and rates (which are to be exclusive of any amount for preliminaries, Overhead Costs or profit) to be agreed between the parties, or failing agreement, determined by the Principal's Representative, which will be increased by the following percentage of that amount:

A. where the adjustment to the Contract Sum is to be an increase, the relevant percentage set out in Schedule 1 which will be in total satisfaction of all the Contractor's preliminaries, Overhead Costs and profit; or

B. where the adjustment to the Contract Sum is to be a decrease, the relevant percentage set out in Schedule 1 of the total amount for off-site Overhead Costs described in section 2 of Part B of Schedule 10 and profit, provided however that where the Principal's Representative has issued a Variation Proposal Request, the Contractor's entitlement under this clause 6.4(b) will not be greater than any amount set out in the Contractor's notice under clause 6.1; or

(c) to the extent that clause 6.2(a)(iii) applies, the amount determined by the Principal's Representative under clause 6.7.

6.5 Omissions

If a Variation the subject of a direction by the Principal's Representative requires the omission or deletion of any part of the Works:

(a) the Principal may thereafter either perform this work itself or employ or engage any other person or persons to carry out and complete the omitted or deleted work;

(b) the Principal will not be liable upon any Claim by the Contractor arising out of or in any way in connection with any work being omitted or deleted from the Contractor's Activities whether or not the Principal thereafter performs this work itself or employs or engages any other person or persons to carry out and complete the omitted or deleted work; and
6.6 Daywork

If the Contractor is given a direction under clause 6.2(a)(iii) to carry out work as daywork, the Contractor must:

(a) carry out the daywork in an efficient manner; and

(b) after the direction, each day provide the Principal's Representative with a written report in respect of that day signed by the Contractor that:

(i) records particulars of all resources used by the Contractor for the execution of the daywork; and

(ii) includes those particulars reasonably required by the Principal's Representative that evidence the cost of the daywork.

The Principal's Representative may direct the manner in which the matters referred to in clause 6.6(b) are to be recorded.

6.7 Valuation of Daywork

In valuing the adjustment to the Contract Sum arising from any work that the Principal's Representative directs to be carried out as daywork, the Principal's Representative will have regard to:

(a) the amount of wages and allowances paid or payable by the Contractor for the hours reasonably worked in respect of the daywork at the rates:

(i) set out in Part A of Schedule 10 (which rates will apply to all labour whether employed by the Contractor, a Subcontractor or otherwise);

(ii) where the rates in Part A of Schedule 10 do not apply, as established by the Contractor to the satisfaction of the Principal's Representative; or

(iii) determined by the Principal's Representative;

(b) the amount paid or payable by the Contractor in accordance with any statute or award applicable to labour additional to the amount determined under clause 6.7(a);

(c) the reasonable amount of hire charges and associated fuel and other operating costs in respect of Construction Plant approved by the Principal's Representative for use on the work in accordance with such hiring rates and conditions as may be:

(i) agreed between the Principal's Representative and the Contractor; or

(ii) failing agreement, determined by the Principal's Representative;
(d) the reasonable amounts paid by the Contractor for Subcontract work, including professional fees; and

(e) the reasonable actual cost to the Contractor at the Site of all materials supplied and required for the daywork,

to which will be added to the extent that the rates set out in Part A of Schedule 10 are not already expressed to be inclusive of the Contractor's non-time related preliminaries, Overhead Costs and profit, the relevant percentage specified in Schedule 1 of the amounts determined under paragraphs (a) to (e), which will be in total satisfaction of all the Contractor's non-time related preliminaries, Overhead Costs and profit.

6.8 Contractor's Entitlements

This clause 6 is an exhaustive code of the Contractor's rights in any way in connection with any Variation. The Contractor waives all rights at Law to make any Claim against the Principal in any way in connection with any of the matters set out in this clause 6 otherwise than in accordance with the terms of this Contract.

7. Construction

7.1 Construction

(a) The Contractor must construct and handover to the Principal the Works and construct the Temporary Works:

(i) in accordance with:

A. subject to clause 7.1(b), the Works Brief, the Contractor's Outline Design and any Design Documentation that has been prepared by the Contractor in accordance with the requirements of the Contract and not rejected by the Principal's Representative under clause 9.8;

B. any direction of the Principal's Representative given or purported to be given under a provision of this Contract; and

C. the other requirements of this Contract; and

(ii) so that they are fit for their intended purposes.

(b) If there is any ambiguity, discrepancy or inconsistency between this Contract (including the Works Brief and the Contractor's Outline Design) and any Design Documentation which has been prepared by the Contractor and not rejected by the Principal's Representative under clause 9.8, then, unless otherwise directed by the Principal's Representative, the requirements of this Contract will prevail.

(c) At monthly intervals during the construction work and at the Completion of the Works or each Portion, the Contractor must submit to the Principal's Representative a Certificate of Construction Compliance in the form of Schedule 20.
7.2 All Work Included

The Contractor:

(a) warrants it has allowed for the provision of;
(b) must undertake and provide; and
(c) will not be entitled to make, and the Principal will not be liable upon, any Claim except as otherwise provided for in this Contract, relating to the provision of,

all Construction Plant, Temporary Works, labour, materials and other work necessary to execute the Contractor's Activities, whether or not expressly mentioned in this Contract or anticipated by the Contractor, and agrees that all such Construction Plant, Temporary Works, labour, materials and work forms part of the Contractor's Activities.

7.3 Provisional Sum Work

For each item of Provisional Sum Work, the Principal's Representative will give the Contractor a direction either requiring the Contractor to proceed with the item of Provisional Sum Work or deleting the item of Provisional Sum Work.

Where the Principal's Representative gives the Contractor a notice requiring the Contractor to proceed with an item of Provisional Sum Work, the Contract Sum will be adjusted for the item of Provisional Sum Work by the difference between:

(a) the amount allowed for the item of Provisional Sum Work in Schedule 1; and
(b) either:
   (i) an amount agreed between the Contractor and the Principal's Representative; or
   (ii) if they fail to agree:

   A. an amount determined by the Principal's Representative on the basis set out in clause 6.4(b) as if the item of Provisional Sum Work were a Variation, excluding:
      1) the percentage referred to in clause 6.4(b)(ii)A or 6.4(b)(ii)B; or
      2) any amount for the Contractor's preliminaries, Overhead Costs and profit; or

   B. if the amount determined under clause 7.3(b)(ii)A (7.3(b)(ii)A Amount) is less than the amount allowed for that item of Provisional Sum Work in Schedule 1, then:
      1) the 7.3(b)(ii)A Amount; plus
      2) a reasonable amount for the Contractor's off-site Overhead Costs referred to in item 2 of Part B of Schedule 10 and profit applicable to the
7.3(b)(ii)A Amount, as determined by the Principal's Representative, which amount must not exceed the percentage set out in Schedule 1 which is referred to in clause 6.4(b)(ii)A.

Where the Principal's Representative gives the Contractor a direction deleting an item of Provisional Sum Work:

(c) the Contract Sum will be reduced by the amount allowed for the item of Provisional Sum Work in Schedule 1;

(d) the Principal may thereafter either carry out the Provisional Sum Work itself or engage any other person or persons to carry out the item of Provisional Sum Work; and

(e) the Principal will not be liable upon any Claim by the Contractor arising out of the deletion of the item of Provisional Sum Work.

7.4 Co-operation with Other Contractors

Without limiting or being limited by clause 2.9, the Contractor must:

(a) permit Other Contractors to carry out their work;

(b) fully co-operate with Other Contractors;

(c) carefully coordinate and interface the Contractor's Activities with the work carried out or to be carried out by Other Contractors; and

(d) carry out the Contractor's Activities so as to minimise any interfering with, disrupting or delaying the work of Other Contractors.

The Principal shall procure that each of its Other Contractors that undertakes work on part of the Site during any period in which the Contractor has been engaged as principal contractor in respect of that part of the Site executes a deed poll in favour of the Contractor, as principal contractor, and the Principal in the form set out in Schedule 23 and provide the Contractor with an executed copy of each such deed poll.

7.5 Setting Out

The Contractor must:

(a) set out the Works in accordance with the requirements of this Contract, based on information and survey marks (including any survey peg, bench mark, reference mark, signal, alignment, level mark or any other mark for the purpose of setting out, checking or measuring work) identified by the Contractor that are suitable for their purposes;

(b) carry out any survey (including providing all instruments and things) that may be necessary for this purpose; and

(c) for this purpose keep all survey marks in their true positions.
If the Contractor discovers an error in the position, level, dimensions or alignment of any part of the Works, the Contractor must immediately notify the Principal’s Representative and, unless the Principal’s Representative otherwise directs, the Contractor must at its cost rectify the error.

7.6 Survey

The Contractor must, as a condition precedent to Completion of the Works or any Portion, and as otherwise required by the Principal’s Representative, submit to the Principal’s Representative:

(a) for its review under clause 9.8 a Survey Plan for the Works or the relevant Portion that:

(i) has regard to the setback requirements in the Building Code of Australia;

(ii) has regard to any stratum lots whether above or below ground;

(iii) has regard to the survey control requirements of any relevant Rail Transport Agency;

(iv) shows the location of all Monuments, and their relation to horizontal and vertical boundaries;

(v) shows all internal title boundaries;

(vi) shows all easements; and

(vii) shows the location of the Works and all Services; and

(b) a Survey Certificate which complies with all Law addressed to the Principal and signed by a land surveyor registered under the Surveying and Spatial Information Act 2002 (NSW) stating that:

(i) the whole of the Works or the Portion has been constructed within the relevant boundaries of the Site stipulated in Schedule 1;

(ii) the elements of the Works or the Portion are in the positions and within the tolerances required by Law and this Contract;

(iii) the survey information included in the configuration materials provided pursuant to the TfNSW Standard Requirements complies with the requirements of this Contract; and

(iv) any other matter identified by the Principal’s Representative, complies with the requirements of this Contract.

7.7 Cleaning Up

In carrying out the Contractor’s Activities, the Contractor must:

(a) keep the Site, Extra Land and the Works clean and tidy and free of refuse;
(b) regularly remove rubbish, litter, graffiti and surplus material from the Site and Extra Land; and

(c) as a condition precedent to Completion of the Works or a Portion, remove all rubbish, surplus materials, Construction Plant and Temporary Works from the Site and Extra Land or the part of the Site or Extra Land relevant to the Works or the Portion.

7.8 Safety

(a) The Contractor must carry out the Contractor's Activities:

(i) safely and in a manner that does not put the health and safety of persons at risk; and

(ii) in a manner that protects property.

If the Principal's Representative reasonably considers there is a risk to the health and safety of people or damage to property arising from the Contractor's Activities, the Principal's Representative may direct the Contractor to change its manner of working or to cease working.

(b) The Contractor must:

(i) ensure that in carrying out the Contractor's Activities:

A. it complies with all Law, including the WHS Law, and other requirements of this Contract for work health, safety and rehabilitation management;

B. all Subcontractors comply with the requirements referred to in this clause 7.8 and their respective obligations under the WHS Legislation; and

C. it complies with its obligations under the WHS Legislation to consult, cooperate and coordinate activities with all other persons who have a work health and safety duty in relation to the same matter;

(ii) notify the Principal's Representative immediately (and in the event within 12 hours of such matter arising) of all work health, safety and rehabilitation matters arising out of, or in any way in connection with, the Contractor's Activities, unless otherwise directed by the Principal;

(iii) institute systems to obtain regular written assurances from all Subcontractors about their ongoing compliance with the WHS Legislation including the due diligence obligation contained therein;

(iv) provide the Principal's Representative with the written assurances obtained pursuant to sub-paragraph (iii), together with written assurance(s) from the Contractor about the Contractor's ongoing compliance with the WHS Legislation;
(v) provide the Principal's Representative with a written report at each meeting in accordance with clause 9.5, on all work health, safety and rehabilitation matters (including matters concerning or arising out of, or in any way in connection with, this clause 7.8), or any other relevant matters as the Principal's Representative may require from time to time, including a summary of the Contractor's compliance with the WHS Legislation;

(vi) consult, cooperate and coordinate with all Other Contractors and the Principal to ensure that all parties are able to comply with their respective obligations under the WHS Legislation;

(vii) exercise a duty of the utmost good faith to the Principal in carrying out the Works to enable the Principal to discharge the Principal's duties under the WHS Legislation;

(viii) ensure that it does not do anything or fail to do anything that would cause the Principal to be in breach of the WHS Legislation; and

(ix) ensure its Subcontracts include provisions equivalent to the obligations of this clause 7.8.

(c) Without limiting clause 17.13 the Principal may take any action necessary to protect or to prevent or minimise risks to, the Works, the Environment, other property or the health or safety of people.

If the action taken by the Principal is action which the Contractor was required to take under this Contract but did not take, the amount of any penalty, fine, damage, expense, cost (including any reasonable legal fees), loss or liability that the Principal suffers or incurs arising out of or in any way in connection with:

(i) taking the action contemplated in this clause 7.8(c); or

(ii) the Contractor's failure to take that action,

will, except to the extent prohibited by Law, be a debt due from the Contractor to the Principal.

(d) Where clause 17.27 applies, the Contractor:

(i) warrants that it is accredited under the WHS Accreditation Scheme; and

(ii) must comply with all the requirements of, and maintain accreditation under, the WHS Accreditation Scheme while "building work" (as defined in section 5 of the Fair Work (Building Industry) Act 2012 (Cth)) is carried out.

7.9 Construction Plant and Materials Removal

Except for the purpose of achieving Completion as contemplated by clause 7.7(c), the Contractor must not remove from the Site or the Contractor's Activities any:
(a) significant materials or major items of Construction Plant; or

(b) materials or Construction Plant specified in any written notice issued by the Principal's Representative,

without the prior written approval of the Principal's Representative, which approval will not be unreasonably withheld.

7.10 Principal Supplied Items

(a) The Principal must:

(i) make available the Principal Supplied Items to the Contractor:

A. at its own cost;
B. at the respective places referred to in Schedule 27; and
C. by the respective date referred to in Schedule 27; and

(ii) use its best endeavours to procure that the Contractor has the benefit of any warranty obtained by the Principal in respect of any Principal Supplied Item.

(b) The Contractor:

(i) agrees that, in respect of Principal Supplied Items, the:

A. Contractor:

1) warrants that it has reviewed the Works Brief and any relevant specification, and made whatever other enquiries and investigations it considers necessary relating to each of the Principal Supplied Items and is satisfied that they satisfy and will allow the Contractor to satisfy the requirements of this Contract;

2) will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with any Principal Supplied Item except under clause 10 if a Principal Supplied Item is not made available by the relevant date set out in Schedule 27; and

3) is not relieved from and remains liable for complying with, all of its obligations under this Contract, despite the Principal making available the Principal Supplied Items; and

B. Sale of Goods Act 1923 (NSW) does not apply to the Principal's obligations under clause 7.10(a) and the Principal makes no representation as to the quality,
performance, merchantability or fitness of the Principal Supplied Items; and

(ii) must:

A. at its own cost and risk, transport each Principal Supplied Item from the respective place referred to in Schedule 27 to the Site or Extra Land (as applicable); and

B. as part of the Contractor's Activities, incorporate each Principal Supplied Item into the Works.

7.11 Rail Safety

(a) In carrying out any part of the Contractor's Activities which require Accreditation as a Rail Infrastructure Manager, the Contractor:

(i) must comply with all conditions of the Accreditation of the person identified in Schedule 1 as a Rail Infrastructure Manager and the Principal's Safety Management System;

(ii) must not do anything that may cause the Principal or the person identified in Schedule 1 to breach its obligations under the Rail Safety National Law; and

(iii) must ensure that the Contractor's Subcontractors engaged in or in connection with the Contractor's Activities, comply with clauses 7.11(a)(i) and 7.11(a)(ii).

(b) In carrying out any part of the Contractor's Activities which require Accreditation as a Rolling Stock Operator, the Contractor must:

(i) ensure that the Contractor, or one of the Contractor's Subcontractors, holds the necessary Accreditation for that part of the Contractor's Activities; and

(ii) comply with the conditions of that Accreditation.

(c) Without limiting or otherwise affecting any other provision under this Contract, the Contractor must, and must ensure that the Contractor's Subcontractors, comply with all obligations under the Rail Safety National Law including entering into interface agreements required by Part 3 of the Rail Safety National Law in respect of any part of the Contractor's Activities which require Accreditation as a Rolling Stock Operator.

(d) To the extent not prohibited by Law, the Contractor must indemnify the Principal against any damage, expense, loss or liability suffered or incurred by the Principal arising out of or in any way in connection with the Contractor's failure to comply with this clause 7.11.
8. Defects

8.1 Defects Liability

Subject to clause 8.2, the Contractor must rectify all Defects whether or not they are identified and notified by the Principal’s Representative.

Without limiting the previous paragraph, the Contractor must rectify any Defects in the Works or any Portion which existed at Completion of the Works or that Portion as soon as possible after Completion of the Works or that Portion.

When rectifying Defects which existed at Completion, the Contractor must do so at times and in a manner which causes as little inconvenience to the occupants or users of the Works or Other Contractors as is reasonably possible.

8.2 Defect Notification

If at any time prior to the expiration of any Defects Rectification Period (including for the avoidance of doubt prior to Completion of the Works or any Portion), the Principal’s Representative discovers or believes there is a Defect, the Principal’s Representative may give the Contractor a direction which identifies the Defect and does one or more of the following:

(a) requires the Contractor to rectify the Defect, or any part of it, and specifying the time within which this must occur;

(b) advises the Contractor that the Principal will accept the work, or any part of it, despite the Defect; or

(c) in respect of any Defect to which clause 8.3(b) applies, advises the Contractor that an Other Contractor will rectify (or has rectified) the Defect, or any part of it, or carry out (or has carried out) a Variation to overcome the Defect, or any part of it.

8.3 Rectification of Defect

If a direction is given under clause 8.2(a):

(a) the Contractor must rectify the Defect (or the part of it notified):

(i) within the times specified in the Principal’s Representative’s direction, which will generally be limited to the periods during which the rectification work will cause minimal or no inconvenience to the Interface Parties, including any Rail Transport Agency (where relevant), and occupants of the Works; and

(ii) if after Completion of the Works or relevant Portion:

A. at other times otherwise agreed with the Principal’s Representative;
B. in accordance with the requirements of the Interface Parties, including any Rail Transport Agency (where relevant), and any other relevant Authority;

C. so as to minimise the impact on the use of the Works or the Portion; and

D. in a manner which causes as little inconvenience as possible to users of the Works or the Portion or the public, any Service or any access to the Works or the Portion; and

(b) if the Contractor does not comply with clause 8.3(a)(i), the Principal's Representative may, without prejudice to any other rights that the Principal may have against the Contractor with respect to the Defect under this Contract or otherwise at Law, give the Contractor a direction under clause 8.2(c) and have the rectification work carried out at the Contractor's expense, and the cost of the rectification work incurred by the Principal will be a debt due from the Contractor to the Principal.

The Contractor must pay the Principal all costs incurred by the Principal in providing access to the Works, or arranging the availability of any resources (including the resources of any other Rail Transport Agency), as may be necessary for the Contractor to rectify any Defect during the Defects Rectification Period.

8.4 No Claim for Correction of Defect

Where a direction is given under clause 8.2(a), the Contractor will not be entitled to make a Claim against the Principal for rectifying the Defect (or the part notified) and must bear all costs, losses and expenses suffered or incurred in rectifying the Defect.

8.5 Acceptance of Work

If a direction is given under clause 8.2(b):

(a) where the value to the Principal of the Works is reduced (which will include having regard to any additional operating or maintenance costs) arising out of or in any way in connection with the Defect (or the part notified), the Contract Sum will be reduced by the amount determined by the Principal's Representative as the higher of the cost of rectifying the Defect (or the part notified) and the diminution in the value to the Principal of the Works; or

(b) where the value to the Principal of the Works increases because of the acceptance of the Defect (or the part notified):

(i) the Principal's Representative will determine an amount by subtracting the cost of rectifying the Defect from the increased value of the Works; and

(ii) the Contract Sum will:

A. be reduced by the amount determined by the Principal's Representative, where that amount is negative; and
8.6 Extension of Defects Rectification Period

If:

(a) the Principal's Representative gives the Contractor a notice under clause 8.2(a) during any Defects Rectification Period; and

(b) the Contractor rectifies the Defect (or the part notified),

the relevant Defects Rectification Period for the work required by the notice will be extended by the period set out in Schedule 1, commencing upon completion of the rectification of the Defect (or the part notified).

8.7 Defect Rectification by Other Contractor

Where a direction is given under clause 8.2(c):

(a) without limiting or otherwise affecting clauses 2.9 or 7.4, the Contractor must not impede the Other Contractor from having sufficient access to the Site or Extra Land to rectify the Defect or carrying out the Variation; and

(b) any costs, losses or damages suffered or incurred by the Principal arising out of or in any way in connection with, the Other Contractor rectifying the Defect or carrying out the Variation, will be a debt due from the Contractor to the Principal.

8.8 Rights Not Affected

Neither the Principal's rights, nor the Contractor's liability, whether under this Contract or otherwise according to Law in respect of Defects, whether before or after the expiration of any relevant Defects Rectification Period, will be in any way affected or limited by:

(a) the rights conferred upon the Principal or the Principal's Representative by this clause 8 or any other provision of this Contract;

(b) the exercise of, or the failure by the Principal or the Principal's Representative to exercise, any such rights; or

(c) any notice or direction of the Principal's Representative under clause 8.2.

9. Administration

9.1 Principal's Representative

(a) The Principal must ensure that at all times until Final Completion there is a Principal's Representative. The Contractor acknowledges and agrees that the Principal's Representative will give directions and carry out all its other functions under this Contract as the agent of the Principal (and not as an independent certifier, assessor or valuer) and is subject to the directions of the Principal.
A discretion (including an absolute or sole discretion), power or decision of the Principal's Representative is validly and properly exercised or made for the purposes of this Contract if exercised or made (or if it is not exercised or made) by the Principal's Representative:

(i) independently;
(ii) after consultation with the Principal and its advisers; or
(iii) as directed by the Principal.

Any control or influence exercised by the Principal over the Principal's Representative does not:

(iv) affect the valid and proper exercise of any power or discretion (including an absolute or sole discretion) or the making of a decision by the Principal's Representative; or

(v) entitle the Contractor to make any Claim against the Principal's Representative or the Principal, or to challenge the effect or validity of the discretion (including an absolute or sole discretion), power, or decision.

The Contractor must comply with any direction by the Principal's Representative given or purported to be given under a provision of this Contract.

Except where this Contract otherwise provides, the Principal's Representative may give a direction orally but will as soon as practicable confirm it in writing.

(b) The parties acknowledge that any direction by the Principal's Representative under one of the clauses referred to in Schedule 1 is an interim position only and that, without limiting the rights of the Principal's Representative under clause 11.3, either party may seek to have any such direction opened up, reviewed, decided and substituted pursuant to the Dispute Resolution Procedures by giving a notice of dispute to the other party and the Principal's Representative in accordance with the Dispute Resolution Procedures.

The Principal will not be liable upon any Claim by the Contractor arising out of or in connection with any such direction by the Principal's Representative in circumstances where it is incorrect, subsequently overturned pursuant to the Dispute Resolution Procedures or is unreasonable (other than in accordance with the corrected determination). The Contractor acknowledges and agrees that its sole means of redressing any errors contained in or associated with any such direction by the Principal's Representative is by giving a notice of dispute in accordance with the Dispute Resolution Procedures.

9.2 Replacement of the Principal's Representative

The Principal may at any time replace the Principal's Representative, in which event the Principal must appoint another person as the Principal's Representative and notify the Contractor of that appointment.
Any substitute Principal's Representative appointed under this clause 9.2 will be bound by anything done by the former Principal's Representative to the same extent as the former Principal's Representative would have been bound.

9.3 Delegation of Functions

(a) The Principal's Representative may:

(i) by written notice to the Contractor appoint persons to exercise any of the Principal's Representative's functions under this Contract;

(ii) not appoint more than one person to exercise the same function under this Contract; and

(iii) revoke any appointment under clause 9.3(a)(i) by notice in writing to the Contractor.

(b) The Principal's Representative may continue to exercise a function under this Contract despite appointing another person to exercise the function under clause 9.3(a)(i).

(c) All references in this Contract to the Principal's Representative include a reference to an appointee appointed under clause 9.3(a)(i).

9.4 Contractor's Personnel

(a) The Contractor must notify the Principal's Representative in writing of the name of the Contractor's Representative (who at the date of this Contract is the relevant person listed in Schedule 1) and of any subsequent changes.

(b) The Contractor must:

(i) employ the individuals nominated by the Contractor and listed in Schedule 1 in the positions specified in Schedule 1 or equivalent positions;

(ii) subject to clause 9.4(b)(iii), not replace the individuals referred to in clause 9.4(b)(i) without the Principal's Representative's prior written approval which will not be unreasonably withheld; and

(iii) if any of the individuals referred to in clause 9.4(b)(i):

A. dies;

B. becomes unable to continue in their positions due to illness;

C. resigns from the employment of the Contractor (other than to accept other employment with the Contractor or any "related body corporate" of the Contractor (as that term is defined in section 9 of the Corporations Act 2001 (Cth)); or

D. becomes the subject of a direction under clause 9.4(c),
replace them with personnel of at least equivalent experience, ability, knowledge and expertise approved by the Principal's Representative.

(c) The Principal's Representative may, at its absolute discretion and without being obliged to give any reasons, by notice in writing direct the Contractor to remove any person (including a person referred to in clause 9.4(a) or clause 9.4(b)) from the Site and the Contractor's Activities. The Contractor must then cease to engage that person in the Contractor's Activities and must appoint a replacement.

(d) The Contractor must ensure that any person the subject of a direction under clause 9.4(c) is not again employed in the Contractor's Activities or on the Site.

(e) Any direction under clause 9.1(a) will be deemed to have been given to the Contractor if given to the Contractor's Representative. Matters within the knowledge of the Contractor's Representative will be deemed to be within the knowledge of the Contractor.

9.5 Site Meetings

The Contractor must convene meetings on the Site or such other place (or places) as the Principal's Representative may direct at:

(a) prior to the Date of Completion of the Works or the last Portion to reach Completion, weekly or such longer intervals as may be directed in writing by the Principal's Representative; and

(b) monthly intervals after the Date of Completion of the Works or the last Portion to reach Completion until all Defects Rectification Periods (including any extension under clause 8.6), have expired or at such other intervals as may otherwise be agreed.

9.6 Environmental Representative

The Contractor acknowledges and agrees that:

(a) the Principal will appoint an Environmental Representative if such appointment is required by an Authority Approval;

(b) the Environmental Representative:

(i) not used;

(ii) shall oversee the implementation of all environmental management plans and monitoring programs required under the Planning Approvals, and shall advise the Principal upon achievement of the outcomes contemplated in the Planning Approvals;

(iii) shall advise the Principal and the Principal's Representative on the Contractor's compliance with the Planning Approvals; and

(iv) shall have the authority to:

A. direct the Contractor as to; or
B. advise the Principal's Representative to direct the Contractor as to,
reasonable steps the Contractor must take to avoid or minimise unintended or adverse environmental impacts;
(c) it must comply with the directions of the Environmental Representative or the Principal's Representative as contemplated by clause 9.6(b)(iv); and
(d) it bears the full risk of complying with any directions given by the Environmental Representative or the Principal's Representative as contemplated by clause 9.6(c) and none of the Principal, the Principal's Representative or the Environmental Representative will be liable upon any Claim arising out or in any way in connection with such directions.

9.7 Industrial Relations
The Contractor must in carrying out the Contractor's Activities:
(a) assume sole responsibility for and manage all aspects of industrial relations for the Contractor's Activities;
(b) ensure all Subcontractors manage all aspects of the industrial relations with their employees appropriately;
(c) ensure that the rates of pay and conditions of employment specified in all relevant industrial, enterprise and project based agreements and awards, and any relevant Law, for all employees engaged in any capacity by any person in connection with the Contractor's Activities, are always observed in full;
(d) keep the Principal's Representative fully and promptly informed of industrial relations problems or issues that affect or are likely to affect the carrying out of the Contractor's Activities and Other Contractors' activities;
(e) without limiting clauses 2.3 and 21, comply with all the requirements of the NSW Code and the NSW Guidelines;
(f) conduct its industrial relations affairs in accordance with the Workplace Relations Management Plan developed and submitted by the Contractor as part of the Contract Management Plan, in accordance with the TfNSW Standard Requirements and clause 9.8;
(g) prepare, document and implement a project Workplace Relations Management Plan which must be based on the draft outline Industrial Relations Management Plan (if any) submitted with the Contractor's Proposal;
(h) not commence any work on the Site or Extra Land until the Workplace Relations Management Plan has been submitted to the Principal's Representative and the Principal's Representative has not rejected it under clause 9.8;
(i) submit to the Principal's Representative, before beginning work on the Site or Extra Land, 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;

the names of each award or enterprise agreement that is likely to cover the Contractor and Subcontractors involved in the Contractor's Activities; and

the names of those responsible for coordinating industrial relations for the Contractor's Activities;

not do, or omit to do, anything that is, or is likely to be, prejudicial to the performance of the Contractor's Activities;

before beginning work on the Site or Extra Land, submit a statement on the Contractor's letterhead and signed by an authorised person, attesting to the Contractor's compliance, in the preceding twelve months, with all employment and legal obligations, including:

(i) payment of remuneration to employees;

(ii) annual leave provisions;

(iii) Long Service Leave Payment Scheme registration;

(iv) obligations to register workers under the Building and Construction Industry Long Service Payments Act 1986 (NSW);

(v) workers' compensation insurance, including self-insurance arrangements;

(vi) superannuation fund membership and contributions; and

(vii) over-award payments such as redundancy fund contributions; and

continue to provide during the Contractor's Activities appropriate information to verify compliance with the awards, enterprise and workplace agreements and all other legal obligations relating to the employment of people for the Contractor's Activities.

If the Contractor engages an independent industry or employer association or other specialist organisation to audit and verify compliance with employment and legal obligations, a statement or declaration from that organisation may be submitted instead of the statement by the Contractor under paragraph (i).

The industrial relations requirements contained in this Contract, the NSW Code and the NSW Guidelines:

are in addition to, but are not in substitution for, any requirements of Law; and

do not limit the powers of the Principal or the liabilities and responsibilities of the Contractor.
Sydney Growth Trains
Design and Construction of Maintenance Facility Works
Contract Number: ISD-16-5312C

The Contractor warrants and acknowledges that it has allowed in the Original Contract Price for all the costs and expenses involved with complying with all the requirements of this Contract relating to industrial relations and all relevant awards, enterprise and industrial agreements and project specific agreements and awards.

9.8 Submission for Review by the Principal's Representative

(a) The Contractor must submit each Document:

(i) in accordance with the times stated in this Contract or otherwise progressively and in timely manner to ensure that the Contractor's Activities are commenced, progressed and completed by the times required under this Contract, and by the times or within the periods:

A. identified in the Contractor's Program which is not rejected by the Principal's Representative; or

B. in the absence of a time or period in the Contractor's Program, required by the Principal's Representative; and

(ii) under cover of a written notice entitled "Submit for Review", which identifies:

A. the Document; and

B. the provision of this Contract under which the Document is submitted.

(b) A Document will be deemed not to have been submitted to the Principal's Representative unless and until:

(i) the Document covers, fully details and co-ordinates the whole of discrete areas of work so as to allow the area of work to be fully understood; and

(ii) the Contractor has otherwise complied with this clause 9.8, in addition to any other requirement of this Contract relating to the submission of that Document.

(c) The Principal's Representative may, after the submission of a Document which satisfies the requirements of clause 9.8(b):

(i) review the Document, or any resubmitted Document, prepared and submitted by the Contractor; and

(ii) where submitted or resubmitted in accordance with a program which has not been rejected by the Principal's Representative, within 15 Business Days of submission by the Contractor of such Document or resubmitted Document:

A. reject the Document if in its opinion the Document (or any part) does not comply with the requirements of this Contract, stating the nature of the non-compliance;
B. make comments on the Document; or
C. notify the Contractor that it has no (or has no further) comments to make.

(d) If any Document:

(i) is rejected or deemed to be rejected, the Contractor must submit an amended Document to the Principal's Representative within 10 Business Days of the date of such rejection or deemed rejection and this clause 9.8 will re-apply; or

(ii) is not rejected and the Principal's Representative responds to the submission with comments, the Contractor must respond to the comments within 10 Business Days or such other period as may be directed by the Principal's Representative.

If the Contractor fails to respond to the Principal's Representative's comments within this period in a manner satisfactory to the Principal's Representative the Document will be deemed to be rejected.

(e) The Contractor must not commence construction of any part of the Works to which any Document (other than the Contractor's Program) submitted to the Principal's Representative applies, unless the Principal's Representative has had the period referred to in clause 9.8(c)(ii) to review the Document and has not rejected the Document or made any comments on the Document (except in the case where the Contractor has responded to the Principal's Representative's comments within the required time period and in a manner satisfactory to the Principal's Representative as referred to in clause 9.8(d)).

(f) The Contractor must not amend for construction purposes any Document that has:

(i) been submitted to the Principal's Representative; and

(ii) not been rejected or not had comments made about it under clause 9.8(c)(ii),

unless the Contractor submits the proposed amendments to the Principal's Representative, in which case this clause 9.8 will re-apply.

(g) The Principal's Representative does not assume or owe any duty of care or other responsibility to the Contractor to review, or in reviewing, a Document submitted by the Contractor, including for errors, omissions or non-compliance with this Contract.

(h) The Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of or in any way in connection with the Principal's Representative not detecting and notifying the Contractor of any errors, omissions or non-compliance with the requirements of this Contract in any Document submitted.
(i) No review of, comment upon or rejection of, or failure to review or comment upon or reject, a Document prepared by the Contractor, or any other direction by the Principal’s Representative in connection with the Document, will:

   (i) constitute a direction to carry out a Variation pursuant to clause 6.2, unless it is in a written document titled "Variation Order" and describes the nature of the Variation in accordance with clause 6.2(a);

   (ii) relieve the Contractor from or alter its liabilities or obligations, whether under this Contract or otherwise according to any Law; or

   (iii) limit or otherwise affect the Principal’s rights against the Contractor, whether under this Contract or otherwise according to any Law.

(j) In considering any Document, the Principal’s Representative may consult with and take into account any views or requirements of any relevant Authority.

(k) Unless otherwise advised by the Principal’s Representative, the Contractor must submit the number of copies of a Document stated in this Contract, or if no number is stated then:

   (i) an electronic version on CD (in both pdf and native formats), which must be virus free;

   (ii) 1 printed original; and

   (iii) 3 printed copies (2 bound and 1 unbound).

9.9 Work Method

Whether or not this Contract prescribes a particular work method or a work method is otherwise a part of this Contract or reviewed or approved (expressly or impliedly) by the Principal’s Representative, the fact that any work method that the Contractor adopts or proposes to adopt is impractical or impossible or that the Contractor, with or without the approval of the Principal’s Representative, uses another work method will:

(a) not entitle the Contractor to make any Claim against the Principal arising out of or in any way in connection with the work method proving to be impractical or impossible or any change in the work method; and

(b) not cause the Contract to be frustrated.

9.10 Exchange of Information between Government Agencies

The Contractor authorises the Principal, its employees and agents to make information concerning the Contractor (including any information provided under clause 9.11) available to NSW government departments or agencies. Such information may include, but need not be limited to, any information provided by the Contractor to the Principal and any information relating to the Contractor’s performance under this Contract.

The Contractor acknowledges that any information about the Contractor from any source, including but not limited to substantiated reports of unsatisfactory performance, may be taken into account by the Principal and NSW government departments and
Transport for NSW

Sydney Growth Trains
Design and Construction of Maintenance Facility Works
Contract Number: ISD-16-5312C

agencies in considering whether to offer the Contractor future opportunities for NSW government work.

The Contractor also acknowledges that the Principal has in place processes for assessing the performance of its contractors, that these processes will apply to the Contractor's performance under this Contract and that it will participate in the Principal's "Contractor Performance Reporting" process.

9.11 Financial Assessment

Without limiting or otherwise restricting clause 9.10, the Contractor acknowledges and agrees that:

(a) the Principal may, during the term of the Contract, either itself, or through the engagement of private sector service providers, undertake ongoing financial assessments ("Financial Assessment") of the Contractor and any Subcontractors;

(b) the Financial Assessment may be undertaken at three monthly (or longer) intervals from the date of commencement of the Works; and

it must, if requested by the Principal's Representative, within 10 Business Days of receiving such request, provide any documents, information and evidence as is reasonably required by the Principal's Representative under, out of, or in connection with the Financial Assessment.

9.12 Employment of Aboriginal and Torres Strait Islander People

The Contractor must:

(a) use its best endeavours to provide employment opportunities to Aboriginal and Torres Strait Islander people in accordance with the NSW Government Policy on Aboriginal Participation in Construction (May 2015);

(b) as part of the human resources input to and the documentation and implementation of the Contract Management Plan, address the employment of Aboriginal and Torres Strait Islander people and compliance with the NSW Government Policy on Aboriginal Participation in Construction (May 2015); and

(c) provide reports to the Principal's Representative in such format and within such times as may be required by the Principal's Representative which record the performance of the Contractor in relation to Aboriginal participation.

9.13 Waste Reduction and Purchasing Policy

The Contractor must:

(a) use its best endeavours to reduce wastage and increase the use of recycled materials in accordance with the GREP;

(b) address as part of the Construction Environment Management Plan the measures to be taken to reduce wastage and increase the use of recycled
9.14 Training and apprentices

(a) Subject to the express provisions of the Contract, the Contractor must comply with the NSW Government "Training Management Guidelines", February 2009.

(b) 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.

(c) Where applicable, as indicated in Schedule 1, at least 14 days before starting work on the Site the Contractor must document and submit a Project Training Management Plan which complies with the NSW Government "Training Management Guidelines", February 2009.

(d) The Contractor must systematically manage its training management processes in accordance with the systems, plans, standards and codes specified in the Contract.

(e) The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under this clause 9.14.

(f) This clause 9.14(f) applies if so stated in Schedule 1. The Contractor:

(i) acknowledges that the target for the engagement of apprentices and trainees engaged by the Contractor to perform the Contractor's Activities is as specified in Schedule 1 (Training Target);

(ii) must make reasonable endeavours to achieve the Training Target;

(iii) provide written reports to the Principal quarterly, and at such other times as may be requested by the Principal, detailing the number of apprentices and trainees engaged by the Contractor in the Contractor's Activities against the Training Target; and

(iv) provide the Principal with all other assistance and information it requires in relation to the Contractor's performance against the Training Target in order for the Principal to comply with its reporting obligations at Law, including promptly making all relevant records available to the Principal after any written request by the Principal.

9.15 National Greenhouse and Energy Reporting Act 2007 (Cth)

The Contractor acknowledges and agrees that:
(a) if any of the Contractor's Activities, or the activities of any of the Contractor's personnel, in connection with the Contractor's Activities (the "Relevant Matters") constitute a "facility" within the meaning of the NGER Legislation, then, for the purposes of the NGER Legislation, the Contractor has operational control of that facility and will comply with any obligations arising in respect of the Principal's activities under the NGER Legislation;

(b) if, despite the operation of clause 9.15(a), the Principal incurs, or (but for this clause) would incur, a liability under or in connection with the NGER Legislation as a result of or in connection with any of the Relevant Matters, and the NGER Legislation provides that such liability can be transferred by the Principal or the NSW Government or any of its agencies to the Contractor, the Contractor must, on the written request of the Principal, do all things reasonably necessary to ensure the liability is transferred to the Contractor;

(c) if the Principal requests it, the Contractor must provide Greenhouse Data to the Principal:

   (i) to the extent that, in a manner and form that, and at times that, will enable the Principal to comply with the NGER Legislation irrespective of whether the Principal or the Contractor or any other person has an obligation to comply with the NGER Legislation in connection with any Relevant Matters; and

   (ii) otherwise as requested by the Principal from time to time;

(d) the Contractor must also provide to the Principal all Greenhouse Data and other information which the Contractor provides to any other person under the NGER Legislation in connection with any Relevant Matters, at the same time as the Contractor provides that Greenhouse Data or other information to that other person;

(e) the Contractor must:

   (i) collect and record all such Greenhouse Data as may be required to enable reporting under the NGER Legislation or enable the Contractor to discharge its obligations under this clause 9.15, and keep that Greenhouse Data for at least 7 years after the end of the year in which the Relevant Matters occur; and

   (ii) permit any persons appointed or authorised by the Principal to examine, monitor, measure, copy, audit and/or verify the Greenhouse Data and co-operate with and provide all reasonable assistance to any such persons (including by doing such things as giving access to premises, plant and equipment, producing and giving access to documents and answering any relevant questions);

(f) the Principal may provide or otherwise disclose the Greenhouse Data and any other information which the Principal obtains under this clause 9.15 to any other person, and may otherwise use the Greenhouse Data and other information for any purpose as the Principal sees fit; and
(g) nothing in this clause 9.15 is to be taken as meaning that the Principal has agreed to perform any statutory obligation that the Contractor may have regarding the provision of Greenhouse Data to any Authority.

10. Time and Progress

10.1 Rate of Progress

The Contractor must:

(a) immediately commence, and thereafter regularly and diligently progress the Contractor’s Activities;

(b) proceed with the Contractor’s Activities with due expedition and without delay; and

(c) achieve Completion of the Works and each Portion by the relevant Date for Completion.

Without limiting the Contractor’s rights under the SOP Act, the Contractor must not suspend the progress of the whole or any part of Contractor’s Activities except where directed by the Principal’s Representative under clause 10.14.

Without limiting the next paragraphs of this clause 10.1 or clause 10.4, the Contractor must give the Principal’s Representative reasonable advance notice of any information, documents or directions required by the Contractor to carry out the Contractor’s Activities in accordance with this Contract.

The Principal and the Principal’s Representative will not be obliged to furnish information, documents or directions earlier than the Principal or the Principal’s Representative, as the case may be, should reasonably have anticipated at the date of this Contract.

The Principal’s Representative may, by written notice expressly stated to be pursuant to this clause 10.1, direct in what order and at what time the various stages or parts of the Contractor’s Activities must be performed. If the Contractor can reasonably comply with the direction, the Contractor must do so. If the Contractor cannot reasonably comply, the Contractor must notify the Principal’s Representative in writing, giving reasons. For the avoidance of doubt, no direction by the Principal’s Representative will constitute a direction under this clause 10.1 unless the direction is in writing and expressly states that it is a direction under this clause 10.1.

If:

(d) compliance with a written direction expressly stated to be pursuant to this clause 10.1 causes the Contractor to incur more or less cost than otherwise would have been incurred, the difference will be dealt with and valued as if it were a Variation; and

(e) the Contractor is delayed as a consequence of compliance with a written direction expressly stated to be pursuant to this clause 10.1, the Contractor may claim an extension of time to the Date for Completion,
except where the direction was necessary because of, or arose out of or in any way in connection with, a failure by the Contractor to comply with its obligations under this Contract.

Such costs shall be the Contractor’s sole entitlement, and the Contractor will not be entitled to make, and the Principal will not be liable upon, any other Claim, arising out of or in any way in connection with any direction pursuant to this clause 10.1.

10.2 The Contractor’s Programming Obligations

The Contractor must:

(a) prepare and provide a Contractor’s Program that complies with and includes the details required by this Contract and any requirements of the Principal’s Representative;

(b) submit the Contractor’s Program to the Principal’s Representative for its review in accordance with clause 9.8 within the earlier of:

(i) 20 Business Days of the date of this Contract; or

(ii) any time required by the TfNSW Standard Requirements;

(c) when directed to do so by the Principal’s Representative, prepare and submit to the Principal’s Representative specific detailed programs and schedules for the Contractor’s Activities within 5 Business Days of receipt of such a direction;

(d) update, revise and submit to the Principal’s Representative an updated Contractor’s Program:

(i) to allow for delays to non-critical activities, extensions of time granted by the Principal’s Representative to any Date for Completion, the actual progress made by the Contractor, Variations and any other changes to the Contractor’s Activities but excluding claims for extensions of time to any Date for Completion which have been submitted by the Contractor to the extent that they have not been granted by the Principal’s Representative; and

(ii) on a monthly basis or whenever directed to do so by the Principal’s Representative;

(e) prepare and provide for the Principal’s Representative’s information only versions of all Contractor’s Programs prepared in accordance with clause 10.2(d) that also allow for those claims for an extension of time to any Date for Completion that have been made by the Contractor in accordance with clause 10.8 but to which the Principal’s Representative has not yet responded in accordance with clause 10.10;

(f) comply with the requirements of the Principal’s Representative and its other obligations under this Contract in preparing and using programs, including the requirements in clause 9.8; and
(g) not depart from the current version of the Contractor's Program that has been submitted to the Principal's Representative for review under clause 9.8 and not been rejected by the Principal's Representative within 15 Business Days.

10.3 Contractor not Relieved

Without limiting clause 9.8, no submission of, review of or comment upon, acceptance or rejection of, or any failure to review or comment upon or reject, a program (including the Contractor's Program) prepared by the Contractor, by the Principal's Representative in connection with the program, will:

(a) relieve the Contractor from or alter its liabilities or obligations under this Contract, including the obligation under clause 10.1;

(b) evidence or constitute notification of a delay or the claiming of or the granting of an extension of time to any Date for Completion or a direction by the Principal's Representative to compress, disrupt, prolong or vary any, or all, of the Contractor's Activities; or

(c) affect the time for the performance of the Principal's or the Principal's Representative's obligations under this Contract.

10.4 Compression by Contractor

If the Contractor chooses to compress the Contractor's Activities or otherwise accelerate progress:

(a) neither the Principal nor the Principal's Representative will be obliged to take any action to assist or enable the Contractor to achieve Completion before any Date for Completion;

(b) the time for carrying out the obligations of the Principal or the Principal's Representative will not be affected; and

(c) the Contractor does so at its own cost and risk.

10.5 Importance of Completion on Time

The Contractor acknowledges:

(a) the importance of complying with its obligations under clause 10.1; and

(b) that a Date for Completion will only be extended in accordance with clause 10.10 or clause 10.12, or when so determined under the Dispute Resolution Procedures.

10.6 Risk and Notice of Delay

(a) Except as expressly provided for in clause 10.10, the Contractor accepts the risk of all delays in, and disruption to, the carrying out of the Contractor's Activities and performance of its obligations under this Contract both before and after any Date for Completion.
The Contractor must within 5 days of the commencement of an occurrence causing any delay or which is likely to cause delay, give the Principal's Representative written notice of any delay or likely delay to the carrying out of the Contractor's Activities, details of the cause and how any Date of Completion is likely to be affected (if at all).

10.7 Entitlement to Claim Extension of Time

(a) If the Contractor is, or will be, delayed on or prior to the Date for Completion of the Works or a Portion, by reason of:

(i) an act or omission of the Principal or the Principal's Representative (including any breach of Contract or Variation directed by the Principal's Representative); or

(ii) a cause set out in Schedule 1,

in a manner that will prevent it from achieving Completion of the Works or the Portion by the relevant Date for Completion, the Contractor may claim an extension of time to the relevant Date for Completion.

(b) If the Contractor is, or will be, delayed after the Date for Completion of the Works or a Portion, by reason of an act or omission of the Principal or the Principal's Representative (including any breach of Contract or Variation directed by the Principal's Representative) in a manner which will delay it in achieving Completion of the Works or a Portion, the Contractor may claim an extension of time to the relevant Date for Completion.

10.8 Claim for Extension of Time

To claim an extension of time the Contractor must:

(a) within 14 days of the commencement of the occurrence causing the delay, submit a written claim to the Principal's Representative for an extension of time to the relevant Date for Completion, which:

(i) gives detailed particulars of the:

A. delay and the occurrence causing the delay; and

B. activities that are critical to the maintenance of progress in the execution of the Contractor's Activities; and

(ii) states the number of days for which the extension of time is claimed together with the basis of calculating that period, including evidence that the:

A. conditions precedent to an extension of time in clause 10.9 have been met; and

B. occurrence will delay it in achieving Completion in the manner described in clause 10.7; and
(b) if the effects of the delay continue beyond the period of 14 days after the commencement of the occurrence causing the delay and the Contractor wishes to claim an extension of time in respect of the further delay, submit a further written claim to the Principal's Representative:

(i) every 14 days after the first written claim, or such other period as may be approved by the Principal's Representative in writing, until after the end of the effects of the delay; and

(ii) containing the information required by paragraph (a).

The Principal's Representative may, within 14 days of receiving the Contractor's claim or further claim for an extension of time for Completion, by written notice to the Contractor, request additional information in relation to the claim or further claim. The Contractor must, within 14 days of receiving such request, provide the Principal's Representative with the information requested.

10.9 Conditions Precedent to Extension of Time

It is a condition precedent to the Contractor's entitlement to an extension of time to any relevant Date for Completion that:

(a) the Contractor gives the notices and claims required by clauses 10.6(b) and 10.8 as required by those clauses;

(b) the Contractor complies with any request for additional information under clause 10.8 within the time required;

(c) the cause of the delay is beyond the reasonable control of the Contractor; and

(d) the Contractor is actually, or will be, delayed:

(i) on or prior to the Date for Completion of the Works or the Portion, by reason of one or more of the causes set out in clause 10.7(a) in the manner described in clause 10.7(a); or

(ii) after the Date for Completion of the Works or the Portion, by reason of an act or omission of the Principal or the Principal's Representative (including any breach of Contract or Change directed by the Principal's Representative) in the manner described in clause 10.7(b).

If the Contractor fails to comply with the conditions precedent in this clause 10.9:

(e) the Principal will not be liable upon any Claim by the Contractor; and

(f) the Contractor will be absolutely barred from making any Claim against the Principal,

arising out of or in any way in connection with the event giving rise to the delay and the delay involved.
10.10 Extension of Time

Subject to clause 10.11, if the conditions precedent in clause 10.9 have been satisfied, the relevant Date for Completion will be extended by a reasonable period determined by the Principal's Representative, and notified to the Principal and the Contractor within 28 days after the latest of the:

(a) Contractor's written claim under clause 10.8; and
(b) provision by the Contractor of any additional information regarding the claim required under clause 10.8.

A failure of the Principal's Representative to grant a reasonable extension of time to any Date for Completion or to grant an extension of time to any Date for Completion within the relevant 28 day period will not cause an affected Date for Completion to be set at large, but nothing in this paragraph will prejudice any right of the Contractor to damages.

10.11 Reduction in Extension of Time

The Principal's Representative will reduce any extension of time to the relevant Date for Completion it would otherwise have determined under clause 10.10 to the extent that the Contractor:

(a) contributed to the delay; or
(b) failed to take all reasonably practicable steps necessary both to preclude the cause of the delay and to avoid or minimise the consequences of the delay.

10.12 Unilateral Extensions

Whether or not the Contractor has made, or is entitled to make, a claim for an extension of time to any relevant Date for Completion, or is entitled to be, or has been, granted an extension of time to any relevant Date for Completion, under clause 10.10, the Principal's Representative may, in its absolute discretion, for any reason and at any time, from time to time by written notice to the Contractor and the Principal, unilaterally extend any Date for Completion by any period specified in a notice to the Contractor and the Principal.

The Principal's Representative is not required to exercise its discretion under this clause 10.12 for the benefit of the Contractor.

The discretion to grant an extension of time under this clause 10.12 may only be exercised by the Principal's Representative and the exercise or failure to exercise that discretion is not a "direction" which can be the subject of a Dispute pursuant to the Dispute Resolution Procedures or in any other way opened up, reviewed or exercised by any other person in any forum (including in any expert, arbitration or litigation proceedings).

10.13 Delay Damages

For each day by which the Date for Completion of the Works or a Portion is extended due to:

(a) a breach of this Contract by the Principal;
(b) a Variation the subject of a direction by the Principal's Representative under clause 6.2, except where that Variation is directed in the circumstances described in clause 8.2(c); and

(c) a delay in the issue of a Configuration Change Acceptance Notice where clauses 5.4(d)(i) to 5.4(d)(iii) are satisfied,

the Contractor will be entitled to be paid the costs reasonably incurred by the Contractor as a direct result of the delay the subject of the extension of time, as determined by the Principal's Representative who must, where they are applicable, use the rates and prices in Schedule 1.

The valuation of entitlements to money under clauses 10.1 and 13.3 is not a Variation for the purposes of clause 10.13(b).

The amounts payable pursuant to this clause 10.13 will be a limitation upon the Principal's liability to the Contractor for any delay or disruption that:

(d) the Contractor encounters in carrying out the Contractor's Activities; and

(e) arises out of, or in any way in connection with, the breach of this Contract by the Principal,

and the Contractor will not be entitled to make, nor will the Principal be liable upon, any Claim in these circumstances other than for the amount which is payable by the Principal under this clause 10.13.

10.14 Suspension

The Principal's Representative may direct the Contractor to suspend and, after a suspension has been directed, to re-commence, the carrying out of all or a part of the Contractor's Activities. Nothing in this clause limits the Principal's rights under clause 2.10.

If the suspension under this clause 10.14 arises in the circumstance set out in clause 2.10(f) then clauses 2.10(f) and 2.10(g) will apply, otherwise where it arises as a result of:

(a) the Contractor's failure to carry out its obligations in accordance with this Contract (including under clause 4.6 or clause 4.7 or where the Contractor otherwise fails to comply with its obligations in relation to engineering authorisation or ASA compliance in accordance with this Contract or where any process, procedure, test method, calculation, analysis or report required by this Contract has resulted in or will result in a non-conformance), the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, the suspension; or

(b) a cause other than the Contractor's failure to perform its obligations in accordance with this Contract:

(i) a direction to suspend under this clause 10.14 will entitle the Contractor to:
A. be paid by the Principal the extra costs reasonably incurred by it as a direct result of the suspension as determined by the Principal's Representative; and

B. an extension of time to any relevant Date for Completion where it is otherwise so entitled under this clause 10;

(ii) the Contractor must take all steps possible to mitigate the extra costs incurred by it as a result of the suspension; and

(iii) the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim arising out of, or in any way in connection with, the suspension other than as allowed under this clause 10.14(b).

11. Payment

11.1 Contractor's Payment Entitlements

(a) Subject to clause 17.11 and to any other right to set-off that the Principal may have, the Principal must pay the Contractor the Contract Sum and any other amounts expressly payable by the Principal to the Contractor under this Contract, in accordance with the Payment Breakdown Schedule and the procedure in this clause 11.

(b) The Contract Sum is not subject to rise and fall.

11.2 Payment Claims

The Contractor may give the Principal's Representative a claim for payment on account of the Contract Sum and any other amount expressly payable by the Principal to the Contractor under the Contract on each Payment Claim Date.

The Contractor agrees with the Principal that each Payment Claim Date is, for the purposes of section 8 of the SOP Act, a "reference date".

Each claim for payment must:

(a) be in such form as the Principal's Representative reasonably requires;

(b) include all the evidence reasonably required by the Principal's Representative of the amount of work completed in accordance with this Contract and the amount payable;

(c) for each monthly claim pursuant to clause 11.2 (a "Progress Claim"), set out:

(i) the amount claimed for work completed in accordance with the Contract and incorporated in the Works or to which clause 11.7 applies, to the end of the previous month, including:

A. details of any Milestone completed; and
B. in the case of parts of the Works which are not Milestones, details of the work completed in accordance with the Contract; and

(ii) and details of how the amount has been calculated; and

(d) include such further information and evidence in respect of the payment claim as is reasonably required by the Principal's Representative.

The Contractor may not include in any payment claim under this clause 11 any amount:

(e) for the provision of Asset Management Information until all of the information has been submitted to the Principal in accordance with the Contract and to the satisfaction of the Principal;

(f) in respect of a Claim which is barred by clause 18.6 or any other provision of this Contract;

(g) any amount relating to a Milestone that has not been completed.

11.3 Payment Statements

The Principal's Representative must (on behalf of the Principal), within 10 Business Days of receiving a Progress Claim which complies with the requirements of clause 11.2, a Completion Payment Claim under clause 11.9 or a Final Payment Claim under clause 11.11, issue to the Contractor and the Principal a payment statement which, identifies the Progress Claim, Completion Payment Claim or Final Payment Claim to which it relates, and which sets out:

(a) its determination of the value of the Contractor's Activities carried out in accordance with this Contract, using the methodology in clause 11.2(c) where the payment statement relates to a Progress Claim;

(b) the amount already paid to the Contractor;

(c) the amount the Principal is entitled to retain, deduct, withhold or set-off under this Contract;

(d) the amount (if any) which the Principal's Representative believes to be then payable by the Principal to the Contractor on account of the Contract Sum and which the Principal proposes to pay to the Contractor or the amount which the Principal's Representative believes to be then payable by the Contractor to the Principal; and

(e) if the amount in paragraph (d) is less than the amount claimed in the Progress Claim, Completion Payment Claim or Final Payment Claim:

(i) the reason why the amount in paragraph (d) is less than the amount claimed in the relevant Progress Claim, Completion Payment Claim or Final Payment Claim; and

(ii) if the reason for the difference is that the Principal proposes to retain, deduct, withholding or setting-off payment for any reason, the reason for the Principal retaining, deducting, withholding or setting-off payment.
The issue of a payment statement by the Principal's Representative does not constitute approval of any work nor will it be taken as an admission or evidence that the part of the Works or Contractor's Activities covered by the payment statement has been satisfactorily carried out in accordance with this Contract.

Failure by the Principal's Representative to set out in a payment statement an amount, or the correct amount, which the Principal is entitled to retain, deduct, withhold or set-off from the amount which would otherwise be payable to the Contractor by the Principal will not prejudice the Principal's right to subsequently exercise its right to retain, deduct, withhold or set-off any amount under this Contract.

The Contractor agrees that the amount referred to in the payment statement in respect of paragraph (d) above for the purposes of section 9 and 10 of the SOP Act, is the amount of the "progress payment" (as defined in the SOP Act) calculated in accordance with the terms of this Contract to which the Contractor is entitled in respect of this Contract.

Where the Principal has notified the Contractor in accordance with clause 19(h)(iv) that it no longer proposes to issue a recipient created tax invoice for a taxable supply made by the Contractor for the Principal, the Contractor must, within 2 Business Days after receipt of the payment statement issued by the Principal's Representative give the Principal's Representative a tax invoice (which complies with the GST Legislation) for the amount of the payment statement.

11.4 Payment

(a) Where, pursuant to clause 11.3(d), the Principal's Representative sets out in a payment statement an amount payable by the Principal to the Contractor, subject to clauses 11.1, 11.2, 11.6, 11.8, 14.3, 14.7(a) and 17.11, the Principal must, within 15 Business Days of receipt of the payment claim to which the payment statement relates pay the Contractor the amount set out in the payment statement referred to in clause 11.3.

(b) Where, pursuant to clause 11.3(d), the Principal's Representative sets out in a payment statement an amount payable by the Contractor to the Principal, the Contractor must, within 5 Business Days of the Principal's Representative issuing the payment statement under clause 11.3, pay the Principal the amount set out in the payment statement referred to in clause 11.3.

11.5 Payment on Account

A payment of moneys under clause 11.4(a) is not:

(a) an admission or evidence of the value of work or that work has been satisfactorily carried out in accordance with this Contract;

(b) an admission of liability; or

(c) approval by the Principal or the Principal's Representative of the Contractor's performance or compliance with this Contract,

but is only to be taken as compliance on account.
11.6 **Payment Claim Requirements**

Prior to making a payment claim under clause 11.2, the Contractor must have:

(a) complied with clause 1.5;

(b) provided the Principal with the unconditional undertakings required under clause 2.7;

(c) provided the Principal’s Representative with:

(i) a statutory declaration by the Contractor, or where the Contractor is a corporation, by a representative of the Contractor who is in a position to know the facts attested to, in the form of Schedule 12, made out not earlier than the date of the payment claim;

(ii) a Contractor’s Certificate of Design Compliance and a Contractor’s Certificate of Construction Compliance, in the form of Schedule 19 and Schedule 20; and

(iii) where clause 11.16(g) applies, the statement and the evidence (if any) required to be provided by the Contractor pursuant to that clause; and

(d) effected or procured to be effected the insurances required to be effected by the Contractor by clauses 13.4, 13.5 and 13.6 and (if requested) provided evidence of this to the Principal’s Representative.

11.7 **Unfixed Plant and Materials**

The Contractor is only entitled to make a claim for payment for plant or materials intended for incorporation in the Works but not yet incorporated, and the Principal is only obliged to make payment for such plant or materials in accordance with clause 11.4(a) if:

(a) the Contractor provides evidence of:

(i) ownership of the plant or materials;

(ii) identification and labelling of the plant and materials as the property of the Principal; and

(iii) adequate and secure storage and protection;

(b) security acceptable to the Principal in the form of the unconditional undertaking in Schedule 8 issued by an Institution approved by the Principal in an amount equal to the payment claimed for the unfixed plant and materials has been provided by the Contractor to the Principal;

(c) the plant and materials are on the Site or are available for immediate delivery to the Site;

(d) the insurance held and the storage arrangements for the unfixed plant and materials are acceptable to the Principal’s Representative;
(e) the condition of the unfixed plant and materials has been confirmed in an inspection by the Principal's Representative; and

(f) if the PPS Law applies, the Contractor has registered a Security Interest in the unfixed plant and materials in favour of the Principal in accordance with clause 17.25.

The only such unfixed plant or materials to be allowed for in a payment statement are those that have become or (on payment) will become the property of the Principal. Upon a payment against a payment statement that includes amounts for unfixed plant and materials, title to the unfixed plant and materials included will vest in the Principal.

The security provided in accordance with clause 11.7(b) will be released once the applicable unfixed plant and materials are incorporated into the Works and are fit for their intended purpose.

11.8 Payment of Employees and Subcontractors

(a) When submitting any Progress Claim, Completion Payment Claim or Final Payment Claim, the Contractor must give the Principal's Representative a statutory declaration in accordance with clause 11.6(c)(i).

(b) If any moneys are shown as unpaid in the Contractor's statutory declaration under clause 11.6(c)(i), the Principal may withhold the moneys so shown until the Contractor provides evidence to the satisfaction of the Principal's Representative that the moneys have been paid to the relevant persons.

(c) If an employee or a Subcontractor obtains a court order in respect of the moneys payable to him, her or it in respect of his, her or its employment on, materials supplied for, or work performed with respect to, the Contractor's Activities, and produces to the Principal the court order and a statutory declaration that it remains unpaid, the Principal may (but is not obliged to) pay the amount of the order and costs included in the order to the employee or Subcontractor, and the amount paid will be a debt due from the Contractor to the Principal.

(d) If the Principal receives notice of any Insolvency Event in relation to the Contractor the Principal will not make any payment to an employee or Subcontractor without the concurrence of the administrator, provisional liquidator, liquidator, trustee or official receiver, as the case may be, of the Contractor.

(e) Nothing in this clause 11.8 limits or otherwise affects the Principal's right under section 175B(7) of the Workers Compensation Act 1987 (NSW), section 18(6) of schedule 2 of the Payroll Tax Act 2007 (NSW) or section 127(5) of the Industrial Relations Act 1996 (NSW).

11.9 Completion Payment Claim

No later than 28 days after the issue of the Notice of Completion for the Works or the last Portion to reach Completion, but subject to clause 11.6 the Contractor may lodge with the Principal's Representative a payment claim marked "Completion Payment Claim" stating;
11.10 Release after Completion Payment Claim

The Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract that occurred prior to the date of submission of the Completion Payment Claim, except for any Claim which:

(a) has been included in the Completion Payment Claim or First Statement of Outstanding Claims which is given to the Principal's Representative within the time required by, and in accordance with clause 11.9; and

(b) has not been barred under another provision of this Contract.

11.11 Final Payment Claim

No later than 28 days after the expiration of the last Defects Rectification Period, but subject to clause 11.6 the Contractor may lodge with the Principal's Representative a payment claim marked "Final Payment Claim" stating:

(a) the Contract Sum;

(b) all payments received on account of the Contract Sum; and

(c) the balance, if any, due to the Contractor.

The Final Payment Claim must be accompanied by such information as the Principal's Representative may reasonably require.

With the Final Payment Claim the Contractor must lodge with the Principal's Representative a Second Statement of Outstanding Claims. The Second Statement of Outstanding Claims must identify all Claims that the Contractor wishes to make against the Principal in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract.
connection with, the Contractor's Activities, the Works or this Contract which occurred prior to the date of submission of the Final Payment Claim.

The Final Payment Claim and Second Statement of Outstanding Claims must address all such facts, matters or things arising out of or in any way in connection with the Contractor's Activities the Works or this Contract up to the date of submission of the Final Payment Claim in respect of all Claims included in the Final Payment Claim and Second Statement of Outstanding Claims.

11.12 Release after Final Payment Claim

The Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or this Contract that occurred prior to the date of submission of the Final Payment Claim, except for any Claim which:

(a) has been included in the Final Payment Claim or Second Statement of Outstanding Claims which is given to the Principal's Representative within the time required by, and in accordance with, clause 11.11; and

(b) has not been barred under another provision of this Contract.

11.13 Interest

If any moneys due to either party remain unpaid after the date upon which, or the expiration of the period within which, they should have been paid, then interest will be payable thereon from but excluding the date upon which, or the date at the end of the expiration of the period within which, they should have been paid to and including the date upon which the moneys are paid.

The rate of interest will be the rate from time to time prescribed for judgement debts under the Uniform Civil Procedure Rules 2005 (NSW). Interest will be compounded at six monthly intervals.

This will be the party's sole entitlement to interest, including damages for loss of use of, or the cost of borrowing, money.

11.14 Correction of Payment Statements

The Principal's Representative may, in any payment statement:

(a) correct any error; and

(b) modify any assumptions or allowances made,

in any previous payment statement issued by the Principal's Representative.

11.15 Costs Allowed by Contractor

Unless otherwise provided in this Contract, it is agreed that the Contractor has, and will be deemed to have, allowed in the Original Contract Price for and will be wholly responsible for the payment of:
(a) without limiting clause 19, all customs duties, tariffs and similar taxes (other than GST) and charges paid or payable on all items that are:

(i) intended to be used for, or that are to be incorporated into, the Works; or

(ii) otherwise used for the Contractor's Activities;

(b) any long service leave levy which may be payable in respect of the Contractor's Activities or the Works;

(c) all royalties, licence fees and similar payments for Intellectual Property in respect of:

(i) the items that are intended to be used for, or that are to be incorporated into, the Works; and

(ii) all Contract Documentation; and

(d) all fluctuations in the value of the Australian dollar against other currencies.

The Contractor will have no entitlement to any increase in the Contract Sum or otherwise to make any Claim against the Principal in respect of any of those amounts, whatever they may actually be.

11.16 Security of Payment Act

(a) When an adjudication occurs under the SOP Act and the Principal has paid an adjudicated amount to the Contractor:

(i) the amount will be taken into account by the Principal's Representative in issuing a payment statement under clause 11.3;

(ii) if it is subsequently determined pursuant to the Contract that the Contractor was not entitled under the Contract to payment of some or all of the adjudicated amount that was paid by the Principal ("overpayment"), the overpayment will be a debt due and payable by the Contractor to the Principal which the Contractor must pay to the Principal upon demand and in respect of which the Contractor is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence;

(iii) if the adjudicator's determination is quashed, overturned or declared to be void, the adjudicated amount then becomes a debt due and payable by the Contractor to the Principal upon demand and in respect of which the Contractor is not entitled to claim or exercise any set-off, counterclaim, deduction or similar right of defence;

(iv) the Principal's Representative:

A. is not bound by the adjudication determination;

B. may reassess the value of the work that was valued by the adjudicator; and
C. may, if it disagrees with the adjudication determination, express its own valuation in any payment statement; and

(v) the payment statement referred to in clause 11.16(a)(iv) will be treated as a final determination of the value of the relevant work, subject to the provisions of the Dispute Resolution Procedures.

(b) For the purposes of section 17(3) of the SOP Act the Contractor irrevocably chooses the Resolution Institute, as the "authorised nominating authority" (as that term is defined in the SOP Act) for any adjudication application it may make under the SOP Act in respect of the subject matter of this Contract.

(c) Without limiting clauses 11.8 or 17.11, the Principal may withhold any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act.

(d) If the Principal withholds from money otherwise due to the Contractor any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act, then:

(i) the Principal may plead and rely upon Division 2A of the SOP Act as a defence to any claim for the money by the Contractor from the Principal; and

(ii) the period during which the Principal retains money due to the Contractor pursuant to an obligation under Division 2A of the SOP Act will not be taken into account for the purpose of determining:

A. any period for which money owed by the Principal to the Contractor has been unpaid; and

B. the date by which payment of money owed by the Principal to the Contractor must be made.

(e) The Contractor agrees not to commence proceedings to recover any amount withheld by the Principal pursuant to a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act.

(f) Any amount paid by the Principal pursuant to section 26C of the SOP Act will be a debt due from the Contractor to the Principal.

(g) If the Principal withholds money pursuant to a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act and the Contractor:

(i) pays the amount claimed to be due under the adjudication application to which the payment withholding claim relates; or

(ii) becomes aware that the adjudication application to which the payment withholding claim relates has been withdrawn,
then the Contractor must so notify the Principal within 5 days of the occurrence of the event in sub-paragraph (i) or (ii) above (as applicable) by providing to the Principal a statement in writing in the form of a statutory declaration together with such other evidence as the Principal may require evidencing that the amount has been paid or the adjudication application has been withdrawn (as the case may be).

11.17 Title

Title in all items forming part of the Works will pass progressively to the Principal on the earlier of payment for or delivery of such items to the Site. Risk in all such items remains with the Contractor until Completion.

12. Completion

12.1 Progressive Inspection and Testing

At any time prior to Completion of the Works or a Portion, the Principal's Representative may direct that any materials or work forming part of the Contractor's Activities in respect of the Works or that Portion be tested. The Contractor must provide such assistance, documentation, records, personnel (including Subcontractors) and samples and make accessible such parts of the Contractor's Activities or Works as may be required. On completion of any test the Contractor must make good the Contractor's Activities or Works so that they fully comply with this Contract.

The Principal's Representative may direct that any part of the Contractor's Activities or the Works must not be covered up or made inaccessible without the Principal's Representative's prior approval.

The tests prescribed in this Contract must be conducted by the Contractor as and when provided for in this Contract, or may be conducted by the Principal's Representative or a person (that may include the Contractor) nominated by the Principal's Representative.

Any testing required to be done by an independent authority must be carried out by an authority recognised by the Joint Accreditation System of Australia and New Zealand.

Unless otherwise stated in this Contract before conducting a test under this Contract the Principal's Representative or the Contractor must give not less than two Business Days notice in writing to the other of the time, date and place of the test. If the other party does not then attend, the test may nevertheless proceed.

Without prejudice to any other rights or remedies under this Contract, if the Contractor or the Principal's Representative delays in conducting a test, the other, after giving reasonable notice in writing of intention to do so, may conduct the test.

Each party must promptly make the results of tests available to the other and to the Principal's Representative.

Where the Principal's Representative directs that materials or work be tested, the costs of and incidental to testing must be valued under clause 6.4 and must be borne by the Principal or paid by the Principal to the Contractor unless:
(a) this Contract provides that the Contractor must bear the costs or the test is one which the Contractor was required to conduct other than pursuant to a direction under clause 12.1;

(b) the test shows that the material or work is not in accordance with this Contract;

(c) the test is in respect of a part of the Contractor's Activities or the Works covered up or made inaccessible without the Principal's Representative's prior approval where such was required; or

(d) the test is consequent upon a failure of the Contractor to comply with a requirement of this Contract.

Where the extra costs are not to be borne by the Principal, they will be borne by the Contractor and will be a debt due from the Contractor to the Principal or paid by the Contractor to the Principal on demand.

12.2 Contractor to Notify

(a) The Contractor must give the Principal's Representative written notice 21 days before it anticipates achieving Completion of the Works or a Portion.

(b) Following the issue by the Contractor of a notice under clause 12.2(a) the Contractor must:

(i) prepare a detailed procedure for the progressive inspection by the Principal's Representative of the Works or that Portion; and

(ii) unless otherwise required under the TfNSW Standard Requirements, provide a draft defects management plan (without identifying any defects in respect of the Works or that Portion).

(c) The procedure and draft defects management plan referred to in clause 12.2(b) must be submitted to the Principal's Representative and, prior to the inspection under clause 12.3(a) must, if required by the Principal's Representative, be amended to ensure that the:

(i) procedure provides the Principal's Representative with sufficient time to properly carry out this progressive inspection and the final inspection which the Principal's Representative is required to undertake under clause 12.3 to determine whether Completion of the Works or a Portion (as the case may be) has occurred; and

(ii) draft defects management plan fully addresses the matters the Principal's Representative directs.

12.3 Inspection before Completion

(a) The Principal's Representative and the Contractor's Representative must, within 7 days of receipt by the Principal's Representative of the notice referred to in clause 12.2(a), jointly inspect the Works or the Portion at a mutually convenient time.
Following the joint inspection under clause 12.3(a), the Principal's Representative must issue a notice to the Principal and the Contractor either:

(i) containing a list of the items that are apparent and it believes must be completed before Completion of the Works or the Portion is achieved; or

(ii) stating that it believes the Contractor is so far from achieving Completion of the Works or the Portion that it is not practicable to issue a list as contemplated in clause 12.3(b)(i).

When the Principal's Representative issues a notice under either clause 12.3(b)(i) or clause 12.3(b)(ii), the Contractor must continue to proceed to bring the Works or the Portion to Completion and thereafter when the Contractor considers it has achieved Completion of the Works or the Portion, the Contractor must notify the Principal's Representative in writing by means of a Contractor's Certificate of Completion in the form of Schedule 21.

Thereafter the Principal's Representative and the Contractor's Representative must jointly inspect the Contractor's Activities at a mutually convenient time.

Following the joint inspection under clause 12.3(c), the Principal's Representative must within 21 days of receipt of a notice under clause 12.3(c), or of receipt of a notice under clause 12.3(e), issue a notice to the Principal and the Contractor:

(i) if satisfied that Completion of the Works or the Portion has been achieved:

A. stating the date on which the Principal's Representative determines Completion of the Works or the Portion was achieved; and

B. containing a list of any minor Defects, of the type described in paragraph (a) of the definition of "Completion" in clause 1.1, that are apparent; or

(ii) if not satisfied that Completion of the Works or the Portion has been achieved:

A. containing a list of the items that are apparent and it believes must be completed before Completion of the Works or the Portion is achieved; or

B. stating that it believes the Contractor is so far from achieving Completion of the Works or the Portion that it is not practicable to issue a list as contemplated by clause 12.3(d)(ii)A.

If the Principal's Representative issues a notice under either clause 12.3(d)(ii)A or clause 12.3(d)(ii)B, the Contractor must continue to proceed to bring the Works or the Portion to Completion and thereafter when it considers it has achieved Completion of the Works or the Portion, the Contractor must notify.
the Principal's Representative by notice in writing, after which the second paragraph of clause 12.3(c), clause 12.3(d) and this clause 12.3(e) will reapply.

(f) Where there are Portions, for the purposes of this Contract and without affecting the Contractor's obligation to achieve Completion of each Portion by the relevant Date for Completion of each Portion:

(i) no separate Date for Completion of the Works is specified in this Contract;

(ii) Completion of the Works is achieved by achieving Completion of all Portions;

(iii) Completion of the Works will be taken to have occurred once Completion of all Portions has occurred; and

(iv) the Date of Completion of the Works will be taken to be the Date of Completion of the last Portion to reach Completion.

12.4 Unilateral Issue of Notice of Completion

If at any time a notice required to be given by the Contractor to the Principal's Representative under either of clauses 12.3(c) or 12.3(e) is not given by the Contractor yet the Principal's Representative is of the opinion that Completion of the Works or a Portion has been achieved, the Principal's Representative may at any time and for any reason in its absolute discretion issue a Notice of Completion under clause 12.3(d)(i) for the Works or the Portion.

12.5 Hand Over upon Completion

The Contractor acknowledges that the Principal will require a progressive handover of the Works and that this handover will take place by the Contractor handing over each Portion once that Portion has reached Completion. The Principal's obligations under clause 3.1(b) in respect of the Site will then cease in respect of so much of the Site, access to which was provided for that Portion which is handed over to the Principal.

12.6 Part of the Works or a Portion

(a) Without limiting clause 12.6(b), further Portions may be created by the Principal's Representative by issuing a written direction to the Contractor which clearly identifies for each, the:

(i) portion of the Works;

(ii) Date for Completion; and

(iii) respective amounts for security, delay damages and liquidated damages (which will unless otherwise stated in the Principal's Representative's direction all be calculated pro-rata according to the ratio of the Principal's Representative's valuation of the Portion to the Contract Sum).

(b) Without limiting clause 12.6(a), the Principal may, after the Contractor is given written notice by the Principal's Representative, occupy or use any part of the
Works or a Portion although the whole of the Works or the Portion has not reached Completion.

(c) If the Principal's Representative gives a notice under clause 12.6(b):

(i) the Principal must allow the Contractor reasonable access to the part of the Works or the Portion referred to in the notice and being occupied or used by the Principal, to enable the Contractor to bring the Works or the relevant Portion of which the area being occupied or used forms part to Completion; and

(ii) this will not otherwise limit or affect the obligations of the parties under this Contract, including the obligation of the Contractor to achieve Completion of the Works or the relevant Portion of which the area being occupied or used forms part, by the relevant Date for Completion.

12.7 Consequences of Delay

The parties acknowledge and agree that:

(a) Completion of the Works is a condition precedent to Provisional Acceptance of the first Set under the Delivery Deed;

(b) the Contractor is liable to the Principal under the Delivery Deed for Delay LDs if Provisional Acceptance is not achieved by the Date for Provisional Acceptance;

(c) accordingly, if the Works are delayed, Provisional Acceptance of the first Set will be delayed, and consequently the Contractor may be liable for Delay LDs under the Delivery Deed;

(d) Delay LDs payable in accordance with clause 15.8 (Supplier's obligation to pay Delay LDs) of the Delivery Deed are the Principal's sole remedy against the Contractor for any failure by the Contractor to achieve Completion of the Works or a Portion by the Date for Completion for the Works or the Portion;

(e) the Principal will not be entitled to make a Claim against the Contractor for damages for any failure by the Contractor achieve Completion of the Works or a Portion by the Date for Completion for the Works or the Portion, other than in accordance with clause 15.8 (Supplier's obligation to pay Delay LDs) of the Delivery Deed; and

(f) in this clause 12.7, Delay LDs and Date for Provisional Acceptance have the meaning given to those terms in the Delivery Deed.

12.8 Final Completion

(a) The Contractor must give the Principal's Representative written notice two months before it anticipates completing all the work to be completed prior to achieving Final Completion.
The Principal's Representative and the Contractor's Representative must, within 28 days before the date the Principal's Representative expects Final Completion to occur, but no earlier than 28 days before the end of the latest Defects Rectification Period, jointly inspect the Works at a mutually convenient time.

Following the joint inspection under clause 12.8(b), the Principal's Representative must issue a notice to the Principal and the Contractor containing a list of the items that are apparent and it believes must be completed before Final Completion is achieved.

If the Principal's Representative issues a notice under clause 12.8(c), the Contractor must continue to bring the Works to Final Completion and thereafter when the Contractor considers it has achieved Final Completion, the Contractor must notify the Principal's Representative in writing by means of a Contractor's Certificate of Final Completion in accordance with Schedule 22. Thereafter, the Principal's Representative and the Contractor's Representative must jointly inspect the Works at a mutually convenient time.

Following the joint inspection under clause 12.8(d), the Principal's Representative must within 21 days of receipt of a notice under clause 12.8(d), or of receipt of a notice under clause 12.8(f), issue a notice to the Principal and the Contractor:

(i) if satisfied that Final Completion has been achieved, stating the date on which the Principal's Representative determines Final Completion was achieved; or

(ii) if not satisfied that Final Completion has been achieved:

A. containing a list of the items which it believes must be completed before Final Completion is achieved; or

B. stating that it believes the Contractor is so far from achieving Final Completion that it is not practicable to issue a list as contemplated by clause 12.8(e)(ii)A.

If the Principal's Representative issues a notice under clause 12.8(e)(ii)A or clause 12.8(e)(ii)B, the Contractor must continue to proceed to bring the Works to Final Completion and thereafter when it considers it has achieved Final Completion of the Works the Contractor must notify the Principal's Representative in writing after which the second sentence of clause 12.8(d), clause 12.8(e) and this clause 12.8(f) will reapply.

12.9 Effect of Notice of Completion or Final Completion

A notice issued under clause 12.3(d)(i) or 12.8(e)(i) will not:

(a) constitute approval by the Principal or the Principal's Representative of the Contractor's performance of its obligations under this Contract;

(b) be taken as an admission or evidence that the Works or the Portion complies with the requirements of this Contract; or
13. Care of the Works, Risks and Insurance

13.1 Care of the Works

Except where it arises from an Excluded Risk, and without limiting the generality of the Contractor's obligations, the Contractor:

(a) from and including the earlier of the date of commencement of work and the date on which the Contractor is given access to the Site, or a part of the Site, until 4:00pm on the Date of Completion of the Works or the last Portion to reach Completion will:

(i) be responsible for the care of and will bear the risk of, and indemnify the Principal against any loss of, or damage to:

A. the Contractor's Activities;
B. the Works;
C. Temporary Works;
D. Construction Plant;
E. unfixed plant and materials (whether on or off the Site) the value of which has been included in a payment statement under clause 11.3; and
F. things entrusted to the Contractor by the Principal or brought onto the Site by a Subcontractor for the purpose of carrying out the Contractor's Activities; and

(ii) provide the storage and protection necessary to preserve these things; and

(b) after the time after which the Contractor ceases to be responsible under paragraph (a) for the care of a part of the Works or any other thing referred to in subparagraph (a)(i), will bear the risk of, and indemnify the Principal against, any loss of or damage to that part of the Works or other thing, arising from:

(i) any act or omission of the Contractor during the Defects Rectification Period (including any extension under clause 8.6) or any other Contractor's Activities; or

(ii) any event which occurred while the Contractor was responsible for the care of the relevant part of the Works or other thing under paragraph (a) in connection with the Contractor's Activities.

13.2 Indemnity

The Contractor must indemnify the Principal against:
any loss of or damage to property of the Principal;

(b) any liability to or claims by a third party in respect of loss of or damage to property, the loss of use of or access to property, or injury to or death of persons; and

(c) without limiting or otherwise affecting paragraph (a), any loss or damage to existing property in or upon which the Contractor's Activities are being carried out,

caused by, or arising out of, or in any way in connection with, the Contractor's Activities, but the Contractor's responsibility to indemnify the Principal will be reduced proportionally to the extent than an act or omission by the Principal, the Principal's Representative, other agents of the Principal or an Other Contractor contributed to the loss, damage, injury or death provided that the Contractor has complied with its obligations under clause 2.9(a)(ii)B.

The indemnity in this clause 13.2 will not:

(d) exclude any other right of the Principal to be indemnified by the Contractor; or

(e) apply to the extent to which the Contractor must indemnify the Principal under clause 13.1.

13.3 Reinstatement

During the period during which the Contractor bears the risk of loss or damage, and while the Contractor is responsible for its care, if loss or damage occurs to anything for which the Contractor is responsible under clause 13.1, the Contractor must:

(a) subject to paragraph (b), promptly replace or otherwise make good the loss or repair the damage; and

(b) where the loss or damage arises from an Excepted Risk, without fault or omission on the part of the Contractor, only comply with paragraph (a) to the extent directed by the Principal's Representative.

The Contractor will bear the cost of such replacement, making good or repair except to the extent that the loss or damage arises from an Excepted Risk, in which event this replacement, making good or repair will, to the extent the loss or damage arises from an Excepted Risk (but subject to paragraph (b)), be treated as if it were a Variation the subject of a direction by the Principal's Representative and clause 6.4 applied.

13.4 Works Insurance - Alternative 1

This alternative applies if so stated in Schedule 1.

The Principal will effect and maintain insurances on the terms of the summary which is included in Exhibit C. This insurance will cover, in joint names, the Contractor, the Principal, the Principal's Representative and all subcontractors employed by the Contractor in respect of the Contractor's Activities.

This insurance is subject to the exclusions, conditions and excesses noted in Exhibit C, and is deemed to satisfy the Principal's obligation to effect insurance. The Contractor
acknowledges and agrees that prior to the date of this Contract it reviewed and examined Exhibit C and:

(a) has satisfied itself as to the nature and extent of the cover provided by those insurance policies;

(b) acknowledges that the policies of insurance summarised in Exhibit C do not cover every risk to which the Contractor might be exposed and are subject to deductibles and limits and the Contractor may, if it chooses to do so, at its cost effect appropriate insurance for any risk or liability which is not covered by the policies of insurance summarised in Exhibit C; and

(c) where it bears the risk of the relevant loss or damage, or is required to indemnify the Principal, agrees to bear the cost of any excesses in the insurance policies summarised in Exhibit C or any insurance taken out under this clause 13.4.

13.4 Works Insurance - Alternative 2

This alternative applies if so stated in Schedule 1.

Before commencing the Contractor's Activities, the Contractor must insure all the things referred to in clause 13.1 against loss or damage resulting from any cause until the Contractor ceases to be responsible for their care.

Without limiting the generality of the obligation to insure, such insurance must cover the Contractor's liability under clause 13.3 and things in storage off site and in transit to the site but may exclude:

(a) the cost of making good fair wear and tear or gradual deterioration, but shall not exclude the loss or damage resulting therefrom;

(b) the cost of making good faulty workmanship and materials, but shall not exclude the loss or damage resulting therefrom;

(c) consequential loss of any kind, but shall not exclude loss of or damage to the Works;

(d) damages for delay in completing or for the failure to complete the Works;

(e) loss or damage resulting from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel resulting from any cause; and

(f) loss or damage resulting from the Excepted Risk referred to in paragraph (a) of the definition of Excepted Risk.

The insurance cover must be for an amount not less than the aggregate of the:

(g) Contract Sum;

(h) provision in Schedule 1 to provide for costs of demolition and removal of debris;
(i) provision in Schedule 1 for consultants' fees and Principal's consultants' fees;

(j) value in Schedule 1 of any materials or things to be supplied by the Principal for the purposes of the Contractor's Activities; and

(k) additional amount or percentage in Schedule 1 of the total of the items referred to in sub-paragraphs (d) to (j) of this paragraph.

Insurance shall be in the joint names of the parties, must cover the parties, consultants and subcontractors whenever engaged in the Contractor's Activities for their respective rights, interests and liabilities and, except where the Contract otherwise provides, must be with an insurer and in terms both approved in writing by the Principal (which approvals must not be unreasonably withheld).

13.5 Public Liability Insurance – Alternative 1

This alternative applies if so stated in Schedule 1.

The Principal will effect and maintain insurance on the terms of the summary which is included in Exhibit C. The insurance will cover the Contractor, the Principal, the Principal's Representative and all subcontractors employed by the Contractor in respect of the Contractor's Activities.

This insurance is subject to the exclusions, conditions and excesses noted on the policies, and is deemed to satisfy the Principal's obligation to effect insurance. The Contractor acknowledges and agrees prior to the date of this Contract it reviewed and examined Exhibit C and:

(a) has satisfied itself as to the nature and extent of the cover provided by those insurance policies;

(b) acknowledges that the policies of insurance summarised in Exhibit C do not cover every risk to which the Contractor might be exposed and are subject to deductibles and limits and the Contractor may, if it chooses to do so, at its cost effect appropriate insurance for any risk or liability which is not covered by the policies of insurance summarised in Exhibit C; and

(c) where it bears the risk of the relevant loss or damage, or is required to indemnify the Principal, agrees to bear the cost of any excesses in the insurance policies summarised Exhibit C, or any insurance taken out under this clause 13.5.

13.5 Public Liability Insurance – Alternative 2

This alternative applies if so stated in Schedule 1.

Before commencing the Contractor's Activities, the Contractor must effect and maintain for the duration of the Contract, a public liability policy.

The policy must:

(a) be in the joint names of the parties;

(b) cover the:
(i) respective rights and interests; and

(ii) liabilities to third parties,

of the parties, the Principal's Representative, consultants and subcontractors from time to time, whenever engaged in the Contractor's Activities;

(c) cover the parties' respective liability to each other for loss or damage to property (other than property required to be insured by clause 13.4 Alternative 2) and the death of or injury to any person (other than liability which the law requires to be covered under a workers compensation insurance policy);

(d) be endorsed to cover the use of any Construction Plant not covered under a comprehensive or third party motor vehicle insurance policy;

(e) provide insurance cover for an amount in respect of any one occurrence of not less than the sum in Schedule 1; and

(f) be with an insurer and otherwise in terms both approved in writing by the Principal (which approvals must not be unreasonably withheld).

13.6 Contractor's Other Insurance Obligations

The effecting of insurance will not limit the liabilities or obligations of a party under any other provision of this Contract.

The Contractor must, or in the case of asbestos liability insurance, either the Contractor or its specialist asbestos removal Subcontractor must (if required by clause 13.6(a)(iii) below), before the Contractor commences the Contractor's Activities or as otherwise required by this Contract:

(a) effect and have in place the following insurance with insurers of the Required Rating and on terms satisfactory to the Principal's Representative:

   (i) workers compensation insurance, employers indemnity insurance or similar insurance, in accordance with the Laws of any State, Territory or other jurisdiction where the Contractor's Activities are being performed;

   (ii) an insurance policy covering loss or damage to the Construction Plant;

   (iii) if the Contractor's Activities include any work involving asbestos or asbestos decontamination, including stripping, encapsulation or removal, asbestos liability insurance;

   (iv) professional indemnity insurance;

   (v) motor vehicle insurance covering all mechanically propelled vehicles used in connection with the Contractor's Activities, whether registered, capable of being registered or required under the Law to be registered, extended specifically to cover the transportation of items and substances, and including:
A. insurance against personal injury or death, as required under all applicable Laws; and

B. in addition to the public liability insurance required under this Contract, insurance for third party property damage and personal injury or death;

(vi) if the things the care of which the Contractor is responsible for under clause 13.1 are in transit (including storage and transhipment) from any place outside of Australia, marine transit insurance on an "all risks" basis, including war, riots, strikes and civil commotion coverage, covering those things until they are delivered to the Site, unpacked, inspected and confirmed as in sound condition;

(vii) any insurance that the Contractor is required to obtain by virtue of any Law or Change in Law; and

(viii) appropriate insurance (for replacement value) in respect of all materials being or to be fabricated overseas for the Works and any other insurance that the Principal may reasonably require the Contractor to obtain,

for amounts not less than the amounts (if any) referred to in Schedule 1;

(b) ensure the Construction Plant insurance, motor vehicle insurance (except for compulsory third party insurance for bodily injury as required by the law), asbestos liability insurance, marine transit insurance and any insurance required by sub-paragraph (a)(vii):

(i) are policies in the joint names of the Principal and the Contractor, and cover the Principal, the Principal's Representative (including any appointee under clauses 9.2 or 9.3), the Contractor and all its Subcontractors, for their respective rights and interests, and their liabilities to third parties and liability to each other;

(ii) cover loss or damage to property (other than property described in clause 13.1 and the death of or injury to any person (other than liability which the law requires to be covered under a workers compensation insurance or similar insurance policy), arising out of, or in any way in connection with, the Contractor's Activities;

(iii) includes a cross-liability clause in accordance with clause 13.10; and

(iv) is for an amount in respect of any occurrence not less than the amount referred to in Schedule 1;

(c) ensure the asbestos liability insurance is in place before any work involving asbestos or asbestos decontamination work commences;

(d) ensure that any insurance policy required by sub-paragraph (a)(vii) is in place before the Contractor's Activities covered by such policies commence;

(e) ensure the professional indemnity insurance:
(i) covers claims for breach of professional duty (whether owed in contract or otherwise) by the Contractor or its Subcontractors in carrying out the Contractor's Activities;

(ii) covers the Contractor for liability to the Principal arising from errors or omissions in:
   A. design or documentation of the Works or the Temporary Works; or
   B. other professional services, carried out by the Contractor or any of its Subcontractors; and

(iii) provide:
   A. cover for any amount in respect of any one claim of not less than;
   B. cover for an amount in the aggregate of not less than; and
   C. for an excess not greater than, the amount stated in Schedule 1;

(f) in relation to the workers compensation insurance or similar insurance:
   (i) where permitted by Law, extend the insurance policy to provide indemnity to the Principal for its statutory liability to the Contractor's employees;
   (ii) ensure that each of its Subcontractors has such workers compensation insurance or similar insurance covering the Subcontractor's employees; and
   (iii) ensure it insures against liability for death of or injury to persons employed by the Contractor or its Subcontractors as required by any Law for an amount not less than the amount stated in Schedule 1 (if any) for any one event, subject to the maxima or minima imposed by relevant Law; and

(g) in relation to marine transit insurance, ensure that the policy:
   (i) is in the joint names of the Principal and Contractor, and covers the Principal, the Principal's Representative, the Contractor and all its Subcontractors as separate insureds, for their respective rights and interests;
   (ii) includes a cross-liability clause in accordance with clause 13.10; and
   (iii) includes a delayed unpacking clause and a 50:50 clause.
13.7 General Insurance Requirements

The Contractor must:

(a) in respect of any insurance policy (including an insurance policy which this Contract requires the Contractor to procure to be effected by a Subcontractor) which it is required to effect or procure to be effected, pursuant to this Contract and where required by the Principal’s Representative, provide the Principal’s Representative (or other person nominated for this purpose by the Principal’s Representative) within 5 days of a request with:

(i) a certificate of currency and any other evidence satisfactory to the Principal’s Representative demonstrating that the policy is current and in compliance with the Contractor’s obligation to insure (or procure insurance), or (where relevant) a licence as a self-insurer or other proof of being a self-insurer under the Workers Compensation Act 1987 (Cth); and

(ii) a certified copy of the insurance policy and any other evidence which may be reasonably necessary to satisfy the Principal’s Representative that the policy is current and complies with the requirements of this Contract;

(b) ensure that (except for professional indemnity or workers compensation or similar insurance):

(i) the Principal receives at least 30 days notice of any cancellation or material change of any insurance policy effected under clause 13.4, 13.5 or 13.6;

(ii) a notice of claim given to the insurer by the Principal, the Contractor or a Subcontractor will be accepted by the insurer as a notice of claim by the Principal, the Contractor and the Subcontractor, and

(iii) upon becoming aware of any fact, matter or thing entitling the insurer to cancel the policy, give immediate notice in writing to the Principal about that fact, matter or thing at least 30 days prior to the insurer giving any notice of cancellation; and

(c) ensure that it:

(i) does not do anything which prejudices any insurance;

(ii) where required, rectifies anything which might prejudice any insurance;

(iii) reinstates an insurance policy if it lapses;

(iv) does not cancel, vary or allow an insurance policy to lapse without the prior written consent of the Principal’s Representative;

(v) immediately notifies the Principal’s Representative of any event that may result in an insurance policy lapsing or being cancelled, and
replaces that insurance policy prior to it lapsing or being cancelled; and

(vi) 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.

If the Contractor fails to:

(d) provide copies of any insurance policy (including an insurance policy which this Contract requires the Contractor to procure a Subcontractor to effect) which the Contractor is required to effect together with evidence satisfactory to the Principal's Representative that the policy is current; or

(e) effect or procure to be effected insurance which is with insurers of the Required Rating and on terms satisfactory to the Principal's Representative, as required by clauses 2.2(c), 13.4, 13.5, 13.6 or this clause 13.7, the Principal may, at its sole discretion and without prejudice to any other rights that it may have, take out that insurance and the cost will be a debt due from the Contractor to the Principal.

The Principal may refuse payment until the Contractor produces evidence of compliance with its insurance obligations under clauses 2.2(c), 13.4, 13.5 and 13.6 to the satisfaction of the Principal. The rights given by this clause 13.7 are in addition to any other right.

13.8 Period of Insurance

The insurance the parties are required to have in place under this clause 13 must be maintained:

(a) in the case of the works and public liability insurance policy required by clauses 13.4, and 13.5 so as to provide cover until the latest to occur of:

(i) Contractor ceases to be responsible under clause 13.1 for the care of anything; and

(ii) the Principal's Representative issues a notice under clause 12.8(e)(i) stating the date on which Final Completion was achieved;

(b) in the case of the Construction Plant insurance:

(i) until the Contractor ceases to bear the risk of loss of or damage to anything under clause 13.1; and

(ii) at any time it is being used in connection with the Contractor's Activities;

(c) in the case of the workers compensation insurance and motor vehicle insurances, until the Principal's Representative issues a notice under clause 12.8(e)(i) stating the date on which Final Completion was achieved;
(d) in the case of professional indemnity insurance, before commencing work covered by the policy referred to in clause 13.6(e) until at least the period specified in Schedule 1 after the Date of Final Completion;

(e) in the case of asbestos liability insurance, marine transit insurance and insurance required under clause 13.6(a)(viii), for so long as there is a risk that an event covered by the insurance may occur in relation to the Works or the Contractor's Activities; and

(f) in the case of insurance required under clause 13.6(a)(vii), during the period required by any Law.

13.9 Notice of Potential Claim

The Contractor must:

(a) as soon as possible inform the Principal in writing of any occurrence that may give rise to a claim under an insurance policy required by this Contract (except for the professional indemnity insurance policy);

(b) keep the Principal informed of subsequent developments concerning the claim; and

(c) ensure that its Subcontractors similarly inform the Contractor and the Principal in respect of occurrences that may give rise to a claim.

13.10 Cross Liability

Where this Contract requires insurance to be effected in joint names the party effecting the insurance must ensure that the insurance policy provides that:

(a) insofar as the policy may cover more than one insured, all insuring agreements and endorsements (with the exception of limits of liability) will operate in the same manner as if there were a separate policy of insurance covering each named insured;

(b) the insurer waives all rights, remedies or relief to which it might become entitled by subrogation against any of the parties covered as an insured;

(c) failure by any insured to observe and fulfil the terms of the policy will not prejudice the insurance in regard to any other insured;

(d) any non-disclosure by one insured does not prejudice the right of any other insured to claim on the policy; and

(e) a notice to the insurer by one insured will be deemed to be notice by all insured parties.

13.11 Risk of Deductibles

The Contractor must pay all insurance deductibles or excesses in respect of any event and claim made under a policy referred to in this clause 13.
14. Default or Insolvency

14.1 Contractor's Default

If the Contractor commits a breach of this Contract referred to below, the Principal may give the Contractor a written notice.

The breaches by the Contractor to which this clause applies are:

(a) not commencing or not progressing the Contractor's Activities regularly and diligently in accordance with the requirements of this Contract, in breach of clause 10.1;

(b) suspension of work, or failing to proceed with the Contractor's Activities with due expedition and without delay, in breach of clause 10.1;

(c) failing to provide the security, in breach of clause 2.7;

(d) failing to provide evidence of insurance, in breach of clause 13;

(e) failing to use the materials or standards of workmanship required by this Contract, in breach of clause 4.1;

(f) not complying with any direction of the Principal's Representative made in accordance with this Contract, in breach of clause 9.1(a);

(g) not complying with the requirements of this Contract regarding the Contract Management Plan in a material respect;

(h) not complying with its obligations under:
   (i) the TfNSW Standard Requirements with regard to the Contract Management Plan; or
   (ii) the TfNSW Standard Requirements with regard to technical management;

(i) not complying with its environmental obligations under this Contract;

(j) not complying with its obligations under this Contract regarding work health and safety;

(k) the failure to comply with all applicable Law, including the failure to comply with, carry out and fulfil the conditions and requirements of all Authority Approvals in breach of clause 2.3; or

(l) any other failure to comply with a material obligation under the Contract.

14.2 Contents of Notice

A written notice under clause 14.1 must:

(a) state that it is a notice under clause 14.1 or clause 14.3 (as the case may be);
specify the alleged breach;

require the Contractor to remedy the breach or, in the case of a notice by the Principal where the breach is not capable of being remedied, make other arrangements satisfactory to the Principal; and

specify the time and date by which the Contractor must remedy the breach or make other arrangements satisfactory to the Principal (which time must not be less than 21 clear days after the notice is given).

14.3 Rights of the Principal Following Notice

Upon giving a notice under clause 14.1, the Principal may suspend payments to the Contractor until the date upon which the Contractor remedies the breach or makes arrangements satisfactory to the Principal.

If, by the time specified in a notice under clause 14.1, the Contractor fails to remedy the breach or make arrangements satisfactory to the Principal, the Principal may, by notice in writing to the Contractor:

(a) take out of the hands of the Contractor the whole or part of the work remaining to be completed; or

(b) terminate this Contract.

14.4 Immediate Termination or Take-Out

If:

(a) whether or not the Contractor is then in breach of this Contract:

(i) an Insolvency Event occurs:
   A. to the Contractor;
   B. where the Contractor comprises more than one person, any one of those persons; or
   C. to a person specified in Schedule 1; or

(ii) the Contractor causes or contributes to the occurrence of an Incident and fails to ensure that the Principal is promptly notified as set out in clause 2.10(d); or

(b) the Contractor fails to comply with any of its obligations under clause 4.6 or 4.7,

then the Principal may, without giving a notice under clause 14.1, exercise the right under clause 14.3(a) or 14.3(b).

14.5 Principal's Common Rights After Take-Out or Termination

If:
(a) the Principal:
   (i) exercises its rights under clause 14.3(a); or
   (ii) terminates this Contract under clauses 14.3(b), 14.4 or 14.9;
(b) the Contractor repudiates this Contract and the Principal otherwise terminates
   this Contract; or
(c) this Contract is frustrated under the Law,
then:
(d) the Contractor:
   (i) must novate to the Principal or the Principal's nominee those
       Subcontracts between the Contractor and its Subcontractors that the
       Principal directs;
   (ii) irrevocably appoints (for valuable consideration) the Principal and
       any authorised representative of the Principal to be the Contractor's
       attorney to:
           A. execute, sign, seal and deliver all notices, deeds and
               documents; and
           B. undertake actions in the name of the Contractor,
               for the purposes referred to in clause 14.5(d)(i); and
   (iii) must immediately hand over to the Principal's Representative all
         copies of:
           A. any documents provided by the Principal to the Contractor;
           B. all Contract Documentation prepared by the Contractor to
               the date on which the Principal exercises its rights under
               clauses 14.3(a) or 14.3(b) (whether complete or not); and
           C. any other documents or information in existence that is to
               be provided to the Principal under the terms of this
               Contract; and
(e) the Principal:
   (i) will be entitled to require the Contractor to remove from the Site or
       any area affected by the Works, any Construction Plant and
       Temporary Works and all materials, equipment and other things
       intended for the Works;
   (ii) may complete that work;
   (iii) may take possession of such of the Construction Plant, Temporary
        Works and other things on or in the vicinity of the Site or Extra Land
as are owned by the Contractor and are reasonably required by the Principal to facilitate completion of the work; and

(iv) must, if it takes possession of the items referred to in clause 14.5(e)(iii):

A. for the period during which it retains possession of the Construction Plant, Temporary Works or other things pay to the Contractor rent for the use of the Construction Plant, Temporary Works or other things at a market rate to be agreed by the parties or, failing agreement, to be determined pursuant to the Dispute Resolution Procedures; and

B. maintain the Construction Plant, Temporary Works or other things and, subject to clause 14.6, on completion of the work return to the Contractor the Construction Plant, Temporary Works and any things taken under clause 14.5(e)(iii) which are surplus.

This clause 14.5 will survive the termination or frustration of this Contract.

14.6 Principal's Entitlements after Take-Out

(a) If the Principal exercises the right under clause 14.3(a), the Contractor will not be entitled to any further payment in respect of the work taken out of the hands of the Contractor unless a payment becomes due to the Contractor under this clause 14.6.

(b) When work taken out of the hands of the Contractor under clause 14.3(a) is completed, the Principal's Representative will ascertain the cost incurred by the Principal in completing the work and will issue a certificate certifying the amount.

(c) If the cost incurred by the Principal is greater than the amount that would have been paid to the Contractor if the Contractor had completed the work, the difference will be a debt due from the Contractor to the Principal. If the cost incurred by the Principal is less than the amount that would have been paid to the Contractor if the Contractor had completed the work, the difference will be a debt due to the Contractor from the Principal.

(d) Without limiting clause 14.6(c), if the Principal exercises the right under clause 14.3(a), the Principal will be entitled to recover from the Contractor any costs, expenses, losses or damages incurred or suffered by it as a result of, or arising out of, or in any way in connection with, the exercise of such right.

(e) If the Contractor is indebted to the Principal, the Contractor grants to the Principal a lien over the Construction Plant, Temporary Works or other things taken under clause 14.5 such that the Principal may retain that property until the debt is met. If after reasonable notice, the Contractor fails to pay the debt, the Principal may sell the Construction Plant, Temporary Works or other things and apply the proceeds to satisfaction of the debt and the costs of sale. Any excess will be paid to the Contractor.
14.7 Principal's Rights after Termination

Subject to clause 14.11, if the Principal terminates this Contract under clauses 14.3 or 14.4, or if the Contractor repudiates this Contract and the Principal otherwise terminates this Contract the Principal will:

(a) not be obliged to make any further payments to the Contractor, including any money that is the subject of a payment claim under clause 11.2 or a payment statement under clause 11.3;

(b) be absolutely entitled to call upon, convert and have recourse to and retain the proceeds of any unconditional undertaking held under clause 2.7; and

(c) be entitled to recover from the Contractor any costs, expenses, losses or damages incurred or suffered by it as a result of, or arising out of, or in any way in connection with, such termination.

This clause 14.7 survives the termination of this Contract.

14.8 Contractor's Rights after Repudiation or Wrongful Termination

(a) If the Principal:

(i) repudiates this Contract and the Contractor terminates this Contract; or

(ii) wrongfully:

A. exercises or attempts to exercise any right or power conferred on it by clauses 14.3, 14.4 or 14.9; or

B. determines or purports to determine this Contract at common law,

then the:

(iii) Principal's actions will be deemed to have been a lawful termination in accordance with clause 14.9 and the Contractor's sole rights in such circumstances will be those set out in clause 14.10; and

(iv) Contractor:

A. will not be entitled to the payment of damages;

B. will not be entitled to any payment on a quantum meruit basis; and

C. waives all other rights it has to make a Claim in such circumstances.

(b) This clause 14.8 will survive the termination of this Contract.
14.9 **Termination for Convenience**

Without prejudice to any of the Principal's other rights or entitlements or powers under this Contract, the Principal may:

(a) at any time for its sole convenience, and for any reason, by written notice to the Contractor terminate this Contract effective from the time stated in the notice or if no such time is stated, at the time the notice is given to the Contractor; and

(b) thereafter, at the Principal's absolute discretion complete the uncompleted part of the Contractor's Activities or the Works either itself or by engaging Other Contractors.

14.10 **Payment for Termination for Convenience**

If the Principal terminates this Contract under clause 14.9, the Contractor:

(a) will be entitled to payment of the following amounts as determined by the Principal's Representative:

(i) for work carried out prior to the date of termination, the amount which would have been payable if this Contract had not been terminated and the Contractor submitted a payment claim under clause 11.2 for work carried out to the date of termination;

(ii) the cost of plant and materials reasonably ordered by the Contractor for the Works and for which it is legally bound to pay provided that:

A. the value of the plant or materials have not been previously paid or included in the amount payable under sub-paragraph (a)(i); and

B. title in the plant and materials vests in the Principal upon payment;

(iii) the reasonable cost of removing from the Site all labour, Construction Plant, Temporary Works (where required by the Principal) and other things used in the Contractor's Activities that are not part of, or to be part of, the Works;

(iv) the costs reasonably incurred by the Contractor in the expectation of completing the whole of the Contractor's Activities and not included in any other payment by the Principal; and

(v) the amount specified in Schedule 1, for all overheads and profit associated with, and to the extent not included in, the work and costs determined under sub-paragraphs (a)(ii), (a)(iii) and (a)(iv); and

(b) must take all steps possible to mitigate the costs referred to in sub-paragraphs (a)(ii) and (a)(iii).
To the extent it has not had recourse to them, the Principal will return all unconditional undertakings then held by it under clause 2.7 when the Contractor has complied with all its obligations under this clause.

The amount to which the Contractor is entitled under this clause 14.10 will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, the termination of this Contract and the Principal will not be liable to the Contractor upon any Claim arising out of, or in any way in connection with, the termination of this Contract other than for the amount payable under this clause 14.10.

This clause 14.10 will survive the termination of this Contract by the Principal under clause 14.9.

14.11 Preservation of Rights

Subject to clause 14.8, nothing in this clause 14 or that the Principal does or fails to do pursuant to this clause 14 will prejudice the right of the Principal to exercise any right or remedy (including recovering damages or exercising a right of set-off under clause 17.11) which it may have where the Contractor breaches (including repudiates) this Contract.

14.12 Termination by Frustration

If under the law this Contract is frustrated the Principal will:

(a) pay the Contractor the following amounts as determined by the Principal's Representative:

(i) an amount calculated in accordance with clause 14.10(a)(i) for work carried out prior to the date of frustration;

(ii) the costs calculated in accordance with the terms of, and subject to the conditions in, clauses 14.10(a)(ii); and

(iii) the costs calculated in accordance with the terms of clauses 14.10(a)(iii) and 14.10(a)(iv); and

(b) to the extent it has not had recourse to them, return all unconditional undertakings then held by it under clause 2.7 when the Contractor has complied with its obligations under this clause.

The amount to which the Contractor is entitled under this clause 14.12 will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, the frustration of this Contract and the Principal will not be liable to the Contractor upon any Claim arising out of, or in any way in connection with, the frustration of this Contract other than for the amount payable under this clause 14.12.

Without limiting any other provision of this Contract, this clause 14.12 will survive the frustration of this Contract.

14.13 Codification of Contractor's Entitlements

This clause 14 is an exhaustive code of the Contractor's rights arising out of or in any way in connection with any termination and the Contractor:
(a) cannot otherwise terminate, rescind or treat this Contract as repudiated; and
(b) waives all rights at Law to terminate, rescind or treat this Contract as repudiated.

otherwise than in accordance with this clause 14.

15. Dispute Resolution

The parties must comply with the Dispute Resolution Procedures in respect of any Dispute.

16. Notices

16.1 How to give Notice

(a) Wherever referred to in this clause, Notice means each communication (including each notice, consent, approval, request, direction and demand) under or in connection with this Contract.

(b) At any time and from time to time the Principal's Representative may notify the Contractor that a PDCS will be used for giving Notices under or in connection with this Contract. The Principal's Representative's notice will set out:

(i) the name of the relevant PDCS;
(ii) the commencement date for use of the PDCS;
(iii) any password, login details or similar information required for the Contractor to use the PDCS; and
(iv) any other information reasonably necessary for the use and service of Notices via the PDCS.

(c) Each Notice must:

(i) before the date referred to in clause 16.1(b):

A. be in writing;

B. be:

1) in the case of a Notice from the Contractor, addressed to the Principal's Representative; or

2) in the case of a Notice from the Principal, addressed to the Contractor's Representative;

C. be signed by:

1) in the case of a Notice from the Contractor, the Contractor's Representative; and
2) in the case of a Notice from the Principal, the Principal's Representative,

or on that person's behalf by any authorised agent of, that person;

D. be:

1) delivered or posted to the address; or

2) sent by email in the form of a .pdf file of a letter (with or without attachments) to the email address, of the addressee, in accordance with clause 16.1(c)(i); and

E. addressed as follows (or as otherwise notified by the intended recipient to each other party from time to time):

**Principal**

Name: TfNSW, a New South Wales Government agency

Address: Level 2, 1 Prince Albert Road, Sydney NSW 2000

Email: @transport.nsw.gov.au

For the attention of: Project Director, Sydney Growth Trains

**Contractor**

Name: Downer EDI Rail Pty Limited

Address: T3, Triniti Business Campus, 39 Delhi Road, North Ryde NSW 2113

Email: @downergroup.com

For the attention of: The Company Secretary

(ii) on and from the commencement date for use of the PDCS referred to in clause 16.1(b):

A. be sent through the PDCS in accordance with the requirements set out in clause 16.4(a) and:

1) in the case of a Notice from the Contractor, be addressed to the Principal's Representative; or

2) in the case of a Notice from the Principal, be addressed to the Contractor's Representative; or

B. in circumstances where the PDCS is temporarily disabled or not operating, be issued in accordance with clause 16.1(c)(i).
16.2 When Notice is received

A communication is taken to be received by the addressee:

(a) (in the case of a Notice sent through the PDCS) at the time recorded on the PDCS as being the time at which the Notice was sent;

(b) (in the case of prepaid post sent to an address in the same country) two Business Days after the date of posting;

(c) (in the case of international post) seven Business Days after the date of posting;

(d) (in the case of email) at the time in the place to which it is sent equivalent to the time shown on the automatic receipt notification received by the party sending the email from the recipient specified in clause 16.1(c)(i); and

(e) (in the case of delivery by hand) on delivery,

provided that if the communication would be deemed to be received on a day which is not a Business Day or after 5.00pm on a Business Day, it is deemed to be received at 9.00am on the next Business Day.

16.3 Communications sent by email

With respect to communications sent by email:

(a) only the letter in .pdf format attached to the email and, subject to clause 16.3(b) any attachments to such letter which are referred to in the letter, will form part of the Notice under clause 16.1. Any text in the body of the email or the subject line will not form part of the Notice;

(b) an attachment to an email referred to in clause 16.1(c)(i)D.2 will only form part of a Notice under clause 16.1 if it is in .pdf, .xls, .doc, .vsd, .mpp, .mdb, .xer or .ppt format, or such other format as may be agreed between the parties from time to time; and

(c) the parties agree, with respect to any Notices under or in connection with this Contract:

(i) to ensure that their respective firewall and/or mail server (as applicable):

A. allows messages of up to 100 MB to be received;

B. does not trap any messages in the spam filter which:

1) in the case of Notices sent by the Principal to the Contractor have been sent from the transport.nsw.gov.au domain (or such other domain as may be notified by the Principal to the Contractor from time to time by not less than 30 days notice); and
2) in the case of Notices sent by the Contractor to the Principal, have been sent from the downergroup.com domain (or such other domain as may be notified by the Contractor to the Principal from time to time by not less than 30 days notice); and

C. automatically sends a receipt notification to the sender upon receipt of a message; and

(ii) to use reasonable endeavours to ensure that their respective systems automatically send a notification message to each of the sender and the recipient when a message is received by the recipient's domain but cannot or will not be delivered to the recipient.

16.4 Notices sent through the PDCS

(a) With respect to Notices sent through the PDCS:

(i) all Notices must be submitted by:

A. in the case of a Notice from the Contractor, the Contractor's Representative; and

B. in the case of a Notice from the Principal, the Principal's Representative,

or on that person's behalf by any authorised agent of, that person;

(ii) only the text in any Notice, or subject to paragraph 16.4(a)(iii), any attachments to such Notice which are referred to in the Notice, will form part of the Notice. Any text in the subject line will not form part of the Notice; and

(iii) an attachment to a Notice will only form part of a Notice if it is uploaded to the PDCS in:

A. .pdf format;

B. a format compatible with Microsoft Office; or

C. such other format as may be agreed between the parties in writing from time to time.

(b) The Contractor must:

(i) ensure that it has internet access which is sufficient to facilitate use of the full functionality of the PDCS;

(ii) ensure that relevant Contractor's Personnel log on and use the PDCS and check whether Notices have been received on each Business Day;
(iii) ensure all relevant Contractor's Personnel attend all necessary training required by the Principal's Representative in respect of the PDCS;

(iv) advise the Principal's Representative which of the Contractor's Personnel require access to the PDCS;

(v) at all times, ensure that it has access to the Contractor's Personnel trained in the use of the PDCS so as to be able to view, receive and submit communications (including Notices) using the PDCS; and

(vi) as soon as practicable, at the first available opportunity following any period of time during which the PDCS is temporarily disabled or not operating, send all communications which have been issued pursuant to clause 16.1(c)(ii)B to the Principal's Representative through the PDCS.

(c) The Principal has no liability for any losses the Contractor may suffer or incur arising out of or in connection with its access to or use of the PDCS or any failure of the PDCS, and the Contractor will not be entitled to make, and the Principal will not be liable upon, any Claim against the Principal arising out of or in connection with the Contractor's access to or use of the PDCS or any failure of the PDCS.

16.5 Formal and informal communications

The parties wish to distinguish formal communications from informal communications and agree that:

(a) a formal communication is one which complies with the requirements of clause 16.1;

(b) an informal communication is one which does not comply with the requirements of clause 16.1. Examples of informal communications include:

(i) oral communications, whether made during meetings, discussions, over the phone or otherwise; and

(ii) communications sent by email which are not formal communications (for example, an email which does not attach a .pdf file of a signed letter); and

(c) formal communications will have effect as Notices in connection with this Contract;

(d) informal communications will not be treated as Notices under or in connection with this Contract; and

(e) informal communications will not affect any party's rights or obligations out of or in connection with this Contract, and cannot be relied upon.
17. **General**

17.1 **Governing Law**

This Contract is governed by and will be construed according to the Laws of New South Wales.

17.2 **No Waiver**

(a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by Law or under this Contract by the Principal will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by Law or under this Contract.

(b) Any waiver or consent given by the Principal under this Contract will only be effective and binding on the Principal if it is given or confirmed in writing by the Principal.

(c) No waiver by the Principal of:

(i) a breach of any term of this Contract; or

(ii) any other failure by the Contractor to comply with a requirement of this Contract, including any requirement to give any notice which it is required to give in order to preserve its entitlement to make any Claim against the Principal,

will operate as a waiver of another breach of that term or failure to comply with that requirement or of a breach of any other term of this Contract or failure to comply with any other requirement of this Contract.

17.3 **Assignment**

The Contractor cannot assign, transfer or novate any of its rights or liabilities under this Contract without the prior written consent of the Principal and except on such terms and conditions as are determined in writing by the Principal.

17.4 **Entire Agreement**

This Contract constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite, and supersede:

(a) any prior agreement (whether in writing or not), negotiations and discussions between the parties in relation to the subject matter of this Contract; and

(b) any correspondence or other documents relating to the subject matter of this Contract that may have passed between the parties prior to the date of this Contract and that are not expressly included in this Contract.
17.5 Joint and Several Liability

The rights and obligations of the Principal and the Contractor, if more than one person, under this Contract, are joint and several. Each person constituting the Contractor acknowledges and agrees that it will be causally responsible for the acts and omissions (including breaches of this Contract) of the other as if those acts or omissions were its own and the Principal may proceed against any or all of them.

17.6 Severability

If at any time any provision of this Contract is or becomes illegal, invalid or unenforceable in any respect under the Law of any jurisdiction, that will not affect or impair:

(a) the legality, validity or enforceability in that jurisdiction of any other provision of this Contract; or

(b) the legality, validity or enforceability under the Law of any other jurisdiction of that or any other provision of this Contract.

17.7 Indemnities to Survive

Each indemnity in this Contract is a continuing obligation, separate and independent from the other obligations of the parties, and survives termination, completion or expiration of this Contract.

Nothing in this clause 17.7 prevents any other provision of this Contract, as a matter of interpretation also surviving the termination of this Contract.

It is not necessary for a party to incur expense or make any payment before enforcing a right of indemnity conferred by this Contract.

17.8 Stamp Duty and Other Fees

The Contractor must pay all stamp duties and other fees payable in respect of the execution of this Contract and the performance of its obligations in respect of this Contract.

17.9 Taxes

Without limiting clause 2.3 but subject to clause 19, the Contractor must pay all Taxes that may be payable in respect of the Contractor's Activities, including any customs duty or tariff, and primage applicable to imported materials, plant and equipment required for the Contractor's Activities.

17.10 Confidentiality

(a) Subject to clause 17.10(b), the Contractor must:

(i) keep confidential this Contract and any information relating to the Contractor's Activities and any discussions concerning this Contract; and

(ii) not use the information referred to in sub paragraph (a)(i) except as necessary for the performance of the Contractor's Activities; and
(iii) ensure that each of its officers, employees and Subcontractors complies with the terms of sub-paragraphs (a)(i) and (a)(ii).

(b) The Contractor is not obliged to keep confidential any information:

(i) which is in the public domain through no default of the Contractor; or

(ii) the disclosure of which is:

A. required by Law;

B. consented to in writing by the Principal; or

C. given to a court in the course of proceedings to which the Contractor is a party.

(c) The Contractor must:

(i) execute and submit to the Principal within 14 days of this Contract a Confidentiality Undertaking in the form in Schedule 3;

(ii) ensure that all employees of the Contractor that have access to the information described in the Confidentiality Undertaking are aware of their obligations under the terms of the Confidentiality Undertaking; and

(iii) ensure that each Subcontractor, including suppliers and consultants, to the Contractor execute and submit a Confidentiality Undertaking to the Principal.

(d) The Contractor acknowledges that the Principal may disclose this Contract (and information concerning the terms of this Contract) under or in accordance with any one or more of the following:

(i) the Government Information (Public Access) Act 2009 (NSW);

(ii) to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of Parliamentary accountability; and

(iii) any other Law.

(e) The Contractor must provide to the Principal any other information which the Principal reasonably requires to comply with its obligations under the items referred to in clause 17.10(d).

17.11 Right of Set-Off

The Principal may at any time withhold, set-off or deduct from moneys otherwise due to the Contractor:

(a) any debt or other moneys due from the Contractor to the Principal (including any debt due from the Contractor to the Principal pursuant to section 26C of the SOP Act);
(b) any amount that is less than or equal to the amount claimed to be owed under a payment withholding request served on the Principal pursuant to Division 2A of the SOP Act; or

(c) any claim to money which the Principal may have against the Contractor whether for damages (including liquidated damages) or otherwise,

whether under this Contract or otherwise at Law.

If those moneys are insufficient, the Principal can have recourse to the security held under clause 2.7.

17.12 Entire Contract

Despite any progress payments that may be made to the Contractor under clause 11.4, this Contract is an entire contract.

17.13 Principal May Act

(a) The Principal may, either itself or by a third party, perform an obligation under this Contract that the Contractor was obliged to perform but which it failed to perform. The costs, losses, expenses and damages suffered or incurred by the Principal in so performing such an obligation will be a debt due from the Contractor to the Principal.

(b) Where the Principal or the Principal's Representative is entitled under this Contract to exercise any right or power to:

(i) direct or instruct the Contractor to; or

(ii) itself step in to,

take any action or omit to take any action, it is not obliged to exercise that right or power, and may do so in their absolute discretion.

Where the Principal or the Principal's Representative does exercise any such right or power, the Contractor remains responsible for, controls and assumes the risk of all environmental, health and safety issues relating to the Works.

17.14 Process Agent

If the Contractor is a foreign company (as defined in the Corporations Act 2001 (Cth)), the Contractor must:

(a) appoint a local process agent acceptable to the Principal as its agent to accept service of process under or in any way in connection with this Contract. The appointment must be in a form acceptable to the Principal and may not be revoked without the Principal's consent; and

(b) obtain the process agent's consent to the appointment.

17.15 Indemnity

The Contractor must indemnify the Principal against:
(a) any liability to or claim by any other person; and
(b) all costs, expenses, losses, damages, fines and penalties suffered or incurred by the Principal,

arising out of, or in any way in connection with:
(c) the Contractor's breach of a term of this Contract; and
(d) any Defect or the consequence of any Defect,

provided that the Contractor's liability to indemnify the Principal will be reduced proportionally to the extent that an act or omission of the Principal, an Other Contractor or an agent of the Principal may have contributed to the liability claim, costs, losses, damages, fines or penalties.

17.16 Variations

Subject to clause 6.3, this Contract may only be varied by a document signed by or on behalf of both the Principal and the Contractor.

17.17 Provisions Limiting or Excluding Liability

Any provision of this Contract which seeks to limit or exclude a liability of the Principal or the Contractor is to be construed as doing so only to the extent permitted by Law.

17.18 Limit of Contractor's Liability

Subject to clause 17.20, the liability of the Contractor to the Principal, whether arising under or in connection with this Contract or the performance or non-performance thereof or anything incidental thereto, and whether by way of indemnity, by statute (to the extent that it is possible to exclude such liability), in tort (for negligence or otherwise) or on any basis in Law or equity, is limited to the Contract Sum.

17.19 Exclusion of Indirect or Consequential Loss

(a) Subject to clauses 17.20(a) and 17.20(b), but otherwise despite any other provision of this Contract, the Contractor will have no liability to the Principal (whether in contract, tort or otherwise), nor will the Principal be entitled to make any Claim against the Contractor, in respect of Indirect or Consequential Loss incurred or sustained by the Principal as a result of any act or omission of the Contractor (whether negligent or otherwise).

(b) Subject to clause 17.20(c), but otherwise despite any other provision of this Contract, the Principal will have no liability to the Contractor (whether in contract, tort or otherwise), nor will the Contractor be entitled to make any Claim against the Principal, in respect of Indirect or Consequential Loss incurred or sustained by the Contractor as a result of any act or omission of the Principal (whether negligent or otherwise).

17.20 Qualification on Limitation of Liability

(a) Nothing in clauses 17.18 or 17.19(a) will limit or exclude the Contractor's liability to the Principal:
for amounts expressly identified in this Contract as being due and payable to the Principal which the Contractor, alone or with any other person, at any time is or becomes actually liable to pay to, or for the account of, the Principal (alone or with any other person) or any Associate of the Principal on any account whatsoever under, or in relation to, this Contract or at law (including by way of principal or interest, fees, costs, charges, expenses, indemnity or damages);

(ii) to the extent that the Contractor has:

A. recovered from a third party (including any Subcontractor and whether by way of indemnity or otherwise); or

B. would have recovered from a third party, had it diligently pursued a claim against the third party,

an amount in respect of that liability;

(iii) to the extent that the Contractor:

A. is indemnified in respect of that liability by a policy of insurance; or

B. would have been indemnified in respect of that liability by a policy of insurance if the Contractor had:

1) diligently pursued a claim under the policy of insurance;

2) complied with the terms and conditions of that policy of insurance; or

3) complied with its insurance obligations under this Contract;

(iv) to indemnify the Principal under clauses 2.11(c), 3.4(d), 3.6(d), 3.9(d), 3.13(d), 5.8(c)(ii), 5.10(a)(ii) or 13.2;

(v) for Loss arising from any criminal acts or fraud on the part of the Contractor or any of its Associates;

(vi) for Loss arising from wilful misconduct on the part of the Contractor or any of its Associates;

(vii) liability which is otherwise limited by another provision of this Contract;

(viii) the Contractor's liability to indemnify a Rail Transport Agency under the deed poll executed in the form of Schedule 16;

(ix) for Loss arising where the Contractor wholly or substantially abandons the performance of its obligations under this Contract;
(x) to the extent that, by Law, the parties cannot limit, or exclude by contract, that liability; or
(xi) in respect of any fine, penalty or impost imposed by an Authority or under any Law.

(b) Nothing in clauses 17.19(a) will limit or exclude the Contractor's liability to the Principal:

(i) in respect of Delay LDs pursuant to the Delivery Deed; or
(ii) for Loss in respect of any liabilities of the Principal to a third party.

(c) Nothing in clause 17.19(b) will limit or exclude the Principal's liability to the Contractor:

(i) for Loss arising from any criminal acts or fraud on the part of the Principal or any of its Associates;
(ii) for Loss arising from wilful misconduct on the part of the Principal or any of its Associates;
(iii) for Loss arising from the illness, personal injury, or death of, any person to the extent caused or contributed to by the Principal or any of its Associates;
(iv) for Loss arising from any loss or damage to third party property to the extent caused or contributed to by the Principal or any of its Associates;
(v) in respect of any liability expressly imposed on the Principal under this Contract to pay the Contractor any of the following amounts:

A. the Contract Sum;
B. any interest under clause 11.13; or
C. any amounts payable under and calculated in accordance with clause 10.13; or
(vi) to the extent that, by Law, the parties cannot limit, or exclude by contract, that liability.

17.21 Proportionate Liability

(a) To the extent permitted by law, Part 4 of the Civil Liability Act 2002 (NSW) (and any equivalent statutory provision in any other state or territory) is excluded in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with this Contract whether such rights, obligations or liabilities are sought to be enforced in contract, tort or otherwise.

Without limiting the above, the rights, obligations and liabilities of the Principal and the Contractor under this Contract with respect to proportionate liability are as specified in this Contract and not otherwise, whether such rights, obligations
or liabilities are sought to be enforced by a claim in contract, in tort or otherwise.

(b) To the extent permitted by Law:

(i) the Contractor must not seek to apply the provisions of Part 4 of the Civil Liability Act 2002 (NSW) in relation to any claim by the Principal against the Contractor (whether in contract, tort or otherwise); and

(ii) if any of the provisions of Part 4 of the Civil Liability Act 2002 (NSW) are applied to any claim by the Principal against the Contractor (whether in contract, tort or otherwise), the Contractor will indemnify the Principal against any loss, damage, cost or expense that forms part of a claim by the Principal against the Contractor which the Principal is not able to recover from the Contractor because of the operation of Part 4 of the Civil Liability Act 2002 (NSW).

(c) The Contractor must:

(i) in each subcontract into which it enters for the carrying out of the work under this Contract or for the supply of materials or services, include a term that (to the extent permitted by law) excludes the application of Part 4 of the Civil Liability Act 2002 (NSW) in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with each Subcontract whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, tort or otherwise; and

(ii) require each Subcontractor or supplier of materials or services to include, in any further contract that it enters into with a third party for the carrying out of the work under this Contract, a term that (to the extent permitted by law) excludes the application of Part 4 of the Civil Liability Act 2002 (NSW) in relation to all and any rights, obligations or liabilities of either party under or in any way in connection with each further agreement whether such rights, obligations or liabilities are sought to be enforced by a claim in contract, tort or otherwise.

(d) The Contractor must ensure that all policies of insurance covering third party liability it is required by this Contract to effect or maintain (including the professional indemnity policy referred to in clause 13.6(e)):

(i) cover the Contractor for potential liability to the Principal assumed by reason of the exclusion of Part 4 the Civil Liability Act 2002 (NSW); and

(ii) do not exclude any potential liability the Contractor may have to the Principal under or by reason of this Contract.

(e) The powers conferred and restrictions imposed on a court by Part 4 of the Civil Liability Act 2002 (NSW) are not conferred on an expert appointed in accordance with the provisions of this Contract.
An expert has no power to make a binding or non-binding determination or any award in respect of a claim by applying or considering the provisions of Part 4 of the Civil Liability Act 2002 (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this provision, have applied to any dispute referred to the expert.

17.22 Prior Work

The Contractor agrees that the work in connection with the Contractor's Activities carried out by the Contractor prior to the date of this Contract will be deemed to be governed by the provisions of this Contract and will be deemed to be part of the Contractor's Activities and any payments made to the Contractor by the Principal prior to the date of this Contract in respect of the Contractor's Activities will be treated as part payments of the amount required to be paid by the Principal under this Contract.

17.23 Design Life

(a) The Contractor waives any and all rights it may have under sections 14 and 16 of the Limitation Act 1969 (NSW) and section 109ZK of the Environmental Planning and Assessment Act 1979 (NSW) in respect of the design lives of the asset elements referred to in the Works Brief where those design lives are for periods longer than those provided for in those Acts.

(b) If the waiver referred to in clause 17.23(a) is held to be without effect or otherwise unenforceable, or if it is severed from this Contract, the Contractor shall indemnify and keep the Principal indemnified at all times from and against all costs that the Principal may suffer or incur out of the Principal's loss of the benefit of the waiver.

(c) The indemnity in clause 17.23(b) is to continue and remain in full force and effect until the expiration of the last of the design lives referred to in the Works Brief.

(d) The parties agree that any action by the Principal on the indemnity in clause 17.23(b) is not a "building action" for the purposes of section 109ZI of the Environmental Planning and Assessment Act 1979 (NSW).

17.24 Counterparts

This Contract may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

17.25 Personal Property Securities Act

(a) By signing this Contract, the Contractor acknowledges and agrees that if this Contract and the transactions contemplated by it, operate as, or give rise to, a security interest for the purposes of the PPS Law ("Security Interest"), the Contractor shall do anything (including amending this Contract or any other document, executing any new terms and conditions or any other document, obtaining consents, getting documents completed and signed and supplying information) that the Principal considers necessary under or as a result of the PPS Law for the purposes of:
(i) ensuring that the Security Interest is enforceable, perfected or otherwise effective and has the highest priority possible under PPS Law;

(ii) enabling the Principal to apply for any registration, or give any notification, in connection with the Security Interest, including the registration of a financing statement or financing change statement; or

(iii) enabling the Principal to exercise rights in connection with the Security Interest and this Contract.

(b) If Chapter 4 of the PPS Act applies to the enforcement of the Security Interest, the Contractor agrees that sections 95, 120, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPS Act will not apply to the enforcement of the Security Interest.

(c) The Contractor:

(i) acknowledges that the Security Interests created under or pursuant to this Contract relate to collateral and all proceeds in respect of that collateral (until the Principal is paid in full for the collateral);

(ii) acknowledges that to the maximum extent permitted by law, it waives any right to receive a verification statement under the PPS Law in respect of the Security Interest; and

(iii) undertakes it will not register a financing change statement without the prior written consent of the Principal.

(d) The parties agree that neither of them will disclose information of the kind referred to in section 275(1) of the PPS Act and that this clause constitutes a confidentiality agreement within the meaning of the PPS Law.

(e) The Contractor agrees to waive any right it may have, or but for this clause may have had, under section 275(7)(c) of the PPS Act to authorise the disclosure of the above information.

17.26 Vienna Convention

The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Contract.

17.27 Australian Government Requirements

(a) This clause 17.27 applies if so stated in Schedule 1.

The Building Code is applicable to the Works.

The Contractor must comply, and ensure that its Subcontractors comply, in the performance of this Contract, with the requirements of the Building Code.

Copies of the Building Code are available at

(b) Compliance with the Building Code will not relieve the Contractor from its responsibility to perform this Contract, or from liability for any Defect in the Works arising from compliance with the Building Code.

(c) Where a change in this Contract is proposed and that change would affect compliance with the Building Code, the Contractor must submit a report to the Commonwealth specifying the extent to which the Contractor's compliance with the Building Code will be affected.

(d) The Contractor must maintain adequate records of the compliance with the Building Code by:

(i) the Contractor;

(ii) its Subcontractors; and

(iii) the Contractor's related entities (as defined in section 3(2) of the Building Code).

(e) If the Contractor does not comply with the requirements of the Building Code in the performance of this Contract such that a sanction is applied by the Minister for Employment and Workplace Relations, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties will be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Contractor or a related entity in respect of work funded by the Commonwealth or its agencies.

(f) While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, the Contractor may give preference to Subcontractors that have a demonstrated commitment to:

(i) adding and/or retaining trainees and apprentices;

(ii) increasing the participation of women in all aspects of the industry; or

(iii) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.

(g) The Contractor must not appoint a Subcontractor in relation to the Works where:

(i) the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or

(ii) the Subcontractor has had an adverse court or tribunal decision (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law and the Subcontractor has not fully complied, or is not fully complying with the order.
(h) The Contractor must provide, and must ensure its Subcontractors and related entities (as defined in section 3(2) of the Building Code) provide, the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:

(i) inspect any work, material, machinery, appliance, article or facility;

(ii) inspect and copy any record relevant to the Works and the Contractor's Activities; and

(iii) interview any person,
as is necessary to demonstrate compliance with the Building Code.

(i) The Contractor agrees that it and its related entities (as defined in section 3(2) of the Building Code) will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.

(j) The Contractor must ensure that all Subcontracts impose obligations on Subcontractors equivalent to the requirements of this clause 17.27.

17.28 No merger
Terms contained in this Contract which are capable of taking effect, or capable of continuing after Completion, will remain in full force and effect and will not merge on Completion.

18. Notification of Claims

18.1 Notice of Variation
If a direction by the Principal's Representative, other than a "Variation Order" under clause 6.2, constitutes or involves a Variation, the Contractor must, if it wishes to make a Claim against the Principal arising out of, or in any way in connection with, the direction:

(a) within the time specified in Schedule 1 of receiving the direction and before commencing work on the subject matter of the direction, give notice to the Principal's Representative, that it considers the direction constitutes or involves a Variation;

(b) within the time specified in Schedule 1 of giving the notice under clause 18.1(a), submit a written Claim to the Principal's Representative, which includes the details required by clause 18.3(b); and

(c) continue to carry out the Contractor's Activities in accordance with this Contract and all directions of the Principal's Representative, including any direction in respect of which notice has been given under this clause 18.1.
18.2 Notice of Other Claims

If the Contractor wishes to make any Claim (other than an Excluded Claim) against the Principal in respect of any direction of the Principal's Representative or any other event, circumstance, act, omission, fact, matter or thing (including a breach of this Contract by the Principal) under, arising out of, or in any way in connection with, this Contract, the Contractor's Activities or the Works, including anything in respect of which:

(a) it is otherwise given an express entitlement under this Contract; or

(b) this Contract expressly provides that:

(i) specified costs are to be added to the Contract Sum; or

(ii) the Contract Sum will be otherwise increased or adjusted,

as determined by the Principal's Representative,

the Contractor must give the Principal's Representative the notice required by clause 18.3(a) and a Claim in accordance with clause 18.3(c).

18.3 Prescribed Notices

(a) Any written notice referred to in clauses 18.1(a) and 18.2 must:

(i) be provided not later than the time specified in Schedule 1 after the first occurrence of the direction, event, circumstance, act, omission, fact, matter or thing which gave rise to the alleged entitlement; and

(ii) expressly specify:

A. that the Contractor proposes to make a Claim; and

B. the direction event, circumstance, act, omission, fact, matter, or thing, which gave rise to the alleged entitlement in the Claim.

(b) Any written Claim referred to in clause 18.1(b) must include:

(i) detailed particulars, including the date or dates, of the direction, including any related event, circumstance, act, omission, fact, matter or thing upon which the Claim is based;

(ii) the provisions of this Contract or other legal basis upon which the Claim is based; and

(iii) details of the amount claimed and how it has been calculated.

(c) Any written Claim referred to in clause 18.2 must:

(i) be provided not later than the time specified in Schedule 1 of giving the written notice under clause 18.3(a); and

(ii) include:
A. detailed particulars, including the date or dates, of the direction, event, circumstance, act, omission, fact, matter or thing upon which the Claim is based;

B. the legal basis for the Claim, whether based on a term of this Contract or otherwise, and if based on a term of this Contract, clearly identifying the specific term;

C. the facts relied upon in support of the Claim in sufficient detail to permit verification; and

D. details of the amount claimed and how it has been calculated.

18.4 Submission of Claims

Claims submitted by the Contractor under clauses 18.1(b) and 18.2 will be considered in the first instance by the Principal’s Representative who may accept or reject the Claim in part or in full.

If within 28 days after first receipt of a Claim the Principal’s Representative has not made a decision on the Claim, the Claim will be deemed to have been rejected on that 28th day.

18.5 Continuing Events

If the direction, event, circumstance, act, omission, fact, matter or thing upon which a Claim is based, or their consequences are continuing, the Contractor must continue to give the information required by clause 18.3(b) or 18.3(c) every 28 days after the written Claim under clause 18.1(b) or 18.2 (as the case may be) was submitted or given to the Principal’s Representative, until after the direction, event, circumstance, act, omission, fact, matter or thing or the consequences thereof have ceased.

18.6 Bar

If the Contractor fails to comply with clauses 2.3(d), 18.1, 18.2, 18.3 or 18.5:

(a) the Principal will not be liable upon any Claim by the Contractor; and

(b) the Contractor will be absolutely barred from making any Claim against the Principal,

arising out of or in any way in connection with the relevant direction, event, circumstance, act, omission, fact, matter or thing (as the case may be) to which those clauses apply.

18.7 Other Provisions Unaffected

Nothing in clauses 18.1 to 18.6 will limit the operation or effect of any other provision of this Contract that requires the Contractor to give notice to the Principal’s Representative in order to preserve an entitlement to make a Claim against the Principal.
19. General Provisions Relating to GST

(a) Except where the context suggests otherwise, terms and expressions used in this clause 19 have the meanings given to those expressions in the GST Act.

(b) Unless otherwise expressly stated in this Contract, all prices or other sums payable or consideration to be provided under this Contract are exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 19.

(c) Despite any other provision in this Contract, if GST is payable on a supply made by a party ("GST Supplier") under or in connection with this Contract, the party that is required to provide consideration to the GST Supplier ("Recipient") must pay or procure payment to the GST Supplier an amount equal to the GST payable on the supply ("GST Amount") by the GST Supplier.

(d) The Recipient must pay or procure payment of the GST Amount in addition to and at the same time as payment for the taxable supply is required to be made under this Contract except where the Contractor has failed to provide sufficient information required to enable the Principal to issue a RCTI in accordance with clause 19(i), in which case the GST Amount will be payable once that information is provided.

(e) If this Contract requires a party to reimburse any other party for any expense, Loss or outgoing ("Reimbursable Expense") incurred by another party, the amount required to be reimbursed by the first party will be the sum of:

(i) the amount of the Reimbursable Expense net of input tax credits (if any) to which the other party is entitled in respect of the Reimbursable Expense; and

(ii) if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply and for the avoidance of doubt, if the supply is a taxable supply, clause 19(c) will apply.

(f) If a payment under this Contract is calculated by reference to or as a percentage of another amount or revenue stream, that payment shall be calculated by reference to or as a percentage of that other amount or revenue stream net of any GST component.

(g) If the amount of GST paid or payable by the GST Supplier on any supply made under this Contract differs from the amount of GST paid by the Recipient because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST or for any other reason, then the amount of GST paid by the Recipient will be adjusted accordingly by a further payment by the Recipient to the GST Supplier or the GST Supplier to the Recipient as the case requires.

(h) The parties agree that, unless otherwise agreed in writing, the following will apply to all taxable supplies made by the Contractor to the Principal under or in connection with this Contract:
the Principal will issue to the Contractor a recipient created tax invoice ("RCTI") for each taxable supply made by the Contractor to the Principal under this Contract;

(ii) the Principal will issue to the Contractor an adjustment note for any adjustment event;

(iii) the Contractor will not issue a tax invoice in respect of any taxable supply it makes to the Principal; and

(iv) the Principal may at any time notify the Contractor that it will no longer issue a RCTI for any taxable supply made by the Contractor under this Contract, in which case, from that point in time:

A. the Principal will not be required to issue RCTIs in respect of such supply;

B. the Contractor will be required to issue tax invoices to the Principal; and

C. the Principal need not make a payment for a taxable supply made by the Contractor under or in connection with this Contract until the Contractor has given the Principal a tax invoice for the relevant taxable supply.

Each party acknowledges and warrants that at the time of entering into this Contract it is registered for GST and will notify the other parties if it ceases to be registered for GST or ceases to comply with any of the requirements of any taxation ruling issued by the Commissioner of Taxation in relation to the creation or issuing of RCTIs.

20. TfNSW’s Statement of Business Ethics

(a) The Contractor must at all times comply with TfNSW’s Statement of Business Ethics, a copy of which is available at www.transport.nsw.gov.au.

(b) Prior to the engagement of any Subcontractor by the Contractor, the Contractor must obtain a written acknowledgement from such Subcontractor that it has received, read, understood and will comply with TfNSW’s Statement of Business Ethics.

21. NSW Code of Practice

21.1 NSW Code and NSW Guidelines

In addition to terms defined in this document, terms used in this clause 21 have the same meaning as is attributed to them in the New South Wales Government’s Implementation Guidelines to the NSW Code of Practice for Procurement: Building and Construction ("NSW Guidelines") (as published by the NSW Treasury July 2013). The NSW Code and NSW Guidelines are available at www.industrialrelations.nsw.gov.au.
21.2 Primary Obligation

(a) The Contractor must at all times comply with, and meet any obligations imposed by, the NSW Government's Code of Practice for Procurement ("NSW Code") and NSW Guidelines.

(b) The Contractor must notify the CCU and the Principal of any possible non-compliance with the NSW Code and NSW Guidelines and of remedial action taken, within 24 hours of becoming aware of the possible non-compliance.

(c) Where the Contractor engages a Subcontractor, the Contractor must ensure that the contract imposes on the Subcontractor equivalent obligations to those in this clause 21, including that the Subcontractor must at all times comply with, and meet any obligations imposed by, the NSW Code and the NSW Guidelines.

(d) The Contractor must not appoint or engage another party in relation to the Works where that appointment or engagement would breach a sanction imposed on the other party in relation to the NSW Code or NSW Guidelines.

21.3 Access and information

(a) The Contractor must maintain adequate records of compliance with the NSW Code and NSW Guidelines by it, its Subcontractors and related entities.

(b) The Contractor must allow, and take reasonable steps to facilitate, authorised personnel (including personnel of the CCU) to:

   (i) enter and have access to sites and premises controlled by the Contractor, including but not limited to the Site;
   
   (ii) inspect any work, material, machinery, appliance, article or facility;
   
   (iii) access information and documents;
   
   (iv) inspect and copy any record relevant to the Works;
   
   (v) have access to personnel; and
   
   (vi) interview any person,

   as is necessary for the authorised personnel to monitor and investigate compliance with the NSW Code and NSW Guidelines, by the Contractor, its Subcontractors and related entities.

(c) The Contractor, and its related entities, must agree to, and comply with, a request from authorised personnel (including personnel of the CCU) for the production of specified documents by a certain date, whether in person, by post or electronic means.

21.4 Sanctions

(a) The Contractor warrants that at the time of entering into this Contract, neither it, nor any of its related entities, are subject to a sanction in connection with the
NSW Code or NSW Guidelines that would have precluded it from responding to a procurement process for work to which the NSW Code and NSW Guidelines apply.

(b) If the Contractor does not comply with, or fails to meet any obligation imposed by, the NSW Code or NSW Guidelines, a sanction may be imposed against it in connection with the NSW Code or NSW Guidelines.

(c) Where a sanction is imposed:

(i) it is without prejudice to any rights that would otherwise accrue to the parties; and

(ii) the State of NSW (through its agencies, Ministers and the CCU) is entitled to:

A. record and disclose details of non-compliance with the NSW Code or NSW Guidelines and the sanction; and

B. take them into account in the evaluation of future procurement processes and responses that may be submitted by the Contractor, or its related entities, in respect of work to which the NSW Code and NSW Guidelines apply.

21.5 Compliance

(a) The Contractor bears the cost of ensuring its compliance with the NSW Code and NSW Guidelines, including in respect of any positive steps it is obliged to take to meet its obligations under the NSW Guidelines. The Contractor is not entitled to make a claim for reimbursement or an extension of time from the Principal or the State of NSW for such costs.

(b) Compliance with the NSW Code and NSW Guidelines does not relieve the Contractor from responsibility to perform the Works and any other obligation under the Contract, or from liability for any Defect in the Works or from any other legal liability, whether or not arising from its compliance with the NSW Code and NSW Guidelines.

(c) Where a change in the Contract or the Works is proposed, and that change may, or may be likely to, affect compliance with the NSW Code and NSW Guidelines, the Contractor must immediately notify the Principal (or nominee) of the change, or likely change and specify:

(i) the circumstances of the proposed change;

(ii) the extent to which compliance with the NSW Code and NSW Guidelines will be, or is likely to be, affected by the change; and

(iii) what steps the Contractor proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a Workplace Relations Management Plan or Project Work Health and Safety Management Plan),
and the Principal will direct the Contractor as to the course it must adopt within 10 Business Days of receiving notice.
Schedule 1 - Contract Particulars

Conditions Precedent to Completion:
(Clause 1.1) Not applicable.

Contract Documents
(Clause 1.1)
General Conditions of Contract
Schedules 1 to 8 and Schedules 10 to 28
Exhibits A to E and Exhibits G to K

Contractor:
(Clause 1.1)
Downer EDI Rail Pty Ltd (ABN 92 000 002 031)
Triniti Business Campus, 39 Delhi Road, North Ryde
NSW 2113

Date for Completion:
(Clause 1.1) [Redacted]

Defects Rectification Period:
(Clause 1.1) The Defects Rectification Period for the Works or each Portion (as applicable) is the period commencing on the Date of Completion of the Works or the Portion (as applicable) and expiring 24 months after the Date of Completion of the Works or the last Portion to achieve Completion (as applicable).

Other Exected Risk:
(Clause 1.1) A negligent act or omission of the Principal, the Principal's Representative, other agents of the Principal or an Other Contractor (other than an Interface Party).

Interface Party:
(Clause 1.1)
• The Operator
• As detailed in the Works Brief

Operator:
(Clause 1.1) Sydney Trains or such other entity that may be appointed from time to time to operate some or all of the railway passenger services on the Sydney Metropolitan Network.
Original Contract Price:
(Clause 1.1)

Portions:
(Clause 1.1) Not applicable.

Principal's Representative:
(Clause 1.1) - Project Director

Reports:
(Clause 1.1) Nil

The Site:
(Clause 1.1) Refer to Works Brief

An indicative Site layout is included in Exhibit K for information purposes.

Third Party Agreements:
(Clauses 1.1 and 2.12(b)) The Third Party Agreements which appear in Exhibit I of this Contract.

Working days:
(Clause 1.2(m)) Monday to Saturday excluding public holidays in Sydney and rostered days off.

Order of Precedence:
(Clause 1.4) The Contract excluding the Schedules and the Exhibits; then:

(a) the Schedules; then
(b) the TfNSW Standard Requirements; then
(c) Exhibit B; then
(d) Exhibit G; then
(e) Exhibit I; then
(f) Exhibit D; then
(g) Exhibit C; then
(h) Contractor’s Outline Design; then
(i) Exhibit K.

Are Deed Polls in Schedule 16 and Schedule 24 required
(Clause 1.5)

Yes

Names of persons in whose favour the Deed Poll in Schedule 16 and Schedule 24 are required
(Clause 1.5)

Schedule 16
Sydney Trains

Schedule 24
Sydney Trains and the Principal

Amount for approval of Subcontracts:
(Clause 2.2(b))

Subcontracts with an initial price of $750,000 or greater.

Parts of Works requiring approval for particular Subcontractor:
(Clause 2.2(b))

All parts of the Works

Subcontractors required to effect professional indemnity insurance:
(Clause 2.2(c))

All Subcontractors carrying out design
Minimum amount of professional indemnity insurance required:
(Clause 2.2(c))

All Subcontractors carrying out civil and structural design for any one occurrence and in the aggregate.
All other Subcontractors carrying out design for any one occurrence and in the aggregate.

Subcontract prices for which security of payment provisions are required:
(Clause 2.2(e)(i))

Subcontracts with an initial price of $25,000 or greater.

Subcontractors required to execute deed in form of Schedule 14:
(Clause 2.2(e)(iv)A)

(Clause 2.2(e)(iv)B)

Subcontracts with an initial price of or greater.
The following categories:
- all Subcontracts and consultant engagements which include any element of design.

Warranties required from Subcontractors:
(Clause 2.2(f))

Refer to Exhibit G

Subcontractors to be novated to Contractor:
(Clause 2.2(g))

Not applicable.

The party responsible for payment of the Long Service Leave Levy is Contractor

(Clause 2.8)

Number and form of copies of the work method statements:
1 hard copy and 1 electronic copy in pdf format
(Clause 2.9(a)(ii)G)

<table>
<thead>
<tr>
<th>The principal contractor under the WHS legislation is:</th>
<th>Person</th>
<th>Period of Appointment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Clause 2.11)</td>
<td>Contractor</td>
<td>Date of the Contract until Date of Completion</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Contemporaneous Work provisions:</th>
<th>Not applicable.</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(Clause 2.14)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Period after notice for inspection of Contemporaneous Work:</th>
<th>Not applicable.</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Clause 2.14(a))</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Site access dates and preconditions:</th>
<th>Part of Site:</th>
<th>Date:</th>
<th>Precondition:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Clauses 3.1(a), 3.1(b)(i) and 3.1(c)(ii)E)</td>
<td>1. The &quot;Maintenance Facility Site&quot; as identified in Sketch TF18 MF01 contained in Exhibit B. Access is subject to supervision by the Principal and is for the purposes only of undertaking site investigations, including geotechnical investigations, site survey, utility identification, dilapidation survey, and noise, vibration and stray current investigations</td>
<td></td>
<td>The Contractor must provide to the Principal's Representative a Contractor's Investigation Access Notice</td>
</tr>
<tr>
<td></td>
<td>2. All of the Site</td>
<td></td>
<td>The Contractor must provide to the Principal's Representative</td>
</tr>
</tbody>
</table>
Rates for determining increase in Contract Sum for failure to give access: 
(Clause 3.1(e)(ii))

Not applicable.

Condition Surveys exist for the following properties: 
(Clause 3.12)

Not applicable.

Number of copies of Design Documentation and survey information: 
(Clause 5.5)

Not applicable.

Percentages to be applied to Variation and daywork costs: 
(Clauses 6.4 and 6.7)

<table>
<thead>
<tr>
<th>Clause No</th>
<th>percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>6.4(b)(ii)A</td>
<td></td>
</tr>
<tr>
<td>6.4(b)(ii)B</td>
<td></td>
</tr>
<tr>
<td>6.7</td>
<td></td>
</tr>
</tbody>
</table>

Provisional Sum Work: 
(Clause 1.1 and 7.3)

Not applicable.

Parts of the Site within which the Works must be located: 
(Clauses 3.11 and 7.6(b)(i))

Refer to Works Brief

New Defects Rectification Period: 
(Clause 8.6)
**Contractor's Personnel**  
(Clauses 2.1(d), 9.4(a) and 9.4(b)(i))

- Contractor's Representative (full time) - 
- Project Director (full time) - 
- Project Manager (full time) - 
- Construction Manager (full time) - 
- Design Manager (full time) - 
- Commissioning Manager (full time) - 
- Rail Safety Manager (full time) - 
- WHS Manager (full time) - 
- Environmental Manager (full time) - 
- Commercial Manager (full time) - 
- Civil Construction Manager (full time) - 
- General Superintendent (full time) - 

**Rail Infrastructure Manager:**  
(Clauses 7.11(a)(i))

- Rail Infrastructure Manager: TfNSW

**Is the Contractor required to submit a Project Training Management Plan:**  
(Clauses 9.14)

- Yes

**Applicability of clause 9.14(f):**  
(Clauses 9.14(f))

- Clause 9.14(f) does apply.

**Training Target:**  
(Clauses 9.14(f)(i))

- One apprentice for every four tradesmen.
Causes of delay entitling Contractor to extension of time:
(Clause 10.7(a))

- a Force Majeure Event;
- a Change in Law to which clause 2.3(d) applies;
- any:
  - Authority order or direction referred to in clause 2.4(a)(v);
  - order by a court or tribunal referred to in clause 2.4(a)(vi); or
  - direction by the Principal or Principal's Representative referred to in clause 2.4(a)(vi),
- given to the Contractor to cease performing its obligations under this Contract, except to the extent that such Authority order or direction, court or tribunal order, or direction arises out of the Contractor's non-compliance with its obligations under this Contract;
- a strike that is industry-wide and not specific to the Contractor, the Site, or the Contractor's Activities; and
- compliance with any direction given by the Principal's Representative under clause 3.8 in respect of any Valuable Find in the circumstances described in clause 3.8.

Rates to be used in determining delay damages:
(Clause 10.13)

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate ($) Excluding GST</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Project Engineer</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Supervisor</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Engineer</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Electrician</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Surveyor &amp; Chainman</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Labourer CW3</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Labourer CW4</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Labourer CW5</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Labourer CW6</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>OHW Specialist Electrician</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>HV Electrician</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Equipment Type</td>
<td>Rate</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>---------------</td>
<td></td>
</tr>
<tr>
<td>Semi-trailer (40 T trailer) including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Rigid trucks including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>15T Tippers including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>12T Bogey Tippers including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Hi-rail trucks including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Welder's Trucks including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Flat top trucks including driver</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Dump truck</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Concrete truck (6m3, 3 axle) incl. operator</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Concrete pump incl. operator</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Concrete Truck Pump Rate</td>
<td>per m3</td>
<td></td>
</tr>
<tr>
<td>General Pump (Pump Large 200mm CP/CD200)</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>Excavator (incl. operator) 3T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Excavator (incl. operator) 8T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Excavator (incl. operator) 13.5T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Excavator (incl. operator) 20T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Excavator (incl. operator) 30T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Backhoes</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Bitumen truck</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>D9 dozers with rippers</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Tracked front end loaders (Drot)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Vibratory rollers</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Vibratory plate compactors</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>Graders</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>30-t excavators</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Rock breakers (Hammer Attachment)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Rock cutting saws</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>20-t dump trucks</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Drilling rigs for rock bolting and soil nailing</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>(not including materials)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Shotcrete guns</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Elevated works platforms for rock bolting/ soil nailing</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>Plant Type</td>
<td>Unit</td>
<td>Rate</td>
</tr>
<tr>
<td>------------------------------------------------</td>
<td>------------</td>
<td>------</td>
</tr>
<tr>
<td>Piling rigs</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Concrete screeders (PETROL)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Small cranes, (35t Slew Crane, no Dogman)</td>
<td>per hour</td>
<td></td>
</tr>
</tbody>
</table>

### Major Plant required for track

<table>
<thead>
<tr>
<th>Plant Type</th>
<th>Unit</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front End Loaders</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Bobcats</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Excavator with Octopus Grab</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>5t Balloon tired dumpers</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Water cart</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Street Sweeper</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Bogie Tippers (Ballast Delivery)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Semi trailers (Sleeper Delivery)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Track Jacks</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Turnout tamper</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Tamper</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Regulator</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Rail Grinder</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rail Threader (excavator attachment)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Hiab Gang Trucks</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Thermit Welding equipment</td>
<td>per day</td>
<td></td>
</tr>
</tbody>
</table>

### Major Plant required for Overhead Wiring

<table>
<thead>
<tr>
<th>Plant Type</th>
<th>Unit</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>All terrain cranes (Franna)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Franna cranes</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Hi-rail Cable trucks or wiring train (Truck)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>RFW</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>Hi-rail cherry pickers</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Gang Trucks (Dry Hire)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Piling bore rig 600 mm diam (incl. operator)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Franna crane (incl. operator)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>12T (inc operator / No Rigger)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Franna crane (incl. operator)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>14T (inc operator / No Rigger)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Franna crane (incl. operator)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>16T (inc operator / No Rigger)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
<td>Rate</td>
<td></td>
</tr>
<tr>
<td>---------------------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>Mobile crane (incl. operator) 16T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Mobile crane (incl. operator) 80T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Graders (incl. operator) 140 G</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Graders (incl. operator) 12 G</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Front end loaders (incl. operator)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Vibratory rollers (incl. operator) 10T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Vibratory rollers (incl. operator) 12T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Vibratory rollers (incl. operator) 16T</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Plate Compactors</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>Bobcat (incl. operator)</td>
<td>per hour</td>
<td></td>
</tr>
<tr>
<td>Compressors 75 CFM</td>
<td>per day</td>
<td></td>
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<tr>
<td>Compressors 250 CFM</td>
<td>per day</td>
<td></td>
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<tr>
<td>Traffic Management</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>4 Colour VMS Board</td>
<td>per day</td>
<td></td>
</tr>
<tr>
<td>Traffic Lights (Diesel)</td>
<td>per day</td>
<td></td>
</tr>
</tbody>
</table>

**Insurance of the Works**  
(Clause 13.4)  
Alternative applying  
Alternative 1

**Public liability insurance**  
(Clause 13.5)  
Alternative applying  
Alternative 1

**Amount of Contractor's insurance:**  
(Clauses 13.6(a) and 13.6(f)(iii))
- **Workers compensation insurance** or similar insurance as required under clause 1.1(d) for an amount as required by Law
- **Construction Plant Insurance**  
  Current market value of the Construction Plant
- **Professional Indemnity Insurance**  
  for any one occurrence and in the aggregate with an excess not greater than
- **Motor Vehicle Insurance**
  third party property damage

- **Asbestos Liability Insurance**
  for any one occurrence and in the aggregate

- **Marine transit insurance**

- **Insurance required by Law or Change in Law**
  As required by Law

- **Insurance of materials fabricated overseas**
  - is not required

**Period for Professional Indemnity Insurance:**

7 years

**Person in Insolvency Event:**

Downer EDI Limited ABN 97 003 872 848

**Amount for termination for convenience:**

of the cost determined under clauses 14.10(a)(ii), 14.10(a)(iii) and 14.10(a)(iv).

**Applicability of Building Code:**

Clause 17.27 does apply.

**Time for giving notices:**

14 days
Time for written Claims: 28 days
(Clauses 18.1(b) and 18.3(c))
Schedule 2 - Payment Breakdown Schedule
(Clauses 11.2)

1. Definitions

In this Schedule 2:

"Contract Sum Table" means the table in section 4 of this Schedule 2.

"DDR" has the meaning given in the TSRs.

"No Comments Date" means:

(a) if Principal's Representative has had the period referred to in clause 9.8(c)(ii) to review the Document and has not rejected a Document or made any comments on the Document, the last day of that period referred to in clause 9.8(c)(ii); or

(b) if the Contractor is required to respond to the Principal's Representative comments in accordance with clause 9.8(d) and the Contractor has responded to the Principal's Representative's comments within the required time period and in a manner satisfactory to the Principal's Representative, the last date of the period in which the Contractor was required to provide its response pursuant to clause 9.8(d).

"PDR" has the meaning given in the TSRs.

"SVR" has the meaning given in the TSRs.

"TRR" has the meaning given in the TSRs.

2. Milestones

With respect to any Milestone in the Contract Sum Table, subject to the terms of the Contract, the Principal will pay the Contractor for completed Milestones on a monthly basis.

3. Progressive Payment for items of work other than Milestones

Subject to the terms of the Contract, with respect to each item of work listed in the "Basis of Payment" column in the Contract Sum Table other than Milestones, the Principal will pay the Contractor monthly for the progressive completion of the item of work having regard to the value of that work, calculated based on the percentage of that work completed, in accordance with this Contract, applied to the applicable percentage of the Contract Sum specified in the "Basis of Payment" column in the Contract Sum Table.

4. Contract Sum Table

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>BASIS FOR PAYMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(M) = MILESTONE PAYMENT</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(P) = PROGRESSIVE PAYMENT</td>
</tr>
<tr>
<td>ITEM</td>
<td>DESCRIPTION</td>
<td>BASIS FOR PAYMENT</td>
</tr>
<tr>
<td>------</td>
<td>-------------</td>
<td>-------------------</td>
</tr>
</tbody>
</table>
| 1    | All Management Plans | (M) 
 of the Contract Sum paid on the final No 
 Comments Date which occurs in respect of a 
 Management Plan |
| 2    | Initial Contractor's Program | (M) 
 of the Contract Sum paid on the No 
 Comments Date for the Contractor's Program 
 submitted in accordance with clause 10.2 |
| 3    | All Design Documentation to 
 design stage PDR | (M) 
 of the Contract Sum on the final No 
 Comments Date for all Design Documentation at 
 design stage PDR |
| 4    | All Design Documentation to 
 design stage DDR | (M) 
 of the Contract Sum on the final No 
 Comments Date for all Design Documentation at 
 design stage DDR |
| 5    | All Design Documentation to 
 design stage TRR | (M) 
 of the Contract Sum on the final No 
 Comments Date for all Design Documentation at 
 design stage TRR |
| 6    | All Design Documentation to 
 design stage SVR | (M) 
 of the Contract Sum on the final No 
 Comments Date for all Design Documentation at 
 design stage SVR |
| 7    | O&M manual | (M) 
 of the Contract Sum paid on the No 
 Comments Date for an O&M manual |
| 8    | As-built drawings for all of the 
 Works | (M) 
 of the Contract Sum paid on the final No 
 Comments Date for as-built drawings for all of the 
 Works |
| 9    | Works other than items 1 - 8 
 above. | (P) 
 of the Contract Sum paid on percentage 
 of the Works other than items 1 - 8 above 
 complete |
Schedule 3 - Form of Confidentiality Undertaking

(Clauses 2.2(e)(iii) and 17.10(c)(i))

To: [ ]

We, the engaged Consultant/Supplier/Contractor/Subcontractor body, undertake to treat as confidential all information received/generated from the Principal in respect of work performed by the Principal.

The Consultant/Supplier/Contractor/Subcontractor hereby undertakes:

(a) To disclose information to its employees only on a need-to-know basis;

(b) Not to disclose information to any other person without first obtaining the written consent of the Principal;

(c) To ensure that its employees to whom information is disclosed will comply with (a) and (b) above.

This undertaking will not apply to information about the Principal which is in the public domain (except where the availability of the information in the public domain is due to any unauthorised disclosure by the Consultant/Supplier/Contractor/Subcontractor, its employees or agents) or which was already known to the Consultant/Supplier/Contractor/Subcontractor.

Any breach of this undertaking by the Consultant/Supplier/Contractor/Subcontractor’s employee or agent will constitute a breach of this undertaking by the Consultant/Supplier/Contractor/Subcontractor and at the direction of the Principal the Consultant/Supplier/Contractor/Subcontractor must institute proceedings or do whatever the Principal regards as reasonable to prevent or contain the breach.

The Consultant/Supplier/Contractor/Subcontractor undertakes that on request from the Principal it will forthwith return to the Principal all originals and copies of the confidential information, however embodied, supplied by the Principal and destroy all documents containing or prepared using any confidential information however embodied.

The Consultant/Supplier/Contractor/Subcontractor also undertakes to declare to the Principal any conflict of interests that exists or arises during the course of its engagement which may impinge on the objectivity or probity of the work performed. Such declarations are to be made as soon as the conflict of interests issues arises.
This undertaking will remain in force until each part of the confidential information is released by the Principal into the public domain.

Dated: ........................................

SIGNED for and on behalf of:

.............................................................
(Print Company Name)

By: .........................................................
(Print Name) ...............................................
(Signature)

in the presence of:

..........................................................
(Print Name) ...............................................
(Signature)
Schedule 4 - Action in Complying with Planning Approval and Third Party Agreements

(Clause 2.3(c))

Part A Planning Approvals

Notwithstanding the "responsibility" column in Exhibit D, the Contractor must fulfil all the conditions and requirements of the Planning Approvals (including all conditions expressed to be the responsibility of the "Proponent") except to the extent that the following tables allocate responsibilities to the Principal. Nothing specified in this table as being a responsibility of the Principal will relieve the Contractor from complying with any obligation set out elsewhere in the Contract. The Contractor may apply to have any part of any of the Approvals listed below modified. The Contractor acknowledges and agrees that it is solely responsible for any such modification.

Conditions of Works Planning Approval

<table>
<thead>
<tr>
<th>Works Planning Approval Condition Number</th>
<th>Extent of Principal's responsibility for the Works Planning Approval condition specified</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Comply with the requirements of the environmental impact assessment as relevant to the Principal</td>
</tr>
<tr>
<td>3</td>
<td>The determination of the environmental impact assessment for any modifications will be undertaken by TfNSW in its capacity as Determining Authority under the Environmental Planning and Assessment Act 1979 (NSW). The Contractor is to provide all necessary information required by the Determining Authority to determine any project modification(s).</td>
</tr>
<tr>
<td>4</td>
<td>Principal to direct consultation activities with stakeholders and any communications with external parties</td>
</tr>
<tr>
<td>5</td>
<td>Principal to direct consultation activities with stakeholders and any communications with external parties</td>
</tr>
<tr>
<td>6</td>
<td>Principal to establish and maintain website. Contractor to provide information as required</td>
</tr>
<tr>
<td>7</td>
<td>Principal to establish and maintain complaints line. Contractor to comply with all other requirements at the direction of the Principal</td>
</tr>
<tr>
<td>10</td>
<td>Principal to provide an Independent Environmental Management Representative, where required.</td>
</tr>
</tbody>
</table>

Mitigation Measures - Works Planning Approval

Nil
## Conditions of Operations Planning Approval

<table>
<thead>
<tr>
<th>Operations Planning Approval Condition Number</th>
<th>Extent of Principal's responsibility for the Operations Planning Approval condition specified</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Comply with the requirements of the environmental impact assessment as relevant to the Principal</td>
</tr>
<tr>
<td>3</td>
<td>The determination of the environmental impact assessment for any modifications will be undertaken by TfNSW in its capacity as Determining Authority under the <em>Environmental Planning and Assessment Act 1979</em> (NSW). The Contractor is to provide all necessary information required by the Determining Authority to determine any project modification(s).</td>
</tr>
</tbody>
</table>

### Mitigation Measures - Operations Planning Approval

Nil

### Part B  Additional Environmental Requirements

The Contractor must in addition to fulfilling the requirements of the Planning Approvals, carry out the following in relation to the Planning Approvals:

Nil

### Part C  Third Party Agreements

Nil
Schedule 5 - Subcontractors - Security of Payment

(Clause 2.2(e)(i))

The following terms must be included in each Subcontract, and the Subcontracts let by those Subcontractors, as referred to in clause 2.2(e) of the General Conditions of this Contract.

1. Options as to Form of Security

A clause which allows the Subcontractor to lodge an approved unconditional undertaking from a bank or financial institution instead of a cash security or retention moneys as its security for performance of the Subcontract.

A clause which provides that if the Subcontractor does lodge an unconditional undertaking for the required amount, the Contractor must not deduct further retention moneys and any retention moneys or other cash security then held will be promptly released to the Subcontractor.

2. Trust for Cash Security and Retention Moneys

A clause which has the effect that:

(a) cash securities and retentions under the Subcontract and the cash proceeds of any security converted to cash (other than in exercise of a contractual right of enforcement) is trust money and must be deposited into and held in a trust account with a bank within 24 hours of receipt or conversion;

(b) the trust money is beneficially owned by the party which provided the security at all times unless the other party becomes entitled to receive them under the Subcontract;

(c) the security holder must hold proper records and account to the security provider for the trust moneys; and

(d) any interest earned by the trust account will not be held in trust, and will be owned by the security holder.


A clause which:

(a) has the effect of requiring the Contractor to pay the Subcontractor (and Subcontractors their subcontractors) regular progress payments for the value of work (less only retention moneys, if any, paid into the trust account) for which payment is claimed by the Subcontractor and for which the Contractor has claimed payment from the Principal, no later than:

(i) in the case of the Contractor's Subcontractors, 7 days; and

(ii) in the case of the Subcontractor's subcontractors, 14 days,

after the last day for payment by the Principal to the Contractor for such work;
(b) states nothing in the clause referred to in paragraph (a) is to be read so as to prevent the Contractor from paying the Subcontractor an amount in excess of that claimed from the Principal, or before the time stipulated in that clause; and

(c) states if anything in the clause referred to in paragraph (a) is inconsistent with any other provision in the Subcontract, the provisions of that clause will prevail to the extent of the inconsistency.

A clause that prescribes an interest rate for overdue payments that is not less than the interest rate specified in clause 11.13 of the General Conditions of this Contract.

4. **Alternative Dispute Resolution**

A clause that requires alternative dispute resolution procedures of the type required in this Contract.

A clause making it optional for the Subcontractor to comply with the alternative dispute resolution process if the only remedy it seeks is an order for payment of money which is not disputed to be due and payable under the Subcontract.

5. **Documents to be Provided to Subcontractors**

A clause that requires the Contractor to provide the Subcontractor with a copy of extracts from this Contract before the Subcontractor starts work under the Subcontract. The extracts to be provided are:

(a) clause 2.2(e)(i);
(b) this Schedule 5;
(c) clause 11;
(d) clause 15; and
(e) Schedule 26.
Schedule 6 - Consultant Deed of Covenant
(Clauses 2.2(e)(ii))

This deed poll is made the day of 20

To: Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (the "Principal")

By: [ ] ("Consultant")

Recitals
A. The Principal has engaged [ ] ("Contractor") to carry out certain works for the Principal by a contract dated [ ] ("Contract").

B. The Contractor has engaged the Consultant by agreement dated [ ] ("Subcontract") to carry out the professional services to be performed under the Subcontract ("Professional Services") for the purposes of the performance of the Contractor's obligations under the Contract as they relate to those design services.

C. Under the Contract, the Contractor is required to procure the Consultant to execute this deed poll in favour of the Principal.

Operative

1. Duty of Care
(a) The Consultant:
   (i) warrants to the Principal that:
      A. in performing the Professional Services, it will exercise the standard of skill, care and diligence that would be expected of a consultant experienced in and expert in the provision of the type of professional services required by the Principal;
      B. the Professional Services will be fit for the intended purposes disclosed in or reasonably able to be inferred from the Works Brief, which is an annexure to the Contract; and
      C. the Professional Services do not and will not infringe any patent, registered design, trademark or name, copyright or other protected right;
   (ii) acknowledges that:
      A. in performing the Professional Services it will owe a duty of care to the Principal; and
      B. it is aware that the Principal will be relying upon the skill and judgment of the Consultant in performing the Professional Services and the warranties given by the Consultant in this deed poll; and
must act in good faith and in the best interests of the Principal and promptly advise the Principal about any matter in which the Consultant has been instructed by the Contractor to provide the Professional Services in a manner which is, or may result in an outcome which is, not in accordance with the requirements of the Contract, including without limitation:

A. where the Contractor's instructions in relation to design are not consistent with the Contract or may result in the Works not being fit for their intended purpose; or

B. where the Contractor's instructions require the Consultant to issue a certificate where the conditions for the issue of that certificate under the Contract have not been satisfied.

(b) The Consultant must:

(i) fully cooperate with each other consultant and contractor engaged by the Principal ("Other Contractor");

(ii) carefully coordinate and integrate the Professional Services with the services and work carried out by each Other Contractor;

(iii) carry out the Professional Services so as to minimise any interfering with, disrupting or delaying, the services and work carried out by each Other Contractor;

(iv) without limitation, provide whatever advice, support and cooperation is reasonable to facilitate the due carrying out of the services and work being provided by each Other Contractor;

(v) ensure title to and intellectual property (including any patent, registered design, trademark or name, copyright or other protected right) in or in relation to the Professional Services will vest upon its creation for the purposes of the Contract in the Principal;

(vi) obtain an assignment to the Principal from any third party who owns any intellectual property right in the Professional Services;

(vii) if any intellectual property rights in or in relation to documents, designs and computer programs created for the purposes of the Contract is not capable of being vested in the Principal because the Consultant itself does not own, and is unable at a reasonable cost to obtain ownership of, those rights, provide to the Principal an irrevocable licence to use that Intellectual Property, by sub-licence from the Consultant or direct licence from a third party; and

(viii) ensure that the intellectual property created for the purposes of the Contract is not used, adapted or reproduced other than for the purposes of the Contract without the prior written approval of the Principal (which will not be unreasonably withheld, but may be given subject to terms and conditions).

(c) The Consultant must indemnify the Principal from and against:
any liability to or claim by any other person; and

(ii) all claims against, and costs, expenses, losses and damages, suffered or incurred by the Principal arising out of, or in any way in connection with:

(iii) the Consultant's breach of a term of, or warranty under, this deed poll; or

(iv) any actual or alleged infringement of any patent, registered design, trademark or name, copyright or other protected right.

2. Notices

(a) Any notices contemplated by, or arising out of or in any way in connection with, this deed poll must be in writing and delivered to the relevant address or sent to the facsimile number shown below (or to a party's new address or facsimile number which that party notifies to the others):

(i) to the Principal: c/o Level 5, Tower A
Zenith Centre
821 Pacific Highway
CHATSWOOD NSW 2067
Fax: (02) 9200 0290

(ii) to the Consultant: [Insert details]

(b) A notice sent by post will be taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent.

(c) A notice sent by facsimile will be taken to have been received on the next day after the day shown on the transmission slip showing the facsimile number of the party to whom it is addressed in accordance with clause 2.1, which is not a Saturday, Sunday or public holiday in New South Wales.

(d) If the Consultant is a foreign company (as defined in the Corporations Act 2001 (Cth)), the Consultant must within 14 days of the date of this deed poll:

(i) appoint a local process agent acceptable to the Principal as its agent to accept service of process under or in any way in connection with this deed poll; and

(ii) obtain the process agent's consent to the appointment.

The appointment must be in a form acceptable to the Principal and may not be revoked without the Principal's consent.

3. Miscellaneous

(a) This deed poll will be construed in accordance with the law of the State of New South Wales and the Consultant irrevocably submits to the jurisdiction of the Courts of that State.
(b) This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal.
Schedule

[INSERT DESCRIPTION OF PROFESSIONAL SERVICES] as more particularly described in the Subcontract.

Executed as a deed poll.

Signed Sealed and Delivered

by the Consultant

[ ] by or in the presence of:  

(Signature)

(Signature of Witness)

(Name of Witness in Full)
Schedule 7 - Approvals to be obtained by the Principal

(Clause 2.3(c)(i))

- The Planning Approvals.
Schedule 8 - Form of Unconditional Undertaking  
(Clauses 2.7)  

This deed poll ("Undertaking") made the day of 20  

In favour of: Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre,  
821 Pacific Highway, CHATSWOOD NSW 2067 ("Principal")  

Given by: [ ] ("Institution")  

Recitals:  
A. By a contract dated [ ]  
   ("Contract") between [ ]  
   ("Contractor") and the Principal the Contractor agreed to carry out the Contractor's  
   Activities (as defined in the Contract).  
B. Under the provisions of the Contract, the Contractor is required to provide this  
   Undertaking to the Principal.  

Operative:  
1. The Institution unconditionally undertakes and covenants to pay to the Principal on  
   demand without reference to the Contractor and notwithstanding any notice given by the  
   Contractor to the Institution not to do so, any sum or sums which may from time to time  
   be demanded in writing by the Principal to a maximum aggregate sum of # ($ ).  
2. The Institution's liability under this Undertaking will be a continuing liability and will  
   continue until payment is made under this Undertaking of the maximum aggregate sum  
   or until the Principal notifies the Institution that this Undertaking is no longer required.  
3. The liability of the Institution under this Undertaking must not be discharged or impaired  
   by reason of any variation or variations (with or without the knowledge or consent of the  
   Institution) in any of the stipulations or provisions of the Contract or the Contractor's  
   Activities or acts or things to be executed, performed and done under the Contract or by  
   reason of any breach or breaches of the Contract by the Contractor or the Principal.  
4. The Institution may at any time without being required so to do pay to the Principal the  
   maximum aggregate sum less any amount or amounts it may previously have paid  
   under this Undertaking and thereupon the liability of the Institution hereunder will  
   immediately cease.  
5. This Undertaking will be governed by and construed in accordance with the laws for the  
   time being of the State of New South Wales.
Transport for NSW

Executed as a deed poll.

Signed Sealed and Delivered )
by [              ] being signed  )
sealed and delivered by its duly constituted )  (Signature)
Attorney [              ] under  )
Power of Attorney No. in the  )
presence of:  )

(Signature of Witness)

(Signature of Witness in Full)
## Schedule 9 - Information Documents and Materials

(Clauses 3.6)

<table>
<thead>
<tr>
<th>No.</th>
<th>Description</th>
<th>Rev</th>
<th>Date</th>
<th>Drawing / document number</th>
<th>File Name</th>
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### D SGT Maintenance Facility

| D1  | Sketch TF18 MF01 – Indicative Only Indicative Maintenance Facility Site and Shared Facilities | -   | -          | TF18 MF01                  | TF18 MF01                                                                 | pdf               |

### E Mortdale Maintenance Centre

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**Mortdale Maintenance Centre**

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| E100| Preliminary Site Investigation
Mortdale Passenger Fleet Maintenance Centre, NSW                                  | -   | 09/09/2015 | S4040401_RPT_Mortdale_9Sep05 | CLR01698 - Mortdale PFM Centre PSI                                        | pdf              |
| E101| Mortdale SS HV Operating Diagram                                              | L   | 04/06/2010 | 230                        | Mortdale_230_L                                                              | pdf              |
| E102| Mortdale Current Meter Readings – Maintenance Roads and Administration Building Meter 1 and Meter 3 | -   | 27/06/2016 | -                          | Mortdale Water Usage (Meters 1 and 3)                                      | pdf              |
| E103| Mortdale Maintenance Centre No1 Inspection Road Lighting & Power Layout       | C   | 16/06/1988 | A88097                     | 0004433_C0c                                                                | tif              |
| E104| Mortdale Maintenance Centre Lifting Shop Electrical Services Layout           | A   | 20/08/1987 | K86620                     | 0006073_A0C                                                                | tif              |
| E105| Mortdale Maintenance Centre Lifting Shop 415V Train Supply Distribution Board Arrangement & Control Diagram | A   | -          | C86749                     | 0006215_A0a                                                                | tif              |
| E106| Mortdale Car Sheds 415V Main Supply Main Switchboard Car Sheds Basic Requirement | B   | 01/12/1981 | C83378                     | 0011869_B0a                                                                | tif              |

**F**  
**Mortdale Maintenance Centre – Future works concepts**

| F1   | Sydney Growth Trains: Maintenance Centre upgrade options                      | -   | -          | -                           | Maintenance centre upgrade options                                          | doc              |
| F2   | MMC ROADS NO. 1, 2 & 3 OHW ISOLATION SWITCH & LOCK OUT UPGRADE - Signalling Functional Specification | 4   | 05 Apr 2016 | AA008904_RPT_01            | MMC SFS REV4 Clean (Final)                                                   | pdf              |

**Mortdale Maintenance Centre – Lift Shop**

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Appendix B files, including:
- Schema - Envelope Structure
- Schema - Envelope Header
- Schema - Envelope Payload
- Schema - Envelope Result Set
- Schema - Ctip message body
- Schema - Complex parameter types
- Schema - Simple parameter types
### Schedule 10 - Prices and Rates for valuation of Variations and Overhead Costs

**Part A**

(Clauses 6.4(b)(i)A and 6.7(a))

The prices and rates referred to in clauses 6.4(b)(i)A and 6.7(a) of the Contract are those set out in the table below:

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<td>12T Bogey Tippers including driver</td>
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<td>Hi-rail trucks including driver</td>
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<td>Welder’s Trucks including driver</td>
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<tr>
<td>Turnout tamper</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Tamper</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Regulator</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Rail Grinder</td>
<td></td>
<td>per day</td>
</tr>
<tr>
<td>Rail Threader (excavator attachment)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Hiab Gang Trucks</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Thermit Welding equipment</td>
<td></td>
<td>per day</td>
</tr>
</tbody>
</table>

### Major Plant required for Overhead Wiring

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate ($) Excluding GST</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>All terrain cranes (Franna)</td>
<td></td>
<td>per hour</td>
</tr>
</tbody>
</table>
### Description

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate ($) Excluding GST</th>
<th>Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Franna cranes</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Hi-rail Cable trucks or wiring train (Truck)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>RFW</td>
<td></td>
<td>per day</td>
</tr>
<tr>
<td>Hi-rail cherry pickers</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Gang Trucks (Dry Hire)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Piling bore rig 600 mm diam (incl. operator)</td>
<td></td>
<td>per lm</td>
</tr>
<tr>
<td>Franna crane (incl. operator) 12T (inc operator / No Rigger)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Franna crane (incl. operator) 14T (inc operator / No Rigger)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Franna crane (incl. operator) 16T (inc operator / No Rigger)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Mobile crane (incl. operator) 16T</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Mobile crane (incl. operator) 80T</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Graders (incl. operator) 140 G</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Graders (incl. operator) 12 G</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Front end loaders (incl. operator)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Vibratory rollers (incl. operator) 10T</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Vibratory rollers (incl. operator) 12T</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Vibratory rollers (incl. operator) 16T</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Plate Compactors</td>
<td></td>
<td>per day</td>
</tr>
<tr>
<td>Bobcat (incl. operator)</td>
<td></td>
<td>per hour</td>
</tr>
<tr>
<td>Compressors 75 CFM</td>
<td></td>
<td>per day</td>
</tr>
<tr>
<td>Compressors 250 CFM</td>
<td></td>
<td>per day</td>
</tr>
<tr>
<td><strong>Traffic Management</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Colour VMS Board</td>
<td></td>
<td>per day</td>
</tr>
<tr>
<td>Traffic Lights (Diesel)</td>
<td></td>
<td>per day</td>
</tr>
</tbody>
</table>
Part B - Overhead Costs

(Clauses 1.1, 6.4(b) and 7.3(b))

1. On-site overheads

The on-site overheads are those overhead costs and expenses which are specific to the Site including:

(a) on-site personnel with project management, site supervision, administration and support functions;
(b) site accommodation including amenities and parking facilities;
(c) phones lease and installation, rental and charges including mobiles;
(d) storage area and facilities;
(e) office supplies and consumables;
(f) site services;
(g) furniture and office fittings;
(h) site-based computers;
(i) printing, photocopying and stationery;
(j) reproduction of drawings;
(k) project specific insurances only (and not corporate held insurances);
(l) project specific software, data processing and network systems;
(m) security;
(n) cleaning;
(o) postage;
(p) site communications;
(q) first aid and personnel protective equipment for the personnel referred to in paragraph (a);
(r) small tools; and
(s) waste disposal associated with site accommodation, including amenities and parking facilities (excluding waste disposal associated with construction activities).

2. Off-site overheads

The off-site overheads are on account of costs and expenses related to off-site business functions of the Contractor (in respect of the Works) including the following matters:

(a) safety and quality;
(b) research and development;
(c) financial, legal, human resources and commercial;
(d) executive management;
(e) corporate infrastructure and support;
(f) parent company fees;
(g) corporate head offices running costs and payroll; and
(h) bonds and bank guarantees.
Part C - Removal and Disposal of Hazardous Material and Contamination

(Clauses 3.7(h)(iv) and 3.9(f)(v))

The prices and rates referred to in clauses 3.7(h)(iv) and 3.9(f)(v) of the Contract are those set out in the table below and include excavation, removal and disposal:

<table>
<thead>
<tr>
<th>Item</th>
<th>Material Description</th>
<th>RATE ($/tonne)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>up to 150</td>
</tr>
<tr>
<td></td>
<td></td>
<td>for 150 to 300</td>
</tr>
<tr>
<td></td>
<td></td>
<td>for 300 to 600</td>
</tr>
<tr>
<td></td>
<td></td>
<td>for 600 to 900</td>
</tr>
<tr>
<td>1</td>
<td>General Solid Waste</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>(putrescible)</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Restricted Solid</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>Waste</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Hazardous Waste</td>
<td>$</td>
</tr>
<tr>
<td>4</td>
<td>Special Waste -</td>
<td>$</td>
</tr>
<tr>
<td></td>
<td>Asbestos</td>
<td></td>
</tr>
</tbody>
</table>

(In accordance with Department of Environment, Climate Change and Water NSW Waste Classification Guidelines)
Schedule 11 - Form of Warranty

(Clause 2.2(f))

This Deed Poll is made the day of 20

To: Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 ("Principal")

[Add other beneficiaries as nominated by TfNSW] ("Beneficiary").

By: That person described in Item 1 of the Schedule ("Warrantor") which expression will include its successors and assigns)

Recitals

A. The Warrantor has supplied the items described in Item 2 of the Schedule ("Equipment") to the person described in Item 3 of the Schedule ("Contractor") or the person described in Item 4 of the Schedule, a subcontractor of the Contractor ("Subcontractor"), for the works ("Works") being carried out by the Contractor under the contract described in Item 5 of the Schedule ("Contract") with the Principal.

B. It is a requirement of the Contract that the Contractor procure the Warrantor to give the following warranties in favour of the Principal and the Beneficiary with respect to the Equipment.

Operative

1. Quality

The Warrantor:

(a) warrants to the Principal and the Beneficiary that the Equipment will be to the quality and standard stipulated by the Contract and will be of merchantable quality and fit for the purpose for which it is required; and

(b) gives the warranty more particularly set out in Item 6 of the Schedule with respect to the Equipment.

The above warranties are in addition to and do not derogate from any warranty implied by law in respect of the Equipment.

2. Replacement

The Warrantor warrants to the Principal and the Beneficiary that it will replace so much of the Equipment as within the period described in Item 7 of the Schedule:

(a) is found to be of a lower quality or standard than that referred to in clause 1; or

(b) shows deterioration of such extent that in the opinion of the Principal or the Beneficiary the Equipment ought to be made good or replaced in order to
achieve fitness for the purpose for which it is required, whether on account of utility, performance, appearance or otherwise.

3. Warrantor to bear cost

The Warrantor covenants to the Principal and the Beneficiary that it will bear the cost of any work necessary to any part of the Works to enable the requirements of clause 2 to be carried out or to make good the Works afterwards.

4. Principal not liable

The Warrantor acknowledges to the Principal and the Beneficiary that nothing contained in this deed poll is intended to nor will render either the Principal or the Beneficiary in any way liable to the Warrantor in relation to any matters arising out of the Contract or otherwise.

5. This deed poll may not be revoked

This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal and the Beneficiary.

6. Governing Law

This deed poll is governed by the laws of the State of New South Wales.

7. Jurisdiction

The Warrantor irrevocably submits to the non-exclusive jurisdiction of the Courts of New South Wales.

8. Enforcement of this deed poll

For the avoidance of doubt this deed poll is enforceable by any of the Principal or the Beneficiary.
Sydney Growth Trains
Design and Construction of Maintenance Facility Works
Contract Number: ISD-16-5312C

Schedule

Item 1: Name and Address of Warrantor

Item 2: Equipment
(Recital A)

Item 3: Contractor
(Recital A)

Item 4: Subcontractor
(Recital A)

Item 5: Contract
(Recital A)

Item 6: Detailed Warranty of Warrantor
(Clause 1(b))

Item 7: Period of Years
(Clause 2)

[insert period] years from the expiry of the last "Defects Rectification Period" as defined in the General Conditions (including any extension under clause 8.6 of the General Conditions).

Executed as a deed poll.

Executed by [insert name of Warrantor]
(ABN [insert ABN]) by or in the presence of:

______________________________  ________________________________
Signature of Director  Signature of Secretary/other Director

______________________________  ________________________________
Name of Director in full  Name of Secretary/other Director in full
Schedule 12 - Form of Statutory Declaration
(Clause 11.6(c)(i))

Statutory Declaration

<table>
<thead>
<tr>
<th>Oaths Act (NSW) Ninth Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>I, [\text{[Name]}] of [\text{[Position]}] do solemnly and sincerely declare that:</td>
</tr>
<tr>
<td>1. I am the representative of: [\text{[Contractor]}] in the Office Bearer capacity of:</td>
</tr>
<tr>
<td>2. The Contractor has a contract with the [\text{[Client]}]:</td>
</tr>
<tr>
<td>3. I personally know the facts which I have set out in this declaration.</td>
</tr>
<tr>
<td>4. All employees who have at any time been engaged by the Contractor for work done under the Contract:</td>
</tr>
<tr>
<td>a) have been paid all remuneration and benefits to the date of this declaration payable to them by the Contractor in respect of their employment on work under the Contract, and</td>
</tr>
<tr>
<td>b) have otherwise had accrued to their account all benefits to which they are entitled from the Contractor as at the date of this declaration in respect of their employment on work under the Contract pursuant to any award, enterprise agreement, act or regulation, with the exception of the employees and respective amounts unpaid or not accrued for each employee listed below:</td>
</tr>
<tr>
<td>Employee: [\text{[Name]}]</td>
</tr>
<tr>
<td>5. Attached to and forming part of this declaration, as Annexure A, is a supporting statement for the purposes of section 13(7) of the Building and Construction Industry Security of Payment Act 1999 (NSW).</td>
</tr>
<tr>
<td>5A. Where the Contractor holds any retention money from a Subcontractor, the Contractor has complied with all requirements under the Building and Construction Industry Security of Payment Amendment (Retention Money Trust Account) Regulation 2015 (NSW), with the exception of the items listed below:</td>
</tr>
</tbody>
</table>
6. In all cases where a subcontractor or supplier to the Contractor has provided services and/or materials in respect of the Contract and has submitted a claim to the Contractor for these services or materials which as at the date of this statutory declaration would have been due and payable but which the Contractor disputes, the reasons for such dispute have been notified in writing to the subcontractor or supplier by the Contractor prior to the date of this statutory declaration. Where such dispute relates to part only of the subcontractor or supplier’s claim, that part of the claim not in dispute has been paid by the Contractor to the subcontractor or supplier as at the date of this statutory declaration except for the amounts listed in 5 above.

7. The provisions of the Contract relating to the payment of employees, subcontractors and suppliers of the Contractor have been complied with by the Contractor.

8. The Contractor has been informed by each subcontractor to the Contractor (except for subcontracts not exceeding $25,000 at their commencement) by statutory declaration in equivalent terms to this declaration (made no earlier than the date 14 days before the date of this declaration):

(a) that their subcontracts with their subcontractors and suppliers comply with the requirements of the Contract relating to payment of employees and subcontractors, and

(b) that all their employees and subcontractors, as at the date of the making of such a declaration:
   i) have been paid all remuneration and benefits due and payable to them by; or
   ii) had accrued to their account all benefits to which they are entitled from;

the subcontractor of the Contractor or from any other subcontractor (except for subcontracts not exceeding $25,000 at their commencement) in respect of any work under the Contract, and

(c) of details of any amounts due and payable or benefits due to be received or accrued described in 8(b) above which have not been paid, received or accrued, except for the following subcontractors to the Contractor who have failed to provide such a declaration:

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>Due amount unpaid:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

9. Where a subcontractor to the Contractor has provided a declaration as in 8 above, and it includes unpaid amounts or benefits either not received or not accrued, details of the subcontractor, details of the affected employees, suppliers and subcontractors of the subcontractor, and the respective amounts or benefits either unpaid or not accrued are as follows:

<table>
<thead>
<tr>
<th>Employee, subcontractor or supplier:</th>
<th>Amount unpaid or not accrued:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

10. In relation to the statutory declaration provided by each subcontractor to the Contractor, I am not aware of anything to the contrary of what is contained therein, and on the basis of the contents of those statutory declarations, I believe that information to be true.

11. Attached to and forming part of this declaration, as Annexure B, is a "Subcontractor’s Statement" given by the Contractor in its capacity as ‘subcontractor’ (as that term is defined in the Workers Compensation Act 1987, Pay-Roll Tax Act 1971 and Industrial Relations Act 1996) which is a written statement:
12. I personally know the truth of the matters which are contained in this declaration and the attached Subcontractor's Statement.

13. All statutory declarations and Subcontractor's Statements received by the Contractor from subcontractors were:
   (a) given to the Contractor in its capacity as 'principal contractor' as defined in the Workers Compensation Act 1987, the Pay-Roll Tax Act 2007 and the Industrial Relations Act 1996 ("Acts"); and
   (b) given by the subcontractors in their capacity as 'subcontractors' as defined in the Acts.

14. I am not aware of anything which would contradict the statements made in the statutory declarations or written statements provided to the Contractor by its subcontractors, as referred to in this declaration.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths Act 1900 (NSW). I am aware that I may be subject to punishment by law if I wilfully make a false statement in this declaration.

Declared at ____________________________ on ____________________________
(place) (day) (month) (year)

(Signature of Declarant)

Before me:

(Signature of person before whom the declaration is made)

(Name of the person before whom the declaration is made)

(Title* of the person before whom the declaration is made)

And as a witness, I certify the following matters concerning the person who made this declaration (declarant):

[*strike out the text that does not apply]

1. *I saw the face of the declarant.
   OR
   *I did not see the face of the declarant because the declarant was wearing a face covering, but I am satisfied that the declarant had a special justification for not removing the covering.

2. *I have known the declarant for at least 12 months.
   OR
   *I confirmed the declarant's identity using the following identification document:

Identification document relied on
(may be original or certified copy)

Signature of person before whom the declaration is made

Before me:

(Signature of person before whom the declaration is made)
(Name of the person before whom the declaration is made)

(Title* of the person before whom the declaration is made)

* The declaration must be made before one of the following persons:
- 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; or
  (iii) a notary public.
- 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.
Annexure A

Supporting statement by head contractor regarding payment to subcontractors

This statement must accompany any payment claim served on a principal to a construction contract by a head contractor.

For the purposes of this statement, the terms “principal”, “head contractor”, “subcontractor”, and “construction contract” have the meanings given in section 4 of the Building and Construction Industry Security of Payment Act 1999.

Head contractor: [business name of head contractor]
ABN: [ABN]

* 1. has entered into a contract with: [business name of subcontractor]
ABN: [ABN]
Contract number/identifier: [contract number/identifier]

OR

* 2. has entered into a contract with the subcontractors listed in the attachment to this statement.

[Delete whichever of the above does not apply]

This statement applies for work between [start date] and [end date] inclusive (the construction work concerned), subject of the payment claim dated [date].

I,[full name], being the head contractor, a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters that are contained in this supporting statement and declare that, to the best of my knowledge and belief, all amounts due and payable to subcontractors have been paid (not including any amount identified in the attachment as an amount in dispute).

Signature: .................................................. Date: ..................................................
Full name: .................................................. Position/Title: .........................................
Attachment

Schedule of subcontractors paid all amounts due and payable

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>ABN</th>
<th>Contract number / identifier</th>
<th>Date of works (period)</th>
<th>Date of payment claim (head contractor claim)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Schedule of subcontractors for which an amount is in dispute and has not been paid

<table>
<thead>
<tr>
<th>Subcontractor</th>
<th>ABN</th>
<th>Contract number / identifier</th>
<th>Date of works (period)</th>
<th>Date of payment claim (head contractor claim)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
SUBCONTRACTOR’S STATEMENT
REGARDING WORKERS COMPENSATION, PAYROLL TAX AND REMUNERATION
(Note 1 - see back of form)

For the purposes of this Statement a “subcontractor” is a person (or other legal entity) that has entered into a contract with a “principal contractor” to carry out work.

This Statement must be signed by a “subcontractor” (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B Workers Compensation Act 1987, Schedule 2 Part 5 Payroll Tax Act 2007, and s127 Industrial Relations Act 1996 where the “subcontractor” has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s). The signed Statement is to be submitted to the relevant principal contractor.

SUBCONTRACTOR’S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.

Subcontractor: .................................................. ABN: ........................................
of .................................................................................................................. (Note 2)

has entered into a contract with ................................................................................ ABN: (Note 2)

Contract number/identifier ............................................................................... (Note 2)

This Statement applies for work between: ....../...../...... and ....../...../...... inclusive, (Note 3)

subject of the payment claim dated: ....../...../...... (Note 4)

I, ..........................................................................................................., a Director or a person authorised by the

Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the

truth of the matters which are contained in this Subcontractor’s Statement and declare the following to the best of my knowledge and belief:

(a) The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [ ] if true and comply with (b) to (g) below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [ ] and only complete (f) and (g) below. You must tick one box. (Note 6)

(b) All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated ....../...../...... (Note 7)

(c) All remuneration payable to relevant employees for work under the contract for the above period has been paid. (Note 8)

(d) Where the Subcontractor is required to be registered as an employer under the Payroll Tax Act 2007, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor’s Statement. (Note 9)

(e) Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor’s Statement by its subcontractor(s) in connection with that work for the period stated above. (Note 10)

(f) Signature ............................................. Full name: ..................................................

(g) Position/Title ............................................. Date ....../...../......

NOTE: Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the Workers Compensation Act 1987.
Notes

1. This form is prepared for the purpose of section 175B of the Workers Compensation Act 1987, Schedule 2 Part 5 Payroll Tax Act 2007 and section 127 of the Industrial Relation Act 1996. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called the subcontractor) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.

2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.

3. Provide the unique contract number, title, or other information that identifies the contract.

4. In order to meet the requirements of $127 Industrial Relations Act 1996, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the Industrial Relations Act 1996 defines remuneration as 'remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.'

Section 127(11) of the Industrial Relations Act 1996 states 'to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.'

5. Provide the date of the most recent payment claim.

6. For Workers Compensation purposes an exempt employer is an employer who pays less than $7500 annually, who does not employ an apprentice or trainee and is not a member of a group.

7. In completing the Subcontractor’s Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.

8. In completing the Subcontractor’s Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.

9. In completing the Subcontractor’s Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.

10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor’s Statements from your subcontractors.

**Statement Retention**

The principal contractor receiving a Subcontractor’s Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

**Offences in respect of a false Statement**

In terms of s127(8) of the Industrial Relations Act 1996, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

(a) the person is the subcontractor;
(b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
(c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the Workers Compensation Act and clause 18 of Schedule 2 of the Payroll Tax Act 2007 a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

**Further Information**

Schedule 13 - Property Owner's Certificate

(Clause 3.4(c)(ii))

This deed poll is made the day of 20

To: Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 ("Principal")

By: [ ]

Property Address: .................................................................

1. I/We confirm that the following works has been carried out and completed on my/our property to my/our satisfaction:

   [Insert description of works on property and property]

2. I/We confirm that our land has been rehabilitated and all damage and degradation on it repaired.

3. I/We release the Principal from all claims and actions which I/we may have arising out of or in connection with the works referred to in paragraph 1.

4. This deed poll may not be revoked or otherwise modified without the prior written consent of the Principal.

Executed as a deed poll.

Signed sealed and delivered by in the presence of:

Signature

Signature of Witness

Name of Witness in full
Schedule 14 - Form of Subcontractor Deed

(Clause 2.2(e)(iv))

THIS DEED POLL is made on .................................................., 20...... by

........................................................................................................ ACN............. of

........................................................................................................ (the "Subcontractor").

RECITALS:

A. Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (the "Principal") has entered into a contract with [ ] ("Contractor") for the construction of [ ] ("Works").

B. The Subcontractor has an agreement (the "Subcontract") with the Contractor for the execution and completion of the [ ] (the "Subcontract Works") for the Works.

C. It is a condition of the Subcontract that the Subcontractor executes this Deed Poll.

THIS DEED WITNESSES THAT THE SUBCONTRACTOR HEREBY COVENANTS, WARRANTS AND AGREES with and for the benefit of the persons named in the Schedule as follows:

1. It will comply with its obligations under the Subcontract and upon completion of the Works, the Subcontract Works will satisfy the requirements of the Subcontract.

2. The persons named in the Schedule may assign or charge the benefits and rights accrued under this Deed Poll.

3. The Subcontractor:

   (a) must if required by a written notice by the Principal to sign a deed in the form of the attached Deed of Novation (Attachment 1) with such substitute contractor as the Principal may nominate; and

   (b) for this purpose irrevocably appoints the Principal to be its attorney with full power and authority to complete the particulars in and sign the attached Deed of Novation.

4. This Deed Poll is governed by the laws of the State of New South Wales.
5. This Deed Poll may not be revoked or otherwise modified without the prior written consent of the Principal.

6. The Subcontractor's liability in respect of a breach of a particular obligation under this Deed Poll will be reduced to the extent to which the Subcontractor has already paid money to or performed work for the Contractor in respect of that breach.

PERSONS NAMED IN THE SCHEDULE TO THE DEED POLL

Transport for NSW (ABN 18 804 239 602)

[Insert relevant details eg Sydney Trains/NSW Trains]

EXECUTED AS A DEED POLL.

Executed by [insert name] (ABN [insert ABN]) by or in the presence of:

__________________________  ____________________________
Signature of Director        Signature of Secretary/other Director

__________________________  ____________________________
Name of Director in full      Name of Secretary/other Director in full
THIS DEED OF NOVATION is made on [ ] 20( ) between the following parties:

1. [ ] ("Substitute Contractor")
2. [ ] ("Original Contractor")
3. [ ] ("Subcontractor").

RECITALS:

A. By deed dated [ ] (the "Deed") between:

(i) Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 (the "Principal"); and

(ii) Original Contractor,

the Principal engaged the Original Contractor to undertake the Works (as defined in the Deed).

B. The Original Contractor has entered into an agreement ("Subcontract") with the Subcontractor for the execution and completion of the [ ] ("Subcontract Works") as part of the Works.

C. The Principal has terminated the Deed and has engaged Substitute Contractor to complete the Works.

D. The Principal and Substitute Contractor wish to effect a novation of the Subcontract.

THIS DEED WITNESSES that in consideration, among other things, of the mutual promises contained in this deed, the parties agree:

1. Substitute Contractor must perform all of the obligations of the Original Contractor under the Subcontract which are not performed at the date of this deed. Substitute Contractor is bound by the Subcontract as if it had originally been named in the Subcontract in place of Original Contractor.

2. The Subcontractor must perform its obligations under, and be bound by, the Subcontract as if Substitute Contractor was originally named in the Subcontract in place of Original Contractor.

3. This deed is governed by the laws of New South Wales and the parties agree to submit to the non-exclusive jurisdiction of the courts of that state.

EXECUTED by the parties as a deed:

[Insert appropriate execution clauses]
Schedule 15 - Options

(Clause 6.3)

Not applicable.
Schedule 16 - Form of Contractor Deed Poll

(Clause 1.5)

This deed poll ("Deed Poll") made the day of 20

By: [insert name of Contractor] (ABN [insert Contractor’s ABN]) of [insert Contractor’s address] ("Contractor").

in favour of: [insert name of Beneficiary of Deed Poll] (ABN [insert Beneficiary’s ABN]) of [insert Beneficiary’s address] ("Owner").

RECITALS

A. Transport for NSW ("TfNSW") of Level 5, Tower A Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067, is responsible for developing the [insert] ("Program").

B. As part of the Program TfNSW is responsible for procuring the execution and completion of certain works [insert details of project] (the "Works") on behalf of the Owner and the New South Wales Government, and has entered into a contract ("Main Contract") with the Contractor to achieve this.

C. The Owner is relying on TfNSW to procure the Contractor to execute and complete the Works in accordance with the Main Contract.

D. The Owner will suffer loss if TfNSW does not procure the Contractor to execute and complete the Works in accordance with the Main Contract.

E. It is a condition of the Main Contract that the Contractor executes this Deed Poll.

THIS DEED POLL WITNESSES THAT THE CONTRACTOR HEREBY COVENANTS, WARRANTS AND AGREES with and for the benefit of the Owner as follows:

1. It will comply with its obligations under the Main Contract, including with respect to achieving Completion of each Portion and the Works by the relevant Date for Completion.

2. Upon Completion of the Works, the Works will satisfy the requirements of the Main Contract.

3. The aggregate of the Contractor’s liability to the Owner under this Deed Poll and the Contractor’s liability to TfNSW under the Main Contract:
   (a) will not exceed the liability which the Contractor would have had under the Main Contract if the Main Contract had named, as Principal, the Owner and TfNSW jointly and severally; and
   (b) is subject to the same limitations of liability, and qualifications on such limitations of liability, as are specified in the Main Contract.

4. Any provision of this Deed Poll which seeks to limit or exclude a liability of the Contractor is to be construed as doing so only to the extent permitted by law.
5. The Owner may assign or charge the benefits and rights accrued under this Deed Poll.

6. This Deed Poll is governed by the laws of the State of New South Wales.

7. This Deed Poll may not be revoked or otherwise modified without the prior written consent of the Owner.

8. Where terms used in this Deed Poll are defined in the Main Contract, those terms have the meaning given to them in the Main Contract.

Executed as a deed poll.

Executed by [insert Contractor's name]
ABN [insert Contractor's ABN] by or in the presence of:

______________________________  ________________________________
Signature of Director            Signature of Secretary/other Director

______________________________  ________________________________
Name of Director in full         Name of Secretary/other Director in full
Schedule 17 - Not Used
Schedule 18 - Deed of Novation (Principal, Contractor and Subcontractor)

(Clause 2.2(g))

THIS DEED OF NOVATION is made on [ ] between the following parties:

1. Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, Chatswood NSW 2067 ("Principal")

2. [ ] ABN [ ] of [ ] ("Contractor"); and

3. [ ] ABN [ ] of [ ] ("Subcontractor").

Recitals

A. By agreement dated [ ] (the "Subcontract"), the Principal engaged the Subcontractor to, and the Subcontractor agreed to, undertake certain works for the Principal (the "Subcontract Works").

B. By agreement dated [ ] (the "Contract"), the Principal engaged the Contractor to, and the Contractor agreed to, undertake certain works for the Principal, which includes the Subcontract Works.

C. Under the Contract and the Subcontract, the Contractor and the Subcontractor must enter into this deed when the Principal requires them to do so.

D. Subject to this deed, the Subcontractor agrees to accept the Contractor in place of the Principal for the performance of all the obligations of the Principal and to release completely and discharge the Principal from all of its obligations under the Subcontract and from all claims and demands in respect of it.

THIS DEED WITNESSES that in consideration, among other things, of the mutual promises contained in this deed, the parties agree:

1. The Subcontractor must perform its obligations under, and be bound by, the Subcontract as if the Contractor was originally named in the Subcontract as the Principal.

2. The Subcontractor:

   (a) releases and forever discharges the Principal from its obligations under the Subcontract and from all claims and demands in respect of the Subcontract; and

   (b) accepts the liability of the Contractor in place of the liability of the Principal in respect of the Subcontract.

3. The Contractor must perform all the obligations of the Principal under, and be bound by, the Subcontract as if the Contractor were originally named in the Subcontract as the Principal.
4. Upon the execution and exchange of this deed:
   (a) the Principal must release any securities given to it by the Subcontractor in accordance with the Subcontract;
   (b) the Subcontractor must give the Contractor security in the same form and for the same amounts as any security required by the Subcontract; and
   (c) the Subcontractor must ensure that the Contractor is appropriately noted on all relevant insurance policies as required by the Subcontract.

5. This deed is governed by the laws of New South Wales and the parties agree to submit to the non-exclusive jurisdiction of the courts of that state.

EXECUTED by the parties as a deed:

Executed by [ ] ABN [ ]

by or in the presence of:

Signature of Director
Name of Director in full

Signature of Secretary/other Director
Name of Secretary/other Director in full

Executed by [ ] ABN [ ]

by or in the presence of:

Signature of Director
Name of Director in full

Signature of Secretary/other Director
Name of Secretary/other Director in full

Executed by [ ] ABN [ ] by

or in the presence of:

Signature of Director
Name of Director in full

Signature of Secretary/other Director
Name of Secretary/other Director in full
## Schedule 19 - Contractor's Certificate of Design Compliance

(Clauses 5.3 and 11.6(c)(ii))

<table>
<thead>
<tr>
<th>CONTRACTOR'S CERTIFICATE OF DESIGN COMPLIANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTRACTOR:</td>
</tr>
<tr>
<td>DESIGN PACKAGE</td>
</tr>
<tr>
<td>DESCRIPTION</td>
</tr>
</tbody>
</table>

(Attach schedule of work packages if insufficient space)

I certify that the design for the packages or part thereof described above has been completed to the extent indicated above in accordance with the requirements of the Contract between the Principal and , and complies with the requirements of the Contract, subject to the register of outstanding minor design non-conformances and unresolved issues attached.

I further certify that the attached compliance records as required by the Contract reflect the true status of the design packages.

SIGNATURE: ________________________________  |
(Contractor's Representative)  
SIGNATURE: ________________________________  |
(Contractor's Subcontractor/Designer)  
DATE: ________________________________  
DATE: ________________________________
Schedule 20 - Contractor's Certificate of Construction Compliance

(Clauses 7.1(c) and 11.6(c)(ii))

<table>
<thead>
<tr>
<th>WORK PACKAGE</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
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<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>

CONTRACTOR'S CERTIFICATE OF CONSTRUCTION COMPLIANCE

I certify that the procurement/construction of the work packages or part thereof described above have been completed to the extent indicated above in accordance with the requirements of the Contract between the Principal and , and comply with the requirements of the Contract, subject to the register of outstanding minor construction non conformance and unresolved issues attached.

I further certify that the attached compliance records as required by the Contract reflect the true status of the work packages.

NAME: ___________________________ SIGNATURE: ___________________________ DATE: / / (Contractor's Representative)
THIS SECTION MUST BE COMPLETED BY THE RELEVANT CONTRACTOR'S SUBCONTRACTOR/DESIGNER

I certify that the procurement/construction of the work packages (one certificate per work package) or part thereof described above have been completed to the extent indicated above in accordance with the requirements of the Contract between the Principal and ___________, and comply with the requirements of the Contract, subject to the register of outstanding minor construction non-conformances and unresolved issues attached.

I further certify that the attached compliance records as required by the Contract reflect the true status of the work packages.

SIGNATURE: __________________________
(Contractor's Subcontractor/Designer)

DATE: __________________________
**Schedule 21 - Contractor’s Certificate of Completion**

(Definition of “Completion” in Clause 1.1 and Clause 12.3(c))

<table>
<thead>
<tr>
<th>CONTRACTOR’S CERTIFICATE OF COMPLETION</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONTRACTOR:</td>
</tr>
<tr>
<td>Description of Portion or Works:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>I certify that the Completion of the above Portion/the Works has/have been achieved in accordance with the requirements of the Contract between the Principal and , complies with the requirements of the Contract, subject to the register of unresolved issues attached.</td>
</tr>
<tr>
<td>I further certify that:</td>
</tr>
<tr>
<td>(a) All Variation Orders (including concessions) are listed in the attached compliance register.</td>
</tr>
<tr>
<td>(b) All identified Defects (including any non-conformities but excluding Defects accepted as minor by the Principal) have been satisfactorily rectified and their documentation closed out.</td>
</tr>
<tr>
<td>(c) All required documentation has been submitted.</td>
</tr>
<tr>
<td>(d) All notices regarding system deficiencies have been satisfactorily closed out.</td>
</tr>
<tr>
<td>I further certify that the attached compliance records as required by the Contract reflect the true status of the Portion/the Works.</td>
</tr>
<tr>
<td>SIGNATURE:</td>
</tr>
<tr>
<td>(Contractor’s Representative)</td>
</tr>
<tr>
<td>DATE:</td>
</tr>
<tr>
<td></td>
</tr>
<tr>
<td>SIGNATURE:</td>
</tr>
<tr>
<td>(Contractor’s Subcontractor/Designer)</td>
</tr>
<tr>
<td>DATE:</td>
</tr>
</tbody>
</table>

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L320915146.2
Schedule 22 - Contractor’s Certificate of Final Completion

(Clause 12.8(d))

<table>
<thead>
<tr>
<th>CONTRACTOR’S CERTIFICATE OF FINAL COMPLETION</th>
</tr>
</thead>
<tbody>
<tr>
<td>I hereby certify that Final Completion has been achieved by[ the Contractor] in accordance with the requirements of the Deed (including all Variation orders detailed in (a) below) between the Principal and the Contractor.</td>
</tr>
<tr>
<td>I further certify that:</td>
</tr>
<tr>
<td>(a) All Variation Orders (including concessions) are listed in the attached compliance register.</td>
</tr>
<tr>
<td>(b) All identified Defects (including any non-conformities have been satisfactorily rectified and their documentation closed out.</td>
</tr>
<tr>
<td>(c) All required documentation has been submitted.</td>
</tr>
<tr>
<td>(d) All notices regarding system deficiencies have been satisfactorily closed out.</td>
</tr>
<tr>
<td>I further certify that the attached compliance records as required by the Deed reflect the true status of the Portion/the Works.</td>
</tr>
</tbody>
</table>

SIGNATURE: ____________________________ DATE: / / /

(Contractor’s Representative)
Schedule 23 - Form of Other Contractor Deed Poll

(Clause 7.4)

This Deed Poll made the day of 20

In favour of: [insert details] (ABN [insert details]) of [insert details]

("Contractor") and

Transport for NSW (ABN 18 804 239 602) of Level 5, Tower A, Zenith Centre, 821 Pacific Highway, Chatswood, NSW, 2067 ("Principal")

Given by: [insert details] (ABN [insert details]) of [insert details]

("Other Contractor")

Recitals

A. By a contract dated [insert date] ("Contract") between the Principal and the Contractor, the Contractor agreed to design and construct certain works ("Works"), on the land more particularly described in the Contract (the "Site").

B. The Other Contractor has been appointed under a Contract ("Other Contract") to undertake certain works on the Site ("Other Contractor Works").

C. For the purposes of the Work Health and Safety Act 2011 (NSW) and the Work Health and Safety Regulation 2011 (NSW) (together, the "WHS Legislation"), the Works and the Other Contractor Works are a "construction project" within the meaning of the WHS Legislation.

D. Under the Contract, the Principal engaged the Contractor as principal contractor and authorised the Contractor to have management and control of the workplace for the purpose of discharging the duties imposed on a principal contractor for the construction project.

E. Under the provisions of the Contract, the Principal is required to procure the provision of this Deed Poll from each Other Contractor that undertakes Other Contractor Works (as that term is defined in the Contract).

This Deed Poll Provides

1. In consideration of the Contractor accepting this Deed Poll, the Other Contractor agrees that:

   (a) the Other Contractor, its subcontractors and their respective personnel while they are on the Site, will comply with Site safety regulations, any Site rules or regulations and with all directions of the Contractor with respect to work health and safety;

   (b) the Other Contractor, its subcontractors and their respective personnel will comply in a timely manner with directions of the Contractor so that the Contractor discharges its obligations as principal contractor;
(c) the Other Contractor, its subcontractors and their respective personnel will consult, cooperate and coordinate activities with the Contractor, the Principal and all other persons who have a work health and safety duty in relation to the same matter;

(d) the Other Contractor, its subcontractors and their respective personnel will comply with the work health and safety plan(s) prepared by the Contractor while on Site;

(e) the Contractor may exclude the Other Contractor, any of its subcontractors and their respective personnel from the Site for work health and safety reasons;

(f) the Contractor may direct the Other Contractor, any of its subcontractors and their respective personnel to perform or not perform certain acts for work health and safety reasons;

(g) where high risk construction work is to be carried out in the performance of the Other Contractor Works, the Other Contractor must:

(i) prepare a safe work method statement that complies with all requirements of the WHS Legislation;

(ii) provide a copy of the safe work method statement to the Principal and the Contractor prior to the commencement of high risk construction work;

(iii) review and revise the safe work method statement in accordance with the WHS Legislation;

(iv) ensure that the high risk construction work is carried out in compliance with the safe work method statement; and

(v) where so directed by the Contractor, suspend the performance of any high risk construction work;

(h) the Other Contractor shall in carrying out the work under the Other Contract, comply with, and ensure that all subcontractors and personnel comply with the WHS Legislation; and

(i) in its contracts with subcontractors, the Other Contractor will ensure that the subcontractor is obliged to give the same obligations and rights as required of the Other Contractor under this Deed Poll.

2. The Other Contractor indemnifies the Contractor against any delay, damage, expense, loss, penalty or liability suffered or incurred by the Contractor as a result of:

(a) any failure by the Other Contractor to comply with any direction given by the Contractor in accordance with this Deed Poll; or

(b) any breach by the Other Contractor, any of its subcontractors or their respective personnel of:

(i) their respective contractual or legislative work health and safety obligations; or

(ii) the provisions of this Deed Poll.
3. This Deed Poll will be governed by and construed in accordance with the law for the time being of New South Wales.

Executed as a Deed Poll.

Executed by [Other Contractor] by or in the presence of:

______________________________  ________________________________
Signature of Director                      Signature of Secretary/other Director

______________________________  ________________________________
Name of Director in full                  Name of Secretary/other Director in full
Schedule 24 - Form of Interface Agreement Deed Poll in favour of Rail Transport Agency and Transport for NSW

(Clause 1.5(b) and 1.5(c))

This deed poll ("Deed Poll") made the day of 20

By: [Contractor] (ABN..................) of .......................................................... ("Contractor"),

in favour of: [Insert details of relevant Rail Transport Agency] ("Rail Transport Agency") and

Transport for NSW (ABN 18 804 239 602) a NSW Government agency and a corporation constituted by section 3C of the Transport Administration Act 1988 (NSW), of Level 5, Tower A Zenith Centre, 821 Pacific Highway, CHATSWOOD NSW 2067 ("TfNSW")

Recitals

A. Rail Transport Agency operates the commuter rail system in Sydney, including [Insert details] and surrounds where the Works (the "Project") is to be undertaken by the Contractor and others.

B. TfNSW is responsible for developing certain major railway systems and other major transport projects.

C. TfNSW is responsible for procuring the execution and completion of the Project, and has entered into a safety interface agreement dated [insert date] for [Insert details of Project/Program] ("Interface Agreement") with Rail Transport Agency to cover the Project.

D. Rail Transport Agency is relying on TfNSW to procure the Contractor (with others) to execute and complete the Project in accordance with the Contract to ensure that Rail Transport Agency will satisfy, among other things, its obligation to provide an operating commuter rail system.

E. Rail Transport Agency will suffer loss if TfNSW does not procure the Contractor to execute and complete the Works in accordance with the Contract and the Interface Agreement.

This deed witnesses that the Contractor hereby covenants, warrants and agrees with and for the benefit of Rail Transport Agency and TfNSW as follows:

1. It will comply with its obligations under the Interface Agreement.

2. During and upon Completion of the Project, the Contractor's Activities will satisfy the requirements of the Interface Agreement.

3. Rail Transport Agency and TfNSW may assign or charge the benefits and rights accrued under this Deed Poll.

4. This Deed Poll is governed by the laws of the State of New South Wales.
5. This Deed Poll may not be revoked or otherwise modified without the prior written consent of Rail Transport Agency and TfNSW.

6. Where terms used in this Deed Poll are defined in the Contract or the Interface Agreement, those terms have the meaning given to them in the Contract or the Interface Agreement.

Executed as a deed poll.

Executed by [Contractor]
(ABN.................) by or in the presence of:

Signature of Director

Name of Director in full

Signature of Secretary/other Director

Name of Secretary/other Director in full
Schedule 25 - Not Used
Schedule 26 - Dispute Resolution Procedures

(Clause 15)

1. Dispute Resolution

1.1 Notification

(a) Any Dispute must be resolved in accordance with these Dispute Resolution Procedures.

(b) A party that wishes to progress a Dispute must give the other party and the Principal's Representative notice of the Dispute (Notice of Dispute) in accordance with the notice requirements set out in clause 16. The Notice of Dispute must:

(i) specify the Dispute;

(ii) provide particulars of the party's reasons for being dissatisfied; and

(iii) set out the position which the party believes to be correct.

1.2 Procedure to settle Disputes

(a) The procedure that is to be followed to resolve a Dispute notified under paragraph 1.1 is as follows:

(i) for a Dispute about a matter that is a Technical Dispute Matter:

A. first, negotiation under paragraph 1.3(b);

B. second, referral of the Dispute for resolution by an Independent Expert under paragraph 1.4; and

C. if, pursuant to paragraphs 1.4(l) or 1.4(m), any determination of an Independent Expert made in respect of the Dispute is not final and binding, then third, arbitration of the Dispute under paragraph 1.7; and

(ii) for a Dispute about any other matter:

A. first, negotiation under paragraph 1.3(c);

B. second, mediation of the Dispute under paragraph 1.6; and

C. third, arbitration of the Dispute under paragraph 1.7.

(b) A party may not commence court proceedings in relation to a Dispute until it has followed the procedures in this paragraph 1.2, unless the party is seeking appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not capable of being adequately compensated by an award of damages.
1.3 Negotiation

(a) Within three Business Days of a party issuing a Notice of Dispute to the other party, the parties must determine whether the Dispute is about a matter that is a Technical Dispute Matter.

(b) If the Dispute is about a matter that the parties have determined under paragraph 1.3(a) is a Technical Dispute Matter then, within five Business Days of a party issuing a Notice of Dispute to the other party:

(i) the parties must each nominate a suitably qualified person to consult on behalf of that party in relation to the relevant Technical Dispute Matter; and

(ii) the persons nominated pursuant to paragraph 1.3(b)(i) must consult in person and use reasonable endeavours to resolve the Dispute by joint discussions and negotiations.

(c) If the parties determine that the Dispute is not about a matter that is a Technical Dispute Matter, or do not agree on a determination as to whether the Dispute is or is not a Technical Dispute Matter within the timeframe specified in paragraph 1.3(a) then, within 15 Business Days of a party issuing a Notice of Dispute to the other party, suitably authorised senior representatives of the parties must consult in person and use reasonable endeavours to resolve the Dispute by joint discussions and negotiations.

1.4 Independent Expert (Technical Dispute Matters)

(a) If negotiations under paragraph 1.3(b) do not resolve a Dispute about a matter that is a Technical Dispute Matter within 10 Business Days after the Notice of Dispute was issued in respect of the Dispute then, unless otherwise agreed by the parties (in writing), the Dispute must be referred for resolution to an independent expert under this paragraph (Independent Expert).

(b) An Independent Expert must be chosen by the parties within five Business Days after the date referred to in paragraph 1.4(a) and appointed within a further five Business Days.

(c) If the parties fail to agree on the choice of an Independent Expert within the time referred to in paragraph 1.4(b), then the Principal's Representative may:

(i) nominate an Independent Expert from the appropriate discipline on the Technical Dispute Panel; or

(ii) if the Principal's Representative's nominee is unable or unwilling to act, request the President or Acting President of the Australian Centre for International Commercial Arbitration (ACICA) or any person to whom the President of ACICA has delegated decision making authority, to nominate an alternative expert in accordance with paragraph 1.4(e).

(d) The parties may review and update the Technical Dispute Panel at any time but not more than once in every quarter after the date of this Contract.
The Independent Expert may be nominated by the President or Acting President of ACICA on the application of the Principal's Representative pursuant to paragraph 1.4(c)(ii), provided that:

(i) no person may be appointed to act as the Independent Expert under this paragraph unless qualified by education, experience and training to determine the relevant Technical Dispute Matter; and

(ii) unless the parties otherwise agree in writing, no person may be appointed as the Independent Expert who is (or has been at any time within the preceding three years) an employee of any party or any Associate of that party or who is (or has been at any time within the preceding three years) a consultant to or contractor of any party or any Associate of that party or who holds any significant financial interest in any party.

The parties shall enter into an agreement with the expert on the terms contained in Schedule 28 or such other terms as may be agreed between the parties and the Independent Expert (Independent Expert Determination Agreement).

The parties shall not withhold agreement to:

(i) any amendment the Independent Expert requests to be made to those terms contained in the Independent Expert Determination Agreement, provided the amendment is reasonable and does not conflict with this paragraph 1.4; or

(ii) any reasonable fees and disbursements the Independent Expert requests to be set out in the Independent Expert Determination Agreement.

The Independent Expert shall make the determination in accordance with:

(i) the Independent Expert Determination Agreement and this Contract generally; and

(ii) the Expert Determination Rules (2010) published by the Resolution Institute (or by whichever entity subsequently replaces that entity, from time to time), or any rules published by that entity to replace such rules, from time to time, which the parties agree will be modified and amended as required to the extent that such rules conflict with the requirements of this Contract or any other Project Agreement,

(Independent Expert Determination Rules).

An expert determination conducted in accordance with the Independent Expert Determination Agreement is not an arbitration.

If the Independent Expert does not submit the determination by the time required under or in accordance with the Independent Expert Determination Agreement, either party may, by notice to the other party, instigate the appointment of another Independent Expert in accordance with the provisions of this paragraph 1.4. On the appointment of a new Independent Expert, the
appointment of the previous Independent Expert ceases, unless before the appointment of the new Independent Expert, the previous Independent Expert has submitted a final determination in the manner required, in which case the new Independent Expert must immediately be informed that his or her services will not be required.

(k) The Independent Expert will act as an expert and not an arbitrator and may make a decision from his or her own knowledge and expertise. The parties agree that any law or legislation relating to arbitration will not apply to that Independent Expert or the determinations or the procedure by which such determinations are reached.

(l) The determination of the Independent Expert must be in writing and, unless clause 1.4(m) applies, following the expiry of the period of time allowed for a request for amendment under paragraph 1.4(n), will, to the extent permitted by law, save in the event of fraud, be final and binding on the Principal and the Contractor unless within:

(i) 20 Business Days of receipt of the determination; or

(ii) 10 Business Days of the receipt of the determination amended under paragraph 1.4(n) or the notification by the Independent Expert that no amendment will be made to the determination,

a party gives notice to the other party of its dissatisfaction and intention to refer the matter to arbitration pursuant to paragraph 1.7. If a notice of dissatisfaction is given under this paragraph 1.4(l), the Independent Expert's determination will be binding on the parties and must be given effect until it is overturned or varied by the determination of the arbitrator.

(m) Notwithstanding paragraph 1.4(l), the determination of the Independent Expert will not be final and binding on the Principal or the Contractor where:

(i) the Dispute is about whether any relevant Works, Temporary Works, the Works Brief, the Contractor's Outline Design or Design Documentation:

A. is fit for purpose; or

B. complies with the requirements of this Contract; or

C. the Dispute is about whether Completion of the Works or a Portion has occurred.

(n) A party may request the Independent Expert to amend the determination within five Business Days of receipt of the determination and, following such a request by any party, the Independent Expert may amend the determination to correct:

(i) a clerical mistake;

(ii) an error from an accidental slip or omission;
(iii) a material miscalculation of figures or a material mistake in the description of any person, thing or matter; or

(iv) a defect in form.

If a request for amendment to a determination is made by any party under this paragraph 1.4(n), the Independent Expert must amend the determination or notify the parties that no amendment will be made (as is applicable) within 5 Business Days of the request.

(o) Any determination of an Independent Expert which is final and binding will be determinative only of the matters in dispute which were referred to the Independent Expert and will not be binding on the parties in respect of a dispute in respect of any other matter (including related matters).

(p) Each party will bear its own costs relating to its participation in the Independent Expert process established by this paragraph 1.4, including preparation of submissions, attendance at conferences and legal expenses.

(q) The fees, expenses and costs of the Independent Expert will be borne equally between the parties unless otherwise determined by the Independent Expert.

1.5 Independent Expert – Related expert determinations

Where any Dispute is to be referred to the process provided in paragraph 1.4 and that Dispute involves issues that are substantially the same as, or connected with issues raised in a related dispute or difference between the Principal and any other party or parties involved in the Project, and expert determination proceedings have already commenced in respect of the Dispute or the related dispute or disputes, the Principal may, in its absolute discretion:

(a) join the Dispute to those existing expert determination proceedings by giving notice to all parties concerned and the relevant expert, and the expert in such proceedings will have the power to make such directions as are necessary to join the parties and the cause of action to enable the expert to make a determination in respect of the Dispute; or

(b) join the related dispute or disputes to the existing expert determination proceedings concerning the Dispute by giving notice to all parties concerned and the relevant expert, and such parties will be considered parties to the expert determination proceedings for the purposes of paragraph 1.4 and the Independent Expert Determination Rules, and such rules will, to the extent possible, be modified to accommodate this, and the expert in such proceedings will have the power to make such directions as are necessary to join the parties and the cause or causes of action to enable the expert to make a determination in respect of the Dispute and the related dispute or disputes.

1.6 Mediation (non-Technical Dispute Matters)

(a) If negotiations between authorised senior representatives under paragraph 1.3(c) do not resolve the Dispute within 20 Business Days of a party issuing a Notice of Dispute to the other party then, unless otherwise agreed by the parties (in writing), the Dispute must be referred to mediation under this paragraph.
(b) The mediator must be chosen by the parties from the Panel of Mediators within 25 Business Days of a party issuing a Notice of Dispute to the other party and appointed within a further five Business Days.

(c) In the absence of agreement by the parties as to the mediator, the mediator will be appointed on the application of either party by the President or Acting President of ACICA or by any person to whom the President of ACICA has delegated decision making authority.

(d) Each party to the mediation may appoint a person, including a legally qualified person, to represent it or assist it in the mediation.

(e) All meetings and proceedings in relation to the mediation must be held at a place determined by the mediator in the Sydney CBD, administered by ACICA and will be conducted in accordance with the ACICA Mediation Rules (2007), which the parties agree will be modified and amended as required to the extent that such rules conflict with the requirements of this Contract or any other Project Agreement.

(f) Each party will bear its own costs relating to the preparation for and attendance at the mediation.

(g) The fees, expenses and costs of the mediator will be borne equally between the parties.

(h) The mediation process will cease if the Dispute has not been settled within 20 Business Days of the mediator being appointed, or such longer time as may be agreed by the parties in writing (having regard to the nature of the Dispute and the time required to assemble relevant information).

1.7 Arbitration – General principles

(a) If:

(i) paragraphs 1.4(l) or 1.4(m) apply; or

(ii) mediation under paragraph 1.6 does not resolve the Dispute within 20 Business Days of the mediator being appointed, or such longer time as may be agreed by the parties in writing (having regard to the nature of the Dispute and the time required to assemble relevant information) (Mediation Cut Off Date),

then, unless otherwise agreed by the parties, the Dispute will be referred to and finally resolved by arbitration in accordance with either:

(iii) the rules of ACICA (ACICA Arbitration Rules); or

(iv) the Australian Centre for International Commercial Arbitration Expedited Arbitration Rules (ACICA Expedited Arbitration Rules),

which the parties agree will be modified and amended as required to the extent that such rules conflict with the requirements of this Contract or any other Project Agreements.
(b) Notwithstanding any provision of the ACICA Expedited Arbitration Rules to the contrary (including any monetary thresholds), if:

(i) a party considers that a Dispute about a matter may be resolved in accordance with the ACICA Expedited Arbitration Rules and that party wishes to progress the Dispute in accordance with the ACICA Expedited Arbitration Rules, that party must give the other party notice that it considers that the Dispute may be resolved in accordance with the ACICA Expedited Arbitration Rules (Arbitration Expedition Notice) within three Business Days after the Mediation Cut Off Date; and

(ii) the other party agrees (in writing) that the matter in dispute is suitable to be resolved in accordance with the ACICA Expedited Arbitration Rules, the other party must advise the party that provided the Arbitration Expedition Notice that the proposed use of the ACICA Expedited Arbitration Rules is accepted in writing within two Business Days of receipt of the Arbitration Expedition Notice,

then the Dispute will be referred to and finally resolved by arbitration in accordance with the ACICA Expedited Arbitration Rules.

(c) If:

(i) no Arbitration Expedition Notice is given; or

(ii) within two Business Days of the issue of an Arbitration Expedition Notice, the parties have not agreed in writing whether the matter in dispute will be resolved in accordance with the ACICA Expedited Arbitration Rules,

then the Dispute will be referred to and finally resolved by arbitration in accordance with the ACICA Arbitration Rules.

(d) Within two Business Days after the rules for the arbitration are determined in accordance with paragraph 1.7(b) or paragraph 1.7(c), the party who issued the Notice of Dispute in relation to the relevant Dispute must issue a notice of arbitration to ACICA in accordance with the ACICA Arbitration Rules or the ACICA Expedited Arbitration Rules as the case may be (Notice of Arbitration).

(e) The parties agree that there will be one arbitrator.

(f) The seat of the arbitration will be Sydney.

(g) The language of the arbitration will be English.

(h) The parties further agree to the following general principles relating to the procedure of the arbitration:

(i) arbitration has been chosen for the purposes of achieving a just, quick and cost-effective resolution of any Dispute;
any arbitration conducted pursuant to this paragraph 1.7 shall not necessarily mimic court proceedings and the practices of those courts will not regulate the conduct of the proceedings before the arbitral tribunal;

in conducting the arbitration, the arbitrator must take into account the matters set out above, particularly in deciding issues such as:

A. how many written submissions will be allowed;
B. where appropriate, the length of written submissions;
C. the extent of document discovery permitted, if any;
D. the consolidation of arbitration proceedings, when requested;
E. the joinder of parties or the consolidation of proceedings, when requested;
F. the length of any hearing; and
G. the number of experts, if any, each party is allowed to appoint; and
H. the arbitrator has the power to grant all legal, equitable and statutory remedies, except punitive damages.

The parties agree that the arbitrator will conduct the arbitration as expeditiously as possible and no party will unnecessarily delay the arbitration proceedings.

All evidence in chief will be in writing, unless otherwise ordered by the arbitrator.

Each party may only rely upon one expert witness in respect of any recognised area of specialisation, unless otherwise ordered by the arbitrator.

After consultation with the parties, the arbitrator will determine whether to conduct the proceedings on the basis of documents and other materials only or whether an oral hearing will be held. In doing so the arbitrator shall have particular regard to the parties’ request for an expedited procedure and the rules of natural justice.

If the arbitrator determines that an oral hearing will be conducted, the following principles will apply in respect of the oral hearing:

(i) the duration of the oral hearings will be fixed by the arbitrator;
(ii) unless otherwise ordered by the arbitrator, the oral hearing will be conducted on a stop-clock basis with the effect that the time available to the parties will be split equally between the parties so that each party shall have the same time to conduct its case unless, in the opinion of the arbitral tribunal, such a split would breach the rules of natural justice or is unfair to one of the parties;
(iii) oral evidence in chief at the hearing will be permitted only with the permission of the arbitrator for good cause;

(iv) not less than 10 Business Days prior to the date fixed for the oral hearing, or any other period of time specified by the arbitrator, each party shall give notice of those witnesses (both factual and expert) of the other party that it wishes to attend the hearing for cross-examination; and

(v) in exceptional circumstances the arbitrator may extend the time for the oral hearing set pursuant to paragraph 1.7(m)(i).

(n) The parties agree that section 24 of the International Arbitration Act 1974 (Cth) will apply in respect of consolidations.

(o) The arbitrator has the power, on the application of any party to this arbitration agreement, to allow a third party, who the arbitral tribunal considers has a sufficient interest in the outcome of the arbitration, to be joined in the arbitration as a party. Each party to this Contract hereby consents to such joinder. In the event of such joinder of parties in the arbitration, the arbitrator has the power to make a single final award, or separate awards, in respect of all parties so joined in the arbitration.

(p) Any arbitration award will be final and binding upon the parties.

(q) This arbitration agreement is governed by and must be construed according to the laws applying in New South Wales.

1.8 Arbitration – Related arbitral proceedings

Where any Dispute is to be resolved by arbitration in accordance with paragraph 1.7 and that Dispute involves issues that are substantially the same as, or connected with issues raised in a related dispute or difference between the Principal and any other party or parties involved in the Project, and arbitral proceedings have already commenced in respect of the Dispute or the related dispute or disputes, the Principal may, in its absolute discretion:

(a) join the Dispute to those existing arbitral proceedings by giving notice to all parties concerned and the arbitral tribunal, and the arbitral tribunal in such proceedings will have the power to make such directions as are necessary to join the parties and the cause of action to enable the arbitral tribunal to make an award in respect of the Dispute; or

(b) join the related dispute or disputes to the existing arbitral proceedings concerning the Dispute by giving notice to all parties concerned and the arbitral tribunal, and such parties will be considered parties to the arbitral proceedings for the purposes of paragraph 1.7 and the ACICA Arbitration Rules or ACICA Expedited Arbitration Rules, and such rules will, to the extent possible, be modified to accommodate this, and the arbitral tribunal in such proceedings will have the power to make such directions as are necessary to join the parties and the cause or causes of action to enable the arbitral tribunal to make an award in respect of the Dispute and the related dispute or disputes.
1.9 Continued performance of obligations

(a) Notwithstanding the existence of a Dispute, each of the parties must continue to perform its obligations under the Project Agreements, save for the payment of any money which is the subject of the Dispute.

(b) Paragraph 1.9(a) will not apply where a Project Agreement has been terminated and does not prevent the Principal from exercising its rights of set-off under a Project Agreement.

1.10 Final and binding

Where the Dispute Resolution Procedures state that the settlement or the final resolution of any Dispute arising under or in connection with a Project Agreement, including any Dispute as to the Contractor’s liability under or in connection with the Project Agreement, in accordance with the procedures provided for in this Contract or otherwise as agreed between the parties (in writing), will be final and binding on the Contractor, the Contractor must not reopen, revisit or otherwise dispute that settlement or resolution or the subject matter of that settlement or resolution.

2. Technical Dispute Panel

The Technical Dispute Panel is comprised of the following persons:

(a) 

(b) 

and

(c) 

3. Exclusion from determination or award

(a) The powers conferred and restrictions imposed on a court by Part 4 of the Civil Liability Act 2002 (NSW) are not conferred on an Independent Expert or an arbitrator appointed in accordance with these Dispute Resolution Procedures.

(b) The Independent Expert or arbitrator has no power to make a binding or non-binding determination or any award in respect of a claim by applying or considering the provisions of Part 4 of the Civil Liability Act 2002 (NSW) (and any equivalent statutory provisions in any other state or territory) which might, in the absence of this paragraph, have applied to any Dispute referred to the Independent Expert or arbitrator.
Schedule 27 Principal Supplied Items

(Clause 7.10)

Not applicable.
Schedule 28 Form of Expert Determination Agreement

(Clause 15 and Schedule 26)

Independent Expert Determination Agreement
Sydney Growth Trains Project

Transport for NSW
TfNSW

Supplier

Independent Expert
Details

Date

Parties

Name: Transport for NSW
Short form name: TfNSW
Notice details: 18 Lee Street, Chippendale NSW 2008

Name: Downer EDI Rail Pty Limited
Short form name: Supplier
Notice details: 39 Delhi Road, North Ryde NSW 2113

Name: [Drafting Note: Name of Independent Expert as agreed between the parties or appointed pursuant to the Dispute Resolution Procedures contained in paragraph 1.4 of Schedule 26 of the MF Works Deed shall be inserted here]
Short form name: Independent Expert
Notice details: [Insert details]

Background

A. TfNSW and the Supplier (together the Parties and each a Party) are parties to a design and construction deed dated [Insert date] (MF Works Deed) under which the Supplier has agreed to design, procure, supply, install, commission and integrate works in relation to a maintenance facility.

B. The Independent Expert is to be appointed in accordance with the terms of the MF Works Deed.

C. TfNSW, the Supplier and the Independent Expert agree that the Independent Expert will determine each Dispute referred to it from time to time under the MF Works Deed in accordance with the Dispute Resolution Procedures in Schedule 26 to the MF Works Deed and the process set out in this agreement.
Agreed terms

1. Appointment of Independent Expert

(a) The Parties appoint the Independent Expert to determine those Disputes which are referred to the Independent Expert from time to time under the Project Deed in the manner and within the times set out in this agreement. The Independent Expert accepts the appointment on the basis set out in this agreement.

(b) The Parties agree that:

(i) the Independent Expert will act as an expert and not as an arbitrator;

(ii) neither the determination of a Dispute, nor the process required by this agreement, is an arbitration, and any conference conducted during the determination is not a hearing conducted under any legislation or rules relating to any form of arbitration;

(iii) the rules of evidence do not apply to any determination; and

(iv) the Independent Expert must conduct the determination of each Dispute in accordance with the Independent Expert Determination Rules defined in clause 1.4(h) of Schedule 26 to the MF Works Deed, and as modified by the MF Works Deed.

(c) If, at any time during the determination, the Independent Expert becomes aware of a circumstance that might reasonably be considered by a Party to adversely affect the Independent Expert's capacity to act independently or impartially, the Independent Expert must inform the Parties immediately and, unless the Parties agree otherwise, terminate this agreement. On termination of this agreement pursuant to this clause the Parties will have no Claim against each other nor will the Independent Expert arising as a consequence of the termination but such termination will be without prejudice to Claims that the Parties or the Independent Expert may have in respect of breaches of this agreement occurring prior to the termination.

2. Confidentiality

(a) Subject to clause 2(b), all proceedings and submissions relating to any determination (including the fact that any step of the determination is occurring), and all documents prepared for the purposes of a determination (including the Independent Expert's determination), must be kept confidential between the Parties and the Independent Expert.

(b) No such proceedings, submissions or documents, nor any other information relating to or arising out of a determination, may be divulged to any other person, except with the prior written consent of both Parties or as may be required by law or to the extent necessary to give effect to, review or enforce the Independent Expert's determination.
3. Costs and fees

(a) As between the Parties and the Independent Expert, the Parties are jointly and severally liable for the payment of the Independent Expert's fees and disbursements, calculated in accordance with Schedule 1 unless otherwise determined by the Independent Expert.

(b) The Parties agree as between themselves that:

(i) unless otherwise determined by the Independent Expert, they will each pay one half of the Independent Expert's fees and disbursements, calculated in accordance with Schedule 1; and

(ii) they will each bear their own costs of and incidental to the preparation of this agreement and their participation in any determination.

4. Exclusion of liability and indemnity

Except in the case of fraud, the Independent Expert will not be liable to either Party for any act or omission by the Independent Expert in the performance or purported performance of this agreement. The Parties release the Independent Expert from all Claims arising out of or in any way referable to any act or omission by the Independent Expert (except fraud) in the performance or purported performance by the Independent Expert of the terms of this agreement.

5. Co-operation of the Parties

Each Party agrees to take part in each determination in good faith and to comply with the reasonable requests and directions of the Independent Expert in relation to the conduct of each determination.

6. Governing Law

This agreement is governed by and must be construed in accordance with the laws applying in New South Wales.

7. Jurisdiction

(a) The Parties and the Independent Expert irrevocably submit to the non-exclusive jurisdiction of the courts of New South Wales and the courts to which the appeals from those courts may be made.

(b) The Parties and the Independent Expert irrevocably waive any objection they may now or in the future have to the venue of any proceedings, and any claim they may now or in the future have that any proceeding has been brought in an inconvenient forum, where that venue falls within clause 7(a).
8. Definitions

In this agreement, any term defined in the MF Works Deed and not defined in this agreement has the meaning given in the MF Works Deed, unless the contrary intention appears.
Schedule 1 – Schedule of Fees and Disbursements

[Note: To be inserted before this Independent Expert Determination Agreement is signed.]
Signing page

[Note: Execution clauses to be inserted]
Transport for NSW

Sydney Growth Trains
Design and Construction of Maintenance Facility Works
Contract Number: ISD-16-5312C

Contract Execution Page

DATED 1st day of December 2016

Executed and delivered as a Deed in Sydney

Signed, sealed and delivered for and on behalf of Transport for NSW (ABN 18 804 239 602) by its authorised delegate in the presence of:

Signature of witness

Full name of witness (print)

Group corporate counsel

Position held

Signature of authorised delegate

Timothy Reardon

Full name of authorised delegate (print)

Secretary

Position held

Signed, sealed and delivered for and on behalf of Downer EDI Rail Pty Ltd (ABN 92 000 002 031) by its attorneys under a power of attorney dated 24/11/16 in the presence of:

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Full name of attorney

Signature of attorney who declares that the attorney has not received any notice of the revocation of the power of attorney

Full name of attorney

Signature of witness

Full name of witness

Full name of witness
EXHIBIT A – TfNSW STANDARD REQUIREMENTS

The TfNSW Standard Requirements comprises the following documents:

a) TfNSW Standard Requirements, document reference #4981298_2); and

b) TfNSW Standard Requirements ANNEXURE A - Additional Project Requirements, document reference #4981291_10.
TfNSW Standard Requirements (Works Contracts)

5TP-FT-425/2.0
Template – Applicable to Transport Projects Delivery Office

Quality Management System

Status: For Approval
Version: 2.0
Branch: Commercial
Business unit: Procurement
Date of issue: 18 February 2016
Review date: 18 February 2017
Audience: Project Delivery/For use with the Contract templates
Asset classes: ☒ Heavy Rail; ☒ Light Rail; ☒ Multi Sites;
                     ☒ Systems; ☒ Fleets
Project delivery model: TP Project/Alliance/Novo Rail
Project type: For all project types
Project lifecycle: ☑ Feasibility; ☐ Scoping; ☒ Definition;
                                      ☒ Construction readiness; ☒ Implementation;
                                      ☑ Finalisation; ☐ Not applicable
Process owner: Director Commercial

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TfNSW Standard Requirements (Works Contracts)

Commercial: Procurement

Project type: For all project types

Document History

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<th>Doc. control no.</th>
<th>Summary of change</th>
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<td>1.0</td>
<td>19 August 2015</td>
<td>4541518_1</td>
<td>New consolidated TSR document replacing the suite of individual TSRs (TSR C, TSR E, TSR P, TSR S, TSR T) for use with the Contract Templates. Includes revisions to TSR P elements re Planning &amp; Scheduling</td>
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<tr>
<td>2.0</td>
<td>18 February 2016</td>
<td>4249760_8</td>
<td>Updated consolidated TSR</td>
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1 Introduction

1.1 Purpose

This TfNSW Standard Requirement (TSR) describes requirements and processes with which the Contractor and any Subcontractors must comply. This TSR must be read in conjunction with the Contract.

Unless noted otherwise in Annexure A - Additional Project Requirements, all requirements specified in this TSR apply to the Contract.

1.2 User Instructions

Unless noted otherwise, wherever used in this TSR, words and phrases have the meaning given to them in the General Conditions. In addition to those defined terms the following words or phrases have the meaning given to them below:

- **Asset Handover**: Point in time at which the control of certain specified assets is transferred to an Operator/Maintainer and/or Asset Owner for their ongoing operation and maintenance.
- **Asset Owner**: Organisation who will ultimately own the assets subject to the Asset Handover. In some cases this may also be the Operator/Maintainer.
- **Australian Network Rules and Procedures**: Australian Network Rules and Procedures as defined by the Rail Industry Safety and Standards Board.
- **CDR**: Critical Design Review or equivalent stage of the design as developed in accordance with the Contractor's systems engineering processes.
- **CMAAC**: Configuration Management and Asset Assurance Committee as defined in the "TfNSW Configuration Management Plan T MU AM 04001 PL".
- **Codes and Standards**: As defined in the Contract, or otherwise: the codes and standards to which the Contractor's Activities, Works or Temporary Works must comply, including those nominated in the Contract, TSR and Works Brief and for the avoidance of doubt including the ASA Requirements.
- **Commissioning**: Systematic process of ensuring that all infrastructure, equipment and systems installed in a project perform interactively in accordance with the design intent and the Operator/Maintainer's functional and operational needs.
- **Configuration Management Gates**: Has the meaning as defined in the "TfNSW Configuration Management Plan T MU AM 04001 PL".
- **Configuration Materials**: The Design Documentation which is required in support of Asset Handover, describing the operation and maintenance requirements the assets delivered under this Contract.
<table>
<thead>
<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Contract Management Plan (CMP)</td>
<td>The Management Plan to be developed by the Contractor in accordance with the requirements of this TSR which acts as a framework for bringing together all the management requirements for the Contractor's Activities into a coordinated and integrated plan.</td>
</tr>
<tr>
<td>Cost Loaded Baseline Schedule</td>
<td>A baseline program or schedule where the Contractor's costs are distributed across activities such that a cash flow S-Curve may be created, this will also be used as the basis for measuring Earned Value.</td>
</tr>
<tr>
<td>Danger Zone</td>
<td>Danger Zone as defined in the Australian Network Rules and Procedures.</td>
</tr>
<tr>
<td>Document</td>
<td>As defined in the Contract, or otherwise: any document that is required to be submitted to the Principal or Principal's Representative.</td>
</tr>
<tr>
<td>Design Documentation</td>
<td>As defined in the Contract, or otherwise: any design documents that are required to be submitted to the Principal or Principal's Representative.</td>
</tr>
<tr>
<td>Earned Value</td>
<td>Method of measuring and reporting project cost performance based on integrated time, cost and scope elements in accordance with &quot;TfNSW Quality Management System - Earned Value Management using Primavera P6&quot;.</td>
</tr>
<tr>
<td>Environmental Control Map (ECM)</td>
<td>A document prepared to assist in the planning and delivery of construction works, specific to a work area and/or activity that identifies the physical location of physical protection measures, work method controls and monitoring requirements to minimise the impact of construction activities on the environment and community.</td>
</tr>
<tr>
<td>Environmental Management System (EMS)</td>
<td>A tool for managing the impacts of an organisation's activities on the environment and provides a structured approach to planning and implementing environment protection measures.</td>
</tr>
<tr>
<td>Final Completion</td>
<td>As defined in the Contract, or if not so defined: the expiry of the Defects Liability Period</td>
</tr>
<tr>
<td>Fruin Level of Service</td>
<td>A level of service Standard for pedestrian access created by John J Fruin PhD.</td>
</tr>
<tr>
<td>Global Possession Calendar and Standard Working Calendar</td>
<td>Default calendars in TfNSW's P6 database which can be made available on request.</td>
</tr>
<tr>
<td>Hierarchy of Control Measures</td>
<td>Hierarchy of Control Measures as defined in the &quot;Work Health and Safety Regulations 2011 Part 3.1 Managing Risks to Health and Safety&quot;.</td>
</tr>
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</table>
Hold Point | Verification point identified in the Works Brief beyond which the relevant part of the Contractor’s Activities may not proceed without the verification and subsequent written authorisation of the Principal’s Representative or the relevant person nominated in the TSR.

Management Plans | Any of the Management Plans to be developed by the Contractor in accordance with the requirements of this TSR which describe how the Contractor will manage related matters and issues that arise during the term of the project.

NABERS | The National Australian Built Environment Rating System.

National Counter Terrorism Alert Levels | Levels described in the Australian Government’s National Terrorism Public Alert System and referenced on the Australian National Security website.

Other Contractor | As defined in the Contract, or otherwise: any contractor, consultant, artist, tradesperson or other person engaged by the Principal or others to do work, other than the Contractor and its Subcontractors.

Other Contractor Work | As defined in the Contract, or otherwise: the works to be undertaken by an Other Contractor on a part of the Site during any period in which the Contractor has been engaged as principal contractor in respect of that part of the Site.

Operator/Maintainer | Organisation that, post Asset Handover, will operate and maintain the assets. In some cases, this may also be the Asset Owner.

Original Equipment Manufacturer | The company that originally manufactured the product.

PDR | Preliminary Design Review or equivalent stage of the design as developed in accordance with the Contractor’s systems engineering processes.

Planning Approval | As defined in the Contract, or otherwise: any Authority Approval issued from time to time by either the Principal or the Minister for Planning and Infrastructure (acting in their capacity as determining authority) under the Environmental Planning and Assessment Act 1979 (NSW) in respect of the Contractor’s Activities; and any mitigation measures and statement of commitments that are required to be complied with or fulfilled.

Planning and Environmental Compliance Monitoring System (PECOMS) | A Principal developed system which may be specified to monitor compliance with the conditions of all licences, permits and Approvals during the delivery of its projects.

Pre-Construction Works | Defined in a Planning Approval as works other than the construction, where those defined pre-construction activities are (within specified constraints) able to be undertaken prior to the approval to commence construction.
Transport NSW

Project Rail Safeworking Coordinator: A person appointed by the Principal, accountable for monitoring the management of worksite protection and rail safety requirements for controlled and managed worksites on the programs/projects being delivered by Transport Projects Office on behalf of the NSW State government.

Property Representative: The Property Representative appointed by the Principal.

Rail Safety: Rail Safety as defined in the Rail Safety National Law (NSW).


Rail Industry Worker Identification Card (RIW): A competence card issued to demonstrate successful completion of the Rail Industry Safety Induction training course and medical examination.

Rail Safety Work: Rail Safety Work as defined in the Rail Safety Act.

Rail Safety Worker (RSW): Rail Safety Worker as defined in the Rail Safety Act.

Rail Transport Operator: An entity defined by the Rail Safety Act as a rail operator or rail transport operator.

Regulator: The holder of a public office, or a public authority, of the Commonwealth, or of a State, or member of a government regulatory agency who or which is responsible for enforcing laws, regulations, and established rules.

RMS: Roads and Maritime Services, a corporation constituted by section 46(1) of the Transport Administration Act 1988 (NSW). A reference in any of the TSR documents to the "Roads and Traffic Authority" or "RTA" is to be construed as a reference to Roads and Maritime Services.

Safe Work Method Statements (SWMS): Documents so titled prepared in accordance with this TSR and that give specific instructions on how to safely perform a work related task, or operate a piece of plant or equipment etc.

SDR: System Definition Review or equivalent stage of the design as developed in accordance with the Contractor's systems engineering processes.

SFAIRP: So Far As Is Reasonably Practicable

Vehicle Registration Database: The Principal's database recording a rail vehicle's ownership and technical details to indicate that the vehicle has met the Principal's acceptance requirements and is authorised to operate on rail infrastructure managed by the Principal.

Witness Point: Point identified in the TSR or Works Brief where the Principal's Representative, or the relevant person nominated in the TSR, may review, witness, inspect, or undertake tests on any component, method, or process of the Contractor's Activities.
### Work Breakdown Structure (WBS)

Framework of discrete work elements (or tasks) used to organise and define the total project work scope, cost, and schedule control elements.

### WorkCover NSW

WorkCover Authority of New South Wales.

### Worksite Protection

The safety measures adopted, in relation to rail operations, to protect persons brought or invited to any part of the Site located within the Rail Corridor.

### Worksite Protection Personnel

The personnel assigned to implement the required Worksite Protection for work within the Rail Corridor.

### Worksite Protection Plan

The plan (provided by the Contractor) documenting the safety measures adopted, in relation to rail operations, to protect persons brought or invited to any part of the Site located within the Rail Corridor.

## 2 Project Administration

### 2.1 Requirements for management plans

The Contractor must provide a number of Management Plans. The Management Plans must reflect the specific requirements of this TSR and the Contract, as amended by Annexure A.

The Management Plans must be written in such a manner as to:

- (a) demonstrate to the Principal, the Contractor’s understanding of the requirements and how they intend to be addressed in the delivery of the Works; and
- (b) provide the Contractor’s employees with the ability to achieve a consistent approach to the delivery of the Works by referencing the Management Plans.

The Contractor must carry out the Works in accordance with the Management Plans and the Contract.

#### 2.1.1 Requirements for the contract management plan

The Contract Management Plan (CMP) is the Contractor’s project-specific overarching Management Plan that includes all other Management Plans that the Contractor must develop under the Contract. The CMP must provide a framework in one coordinated and integrated Management Plan to describe the complete management activities, systems and processes which the Contractor will employ in its delivery of the Works.

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a CMP to inform and direct personnel and others engaged by the Contractor about the specific work practices, resources, responsibilities, sequence of activities, controls and checks that are to be implemented during the performance of the Works. The timing and frequency for the initial and subsequent submissions of the CMP to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

The CMP must:

- (a) explain in a systematic, coordinated and integrated structure, the managerial structure for performing the Contractor’s Activities in the delivery of the Works;
(b) define responsibilities, resources and processes for planning and performing the Contractor's Activities and verifying that the Works meet the requirements of the Contract;

(c) cross reference each of the sub Management Plans required to be developed by the Contractor, through the use of a matrix or equivalent, listing its compliance with the relevant part of the Contract including any TSR and Works Brief;

(d) list all deliverables, required to be provided by the Contractor, under this Contract;

(e) describe the Contract requirements for the submission, Principal's review, and resubmission of all Documents) using the Principal's electronic document management tool described in Clause 2.3.2;

(f) describe how the Contractor will comply with all relevant Laws, Codes and Standards and requirements, applicable to the Contractor's Activities;

(g) define the interface and associated responsibilities of the Contractor, Subcontractors other third parties and the Principal.

(h) document the interface with the Contractor's corporate systems as applicable under the Contract; and

(i) identify the responsible person for developing and updating the CMP and other Management Plans.

2.1.2 Design management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Design Management Plan that addresses the Contractor's obligations and responsibilities relating to the design work.

The timing and frequency for the initial and subsequent submissions of the Design Management Plan to the Principal's Representative for review is nominated in Annexure A of this TSR.

The Design Management Plan must be based on the Contractor's management systems and processes as assessed by the ASA as part of its AEO authorisation and must include the measures, including audit and verification that the Contractor will utilise to ensure that, as a minimum:

(a) all design tasks are appropriately resourced by competent personnel;

(b) all design personnel are aware of the requirements of the Contract and any obligations of designers under the WHS Legislation;

(c) all designs are prepared in accordance with requirements of the Contract;

(d) design packages are identified and a schedule is included which identifies each unique package, its scope, discipline and the stages of submission in accordance with the Contract including the specific requirements of the Works Brief;

(e) the development of the design is effectively coordinated and the interrelationships identified and managed across all:

i. design interfaces, including with existing systems, operational systems, and maintenance systems;

ii. design stages;

iii. design packages, where the design work has been portioned into design packages; and
iv. design disciplines (e.g. electrical, civil, track, signalling and rolling stock);

(f) Document submissions are in accordance with the Contract, and a system for the management of design review comments is incorporated;

(g) the Contractor demonstrates familiarity with the Site and its constraints and the existing infrastructure so the Works are designed and configured so as to achieve optimal integration from a human, asset and systems perspective in their operations and maintenance;

(h) all stakeholders in relation to the design have been appropriately identified, that appropriate stakeholder consultation is undertaken and includes workshops and presentations of the design to relevant parties including the design and sustainability review panel;

(i) all design assumptions are documented and verified;

(j) all designs are checked, reviewed and verified by competent personnel and that verification or proof engineering is conducted;

(k) a requirements management process is adopted in accordance with "ASA Systems Engineering Standard T MU AM 06006 ST" and the related requirements of the Works Brief;

(l) all methodologies, sequencing, staging, temporary or enabling works are taken into account and the associated risks are managed in the design;

(m) an asset maintenance strategy and an asset operations strategy are delivered with the design;

(n) safety, sustainability, reliability, availability and maintainability are demonstrated in the design;

(o) durability assessment and durability statements are included with the design;

(p) all completed designs or completed portions of the design are accompanied by a design assurance certificate from the AEO;

(q) the process for managing design changes, and how this integrates with the configuration management activities in regards the TfNSW Configuration Control Board (CCB) and CMAAC;

(r) all inspection and test criteria are developed for the delivery of the Works for incorporation in the inspection and test documentation that will verify and validate the Works;

(s) all documentation is compliant with requirements of the Contract, "TfNSW CAD Protocols - 4TP-RL-004" and discipline specific ASA Requirements;

(t) risk arising from all hazards identified in the preliminary hazard analysis and systems hazard analysis are designed out or carried over, in the project hazard log or project specific safety risk register; and

(u) all designs comply with relevant Codes and Standards and ASA Requirements.

2.1.3 System safety plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a System Safety Plan that defines the activities, evidence, deliverables and management arrangements that support the development of a safe system, the identification and management of safety risks to SFAIRP, and provides suitable and sufficient assurance of the safety of the system in accordance with ASA Systems Safety Standard for New or Altered Assets TS2001.
In addition the System Safety Plan must also demonstrate how the Contractor will comply with the requirements of TfNSW’s enterprise risk matrix, included at Annexure B.

The timing and frequency for the initial and subsequent submissions of the System Safety Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

2.1.4 Property management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Property Management Plan which describes the procedures and processes the Contractor will implement to manage property issues.

The timing and frequency for the initial and subsequent submissions of the Property Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

The Property Management Plan must include the following sections:

(a) definitions;
(b) project description;
(c) objective;
(d) key resources and management;
(e) site and management
   i. site definition and setting out
   ii. access
   iii. interaction with 3rd parties
   iv. risk management
(f) property condition surveys, including the following subsections:
   i. pre-construction condition surveys;
   ii. refusal or lack of response for condition surveys;
   iii. compliance review of condition surveys;
   iv. distribution of property condition surveys;
   v. condition survey register; and
   vi. post-construction condition surveys;
(g) property damage management, including the following subsections:
   i. general overview;
   ii. notification process;
   iii. assessment process;
   iv. damage rectification;
   v. unresolved claims; and
   vi. The role of an independent property damage assessor;
(h) construction phase monitoring, including the following subsections:
   i. monitoring frequency;
ii. monitoring of track and structures;
iii. resolution of non compliances/conformances and associated timeframes;
iv. distribution of monitoring data;

(i) self verification checklist;
(j) separate appendices for the following:
   i. complaint resolution process;
   ii. property damage claim process flowchart;
   iii. sample letter requesting permission to conduct a property condition survey;
   iv. sample letter of introduction for property condition survey staff; and
   v. sample covering letter for property condition report;

Each section of the Property Management Plan (a) to (j) must address each of the following requirements (k) to (o), with a high level of detail so that a reasonable person would understand how the Contractor intends to meet the Principal’s requirements:

(k) identify, manage and record risks/contingent liabilities, stakeholders, impacted adjoining land and assets;
(l) manage and mitigate those risks directly related to the potential damage of property as a consequence of the Works;
(m) identify actual damage, how it occurred and how that damage will be rectified;
(n) identify disputes in relation to damage and how each dispute will be processed, managed and resolved; and
(o) manage project relations with all adjoining owners and the Principal.

In addition, the property condition survey section (f), must describe the Contractor’s proposed approach to performing condition surveys, and must as a minimum:

(p) include a list of the properties and assets which will be subject to a pre and post construction condition survey by the Contractor;
(q) set out the minimum standards of pre-construction and post-construction condition surveys;
(r) include a procedure for the use of an independent third party to ensure compliance against the minimum standard of condition surveys; and
(s) describe how the Contractor will minimise disruption to property owners and occupiers by completing single condition surveys in agreement with Other Contractors and Subcontractors.

In addition, the property damage management section (g), must cover all property (including assets above and below ground) on and adjacent to the Site and in the sphere of influence of the Contractor’s Activities including, but not limited to, premises, access roads and their surroundings, buildings, structures, utilities and services, rail assets and systems (including all property and rolling stock owned by others), roadways, footpaths, street furniture and gutters.

The Property Management Plan must set out the following:

(t) the damage mechanisms, including trials of construction procedures and methods to help assess the risk of property damage;
(u) noise, vibration and settlement limits that will prevent the damage of existing property and items by the Contractor’s Activities. The Contractor must transfer these criteria
into method statements and inspection and test plans to ensure that any Works are within the above limits and minimise damage risks. The plan must include procedures for the review of, and change to, construction methodologies to minimise or prevent damage;

(v) a list of properties with the potential to be detrimentally or negatively affected by the Contractor's Activities; and

(w) contain a clear statement about how Contractor's Activities or Works causing any damage will be immediately reported to the Principal's Representative, and how the construction methodology will be reviewed and damage rectification agreed with the property owner and the Principal's Representative.

(x) Details of the Contractor’s procedures for communicating with property owners and for managing property damage claims including:

i. provision of routine and regular advice to property owners and occupiers about the Contractor's Activities in close proximity to and with the potential to detrimentally or negatively affect their property;
ii. receipt and recording of reports of and/or claims relating to damage thought to be associated with the Contractor's Activities, the Temporary Works and/or the Works; and
iii. processes and procedures for the management and resolution of any property damage claims.

2.1.5 Construction environmental management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Construction Environmental Management Plan which describes the procedures and processes the Contractor will implement to manage the environmental management.

The timing and frequency for the initial and subsequent submissions of the Construction Environmental Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

Unless otherwise stated in Annexure A, the Construction Environmental Management Plan must comply with the relevant requirements of the “NSW Government Environmental Management System Guidelines” and the Planning Approval.

The Construction Environmental Management Plan must include the following:

(a) details of the EMS to be applied;
(b) the environmental protection measures, and the inspection and monitoring regime to be employed;
(c) the procedures to be implemented to verify that the Works relating to environmental management matters are compliant with the requirements of the Contract including all Authority Approvals, including details of the system required to track Planning Approvals;
(d) management of Incidents, non conformances, non compliances, complaints and reporting;
(e) management of sustainability matters; and
(f) record keeping.
2.1.6 Project work health and safety management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Project Work Health and Safety Management Plan which documents how the safety management system will be implemented and communicated to all persons associated with the Contractor’s Activities.

The timing and frequency for the initial and subsequent submissions of the Project Work Health and Safety Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

The Work Health and Safety Management Plan must:

(a) describe the means of providing the Works in accordance with the safety management requirements stated in the Contract, Law and this TSR;
(b) comply with the “NSW Government Work Health and Safety Management Systems and Auditing Guidelines”;
(c) demonstrate the requirements of clause 6.1.2 in this TSR in relation to safety culture;
(d) describe how the Contractor will manage risks in accordance with “AS/NZS ISO 31000:2009 - Risk Management” and TfNSW’s risk framework in Annexure B; and
(e) ensure that where the Contractor’s Activities involve work in or adjacent to the Rail Corridor or the rail environment, include provision for rail safeworking arrangements, based upon (without limitation) compliance with the Australian Network Rules and Procedures.

2.1.7 Communications management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Communications Management Plan which documents how community and stakeholder liaison will occur;

The timing and frequency for the initial and subsequent submissions of the Communications Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

The Communications Management Plan must include:

(a) details of the key community impacts and a comprehensive list of the stakeholders;
(b) a comprehensive project specific analysis of community and stakeholder issues to be managed during the Works. The analysis must include the influence of other projects within the area having a cumulative effect;
(c) details of the proposed strategies, messaging and tools for minimising impacts and informing the stakeholders and broader community;
(d) details of any community and stakeholder related requirements under any Planning Approvals including the proposed methodology and timeframe for undertaking consultation and related activities;
(e) detail specific communications strategies for complex or contentious and other Principal directed issues;
(f) procedures for managing community complaints including details of a 24 hour contact for managing enquiries and complaints, Incident management and reporting;
(g) procedures for notification of, and obtaining the approval of the Principal prior to planning and implementing any marketing, promotional, media, community and stakeholder activity;

(h) details of community and stakeholder meetings;

(i) details of the community relations resources, including personnel, to be employed by the Contractor whist carrying out the Contractor’s Activities; and

(j) a program for the implementation of planned community impact minimisation, liaison activities and stakeholder engagement. This program should include the key dates for the communications activities to be undertaken in regards the delivery of the Works.

2.1.8 Workplace relations management plan

Unless otherwise noted in Annexure A, the Contractor must have in place, maintain and consistently apply until Final Completion, a Workplace Relations Management Plan which documents how industrial relations will be managed.

The Workplace Relations Management Plan must be in accordance with the Contract requirements.

The timing and frequency for the initial and subsequent submissions of the Workplace Relations Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in Annexure A of this TSR.

2.2 Contractor’s program

2.2.1 General requirements

The Contractor must submit a Cost Loaded Baseline Schedule to the Principal’s Representative for review in accordance with the Contract, within 10 Business Days of the date of the Contract unless noted otherwise in Annexure A or the Contract.

The Contractor is required to update the Contractor’s Program on a monthly basis and submit to the Principal’s Representative by the first Business Day of the month (with a status date of the last calendar day of the previous month) unless otherwise specified in Annexure A and at any other times required by the Contract. The Contractor must submit an A3 size PDF copy of the Contractor’s Program, with the monthly progress report.

Without limiting the Contract, the Contractor’s Program and all other programs must comply with the following requirements.

2.2.2 Planning environment

The Contractor must provide the Contractor’s Program in the latest P6 version (XER format). The Principal will import the Contractor’s Program into the Principal’s Primavera planning environment database. The Principal will maintain the database security and control the access to the database.

The Contractor must develop, status and maintain the Contractor’s Program in Primavera P6 on the Principal’s planning environment. The Contractor will be given access to the Principal’s planning environment via Citrix at no extra cost to the Contractor.

The Contractor must ensure that each update to the Contractor’s Program as submitted in accordance with this clause 2.2 is archived within the Principal’s planning environment.
The Contractor will be able to export the program file (no more than once per week) via a request to the Principal’s Representative. The file will be emailed to the Contractor.

The Contractor will not be provided with access to import any programs into the Principal’s Primavera database.

The Principal will not make changes to the Contractor’s Program without the approval of the Contractor. Generally, any changes made will be limited to the application of activity codes or addition of logic links to external Principal schedules.

2.2.3 Program framework

As a minimum, the Contractor’s Program must:

(a) group the Works and milestones in a Work Breakdown Structure (WBS) that is aligned to the payment schedule or other form of cost breakdown structure included in the Contract;

(b) show Earned Value in accordance with “AS 4817-2006 Project Performance Measurement using Earned Value” and “TfNSW Earned Value Management using Primavera P6 - 4TP-PR-143”;

(c) include budgeted cost, actual and actual cost input into the relevant WBS items each month, by the Contractor;

(d) define approved Variation activities and/or additional working days in a separate WBS and cost breakdown structure item, so that cost and time of the Variation activities can be clearly distinguished from the original scope; and

(e) have a separate WBS structure outlining each step of the design review process for each individual design package; where relevant; and

(f) show the Principal’s review periods in accordance with the requirements set out in the Contract.

2.2.4 Program setup and maintenance

As a minimum, the Contractor’s Program must:

(a) include all key activities and deliverables detailed in this TSR and the Contract and any other activities and deliverables directed by the Principal’s Representative;

(b) include requirements for the submission, review and approval of all Documents and other deliverables including the Management Plans and Design Documentation;

(c) outline the dates when the Contractor will require information, documents, materials or instructions from the Principal and the dates when the Contractor will provide information or Documents to the Principal. These dates must be consistent with dates that the Principal could reasonably have anticipated at the date of the Contract;

(d) provide start and finish dates for all elements of the Contractor’s Activities (including design, procurement and construction activities), milestones, Track Possessions, external dependencies, Principal deliverables, Operator/Maintainer deliverables and any other significant events and contractual Dates for Completion;

(e) show the lead times for the supply of information, selection of Subcontractors and suppliers, approvals, and the supply of equipment by the Principal, its agents or persons for whom the Contractor is not responsible. Each period must be represented in a separate activity from the Contractor’s activity for the relevant items;
(f) clearly identify the access requirements and activities, including Track Possessions and any outages;

(g) show activities for Site mobilisation, establishment and demobilisation;

(h) clearly identify the critical path activities and milestones;

(i) show codes, resources and expense activities as directed by the Principal's Representative;

(j) show quantities and rates as requested by the Principal's Representative;

(k) identify time leads and lags, resources and other constraints;

(l) show calendars identifying the working and non-working days for the Works. Project calendars are to be up-to-date and reflect changes to the available working periods. The calendars must reflect the Global Possession Calendar and Standard Working Calendar which can be provided on request. No other allowances for wet weather or other such contingencies are to be made in the calendars;

(m) reflect the time scheduled, remaining duration and actual physical progress of the Works, and be consistent with all constraints on access, performance and coordination;

(n) show allowance for weather and other event contingencies in a single activity at the end of the critical path and prior to Completion; and

(o) show Commissioning and Asset Handover activities, including the time allowed for testing and Commissioning of major items.

2.2.5 Program quality

The quality of the Contractor's Program will be reviewed by the Principal's Representative upon the initial submission and again upon each subsequent submission. The Contractor must maintain the quality of the Contractor's Program, and satisfying the criteria in the table provided below. The Contractor's Program will be rejected by the Principal's Representative, in accordance with the Contract if the quality does not meet the Contract requirements including the thresholds prescribed below. Further assessment criteria and thresholds may be added or modified by the Principal's Representative to the assessment of quality.

Deviations from the stated thresholds must be approved by the Principal's Representative, prior to being accepted.

The quality of the Contractor's Program will be assessed for all normal activities and milestones that are planned, in-progress, or complete.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Description</th>
<th>Remarks</th>
<th>Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missing Predecessors</td>
<td>Total number of activities that are missing predecessors.</td>
<td>Activities that have missing predecessors are known as open-ended activities. Open ends cause time and risk analysis calculations to be erroneous. Ideally, all open ends should be fixed in a program during the planning phase.</td>
<td>Less than 1%</td>
</tr>
<tr>
<td>Missing Successors</td>
<td>Total number of normal activities that are missing successors.</td>
<td>Activities that have missing successors are known as open-ended activities. Open ends cause time and risk analysis calculations to be erroneous. Ideally, all open ends should be fixed in a program</td>
<td>Less than 1%</td>
</tr>
<tr>
<td>Criteria</td>
<td>Description</td>
<td>Remarks</td>
<td>Threshold</td>
</tr>
<tr>
<td>-------------------</td>
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</tr>
<tr>
<td>Merge Hotspot</td>
<td>The total number of activities with a high number of predecessor links.</td>
<td>Also known as merge bias, merge hotspot is an indication as to how complex the start of an activity is. If the number of links is greater than two, then there is a high probability that the activity in question will be delayed due to the cumulative effect of all links having to complete on time in order for the activity to start on time.</td>
<td>Less than 2.5%</td>
</tr>
<tr>
<td>Diverge Hotspot</td>
<td>The total number of activities with a high number of successor links.</td>
<td>A diverge hotspot is an indication as to how complex the end of an activity is. If the number of links is greater than two, then there is a high probability that the activity in question may delay a large number of successors.</td>
<td>Less than 2.5%</td>
</tr>
<tr>
<td>Critical</td>
<td>Number of critical activities</td>
<td>The number of critical tasks within a grouping. Typically critical activities have total finish float of zero. Primavera programs may have critical activities with more than zero float depending on the threshold set in Primavera P6.</td>
<td>No threshold</td>
</tr>
<tr>
<td>0 to 20 Days Float</td>
<td>Total number of activities with positive float of more than zero and less than or equal to 20 days.</td>
<td>Near critical activities should be closely monitored during execution to ensure a successful on-time project.</td>
<td>No threshold</td>
</tr>
<tr>
<td>Hard Constraints</td>
<td>Number of activities with hard or two-way constraints.</td>
<td>Hard or two-way constraints such as Must start on or Must finish on should be avoided. Consider using soft constraints if absolutely necessary. Includes normal activities and milestones that are planned, in-progress, or complete.</td>
<td>Zero</td>
</tr>
<tr>
<td>Soft Constraints</td>
<td>Number of activities with soft or one-way constraints.</td>
<td>Soft or one-way constraints such as start no earlier than or finish no later than, constrain an activity in a single direction. While not as impactful as hard constraints, soft constraints do impact critical path method calculations in a program and should be reviewed carefully.</td>
<td>Zero</td>
</tr>
<tr>
<td>High Float</td>
<td>Excessive free total float</td>
<td>Number of activities with total float greater than 2 months. Activities must be agreed with the Principal’s Representative</td>
<td>Less than 5%</td>
</tr>
<tr>
<td>Criteria</td>
<td>Description</td>
<td>Remarks</td>
<td>Threshold</td>
</tr>
<tr>
<td>--------------------------</td>
<td>-------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>Negative Float</td>
<td>Total number of activities with total finish float less than 0 working days.</td>
<td>Negative float is a result of an artificially accelerated or constrained program. Negative float indicates that a program is not possible, based on the current Completion dates. Compare this metric to constraint metrics to determine which activities (with negative float) are being impacted by constraints. Ideally, there should not be any negative float in the program. Includes normal activities and milestones that are planned or in-progress.</td>
<td>Zero</td>
</tr>
<tr>
<td>High Duration</td>
<td>Total number of activities that have a duration longer than 10 days. This number should not exceed 5%.</td>
<td>Total number of activities that have a duration longer than 10 days. Activities must be agreed with the Principal’s Representative.</td>
<td>Less than 5%</td>
</tr>
<tr>
<td>Zero Duration</td>
<td>Normal activities having a Zero duration</td>
<td>Normal activities having a Zero duration</td>
<td>Zero</td>
</tr>
<tr>
<td>Wrong Status</td>
<td>Activities started or completed in the future</td>
<td>All activities with status in the future must be corrected in order to maintain an accurate execution plan. Includes only normal activities and milestones that are in progress or complete.</td>
<td>Zero</td>
</tr>
<tr>
<td>SF Predecessors</td>
<td>Total number of activities with Start to Finish (SF) logic links.</td>
<td>Start-to-finish links are deliberately used very rarely because they have the unusual effect that the successor happens before the predecessor. Generally a poor practice when planning. Includes only normal activities and milestones that are planned, in-progress, or complete.</td>
<td>Zero</td>
</tr>
<tr>
<td>Leads and Lags</td>
<td>Lags in excess of 10 days</td>
<td>A lag is a duration applied to a logic link often used to represent non-working time between activities such as concrete curing. Lags tend to hide detail in programs and cannot be “statused” like normal activities. Lags should typically be replaced with activities. Includes normal activities and milestones that are planned, in-progress, or complete.</td>
<td>Zero</td>
</tr>
<tr>
<td>Logic on summaries</td>
<td></td>
<td>A summary is not a true activity. Logic should be tied to activities within the schedule</td>
<td>Zero</td>
</tr>
<tr>
<td>Reverse logic</td>
<td></td>
<td>As a result of a negative lag (a lead),</td>
<td>Zero</td>
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2.3 Document management

2.3.1 Formatting

The Contractor must provide the Principal with electronic copies of all documents required to be submitted or re-submitted, on CD/DVD in PDF and native formats (such as Microsoft Word, Microsoft Excel, P6, CAD in *.dwg. or *.dgn.).

The Contractor must promptly advise the Principal of any proposed changes to be made to the current documents and re-submit the revised documents within 5 Business Days of the amendment, with the changes clearly marked on the document.

2.3.2 Principal’s document management system tool

Where nominated in Annexure A, the Principal will administer the document deliverables using the Principal’s nominated electronic document management tool. The Contractor must engage and utilise the Principal’s electronic document management tool, as specified or otherwise agreed with the Principal.

2.4 Monthly reporting

Unless otherwise nominated in Annexure A, the Contractor must prepare and submit to the Principal’s Representative for review in accordance with the Contract, a monthly progress report updating and describing as a minimum:

(a) a summary of the status of progress at the end of the previous month, as compared to the current Contractor’s Program and the Contractor’s other programs including photographs;

(b) the status of any Document, Design Documentation, other deliverables, major procurement orders, Subcontracts, manufacture and the overall delivery of the Works;

(c) where applicable, dates for the anticipated submission of design packages at key stages of the design including SDR, PDR, CDR, and approved for construction, stages;

(d) a list and timing of Hold Points and Witness Points planned for the forthcoming 3 month period;

(e) the actual number and categories of personnel and equipment currently engaged by the Contractor to carry out the Contractor’s Activities (including apprentices and those engaged in off-site functions such as engineering and specialist Subcontractors). This data must also be compared with the planned resources;

(f) planned Works and Contractor’s Activities over the forthcoming 3 month period;

(g) a summary of the financial status of the Contract, including detailed final cost forecasts, and separate lists for the cost of approved Variations, claims and outstanding claims for Variations;

(h) where applicable, the status of any activities against all the requirements of Authority Approvals, including planning consents;

(i) where applicable, Track Possession, shutdown or outage activity, the progress report must also include monthly reliability statistics listing the following:
i. Incidents in Track Possession/shutdown/outage;
ii. Incidents in non-Track Possession/shutdown/outage;
iii. actual Incidents;
iv. potential Incidents in Track Possession/shutdown/outage; and
v. potential Incidents in non-Track Possession/shutdown/outage;

(j) safety statistics in a format agreed with the Principal’s Representative, including details of any Incidents;

(k) any non compliances or non conformances of the Works, Temporary Works and Contractors Activities in relation to the Contract, Authority Approvals and other obligations in Law and the steps taken by the Contractor to address those non compliances or non conformances;

(l) any issues arising from or affecting the CMP and its sub-plans;

(m) records of all corrective and preventative actions taken by the Contractor under the CMP and its sub-plans, and audits of such actions;

(n) cooperation, coordination, industrial relations and interface matters with Other Contractors;

(o) summary updates relating to community issues and potential community issues;

(p) a written summary covering the completed Works and upcoming activities including any associated community impacts, in a form suitable for inclusion on the Principal’s website;

(q) details of complaints and enquiries received by the Contractor in relation to the Contractor’s Activities;

(r) activities of the Dispute Resolution Board, where such a board is established under the Contract;

(s) details of the status, implementation, operation and effectiveness of the Risk Management Plan, where required in Annexure A. As a minimum, the Contractor must provide:

   i. a report on the risks deemed ‘extreme’ or ‘high’ within the risk register;
   ii. an overview of the full risk register (e.g. number of risks by category and rating, number of new risks identified and risks closed out during the previous month);
   iii. the status of associated controls and tasks; and
   iv. any results of risk audits;

(t) where the Works include signalling system works, the progress report must also include a one page summary of the status of signalling design packages and provide the status of signalling inspection and test documentation such as permit to work applications, inspection and test plans, installation works packages, Commissioning test plans and Commissioning works packages;

(u) details of any property related matters including property claims; and

(v) any other information the Principal’s Representative reasonably requires.

2.5 Principal’s audit and surveillance

Audit, surveillance and inspection of the Contractor’s process and compliance with the requirements of the Contract and the Contractor’s quality management system may be
conducted by the Principal at any time. The Principal’s Representative may utilise independent auditors and surveillance officers to assist the Principal in any such audit, surveillance or inspection. The independent auditors and surveillance officers will assist the Principal’s Representative in recording the progress and performance of the Contractor’s Activities. These records may be used by the Principal’s Representative for any purpose.

The Contractor must be cooperative in assisting the independent auditors and surveillance officer in undertaking their duties. When any audit is to be undertaken by the Principal, the Contractor must:

(a) make available, all records produced under the Contract;
(b) make suitable facilities available as agreed between the Principal’s Representative and the Contractor, to accommodate the audit and audit team; and
(c) provide all reasonable assistance during the audit including the participation of representatives from the Contractor’s organisation (and Subcontractor’s organisations) who can efficiently locate and produce the requested information for the audit. Assistance from technical specialists will also be provided by the Contractor as required by the Principal’s Representative during each audit.

The Contractor must ensure that the audit report recommendations are actioned in accordance with appropriate corrective and preventive systems in a timely and agreed manner.

The Contractor must provide the Principal’s Representative with a copy of the results of any self-verification and any audit, when requested by the Principal’s Representative.

2.6 Training and competence of employees

The Contractor must ensure its employees and the employees of Subcontractors engaged in carrying out the Works on the Site are inducted and trained in the requirements of the Contract to achieve a level of awareness and competence appropriate to their assigned activities, and required for the effective implementation of applicable Management Plans prior to the relevant employee carrying out any activity on Site.

The Contractor must establish and maintain a register of training carried out including dates, names of people who have completed the training and details of the trainer. Training is to include site-specific training to cover all relevant technical, property, environmental, safety and community issues.

The Contractor’s relevant personnel must attend any training provided by the Principal specified in Annexure A, or as otherwise directed by the Principal’s Representative.

Any person who has not been inducted must not perform any function on the Site.

2.7 Employee reference checks

The Principal’s Representative may direct the Contractor to undertake police criminal record checks for any of the Contractor’s and Subcontractor’s employees. The Contractor must develop procedures on how such checks will be undertaken and how the results will be treated in confidence.

The Principal’s Representative must be promptly notified of the results of these checks if any offences have been recorded. The Principal’s Representative may review the results of the checks and consider whether those records pose a potential risk to the Works or any person on Site. The Principal’s Representative may then liaise with the Contractor to discuss any action that should be taken. The Principal’s Representative may direct the Contractor to
immediately remove a person, on the basis of their criminal record, from the Site and prevent that person from continuing to undertake any of the Works.

3  Technical requirements

3.1 AEO engineering management methodologies

The Contractor must have in place, maintain and consistently apply until Final Completion, engineering management methodologies for the delivery and assurance of the Works that must as a minimum:

(a) comply with ASA Requirements including application of the requirements within “ASA Standard T MU MD 00009 ST - AEO Authorisation Requirements” and the requirements of the Contract;

(b) provide systems and procedures sufficient to ensure compliance with the Contractor’s risk management obligations under Law and under the Contract;

(c) identify any risks in the performance of the Contractor’s Activities for which ASA authorisation is required;

(d) provide for the comprehensive and systematic assessment of any identified risks;

(e) specify the controls (including audits, expertise, resources, and staff) that are to be used by the Contractor to manage identified risks; and

(f) include procedures for monitoring, reviewing and revising the adequacy of those controls.

3.2 Principal’s configuration change control process

The Principal operates a tier 2 configuration control board, CCB and CMAAC to approve configuration changes at the Configuration Management Gates as per the “ASA Standard TfNSW Configuration Management Plan T MU AM 04001 PL”.

The Contractor must comply with the specific requirements listed in the Works Brief, and, unless otherwise noted in Annexure A, the Contractor must:

(a) operate network integration under the remit of the CCB and must operate under the governance arrangements established by the CCB;

(b) submit to the Principal’s Representative, all Design Documentation, Configuration Materials and other Documents which are required for the Principal’s various submissions to the CCB and CMAAC; and

(c) support the Principal in achieving successful approval through each of the Configuration Management Gates required.

4  Property

The following property requirements apply unless otherwise noted in Annexure A.

4.1 General property management requirements

4.1.1 Property representative

In the event that the Principal has engaged a Property Representative for the project, the Contractor must work with the Property Representative and provide the Property Representative with access to the Site and all property records requested. Where no Property Representative has been engaged, the Principal’s Representative will fulfil their functions.
The Contractor must appoint a site-based person to be the Contractor’s property representative. This representative must be present during all inspections undertaken by the Property Representative.

Any findings by the Property Representative from inspections or document reviews must be actioned within the timeframes reasonably required by the Property Representative. The Contractor must provide written notification to the Principal that the findings of the Property Representative have been closed out within the timeframes specified in the Property Management Plan, where required, and where otherwise required in the Contract.

4.1.2 Non conformance

All property related incidents, non conformances and non compliances in the Works, Temporary Works and Contractor’s Activities must be reported to the Property Representative and the Principal’s Representative.

The Principal may also advise the Contractor of non conformances, non compliances and other Defects in relation to property matters and the Contractor must manage and close-out the non conformances or deficiencies in accordance with the Contract, using its own compliance system; and as directed by the Principal’s Representative.

The Contractor must also comply with the requirements of “AS/NZS ISO 9001 Quality Management Systems – Requirements” in relation to the identification, management and addressing of property non conformance, corrective action and preventative action.

4.1.3 Property records

The Contractor must provide the records described in Annexure A.

4.1.4 Pre commencement property risk assessment

Prior to the commencement of any Site based activity, the Contractor must undertake a comprehensive and Site-specific pre-commencement property risk assessment in consultation with the Property Representative. A staged risk assessment may be utilised, upon agreement with the Principal’s Representative. This risk assessment must identify the actual and potential property impacts of the Contractor’s Activities and the control measures that are required to be implemented in order to provide property protection in accordance with the requirements of the Contract. With respect to the Site (and where the Site is at more than one location, for each part of the Site), this risk assessment must be consistent with the risk framework included in Annexure B and is to include:

(a) permanent and temporary worksite access requirements and timing;
(b) access to or across adjoining properties and timing;
(c) crane swings, air rights and impacts on neighbouring properties or the Rail Corridor;
(d) access;
(e) any future subdivision, easements, other title interests or divestment requirements;
(f) any future commercial impacts of resultant works; and
(g) Site investigation and contamination.
4.2 Access

4.2.1 Ownership and rights of access

The Contractor is responsible for managing the Site and minimising the impact of the Contractor's Activities on adjoinning owners during any investigations, early/enabling works, construction and Defect rectification activities. The Contractor must ensure it has the necessary legal rights to access the appropriate property prior to commencing the Contractor’s Activities. To assist the Contractor, the Principal has developed a non-exhaustive list of applicable legislation, described in "TfNSW Property Compliance Register - 2TP-ST-175".

Prior to commencing the Contractor’s Activities, the Contractor must conduct property ownership searches (if lands are not supplied by the Principal) and undertake above ground and underground property boundary surveys of every land parcel where the Contractor will occupy, access or construct in support of the Contractor's Activities.

Works to be undertaken on roads e.g. RMS owned lands or Council property, require a Work Authorisation Deed (WAD), Section 138 permit or other Roads Act 1993 (NSW) consent or agreement with the owner or authority. If this has not been undertaken by the Principal prior to the engagement of the Contractor, and it is not the Principal’s responsibility under the Contract, the Contractor must negotiate the WAD or permit on behalf of the Principal to gain access to the lands and determine who will be the rightful owner of any new structures, and who will be responsible for future asset management. The Principal must approve the content of the agreement before it is formally released to any external party (e.g. RMS and Councils) for negotiation and execution.

4.2.2 Neighboring property

At least 2 weeks prior to commencement of the Works and activity on Site, the Contractor must identify all neighbouring land owners, tenants, businesses, occupants, who may be impacted by the Contractor’s Activities and provide the Principal’s Representative with a consolidated list that includes:

(a) addresses;
(b) land use (retail, residential, garage, etc.);
(c) primary contact name, phone number and email address;
(d) likely impact that the Contractor’s Activities will have on neighbouring property; and
(e) any past correspondence.

Where access to neighbouring property is required, the Contractor must comply with the Access to Neighbouring Land Act 2000 (NSW) and this Contract. In such cases, the Contractor must prepare an application for access, provide the application to the Property Representative for review, and, if approved, submit the application to the local court.

4.3 Surveys

4.3.1 Pre construction land surveys

The Contractor must verify survey control for the Contractors’ Activities, and must:

(a) prior to commencing any activity which could affect existing infrastructure (including roads, railways, utility services and buildings), undertake a survey to identify and record the location of the relevant Site boundaries in relation to existing infrastructure; and
provide the Principal’s Representative with reports on the location of the construction Site boundary in relation to existing infrastructure prior to commencing the relevant Contractor’s activity.

(c) avoid, where reasonably possible, disturbance of existing survey marks and must re-establish any such marks disturbed or affected by the Contractor’s activities; and

(d) carry out boundary and engineering surveys in accordance with the Surveying and Spatial Information Act 2002 (NSW) and the Surveying and Spatial Information Regulation 2012 (NSW).

4.3.2 Post construction land surveys

The Contractor must verify survey control for the Works, and must comply with the requirements of the Contract in relation to land surveys.

4.3.3 Pre-construction property condition surveys

At least 2 weeks prior to the commencement of the Works, the Contractor must carry out pre-construction property condition surveys to record the existing condition of adjoining land and properties prior to construction and to assess the susceptibility of critical services or structures or buildings to damage or unacceptable changes or alterations as a result of the Contractor’s Activities.

In carrying out the condition surveys, the Contractor must minimise disruption to property owners and occupiers.

The Contractor must engage an independent third party to ensure compliance against the minimum standard of condition surveys; and

In addition to the requirements set out in the Contract and the TSRs, the Contractor must comply with all requirements for condition surveys and ongoing monitoring and set out in Third Party Agreements.

4.3.4 Post-construction property condition surveys

At the times specified in Annexure A, the Contractor must perform a post-construction condition survey on each property previously subject to a pre-construction property condition survey and construction phase monitoring.

The Contractor must ensure that post-construction property condition surveys are performed to the standards prescribed in the Contract and this TSR. The Contractor must ensure that the same surveyor performs both the pre-construction and post construction condition surveys on a particular property.

The Contractor must submit all post-construction property condition survey reports to the Principal’s Representative for review in accordance with the Contract within 10 Business Days of the survey. Each report must contain a certificate from the surveyor who performed the survey certifying that the survey has been completed and is an accurate assessment of the property’s condition.

Post-construction property condition survey reports must include a determination of the cause of any monitored change or any damage identified since pre-construction or previous construction surveys and the Contractor’s proposed remedial works or activities. If any damage is found to have been caused by the Contractor’s Activities, the Contractor must:

(a) Provide the Principal with a proposal setting-out the remedial action required;
(b) obtain the property owner’s acceptance, in a form agreed to by the Principal, of the compensation, repair or reinstatement work, and release from future claims and actions; and

(c) If no damage is found to have been caused by the Contractor’s Activities, the Contractor must:
   i. write to the property owner and provide a copy of both reports for the property owner’s records; and
   ii. provide the Principal’s Representative with a copy of all records for its future reference.

### 4.3.5 Condition survey requirements

The Contractor must ensure that the processes and procedures for performing all condition surveys on buildings and/or other infrastructure facilities are based on industry best practices. Examples of acceptable standards for condition surveys of buildings include:

(a) sections 4 and 5 of the “Royal Institute of Chartered Surveyors (RICS) Guidance Note 63/2010 Building surveys and technical due diligence”; and

(b) “AS 4349 Inspection of Buildings – General Requirements”, and with specific regard to the heritage elements within the Site.

The Contractor’s reports on condition surveys of buildings must as a minimum record the following features:

(c) major features of the buildings and developments including location, type, construction, age and present condition, including any defects or damage;

(d) type of foundations including columns, walls and retaining structures;

(e) an assessment of the susceptibility of the building to further movement or stress;

(f) an assessment of the effectiveness of water-proofing systems in basements to the anticipated movements caused by the Contractor’s Activities; and

(g) an assessment of the susceptibility of the building to changes in water levels resulting from the Contractor’s Activities.

The Principal’s Representative may direct the Contractor to include additional properties and assets in the condition surveys if it considers they have the potential to be damaged as part of the Contractor’s Activities and a person, nominated by the Principal, may attend the undertaking of any condition surveys.

### 4.4 Pre commencement property compliance checklist

Prior to commencement of the Works, the Contractor must prepare and submit to the Property Representative, the property compliance checklist contained in Annexure C, to demonstrate that all legal and contractual property related obligations have been met. The checklist must be submitted:

(a) 10 Business Days prior to occupation of any part of the Site; and

(b) 10 Business Days prior to the commencement of the Works;

### 4.5 Property design requirements

Where the design is part of the Contractor’s Activities, the Contractor’s drawings must clearly identify property boundaries relative to all components of the Works and Temporary Works. Unless otherwise specified under the Contract, and as a minimum, the Contractor must
include drawings at all stages of the design (including but not limited to "approved for construction" and "as built" drawings).

4.6 Design and construction within the property boundaries

The Contractor must ensure that any physical works are both designed and constructed within the property boundaries (including air or subsurface stratum) of the Site. The Contractor must, at its own cost, carry out all activities and procure all services necessary to make the land or buildings suitable for use by the Contractor.

If any part of the Works is to be built over the adjoining property and no formal agreement has been reached with the adjoining property owner, the Contractor must cease work on this part of the Works and immediately notify the Principal.

 Liability is solely with the Contractor if building works are illegally undertaken on adjoining property owner’s land.

4.7 Construction phase property monitoring

The Contractor must implement a monitoring and inspection regime for properties with the potential to be detrimentally or negatively affected by the Contractor’s Activities. The monitoring and inspection regime must address the requirements of the Contract, the Planning Approvals and third party agreements and agreements made with any Authority. The Contractor must also comply with the project-specific requirements for the construction phase monitoring set out in Annexure A and include these requirements in the Property Management Plan, where required.

For activities in or adjacent to the Rail Corridor, the Contractor must implement specific monitoring regimes and emergency and response procedures for all Works close to or under, and likely to affect, live rail track in accordance with RailCorp monitoring standards.

5 Planning, sustainability and environmental management

5.1 Planning

5.1.1 Authority Approvals

Unless otherwise noted in Annexure A, the Contractor must fulfil all the conditions and requirements of any Planning Approval nominated in the Contract, except to the extent that the Contract allocates responsibilities to the Principal.

Where the Contractor is responsible for a submission to an Authority for an Authority Approval, or where an Authority requests a document submission, the Contractor must provide a submission to the Principal’s Representative for review in accordance with the Contract, prior to issue to the relevant Authority.

Where the Principal provides comments, the Contractor must first address the comments and provide a final submission to the Principal’s Representative with a request to forward to the relevant Authority. The Contractor must adequately address all comments to the satisfaction of the Principal’s Representative prior to submitting to the Authority.

The Contractor must not communicate (phone, mail, email etc.) directly with any Authority unless written consent is provided by the Principal and a communications protocol has been established.
Consistency checklists, in the format provided by the Principal's unless otherwise agreed, are to be completed by the Contractor and provided to the Principal's Representative for review in circumstances where project works are likely to deviate from the approved project.

Where inconsistency with the approved project exists or is likely to exist, with the Contractor may request the Principal seek a project modification. Under such circumstances, it is the Contractor's responsibility to provide the necessary reports, studies and final submission to the Principal's Representative to justify the modification. Any modification must detail property, environmental, community and all other related impacts.

5.1.2 Principal's planning and environmental compliance monitoring system

Where nominated in Annexure A, the Contractor must:

(a) use the Principal's nominated system to undertake self-regulation to confirm that all Works and Contractor's Activities are compliant with all Authority Approvals (including the EPL and Planning Approval); and

(b) implement a reporting structure consistent with the Principal's planning and environmental compliance monitoring system in addition to any other reporting requirements under the Contract.

5.1.3 Approval of Pre-Construction Works

In the event of Pre-Construction Works, the Contractor must submit the details of the Pre-Construction Works to the Principal's Representative using the form "TfNSW Pre-Construction Minor Works Approval - 9TP-FT-202" for review in accordance with Contract at least 10 Business Days prior to the commencement of such works. All supporting documentation must be attached and Pre-Construction Works activities must comply with the requirements of all Authority Approvals. Pre-Construction Works may not commence until the review process is complete.

5.2 Environmental management

5.2.1 Principal's environmental management guidelines

The Principal has developed a number of environmental management guidelines, which provide guidance to Contractors on how to manage certain aspects of environmental management during construction. These guidelines are available on TfNSW's website [http://www.transport.nsw.gov.au/projects/project-toolkit/standard-requirements](http://www.transport.nsw.gov.au/projects/project-toolkit/standard-requirements). The Contractor's Activities, Works and Temporary Works must be provided, having regards to these guidelines.

5.2.2 Contractor's environmental management system

Unless otherwise noted in Annexure A, the Contractor's Environmental Management System (EMS) must comply with the relevant requirements of the "NSW Government Environmental Management System Guidelines" and remain accredited under "AS/NZS ISO 14001:2015" whilst the Works are undertaken.

The EMS utilised must be consistent with the requirements prescribed in this TSR and the Contract.

5.2.3 Notification of environmental Incidents and non compliances

The Contractor must notify and manage all environmental Incidents and non compliances in accordance with the Contract and "TfNSW Environmental Incident Classification and Reporting - 9TP-PR-105".
The Principal’s Representative may advise an environmental non compliance or deficiency in writing. Upon receipt of such advice the Contractor must deal with and close-out the non compliance or deficiency under its EMS and in accordance with the requirements of the Contract. The “TfNSW Environmental Incident/Non-Compliance Report – 9TP-FT-101” must be completed by the Contractor and returned to the Principal’s Representative within 48 hours, unless otherwise directed by the Principal’s Representative.

The Contractor must ensure that any environmental non compliances are identified, managed and addressed (including via the carrying out of corrective actions and preventative actions) in accordance with the provisions of “AS/NZS ISO 9001:2008” that relate to control of non conforming product and improvement.

5.2.4 Environmental related complaints

Complaints received by the Contractor from any source in relation to environmental issues must be handled, recorded and reported in accordance with this TSR and the conditions of any applicable Authority Approval. The Contractor must immediately notify the Principal’s Representative and the Environmental Representative of any environmental complaints received and the actions taken to resolve the complaint.

5.2.5 Environmental control maps

Unless otherwise noted in Annexure A, the Contractor must develop, implement and maintain Environmental Control Maps (ECMs) in accordance with all Authority Approvals and the “TfNSW Guide to Environmental Control Map - 3TP-SD-015”. Each must be specific to a work area and/or work activity and identify the sensitive environmental areas and receivers and the location of mitigation measures to minimise the impact of the Works and Contractor’s Activities on the environment and community.

Each ECM must be prepared as a map, suitably enlarged (e.g. A0 size) for mounting on the wall of a site-office and for use by site-personnel (e.g. A3 size).

The Contractor must submit the ECMs to the Environmental Representative for review in accordance with the Contract, at least 5 Business Days’ prior to the commencement of the Contractor’s Activities in the area covered by the ECMs.

The Contractor must incorporate any comments made by the Environmental Representative into the ECM.

The Contractor must regularly review and update the ECMs to incorporate works progression and changing characteristics of the Site, and revise or amend environmental protection measures if those identified in the ECMs are not adequate in achieving compliance with the environmental obligations under the Contract. The revised ECMs must be submitted to the Environmental Representative for review in accordance with the Contract.

5.2.6 Control of environmental records

The Contractor must comply with section 4.5.4 (Control of Records) of “AS/NZS ISO 14001:2015”.

The Contractor must retain all environmental records, including those required in the whole of this clause 5, for a period of no less than 5 years from Completion.

The Contractor must provide the Principal with copies of the environmental records stated in Annexure D. Records not required to be stored on-site must be forwarded to the Principal’s Representative within 3 Business Days of a request.
5.3 Sustainability

5.3.1 Sustainability and climate requirements

The Contractor must comply with the Principal's sustainability and climate requirements indicated in Annexure A.

5.3.2 NSW Government resource efficiency policy (GREP)

The Contractor must comply with the requirements of the GREP as it applies to the Works and Contractors Activities, and as indicated in Annexure A.

6 Safety management

6.1 General requirements

The Contractor must manage health and safety in accordance with the WHS Legislation, Codes and Standards, NSW Government Guidelines and requirements of the Contract. The Contractor must ensure compliance, by it and those persons it exercises control over, with relevant Laws, the Rail Safety National Law, Codes and Standards, codes of practice and Contract requirements as a minimum.

6.1.1 Contractor's senior management representative

The Contractor must identify and advise the Principal's Representative at all times, the name of the senior management representative responsible for implementing and maintaining the safety requirements of this the Contract and monitoring the effectiveness of the Contractor's safety management system in complying with all safety requirements.

6.1.2 Safety culture

The Contractor must continuously promote a safer, healthier, more productive workplace. The Contractor must establish and maintain an effective safety management system that facilitates the flow of information both within the Contractor's organisation and between the Contractor's organisation, Subcontractors and the Principal.

The Contractor must provide strong leadership and promote safety as a core value, establishing and enforcing high standards of performance and ensuring relevant expertise is available.

The Contractor must ensure open and effective consultation and further mutual trust with the Principal's Representative, providing timely response to safety issues and concerns.

The Contractor must ensure the safety management system and the safety culture supports:

(a) senior management commitment to safety;
(b) commitment to work with the Principal's Representative to develop project-specific lead and lag key performance indicators;
(c) shared care and concern for hazards;
(d) workers to adapt to their changing environment where required;
(e) organisational learning through monitoring, analysis and feedback systems;
(f) methods for providing feedback and set timeframes for such provision;
(g) methods to communicate and share learning from successes and failures;
(h) the encouragement of teamwork and of worker involvement in promoting and maintaining a positive safety culture;

(i) methods to demonstrate how site-safety rules will be reflected in practice and how such rules will be incorporated into the Contractor's Activities; and

(j) methods to enable the ongoing development of safety improvements developed in consultation and communication with the Principal's Representative, as required.

The management of health and safety as well as the means of developing the required safety culture must be documented in the Project Work Health and Safety Plan in Clause 2.

6.1.3 Failure to comply

If the Principal's Representative is of the opinion that the Contractor, the Contractor's personnel or a Subcontractor have not complied, or are not complying with any health and safety requirements in the Contract, this TSR or under the Rail Safety National Law and/or WHS Legislation, including the requirement to eliminate or minimise the risks, so far as is reasonably practicable, then the Principal's Representative may:

(a) direct the Contractor to immediately comply with the obligation; and/or

(b) without limiting clause 10 of the General Conditions, where there is an immediate risk to the health, safety or welfare of any persons as a result of the non-compliance, direct the Contractor to immediately suspend carrying out all or any part of the Works until such time as the Contractor is compliant.

6.2 Management of health and safety risk

6.2.1 Risk management

The Contractor must manage risks in accordance with "AS/NZS ISO 31000:2009 - Risk Management", and TfNSW's risk framework included in Annexure B. The Contractor must:

(a) eliminate all risks to health and safety so far as is reasonably practicable; and

(b) if it is not reasonably practicable to eliminate risks to health and safety; minimise those risks so far as is reasonably practicable applying, maintaining and reviewing the prescribed Hierarchy of Control Measures.

As part of the determination of whether risks have been eliminated or minimised so far as is reasonably practicable, the Contractor must review, and record the review of the Principal's Generic Work Health and Safety Operational Risk Register - 30-SD-101 and where the Contractor's Activities involve Rail Safety Work, the Contractor must also review the Generic Rail Safety Risk Register - 30-SD-038.

The Contractor must maintain a register of risks which complies with Annexure B and includes:

(c) a description of the risk/hazard and its likely impact;

(d) the risk level assessed for each hazard;

(e) specific control measures, including safe work methods to be implemented to eliminate or mitigate risks;

(f) the residual risks/hazards;

(g) methods to be used to monitor effectiveness of safe work methods and control measures;

(h) the person(s) responsible for monitoring implementation of the control measures;
consultative processes employed by the Contractor in relation to the risk/hazard and the persons involved; and

(j) demonstrable application of the Hierarchy of Control Measures undertaken to lessen the risks so far as is reasonably practicable.

In addition the Principal has detailed a number of control measures that are expected to be deployed, unless a more robust risk control is applied through a process of risk assessment. These control measures are set out in clauses 6.2.2 to 6.2.8

6.2.2 Construction plant

The Contractor must ensure that all Construction Plant is properly operated and maintained in accordance with the manufacturer’s instructions and in accordance with the Work and Safety Regulation 2011 (NSW) and the associated codes of practice, so as to ensure that it poses no risk to the health and safety of any person on the Site or on land adjoining the Site.

The Contractor must also:

(a) ensure that quick hitch attachments fitted to excavators and other earth moving machinery are of the fully automatic type with a secondary locking attachment. The secondary attachment is to be capable of preventing the excavator attachment from releasing in the event of a partial or total failure of the power supply or when the operator stops operating the machine. All half-hitch, mechanical-hitch, form-lock, semi-automatic types are prohibited; and

(b) where mobile plant’s operating envelope is capable of encroaching within 3 metres of the Danger Zone or the safe approach distance to live electrical infrastructure, implement the use of programmable zone limiting devices that limit the hoisting and/or slewing and which are designed to be “fail safe” or which meet Category 4 reliability in accordance with “AS4024.1 Safeguarding of Machinery” or a SIL of 3 under “AS 61508 Functional safety of electrical / electronic / programmable electronic safety-related systems”.

6.2.3 Electrical safety

The Contractor must control the risks associated with electrical safety in accordance with all relevant Codes and Standards and Laws, including WHS Legislation. These controls must take into account that live work is not permitted and isolated circuits are to be treated as live until they have been proven dead by testing.

6.2.4 Use of portable earphone equipped music players

The use of portable earphone equipped music players on Site is prohibited.

6.2.5 Fires or burning off

Fires or burning off will not be permitted anywhere on the Site.

6.2.6 First aid and emergency arrangements

The Contractor must manage the provision of first aid in accordance with the WHS Legislation. In addition the Contractor must provide a defibrillator (and suitable training in its use for its senior first aid personnel) at each major first aid location, and must ensure persons trained in the use of the defibrillator are on Site at all times.
6.2.7 National Counter Terrorism Alert Levels

The Contractor must:

(a) ensure that the security management reflects the National Counter Terrorism Alert Levels;
(b) develop procedures to communicate and respond to changes in the National Counter Terrorism Alert Levels; and
(c) document how notification of a terrorism incident will be made to the Principal’s Representative and Law enforcement authorities, and the roles and responsibilities of the Contractor’s employees and Subcontractors in such an event.

6.2.8 Alcohol and other drugs

The Principal’s policy of zero tolerance of alcohol and illegal drug use applies to this Contract and the Contractor’s Activities. Alcohol and illegal drugs are not permitted on any Site or on premises controlled or managed by the Principal.

The Contractor must develop policies and procedures to ensure this policy of zero tolerance of alcohol and illegal drugs use is adhered to at all times. The Contractor must develop and implement effective alcohol and drug testing procedures in line with relevant Laws.

The Contractor must ensure that all persons associated with the Contractor’s Activities (including the Contractor’s personnel, visitors, Subcontractor workers and agents) are aware of their obligations to comply with all alcohol and drug requirements.

The Principal prohibits any persons under the influence of alcohol or drugs from working on any projects carried out for or controlled or managed by the Principal, regardless of their work location. Prescription and over-the-counter drugs may also affect a person’s ability to work safely and the Contractor, in consultation with the Principal’s Representative, will determine its policy in relation to prescription and over-the-counter drugs on a case by case basis.

All of the Contractor’s personnel and workers of Subcontractors may be subject to alcohol and drug testing by an authorised testing officer of the Principal at any time whilst carrying out the Contractor’s Activities (including within the Contractor’s Site amenities or facilities).

Testing for the presence of alcohol and other drugs may be undertaken during the following occasions:

(a) before performing duties (pre-sign on, primarily alcohol test);
(b) during the performance of duties (random and reasonable cause); and
(c) following any Incident.

Anyone that tests positive to alcohol or drug tests or who refuses an alcohol or drug test must be removed from the Site immediately, and the Principal’s Representative must be notified immediately.

The Contractor must take disciplinary action against a person who breaches the Principal’s policy of zero tolerance of alcohol and illegal drug use. The nature of the disciplinary action to be taken must be communicated to the Principal’s Representative.

Each individual that signs on at the commencement of each shift declares themselves to be free of alcohol and drugs.

In addition to the requirements set out in clause 6.2.8 above; if the Contractor’s Activities are in or adjacent to the Rail Corridor and the rail environment, the alcohol and other drugs...
procedures must be in line with the Rail Safety National Law, and the testing regime must include prestart testing prior to Track Possessions.

6.3 Safe work method statements

Before the Works commence, the Contractor must provide Safe Work Method Statements (SWMS) for the proposed work. The Contractor must also ensure that Works are carried out in accordance with the relevant SWMS. The Contractor must ensure that the SWMS are reviewed and, as necessary, revised if relevant control measures are revised.

All SWMS, regardless of whether they are authored by the Contractor or Subcontractors, must, unless otherwise directed by the Principal’s Representative, be submitted to the Principal’s Representative for review in accordance with the Contract, at least 5 Business Days prior to the commencement of any significant activity. All SWMS must be listed on a consolidated SWMS register that must be proactively maintained by the Contractor and communicated to the Principal no less than monthly.

The Contractor acknowledges and agrees that by exercising its right under this clause 6.3, the Principal’s Representative is not assuming any management or Control of the Site or the Contractor’s Activities and is only receiving the SWMS information to monitor the Contractor’s compliance with its obligations under this Contract and/or applicable Laws, including the WHS Legislation and/or the Rail Safety National Law.

6.4 Safety incident reporting, investigation and recording

The Contractor must notify the Principal’s Representative of any Incident and comply with the requirements of the “NSW Government Work Health and Safety Management Systems and Auditing Guidelines” and clauses 6.4.1 and 6.4.2 below.

6.4.1 Recording of incidents

The Contractor must immediately notify the Principal’s Representative of any Incident and record the Incident by using the “INX InControl Incident Management System” INX”. Should INX not be accessible, the Contractor must report in a manner that enables effective subsequent recording in INX.

All notifiable occurrences under Rail Safety National Law must be reported immediately to the Principal’s Representative and to the relevant Regulators. Where any type of notice, infringement or fine by a Regulator has been issued to the Contractor in relation to undertaking the Works, the Contractor must immediately notify the Principal’s Representative.

6.4.2 Investigation of incidents

The Contractor must undertake investigation of all minor and major near-miss or actual Incidents. The minor investigation must be recorded within INX utilising the minor investigation template contained therein. Minor investigations must be completed within 28 days of the Incident.

The Principal’s Representative may direct the Contractor to undertake a major investigation into an Incident or potential Incident, utilising the major investigation template contained within INX. Major investigations must be completed within 42 days of the Incident. Terms of reference for major investigations will be issued by the Principal. If a major investigation requires the appointment of an external independent investigator, the Contractor will bear the cost of the investigation.

The Principal may participate in any investigation being undertaken by the Contractor or initiate its own investigation. If the Principal instigates its own investigation the Contractor must
provide the Principal with all assistance reasonably required for the purposes of the investigation, this includes the waiver of legal professional privilege over any investigation report prepared by, or on behalf of, the Contractor. The Parties may agree that any investigation report that is subject to legal professional privilege may, between the Contractor and the Principal, be subject to a common interest privilege.

7 Communications, stakeholder and community liaison

7.1 General requirements

The Contractor must:

(a) ensure that the Principal is provided with adequate information and notification of planned Contractor's Activities in relation to communications activities; and

(b) consult the Principal's Representative prior to taking any action that may impact on stakeholders and the community.

7.2 Meetings with stakeholders

The Contractor must not meet stakeholders without seeking prior approval from the Principal. The Contractor must provide the Principal with a minimum of 3 Business Days' notice prior to any meeting with the community or stakeholders.

The Contractor must also support any meetings with stakeholders by providing relevant materials for presentation and/or distribution at such meetings. The Contractor must ensure that suitable persons are available to attend all such meetings, including 'after-hours' meetings. Such persons must be adequately informed and suitably qualified to participate and be able to take the lead during meetings where requested by the Principal's Representative.

7.3 Public communication materials

The Contractor must promptly provide all information as reasonably required or directed by the Principal's Representative. All public communication material produced by the Contractor must meet "Web Accessibility Guidelines 2.0 (WCAG 2.0)" and be consistent with and comply with the "TfNSW Transport Projects Style Guide for Contractors and Consultants" and the "TfNSW Editorial Style Guidelines". The Contractor must not release any public communication material until it is approved by the Principal's Representative.

7.4 Media, marketing and promotional material

The Principal wishes to exercise control over the release of any information regarding the Works and Contractor's Activities. This includes any media, marketing or promotional material that the Contractor or Subcontractor seeks to publish, or any press releases or responses to enquiries from the media. For clarity this also includes material placed on construction hoardings and fences and the like.

The Contractor must not release any verbal or written statements, provide any information or allow Site access without a prior written request containing the relevant information to, and receive subsequent written approval from, the Principal's Representative.

The Contractor must also make all enquiries or contact, including requests to access Site by the media, government representative or other organisation, known to the Principal.

These constraints also apply to the Contractor's consultants and Subcontractors.
7.5 Notifications

The Contractor must issue written notifications to stakeholders and the community at least 5 Business Days before commencing any activity with the potential to impact stakeholders and the community. The written notification must use the template provided by the Principal and must include the distribution details shown on a map.

The written notifications must be reviewed and approved by the Principal’s Representative prior to being issued to stakeholders and the community. The Principal’s Representative will require a minimum of 5 Business Days to review and approve any written notification.

7.6 Complaints and enquiries management

The Contractor is responsible for responding to complaints and enquiries received regarding the Works and impacts associated with the Contractor’s Activities. Complaints and enquiries may be received through a variety of avenues including the Principal’s 24-hour response line or project info line, in writing (letter or email), direct to the Principal via telephone, or direct to the Contractor or Subcontractors.

In responding to complaints the Contractor must:

(a) record details of every complaint received and how it was managed and closed out;
(b) investigate and determine the source of the complaint immediately, including an immediate call to the complainant where the complaint was received by telephone. Should the Contractor determine that the complaint does not relate to the Contractor’s Activities, the Contractor must immediately notify the Principal’s Representative;
(c) provide at least an oral response to the complainant regarding what action is proposed as soon as possible and within a maximum of 2 hours from the time of the complaint during standard construction hours as outlined in the Planning Approval, or on the next Business Day during all other times (unless the complainant requests otherwise). If no phone number was provided, the complaint must be responded to within a maximum of 24 hours for emails and 5 Business Days for letters from time of receipt;
(d) forward information on any complaints received, including response times and details of any actions undertaken or proposed or investigations occurring, to the Principal’s Representative in writing each Business Day;
(e) provide the Principal with details in writing of any complaint, the close out actions and the date action was implemented.

8 Working in and adjacent to the rail corridor and rail environment

The following requirements apply to the Contractor, except where otherwise indicated in Annexure A.

8.1 The operating railway system

The Contractor acknowledges and agrees that:

(a) it is aware that Sydney Trains or another Operator/Maintainer may continue to use areas adjacent to, or within the Site as part of normal operations of the railway system on a commercial basis during the undertaking of the Works;
(b) the continuance of normal operations of the railway system, including within the Site, adjoining areas and railway stations, on a commercial basis by Sydney Trains or another Operator/Maintainer during the performance of the Contractor's Activities must be maintained to the satisfaction of the Operator/Maintainer as notified by the Principal's Representative. The Contractor must ensure that the railway system operations and infrastructure are not impeded or interfered with by reason of the performance of the Contractor's Activities, except where this is approved in writing beforehand by the Principal's Representative;

(c) it must maintain and coordinate sufficient access to the railway system, for users and operators, so as not to hinder main traffic routes, including access to and from operating railway station platforms, ticketing areas and the Rail Corridor, and the flow of traffic, including on or accessing the Site and the adjoining areas, except where this is approved in writing beforehand by the Principal's Representative;

(d) it must, in performing the Contractor's Activities, do everything that could be reasonably expected of the Contractor to avoid Sydney Trains or another Operator/Maintainer breaching any obligation it may have arising out of or in connection with the continuing operation of the railway system on a commercial basis;

(e) it must ensure:
   i. access and egress for Sydney Trains or another Operator/Maintainer and its Contractors to the Site to undertake regular inspections and to complete maintenance and repairs of the Operator/Maintainer's infrastructure where required;
   ii. access and egress to those parts of the Site required by Other Contractors are made available and coordinated so as to minimise any interference with or disruption; and
   iii. emergency egress routes (including routes to the Rail Corridor and its support system) are maintained at all times and that emergency systems (including the Sydney Trains emergency warning intercommunication system and fire alarm panels) remain operational throughout the duration of the Contract;

(f) it must provide a safe place for persons carrying out Rail Track inspections and/or maintenance work, for example, refuges in any hoarding/fencing constructed adjacent to the Rail Track;

(g) it must comply with any Sydney Trains or other Operator/Maintainer standards applicable to the Contractor's Activities including for work that is adjacent to an operating rail line and to live overhead wires;

(h) it must ensure that whilst undertaking the Contractor's Activities, no employees or Construction Plant (including, for example, by the slewing of cranes) of the Contractor, Subcontractors or consultants enter an operating Rail Corridor, except as permitted by Sydney Trains "RailSafe Network Rules"; and

(i) it must at all times, and to the satisfaction of the Principal's Representative, carry out the Contractor's Activities in a manner that will ensure the safety of all property and persons, including the general public, travelling public, station lessees, railway traffic, railway system personnel, road traffic and any person associated or engaged in connection with the Works.

8.2 Track possessions

8.2.1 Arrangements for track possessions

The Track Possessions available to the Contractor are set out in the Contract.
For each Track Possession to be utilised by the Contractor, the Contractor must attend and incorporate the requirements from:

(a) the "Tier 6 Possession Coordination Meeting" with Sydney Trains held approximately 12 weeks prior to the Track Possession. This meeting will decide the coordination of all activities in the Track Possession, working hours, movements of equipment and work trains in the Track Possession area;

(b) the "Possession Coordination Meeting" with Sydney Trains held approximately two weeks prior to the Track Possession to discuss train movements and safe working; and

(c) the "Pre-Possession Meeting" with Sydney Trains, usually held prior to the Track Possession to confirm the detailed arrangements for the Track Possession and coordinate the activities of each party working in the Track Possession.

For each Track Possession to be utilised by the Contractor, the Contractor must conform to the requirements of the relevant Rail Transport Operator.

If a Track Possession involves an asset or partial asset being handed over to the Asset Owner or Operator/Maintainer (even if only for maintenance prior to it being commissioned), a Commissioning event and formal Asset Handover will be required. In these circumstances, the following documents appertaining to the assets being handed over are required to be submitted to the Principal’s Representative for review at least six weeks prior to the Track Possession:

(d) Safe Work Method Statements;
(e) residual risk assessments;
(f) relevant Configuration Materials including operations and maintenance manuals, drawings, as directed by the Principal’s Representative;
(g) Design Documentation; and
(h) any other Documents required, as directed by the Principal’s Representative.

Where power isolation is required, the Contractor must specify what power is required to be shut down and the time and duration required for the power isolation. This information must be submitted to the Principal’s Representative for review, in accordance with the Contract at least 16 weeks prior to each Track Possession.

8.2.2 Interface arrangements during track possessions

The Contractor may not have exclusive access to any Rail Tracks or areas within the vicinity of Rail Tracks during a Track Possession. The Contractor must coordinate the Contractor’s Activities with those sharing the Track Possession, including parties involved in the operation or maintenance of the rail system and Other Contractors.

This includes, where required, the Contractor allowing for Operator/Maintainers’ contractors and Other Contractors to pass through the worksites during the Track Possessions. The extent of Operator/Maintainers Contractors and Other Contractors activities on or within the vicinity of the Rail Track during Track Possessions will be determined at the “Tier 6 Possession Coordination Meeting” referred to in clause 8.2.

The Contractor must ensure that all persons invited or brought onto the Site by the Contractor or Other Contractors, and those who enter an area within the Rail Corridor undertake all necessary Site inductions and obey all directions given by the Worksite Protection Personnel.
Prior to the end of the Track Possession, an appropriately qualified inspector holding the appropriate competencies must approve adequate completion of the relevant Works and sign off on "Sydney Trains Certificate of Practical Completion/Certification (W42F01)".

Any Defects listed on W42F01 must be rectified by the Contractor to the satisfaction of the Principal's Representative within 5 Business Days of the issue of the relevant W42F01.

The Principal's Representative may alter, cancel or curtail any Track Possession at any time.

### 8.2.3 Requesting additional track possessions

It is unlikely that, in addition to those specified in the Contract, weekend Track Possessions, the Operator/Maintainer's resources and/or Track Possessions (with or without power) in overnight periods when trains are not running, will be available. If the Contractor requires additional Track Possessions, power isolation and/or the Operator/Maintainer's resources, they are to be arranged by the Contractor at the Contractor's own cost. This includes reimbursing the Principal's Representative for any costs that it incurs in respect of granting the additional Track Possessions and procuring the Operator/Maintainer's resources. In the case of an alliance contract, the allocation of these additional costs will be in accordance with the commercial framework of the Project Alliance Agreement.

The Contractor must provide a written request for additional Track Possessions or power isolation of overhead and transmission lines with a notice period as specified in the Contract.

Upon a written request by the Contractor, the Principal will seek to facilitate obtaining additional Track Possessions, power isolations and/or the Operator/Maintainer's resources for the Contractor by arranging a meeting between the Contractor and the Operator/Maintainer. At this meeting or subsequent meetings, possible dates for Track Possessions, power isolations and/or additional Operator/Maintainer's resources may be identified.

The Principal does not guarantee the granting of, and is not obliged to arrange additional Track Possessions, power isolations or Operator/Maintainer resources on any particular date, or at all.

### 8.2.4 Planning and managing track possessions

To ensure that Track Possessions are managed effectively and safely, the Contractor must:

(a) prepare, maintain and update policies and procedures for planning and managing Track Possession work in accordance with the "Sydney Trains Possession Manual";

(b) prepare and submit to the Principal's Representative for review for conformance with the "Sydney Trains Possession Manual", six weeks prior to each Track Possession:
   
i. a consolidated plan comprising all information required in advance of the Track Possession including that detailed in the "Sydney Trains Possession Manual";
   
   and
   
   ii. a program including:

   A. the elements of the Works to be completed prior to the Track Possession;

   B. an hour by hour breakdown of the elements of the Works to be carried out during the Track Possession;

   C. milestones and the time and date by which they must be achieved so as to ensure that the rail infrastructure can be reinstated within the
allocated time and which, if not achieved by the nominated time, would result in the Contractor bringing work to an end and commencing reinstatement of the rail infrastructure and other works to avoid a delay in returning the Track Possession and/or delays to trains;

D. adequate allowance of time at the beginning and end of the Track Possession to safely remove and reinstate the affected rail infrastructure to operational condition and for providing and removing safeworking protection and the Operator/Maintainer inspections and certifications;

E. the specific risks to be managed during the Track Possession and the procedures to be followed in managing these risks;

F. any potential interface issue in any way connected with work carried out by an Other Contractor or involving the Operator/Maintainer's operational and maintenance activities; and

G. progress/program review meetings scheduled during the Track Possession as requested by the Principal's Representative and/or the Operator/Maintainer.

The Contractor must immediately comply with any instructions by the Principal's Representative to vary the program described in clause 8.2.4 (b), or curtail the Works if the Principal's Representative considers that continuing with intended Works will result in a delay to returning the Track Possession and/or delay to trains.

8.2.5 Certification of work in track possessions

Before handover of an area at the end of any Track Possession the Contractor must provide to the Principal and, if required by the Principal's Representative, to the Operator/Maintainer; the following:

(a) for any form of civil or structural works that will support operating Rail Track, written certification by the Contractor's designers (including design Subcontractors) that the relevant works are safely able to support the operating rail infrastructure;

(b) for any adjustments to or interruptions of service to signalling, track, overhead wiring or high voltage infrastructure, written certification from the Contractor's designers (including design Subcontractors) that such infrastructure is suitable for operations and complies with the approved design;

(c) for any adjustments to or interruptions of service to signalling, overhead wiring or high voltage infrastructure, written certification from a Sydney Trains (or other relevant Operator/Maintainer's) representative that such infrastructure is suitable for operations; and

(d) all other infrastructure certification required by Sydney Trains or the relevant Operator/Maintainer and/or Asset Owner.

8.3 Rail safety

8.3.1 Project work notification and work activity advice

The Contractor must complete and submit the relevant Operator/Maintainer's Project Work Notification or other applicable document to the Principal's Representative at least six weeks prior to the planned Works, including any works in a Track Possession. The Contractor must comply with the requirements of the "TfNSW/Rail Transport Operator Safety Interface Contract".
A Work Activity Advice (WAA) must be produced by the Contractor using the form TfNSW Work Activity Advice - 4TP-FT-105. Each WAA must cover a particular part of the Contractor's Activities and includes the SWMS applicable to that part of the Works.

The Contractor must conduct a pre-work briefing with all personnel involved, including the Protection Officer as defined in the Australian Network Rules and Procedures, prior to commencing.

**8.3.2 Competencies**

The Contractor must provide the Principal's Representative with a list of position descriptions which identifies whether each position is a Rail Safety Worker. The Principal may require alteration of the designation of Rail Safety Workers as nominated by the Contractor.

Any person supervising or setting up safe work arrangements for the Works on or in the vicinity of the Rail Corridor must hold the qualifications required by the Rail Transport Operator and the Principal.

The Contractor must ensure that no person undertakes Rail Safety Work unless they have been issued with a certificate of competency under the Rail Safety National Law.

The Contractor must consult with the Principal's Representative to obtain a determination as to when the RIW card is required. The Contractor must ensure that any visitors required to enter the Rail Corridor complete the relevant safety inductions.

**8.3.3 Fatigue management, medical and health management**

For workers carrying out Rail Safety Work the Contractor must apply the following fatigue, medical and health minimisation controls:

(a) implement a fatigue management program that:

(i) addresses the requirements of the Rail Safety National Law and this Contract;

(ii) restricts workers to no more than 12 hours worked at a time not including travel time to and from work, unless there is a declared Incident in which case work can be performed up to a maximum of 16 hours at a time, as long as workers are not required to drive a motor vehicle or operate heavy plant or equipment after the 12th hour;

(iii) restricts workers that have worked more than 12 hours from driving after finishing work;

(iv) includes periods of 11 hours rest away from work;

(v) restricts the maximum number of work days to 12 work days in 14 consecutive days;

(vi) minimises to five consecutive occasions where eight hours are worked at night (i.e. after normal office hours) or four consecutive occasions where 10 hours are worked at night or three consecutive occasions where 12 hours are worked at night without a 48 hour rest break;

(vii) ensures employees receive a minimum of 48 consecutive hours free of work in a 14-day period; and

(viii) has the capacity to replace or relieve workers where unplanned or unavoidable extended hours have created a risk to employee health and safety;
(b) inform such persons that they are subject to medicals and health assessments in accordance with the “National Standard for Health Assessments of Rail Safety Workers”;

(c) ensure that the “National Standard for Health Assessments of Rail Safety Workers” are undertaken and documented including re-examinations. The documented records must be maintained according to the State Records Act 1998 (NSW); and

(d) inform such persons that additional medical and health assessments may be required to be undertaken where they are involved in a safety accident or where there is reasonable cause for concern that person may be unable to perform work safely (such as upon return from a long illness).

8.3.4 Work on track methods for working safely

Unless specified by the issue of a safeworking notice by the Principal’s Representative, the primary work on track methods for working safely are summarised as follows:

“Construction Site” - A worksite under construction without any rail traffic movements, or traction power systems being installed. Worksite Protection and RIW Identification are not required.

“TfNSW Rail Site” - A Principal’s Representative managed and controlled rail-site which has no interface access with other rail sites or rail systems. Work within or potential to impact the Danger Zone requires Local Possession Authority in accordance with the Australian Network Rules and Procedures.

Should a TfNSW Rail Site encroach on the Danger Zone of any other adjoining Rail Transport Operator rail-sites, then:

(a) adjacent line protection must be implemented and managed in accordance with the rules of the adjoining Rail Transport Operator; and

(b) an access interface is considered removed if points that allow entry and exit to the rail-site are secured and a physical barrier is established at the limits of the TfNSW Rail Site.

Where the contracted Works are undertaken within a rail-site managed and controlled by another accredited Rail Transport Operator, the other Rail Transport Operator’s Network Rules and Procedures apply.

8.3.5 Worksite protection personnel

Worksite Protection is required for carrying out the Works within the Rail Corridor in accordance with the Australian Network Rules and Procedures and/or the requirements of the Rail Transport Operator.

The Worksite Protection Personnel are required to hold a minimum of Worksite Protection Personnel level 2 accreditation (PO2).

The Worksite Protection Personnel must brief all personnel undertaking the Works on the Worksite Protection arrangements at the Site at the start of each shift or as is otherwise required (and agreed by the Principal’s Representative).

Where the Principal is to provide the Worksite Protection Personnel, the Contractor must provide 10 Business Days’ notice in writing to the Principal’s Representative requesting the number of Worksite Protection Personnel required.
8.3.6 Use of rolling stock, hi-rail vehicles and work Trains

Rolling stock and rail traffic are not permitted to travel or operate on the Site without the approval of the Principal.

The Principal's Representative may also impose requirements, limitations and constraints on rail traffic travelling or operating on the Site.

To the extent that any part of the Works requires the use of hi-rail vehicles or work trains the Contractor must:

(a) ensure that such vehicles are only operated by persons with appropriate competencies and by an organisation which holds accreditation as a "Rolling Stock Operator" (as that term is defined under the Rail Safety National Law);
(b) ensure that hi-rail vehicles are duly checked and certified as being fit for their intended use at the start of each shift;
(c) ensure the hi-rail vehicle has been certified as compliant and safe to use with the hi-rail modifications by the Original Equipment Manufacturer (or an independent competent engineer, including from a WHS and rail safety perspective);
(d) ensure that the utilisation of hi-rail vehicles or work trains is appropriately addressed in the Contractor's procedures to ensure safe operations, to prevent injury and damage to infrastructure and to ensure that responsibilities are identified and documented;
(e) assess the past record of potential Subcontractors to ensure that they comply with the Rail Safety National Law and relevant rail accreditation requirements. The results of these assessments must be made available to the Principal's Representative upon request;
(f) set out and carry out regular reviews of the performance of train and hi-rail operators engaged for the undertaking of the Works (including at least one review after each major Track Possession or Incident, or in any event every three months). The results of these reviews must be made available to the Principal's Representative upon request; and
(g) only use rolling stock, hi-rail vehicles and work trains authorised on the Vehicle Registration Database.

8.3.7 Swing arm plant – rail environment

The Contractor must ensure the use of restrictors for swing arm plant.

The Contractor’s construction planning process must include the validation of the proposed method of work to be carried out on the day. This validation process must include the completion of a site-specific risk assessment and development of a plant working diagram by the Contractor in conjunction with the Project Rail Safeworking Coordinator and any other required project personnel.

The Contractor’s pre-work briefing must include the following items:

(a) description of swing arm plant and equipment being used, including the type of restrictor(s) being used;
(b) details of the "line in the sand" for the positioning of the chassis of the swing arm plant or equipment being used (including consideration of the size and reach of the swing arm plant or equipment);
(c) arrangements for the provision of a spotter;
(d) reference to the details included in the Worksite Protection Plan prepared by the Protection Officer that includes swing arm plant considerations; and

(e) in the case of operations involving the use of a crane, details of the lifting plan.
ANNEXURE A – Additional Project Requirements
TfNSW Standard Requirements (Works Contracts) ANNEXURE A

5TP-FT-426/2.0
Template – Applicable to Transport Projects Delivery Office

Quality Management System

Status: For Approval
Version: 2.0
Branch: Commercial
Business unit: Procurement
Date of issue: 18 February 2016
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Audience: Project Delivery/For use with the Contract templates only
Asset classes: □ Heavy Rail; □ Light Rail; □ Multi Sites;
□ Systems; □ Fleets
Project delivery model: TP Project/Alliance/Novo Rail
Project type: For all project types
Project lifecycle: □ Feasibility; □ Scoping; □ Definition;
□ Construction readiness; □ Implementation;
□ Finalisation; □ Not applicable
Process owner: Director Commercial

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Document History

<table>
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<th>Version</th>
<th>Date of approval</th>
<th>Doc. control no.</th>
<th>Summary of change</th>
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<tr>
<td>1.0</td>
<td>19 August 2015</td>
<td>4542124_2</td>
<td>New consolidated Annex A TSR document replacing the suite of individual TSRs (TSR C, TSR E, TSR P, TSR S, TSR T) for use with the PSC Templates</td>
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<tr>
<td>2.0</td>
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<td>Modified to suit new TSR updates</td>
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This document has been drafted to be used as an annexure to version 2.0 of TfNSW Standard Requirements (Works Contracts) 5TP-FT-425, only and should not be used with other versions.

### Additional Project Requirements

#### A0 Definitions

The following definitions are to be included as part of the list of definitions in clause 1.2:

<table>
<thead>
<tr>
<th>Definition</th>
<th>Description</th>
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<td>Audit Management Plan</td>
<td>The Management Plan of that name described in section A28.7 of Annexure A.</td>
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<tr>
<td>Commissioning Management Plan</td>
<td>The Management Plan of that name described in section A28.6 of Annexure A.</td>
</tr>
<tr>
<td>Construction and Site Management Plan</td>
<td>The Management Plan of that name described in section A28.1 of Annexure A.</td>
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<tr>
<td>Defects Management Plan</td>
<td>The Management Plan of that name described in section A28.5 of Annexure A.</td>
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<tr>
<td>DDR</td>
<td>Detailed Design Review or equivalent stage of the design as developed in accordance with the Contractor's Design Management Plan.</td>
</tr>
<tr>
<td>Initial Construction and Site Management Plan</td>
<td>The Initial Management Plan of that name set out in Attachment B of the Works Brief.</td>
</tr>
<tr>
<td>Initial Construction Environmental Management Plan</td>
<td>The Initial Management Plan of that name set out in Attachment C of the Works Brief.</td>
</tr>
<tr>
<td>Initial Design Management Plan</td>
<td>The Initial Management Plan of that name set out in Attachment A of the Works Brief.</td>
</tr>
<tr>
<td>Initial Management Plans</td>
<td>The plans set out in Attachments A-D of the Works Brief.</td>
</tr>
<tr>
<td>Initial System Safety Plan</td>
<td>The Initial Management Plan of that name set out in Attachment D of the Works Brief.</td>
</tr>
<tr>
<td>Risk Management Plan</td>
<td>The Management Plan of that name described in section A28.2 of Annexure A.</td>
</tr>
<tr>
<td>SVR</td>
<td>System Verification Review or equivalent stage of the design as developed in accordance with the Contractor's Design Management Plan.</td>
</tr>
<tr>
<td>Traffic Management Plan</td>
<td>The Management Plan of that name described in section A28.4 of Annexure A.</td>
</tr>
<tr>
<td>TRR</td>
<td>Test Readiness Review or equivalent stage of the design as developed in accordance with the Contractor's Design Management Plan.</td>
</tr>
</tbody>
</table>

The following definitions are to be deleted from the list of definitions in clause 1.2:

<table>
<thead>
<tr>
<th>Definition</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDR</td>
<td>Critical Design Review or equivalent stage of the design as developed in accordance with the Contractor's systems engineering processes.</td>
</tr>
</tbody>
</table>
The definitions of "PDR" and "SOR" are to be deleted from the list of definitions in clause 1.2 and replaced with the following:

<table>
<thead>
<tr>
<th>-definition</th>
<th>new definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>PDR</td>
<td>Preliminary Design Review or equivalent stage of the design as developed in accordance with the Contractor's Design Management Plan.</td>
</tr>
<tr>
<td>SOR</td>
<td>System Definition Review or equivalent stage of the design as developed in accordance with the Contractor's Design Management Plan.</td>
</tr>
</tbody>
</table>

### A1 Management Plans

#### A1.1 Management Plans Clause 2.1

The following describes the requirements for Management Plans in clause 2.1.

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract Management Plan</td>
<td>Yes</td>
<td>2.1.1</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Design Management Plan</td>
<td>Yes</td>
<td>2.1.2</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>System Safety Plan</td>
<td>Yes</td>
<td>2.1.3</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Property Management Plan</td>
<td>Yes</td>
<td>2.1.4</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Construction Environmental Management Plan</td>
<td>Yes</td>
<td>2.1.5</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Project Work Health and Safety Management Plan</td>
<td>Yes</td>
<td>2.1.6</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Communications Management Plan</td>
<td>Yes</td>
<td>2.1.7</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Workplace Relations Management Plan</td>
<td>Yes</td>
<td>2.1.8</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Construction and Site Management Plan</td>
<td>Yes</td>
<td>A28.1 below</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Risk Management Plan</td>
<td>Yes</td>
<td>A28.2 below</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>-----------------------------------------------------</td>
<td>------------------------------</td>
<td>-----------------------</td>
<td>------------------------------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>Commuter and Passenger Management Plan</td>
<td>No</td>
<td>A28.3 below</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>Traffic Management Plan</td>
<td>Yes</td>
<td>A28.4 below</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Defects Management Plan</td>
<td>Yes</td>
<td>A28.5 below</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Commissioning Management Plan</td>
<td>Yes</td>
<td>A28.6 below</td>
<td></td>
<td>As required</td>
</tr>
<tr>
<td>Audit Management Plan</td>
<td>Yes</td>
<td>A28.7 below</td>
<td></td>
<td>As required</td>
</tr>
</tbody>
</table>

**Legend**

- **T1** 15 Business Days after the date of this Contract.
- **T2** 30 Business Days after the date of this Contract.
- **T3** 10 Business Days prior to the commencement of investigations.
- **T4** 15 Business Days prior to the commencement of design. If the Works do not involve any design activities prior to the commencement of construction then these plans are to be submitted under T3 timing requirements.
- **T5** Concurrent with the first PDR (or equivalent) design package submission.
- **T6** Concurrent with the first CDR (or equivalent) design package submission.
- **T7** 30 Business Days prior to the commencement of Site mobilisation.
- **T8** 10 Business Days prior to the commencement of construction.
- **T9** 9 months prior to the planned commencement of the first commissioning event, or 30 Business Days following the date of this Contract if the Date for Completion is less than or equal to 9 months after the date of this Contract.
- **T10** 10 Business Days prior to the commencement of construction in the Rail Corridor.
- **T11** 21 Business Days after the date of this Contract.

**A1.2 Initial Management Plans**

(a) The Contractor must ensure that all Management Plans (including the Contract Management Plan) required to be prepared in accordance with the TfNSW Standard Requirements are based on the Initial Management Plans.

(b) The requirements and commitments set out in the Initial Management Plans are minimum requirements and commitments and the Contractor must not reduce or otherwise decrease these requirements or commitments in any subsequent Management Plans required under the Contract. In the event of any inconsistency, ambiguity or discrepancy between the requirements of the Contract, the higher, more onerous or rigorous requirement or commitment will apply.
(c) Despite the content of the Initial Management Plans, the Contractor acknowledges that:

(i) it remains responsible for ensuring that the management plans prepared in accordance with the TfNSW Standard Requirements will satisfy the requirements of the Contract; and

(ii) prior to the date of the Contract the Contractor has prepared the Initial Management Plans. The Contractor agrees that it bears absolutely all risks however they may arise as a result of the use by the Contractor of, or the reliance by the Contractor upon, the Initial Management Plans in performing the Contractor’s Activities and that such use and reliance will not affect any of its obligations under the Contract.

A1.3 TfNSW Comments on Initial Management Plans

The following Initial Management Plans have been included as Attachments A-D of the Works Brief:

(a) Initial Design Management Plan;

(b) Initial Construction and Site Management Plan;

(c) Initial Construction Environmental Management Plan; and

(d) Initial System Safety Plan.

Where TfNSW has provided comments on the Initial Management Plans and have included these with the Initial Management Plans, the Contractor must treat the comments as if they were comments of a Reviewing Party provided in accordance with the Review Procedures when preparing an updated Project Plan in accordance with clause 9.8 of the Contract at the times required in section A1.1 above.

The Contractor acknowledges that the comments provided are not exhaustive and at the date of this Contract, TfNSW does not warrant that it has checked the Initial Management Plans for compliance with the requirements of the Contract.

A2 Traffic Control Plan (additional requirement)

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Is a Traffic Control Plan required?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Where noted as being required in this table A2, the Contractor must prepare a detailed Traffic Control Plan (TCP) for the Site generally in accordance with the RTA manual “Traffic Control at Work Sites 4th Ed (June 2010)”. The TCP must be submitted to and approved by the relevant Authority and submitted to the Principal’s Representative for review prior to the commencement of any activity or work on the Site. Thereafter, the Contractor must ensure that the approved TCP is available for inspection by the Principal’s Representative or any officer of WorkCover NSW, NSW Police, the RMS or any other Authority.
A3  Construction Environmental Management Plan clause 2.1.5

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Applies?</th>
<th>Clause</th>
</tr>
</thead>
<tbody>
<tr>
<td>Must comply with the relevant requirements of the “NSW Government Environmental Management System Guidelines”.</td>
<td>Yes</td>
<td>Clause 2.1.5</td>
</tr>
</tbody>
</table>

A4  Contractors Program clause 2.2.1

<table>
<thead>
<tr>
<th>Clause</th>
<th>Item</th>
<th>Requirement</th>
<th>Add Insertion</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.2.1</td>
<td>Contractor’s Program</td>
<td>Date first program is required</td>
<td>per Clause 2.2.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Monthly updates required?</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Update submission timeframe</td>
<td>per Clause 2.2.1</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Required status date for program update</td>
<td>per Clause 2.2.1</td>
</tr>
</tbody>
</table>

A5  Principal's Document Management System Tool clause 2.3.2

<table>
<thead>
<tr>
<th>Clause</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.3.2</td>
<td>Yes, the Principal will administer the Contract document deliverables using the Principal’s electronic document management tool.</td>
</tr>
<tr>
<td></td>
<td>The nominated electronic document management tool is Teambinder</td>
</tr>
</tbody>
</table>

A6  Monthly Reporting clause 2.4

<table>
<thead>
<tr>
<th>Clause</th>
<th>Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.4</td>
<td>A report is due Monthly</td>
</tr>
</tbody>
</table>

A7  Principal Provided Training clause 2.6

N/A

A8  Principal’s Configuration Change Control Process clause 3.2

<table>
<thead>
<tr>
<th>Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.2 (a)</td>
<td>Operate network integration under the remit of the CCB and must operate under the governance arrangements established by the CCB;</td>
<td>Yes</td>
</tr>
<tr>
<td>3.2 (b)</td>
<td>Submit to the Principal’s Representative, all Design Documentation, Configuration Materials and other Documents which are required for the Principal’s various submissions to the CCB and CMAAC;</td>
<td>Yes</td>
</tr>
<tr>
<td>3.2 (c)</td>
<td>Support the Principal in achieving successful approval through each of the Configuration Management Gates required.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### A9 Property clause 4

<table>
<thead>
<tr>
<th>Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.1</td>
<td>General property management requirements</td>
<td>Yes</td>
</tr>
<tr>
<td>4.2</td>
<td>Access</td>
<td>Yes</td>
</tr>
<tr>
<td>4.3</td>
<td>Surveys</td>
<td>Yes</td>
</tr>
<tr>
<td>4.4</td>
<td>Pre commencement property compliance checklist</td>
<td>Yes</td>
</tr>
<tr>
<td>4.5</td>
<td>Property design requirements</td>
<td>Yes</td>
</tr>
<tr>
<td>4.6</td>
<td>Design and construction within property boundaries</td>
<td>Yes</td>
</tr>
<tr>
<td>4.7</td>
<td>Construction phase monitoring</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### A10 Submission of the Property Records clause 4.1.3

The Contractor must provide the following records to the Property Representative:

<table>
<thead>
<tr>
<th>Required Record or Reference</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index of all property records noting issues/versions and where they are held</td>
<td>Yes</td>
</tr>
<tr>
<td>Qualifications/skills and competency records of Contractor's personnel (including subcontractors)</td>
<td>Yes</td>
</tr>
<tr>
<td>Induction and training records for Contractor's personnel and subcontractors</td>
<td>Yes</td>
</tr>
<tr>
<td>Property control and constraints maps (Worksite maps)</td>
<td>Yes</td>
</tr>
<tr>
<td>List of all adjoining property owners and details of all interaction / communications and complaints</td>
<td>Yes</td>
</tr>
<tr>
<td>Evidence of property inputs/outputs within the design development process including any sustainability initiatives</td>
<td>Yes</td>
</tr>
<tr>
<td>Surveillance, audit of subcontractors property performance and controls</td>
<td>Yes</td>
</tr>
<tr>
<td>Non conformance and non-compliance property reports and register</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### A11 Post-construction Property Condition Surveys clause 4.3.4

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Interval Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>At the following times, the Contractor must perform a post-construction condition survey on each property previously subject to a pre-construction property condition survey and construction phase monitoring.</td>
<td>1 month post Completion</td>
</tr>
</tbody>
</table>

### A12 Design & Construction within Property Boundaries clause 4.6

<table>
<thead>
<tr>
<th>Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>A13</td>
<td>Construction Phase Monitoring clause 4.7</td>
<td></td>
</tr>
<tr>
<td>-----</td>
<td>----------------------------------------</td>
<td></td>
</tr>
<tr>
<td><strong>General Requirement</strong></td>
<td><strong>Project Specific Requirement</strong></td>
<td></td>
</tr>
<tr>
<td>The Contractor must comply with the following project-specific requirements for construction phase monitoring.</td>
<td>Nil</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A14</th>
<th>Authority Approvals clause 5.1.1</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Applies?</strong></td>
</tr>
<tr>
<td>Clause 5.1.1 Authority Approvals</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A15</th>
<th>Planning and Environmental Compliance System clause 5.1.2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Applies?</strong></td>
</tr>
<tr>
<td>Use PECOMS to undertake self-regulation to confirm that all Professional Services Contractors' Activities are compliant with all Authority Approvals (including the EPL).</td>
<td>Yes</td>
</tr>
<tr>
<td>Implement a PECOMS reporting structure in addition to any other reporting requirements for the Contract and follow the applicable parts of &quot;TfNSW Guide to Compliance Monitoring and Reporting using PECOMS - 9TP-SD-012&quot;.</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A16</th>
<th>Contractor's Environmental Management System clause 5.2.2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Applies?</strong></td>
</tr>
<tr>
<td>(i) Is a Contractor's Environmental Management System accredited under ISO 14001:2004 required?</td>
<td>Yes</td>
</tr>
<tr>
<td>(ii) If No in (i) above, is a Contractor's Environmental Management System required.</td>
<td>N/A</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A17</th>
<th>Environmental Control Map clause 5.2.5</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Requirement</strong></td>
<td><strong>Applies?</strong></td>
</tr>
<tr>
<td>The Contractor must develop, implement and maintain Environmental Control Maps (ECMs)</td>
<td>Yes</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>A18</th>
<th>Sustainability Requirements clause 5.3.1 (a)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Add Clause</strong></td>
<td><strong>Requirement</strong></td>
</tr>
<tr>
<td>5.3.1 (a)</td>
<td>The Contractor's Activities must comply with the following compulsory initiatives outlined in the &quot;TfNSW&quot;</td>
</tr>
</tbody>
</table>
### Add Clause

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NSW Sustainable Design Guidelines</strong> to meet a minimum design rating:</td>
<td></td>
</tr>
<tr>
<td>a. C.1 Carbon footprint;</td>
<td></td>
</tr>
<tr>
<td>b. C.3 Five star appliances;</td>
<td></td>
</tr>
<tr>
<td>c. C.5 Renewable Energy;</td>
<td></td>
</tr>
<tr>
<td>d. C.9 Reduce waste to landfill;</td>
<td></td>
</tr>
<tr>
<td>e. C.13 Heritage conservation and enhancement;</td>
<td></td>
</tr>
<tr>
<td>f. C.16 Water efficient fittings;</td>
<td></td>
</tr>
<tr>
<td>g. C.17 Water efficient controls;</td>
<td></td>
</tr>
<tr>
<td>h. C.20 Noise management;</td>
<td></td>
</tr>
<tr>
<td>i. C.21 Community involvement in planning;</td>
<td></td>
</tr>
</tbody>
</table>

The Contractor’s Activities should comply with the following discretionary initiatives outlined in the **TfNSW NSW Sustainable Design Guidelines**:

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. 1.3 Power factor correction;</td>
<td></td>
</tr>
<tr>
<td>b. 1.5 Sub-metering;</td>
<td></td>
</tr>
<tr>
<td>c. 1.20 LED lights;</td>
<td></td>
</tr>
<tr>
<td>d. 1.22 Lighting scheme;</td>
<td></td>
</tr>
<tr>
<td>e. 1.25 Natural ventilation;</td>
<td></td>
</tr>
<tr>
<td>f. 1.40 Energy efficient HVAC;</td>
<td></td>
</tr>
<tr>
<td>g. 1.42 Power transmission;</td>
<td></td>
</tr>
<tr>
<td>h. 3.6 Re-use of structures;</td>
<td></td>
</tr>
<tr>
<td>i. 3.17 Low VOC paints and finishes;</td>
<td></td>
</tr>
<tr>
<td>j. 3.18 Low VOC adhesives and sealants;</td>
<td></td>
</tr>
<tr>
<td>k. 3.29 Segregation of waste;</td>
<td></td>
</tr>
<tr>
<td>l. 3.34 Prevent electrolysis;</td>
<td></td>
</tr>
<tr>
<td>m. 5.10 Planting;</td>
<td></td>
</tr>
<tr>
<td>n. 6.4 Avoid dangerous goods and hazardous materials;</td>
<td></td>
</tr>
<tr>
<td>o. 6.5 Apply noise control hierarchy;</td>
<td></td>
</tr>
<tr>
<td>p. 6.8 Avoid noise sensitive areas;</td>
<td></td>
</tr>
<tr>
<td>q. 6.16 Security and warning lights;</td>
<td></td>
</tr>
<tr>
<td>Add Clause</td>
<td>Requirement</td>
</tr>
<tr>
<td>------------</td>
<td>-------------</td>
</tr>
<tr>
<td></td>
<td>r. 6.17 Avoid glare and light pollution; s. 7.28 Bicycle lockers and/ or racks.</td>
</tr>
<tr>
<td></td>
<td>The Contractor must comply with the requirements listed, to the extent that it applies to the works undertaken by the Contractor.</td>
</tr>
</tbody>
</table>

**A19 Sustainability Requirements clause 5.3.1 (b)**

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
</table>

**A20 Sustainability Requirements clause 5.3.1 (c)**

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.1 (c)</td>
<td>The Contractor must prepare and submit to the Principal’s Representative for review in accordance with the Contract, a Greenhouse Gas Inventory Report using the “TfNSW Carbon Estimation and Reporting Tool (CERT)” at each of the following stages: a. SDR or equivalent design stage (20% design); b. CDR or equivalent design stage (100% design); and c. during the construction phase, 5 Business Days after the end of the periods: i. commencing 1 January and ending 30 June; and ii. commencing 1 July and ending 31 December.</td>
<td>Yes</td>
</tr>
</tbody>
</table>
### A21 Sustainability Requirements clause 5.3.1 (d)

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
</table>
| 5.3.1 (d)  | The Contractor must prepare and submit for review by the Principal’s Representative in accordance with the Contract, a Climate Risk Assessment (CRA) Report in accordance with the TfNSW Climate Risk Assessment Guidelines TP-SD-081 at the commencement of SDR (or equivalent) stage of design. This report must, as a minimum:  
   a. identify any project-specific climate change risks (utilising climate modelling data);  
   b. recommend risk mitigation measures to reduce the identified climate risks; and outline how risk mitigation measures will be addressed through the design process to reduce "extreme", "high" and "medium" risks to "low" where practicable; and  
   c. demonstrate how the recommended risk mitigation measures will carry through to the construction phase and could be applied in the operational phase of the project. | Yes |

### A22 Sustainability Requirements clause 5.3.1 (e)

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.1 (e)</td>
<td>The Contractor must submit to the Principal’s Representative for review in accordance with the Contract, a whole of life costing in accordance with &quot;ASA Standard T MU AM 01001 ST&quot; at the stage of design.</td>
<td>No</td>
</tr>
</tbody>
</table>

### A23 Sustainability Requirements clause 5.3.1 (f)

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.1 (f)</td>
<td>The Contractor must register the project with the Infrastructure Sustainability Council of Australia and obtain a rating under the Infrastructure Sustainability rating scheme.</td>
<td>No</td>
</tr>
</tbody>
</table>

### A24 Sustainability Requirements clause 5.3.1 (g)

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.1 (f)</td>
<td>The Contractor must demonstrate, by inclusion in the Quality Management System</td>
<td>No</td>
</tr>
</tbody>
</table>
Contract Management Plan or other relevant Management Plan their:

a. Corporate or project-specific equal employment opportunity Policy or Guideline and how its requirements will be implemented; and

b. A learning and development program that is specific to the project.

A25 GREP clause 5.3.2 (a)

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
</table>
| 5.3.2 (a)   | The Contractor must make available documents and evidence to assure the Principal that the Works and Contractor’s Activities are compliant with the requirements of the GREP policy. As a minimum, the Contractor must comply with the following requirements, to the extent they apply to the Works or Contractor’s Activities:  
(a) E3. Minimum standards for new electrical appliances and equipment;  
(b) E4. Minimum standards for new buildings, such that all new office buildings and fit-outs will be designed and built to a predicted performance of at least 4.5 stars for NABERS energy rating. For building types other than office buildings and fitouts, and where the facilities have projected development costs over $10 million, the buildings must be designed and built so that energy consumption is predicted to 10% lower than if built to minimum compliance with National Construction Code requirements;  
(c) W3. Minimum standards for new water using appliances; and  
(d) A2. Low Volatile Organic Compound surface coatings. | Yes |
A26 GREP clause 5.3.2 (b)

<table>
<thead>
<tr>
<th>Add Clause</th>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>5.3.2 (b)</td>
<td>The Contractor must prepare the following reporting tools in the form provided by the Principal and submitted to the Principal’s Representative for review:</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>(a) an inventory of non-road diesel vehicles to be used in the Contractor’s Activities, within 1 month of the date of the Contract, and subsequently, annually (where the duration of the Contract is of more than 1 year) – using TfNSW’s Air Emission Data Collection Workbook 9TP-FT-439; and</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(b) a “TfNSW Waste Data Collection Worksheet” (to be provided by the Principal) to be submitted annually, by no later than the last Friday of the second week in August.</td>
<td></td>
</tr>
</tbody>
</table>

A27 Working In and Adjacent to the Rail Corridor clause 8

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Applies?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does Clause 8 apply?</td>
<td>Yes</td>
</tr>
</tbody>
</table>

A28 Requirements for Additional Management Plans (refer to A1)

A 28.1 Construction and Site management plan

The Contractor must have in place, maintain and consistently apply until Final Completion, a Construction and Site Management Plan.

The timing and frequency for the initial and subsequent submissions of the Construction and Site Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in A1 of this Annexure A.

The Construction and Site Management Plan must describe the procedures and processes that the Contractor will undertake to plan and execute the Contractor’s Activities, in regards:

(a) detailing how the Contractor will comply with its obligations under the Contract in relation to the control, establishment, security, use and rehabilitation of the Site including the arrangements to provide access to, within and through the Site for the Principal, Other Contractors and any other person nominated by the Principal;
(b) describing procedures for the preparation and implementation of Management Plans before the start of the related Works;
(c) describing procedures for the management of Subcontractors;
(d) describing procedures for the Contractor’s mobilisation and demobilisation to carry out the Contractor’s Activities, including mobilisation and demobilisation of personnel, Construction Plant and equipment; and

(e) addressing the Site related management of interfaces with any Authority, stakeholders and Other Contractors.

A 28.2 Risk management plan

The Contractor must have in place, maintain and consistently apply until Final Completion, a Risk Management Plan that is in accordance with “ISO 31000 (Risk Management Guidelines and Principles)” and addresses the management of risks applicable to the undertaking of the Contractor’s Activities in delivery of the Works.

The timing and frequency for the initial and subsequent submissions of the Risk Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in A 1 of this Annexure A.

The Risk Management Plan must include details of the risk management process to be employed in the delivery of the Works and how TfNSW’s risk framework in Annexure B will be utilised as a tool for monitoring and managing the risk management process.

A 28.4 Traffic management plan

The Contractor must have in place, maintain and consistently apply until Final Completion, a Traffic Management Plan that addresses the Contractor’s obligations and responsibilities relating to the management of traffic.

The timing and frequency for the initial and subsequent submissions of the Traffic Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in A 1 of this Annexure A.

The Traffic Management Plan must describe the Contractor’s approach to satisfying the requirements in respect of:

- the management of traffic on the Site;
- WHS Legislation, the Roads Act 1993 (NSW) and all other Laws;
- Authority Approvals, including any from RMS, NSW Police, State Emergency or any local councils;
- the “RTA Traffic Control at Work Sites Manual”;
- “AS 1742.3-2009 Part 3 - Spoil Control Devices for Works on Roads”; and
- certificates, licences, consents, permits and approvals, including in respect of working hours.

The Traffic Management Plan must recognise, be consistent with and comply with the traffic configuration of the local road network as it exists at various stages during construction. The Traffic Management Plan must also describe as a minimum:
(g) detailed traffic management procedures for the Site, including those required to manage: modifications to existing roads/paths and traffic patterns; changes to public transport routes and services; impacts on residents and/or commercial enterprises; and the impact of construction traffic within the Site and outside the Site on the adjacent public road system;

(h) procedures to ensure the appropriate notification of relevant emergency services prior to implementing road and pedestrian traffic modifications such as street closures or changes to station access;

(i) the safety of commuters, pedestrians, cyclists and contract personnel;

(j) changes to traffic usage patterns (average, low and peak flows as well as special events or traffic embargoes);

(k) relevant detail from the Contractor’s Program including relevant commencement and Completion dates;

(l) management of emergencies and Incidents;

(m) requirements in relation to occupation of, or access through, private properties;

(n) coordination of traffic management with the Principal, Other Contractors and other parties;

(o) procedures for obtaining relevant certificates, licences, consents, permits and approvals; and

(p) expected number of truck movements each hour, based on the predicted maximum monthly spoil generation amounts and hours of operation of worksites.

A 28.5 Defects management plan

The Contractor must have in place, maintain and consistently apply until Final Completion, a Defects Management Plan that addresses the Contractor’s obligations and responsibilities relating to the management of Defects.

The timing and frequency for the initial and subsequent submissions of the Defects Management Plan to the Principal’s Representative for review in accordance with the Contract, is nominated in A1 of this Annexure A.

The Defects Management Plan must:

(a) address all contractual requirements for managing Defects;

(b) clearly specify the strategy for managing any Defects raised by the Contractor, the Principal, the Operator/Maintainer or Asset Owner;

(c) clearly specify the process in relation to joint inspection of review of the Works, and notifications to be provided prior to Completion of any Portion or the whole of the Works; and

(d) include a procedure for the management of Defects which must include the use of Scenario 6 software (refer Scenario – Defect Management 4TP-PR-158).
A 28.6 Commissioning management plan

The Contractor must have in place, maintain and consistently apply until Final Completion, a Commissioning Management Plan that addresses the Contractor's obligations and responsibilities relating to Commissioning.

The timing and frequency for the initial and subsequent submissions of the Commissioning Management Plan to the Principal's Representative for review in accordance with the Contract, is nominated in A1 of this Annexure A.

The Commissioning Management Plan must document systems and processes to ensure that the programming and coordinating of all Commissioning activities, including activities which may be carried out by or interface with third parties including Track Possessions are defined.

The Commissioning Management Plan must describe the Contractor's Activities in relation to the requirements in the Works Brief relating to Commissioning, Asset Handover and operational readiness.

The Commissioning Management Plan must also define the document submission requirements relating to the Configuration Materials in relation to Track Possessions, Asset Handover, the CCB process and Completion.

A 28.7 Audit management plan

The Contractor must have in place, maintain and consistently apply until Final Completion, an Audit Management Plan containing audit schedules and must prepare and submit audit reports to the Principal's Representative for review.

The timing and frequency for the initial and subsequent submissions of the Audit Management Plan to the Principal's Representative for review in accordance with the Contract, is nominated in A1 of this Annexure A.

The Audit Management Plan must outline the methodology, process and procedures adopted by the Contractor to assure itself that the requirements of the Contract are being met, including:

(a) preparation of risk based audit schedules for the Works and any Subcontractor's activities that also take account of previous audit outcomes;
(b) supply of competent and experienced resources to maintain the Audit Management Plan and implement the audit schedule;
(c) reporting, analysing and determining trends based on those audits;
(d) implementation of corrective and preventative actions as an outcome from those audits; and
(e) measures to assess the effectiveness of the corrective and preventative actions.
### A29 Project Specific Amendments to Standard Requirements

<table>
<thead>
<tr>
<th>Clause/Para/Line</th>
<th>Project Specific Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Replace all references to &quot;CDR&quot; or &quot;Critical Design Review&quot; with &quot;DDR&quot; and &quot;Detailed Design Review&quot; respectively.</td>
</tr>
</tbody>
</table>
ANNEXURE B – TfNSW Standard Risk Matrix
Table 1: TERM risk assessment – Consequence criteria

<table>
<thead>
<tr>
<th>Descriptor/Area</th>
<th>Impact Area</th>
<th>C1</th>
<th>C2</th>
<th>C3</th>
<th>C4</th>
<th>C5</th>
<th>C6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health and Safety (Injury and Disease)</td>
<td>Insignificant</td>
<td>Minor</td>
<td>Moderate</td>
<td>Major</td>
<td>1-10 major injuries requiring hospitalisation and numerous days lost, or short-term occupational illness.</td>
<td>Single fatality and/or 10-20 major injuries/permanent disabilities/chronic diseases.</td>
<td>Multiple fatalities and/or &gt;20 major injuries/permanent disabilities/chronic diseases.</td>
</tr>
<tr>
<td>Environment</td>
<td>No appreciable changes to environment and/or locally.</td>
<td>Change from normal conditions within environmental regulatory limits and environmental effects are within site boundaries.</td>
<td>Short-term and/or well-considered environmental effects. Minor remedial actions probably required.</td>
<td>Impacts external ecosystem and considerable remediation is required.</td>
<td>Long-term environmental impairment in neighboring or valued ecosystems. Extensive remediation required.</td>
<td>Irrecoverable large-scale environmental impact with loss of valued ecosystems.</td>
<td></td>
</tr>
<tr>
<td>Consumer Experience/Operational Reliability</td>
<td>Short duration disruptions affecting part of one transport mode.</td>
<td>Minor disruptions affecting several parts of one transport mode.</td>
<td>Serious disruptions affecting operations of one transport mode.</td>
<td>Major disruptions affecting operations of one transport mode with network-wide effects on one or more other modes of transport.</td>
<td>Short duration shutdowns or substantial disruptions affecting multiple transport modes with sector-wide cascading effects.</td>
<td>Extensive shutdowns or extended disruptions with economy-wide effects.</td>
<td></td>
</tr>
<tr>
<td>Government/ Stakeholder/Public Trust/ Confidence</td>
<td>Negative article in local media. No discernible reaction/apprehension. Goodwill, confidence and trust retained.</td>
<td>Unseen – Series of negative articles in local/national media. Confidence remains with some minor loss of goodwill or trust. Recoverable with little effort or cost. Some continuing scrutiny/attention.</td>
<td>Disappointment – Extended negative local/national media coverage. Confidence and trust diminished but are quickly recoverable at modest cost within existing budget and resources.</td>
<td>Concern – Short-term negative national/mass media coverage. Confidence and trust are diminished but are recoverable with time, staff effort and additional funding.</td>
<td>Displeasure – Extended negative national/mass media coverage. Confidence and trust are damaged but recoverable at considerable cost, time and staff effort.</td>
<td>Outrage – Material change in the public perception of the organisation. Confidence and trust are severely damaged, possibly irreparable, and full recovery both questionable and costly.</td>
<td></td>
</tr>
<tr>
<td>Regulatory/Legal Breach</td>
<td>Low-level non-compliance with legal and/or regulatory requirement or duty by individuals or TNSW.</td>
<td>Minor non-compliance with legal and/or regulatory requirement or duty. Investigation and/or report to authority.</td>
<td>Moderate non-compliance. Subject to comment and monitoring from applicable regulator. Small fine and no disruption to services.</td>
<td>Major breach resulting in enforcement action and/or restrictions. Substantial fine and no disruption to services.</td>
<td>Substantial breach resulting in prosecution, fines and/or liquidation. License or accreditation restricted or conditional affecting ability to operate.</td>
<td>Prosecution leading to imprisonment of TNSW executive. Loss of operating license.</td>
<td></td>
</tr>
<tr>
<td>Management Effort/ Organisational Fatigue</td>
<td>An event, the impact of which can be absorbed as part of normal activity.</td>
<td>An event, the impact of which can be absorbed but some additional management effort is required.</td>
<td>An event, the impact of which can be absorbed but much greater management effort is required.</td>
<td>Major event which can be absorbed, but substantial management effort is required.</td>
<td>Severe event which requires extensive management effort but can be survived.</td>
<td>Catastrophic event with the clear potential to lead to the collapse of the organisation.</td>
<td></td>
</tr>
<tr>
<td>Benefits Realisation of Initiative, Program or Project</td>
<td>No time delay with initiative or project, but it will incur a slight decrease in the benefits realised.</td>
<td>Minor delay with the initiative and/or a minor decrease in the benefits realised or minor delay on the project or another project, with no public implications.</td>
<td>Several delays with the initiative and/or moderate decrease in benefits realised, or completion date missed for non-critical path project.</td>
<td>Major delays with the initiative and/or major decrease in benefits realised or publicly announced portion/milestone missed or final completion date missed with demonstrable mitigating external circumstances.</td>
<td>Severe delays with initiative, which impacts across divisions and/or significant decrease in benefits realised, or publicly announced portion/milestone missed or final completion date missed on critical path project.</td>
<td>Failure to realise benefits of the initiative which adversely affects the enterprise-wide operations of TNSW, or publicly announced milestone or final completion date significantly missed on critical path project.</td>
<td></td>
</tr>
<tr>
<td>Budget, Costs or Revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Table 2: TERM risk assessment – Likelihood criteria

<table>
<thead>
<tr>
<th>Rating</th>
<th>L6</th>
<th>L5</th>
<th>L4</th>
<th>L3</th>
<th>L2</th>
<th>L1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Descriptor / Definition</td>
<td>Almost Unprecedented</td>
<td>Very Unlikely</td>
<td>Unlikely</td>
<td>Likely</td>
<td>Very Likely</td>
<td>Almost Certain</td>
</tr>
<tr>
<td>Qualitative Expectation</td>
<td>Not expected to ever occur during time of activity or project</td>
<td>Not expected to occur during the time of activity or project</td>
<td>More likely not to occur than occur during time of activity or project</td>
<td>More likely to occur than not occur during time of activity or project</td>
<td>Expected to occur occasionally during time of activity or project</td>
<td>Expected to occur frequently during time of activity or project</td>
</tr>
<tr>
<td>Quantitative Frequency</td>
<td>Less than once every 100 years</td>
<td>Once every 10 to 100 years</td>
<td>Once every 1 to 10 years</td>
<td>Once each year</td>
<td>1-10 times every year</td>
<td>10 times or more every year</td>
</tr>
</tbody>
</table>

### Table 3: TERM risk matrix

<table>
<thead>
<tr>
<th>Likelihood</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td>L1: Almost Certain</td>
<td>C: Insensitive, B: Minor</td>
</tr>
<tr>
<td>L2: Very Likely</td>
<td>C: Insensitive, B: Minor</td>
</tr>
<tr>
<td>L3: Likely</td>
<td>D: Minor, C: Moderate</td>
</tr>
<tr>
<td>L4: Unlikely</td>
<td>D: Minor, C: Moderate</td>
</tr>
<tr>
<td>L5: Very Unlikely</td>
<td>D: Minor, C: Moderate</td>
</tr>
<tr>
<td>L6: Almost Unprecedented</td>
<td>D: Minor, C: Moderate</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Risk Ratings</th>
<th>Consequence</th>
</tr>
</thead>
<tbody>
<tr>
<td>A - Very High</td>
<td>C6: Insignificant, C5: Minor</td>
</tr>
<tr>
<td>B - High</td>
<td>C4: Moderate</td>
</tr>
<tr>
<td>C - Medium</td>
<td>C3: Major</td>
</tr>
<tr>
<td>D - Low</td>
<td>C2: Severe, C1: Catastrophic</td>
</tr>
</tbody>
</table>
Table 4 TERM risk tolerance and responses table

<table>
<thead>
<tr>
<th>Risk rating</th>
<th>Response</th>
<th>Review frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Generally intolerable</td>
<td>Very high risks are generally intolerable and should be avoided except in extraordinary circumstances. Where the risk has health, safety or environmental consequences the activity must not be undertaken without the explicit approval of the Secretary TfNSW. An alternative solution must be found and all necessary steps must be taken to reduce the risk below this level without delay.</td>
<td>Monthly</td>
</tr>
<tr>
<td>Undesirable</td>
<td>High risks are undesirable. They can only be tolerated if it is not reasonably practicable to reduce the risk further. Where the risk has health, safety or environmental consequences the activity must not be undertaken without the explicit approval of the relevant Direct Report to the Secretary TfNSW who is to verify that all reasonably practicable treatments have been implemented. High risks are considered to be on the verge of being unacceptable and must be given immediate priority.</td>
<td>Monthly</td>
</tr>
<tr>
<td>Tolerable</td>
<td>Medium risks are tolerable if it is not reasonably practicable to reduce the risk further. Where a risk has health, safety or environmental consequences the activity should be reviewed to determine if the risk can be reduced further and whether all reasonable and practicable controls have been considered and/or applied. Additional treatment measures should be sought if significant benefit can be demonstrated and/or there is an additional treatment measure which is recognised as good practice in other like environments.</td>
<td>Two Monthly</td>
</tr>
<tr>
<td>Broadly acceptable</td>
<td>Low risks are considered to be broadly acceptable. Where the risk has health, safety or environmental consequences control measures should be effective, reliable and subject to appropriate monitoring. If options for further risk reduction exist and costs are proportionate to the benefits, then implementation of such measures should be considered. The risk and its treatments should be subject to appropriate degrees and forms of monitoring to ensure that it remains at this level.</td>
<td>Quarterly</td>
</tr>
<tr>
<td>Negligible risk</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ANNEXURE C – Pre-Commencement Property Compliance Checklist
# Issue | Circle relevant answer and add comment | Attachment
--- | --- | ---
1 | Has the Contractor been liaising with the Property Representative? | Y N NA
| | Comment: [insert text here] | |
2 | Have all properties affected by the project been identified? | Y N NA
| | Comment: [insert text here] | |
3 | Has a list of all affected properties been issued to the Principal's Representative? | Y N NA
| | Comment: [insert text here] | |
4 | Are all properties owned by the Principal? | Y N NA
| | Comment: [insert text here] | |
5 | Is access required to properties owned by other parties? | Y N NA
| | Comment: [insert text here] | |
6 | Are all agreements in place with other landowners to permit the Contractor to undertake the Works? | Y N NA
| | Comment: [insert text here] | |
7 | Have all surveys been conducted? | Y N NA
| | Comment: [insert text here] | |
8 | Have all surveys been cross-checked with the designs? | Y N NA
| | Comment: [insert text here] | |
9 | Do any of the proposed Works or Contractor's Activities fall outside the property / Site boundaries? | Y N NA
| | Comment: [insert text here] | |
10 | If so, has the Contractor got agreements to build on the adjoining land? | Y N NA
| | Comment: [insert text here] | |
11 | Are new easements, stratums, MOU's or WAD's with stakeholders required for the project? | Y N NA
| | Comment: [insert text here] | |
12 | Have any new easement, stratums, MOU's or WAD's been drafted and issued to the Principal's | Y N NA
<p>| | Comment: [insert text here] | |</p>
<table>
<thead>
<tr>
<th>#</th>
<th>Issue</th>
<th>Circle relevant answer and add comment</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Have all property Pre-construction Condition Surveys been conducted and submitted?</td>
<td>Y  N  NA  Comment: [insert text here]</td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>Has asset management been considered in design?</td>
<td>Y  N  NA  Comment: [insert text here]</td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>Are there any other property risks?</td>
<td>Y  N  NA  Comment: [insert text here]</td>
<td></td>
</tr>
</tbody>
</table>
ANNEXURE D – Environmental Records
### Environmental Records

The following lists the environmental records required by this TSR. All records must be made available to the Principal's Representative. Contractor must ensure that the Principal’s Representative has the latest version of the records at all times.

Where the Contractor is required to forward records to the Principal’s Representative, the Contractor must submit one original and three copies (one of which is unbound) of each document (including draft and final reports, specifications, drawings, plans, etc.) for the Principal’s review. In addition the Contractor must also submit an electronic copy on CD/DVD in PDF and native formats (such as Microsoft Word, Microsoft Excel, CAD in *.dwg or *.dgn) of documents.

<table>
<thead>
<tr>
<th>Required Record or Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Copies of all completed forms, templates required under the Codes and Standards, and applicable guidelines.</td>
</tr>
<tr>
<td>Contractor’s non compliance, incident, near miss, non conformance reports and register</td>
</tr>
<tr>
<td>Preventive and corrective action reports and register</td>
</tr>
<tr>
<td>Environmental audit reports</td>
</tr>
<tr>
<td>Environmental Control Maps</td>
</tr>
<tr>
<td>Index of all environmental records (prior to Completion)</td>
</tr>
<tr>
<td>Induction and training records</td>
</tr>
<tr>
<td>Records/checklists of inspection and testing</td>
</tr>
<tr>
<td>Records of environmental management reviews for the project</td>
</tr>
<tr>
<td>Register of equipment, calibration frequency and certificates</td>
</tr>
<tr>
<td>Surveillance, audit of Subcontractors environmental performance and controls</td>
</tr>
</tbody>
</table>
EXHIBIT B – WORKS BRIEF

Exhibit B – Works Brief

Project Name: Maintenance Facility Upgrade

Contract Number: ISD-16-5312

Document Number: 5131499_19
Date of Issue: 16 November 2016
Revision: Final
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1. Introduction

1.1 Purpose
This Works Brief provides a project overview and sets out the Contractor's responsibilities in respect of the upgrade to the Mortdale Maintenance Centre and the Works.

1.2 Works Brief components
The content of the Works Brief is subdivided into the following 3 sections:

(a) **Section 1: Introduction** – sets out the purpose of this Works Brief and provides an outline of the structure of the Works Brief and provides definitions;

(b) **Section 2: Project Overview** – provides a brief overview of the project and the Contractor's responsibilities;

(c) **Section 3: Specific Requirements** – sets out specific requirements for the Works;

(d) **Section 4: Maintenance Facility Site** – this contains a sketch showing the location of the Maintenance Facility Site including the shared facilities; and

(e) **Section 5: Existing Administration Building** – this includes drawing of the existing Mortdale Maintenance Centre Administration Building.

The Works Brief must be read in conjunction with all other parts of the Contract.

1.3 Definitions
Unless the context otherwise provides, words, phrases and abbreviations used in this Works Brief have the meaning given to them in the General Conditions or the TSR or as set out in Table 1 below.

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maintenance Facility Site</td>
<td>Means the area described as the Maintenance Facility Site in Figure 1 and further described in section 2.3.</td>
</tr>
<tr>
<td>TLS</td>
<td>Through Life Support</td>
</tr>
</tbody>
</table>
2. Project Overview

2.1 Project overview

Under the Delivery Deed and TLS Deed, the Contractor is responsible for the design, development, manufacture, testing, commissioning and TLS of 24 new passenger Sets.

To facilitate the testing, commissioning and TLS of the Sets by the Contractor, the Operator has designated space for the Maintenance Facility Site, within the Mortdale Maintenance Centre.

The Contractor must determine, design, plan and deliver any changes to the Maintenance Facility Site that it considers necessary in order to deliver the TLS Phase Activities (as defined in the TLS Deed) for the Sets.

Section 2 of this document will set out the key features relating to the Maintenance Facility Site.

Section 3 of this document sets out specific requirements for the Works, including the design life of elements of the Works.

The Contractor's Outline Design has been prepared by the Contractor and describes in detail the Works to be designed and constructed by the Contractor.

The Maintenance Facility Site is located within the Mortdale Maintenance Centre.

The Maintenance Facility Site is adjacent to the Illawarra Line (refer figure 1 below).

The Operator will continue to occupy those parts of the Mortdale Maintenance Centre which are not designated as the Maintenance Facility Site.

The approximate area allocated to the Contractor as the Maintenance Facility Site within the Mortdale Maintenance Centre is indicated in figure 1 below.

A further drawing is provided at Section 4 (ref: Sketch TF18 MF01) showing the location of the Maintenance Facility Site including the shared facilities.

TfNSW has previously undertaken preliminary investigation into concepts to improve the functionality of the Mortdale Maintenance Centre. The outputs from these studies have been provided as Information Documents and Materials.
3. **Specific requirements**

### 3.1 Design life

The design life is the period within which an element, subject to a scheduled maintenance program, must continue to meet the performance and technical requirements of the element.

The Contractor must design the Works so as to ensure that the various elements of the Works have a design life as follows:

<table>
<thead>
<tr>
<th>Asset elements of the Works</th>
<th>Design Life (years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Structural elements including retaining structures, footbridge, lift shafts, foundations, culverts, building transfer beams and other structural load bearing elements</td>
<td>100</td>
</tr>
<tr>
<td>Concrete infill elements (i.e. between permanent linings and existing surfaces)</td>
<td>100</td>
</tr>
<tr>
<td>Drainage structures and inaccessible pipe systems</td>
<td>100</td>
</tr>
<tr>
<td>Embankments and cuttings</td>
<td>100</td>
</tr>
<tr>
<td>Permanent ground anchors</td>
<td>100</td>
</tr>
<tr>
<td>Waterproofing systems</td>
<td>100</td>
</tr>
<tr>
<td>Non-load bearing building elements</td>
<td>50</td>
</tr>
<tr>
<td>Elastomeric bridge bearings</td>
<td>50</td>
</tr>
<tr>
<td>Foundation structures and any permanent connections for all artwork, signage and wayfinding systems</td>
<td>50</td>
</tr>
<tr>
<td>Fire systems – Suppression, hydrant and hose reel systems (fixed parts)</td>
<td>50</td>
</tr>
<tr>
<td>Sign support structures and other roadside furniture</td>
<td>50</td>
</tr>
<tr>
<td>Concrete road pavements</td>
<td>40</td>
</tr>
<tr>
<td>External building roof finishes, glazing and external cladding</td>
<td>30</td>
</tr>
<tr>
<td>External pedestrian paving (including substrate and paving finish)</td>
<td>30</td>
</tr>
<tr>
<td>High voltage switchboards, transformers and electrical systems</td>
<td>30</td>
</tr>
<tr>
<td>Lifts (excluding shaft)</td>
<td>30</td>
</tr>
<tr>
<td>Low voltage switchboards, lighting fixtures and electrical systems</td>
<td>30</td>
</tr>
<tr>
<td>Mechanical ventilation systems</td>
<td>30</td>
</tr>
</tbody>
</table>
### Asset elements of the Works

<table>
<thead>
<tr>
<th>Asset elements</th>
<th>Design Life (years)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drainage pump systems and associated electrical equipment</td>
<td>30</td>
</tr>
<tr>
<td>All other pump systems and associated electrical equipment</td>
<td>30</td>
</tr>
<tr>
<td>Primary support systems (excluding foundation systems or panel faces/fascia panels)</td>
<td>30</td>
</tr>
<tr>
<td>Cabling, conduits and support systems</td>
<td>25</td>
</tr>
<tr>
<td>Communication systems, public information systems and security systems</td>
<td>20</td>
</tr>
<tr>
<td>External furniture and fittings</td>
<td>20</td>
</tr>
<tr>
<td>Fences and security/fire gates or doors</td>
<td>20</td>
</tr>
<tr>
<td>Fire systems – automatic detection and hoses</td>
<td>20</td>
</tr>
<tr>
<td>Flexible (asphalt) road pavements, car park surfaces, external paving, footpaths and hard landscaping features</td>
<td>20</td>
</tr>
<tr>
<td>Internal building finishes and fixtures</td>
<td>20</td>
</tr>
<tr>
<td>Artwork, signage and wayfinding - panel faces and fascia panels (internal and external)</td>
<td>20</td>
</tr>
<tr>
<td>Control systems</td>
<td>15</td>
</tr>
</tbody>
</table>

The design life of all other system and elements to be constructed are to be consistent with elements for a 100 year design life for transport assets as defined in the ASA Charter.

### 3.2 Testing, commissioning and operational readiness

#### 3.2.1 Testing and verification

**General requirements**

The Contractor must plan and implement an inspection and testing regime to verify that the Works have been delivered in accordance with the requirements of the Contract and the Design Documentation.

**Specific requirements**

Without limiting or otherwise restricting the Contractor’s obligations under the Contract, the Contractor must identify the tests it proposes to verify that the Works have been delivered in accordance with the requirements of the Contract.

Each test the Contractor is proposing must include the following information:

- (a) name of test;
- (b) any specifications or requirements for that test that are in addition to those set out in the Contract; and
- (c) timeframes for conducting the test.

#### 3.2.2 Commissioning and Operational Readiness activities

The Contractor will be responsible for managing all Operational Readiness activities. The Contractor must have in place systems, plans and processes to ensure that the
programming, coordinating and executing of all Operational Readiness activities that are required to be carried out for the Works, including activities which may be carried out by third parties, are managed in accordance with the requirements of the Contract to enable the effective operation of the Works.

### 3.3 Codes and Standards

Without limiting any other requirement in this Contract, the Contractor must design and construct the Works in accordance with:

(a) ASA Standards, refer to www.asa.transport.nsw.gov.au/ts;
(b) WHS Legislation;
(c) Rail Safety National Law;
(d) Building Code of Australia;
(e) Disability Discrimination Act, including but not limited to:
   - i. Disability Standards for Accessible Public Transport – 2002;
   - ii. Disability (Access to Premises – Buildings) Standards – 2010; and
(f) City Council(s) Codes, Standards and Guidelines for works on Council property;
(g) Roads & Maritime Services codes and standards as applicable to the Works;
(h) requirements of applicable Authorities; and
(i) applicable Australian standards.

### 3.4 Design Documentation

For the avoidance of doubt, the Contractor must prepare and submit all Design Documentation and other deliverables, including Management Plans and programs, required under the Contract, in accordance with the requirements relating to that relevant deliverable as set out in the Contract, including the TSR.

The Contractor must develop and complete the design through the design stages described in its Initial Design Management Plan, appended as Attachment A to this Works Brief. The Contractor must also at each design stage submit, at a minimum, the design packages identified in its Initial Design Management Plan.

#### 3.4.1 Management of Electrical Hazards

With regard to management of electrical hazards in the Maintenance Facility, the detailed design phase submissions must include:

(a) a comprehensive review and development of design objectives, safety requirements and initial operating procedures/processes;
(b) the results of a comprehensive hazard analysis process and HAZOP workshops conducted to provide detailed justification of the safety SFAIRP associated with the systems of safe work; and
(c) demonstration that the non-exhaustive checklist provided in section 3.4.2 has received due consideration in the design process.

#### 3.4.2 Electrical Hazard Checklist

The following non-exhaustive electrical hazard checklist for maintenance facilities is intended as a guide for application to the design and development of electric rolling stock maintenance...
facilities and the related site operating practices. It is intended that these topics be considered in detail at the design stage as part of the process to ensure harmonisation between operating protocols and hardware design. The list is non-exhaustive, may include items which do not apply to a specific facility, and is intended to support, not to replace, proper safety in design practices.

Table 3: Electrical Hazard Checklist

<table>
<thead>
<tr>
<th>Electrical Hazard Checklist for Maintenance Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>(d) How is the interfacing of the traction return system to be managed with respect to:</td>
</tr>
<tr>
<td>i. touch potentials within the facility?</td>
</tr>
<tr>
<td>ii. electrically driven plant sourced from the building supply?</td>
</tr>
<tr>
<td>(e) How will the traction return cabling and the requirements for the safety earthing within the facility be coordinated?</td>
</tr>
<tr>
<td>(f) How will a train enter the facility? Will it be self-propelled or moved by way of a shunt tractor? What electrical hazards does this generate and how will these be controlled?</td>
</tr>
<tr>
<td>(g) Will maintenance tests require the train to be 'live' at any time (e.g. Power against brake test)? What electrical hazards does this generate and how will these be controlled?</td>
</tr>
<tr>
<td>(h) How will the importation of traction return current be prevented from flowing into the building's earthing system when electrical plant is attached to or touching the train?</td>
</tr>
<tr>
<td>(i) How will touch potentials between train and structure be managed within the facility?</td>
</tr>
<tr>
<td>(j) How will maintenance practices prevent an isolation point being bridged by a train / bogie / pantograph / tool / ladder / other object?</td>
</tr>
<tr>
<td>(k) How will touch potentials within the facility be kept to statutory limits?</td>
</tr>
<tr>
<td>(l) How will the OHW be proved dead before earthing?</td>
</tr>
<tr>
<td>(m) How will safe access be granted to the high level platforms?</td>
</tr>
<tr>
<td>(n) With the swing away OHW spanning only part of a train, how is the electrical isolation and electrical safety assured for the portion of the train being worked on?</td>
</tr>
<tr>
<td>(o) What safety assurances are to be instituted when one road is isolated and an adjacent road (or continuation of the same road) is deemed as live?</td>
</tr>
</tbody>
</table>

Issues to be considered: Design Issues

| (a) Touch potentials between train and structure |
| (b) Positioning of isolating glued insulated joints in alignment to the isolation point in the OHW |
| (c) Rails within the facility to be insulated and isolated from earth |
| (d) Coordination of traction return bonding and the earth connections of plant and equipment |
| (e) Signage |
| (f) The means to prevent access to an isolated road (points locked to the away direction or derailler) |
Electrical Hazard Checklist for Maintenance Facilities

(g) The failsafe interlocking between the various sub-systems:
   i. Swing away OHW
   ii. Gantry crane
   iii. Bogie drop table (where installed)
   iv. Car Jacks
   v. Floor level GPO's
   vi. Means of road isolation

(h) Voltage monitoring of the rail volts to earth

(i) Climbing prevention barriers (OHW structures, doors and high level access gateways)

(j) The use of engineered defences in preference to procedural controls

Issues to be considered: Isolation Issues

(a) Ensuring pantographs down before switching
(b) Testing of OHW as being dead before connecting to earth (rail)
(c) Indication of road status (presently the switching of red / green lights)
(d) Ensuring that the isolation points are not breached once the road has been isolated

Issues to be considered: Maintenance Issues

(a) Maintenance of the lockout system, Voltage monitor, cabling to rail / earth
(b) Staff training in the lockout system including accreditation to switch OHW
(c) Key management within the facility, coordination with the Sydney Trains system (non-duplication) and management of lost / damaged keys

3.5 Operation and Maintenance Manual

As a condition precedent to Completion of the Works, the Contractor must prepare and submit an operation and maintenance manual that sets out the maintenance and operating procedures required for the Maintenance Facility Site.
Attachment A Initial Design Management Plan

<table>
<thead>
<tr>
<th>Title/Subject</th>
<th>File name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Management</td>
<td>B3.4 - Design Management.pdf</td>
</tr>
</tbody>
</table>
Refer to CD titled:

Sydney Growth Trains Project
ISD-16-5312C
MAINTENANCE FACILITY WORKS DEED
Exhibit B Works Brief – Attachments A-D
Exhibit H Contractor’s Outline Design
Attachment B Initial Construction and Site Management Plan

<table>
<thead>
<tr>
<th>Title/Subject</th>
<th>File name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Methodology</td>
<td>B3.5 - Construction Methodology.pdf</td>
</tr>
</tbody>
</table>
Refer to CD titled:

Sydney Growth Trains Project
ISD-16-5312C
MAINTENANCE FACILITY WORKS DEED
Exhibit B Works Brief – Attachments A-D
Exhibit H Contractor's Outline Design
Attachment C Initial Construction Environmental Management Plan

<table>
<thead>
<tr>
<th>Title/Subject</th>
<th>File name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Management and Community Engagement</td>
<td>B3.7 - Environmental Management and Community Engagement.pdf</td>
</tr>
</tbody>
</table>
Refer to CD titled:

Sydney Growth Trains Project
ISD-16-5312C
MAITNENANCE FACILITY WORKS DEED
Exhibit B Works Brief – Attachments A-D
Exhibit H Contractor’s Outline Design
Attachment D Initial System Safety Plan

<table>
<thead>
<tr>
<th>Title/Subject</th>
<th>File name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safety Assurance</td>
<td>B3.6 - Safety Assurance.pdf</td>
</tr>
</tbody>
</table>
Refer to CD titled:

Sydney Growth Trains Project
ISD-16-5312C
MAITNENANCE FACILITY WORKS DEED
Exhibit B Works Brief – Attachments A-D
Exhibit H Contractor's Outline Design
EXHIBIT C – PRINCIPAL’S INSURANCE POLICIES
EXHIBIT D – PLANNING APPROVALS ANTICIPATED CONDITIONS

1. Abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>CEMP</td>
<td>Construction environmental management plan</td>
</tr>
<tr>
<td>CLM Act</td>
<td>Contaminated Land Management Act 1997 (NSW)</td>
</tr>
<tr>
<td>CLP</td>
<td>Community liaison plan</td>
</tr>
<tr>
<td>EIA</td>
<td>Environmental impact assessment (as identified in the relevant Conditions of Approval)</td>
</tr>
<tr>
<td>EPA</td>
<td>NSW Environment Protection Authority</td>
</tr>
<tr>
<td>EP&amp;A Act</td>
<td>Environmental Planning and Assessment Act 1979 (NSW)</td>
</tr>
<tr>
<td>EPL</td>
<td>Environment protection licence issued by the EPA under the Protection of the Environment Operations Act 1997 (NSW)</td>
</tr>
<tr>
<td>EMR</td>
<td>Environmental management representative</td>
</tr>
<tr>
<td>ISO</td>
<td>International Standards Organisation</td>
</tr>
<tr>
<td>OEH</td>
<td>NSW Office of Environment and Heritage</td>
</tr>
<tr>
<td>OOHWP</td>
<td>Out of hours work protocol</td>
</tr>
<tr>
<td>POEO Act</td>
<td>Protection of the Environment Operations Act 1997 (NSW)</td>
</tr>
<tr>
<td>PMEM</td>
<td>Principal Manager Environment Management, TfNSW (or nominated delegate)</td>
</tr>
<tr>
<td>PMS</td>
<td>Principal Manager Sustainability, TfNSW (or nominated delegate)</td>
</tr>
</tbody>
</table>
2. Definitions

Approval
Has the meaning given in the TLS Deed.

classification
Where used, includes all work in respect of the construction of the Works.

Contract Term
Has the meaning given in the TLS Deed.

equipment work
Includes works to avoid loss of life, damage to external property, utilities and infrastructure, prevent immediate harm to the Environment, Contamination of land or damage to a heritage (indigenous or non-indigenous) item.

Environmental Law
Has the meaning given in the TLS Deed.

Graffiti
Has the meaning given in the Delivery Deed.

environmental management representative
An independent environmental representative appointed to the Project or a delegate nominated by TfNSW.

Incident
Means a set of circumstances that:

(a) causes or threatens to cause material harm to the Environment;

(b) breaches or exceeds the limit or performance measures/criteria in the Planning Approval; or

(c) breaches or exceeds the limit or performance measures/criteria in any Environmental Law.

Initial Fleet
Has the meaning given in the Delivery Deed.

Maintenance Facility Licence
Has the meaning given in the TLS Deed.

Maintenance Facility Site
Has the meaning given in the Works Brief.

noise sensitive receiver
In addition to residential dwellings, noise sensitive receivers include, but are not limited
to, hotels, entertainment venues, pre-schools and day care facilities, educational institutions (e.g. schools, TAFE colleges), health care facilities (e.g. nursing homes, hospitals), recording studios, places of worship/religious facilities (e.g. churches), and other noise sensitive receivers identified in the EIA.

**Operation**
Means the operation of the Maintenance Facility Site but does not include commissioning trials of equipment or temporary use of parts of the Maintenance Facility Site during construction or maintenance.

**Project Activities**
Has the meaning given in the Delivery Deed.

**reasonable and feasible**
Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. Feasible relates to engineering considerations and what is practical to build. Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and nature and extent of potential improvements.

**Supplier** has the meaning given in the TLS Deed.

**the Project**
The construction and operation of the project as described in the EIA.

**the Proponent**
A person or body proposing to carry out an activity under Part 5 of the EP&A Act. In the case of the Project, the Proponent is TfNSW.

### 3. General assumptions

1. The Works would be subject to an assessment and determination under Part 5 of the EP&A Act. The Planning Approvals for the construction and operation of the Maintenance Facility Site will comprise more than one environment impact assessment process (i.e. a staged planning approval process).

2. The Contractor will need to comply with the conditions of the Planning Approvals which are applicable to the Contractor's Activities. The conditions of the Planning Approvals will be made available to the Contractor upon determination of the respective Planning Approval under the EP&A Act.

3. The Works Planning Approval would permit the construction of the Works. The conditions listed in the table below as relating to the "construction" phase are intended to be conditions of the Works Planning Approval.

4. The Operations Planning Approval would permit the operation of the Maintenance Facility Site for rolling stock maintenance and repair at the site. The conditions listed in the table below as relating to the "operation" phase are intended to be conditions of the Operations Planning Approval. For the purposes of the Operations Planning Approval, references to "Contractor" in the table below will be taken to mean the Supplier under the TLS Deed.
5. The Works would be constructed on land owned by RailCorp and operated and maintained by the Supplier under the TLS Deed (who will have obtained the requisite accreditation from ONRSR) for the duration of the Contract Term.

6. It is envisaged that the Operations Planning Approval would permit operation of the Maintenance Facility Site on a 24 hours per day, 7 days per week basis on the basis that the Supplier implements all reasonable and feasible noise mitigation measures to minimise noise impacts to meet required levels which will be identified in the Operations Planning Approval.

<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td></td>
</tr>
<tr>
<td>1. Terms of approval</td>
<td>SHARED CONSTRUCTION and OPERATION</td>
</tr>
<tr>
<td>The Project shall be carried out generally in accordance with the environmental impact assessment (EIA) for this Project, which comprises the following documents:</td>
<td></td>
</tr>
<tr>
<td><strong>DOCUMENT</strong></td>
<td><strong>AUTHOR</strong></td>
</tr>
<tr>
<td>[Insert project name] Project – Review of Environmental Factors</td>
<td>[author]</td>
</tr>
<tr>
<td>[Insert project name] Project – Submissions Report [if relevant]</td>
<td>[author]</td>
</tr>
<tr>
<td>[Insert project name] Project – Determination Report</td>
<td>TfNSW</td>
</tr>
<tr>
<td>In the event of an inconsistency between these conditions and the EIA, these conditions will prevail to the extent of the inconsistency.</td>
<td></td>
</tr>
<tr>
<td>2. Statutory requirements</td>
<td>CONTRACTOR CONSTRUCTION and OPERATION</td>
</tr>
<tr>
<td>These conditions do not relieve the Proponent of any obligation to obtain all other licences, permits, Approvals and land owner consents from any Authority and land owners pursuant to any Law for the Project. The Proponent shall comply with the terms and conditions of such licences, permits, Approvals and permissions.</td>
<td></td>
</tr>
<tr>
<td>3. Project modifications</td>
<td>SHARED CONSTRUCTION and OPERATION</td>
</tr>
<tr>
<td>Any modification to the Project as approved in the EIA would be subject to further assessment. This assessment would need to demonstrate that any environmental impacts resulting from the modifications have been minimised. The assessment shall be subject to approval under delegated authority by TfNSW or as required under the EP&amp;A Act. The Proponent shall comply with any additional requirements from the assessment of the project</td>
<td></td>
</tr>
<tr>
<td>Condition</td>
<td>Responsibility and Project Phase</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------------------------</td>
</tr>
<tr>
<td>modification.</td>
<td></td>
</tr>
</tbody>
</table>

### Communications

**4 Community liaison plan**

The Proponent shall develop and implement a community liaison plan (CLP) to engage with government agencies, relevant councils, landowners, community members and other relevant stakeholders (such as utility and service providers, bus companies and businesses) where required. The CLP shall comply with the obligations of these conditions and should include, but not necessarily be limited to:

- **(a)** details of the protocols and procedures for disseminating information and liaising with the community and other key stakeholders about construction activities (including timing and staging) and any associated impacts during the construction period

- **(b)** stakeholder and issues identification and analysis

- **(c)** procedures for dealing with complaints or disputes and response requirements, including advertising the 24 hour construction response line number

- **(d)** details (including a program) of training for all employees, Proponents and sub-Proponents on the requirements of the CLP.

Sub-plans to the CLP will be developed as required. These sub-plans will detail site-specific consultation and communication requirements for construction works that impact residents, other stakeholders and businesses. They will also identify further mitigation measures and processes to reduce construction impacts.

The CLP shall be prepared to the satisfaction of the Director Community Engagement prior to the commencement of construction and implemented, reviewed and revised as appropriate during construction of the Project.

---

**5 Community notification and liaison**

<table>
<thead>
<tr>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>SHARED.</td>
</tr>
</tbody>
</table>

**CONSTRUCTION**
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>The local community shall be advised of any activities related to the Project with the potential to impact upon them.</td>
<td>CONSTRUCTION</td>
</tr>
<tr>
<td>Prior to any site activities commencing and throughout the Project duration, the community is to be notified of works to be undertaken, the estimated hours of construction and details of how further information can be obtained (i.e. contact telephone number/email, website, newsletters etc.) including the 24 hour construction response line number.</td>
<td></td>
</tr>
<tr>
<td>Construction-specific impacts including information on traffic changes, access changes, detours, services disruptions, public transport changes, high noise generating work activities and work required outside the nominated working hours shall be advised to the local community at least seven (7) days prior to such works being undertaken or other period as agreed to by the Director Community Engagement or as required by the EPA (where an EPL is in effect).</td>
<td></td>
</tr>
<tr>
<td><strong>6 Website</strong></td>
<td>SHARED</td>
</tr>
<tr>
<td>The Proponent shall provide electronic information (or details of where hard copies of this information may be accessed by members of the public) related to the Project, on dedicated pages within its existing website, including:</td>
<td>CONSTRUCTION</td>
</tr>
<tr>
<td>(a) a copy of the documents referred to in any Approval</td>
<td></td>
</tr>
<tr>
<td>(b) a list of environmental management reports that are publicly available</td>
<td></td>
</tr>
<tr>
<td>(c) 24 hour contact telephone number for information and complaints.</td>
<td></td>
</tr>
<tr>
<td>All documents must be compliant with the Web Content Accessibility Guidelines 2.0.</td>
<td></td>
</tr>
<tr>
<td><strong>7 Complaints management</strong></td>
<td>SHARED</td>
</tr>
<tr>
<td>The Proponent shall set up a 24 hour construction response line number.</td>
<td>CONSTRUCTION</td>
</tr>
<tr>
<td>Details of all complaints received during construction are to be recorded on a complaints register. A verbal response to phone enquiries on what action is proposed to be undertaken is to be provided to the complainant within two (2) hours during all times construction is being undertaken and within 24 hours during non-construction times (unless the complainant agrees otherwise). A verbal response to written complaints (email/letter) should be provided within 48 hours of receipt of the</td>
<td></td>
</tr>
<tr>
<td>Condition</td>
<td>Responsibility and Project Phase</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Communication. A detailed written response is to be provided to the complainant within seven (7) calendar days for verbal and/or written complaints. Information on all complaints received during the previous 24 hours shall be forwarded to the EMR each working day.</td>
<td></td>
</tr>
<tr>
<td>Environmental management</td>
<td></td>
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<tr>
<td>8 Construction environmental management plan</td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td>The Proponent shall prepare a CEMP prior to commencement of construction which addresses the following matters, as a minimum:</td>
<td></td>
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<tr>
<td>(a) traffic and pedestrian management (in consultation with the relevant roads authority)</td>
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<tr>
<td>(b) noise and vibration management</td>
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<tr>
<td>(c) water and soil management</td>
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<tr>
<td>(d) air quality management (including dust suppression)</td>
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<tr>
<td>(e) indigenous and non-indigenous heritage management</td>
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<tr>
<td>(f) flora and fauna management</td>
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<tr>
<td>(g) storage and use of Hazardous Materials</td>
<td></td>
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<tr>
<td>(h) Contaminated land management (including acid sulphate soils)</td>
<td></td>
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<tr>
<td>(i) weed management</td>
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<tr>
<td>(j) waste management</td>
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<tr>
<td>(k) bushfire risk</td>
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<tr>
<td>(l) sustainability</td>
<td></td>
</tr>
<tr>
<td>(m) environmental incident reporting and management procedures</td>
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<tr>
<td>(n) non-compliance and corrective/preventative action procedures</td>
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</tr>
<tr>
<td>Condition</td>
<td>Responsibility and Project Phase</td>
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<tr>
<td>----------------------------------------------------------------------------</td>
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</tr>
<tr>
<td><strong>The CEMP shall:</strong></td>
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</tr>
<tr>
<td>(a) comply with the conditions of this Approval, conditions of any licences, permits or other Approvals issued by government authorities for the Project, all Law, and accepted best practice management</td>
<td></td>
</tr>
<tr>
<td>(b) comply with the relevant requirements of the Guideline for Preparation of Environmental Management Plans (Department Infrastructure, Planning and Natural Resources, 2004)</td>
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<tr>
<td>(c) include an environmental policy</td>
<td></td>
</tr>
<tr>
<td><strong>The Proponent shall:</strong></td>
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<tr>
<td>(a) consult with government agencies and relevant service/utility providers as part of the preparation of the CEMP</td>
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<tr>
<td>(b) submit a copy of the CEMP to the EMR for review</td>
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<tr>
<td>(c) submit a copy of the CEMP to the PMEM (or nominated delegate) for approval</td>
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<tr>
<td>(d) review and update the CEMP at regular intervals, and in response to any actions identified as part of the EMR’s audit of the document</td>
<td></td>
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<tr>
<td>(e) ensure updates to the CEMP are be made within 7 days of the completion of the review or receipt of actions identified by any EMR audit of the document, and be submitted to the EMR for approval</td>
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</tbody>
</table>

The CEMP must be approved by the PMEM prior to the commencement of construction work associated with the Project.

<table>
<thead>
<tr>
<th>9</th>
<th><strong>Environmental controls map</strong></th>
<th>CONTRACTOR</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>The Proponent shall prepare an environmental controls map (ECM) in accordance with TfNSW’s Guide to Preparing ECMs (3TP-SD-015) prior to the commencement of construction for implementation for the duration of construction. The ECM is to be endorsed by the EMR and may be prepared in stages as set</td>
<td>CONSTRUCTION</td>
</tr>
</tbody>
</table>
Condition

The Proponent shall submit a copy of the ECM to the EMR for review and endorsement. The EMR is to be given a minimum period of 7 days to review and endorse the ECM. Following receipt of the EMR's endorsement, the ECM shall be submitted to the PMEM (or nominated delegate) for approval, at least 14 days prior to commencement of construction (or such time as is otherwise agreed to by the PMEM).

The ECM shall be prepared as a map – suitably enlarged (e.g. A3 size or larger) for mounting on the wall of a site office and included in site inductions, supported by relevant written information.

Updates to the ECM shall be made within 7 days of the completion of the review or receipt of actions identified by any EMR audit of the document, and be submitted to the EMR for approval.

10 Environmental management representative

Prior to the commencement of construction, the PMEM shall appoint an EMR for the duration of the construction period for the Project.

The EMR shall provide advice to the PMEM in relation to the environmental compliance and performance of the Project. The EMR shall have responsibility for:

(a) considering and advising the Proponent on matters specified in these conditions and compliance with such

(b) reviewing and where required by the PMEM, providing advice on the Project's induction and training program for all persons involved in the construction activities and monitoring implementation

(c) periodically auditing the Project's environmental activities to evaluate the implementation, effectiveness and level of compliance of on-site construction activities with authority approvals and licences, the CEMP and associated plans and procedures, including carrying out site inspections weekly, or as required by the PMEM

(d) reporting weekly to the Proponent, or as
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
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</thead>
<tbody>
<tr>
<td>required by the PMEM</td>
<td>(e) issuing a recommendation to the Proponent for work to stop immediately, if in the view of the EMR circumstances so require. The stop work recommendation may be limited to specific activities if the EMR can easily identify those activities</td>
</tr>
<tr>
<td>(f) requiring reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts</td>
<td>(g) reviewing corrective and preventative actions to ensure the implementation of recommendations made from the audits and site inspections</td>
</tr>
<tr>
<td>(h) providing reports to the Proponent on matters relevant to the carrying out of the EMR role as necessary</td>
<td>(i) where required by the PMEM, providing advice on the content and implementation of the CEMP and environmental controls map (ECM) in accordance with the conditions</td>
</tr>
<tr>
<td>(j) reviewing and approving updates to the CEMP</td>
<td>The EMR shall be available during construction activities to inspect the site(s) and be present on-site as required.</td>
</tr>
</tbody>
</table>

### Hours of work

<table>
<thead>
<tr>
<th>11 Standard construction hours</th>
<th>CONTRACTOR CONSTRUCTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction activities shall be restricted to the hours of 7:00 am to 6:00 pm (Monday to Friday); 8:00 am to 1:00 pm (Saturday) and at no time on Sundays and public holidays except for the following works which are permitted outside these standard hours:</td>
<td></td>
</tr>
<tr>
<td>(a) any works which do not cause noise emissions to be more than 5dBA higher than the rating background level at any nearby residential property and/or other noise sensitive receivers</td>
<td>(b) out of hours work identified and assessed in</td>
</tr>
<tr>
<td>Condition</td>
<td>Responsibility and Project Phase</td>
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<tr>
<td>the EIA or the approved OOHWP</td>
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<tr>
<td>(c) the delivery of plant, equipment and materials which is required outside these hours as requested by police or other authorities for safety reasons and with suitable notification to the community as agreed by the PMEM</td>
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</tr>
<tr>
<td>(d) emergency work to avoid the loss of lives, property and/or to prevent environmental harm</td>
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<tr>
<td>(e) any other work as agreed by the PMEM (or nominated delegate) and considered essential to the Project, or as approved by EPA (where an EPL is in effect)</td>
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</table>

### 12 High noise generating activities

Rock breaking or hammering, jack hammering, pile driving, vibratory rolling, cutting of pavement, concrete or steel and any other activities which result in impulsive or tonal noise generation shall not be undertaken for more than 3 hours, without a minimum 1 hour respite period unless otherwise agreed to by the PMEM (or nominated delegate), or as approved by EPA (where relevant to the issuing of an EPL), unless inaudible at nearby residential properties and/or other noise sensitive receivers.

### Noise and vibration

**Construction noise and vibration**

Construction noise and vibration mitigation measures shall be implemented through the CEMP, in accordance with TfNSW’s *Construction Noise Strategy* (7TP-ST-157) and the EPA *Interim Construction Noise Guideline* (July 2009). The mitigation measures shall include, but not necessarily be limited to:

(a) details of construction activities and an indicative schedule for construction works

(b) identification of construction activities that have the potential to generate noise and/or vibration impacts on surrounding land uses, particularly sensitive noise receivers

(c) detail what reasonable and feasible actions and measures shall be implemented to minimise noise impacts (including those...
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
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<tbody>
<tr>
<td>identified in the EIA)</td>
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</table>

(d) procedures for notifying noise sensitive receivers of construction activities that are likely to affect their noise and vibration amenity, as well as procedures for dealing with and responding to noise complaints

(e) an OOHWP for the assessment, management and approval of works outside the standard construction hours identified in these assumptions, including a risk assessment process which deems the out of hours activities to be of low, medium or high environmental risk, is to be developed. All out of hours works are subject to approval by the EMR and/or PMEM (or nominated delegate) or as approved by EPA (where relevant to the issuing of an EPL). The OOHWP should be consistent with the TfNSW Construction Noise Strategy

(f) a description of how the effectiveness of actions and measures shall be monitored during the proposed works, identification of the frequency of monitoring, the locations at which monitoring shall take place, recording and reporting of monitoring results and if any exceedance is detected, the manner in which any non-compliance shall be rectified.

13 Vibration criteria

Vibration (other than from blasting) resulting from construction and received at any structure outside of the Project shall be limited to:

(a) for structural damage vibration - German Standard DIN 4150:Part 3 – 1999: Structural Vibration in Buildings: Effects on Structures

(b) for human exposure to vibration – the acceptable vibration values set out in the Environmental Noise Management Assessing Vibration: A Technical Guideline (DEC 2006).

These limits apply unless otherwise approved by the PMEM through the CEMP.
### Condition

<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
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</thead>
<tbody>
<tr>
<td>14</td>
<td>Non-tonal reversing beepers</td>
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<tr>
<td></td>
<td>Non-tonal reversing beepers (or an equivalent mechanism) shall be fitted and used on all construction vehicles and mobile plant regularly used on site (i.e. greater than one day) and for any out of hours work.</td>
</tr>
<tr>
<td>15</td>
<td>Contamination investigation</td>
</tr>
<tr>
<td></td>
<td>A stage 1 preliminary site investigation will be undertaken and if recommended by that report, a stage 2 detailed site investigation shall be undertaken prior to construction commencing. The assessment shall generally be undertaken in accordance with:</td>
</tr>
<tr>
<td></td>
<td>(a) The National Environment Protection (Assessment of Site Contamination) Amendment Measure (NEPM) 2013</td>
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<td></td>
<td>(b) NSW EPA (1995) Sampling Design Guidelines</td>
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<td></td>
<td>(c) AS4482 Guide to investigation and sampling of site with potentially contaminated soil (2005)</td>
</tr>
<tr>
<td></td>
<td>(d) CLM Act</td>
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<td></td>
<td>(e) any applicable portions of State Environmental Planning Policy 55 – Remediation of Land</td>
</tr>
<tr>
<td></td>
<td>The report shall be prepared in accordance with the DECCW's Guidelines for Consultants Reporting on Contaminated Sites (2011). The report shall include a preliminary waste classification in accordance with the NSW EPA Waste Classification Guidelines (2014).</td>
</tr>
<tr>
<td></td>
<td>Specific requirements for further investigation, remediation or management of any Contamination within the identified areas recommended in the stage 2 detailed site investigation shall be included in the CEMP as appropriate.</td>
</tr>
<tr>
<td></td>
<td>If Contamination is identified within the site, the Proponent is to determine whether there is a duty to report under section 60 of the CLM Act and the DECC Guidelines.</td>
</tr>
<tr>
<td>16</td>
<td>Unidentified Contamination (other than asbestos)</td>
</tr>
</tbody>
</table>
### Condition

If previously unidentified Contamination (excluding asbestos) is discovered during construction, work in the affected area must cease immediately, and an investigation must be undertaken and report prepared to determine the nature, extent and degree of any contamination. The level of reporting must be appropriate for the identified contamination in accordance with Environmental Law and relevant EPA guidelines, including the Guidelines for Consultants Reporting on Contaminated Sites.

The Proponent shall:

(a) submit a copy of any Contamination report to the EMR for review. The EMR is to be given a minimum period of 7 days to review and provide any comments to the Proponent in relation to the report

(b) submit a copy of the report to the PMEM for consideration upon completion of the EMR review period. The PMEM shall determine whether consultation with the relevant council and/or EPA is required prior to continuation of construction works within the affected area.

**Note:** In circumstances where both previously unidentified asbestos contamination and other Contamination are discovered within a common area, nothing is these conditions shall prevent the preparation of a single investigation report to satisfy the requirements of both Condition [X] and Condition [X].

### Asbestos management

If previously unidentified asbestos Contamination is discovered during construction, work in the affected area must cease immediately, and an investigation must be undertaken and report prepared to determine the nature, extent and degree of the asbestos Contamination. The level of reporting must be appropriate for the identified Contamination in accordance with relevant EPA and WorkCover guidelines and include the proposed methodology for the remediation of the asbestos Contamination. Remediation activities must not take place until receipt of the investigation report.

Works may only recommence upon receipt of a validation report from a suitably qualified Contamination specialist that the remediation activities have been undertaken in accordance with the investigation report and remediation methodology.

**Note:** In circumstances where both previously unidentified asbestos Contamination and other Contamination are...
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
</table>
| **18** Storage and use of Hazardous Materials | **CONTRACTOR**  
CONSTRUCTION |

Construction hazard and risk issues associated with the use and storage of Hazardous Materials shall be addressed through risk management measures, which shall be developed by the construction Proponent prior to construction as part of the overall CEMP, in accordance with relevant EPA guidelines, TfNSW Chemical Storage and Spill Response Guideline and Australian and ISO standards. These measures shall include:

(a) the storage of Hazardous Materials, and refuelling/maintenance of construction plant and equipment to be undertaken in clearly marked designated areas that are designed to contain spills and leaks

(b) spill kits, appropriate for the type and volume of Hazardous Materials stored or in use, to be readily available and accessible to construction workers. Kits to be kept at Hazardous Materials storage locations, in site compounds and on specific construction vehicles. Where a spill to a watercourse is identified as a risk, spill kits to be kept in close proximity to potential discharge points in support of preventative controls

(c) all Hazardous Materials spills and leaks to be reported to site managers and actions to be immediately taken to remedy spills and leaks

(d) training in the use of spill kits to be given to all personnel involved in the storage, distribution or use of Hazardous Materials

<table>
<thead>
<tr>
<th>19</th>
<th>Hazardous Materials survey</th>
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</table>

A Hazardous Materials survey in accordance with AS2601 (2001) *Demolition of Structures* would be undertaken by an appropriately qualified environmental scientist prior to the demolition of any buildings at the site.

Subsequent removal of any Hazardous Material is to be undertaken in accordance with Environmental Law and applicable EPA and WorkCover guidelines.
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
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</thead>
<tbody>
<tr>
<td>Waste</td>
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<tr>
<td>20</td>
<td>Any hazardous waste must be stored in an environmentally safe manner pending removal to a licenced waste facility and must not come into contact with any incompatible waste.</td>
</tr>
<tr>
<td>21</td>
<td>The Proponent shall ensure that any transport, handling and management of Hazardous Materials during construction does not result in a potentially hazardous storage environment or present a significant risk to human health, life or property, or the biophysical environment, consistent with State Environmental Planning Policy No. 33 – Hazardous and Offensive Development and associated guidelines. Transport vehicles must be kept in a clean condition and be constructed and maintained so as to prevent waste spillage. Transport vehicles must be covered when loaded so as to prevent spilling and loss of waste and to prevent emission of odours. The waste transporter must have a licence to transport waste.</td>
</tr>
</tbody>
</table>
| 22        | The Proponent must ensure that waste generated as a result of the Proponent's Activities on the site are assessed and classified in accordance with the Waste Classification Guidelines (EPA, 2014) prior to disposal. Waste must be:  
- transported only to a controlled waste facility, or to a waste facility that can lawfully receive that waste; or  
- recovered in accordance with the EPA's Waste Recovery Exemptions. | CONTRACTOR CONSTRUCTION and OPERATION |

Erosion and sediment control

| 23        | Soil and water management measures shall be prepared as part of the CEMP for the mitigation of water quality impacts during construction of the Project. The management measures shall be prepared in accordance with Managing Urban Stormwater; Soils and Construction 4th Edition (Landcom, 2004). | CONTRACTOR CONSTRUCTION |

Heritage management

| 24        | Indigenous and non-indigenous heritage  
If previously unidentified indigenous or non-indigenous heritage/archaeological items are uncovered during construction works, all works in the vicinity of the find shall cease and | CONTRACTOR CONSTRUCTION |
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
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<tbody>
<tr>
<td>appropriate advice shall be sought from a suitably qualified heritage consultant (and in consultation with the OEH Heritage Branch where appropriate). Works in the vicinity of the find shall not re-commence until clearance has been received from the heritage consultant. <em>Unexpected Heritage Finds Guideline - 3TP-SD-115</em></td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td><strong>General</strong></td>
<td></td>
</tr>
<tr>
<td><strong>25</strong> Pre-construction environmental compliance matrix</td>
<td></td>
</tr>
<tr>
<td>A pre-construction environmental compliance matrix (PECM) for the Project (or such stages of the Project as agreed to by the EMR) shall be prepared detailing compliance with all relevant conditions and mitigation measures prior to commencement of construction. The PECM shall also include details of approvals, licences and permits required to be obtained under any other legislation for the Project.</td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td>The Proponent shall:</td>
<td></td>
</tr>
<tr>
<td>(a) submit a copy of the PECM to the EMR for review. The EMR is to be given a minimum period of 7 days to review and provide any comments to the Proponent in relation to the PECM</td>
<td></td>
</tr>
<tr>
<td>(b) upon completion of the EMR review period, submit a copy of the PECM to the PMEM for approval, at least 14 days (or within such time as otherwise agreed to by the PMEM) prior to commencement of construction of the Project.</td>
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<tr>
<td><strong>26</strong> Construction environmental compliance report</td>
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<tr>
<td>The Proponent shall prepare a construction environmental compliance report (CECR) which addresses the following matters:</td>
<td>CONTRACTOR CONSTRUCTION</td>
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<tr>
<td>(a) compliance with the CEMP and these conditions</td>
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<tr>
<td>(b) compliance with the Sustainable Design Guidelines Version 3.0 compliance checklist</td>
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<tr>
<td>(c) compliance with any approvals or licences issued by relevant authorities for construction of the Project</td>
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<tr>
<td>(d) implementation and effectiveness of</td>
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<tr>
<td>Condition</td>
<td>Responsibility and Project Phase</td>
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<tr>
<td>environmental controls (the assessment of effectiveness should be based on a comparison of actual impacts against performance criteria identified in the CEMP)</td>
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<tr>
<td>(e) environmental monitoring results, presented as a results summary and analysis</td>
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<td>(f) details of the percentage of waste diverted from landfill and the percentage of spoil beneficially reused</td>
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<tr>
<td>(g) number and details of any complaints, including summary of main areas of complaint, actions taken, responses given and intended strategies to reduce recurring complaints (subject to privacy protection)</td>
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<tr>
<td>(h) details of any review and amendments to the CEMP resulting from construction during the reporting period</td>
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<tr>
<td>(i) any other matter as requested by the PMEM</td>
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</table>

The Proponent shall:

(a) submit a copy of the CECR to the EMR for review. The EMR is to be given a minimum period of 7 days to review and provide any comments to the Proponent in relation to the CECR

(b) submit a copy of the CECR to the PMEM (or nominated delegate) for approval upon completion of the EMR review period.

The first CECR shall report on the first six months of construction and be submitted within six weeks of expiry of that period (or at any other time interval agreed to by the PMEM). CECRs shall be submitted no later than six months after the date of submission of the preceding CECR (or at other such periods as requested by the PMEM) for the duration of construction.

Pre-operation compliance report

A pre-operation compliance report (POCR) for the Project shall be prepared, prior to commencement of operation of the Project.

CONTRACTOR

CONSTRUCTION
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
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<tbody>
<tr>
<td>The POCR shall detail compliance with all conditions of approval, licences and permits required to be obtained under any other legislation for the project. The Proponent shall:</td>
<td></td>
</tr>
<tr>
<td>(a) submit a copy of the POCR to the EMR for review. The EMR is to be given a minimum period of 7 days to review and provide any comments to the Proponent in relation to the POCR</td>
<td></td>
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<tr>
<td>(b) upon completion of the EMR review period submit a copy of the POCR to the PMEM (or nominated delegate) for approval. The POCR is to be provided to the PMEM at least one month prior to the scheduled operation of the Project (or such time as otherwise agreed to by the PMEM).</td>
<td></td>
</tr>
<tr>
<td><strong>Graffiti and advertising</strong></td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td>Hoardings, site sheds, fencing, acoustic walls around the perimeter of the site, and any structures built as part of the Project are to be maintained free of Graffiti and advertising not authorised by the Proponent during the construction period. Graffiti and unauthorised advertising will be removed or covered within the following timeframes:</td>
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<tr>
<td>(a) offensive Graffiti will be removed or concealed within 24 hours</td>
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<tr>
<td>(b) highly visible (yet inoffensive) Graffiti will be removed or concealed within a week</td>
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<tr>
<td>(c) Graffiti that is neither offensive or highly visible will be removed or concealed within a month</td>
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</tr>
<tr>
<td>(d) any unauthorised advertising material will be removed or concealed within 24 hours.</td>
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</tr>
<tr>
<td><strong>Utilities affected by construction</strong></td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td>Utilities, services and other infrastructure potentially affected by construction shall be identified prior to construction to determine requirements for access to, diversion, protection and/or support. Consultation with the relevant owner and/or provider of services that are likely to be affected by the Works shall be undertaken to make suitable arrangements for access to, diversion, protection and/or support of the affected infrastructure as required.</td>
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<tr>
<td>Condition</td>
<td>Responsibility and Project Phase</td>
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<td>cost of any such arrangements shall be borne by the Proponent.</td>
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<tr>
<td><strong>Flora and fauna</strong></td>
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<tr>
<td><strong>29</strong> Removal of trees or vegetation</td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td>Separate approval, in accordance with TfNSW's Application for Removal or Trimming of Vegetation (9TP-FT-078), is required for the trimming, cutting, pruning or removal of trees or vegetation where the impact has not already been identified in the EIA for the Project. The trimming, cutting, pruning or removal of trees or vegetation shall be undertaken in accordance with the conditions of that approval.</td>
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<tr>
<td><strong>Lighting</strong></td>
<td></td>
</tr>
<tr>
<td><strong>30</strong> Lighting scheme</td>
<td>CONTRACTOR CONSTRUCTION</td>
</tr>
<tr>
<td>If additional lighting is proposed to be implemented, a lighting scheme for the operation of the Project is to be developed by a suitably qualified lighting designer and prepared in accordance with AS 1158 “Road Lighting” and AS 4282 “Control of the Obtrusive Effect of Outdoor Lighting”. The lighting scheme shall address the following as relevant:</td>
<td></td>
</tr>
<tr>
<td>(a) consideration of lighting demands of different areas</td>
<td></td>
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<tr>
<td>(b) strategic placement of lighting fixtures to maximise ground coverage</td>
<td></td>
</tr>
<tr>
<td>(c) use of LED lighting</td>
<td></td>
</tr>
<tr>
<td>(d) minimising light spill by directing lighting into the [Insert project type]</td>
<td></td>
</tr>
<tr>
<td>(e) control systems for lighting that dim or switch-off lights settings according to the amount of daylight the zone is receiving</td>
<td></td>
</tr>
<tr>
<td>(f) motion sensors to control low traffic areas</td>
<td></td>
</tr>
<tr>
<td>(g) allowing the lighting system to use low light or switch off light settings while meeting relevant lighting Standards requirements, and</td>
<td></td>
</tr>
<tr>
<td>(h) ensuring security and warning lighting is not directed at neighbouring properties.</td>
<td></td>
</tr>
</tbody>
</table>

The proposed lighting scheme is to be submitted to and
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>accepted by TfNSW – Transport Projects Delivery Office Urban Design Team.</td>
<td></td>
</tr>
<tr>
<td><strong>Sustainability</strong></td>
<td>CONTRACTOR OPERATION</td>
</tr>
<tr>
<td>31</td>
<td>An operational environmental management plan (OEMP) for the operational phase of the Maintenance Facility Site must be prepared by the Proponent and approved by TfNSW. The OEMP should be reviewed and updated on an annual basis, unless otherwise determined by TfNSW. The OEMP would typically include the following:</td>
</tr>
<tr>
<td>(a)</td>
<td>Identification of environmental goals, objectives and outcomes;</td>
</tr>
<tr>
<td>(b)</td>
<td>Identification of relevant statutory and other obligations which the Proponent is required to fulfil, including all licences/approvals required from authorities and other stakeholders, and key legislation and policies which control the Proponent’s operation of the Maintenance Facility Site;</td>
</tr>
<tr>
<td>(c)</td>
<td>Compliance with statutory requirements and relevant non-statutory requirements;</td>
</tr>
<tr>
<td>(d)</td>
<td>Actions, timing and responsibilities to be implemented to comply with requirements of the Planning Approval and other statutory requirements;</td>
</tr>
<tr>
<td>(e)</td>
<td>A reporting framework for any matters on an ongoing basis;</td>
</tr>
<tr>
<td>(f)</td>
<td>Details of training requirements for Proponents, personnel, staff in environmental awareness, best practice environmental management systems and work safety;</td>
</tr>
<tr>
<td>(g)</td>
<td>Emergency and incident management procedures, including contact names, reporting format and corrective/preventative action procedures;</td>
</tr>
<tr>
<td>(h)</td>
<td>Monitoring programs, maintenance requirements and auditing procedures for environmental systems (e.g. train wash, management of wastes, chemical and</td>
</tr>
</tbody>
</table>
### Traffic and Access

#### Traffic management plan

The Proponent shall prepare a construction traffic management plan (TMP) as part of the CEMP which addresses, where relevant, the following:

<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>hazardous materials etc); (i) Community complaints and complaint handling procedures; and (j) Quality assurance procedures.</td>
<td></td>
</tr>
<tr>
<td>1. The Proponent shall: (k) submit a copy of the OEMP to the EMR for review. The EMR is to be given a minimum period of 7 days to review and endorse the OEMP; (l) submit a copy of the OEMP to TfNSW for approval after it has been endorsed by the EMR.</td>
<td></td>
</tr>
<tr>
<td>2. The OEMP shall be submitted for the approval of TfNSW no later than two months prior to the commencement of operation, or within such period otherwise agreed by TfNSW. Any approved mitigation measures are to be installed or implemented prior to the commencement of operation, unless otherwise agreed by TfNSW.</td>
<td></td>
</tr>
</tbody>
</table>

**CONTRACTOR**

**CONSTRUCTION**

(a) ensuring adequate road signage at construction work sites to inform motorists and pedestrians of the work site ahead to ensure that the risk of road accidents and disruption to surrounding land uses is minimised

(b) maximising safety and accessibility for pedestrians and cyclists

(c) ensuring adequate sight lines to allow for safe entry and exit from the site

(d) ensuring access to railway stations, businesses, entertainment premises and residential properties (unless affected property owners have been consulted and
appropriate alternative arrangements made)

(e) managing impacts and changes to on and off street parking and requirements for any temporary replacement provision

(f) parking locations for construction workers away from stations and busy residential areas and details of how this will be monitored for compliance

(g) routes to be used by heavy construction-related vehicles to minimise impacts on sensitive land uses and businesses

(h) details for relocating kiss-and-ride, taxi ranks and rail replacement bus stops if required, including appropriate signage to direct patrons, in consultation with the relevant bus operator. Particular provisions should also be considered for the accessibility impaired

(i) measures to manage traffic flows around the area affected by the Project, including as required regulatory and direction signposting, line marking and variable message signs and all other traffic control devices necessary for the implementation of the TMP

The Proponent shall consult with the relevant roads authority during preparation of the TMP, as required. The performance of all Project traffic arrangements must be monitored during construction.

33 Operational noise and vibration

Prior to commencement of construction of physical noise mitigation structures an operational noise and vibration management plan (ONVMP) shall be prepared to confirm the final mitigation measures for operational noise and vibration that would be implemented.

The ONVMP shall be prepared in consultation with Sydney Trains (where relevant) and other relevant stakeholders. The ONVMP shall:

(a) consider any changes to the predicted noise and vibration levels identified in the EIA as a result of the detailed design process and any
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>changes to the proposed maintenance activities including [insert any site specific considerations]</td>
<td></td>
</tr>
<tr>
<td>(b) examine all reasonable and feasible noise and vibration mitigation measures consistent with [Rail Infrastructure Noise Guideline (EPA, 2013)/Industrial Noise Policy (EPA, 2000)]</td>
<td></td>
</tr>
<tr>
<td>(c) identify specific physical and other mitigation measures for controlling noise and vibration at the source and at the receiver (if relevant) including location, type and timing of implementation of the proposed operational noise and vibration mitigation measures</td>
<td></td>
</tr>
<tr>
<td>(d) seek feedback from directly affected receivers on the final mitigation measures proposed in the review.</td>
<td></td>
</tr>
</tbody>
</table>

The Proponent shall submit a copy of the ONVMP to the EMR for review and endorsement. The EMR is to be given a minimum period of 7 days to review and endorse the ONVMP. Following receipt of the EMR’s endorsement, the ONVMP shall be submitted to the PMEM (or nominated delegate) for approval, at least one month prior to commencement of construction of physical noise mitigation structures (or such time as is otherwise agreed to by the PMEM).

The approved physical mitigation measures are to be installed prior to the commencement of operations, unless otherwise agreed by the PMEM.

**34 Operational noise compliance monitoring**

In order to validate the predicted noise levels identified in the ONVMP, monitoring shall be undertaken within three months of commencement of operation and within three months from Provisional Acceptance of the last Set in the Initial Fleet. The noise and vibration monitoring shall be undertaken to confirm compliance with the predicted noise and vibration levels, or as modified by the reasonable and feasible review.

[insert any site specific considerations as relevant]

Should the results of monitoring identify exceedances of the predicted noise and vibration levels, additional reasonable and feasible mitigation measures would be implemented in consultation with the affected property owners.
<table>
<thead>
<tr>
<th>Condition</th>
<th>Responsibility and Project Phase</th>
</tr>
</thead>
<tbody>
<tr>
<td>35</td>
<td>The Proponent shall ensure that noise emanating from stationary sources complies with the noise limits at the nearest noise sensitive receivers in accordance with the NSW Industrial Noise Policy (EPA 2000). Noise generated from the Maintenance Facility Site is likely to include associated traffic movements.</td>
</tr>
<tr>
<td>36</td>
<td>Wherever practicable, testing of warning sounds on rolling stock in the Maintenance Facility Site shall only be undertaken wholly within the Maintenance Facility Site building. No testing of warning sounds is permitted to take place at the Maintenance Facility Site unless it meets the noise goals in the Industrial Noise Policy (EPA 2000).</td>
</tr>
<tr>
<td><strong>Incident Reporting</strong></td>
<td></td>
</tr>
<tr>
<td>37</td>
<td>The Proponent is to comply with Part 5.7 of the POEO Act (Duty to Notify Pollution Incidents).</td>
</tr>
<tr>
<td>38</td>
<td>The Proponent shall notify TfNSW of any pollution incident requiring notification under section 148 of the POEO Act immediately upon becoming aware of the incident. The Proponent shall provide full written details of the incident to TfNSW within seven days of the date on which the incident occurred, including copies of any information supplied to the EPA.</td>
</tr>
<tr>
<td>39</td>
<td>The Proponent is required to make any statutory notifications directly to relevant authorities for any environmental and/or pollution incident that require notification pursuant to any Law. The Proponent is also responsible for the preparation and submission of any reports, records or any other information requests by any statutory environmental regulator(s).</td>
</tr>
<tr>
<td>40</td>
<td>For the purposes of the POEO Act, the Proponent is taken to be the occupier of the Maintenance Facility Site, for the Construction and TLS phases of the Works.</td>
</tr>
<tr>
<td>41</td>
<td>For the purposes of the CLM Act, the Proponent is taken to be the occupier of the Maintenance Facility Site, and is responsible for any Contamination resulting from the Proponent's activities during the Contract Term (including Construction), including any residual contamination arising as a consequence of the Project Activities after the completion of the Contract Term.</td>
</tr>
</tbody>
</table>
EXHIBIT E – NOT USED
EXHIBIT F – NOT USED
EXHIBIT G – LIST OF WARRANTIES REQUIRED FROM SUBCONTRACTORS

List of Warranties Required From Subcontractors
<table>
<thead>
<tr>
<th>Description of Equipment and Warranty</th>
<th>Beneficiaries of Warranty (in addition to TfNSW)</th>
<th>Period of Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Conditioning Plant &amp; Equipment</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>All Electrical Cabling</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>All Electrical Fittings</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Boiling / Chilled Water Units</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Building &amp; Wet Area Grates</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Cast Iron Waste Pipe System</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Chillers</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>CO2 Gaseous Suppression Systems</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Door Fixture and Fittings, Door Frames</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Door Seals</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Doors (separate warranty for each)</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Doors and Hardware</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Earthing Installation</td>
<td>Sydney Trains</td>
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</tr>
<tr>
<td>Exterior Clear Sealer / Anti-Graffiti Coating</td>
<td>Sydney Trains</td>
<td></td>
</tr>
<tr>
<td>Exterior Paint Finish – Aluminium</td>
<td>Sydney Trains</td>
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</tr>
<tr>
<td>Exterior Paint Finish – Steel</td>
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</tr>
<tr>
<td>External cladding panels (Kerlite or similar)</td>
<td>Sydney Trains</td>
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<tr>
<td>External Louvres and other Louvres</td>
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<td>External Pit Covers</td>
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<td>Fall Arrest System</td>
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<tr>
<td>Fan Coil Units</td>
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<tr>
<td>Fencing</td>
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<tr>
<td>Fire Detection</td>
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<tr>
<td>Fire Extinguishers</td>
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<tr>
<td>Fire Hose Reel Pumps</td>
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<tr>
<td>Fire Hose Reels</td>
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<tr>
<td>Fire Protection</td>
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<tr>
<td>Fire Rated Door Panels (warranty for each)</td>
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<tr>
<td>Fire Stopping</td>
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<tr>
<td>Hydrant Pump</td>
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<td>Interior Paint Finish</td>
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<tr>
<td>Mechanical Ventilation</td>
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<tr>
<td>Metal Grates to Drains, Floor Outlets and Floor</td>
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</tr>
<tr>
<td>Description of Equipment and Warranty</td>
<td>Beneficiaries of Warranty (in addition to TfNSW)</td>
<td>Period of Years</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>-------------------------------------------------</td>
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</tr>
<tr>
<td>Access Covers</td>
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<tr>
<td>Paving Sealer</td>
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</tr>
<tr>
<td>Paving to External Areas</td>
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</tr>
<tr>
<td>Plasterboard, Fire Cement Partitions and Ceilings and Wall Panels</td>
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<td>Powdercoat Finish</td>
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<td>Roofing and Roof Installation</td>
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<td>Sewage – Septic Tank</td>
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<tr>
<td>Signage</td>
<td>Sydney Trains</td>
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<td>Sinks</td>
<td>Sydney Trains</td>
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<td>Specific Warranty – Ceiling and Wall Panels</td>
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<tr>
<td>Specific Warranty – Glazing</td>
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<td>Specific Warranty – Louvres</td>
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<tr>
<td>Specific Warranty – Low Voltage Electrical System</td>
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<tr>
<td>Specific Warranty – W Beam Safety Barrier</td>
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<td>Stair Nosings</td>
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<tr>
<td>Steel Balustrades</td>
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<tr>
<td>Surface Pit Covers</td>
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<tr>
<td>Tiling, Paving and wet Area Waterproofing</td>
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</tr>
<tr>
<td>Toilets, Cisterns, Basins, Cleaners, Sinks &amp; Taps</td>
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<tr>
<td>Warranty – Communications</td>
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<td>Waterproofing</td>
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<td>Synchronised Jacking System</td>
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<td>3.5t Gantry Crane (structure)</td>
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<td>3.5t Gantry Crane (electrical system)</td>
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<tr>
<td>Swing Away Catenary/OHW</td>
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<td>Road/Rail Shunt Vehicle</td>
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<tr>
<td>Mobile Scaffold (for front-end access)</td>
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<tr>
<td>Custom Made Steps for Door Access</td>
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</tr>
<tr>
<td>Lighting and Power Rewire</td>
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## EXHIBIT H – CONTRACTOR’S OUTLINE DESIGN

<table>
<thead>
<tr>
<th>Title/Subject</th>
<th>Rev.</th>
<th>Document number</th>
<th>File name</th>
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<td>Contractor’s Proposal</td>
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<td>SK01</td>
<td>B3.3 - Appendix 1 - 00 SGTP DEPOT PRESENTATION DRAWINGS COMBINED FILE.pdf</td>
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<td>Drawings’ List &amp; Site Plan</td>
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<td>Low Level Platforms</td>
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<td>High Level Platforms</td>
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<td>Lift Shop</td>
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<td>Rev.</td>
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<td>Mortdale Maintenance Facility Proposed Cross Sections</td>
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<td>Mortdale Maintenance Facility Proposed Long Section (Rd 1)</td>
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<td>Mortdale Maintenance Facility Proposed Long Section (Rd 2)</td>
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<td>Mortdale Maintenance Facility Proposed Long Section (Rd 3)</td>
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<td>Mortdale Maintenance Centre Crane Install to Existing Maintenance Shed Framing Plan Concept</td>
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<tr>
<td>Mortdale Maintenance Centre Crane Install to Existing Maintenance Shed Framing Elevations and Details Concept</td>
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<td>Mortdale Carriage Sheds MF Building High Bay Electrical</td>
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<td>Mortdale Carriage Sheds MF Building Floor Level Electrical</td>
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<tr>
<td>Mortdale Carriage Sheds MF Building Proposed Lighting Layout</td>
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<td>IA118000-0020-LV-SKT-0003</td>
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<td>Mortdale Carriage Sheds MF Building Single Line Diagram</td>
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<tr>
<td>Mortdale Carriage Sheds Roads 2 &amp; 3 OHW Upgrade Proposed Sectioning Diagram</td>
<td>-</td>
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<td>IA118000-0020-OH-SKT-0001</td>
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<tr>
<td>Mortdale Maintenance Centre Lift Shop Track Upgrade Road No. 1 and No. 2 General Arrangement Plan</td>
<td>-</td>
<td></td>
<td>IA118000-0020-PW-SKT-0001</td>
</tr>
</tbody>
</table>
Refer to CD titled:

Sydney Growth Trains Project
ISD-16-5312C
MAITNENANCE FACILITY WORKS DEED
Exhibit B Works Brief – Attachments A-D
Exhibit H Contractor’s Outline Design
EXHIBIT I – THIRD PARTY AGREEMENTS

Global Safety Interface Agreement between the Principal and Sydney Trains dated 28 June 2013.
Global Safety Interface Agreement

Transport for NSW
ABN 18 804 239 602

Sydney Trains
ABN 38 284 779 682
**KEY DETAILS**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td><strong>1 Date</strong></td>
<td>See Execution on page 9</td>
</tr>
<tr>
<td><strong>2 Parties</strong></td>
<td></td>
</tr>
</tbody>
</table>

**TfNSW**
- **Name**: Transport for NSW
- **ABN**: 18 804 239 602
- **Address**: 18 Lee Street Chippendale
- **Attention**: General Manager Safety and Quality, Policy and Regulation or such other person as may be notified by TfNSW from time to time.

**Sydney Trains**
- **Name**: Sydney Trains
- **ABN**: 38 284 779 682
- **Address**: 477 Pitt Street Sydney
- **Attention**: Director Safety, Environment, Quality and Risk or such other person as may be notified by Sydney Trains from time to time.
BACKGROUND

A The Rail Safety National Law requires Rail Transport Operators to:

(a) identify and assess, so far as is reasonably practicable, risks to safety that may arise from Railway Operations carried out by or on behalf of that Rail Transport Operator and that may be caused wholly or partly by Railway Operations carried out by or on behalf of any other Rail Transport Operator;

(b) manage such risks as far as reasonably practicable; and

(c) for the purposes of managing those risks, seek to enter into an Interface Agreement with the other Rail Transport Operator.

B This Agreement is an Interface Agreement for the purposes of the Rail Safety National Law.

C The parties are Rail Transport Operators who will satisfy the above requirements by applying their Safety Management Systems to manage risks in accordance with this Agreement.

TERMS

1 Interpretation

1.1 Definitions

The following words have the following meanings in this document, unless the context requires otherwise.

Business Day means a day other than a Saturday, Sunday or a public holiday as gazetted in NSW.

Contractors means any person engaged by a party to provide any works required by, or perform any obligation under, this Agreement including any further person engaged by such a person to carry out any such work or obligation.

Date of this Agreement means the date on which this Agreement has been executed by both parties.

Interface Agreement means an interface agreement required under section 106 of the Rail Safety National Law.

National Safety Regulator means the Office of the National Rail Safety Regulator established under Part 2 Division 1 of the Rail Safety National Law.

Personnel means officers, employees, agents, Contractors, and officers, employees and agents of Contractors.

Global Safety Interface Agreement

Rail Transport Operator has the meaning given to that term under the Rail Safety National Law.

Railway Operations has the meaning given to that term under the Rail Safety National Law.

Safety Management System means a person's safety management system which:

(a) complies with the Rail Safety National Law;

(b) has been accepted and approved by the National Safety Regulator for use by a person for Railway Operations for which that person holds rail safety accreditation under the Rail Safety National Law, as amended from time to time.

1.2 Interpretation

The following apply in the interpretation of this document, unless the context requires otherwise.

(a) A reference to this Agreement, this deed, this document or a similar term means either the agreement set out in this document or the document itself, as the context requires.

(b) A reference to any statute, regulation, rule or similar instrument includes any consolidations, amendments or re-enactments of it, any replacements of it, and any regulation or other statutory instrument issued under it.

(c) A reference to the singular includes the plural number and vice versa.

(d) A reference to a gender includes a reference to each gender.

(e) A reference to a party means a person who is named as a party to this Agreement.

(f) Person includes a firm, corporation, body corporate, unincorporated association and a governmental authority.

(g) A reference to a party or a person includes that party's or person's executors, legal personal representatives, successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this Agreement, their substitutes and assigns.

(h) Includes means includes but without limitation.

(i) Where a word or expression has a defined meaning, its other grammatical forms have a corresponding meaning.

(j) A reference to doing something includes an omission, statement or undertaking (whether or not in writing) and includes executing a document.

(k) A reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or an annexure to this Agreement.
Global Safety Interface Agreement

1.3 Schedules

Any schedule attached to this Agreement forms part of it. If there is any inconsistency between any clause of this Agreement and any provision in any schedule, the clause of this Agreement prevails.

2 Term

(a) This Agreement commences on the Date of this Agreement and continues until it is terminated by a party under clause 2(b).

(b) A party may terminate this Agreement by providing the other party with no less than 6 months' written notice. If a party provides a notice under this clause 2(b) that it wishes to terminate this Agreement and Interface Agreements under the Rail Safety National Law are still required between the parties, the parties must negotiate in good faith to enter into a replacement agreement for this Agreement prior to the date on which the termination of this Agreement will take effect.

3 Risks arising from Railway Operations

3.1 Identifying and assessing risks

(a) The parties must identify and assess, so far as is reasonably practicable, risks to safety that may arise from Railway Operations carried out by or on behalf of one party, as a Rail Transport Operator, and that may be caused wholly or partly by Railway Operations carried out by or on behalf of the other party, as a Rail Transport Operator.

(b) Unless otherwise agreed by the parties, TfNSW's Safety Management System will apply to the assessment of risk required under this clause 3.1.

(c) The parties may agree to participate in joint risk workshops to perform their obligations under this clause 3.1.

(d) Subject to clause 3.1(c), each party may undertake the identification and assessment of risks to safety individually or jointly through the use of risk workshops. A party may adopt a risk assessment conducted by the other party.

(e) Each party must provide the other party with any information reasonably requested by the other party to enable the party requesting the information to perform its obligations under this clause 3.1.
3.2 Managing risks

(a) Each party must:

(i) determine measures to manage, so far as is reasonably practicable, each risk identified and assessed under clause 3.1 in accordance with clause 3.2(b); and

(ii) implement those measures for which it is responsible determined in accordance with clause 3.2(b).

(b) Schedule 1 sets out how each party’s Safety Management System will be applied to determine each party’s responsibilities in respect of risks identified and assessed under clause 3.1 including:

(i) each party’s responsibility for implementation and maintenance of the safety risk management measures;

(ii) where appropriate, the timetable for implementation of safety risk management measures;

(iii) any other details required to manage, so far as is reasonably practicable, each risk identified and assessed under clause 3.1; and

(iv) the communication details required to manage, so far as is reasonably practicable, each risk identified and assessed under clause 3.1.

3.3 Changes to risks

(a) The parties must consult with each other regarding any planned alteration to infrastructure, operations, or circumstances which may impact on safety risks arising from their Railway Operations.

(b) If a party becomes aware of:

(i) a risk that is not being managed to the extent reasonably practicable; or

(ii) a new safety risk;

then:

(iii) that party must provide the other party with notice of that risk; and

(iv) clauses 3.1 and 3.2 will again apply.

3.4 Notification of incidents

Each party must notify the other party in accordance with the communication requirements of that party’s Safety Management System as soon as reasonably practicable after becoming aware of any safety incident or accident which is related to rail safety on the other party’s Railway Operations.
3.5 **Register of interface agreements**

Each party must record this Agreement in that party's register of interface agreements.

4 **Access**

(a) If a party, or any of its Personnel, require access to the other party's infrastructure or land for the purposes of meeting its obligations under this Agreement, the party seeking access must:

(i) provide the other party with details of the access sought including the locations, times and Personnel; and

(ii) comply, and ensure that its Personnel comply, with all relevant instructions, obligations and safety plans as advised by the other party, and/or any that parties nominee.

(b) TfNSW must provide Sydney Trains with notice as soon as reasonably practicable if TfNSW may require a track possession to perform any of its obligations under this Agreement.

(c) Sydney Trains must provide TfNSW with notice as soon as reasonably practicable if Sydney Trains may require a track possession to perform any of its obligations under this Agreement and that track possession impacts upon any work being carried out by or on behalf of TfNSW.

5 **Dispute resolution**

(a) If a party:

(i) discovers any non-compliance with this Agreement;

(ii) otherwise wishes to raise a dispute in relation to this Agreement,

(both referred to as an Issue)

that party must as soon as reasonably practicable, provide the other party with notice of the Issue.

(b) If a party provides a notice under clause 5(a):

(i) representatives from the parties with appropriate delegations must attempt to resolve the Issue within [10] Business Days;

(ii) if the Issue is not resolved by the parties' representatives under clause 5(b)(i), it must referred to a representative from each party who is responsible for that party's safety operations and that representative must attempt to resolve the Issue within [5] Business Days.
6 Miscellaneous

6.1 Notices

(a) Any notice given in connection with this Agreement must be in writing and must be addressed to that party and either:

(i) hand delivered to, or sent by post to, the party’s registered office, principal place of business or any other address the party notifies for the service of notices;

(ii) sent by fax to any fax number the party notifies for the service of notices; or

(iii) sent by email to any email address the party notifies for the service of notices.

(b) A notice is taken to have been given:

(i) in the case of being hand delivered, on the date on which it is delivered;

(ii) in the case of being sent by post, on the third (seventh if sent to an address in another country) day after the date of posting;

(iii) in the case of being sent by fax, at the time of dispatch as confirmed by a transmission report by the sending machine; and

(iv) in the case of delivery by email, at the time sent, unless the sender is notified, by a system or person involved in the delivery of the email, that the email was not successfully sent.

6.2 Costs

Each party will be responsible for its own costs in complying with this Agreement.

6.3 Proportionate liability

This Agreement does not affect or derogate from the parties’ rights and obligations under the Civil Liability Act 2002 (NSW) or their functions and powers under other laws.

6.4 Government authorities

If a party is reconstituted, renamed, replaced or if the powers and functions are transferred to another organisation, a reference under this Agreement to that party includes the reconstituted, renamed or replaced organisation or the organisation to which the powers of functions are transferred (as the case may be).

6.5 Variation

No provision of this Agreement nor any right conferred by such agreements can be varied except in writing signed by the parties.
6.6 Entire agreement

This Agreement:

(a) records the entire agreement between the parties; and

(b) supersedes all previous negotiations, understandings, representations and agreements,

in relation to the subject matter of this Agreement.

6.7 Waiver

A waiver is effective only if in writing and signed by or on behalf of the party to be bound and is effective to the extent that the party giving it expressly states in writing.

6.8 Governing law

This Agreement is governed by the law in force in New South Wales and the parties submit to the jurisdiction of its courts.
EXECUTION

Signed as a deed on 28 June 2013

SIGNED for and on behalf of Transport for NSW by its authorised officer in the presence of

[Signature of Authorised Officer]

[Name of Witness (print)]

Helen Vickers

SIGNED for and on behalf of Sydney Trains by its authorised officer in the presence of

[Signature of Authorised Officer]

[Name of Witness (print)]

Fiona Cullinan

[Signature of Authorised Officer]

[Name of Witness (print)]

Alice.
### Schedule 1 - Rail Safety Interface Risks Between Sydney Trains and TfNSW

<table>
<thead>
<tr>
<th>Category</th>
<th>Hazard</th>
<th>Cause</th>
<th>Consequence</th>
<th>TfNSW Controls</th>
<th>Sydney Trains Controls</th>
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<tbody>
<tr>
<td>Safety Requirements/Standards</td>
<td>Safety risk associated with delivered asset cannot be demonstrated to be reduced SFAIRP</td>
<td>Standards used as baseline for design do not represent best/good practice (Standards out of date) CMC acceptance process not carried out adequately throughout the project lifecycle before handing over to the operator</td>
<td>- Network incident with safety consequences</td>
<td>ASA to undertake development and maintenance of asset standards in accordance with best practice - see ASA 4SA-ST-101 Network Standards Governance</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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<td></td>
<td>Asset does not achieve an acceptable minimal safety standard</td>
<td>Standards incorrect/fail to define minimum safety standards</td>
<td>- Network incident with safety consequences</td>
<td>ASA to undertake development and maintenance of asset standards in accordance with best practice - see ASA 4SA-ST-101 Network Standards Governance</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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<tr>
<td></td>
<td>Fail safe modes for systems not clearly defined</td>
<td>Fail safe modes for systems not clearly defined in safety requirements/requirements (should be based on standards)</td>
<td>- System fails in an unsafe way leading to safety incident</td>
<td>PPD specify high level requirements in transport planning. ASA to undertake development and maintenance of asset standards in accordance with best practice - see ASA 4SA-ST-101</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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| Contracts | Asset does not meet end user safety requirements | - AEO contracted to deliver asset does not have relevant system knowledge  
- Design not subject to appropriate stakeholder consultation  
- Stakeholder/end user not included in acceptance/approval process for design choices  
- Asset solutions imposed on Sydney Trains  
- Focus on delivery against time/budget | - Network incident with safety consequences | Network Standards Governance.  
TPD to include relevant fail safe requirements in tendering/contract/design information prior to procurement of AEO to design and construct | ST Operational Readiness Manager role to provide user input into the design process  
ST to notify CMC/ASA if not able to provide Safety Assurance for Operational Readiness. |
| Contractor delivers substandard work | - AEO fails to adequately assure the suitability of its subcontractors | - Network incident with safety consequences | ASA AEO audit and surveillance process - see 4SA-ST-201 ASA Framework for AEO Assessment Audits and Surveillance audits.  
TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. The RSC requires all parties to work collaboratively and the RSC provides for SYD Trains to have input into designs, user requirements, etc. | TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS | ST will advise TfNSW of safety concerns based on past data or current operational experience |
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<td>- Contractor does not adequately implement/follow its own quality management processes</td>
<td>- Network incident with safety consequences</td>
<td>- including TPD Safety Requirements TNSW Standard Requirements TSR S1 - Safety Management. TPD management of AEO via contract ASA being responsible for engineering governance through the implementation of CMC framework, development and maintenance of engineering standards and AEO assessment</td>
<td>ST will advise TNSW of safety concerns based on past data or current operational experience. ST internal assurance processes</td>
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<td></td>
<td></td>
<td>- AEO assumes contractor will deliver good work</td>
<td></td>
<td>ASA AEO audit and surveillance process - see 4SA-ST-201 ASA Framework for AEO Assessment Audits and Surveillance audits. TPD Engineering and Safety Assurance processes as per TNSW SMS/TPD QMS. TPD management of AEO via project agreement/contract. ASA being responsible for engineering</td>
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<td>Sydney Trains as a Contractor/AEO to TNSW delivers substandard work</td>
<td>- Sydney Trains fails to assure its work</td>
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<td>- Sydney Trains fails to use competent resource</td>
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<td>Delivered Asset does not satisfy key (but undefined) safety requirements</td>
<td>Asset contract specification fails to adequately address system safety requirements (safety requirements not defined)</td>
<td>- Unsafe Asset released into service</td>
<td>governance through the implementation of CMC framework, development and maintenance of engineering standards and AEO assessment</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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<tr>
<td></td>
<td>Consultation</td>
<td>Lack of clarity as to when ASA need to be consulted on design matters (deviation from standards unclear) Process for handover and integration unclear</td>
<td>- Network incident with safety consequences</td>
<td>ASA Standards Waiver process 4SA-PR-106 Implementation of the CMC process and AEO management process</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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<tr>
<td></td>
<td>Safety/Risk</td>
<td>No direct communication</td>
<td>- Unsafe Asset released</td>
<td>TPD Engineering and</td>
<td>ST Operational</td>
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<tr>
<td></td>
<td>misunderstanding between parties leading to poor design choices</td>
<td>between Sydney Trains and AEO delivering asset (intermediary TNSW prevents direct communication)</td>
<td>into service</td>
<td>Safety Assurance processes as per TNSW SMS/TPD QMS. TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TNSW of any material issues. An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed. AEO has responsibility to ensure safety risks in the system have been mitigated to SFAIRP. CMC process to check that this has been</td>
<td>Readiness Manager role to provide user input into the design process</td>
</tr>
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<td>Design Approval/Acceptance</td>
<td>Design not compliant with operating environment, configuration</td>
<td>Proposed risk mitigation options not accepted/approved by TfNSW</td>
<td>- Unsafe Asset released into service</td>
<td>TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS. TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TfNSW of any material issues. An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed.</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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<td>requirements, standards and/or waivers</td>
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<tr>
<td>Design failings go</td>
<td>AEO's work is not independently assured/verified (AEO)</td>
<td>- Unsafe Asset released into service</td>
<td>TPD Engineering and Safety Assurance processes as per</td>
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<td>unnoticed</td>
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<td>- Latent issue released</td>
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<td></td>
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<td>approves own designs) Failure of the CMC process and failure of TPD assurance process.</td>
<td>leading to safety incident on network</td>
<td>TfNSW SMS/TPD QMS. TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TfNSW of any material issues. An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed.</td>
<td>operational experience</td>
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<tr>
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<td>Sydney trains accept asset that is deficient from a safety perspective</td>
<td>Sydney Trains assured by TfNSW that asset is fit for purpose and safe, based on AEO's assurance (No assurance from Sydney Trains)</td>
<td>- Network incident with safety consequences</td>
<td>TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.</td>
<td>Sydney trains accept asset that is deficient from a safety perspective</td>
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</tbody>
</table>
| Construction | TfNSW rail corridor worksite incorrectly setup and/or maintained/managed | - Interface risks not clearly identified/evaluated before worksite setup  
- Worksite protection controls not in place  
- Ineffective communication between worksite and RMC | - Unauthorised entry of train into/through worksite leading to safety incident in worksite  
- Unauthorised exit of works train from worksite leading to safety incident on network | TfNSW (and it's contractors) compliance with Sydney Trains Network Rules and Procedures.  
TPD worksite audit and review presence.  
AEO audit and surveillance process. | ST Network rules and procedures for worksite protection |
| Commissioning | Testing does not validate all safety aspects of asset | - Lack of experience in developing testing and commissioning plans  
- Planned testing and commissioning not carried out according to the plan | - Unsafe asset released into service  
- Safety incident on network | ASA surveillance of AEO performing testing and commissioning.  
TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.  
AEO audit and surveillance process.  
ASA configuration management process | ST will advise TfNSW of safety concerns based on past data or current operational experience |
| Assurance | Safety assurance aspects of project poorly undertaken including operational constraints are not clearly specified/communicated | AEO does not fully appreciate the requirements of system safety  
Safety and assurance requirements not | - Unsafe Asset released into service | TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.  
TPD Quality Management System | ST will advise TfNSW of safety concerns based on past data or current operational experience |
## Global Safety Interface Agreement

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<td>adequately specified during procurement process</td>
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<td>(QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TfNSW of any material issues. An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed. AEO audit and surveillance process. ASA configuration management process</td>
<td>An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed. AEO audit and surveillance process. ASA configuration management process.</td>
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<td>Asset documentation does not appropriately reflect asset</td>
<td>- Safety incident on the network</td>
<td>TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS. TPD Quality Management System (QMS) contains</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience.</td>
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<td></td>
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<td>Operational readiness requirements do not align with asset being delivered</td>
<td>- Specific risks may go un-identified/mitigated</td>
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<tr>
<td>Delays into Service</td>
<td>Old trains retained in service beyond life expiry</td>
<td>New trains delayed delivery into service Long term asset planning does not reflect asset condition</td>
<td>Safety incident on network</td>
<td>requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TfNSW of any material issues. An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed.</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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</table>

NOTE: TfNSW is limited in controls that can be deployed in this circumstance: ST as the accredited operator/maintainer must ensure trains entering and remaining in revenue service meet minimum safety standards, not TfNSW. PPD control owner with
Global Safety Interface Agreement

Category

Hazard

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Consequence

Cause

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required to be used
beyond their design life

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I network

- AEO scope of work
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excludes commissioning
- AEO not able to
comply with ASA
standards
AEO fails to deliver
project on time
1 TfNSW fails to respond
in a timely manner to
infrastructure/asset
safety requirements
Long term asset
planning does not reflect
asset condition

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TfNSW Controls

, respect to long term
; asset planning.
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Sydney Trains
Controls

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Safety Assurance
processes as per
TfNSW SMS/TPD QMS
PPD control owner with
respect to long term
: asset planning.
! AEO audit and
surveillance process.

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safety concerns based
i on past data or current

\ operational experience

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Operational Efficiency
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Asset delivered has
negative impact on
operational
efficiency/safety

I - Design not optimised

- Failure in service
1 TPD Engineering and
leading to network
Safety Assurance
j efficiency/safety
I disruption
! processes as per
I - Design choices do not I - Failure in service
i TfNSW SMS/TPD QMS.
adequately address
leading to safety incident I TPD Quality
! Management System
ongoing reliability
j
,. (QMS) contains
requirements of asset
Long term asset
I
requirements for
planning does not reflect I
stakeholder/end user
1
consultation.
asset condition
See Schedule 13 and 14
of the Rail Services

I for operational

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ST Operational
Readiness Manager role
to provide user input into
the design process
ST will advise TfNSW of
safety concerns based
on past data or current
operational experience.

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Page 20


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<th>Category</th>
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<th>Consequence</th>
<th>TfNSW Controls</th>
<th>Sydney Trains Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asset Performance</td>
<td>Assets considered safer/more reliable than they actually are</td>
<td>Asset performance incorrectly predicted through design or poor reporting</td>
<td>Safety incident on network</td>
<td>TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS. TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
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<tr>
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</table>
| Maintenance | Maintainability not addressed within design | Failure of design process | - Asset unable to be maintained unless taken offline  
- Asset maintenance introduces unnecessary safety risk for maintenance staff  
- Asset not maintained to required standard but continues to be operated  
- Safety incident occurs | TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.  
TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation.  
See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires | ST to notify TfNSW that it is not able to demonstrate operational (Maintenance) readiness |
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<tbody>
<tr>
<td>Asset responsibility handed over without all</td>
<td>Failure of design process</td>
<td>- Asset unable to be operated/maintained as</td>
<td>TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.</td>
<td>ST unable to demonstrate Operational Readiness to CMC</td>
<td></td>
</tr>
<tr>
<td>appropriate/necessary documentation</td>
<td></td>
<td>&quot;intended/required&quot;</td>
<td>TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TfNSW of any material issues. An intent of the</td>
<td></td>
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<tr>
<td>(including safety assurance)</td>
<td></td>
<td>- Latent condition leading to safety incident</td>
<td></td>
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</tr>
</tbody>
</table>
# Global Safety Interface Agreement

## Category Hazard Cause Consequence TfNSW Controls Sydney Trains Controls

<table>
<thead>
<tr>
<th>Contracts awarded by TfNSW to parties other than Sydney Trains for maintenance/renewal of Sydney Trains operated infrastructure</th>
<th>Failure of third party maintenance process</th>
<th>- Network configurations falls out of synch - Latent conditions propagated leading to safety incident - Maintenance activities interfere with the safe operation of trains</th>
<th>RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed. ASA configuration management process.</th>
<th>ST will advise TfNSW of safety concerns based on past data or current operational experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access agreements</td>
<td>Access agreements influenced by TfNSW</td>
<td>- Unsafe trains/operators allowed onto network - Safety incident on network</td>
<td>Access seekers must comply with minimum standards; ST as network control manager can prevent operators from accessing network if safety of operations is compromised.</td>
<td>Network access process managed by ST ST not to allow access without positive confirmation of suitability received from TfNSW (ASSUMED POSITION BASED ON CURRENT KNOWLEDGE)</td>
</tr>
<tr>
<td>Sydney Trains/NSW Trains (as a Rolling Stock Operator) operating on TfNSW (as a Rail Infrastructure)</td>
<td>Track structures/infrastructure not fit for purpose</td>
<td>- Ineffective maintenance regime (Minimum standards set too low) - Train Collision - Train derailment - Train hits object/structure infringing kinematic</td>
<td>TfNSW SMS requirements for managing safeworking and infrastructure, including:</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
</tr>
<tr>
<td>Category</td>
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</tbody>
</table>
| Maintainer) network      | TfNSW rail corridor worksite incorrectly setup and/or maintained/managed | - Interface risks not clearly identified/evaluated before worksite setup  
- Worksite protection controls not in place  
- Ineffective communication between worksite and RMC | envelope    | Rail Safeworking Standard 4TP-ST-014/2.0  
Minimum Rolling Stock Requirements 4TP-ST-098/4.0,  
Rail Safeworking Arrangements Procedure 4TP-PR-106/2.0 | ST Network rules and procedures for worksite protection                                                                              |
| Emergency Response       | TfNSW directly involved in emergency response coordination activities  | - Confusion and re-prioritisation of tasks  
- Safety incidents escalate |             | TfNSW recognition of ST incident response accountabilities  
Incident response is the responsibility of ST |                                                                              |
| Decommissioning          | TfNSW fails to decommission assets when required                       | - Infrastructure loses structural integrity and impacts rail safety (collapsing onto trains)  
- Rollingstock used beyond life leading to safety incident |             | TfNSW relationship with Sydney Trains as per provisions of the Rail Services Contract  
TPD Engineering and Safety Assurance processes as per | ST will advise TfNSW of safety concerns based on past data or current operational experience |
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<tr>
<td></td>
<td>Re-commissioning of decommissioned rolling stock</td>
<td>Delivery of asset delayed - AEO scope of work excludes commissioning - AEO not able to comply with ASA standards - AEO fails to deliver project on time TfNSW fails to respond in a timely manner to infrastructure/asset safety requirements</td>
<td>- Asset not fit for service - Safety incident on network</td>
<td>TfNSW relationship with Sydney Trains as per provisions of the Rail Services Contract TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
</tr>
<tr>
<td></td>
<td>Old trains not retired when beyond life expiry</td>
<td>Safety incident on network</td>
<td></td>
<td>TfNSW relationship with Sydney Trains as per</td>
<td>ST will advise TfNSW of safety concerns based</td>
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<tr>
<td></td>
<td></td>
<td>- Configuration documents inadequately managed/controlled</td>
<td>- Unsafe (incorrectly integrated) asset released into service leading to safety incident</td>
<td>provisions of the Rail Services Contract ST as the accredited operator/maintainer must ensure trains entering and remaining in revenue service meet minimum safety standards, not TfNSW.</td>
<td>on past data or current operational experience</td>
</tr>
<tr>
<td>Configuration Management</td>
<td>Real world asset configuration out of sync with configuration register</td>
<td>- Network configuration issues not/inadequately communicated to stakeholders</td>
<td>- Latent conditions propagated leading to safety incident</td>
<td>ASA Configuration Management control process. AEO audit and surveillance process.</td>
<td>ST will advise TfNSW of safety concerns based on past data or current operational experience</td>
</tr>
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<td></td>
<td>Governance arrangements for systems integration and configuration control not adhered to by all relevant parties/stakeholders</td>
<td>- TNSW to parties other than Sydney Trains for maintenance/renewal of Sydney Trains operated infrastructure</td>
<td>- Unsafe asset released into service</td>
<td>TPD Engineering and Safety Assurance processes as per TNSW SMS/TPD QMS. ASA Configuration Management control process.</td>
<td>ST will advise TNSW of safety concerns based on past data or current operational experience</td>
</tr>
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</table>
|          | Software configuration inadequately managed/controlled                  | - Software release leads to system failure leading to operational impact  
- Software release results in unsafe operation of asset leading to safety incident  
- Software update cannot be rolled back in event release fails leading to operational impact | - Software release leads to system failure leading to operational impact  
- Software release results in unsafe operation of asset leading to safety incident  
- Software update cannot be rolled back in event release fails leading to operational impact | TPD Engineering and Safety Assurance processes as per TNSW SMS/TPD QMS. ASA to ensure standards reflect current requirements. AEO audit and surveillance process. | ST will advise TNSW of safety concerns based on past data or current operational experience |
<p>|          | Configuration Management Committee (CMC) influenced by government to deliver/release assets on time | - Unsafe assets released into service leading to safety incident | - Unsafe assets released into service leading to safety incident | TPD Engineering and Safety Assurance processes as per TNSW SMS/TPD QMS. ASA Configuration Management control | ST is to assist development of CMC assurance evidence |</p>
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</table>
| Compatibility     | Procured rolling stock out of gauge for network (too big or too small) | Delivered Asset does not satisfy key (but undefined) safety requirements | - Infrastructure damaged  
- Gap between rollingstock and platforms too big | TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.  
AEO audit and surveillance process. | ST will advise TfNSW of safety concerns based on past data or current operational experience |
|                   | Rolling stock not compatible with network systems                       | Delivered Asset does not satisfy key (but undefined) safety requirements | - Rolling stock fails to trip track circuits  
- Rolling stock cannot be integrated with ATP  
- Rolling stock cannot be integrated with comms systems (voice and data) | TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.  
AEO audit and surveillance process. | ST will advise TfNSW of safety concerns based on past data or current operational experience |
|                   | Asset incompatible with network                                        | Project integration fails to address all relevant interfaces          | - Safety systems compromised  
- Automated systems need to be manually overridden | TPD Engineering and Safety Assurance processes as per TfNSW SMS/TPD QMS.  
AEO audit and surveillance process.  
ASA Configuration Management control process. | ST will advise TfNSW of safety concerns based on past data or current operational experience |
| Organisational Functions | Safety function of TfNSW/Sydney Trains not clearly defined             |                                                                      | - Critical safety functions/responsibilities not undertaken  
- Safety Incident on network | Rail Services Contract, Safety Interface agreement and project agreements stipulate the various accountabilities | Safety functions identified within Rail Service Contract  
Safety function and responsibilities identified |
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<tr>
<td>Funding</td>
<td>Failure to adequately fund MPM programme</td>
<td>- Asset maintenance/renewal compromised</td>
<td>- Asset maintenance/renewal compromised</td>
<td>Rail Services Contract retains mechanisms for TNSW to notify of safety concerns. The SYD Trains RSC requires all parties to work collaboratively to resolve issues, and requires SYD Trains to notify TNSW of any material issues. An intent of the RSC is to work together collaboratively. If a dispute arises, the RSC provides an agreed dispute resolution process to be followed. ASA inputs to Sydney Trains's Technical Maintenance Plans.</td>
<td>within the ST SMS ST accredited as an Rail Operator</td>
</tr>
<tr>
<td>Competence</td>
<td>Lack of assurance that staff are competent</td>
<td>- Line managers remote to training delivery</td>
<td>Safety incident on network</td>
<td>TNSW SMS manages safety risk controls for TNSW staff and for the functions that are performed by TNSW (ie in the provision of ST SMS requirements for competence assurance ST 'qualified worker controls' assurance mechanisms (as defined)</td>
<td>ST retains ability to notify TNSW of problems or significant flaws based on past data or current operational experience.</td>
</tr>
</tbody>
</table>
### Global Safety Interface Agreement

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<tr>
<td></td>
<td>requirements for staff.</td>
<td>- Sydney trains assumes TfNSW responsible for training/competency</td>
<td></td>
<td>Organisational Development Services)</td>
<td>within Safety Risk Register)</td>
</tr>
<tr>
<td></td>
<td>Poor quality training</td>
<td>- Training delivered by resources who do not meet Trainer/Assessor requirements</td>
<td>Safety incident on network</td>
<td>The TfNSW Quality Training Management System (QTMS) outlines the processes and governance required to ensure services are delivered that meet customer needs (ie ST). This includes the requirement for Sydney Trains to specify and have input into capability requirements, program design and monitoring delivery and effectiveness.</td>
<td>ST SMS requirements for competence assurance ST 'qualified worker controls' assurance mechanisms (as defined within Safety Risk Register)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Rail safety training outsourced</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td>- Trainers not following quality process</td>
<td></td>
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</tr>
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</table>
|          | Rail safety worker competence system does not align with Sydney Trains competency requirement | ST competency requirements are not clear/provided to inform RSW competence system. | - Safety incident on network  
- Increase in human error | TfNSW SMS manages safety risk controls for TfNSW staff and for the functions that are performed by TfNSW (ie in the provision of Organisational Development Services).  
The TfNSW Quality Training Management | ST SMS requirements for competence assurance  
ST 'qualified worker controls' assurance mechanisms (as defined within Safety Risk Register) |
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<td></td>
<td></td>
<td>System (QTMS) outlines the processes and governance required to ensure services are delivered that meet customer needs (ie ST). This includes the requirement for Sydney Trains to specify and have input into capability requirements, RSW competence system design and monitoring delivery and effectiveness.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Competency programme only focuses on initial training requirement</td>
<td>- ST competency requirements are not clear/provided to inform RSW competence system.</td>
<td>- Safety incident on network</td>
<td>TfNSW SMS manages safety risk controls for TfNSW staff and for the functions that are performed by TfNSW (ie in the provision of Organisational Development Services). The TfNSW Quality Training Management System (QTMS) outlines the processes and governance required to ensure services are delivered that meet ST SMS requirements for competence assurance. ST 'qualified worker controls' assurance mechanisms (as defined within Safety Risk Register)</td>
<td></td>
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<tr>
<td>Category</td>
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</tbody>
</table>
|          | Refresher training not triggered by competency system | - ST competency requirements are not clear/provided to inform RSW competence system. | - Rail Safety Worker competency erodes over time  
- Safety incident | TfNSW SMS manages safety risk controls for TfNSW staff and for the functions that are performed by TfNSW (ie in the provision of Organisational Development Services).  
The TfNSW Quality Training Management System (QTMS) outlines the processes and governance required to ensure services are delivered that meet customer needs (ie ST). This includes the requirement for Sydney Trains to specify and have input into capability requirements, program | ST SMS requirements for competence assurance  
ST 'qualified worker controls' assurance mechanisms (as defined within Safety Risk Register) |
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<td></td>
<td>Sydney Trains assumes all Rail Safety Worker card holders are competent (including contractors) and they are not</td>
<td>- Rail Safety Worker Cards qualifies person as competent without reference to the supporting system - Card issued incorrectly</td>
<td>Card holder uses authorisation but not competent leading to safety incident</td>
<td>design and monitoring delivery and effectiveness.</td>
<td>ST SMS requirements for competence assurance ST 'qualified worker controls' assurance mechanisms as defined within Safety Risk Register</td>
</tr>
<tr>
<td>Timetable</td>
<td>Standard working timetable not compatible</td>
<td>- Existing network weaknesses</td>
<td>- Safety incident on network due to more</td>
<td>TfNSW timetable change process as</td>
<td>ST to provide inputs to and comments on the</td>
</tr>
<tr>
<td>Category</td>
<td>Hazard</td>
<td>Cause</td>
<td>Consequence</td>
<td>TfNSW Controls</td>
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<td></td>
<td>with network assets</td>
<td>Increase in / improvement to services</td>
<td>customers at different locations - Increased asset utilisation in places</td>
<td>articulated in the Rail Services Contract (Schedule 8) specifies requirements for review of timetable changes and roles and responsibilities for TfNSW and ST.</td>
<td>Timetable Change Documentation produced by TfNSW for the Timetable change from an operational, resourcing, Asset maintainability and safety integrity view. ST will advise TfNSW of safety concerns based on past data or current operational experience and work collaboratively to resolve the issue.</td>
</tr>
</tbody>
</table>

<p>|          | Standard working timetable increases traffic throughput | Existing network limitations and constraints Increase in / improvement to services | - Increased asset utilisation in places - Increased network congestion in places | TfNSW timetable change process as articulated in the Rail Services Contract (Schedule 8) specifies requirements for review of timetable changes and roles and responsibilities for TfNSW and ST. | ST to provide inputs to and comments on the Timetable Change Documentation produced by TfNSW for the Timetable change from an operational, resourcing, Asset maintainability and safety integrity view. ST will advise TfNSW of safety concerns based on past data or current operational experience and work collaboratively to resolve the issue. |</p>
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</thead>
<tbody>
<tr>
<td>Fleet allocation</td>
<td>Train fleets inappropriately assigned to Sydney Trains</td>
<td>- Existing fleet limitations and constraints</td>
<td>- Fleet not compatible with network and/or operating model</td>
<td>TPD Engineering and Safety Assurance processes as per TNSW SMS/TPD QMS.</td>
<td>ST to provide inputs to and comments on the Timetable Change Documentation produced by TNSW for the Timetable change from an operational, resourcing, asset maintainability and safety integrity view. ST will advise TNSW of safety concerns based on past data or current operational experience and work collaboratively to resolve the issue.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Introduction of new fleet to services</td>
<td>- Safety incident on network</td>
<td>TPD Quality Management System (QMS) contains requirements for stakeholder/end user consultation. See Schedule 13 and 14 of the Rail Services Contract. The ST RSC requires all parties to work collaboratively to resolve issues and requires ST to notify TNSW of any material issues. The intent of the RSC is to resolve any issues collaboratively. If a dispute arises, both parties will follow the dispute resolution process outlined in the RSC.</td>
<td></td>
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</tbody>
</table>
EXHIBIT J – NOT USED
EXHIBIT K – INDICATIVE SITE LAYOUT