

1. Contractor's Activities: The Contractor agrees:

- a. that by providing the Contractor's Activities to the Principal, it has accepted the terms of the Contract and that all other terms and conditions are excluded, including any terms and conditions provided by the Contractor; and
- b. to provide the Contractor's Activities to the Principal and the Principal agrees to pay for the Contractor's Activities in accordance with the terms of the Contract.

2. Contract Documents:

- a. The Contract between the Principal and the Contractor comprises:
 - i. these terms and conditions;
 - ii. the Purchase Order; and
 - iii. the Proposal.
- b. If there is any ambiguity or inconsistency between the documents comprising the Contract, the document appearing higher in the list in clause 2.a will have precedence to the extent of the ambiguity or inconsistency.

3. Existing contracts and standing offers: Subject to the terms of the Contract, if the Purchase Order is issued under the terms of an existing contract or a standing offer, the terms of that existing contract or standing offer will apply and these terms and conditions (other than this clause 3) will have no effect.

4. Goods: The Contractor must supply the Goods accompanied by a Delivery Note to the Principal at the Delivery Address on or before the relevant Delivery Date and in accordance with the Delivery Instructions (including any required packaging bearing the Purchase Order Number), together with any relevant documentation to operate and use the Goods. The Contractor must promptly notify the Principal if the Contractor becomes aware that it will be unable to supply all or parts of the Goods by the relevant Delivery Date and advise the Principal as to when it will be able to do so.

5. Services:

- a. The Contractor must provide the Services to the Principal:
 - i. for the period, at the times and locations (as applicable), and in accordance with any requirements for the provision of the Services as specified in the Purchase Order;
 - ii. using appropriately qualified, skilled and experienced personnel;
 - iii. to a standard of quality not less than Good Industry Practice for services of the same type as those Services and, without limiting clause 6, in a timely manner;
 - iv. to the satisfaction of the Principal; and
 - v. in accordance with any other requirements specified in the Contract.
- b. The Contractor must promptly notify the Principal if the Contractor or any of its officers, employees, agents or Subcontractors becomes aware that the Contractor will be unable to provide all or part of the Services in accordance with the requirements of this clause 5.

6. Works and Services to be completed by Delivery Date: The Contractor must complete the Services and Works by the relevant Delivery Date. The Contractor must

promptly notify the Principal if the Contractor becomes aware that it will be unable to complete the Services and Works by the Delivery Date.

7. Warranty:

- a. The Contractor warrants that:
 - i. the Goods are new, free from deficiencies in design, manufacture and workmanship and are fit for the purposes set out in, or reasonably ascertainable from, the Contract, or as otherwise notified by the Principal to the Contractor;
 - ii. in providing the Services, it will use workmanship of a standard consistent with Good Industry Practice for work of a similar nature to the provision of the Services and which is fit for the purposes set out in, or reasonably ascertainable from, the Contract;
 - iii. any design documentation it prepares will be fit for its intended purpose; and
 - iv. upon acceptance of the Contractor's Activities by the Principal, to the extent they are designed by the Contractor, the Works will be fit for their intended purpose.

8. Acceptance and replacement Contractor's Activities:

- a. The Principal may accept or reject the relevant Contractor's Activities within 14 days after delivery of the Goods to the Delivery Address, or completion of the Services or the Works (as applicable). If the Principal does not notify the Contractor of acceptance or rejection within the 14-day period, the Principal will be taken to have accepted the Contractor's Activities on the expiry of the 14-day period.
- b. The Principal may reject the Contractor's Activities where they do not comply with the requirements of the Contract including any acceptance tests.
- c. If the Principal rejects the Contractor's Activities, or if the Contractor's Activities do not otherwise comply with the Contract the Principal may require the Contractor to provide, at the Contractor's cost, replacement Goods or Services which comply with the requirements of the Contract or to take any other action to rectify any aspect of the Contractor's Activities or the Works, as directed by the Principal.
- d. At the Principal's request, the Contractor must promptly remove any relevant Goods from the Principal's premises at its cost.
- e. Any acceptance or deemed acceptance of the Contractor's Activities will not constitute approval by the Principal of the Contractor's performance of its contractual obligations or be taken as an admission or evidence that the Contractor's Activities comply with the Contract.

9. Extension of time and liquidated damages:

- a. If the Contractor:
 - i. is delayed in supplying the Goods or completing the Services or Works by the Delivery Date by a cause beyond the reasonable control of the Contractor (other than any delay arising out of or in connection with an act or omission of, or breach of the Contract by, the Contractor); and
 - ii. has given a written notice to the Principal within 3 Business Days of the start of the delay setting out details of the delay, its

causes and the number of days extension claimed,

the Delivery Date will be extended by a reasonable period as determined by the Principal.

- b. The Principal may also unilaterally extend the Delivery Date in its absolute discretion at any time and from time to time by written notice to the Contractor.
- c. If the Contractor fails to deliver the Goods or complete the Services or Works (as applicable) by the Delivery Date, the Contractor must pay liquidated damages at a rate of 0.5% of the Contract Price for every day or part thereof after the Delivery Date until the actual date of delivery of the Goods or completion of the Services or Works, capped at 10% of the Contract Price.
- d. The amount payable under this clause 9:
 - i. will be a debt due from the Contractor to the Principal;
 - ii. subject to clause 30.g, is the Principal's sole and exclusive remedy for any failure by the Contractor to deliver the Goods or complete the Services or Works by the relevant Delivery Date; and
 - iii. is an agreed genuine pre-estimate of the Principal's damages if delivery of the Goods or completion of the Services or Works does not occur by the Delivery Date.
- e. If the liquidated damages under this clause 9 are found to be a penalty or void or unenforceable for any reason (whether in whole or in part), then the Contractor will be liable to pay unliquidated damages at law for the breach for which the liquidated damages under this clause 9 would have been payable had the relevant liquidated damages or clause not been a penalty or not been void or unenforceable.

10. Suspension: The Principal may direct the Contractor to suspend and, after a suspension has been instructed, to recommence the carrying out of all or a part of the Contractor's Activities under the Contract. Any suspension under this clause will be effective on and from the date specified in the Principal's direction.

11. Principal access:

- a. At the Principal's request (acting reasonably), the Contractor must permit the Principal and its nominees timely and sufficient access to the Contractor's premises, records or accounts relevant to the Contract to:
 - i. undertake quality audits and quality surveillance (as defined in AS/NZ ISO 9000 current at the date the Purchase Order is issued) of the Contractor's quality system and/or the production processes related to the Contractor's Activities;
 - ii. undertake any audit it requires to be satisfied that the Contractor is complying with applicable laws in connection with the provision of the Contractor's Activities, including Workplace Laws and Modern Slavery Laws; and
 - iii. monitor the Contractor's work health and safety and environmental compliance in connection with the provision of the Contractor's Activities and its compliance with the Contract generally.

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12. Security and safety:

- a. If the Principal provides the Contractor with access to any place, area or facility, the Contractor must comply with any security and safety requirements notified to the Contractor by the Principal or of which the Contractor ought to be aware and ensure that its officers, employees, agents and Subcontractors are aware of and comply with requirements.
- b. The Contractor must:
 - i. comply with, and must ensure that all Subcontractors (including subcontractors of a Subcontractor) comply with, the applicable WHS Legislation when performing the Contractor's Activities in Australia; and
 - ii. so far as is reasonably practicable, consult, co-operate and co-ordinate activities with the Principal and any other person who, concurrently with the Contractor, has a work health and safety duty under the WHS Legislation in relation to the same matter.
- c. The Contractor must ensure, so far as is reasonably practicable, that the Contractor's Activities are without risk to the health and safety of persons who may in any way be affected by the Contractor's Activities.
- d. If a Notifiable Incident occurs at the Principal's premises or involves the Principal's personnel in connection with work carried out under the Contract, the Contractor must immediately report the incident to the Principal, promptly provide the Principal with copies of any notices or other documentation provided to or issued by the relevant government regulator in relation to the Notifiable Incident, and provide the Principal with such other information as may be required by the Principal to facilitate the notification to or investigation of the Notifiable Incident in accordance with the WHS Legislation.

13. The environment: The Contractor must ensure that in carrying out the Contractor's Activities it does not pollute, contaminate or otherwise damage the environment.

14. Approvals and compliance with law:

- a. The Contractor must obtain and comply with any necessary export licences, licences, accreditations, permits, registrations, regulatory approvals or other documented authority (however described) required by law or any government authorities (including by the Asset Management Branch) and necessary for the provision of the Contractor's Activities or work performed under the Contract and arrange any necessary customs entry for the Contractor's Activities.
- b. The Contractor must:
 - i. comply with and ensure its officers, employees, agents and Subcontractors (including subcontractors of a Subcontractor); and
 - ii. ensure that the Goods, Services, Works, Contractor's Activities and Deliverables,and comply with:
 - iii. the laws from time to time in force in the State, Territory or other jurisdictions in which any part of the Contractor's Activities are to be carried out; and
 - iv. all of the Principal's policies, standards and guidelines relevant or applicable to the

Contractor's Activities notified to the Contractor by the Principal, or of which the Contractor ought to be aware (including those published on the Principal's website at:

<https://www.transport.nsw.gov.au/about-us/who-we-are/culture-and-values> or
<https://www.transport.nsw.gov.au/about-us/who-we-are/sydney-trains/contractors> or
on the RailSafe website at:
<http://railsafe.org.au/>).

- c. To the extent heavy vehicles are used in the performance of the Contractor's Activities, the Contractor must:
- i. comply with the chain of responsibility provisions in the *Heavy Vehicle National Law 2013* (Cth); and
 - ii. ensure that every subcontract between the Contractor and its Subcontractors relating to the Contractor's Activities, regardless of the subcontract value, includes a clause to the same effect as 14.c.i which is binding on the Subcontractor, and provide evidence of this to the Principal when requested by the Principal.
- d. The Contractor is liable for and must indemnify the Principal against any claims against, or costs, losses or damages suffered or incurred by, the Principal, arising out of, or in any way in connection with:
- i. any failures by the Contractor or a Subcontractor engaged by the Contractor to comply with applicable Workplace Laws and with any applicable modern award or enterprise agreement; and
 - ii. any breaches by the Contractor, a Subcontractor or a subcontractor of a Subcontractor of any Fair Work Instrument.
- e. If at any time the Principal considers that the Contractor has breached its obligations under paragraphs a, b or c, the Principal may issue a written notice to the Contractor directing the Contractor to:
- i. remedy any breaches (including by making all back payments to employees); and
 - ii. immediately comply with all applicable laws or policies (including Workplace Laws and any applicable Fair Work Instrument).
- f. The Contractor must comply with the Principal's notice under this clause within 20 Business Days.

15. Title and risk:

- a. Title to the Goods and the Works transfers to the Principal upon the earlier of payment or delivery to the Delivery Address and, at the time of the earlier of payment or delivery to the Delivery Address, the Goods and the Works must be free of any security interest.
- b. The Contractor bears the risk of:
 - i. any loss or damage to the Goods until they are delivered to the Delivery Address in accordance with the Contract;
 - ii. any loss or damage to the Works until they have been accepted under clause 8;
 - iii. where the Contractors' Activities involve the refurbishment, overhaul or repair of, or any other work in relation to, any parts, plant, equipment or goods owned by the Principal, any loss or damage to such parts, plant,

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equipment or goods while they are in the care, custody or control of the Contractor; and

- iv. at any time after the Goods are delivered or the Services or Works are completed in accordance with the Contract, any loss of or damage to the Goods, the Deliverables or the Works arising from any act or omission of the Contractor (including during the Defects Liability Period) or from an event which occurred prior to delivery.

16. Site conditions and access:

- a. The Contractor is not entitled to make, and the Principal will not be liable upon, any claim for an increase in the Contract Price or for payment of money arising out of or in connection with the existence of any Site Conditions.
- b. The Principal:
 - i. is not obliged to:
 1. provide the Contractor with sole access to the Site; or
 2. carry out any work or provide any facilities to the Contractor (other than as stated in the Contract) which may be necessary to enable the Contractor to obtain adequate access to carry out the Contractor's Activities; and
 - ii. may engage Other Contractors to work upon or in the vicinity of the Site at the same time as the Contractor.
- c. In carrying out the Contractor's Activities, the Contractor must:
 - i. minimise disruption or inconvenience to:
 1. the Principal, occupiers, tenants and potential tenants of the Site in their occupation or use of, or attendance upon, any part of the Site; and
 2. others having a right of access to the Site;
 - ii. at all reasonable times give the Principal and any person authorised by the Principal access to the Works, the Site or any areas off Site where Contractor's Activities are being carried out; and
 - iii. provide the Principal and any person authorised by the Principal with every reasonable facility necessary for the supervision, examination and testing of the Contractor's Activities.

17. Work health and safety:

- a. In this clause 17, the terms "construction work", "principal contractor" and "workplace" have the same meanings assigned to those terms under the WHS Legislation.
- b. If the Principal is Transport for NSW, then unless the Principal notifies the Contractor in writing that the Contractor will not be the principal contractor, the Contractor will be the principal contractor for the purpose of the Contract.
- c. If the Principal is Sydney Trains or NSW Trains, then unless the Principal notifies the Contractor in writing that the Contractor will be the principal contractor, the Contractor will **not** be the principal contractor for the purpose of the Contract.

d. If the Contractor is the principal contractor in accordance with clause 17b or has been notified pursuant to clause 17c that it is the principal contractor, then:

- i. the Principal authorises the Contractor to have management and control of each workplace at which construction work is to be carried out and to discharge the duties of a principal contractor, under the WHS Legislation;
- ii. the Contractor accepts the engagement as principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Legislation; and
- iii. the Contractor's engagement and authorisation as principal contractor will continue:
 1. until acceptance of the Contractor's Activities by the Principal; and
 2. while any rectification work that is "construction work" is carried out during the Defects Liability Period,

unless sooner revoked by the Principal terminating the Contract pursuant to any provision of the Contract or according to law.

- e. Where the Contractor is not engaged as the principal contractor, the Contractor must comply with the reasonable directions of the principal contractor in relation to any construction work forming part of the Contractor's Activities.
- f. As a condition precedent to the Principal's obligation under the Contract to provide the Contractor with access to, or possession of the Site, the Contractor must prepare and submit a WHS Management Plan to the Principal for approval (such approval not to be unreasonably withheld).
- g. No comment upon nor any review, acceptance or approval of the WHS Management Plan by the Principal will affect any warranty or guarantee given by the Contractor or relieve the Contractor of any of its liabilities or obligations under the Contract.
- h. To the extent not prohibited by law, the Contractor indemnifies the Principal against any claims against, or loss suffered or incurred by, the Principal arising out of or in connection with the failure of the Contractor to discharge the duties imposed on a principal contractor under the WHS Legislation (if the Contractor has been engaged as principal contractor) or otherwise comply with this clause 17.

18. Requirements for working in Rail Corridor

If the Contractor is required to work in the Rail Corridor for the performance of the Contractor's Activities, the Contractor must comply with the requirements set out in the document entitled "Requirements for Working in the Rail Corridor" available at:

<https://www.transport.nsw.gov.au/industry/doing-business-transport/tfsw-standard-terms-and-conditions-for-goods-and-services>.

19. Co-operation with Other Contractors:

- a. The Contractor must:
 - i. permit Other Contractors to carry out their work;
 - ii. fully co-operate with Other Contractors; and

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- iii. carry out the Contractor's Activities so as to avoid interfering with, disrupting or delaying the work of Other Contractors.

20. Cleaning up:

- a. In carrying out the Contractor's Activities, the Contractor must:
 - i. keep the Site clean and tidy and free of refuse; and
 - ii. as a condition precedent to acceptance of the Contractor's Activities by the Principal, remove all rubbish, materials and plant, equipment and work from the part of the Site relevant to the Contractor's Activities.

21. Testing: The Contractor must carry out all tests required by the Contract or directed by the Principal.

22. Long Service Levy:

- a. Without limiting clause 14, where the Contractor's Activities require the Contractor to carry out any Works, before commencing the Contractor's Activities, the Contractor must:
 - i. pay to the Long Service Corporation or the Long Service Corporation's agent the amount of the long service levy payable in respect of the building and/or construction work under the *Building and Construction Industry Long Service Payments Act 1986* (NSW); and
 - ii. produce to the Principal the documentary evidence of payment of the levy.

23. Payment:

- a. Prior to submitting an invoice, the Contractor must confirm to the reasonable satisfaction of the Principal that it holds evidence that all persons performing any work in respect of the Contract have been paid their entitlements under any award or legislation.
- b. The Contractor may:
 - i. submit an invoice for the Contract Price following acceptance of the Contractor's Activities in accordance with clause 8;
 - ii. if the Purchase Order provides for the payment of the Contract Price by way of instalments or milestone payments, submit an invoice for the relevant instalment or milestone payment at the times set out in the Purchase Order; or
 - iii. if the SOP Act applies to the Contractor's Activities, submit an invoice for a progress payment on account of the Contract Price on the 25th day of each month (or, where that day is not a Business Day, the next Business Day),
- c. Subject to compliance with clause 24, the Principal must pay the Contractor:
 - i. within 30 days of receipt of a correctly rendered invoice submitted in accordance with clause 23b.i;
 - ii. within 15 Business Days of receipt of a correctly rendered invoice for the relevant instalment, milestone or progress payment submitted in accordance with clause 23b.ii or 23b.iii; or
 - iii. within such other timeframe set out in the Purchase Order.

- d. Payment made by the Principal is not an acknowledgement that the Goods, Services, Works or Contractor's Activities have been supplied in accordance with the Contract.
- e. Where an invoice is provided prior to the date referred to in clause 23b.i, 23b.ii or 23b.iii (as applicable), it will be deemed to have been received on the date on which the Contractor was entitled to submit it.

24. Invoice:

- a. Unless the Contractor has a RCTI arrangement with the Principal, in addition to its obligations under clause 23.a, the Contractor must submit a correctly rendered invoice to the Principal at the Invoice Address. An invoice is correctly rendered if:
 - i. it is correctly addressed and calculated in accordance with the Contract;
 - ii. the Principal has not rejected the Contractor's Activities under clause 8;
 - iii. it is for an amount which does not exceed the Contract Price or (where applicable) the relevant instalment or milestone payment;
 - iv. it includes the Purchase Order Number;
 - v. it is a valid tax invoice in accordance with the GST Act;
 - vi. it attaches a signed "Subcontractor's Statement" in the form set out at: <https://www.revenue.nsw.gov.au/help-centre/resources-library/opt011.pdf> (if applicable); and
 - vii. if the SOP Act applies to the Contract, a supporting statement for the purposes of section 13(7) of the SOP Act.
- b. The Contractor must promptly provide to the Principal such supporting documentation and other evidence reasonably required by the Principal to substantiate performance of the Contract by the Contractor or the Contract Price payable by the Principal, including satisfactory evidence that the Contractor is registered for GST.
- c. If the Contractor has a RCTI arrangement with the Principal, the Principal will raise invoices in accordance with the Contract.

25. SOP Act:

- a. This clause applies if the SOP Act applies to the Contract.
- 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 the Contract.
- c. 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 in issuing a payment statement under clause 23; and
 - 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.

- d. Without limiting clause 33, 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.
- e. 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 lead 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:
 - 1. any period for which money owed by the Principal to the Contractor has been unpaid; and
 - 2. the date by which payment of money owed by the Principal to the Contractor must be made.
- f. 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 in accordance with Division 2A of the SOP Act.
- g. 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.
- h. 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 subparagraph (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).

26. Price basis: The Contract Price is firm and is inclusive of all taxes (other than GST), duties (including any customs duty) and government charges imposed or levied in Australia or overseas. The Contract Price includes the cost of any packaging, marking, handling, freight and delivery, insurance and any other applicable costs and charges, and costs of compliance with all other statutory, award or other legal or contractual requirements.

27. GST:

- a. Unless otherwise stated all monetary amounts in the Contract are exclusive of GST.
- b. The Principal will pay to the Contractor an amount equal to any GST payable on any taxable supply made under or in connection with the Contract.
- c. The Contractor warrants that it is registered for GST under the GST Act and will immediately notify the Principal if it ceases to be registered or ceases to satisfy any of the requirements of any determination or ruling made by the Australian Taxation Office under the GST Act.

28. Intellectual property:

- a. Each party will retain its Pre-existing IPR and nothing in the Contract assigns or transfers the Pre-existing IPR of one party to another. Neither party may assert or bring any claim for ownership of any or all of the other party's Pre-existing IPR.
- b. The Contractor grants to the Principal a non-exclusive, irrevocable, perpetual, transferable, royalty-free licence to use, reproduce, make adaptations of, modify or incorporate into other work (and sub-licence any other third party to do so) all existing and future Intellectual Property Rights comprised in or subsisting in the Contractor's Pre-existing IPR to:
 - i. allow the Principal the full benefit and enjoyment of the Goods, the Services, the Works, the Deliverables and Contractor's Activities;
 - ii. use the Contractor's Pre-existing IPR:
 1. to procure, undertake or perform any works, activities, goods or services in connection with any further upgrade or refurbishment of the Works, Goods or Services, or any plant, equipment or infrastructure systems owned, operated or maintained by the Principal or any other Public Transport Agency;
 2. to install, operate, maintain and monitor the Works, Goods or Services or any plant, equipment or infrastructure systems owned, operated or maintained by the Principal or any Public Transport Agency; and
 3. to integrate the Works, Goods or Services with any other plant, equipment or infrastructure systems owned, operated or maintained by the Principal or any other Public Transport Agency; and
 - iii. disclose the Contractor's Pre-existing IPR on a confidential basis to third parties for the purposes of a tender process for any procurement in connection with the matters set out in clause 28bii.
- c. The Principal grants to the Contractor a non-exclusive licence to use the Principal's Pre-existing IPR solely for the purpose of carrying out the Contractor's Activities in accordance with the Contract.
- d. Subject to the above, title in, and ownership of all Intellectual Property Rights associated with the Deliverables vests on its creation in the Principal. The Contractor agrees to execute all documents and do all acts and things required by the Principal to give effect to this clause.

- e. The Contractor warrants that it has all Intellectual Property Rights and moral rights necessary to provide the Contractor's Activities to the Principal and licences those rights to the Principal to allow the Principal to have the full benefit of the Contractor's Activities. The Contractor also warrants that the provision of the Contractor's Activities in accordance with the Contract will not infringe any third party's Intellectual Property Rights or moral rights.
- f. The Contractor must indemnify the Principal against any claims against, or costs, 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 Intellectual Property Rights in or associated with the Contractor's Activities.

29. Defects:

- a. Notwithstanding acceptance of the Contractor's Activities by the Principal in accordance with clause 8, the Contractor must remedy at its cost any Defects in the Contractor's Activities notified by the Principal to the Contractor at any time prior to the end of the Defects Liability Period.
- b. If the Principal notifies the Contractor of a Defect in accordance with this clause 29, the Contractor must remedy the Defect within the time agreed between the parties or, failing agreement, the time specified by the Principal (acting reasonably).
- c. The Contractor will be responsible for any costs of removing the Goods and supplying repaired or replacement Contractor's Activities to the Principal together with any associated or incidental costs. If the Contractor does not remedy the Defect within the time required by clause 29b, the Principal may remedy the Defect itself or engage another party to do so at the Contractor's risk and expense, and any costs incurred by the Principal in remedying the Defect will be a debt due from the Contractor to the Principal.
- d. If the Contractor is responsible for remedying a Defect under the Contract, the Defects Liability Period will be extended for the work required for a period equal to the period set out in paragraph a. of the definition of "Defects Liability Period", commencing upon completion of the correction of the Defect (or the relevant part of it).
- e. Neither the Principal's rights, nor the Contractor's liability, whether under the Contract or otherwise according to law in respect of Defects, whether before or after the expiry of the Defects Liability Period, will be affected or limited by:
 - i. the rights conferred upon the Principal by this clause 29 or any other provision of the Contract;
 - ii. the failure by the Principal to exercise any such rights; or
 - iii. any instruction of the Principal under clause 29b.

30. Termination: The Principal may terminate the Contract at its sole discretion, if:

- a. the Contractor does not provide, or notifies the Principal that it will be unable to provide, all of the Contractor's Activities for the period, at the times and/or locations (including to the Delivery Address or by the Delivery Date) as applicable, and in accordance with any requirements for the provision of the Contractor's Activities as specified in the Purchase Order;

- b. the Principal rejects any of the Contractor's Activities in accordance with clause 8;
- c. the Contractor breaches the Contract and the breach is not capable of remedy;
- d. the Contractor does not remedy a breach of the Contract which is capable of remedy within the period specified by the Principal in a notice of default issued by the Principal to the Contractor requiring the Contractor to remedy the breach;
- e. the Contractor becomes bankrupt or insolvent;
- f. the Contractor breaches any of its obligations under clause 12;
- g. the Contractor:
 - i. is, or would but for the cap on liability in clause 9 have been, liable to the Principal under clause 9 for an amount exceeding 10% of the Contract Price; and
 - ii. has not delivered the Goods or completed the Works or Services;
- h. the Contractor:
 - i. is, or would but for clause 35 have been, liable to the Principal for an amount greater than the Contract Price; and
 - ii. has not completed the Contractor's Activities; or
- i. the Contractor, or an entity owned or controlled by the Contractor, is convicted of a Modern Slavery Offence during the term of the Contract.

31. Termination for convenience:

- a. Without prejudice to any of the Principal's other rights, the Principal may:
 - i. at any time for its sole convenience, and for any reason, by written notice to the Contractor terminate the Contract effective from the time stated in the Principal's notice or if no such time is stated, at the time the notice is given to the Contractor; and
 - ii. thereafter, at its absolute discretion, complete the uncompleted part of the Contractor's Activities either itself or by engaging another contractor.
- b. If the Principal terminates the Contract under clause 31.a, the Contractor:
 - i. will be entitled to payment of the following amounts as determined by the Principal:
 - 1. for work carried out prior to the date of termination, the amount which would have been payable if the Contract had not been terminated and the Contractor submitted a payment claim for the Contract value of work carried out prior to the date of termination, provided that ownership of all goods and materials included in the value of work will vest in the Principal, free of any security interest, upon payment;
 - 2. the cost of goods or materials reasonably ordered by the Contractor for the Contractor's Activities for which the Contractor is legally bound to pay, provided that:

- i. the value of the goods or materials is not included in any previous payment by the Principal or the amount payable under sub-paragraph 1; and
- ii. ownership in the goods and materials will vest in the Principal, free of any security interest, upon payment; and
- 3. the reasonable direct costs incurred by the Contractor (excluding profit but including an amount for overheads) as a direct result of the termination, but in no case will the total amount payable to the Contractor under the Contract (including under this clause 31.b) be more than the Contract Price; and
- ii. must:
 - 1. take all steps possible to mitigate the costs referred to in clause 31.b.i; and
 - 2. immediately:
 - i. deliver to the Principal all items in which ownership has passed to the Principal under the Contract; and
 - ii. hand over to the Principal all copies of documents provided by the Principal under the Contract, and all Deliverables (including any services and test documentation) prepared by the Contractor prior to the date of termination (whether complete or not).
- c. The amount to which the Contractor is entitled under this clause 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 the Contract.
- d. This clause will survive the termination of the Contract by the Principal under clause 31.a.

32. Insurance:

- a. The Contractor must procure and maintain:
 - i. workers compensation insurance or registrations as required by law;
 - ii. if the Contractor's Activities involve any professional services (including design), professional indemnity insurance for an amount of \$10 million per claim and in the annual aggregate (which insurance must be maintained by the Contractor for a period of not less than six years following the end of the Defects Liability Period);
 - iii. products liability insurance for an amount of \$20 million per occurrence and in the annual aggregate;
 - iv. public liability insurance for an amount of:
 - 1. \$20 million per occurrence;
 - 2. if the Contractor's Activities involve work in a non-live rail corridor - \$50 million per occurrence; or
 - 3. if the Contractor's Activities involve work in a live rail corridor - \$250 million per occurrence;

- v. If the Contractor's Activities involve the completion of any Works, works insurance for at least the value of the Contract Price plus 20%; and
 - vi. motor vehicle insurance for an amount of \$20 million in respect of property damage and third party bodily injury (other than as provided for by any compulsory statutory insurance scheme or accident compensation scheme).
- b. Nothing in the Contract limits, constrains or restricts the Contractor from procuring and maintaining such other insurances and on such terms and conditions as a prudent supplier, providing works, goods and services similar to the Works, Goods and Services, would procure and maintain.
 - c. The Contractor must use reasonable endeavours to ensure that the insurances required under this clause 32 extend the benefit of cover to the Principal and TAHE as insureds in respect of their vicarious liability for the acts or omissions of the Contractor and its Subcontractors.
 - d. The Contractor must provide evidence of insurance (which may be by way of a certificate of currency) on request by the Principal.
 - e. The Contractor must notify the Principal as soon as practicable in the event that a claim is made against an insurance policy required to be effected under the Contract that materially impacts the Contractor's ability to perform the Contractor's Activities or to comply with any of its obligations under the Contract, including its obligations under this clause 32.
 - f. This clause 32 will survive any termination of the Contract.

33. Set off:

- a. The Principal may deduct from any moneys otherwise due to the Contractor:
 - i. any debt or other moneys due from the Contractor to the Principal; or
 - ii. any claim to money which the Principal may have against the Contractor whether for damages or otherwise,

whether under or in connection with the Contract or relating to the Contractor's Activities.
- b. The rights given to the Principal under this clause 33 are in addition to and do not limit or affect any other rights of the Principal under the Contract or at law and nothing in the clause affects the right of the Principal to recover from the Contractor the whole of the debt or claim in question or any balance that remains owing.
- c. Failure by the Principal to deduct from an amount otherwise due to the Contractor any amount which the Principal is entitled to deduct under this clause 33 will not prejudice the Principal's right to subsequently exercise its right of deduction under this clause.
- d. This clause 33 will survive any termination of the Contract.

34. Indemnity:

- a. The Contractor indemnifies the Principal against:
 - i. any loss of or damage to property of the Principal; and

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- ii. any liability to or claims by a third party in respect of loss of or damage to property or injury to or death of persons,

caused by, or arising 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 contributed to the loss, damage, injury or death.
 - b. The parties agree that the operation of Part 4 of the *Civil Liability Act 2002* (NSW) is excluded in relation to any rights, obligations and liabilities arising under the Contract regardless of how such rights, obligations or liabilities are sought to be enforced.
- ### 35. Limitation of liability:
- a. Notwithstanding any other provision of the Contract, neither party will be liable to the other for Consequential Loss howsoever arising.
 - b. Subject to clause 35.c, the Contractor's aggregate liability to the Principal in contract, tort (including negligence) or otherwise under the Contract is limited in aggregate to an amount equal to the Contract Price.
 - c. Clause 35b does not limit the Contractor's liability in respect of:
 - i. liability which cannot be limited at law;
 - ii. liability under clause 9, 28, or 34.a;
 - iii. fraud, wilful misconduct or criminal conduct by the Contractor or any of its personnel;
 - iv. liability to the extent to which the Contractor is (or will be) entitled to be paid or indemnified pursuant to an insurance policy required under the Contract in respect of that liability;
 - v. liability for which, but for a failure by the Contractor to comply with its obligations under the Contractor or under an insurance policy required under the Contract, the Contractor would have received payment or been indemnified under an insurance policy effected in accordance with the Contract; or
 - vi. the Contractor's abandonment of its obligations under the Contract.
 - d. Subject to clause 35.e, the Principal's aggregate liability to the Contractor in contract, tort (including negligence) or otherwise under the Contract is limited to the Contract Price.
 - e. Clause 34.d does not limit the Principal's liability in respect of:
 - i. liability which cannot be limited at law; or
 - ii. fraud, wilful misconduct or criminal conduct by the Principal or any of its personnel.
 - f. This clause 35 will survive any termination of the Contract.

36. Prior activities:

- a. The parties acknowledge and agree that all of the terms and conditions of the Contract will apply to any works, services, goods or activities executed, supplied or performed by the Contractor in connection with the subject-matter of the Contract or the Contractor's Activities:
 - i. as if those works, services, goods or activities were Contractor's Activities; and

- ii. even if such works, services, goods or activities were executed, supplied or performed by the Contractor prior to the date of the Contract.
- b. Any payment made to the Contractor by the Principal under or in connection with the subject-matter of the Contract or the Contractor's Activities prior to the date of the Contract will be treated as a payment under the Contract and will fully discharge the Principal's obligation to pay the Contract Price in respect of the relevant works, services, goods or activities executed, supplied or performed by the Contractor.

37. Notices: Any notice or communication under the Contract will be effective if it is in writing, signed and sent to the Principal or the Contractor as the case may be, at the address or email set out in the Purchase Order.

38. Assignment: The Contractor must not assign any of its rights under the Contract without the prior written consent of the Principal.

39. Subcontracting:

- a. The Contractor must notify the Principal in writing immediately if it anticipates that any part of the Contractor's Activities will need to be subcontracted.
- b. The Contractor may not subcontract any work without the prior written consent of the Principal. The Principal may withhold its consent to approve any Subcontractor in its absolute discretion.
- c. Subcontracting the whole or part of the Contractor's obligations under the Contract will not relieve the Contractor from any of its obligations under the Contract. Upon request the Contractor must make available to the Principal the details of all Subcontractors engaged to provide the Contractor's Activities under the Contract. The Contractor acknowledges that the Principal may be required to disclose such information.
- d. The Contractor must take all reasonable steps to ensure that all subcontracts of the whole or part of the Contract are substantially consistent with the terms and conditions of the Contract and include Modern Slavery provisions that are reasonably consistent with the provisions in clause 45, having regard to the nature of the activities.

40. Confidentiality: The Contractor shall not disclose any Confidential Information of the Principal to any third party without the prior written consent of the Principal. The Contractor will not be in breach of this clause in circumstances where it is required by law to disclose any Confidential Information.

41. Conflict of interest: The Contractor warrants that, as at the date of the Contract, no conflict of interest exists or is likely to arise in the performance of its obligations under the Contract by itself or by any of its officers, employees, agents or Subcontractors. The Contractor shall notify the Principal in writing promptly if such a conflict of interest arises, or appears likely to arise.

42. TAHE's interest: The rights and benefits of the Principal provided for under the Contract are intended to be for, and are held by the Principal for, the benefit of the Principal in its own right and also for the benefit of TAHE as the owner of NSW rail assets, and NSW Trains as the operator of rail services in NSW outside the metropolitan area.

43. Governing law: The laws of New South Wales apply to the Contract. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of

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New South Wales and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

44. Public disclosure:

- a. The Contractor acknowledges and agrees that disclosure by the Principal of all or any part of the Contract may be required:
 - i. in accordance with the *Government Information (Public Access) Act 2009 (NSW)*, the *Ombudsman Act 1974 (NSW)* or the *Independent Commission Against Corruption Act 1988 (NSW)*;
 - ii. to satisfy the disclosure requirements of the New South Wales Auditor General or to satisfy the requirements of Parliamentary accountability;
 - iii. for the purpose of investigations by the Australian Competition and Consumer Commission or other government authorities having relevant jurisdiction; or
 - iv. by government policy,

and the Contractor must use all reasonable endeavours to assist the Principal in meeting its disclosure obligations under this clause 44.

- b. This clause 44 will survive any termination of the Contract.

45. Modern Slavery:

- a. The Contractor warrants that as at the date of the Contract, neither the Contractor, any entity that it owns or controls or, to the best of its knowledge, any Subcontractors (including subcontractors of a Subcontractor), has been convicted of a Modern Slavery Offence.
- b. The Contractor must:
 - i. within 7 days of providing a modern slavery statement to the Commonwealth (if required or volunteered under the *Modern Slavery Act 2018 (Cth)*) provide a copy of that modern slavery statement to the Principal; and
 - ii. notify the Principal in writing as soon as it becomes aware of a material change to any of the information (including information as to any risks of, actual or suspected occurrences of, and remedial action taken in respect of, Modern Slavery, but not including "personal information" as defined in the *Privacy and Personal Information Protection Act 1998 (NSW)* or information which tends to identify individuals) it has provided to the Principal in relation to Modern Slavery or any actual or suspected occurrence of Modern Slavery in its operations or supply chains (or those of any entity that it owns or controls).
- c. The Contractor must take reasonable steps to ensure that:
 - i. Modern Slavery is not occurring in the operations and supply chains of the Contractor and any entity that it owns or controls; and
 - ii. it does not use, nor procure, any goods, plant, equipment or other materials and work or services that are the product of Modern Slavery.

46. Privacy:

- a. The Contractor must, when it collects, receives, uses, discloses, transfers or otherwise handles Personal Information in the course of performing its obligations under the Contract, comply with the Privacy Laws.
- b. The Contractor must not do anything or omit to do anything with the Personal Information that will cause the Principal to breach its obligations under the Privacy Laws.
- c. The Contractor must co-operate with any reasonable requests or directions of the Principal concerning the collection, security, use and disclosure of Personal Information covered by the Contract, or the rights of individuals to access and correct such Personal Information, except to the extent that compliance with the direction would cause the Contractor to breach a Privacy Law.
- d. On termination or expiry of the Contract, the Contractor must destroy or otherwise deal with any Personal Information collected by or provided to the Contractor in accordance with the reasonable directions of the Principal.

47. Security of critical infrastructure:

- a. The Contractor:
 - i. acknowledges the Principal has obligations under the SOCI Act; and
 - ii. must:
 1. retain and provide to the Principal such records and reports as may be required; and
 2. comply with the Principal's directions, for the purposes of compliance with the SOCI Act.
- b. The Contractor must notify the Principal if it becomes aware of any grounds to believe or suspect that a SOCI Cyber Security Incident has occurred or is occurring. The notification must occur within 4 hours of the incident.
- c. The Contractor's written report must include the following:
 - i. All information as prescribed by the SOCI Act;
 - ii. the nature and details of the SOCI Cyber Security Incident;
 - iii. the kinds of information and assets affected (or suspect to be affected) by the SOCI Cyber Security Incident;
 - iv. the impact of the SOCI Cyber Security Incident on the availability, integrity, reliability or confidentiality of an asset; and
 - v. any actions that have been undertaken and/or are recommended to be taken by the Principal, the Contractor and/or persons who are or may be affected by the SOCI Cyber Security Incident.
- d. The Contractor must continue to provide to the Principal all information and assistance requested by the Principal relating to the SOCI Cyber Security Incident.
- e. Notwithstanding any other provision, the Contractor will have no claim against the Principal arising out of or in connection with the Contractor's compliance with this clause 47.

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48. Entire agreement: The Contract represents the parties' entire agreement in relation to the subject matter and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

49. Definitions: In the Contract:

AMB or Asset Management Branch means the unit within Transport for NSW which sets, controls, maintains, owns and publishes the network and asset standards for Transport Assets (or any successor or replacement organisation with the same functions).

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

Confidential Information means any information provided by the Principal to the Contractor or which comes into the possession of the Contractor in connection with the Contractor's Activities or the Contract which the Principal has identified as confidential or the Contractor ought reasonably to know is confidential.

Consequential Loss means any loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of business or loss of business opportunity, loss of contract, loss of goodwill, loss of use or loss of production (whether the loss is direct or indirect).

Contract has the meaning given in clause 2.

Contract Price means the contract price specified in the Purchase Order.

Contractor means the contractor or supplier specified in the Purchase Order.

Contractor's Activities means all things or tasks which the Contractor is, or may be, required to do to comply with its Contract obligations and includes the supply of the Goods and/or Services and the design and construction of Works (as applicable).

Defect means any aspect of the Contractor's Activities, the Works, the Services or the Goods, or any part thereof, which is not in accordance with the requirements of the Contract.

Defects Liability Period means the period commencing on acceptance of the Contractor's Activities by the Principal and continuing for:

- a. 90 days; or
- b. the period of the Contractor's or manufacturer's standard warranty applicable to the Contractor's Activities; or
- c. such other period set out in the Contract, whichever is the longest.

Deliverables means all items, materials, documentation (including any plans, drawings, manuals and specifications), software and products produced, created or developed for the Principal by or on behalf of the Contractor as part of providing the Goods, Services, Works or Contractor's Activities for the purposes of, or in anticipation of, the Contract, irrespective of whether they are produced, created or developed prior to the date of the Contract (but excluding the Goods).

Delivery Address means the location or locations for the provision of the Goods, as specified in the Purchase Order.

Delivery Date means the date or dates for provision of the Goods or completion of the Services or Works (as applicable), as specified in the Purchase Order, as extended under clause 9.

Delivery Instructions means the delivery instructions set out in the Purchase Order (if any).

Delivery Note means a written record containing:

- a. the Contractor's name and business address;
- b. description and quantity of delivered Goods;
- c. name and contact details of the Ordering Officer; and
- d. the Purchase Order Number.

Fair Work Instrument means:

- e. a modern award;
- f. an enterprise agreement;
- g. a workplace determination; or
- h. a Fair Work Commission order.

Good Industry Practice means practices which optimise safety, efficiency, durability and performance, and minimise environmental impacts, consistent with recognised standards, methods, and laws, as would be used by skilled and experienced contractors for works or services similar to the Contractor's Activities.

Goods means the goods specified in the Purchase Order (if any) to be provided by the Contractor.

GST has the meaning given in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Intellectual Property Rights means all present and future rights in relation to patents, registered designs, trademarks or names, copyright or other protected intellectual property rights (or any rights to registration of such rights) whether created before or after the date of the Contract and whether existing in Australia or otherwise.

Modern Slavery has the same meaning as in the Modern Slavery Laws and includes slavery, servitude, forced labour, human trafficking, debt bondage, organ trafficking, forced marriage and the exploitation of children.

Modern Slavery Laws means the *Modern Slavery Act 2018* (Cth), the *Modern Slavery Act 2018* (NSW) and any other applicable law addressing the same, similar or related subject matter from time to time.

Modern Slavery Offence has the same meaning as in the *Modern Slavery Act 2018* (NSW).

Notifiable Incident has the meaning given in the WHS Legislation.

NSW Trains means the corporation by that name constituted by section 37(1) *Transport Administration Act 1988* (NSW).

Ordering Officer means the Principal's ordering officer named on the Purchase Order.

Other Contractor means any supplier, contractor, consultant, artist, tradesperson or other person engaged to do work other than the Contractor and its Subcontractors.

Personal Information has the meaning given to that term in the *Privacy Act 1988* (Cth).

Pre-existing IPR of any party means any Intellectual Property Rights belonging to the party that are:

- a. pre-existing as at the date of the Contract, but does not include any Intellectual Property Rights developed by the Contractor or any of its officers, employees, agents or subcontractors for the

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purposes of, or in anticipation of, carrying out the Contractor's Activities; or

- b. brought into existence other than as a result of the performance of its obligations under the Contract,

and used by a party in performing its obligations under the Contract.

Principal means the customer who has issued the Purchase Order.

Privacy Laws means:

- a. the *Privacy Act 1988* (Cth);
- b. the *Privacy and Personal Information Protection Act 1998* (NSW); and
- c. any legislation, rules, guidelines, orders, directions, directives, codes of conduct or other instruments made or issued affecting privacy, Personal Information or the collection, handling, storage, processing, use or disclosure of personal data, as amended from time to time.

Public Transport Agency means Transport for NSW (and each of its divisions), Sydney Trains, NSW Trains, Sydney Metro, TAHE and any other public transport agency as defined in the *Transport Administration Act 1988* (NSW).

Proposal means the proposal or submission in response to a request for tender or quotation submitted by the Contractor to the Principal for the supply of the Goods, Services Works, Contractor's Activities or Deliverables, including any subsequent amendments of the Proposal accepted by the Principal.

Purchase Order means the purchase order attached to these terms and conditions and any attachments to the Purchase Order (including any statement of work or services).

Purchase Order Number means the order number specified on the Purchase Order.

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 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.

RCTI means recipient created tax invoice.

SOCI Act means the *Security of Critical Infrastructure Act 2018* (Cth) and any rules or regulations enacted in connection with that Act.

SOCI Cyber Security Incident has the meaning given in section 12M of the SOCI Act.

Services means the services specified in the Purchase Order (if any).

Site means any land made available by the Principal to the Contractor to carry out the Contractor's Activities, if any.

Site Conditions means all above and below ground conditions and characteristics of the Site and its surrounds (including all natural and artificial things, asbestos, contamination, and other environmentally hazardous substances, concrete cracking and spalling, utilities and services on and within the surface and, if the Site includes a building, on and within the building (including those things obscured behind walls, ceilings and beneath the floor)), or on or about the Site including:

- a. the location and adequacy of existing services, including all pipes, valves, ducts, cables, switchboards and other plant and equipment;

- b. the adequacy and position of all load bearing and support structures; and
- c. any existing services, plant, equipment or structures which require temporary or permanent removal or relocation in order to carry out the Contractor's Activities.

SOP Act means the *Building and Construction Industry Security of Payment Act 1999* (NSW).

Subcontractor means any person engaged by the Contractor for the performance of any of the Contractor's Activities including any entity acting as a labour hire company, whether or not it is an entity related to the Contractor.

Sydney Metro means the corporation by that name constituted by section 38(1) of the *Transport Administration Act 1988* (NSW).

Sydney Trains means the corporation by that name constituted by section 36(1) of the *Transport Administration Act 1988* (NSW).

TAHE means the corporation by the name Transport Asset Holding Entity of New South Wales ABN 59 325 778 353, constituted by Part 2 Division 1 of the *Transport Administration Act 1988* (NSW), known, prior to 1 July 2020, as Rail Corporation New South Wales.

Transport Assets means those assets which are vested in or owned, managed, controlled, commissioned or funded by the NSW Government, a NSW Government agency or a Public Transport Agency.

Transport for NSW means the corporation by that name constituted by section 3C of the *Transport Administration Act 1988* (NSW).

WHS Legislation means the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulations 2017* (NSW).

WHS Management Plan means the work health and safety plan to be prepared by the Contractor under clause 17.f, which must:

- a. set out in adequate detail the procedures the Contractor will implement to manage the Contractor's Activities from a work health and safety perspective;
- b. describe how the Contractor proposes to ensure the Contractor's Activities are performed consistently with WHS Legislation; and
- c. comply with the specific requirements of Part 6.4 of the *Work Health and Safety Regulation 2017* (NSW) in relation to the matters that a WHS management plan must include.

Workplace Laws means:

- a. the *Fair Work Act 2009* (Cth);
- b. the *Fair Work Regulations 2009* (Cth);
- c. the *Superannuation Guarantee (Administration) Act 1992* (Cth);
- d. applicable state legislation relating to long service leave; and
- e. any other law by the Commonwealth or any State or Territory relating to the entitlements of employees.

Works means the physical works to be carried out and completed under the Contract and handed over to the Principal (if any), as described in the Purchase Order.