MINOR WORKS BUILDING WORKS CONTRACT

CONTRACT FOR SUPPLY AND INSTALLATION OF A NEW BUILDING MANAGEMENT SYSTEM AT THE HIGH COURT BUILDING PARKS, ACT

Commonwealth of Australia acting through
the **High Court of Australia**
(ABN 69 445 188 986)

[Name of Contractor]
[ABN and ACN of Contractor]

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BUILDING WORKS CONTRACT

CONTRACT FOR SUPPLY AND INSTALLATION OF A NEW BUILDING MANAGEMENT SYSTEM AT THE HIGH COURT BUILDING PARKS, ACT

Date

This Contract is dated [INSERT DATE].

Parties

This Contract is made between and binds the following parties:

1. **Commonwealth of Australia** acting through the **High Court of Australia** of Parkes Place, Parkes ACT 2601 (ABN 69 445 188 986) (**Principal**)

2. **[Name of Contractor]** of [insert address of contractor], [insert ABN and ACN of Contractor] (**Contractor**)

Context

This Contract is made in the following context:

A. The Principal wishes to have the Works carried out at the Site.

B. The Contractor has represented to the Principal that it has the requisite skills, experience and resources to the carry out the Works.

C. The Principal agrees to engage the Contractor to carry out the Works on the terms and conditions of this Contract and the Contractor accepts that engagement.

Operative provisions

In consideration of the mutual promises contained in this Contract, the parties agree as follows:

1. Definitions and interpretation

1.1. Definitions

1.1.1. In this Contract, unless the context indicates otherwise:

Approved Subcontractors	means the subcontractors detailed in Schedule 1
Certificate of Practical Completion	means a certificate issued by the Principal's Representative under clause 24.1.5 certifying that the Works have reached the stage of Practical Completion.
Confidential Information	means information that is specified in Schedule 1 or that the parties agree in writing after the date of this Contract is confidential information for the purposes of this Contract.

Construction Period	means the period within which the Contractor agrees to execute and complete all phases of the Works specified in Schedule 1.
Construction Program	means the construction program prepared by the Contractor under clause 20 and approved by the Principal's Representative.
Contract	comprises of the Contract Documents.
Contract Documents	means those documents listed in Schedule 1 and any instructions issued by the Principal or the Principal's Representative and any Variation Orders.
Contract Price	means the amount set out in Schedule 1adjusted in accordance with the Contract.
Contractor	includes, where the context permits, the Contractor's subcontractors, suppliers, permitted assigns and any other person or organisation engaged by the Contractor for or in connection with the Works.
Date for Practical Completion	means the date for Practical Completion of the Works set out in Schedule 1.
Date of Practical Completion	means the date on which Practical Completion of the Works is certified to have occurred by the Principal's Representative under clause 24.1.5.
Defects Liability Period	means the period of 12 months commencing after the Date of Practical Completion, as extended under this Contract.
GST	has the meaning given to it in the GST Law and includes any related interest, penalties, fines or other charges.
GST Law	has the meaning given to it in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and includes any applicable rulings issued by the Commissioner for Taxation.
High Court Site Manual	Means the manual or excepts of the manual detailed in Schedule 5.
Nominated Subcontractor	means any subcontractor approved by the Principal's Representative who enters into a subcontract with the Contractor to execute and complete any portion of the Works..

Practical Completion	means that stage of the Works when: a. the Contractor has completed the Works in accordance with the requirements of this Contract; b. the Works are substantially fit for the use and occupation of the Principal, subject only to rectification of minor defects and omissions; and c. the requirements of Schedule 7 have been satisfied.
Principal's Representative	means the person nominated as such in Schedule 1 or such other person nominated from time to time by the Principal.
Schedule of Unit Rates	means the schedule of cost items attached at Schedule 3 and includes any bill of quantities or other document signed by the parties for use in valuing Variations.
Scope of Works	means Schedule 2.
Security	means a security in a form acceptable to the Principal's Representative satisfying the requirements of Schedule 1.
Site	means the location for the carrying out of the Works specified in Schedule 1.
Site Requirements	means Schedule 4.
Specialist Contractor	means any contractor engaged directly by the Principal to execute and complete works associated or connected with the Works.
Supervisor	means the person appointed by the Contractor under clause 18.1.1.
Variation	means a variation directed under clause 19.1.1 to any part of the Works.
Variation Order	means a variation order under clause 19.1.2.
Works	means the works and the supply of all necessary labour, materials and services as are more particularly described in the Scope of Works Schedule.

1.2. Interpretation

1.2.1. In this contract, unless the contrary intention appears:

a. words importing a gender include any other gender;

b. words in the singular include the plural and words in the plural include the singular;

c. clause headings are for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;

d. words importing a person include a partnership and a body whether corporate or otherwise;

e. a reference to dollars is a reference to Australian dollars;

f. a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision;

g. if 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;

h. a reference to an Item is a reference to an Item in the Schedule;

and

i. a reference to writing is a reference to any representation of words, figures or symbols, whether or not in a visible form.

1.3. Ambiguity and Discrepancy in Contract

1.3.1. The Contractor must immediately give written details to the Principal of any ambiguity or discrepancy it finds in this Contract.

1.3.2. Any ambiguity or discrepancy in this Contract must be explained by the Principal given the nature of the ambiguity or discrepancy after written request by the Contractor or on its discovery, and the Contractor must perform the Works on this basis subject to clause 13.1.6.

2. Contractor to carry out the Works

2.1.1. The Contractor agrees to carry out the Works in accordance with this Contract and bring them to completion by the Date for Practical Completion for the Contract Price.

3. Contractor's Warranties

3.1.1. Without limiting the Contractors obligations under clause 1.3 the Contractor warrants that:

a. the Contractor at all times shall be suitably qualified, experienced and skilled and shall carry out the Work with due skill, care and diligence;

b. the Scope of Works are adequate and suitable for the construction of the Works;

c. it will construct the Works in accordance with the Scope of Works;

d. it will comply with all representations made to secure this Contract whether made as part of a request from tender or request for quote or otherwise, unless inconsistent with the terms of this Contract;

e. the Works when completed will be:

i. free from any defects;

ii. comply with all the requirements of the Contract and the law.

3.1.2. The Contractor's warranties under clause 3.1.1 are not affected by:

a. any receipt or review of, or comment or instruction on any document by or on behalf of the Principal; or

b. any variation under clause 19.

3.1.3. Notwithstanding anything in this clause 3 or in the Contract otherwise, the Contractor has no liability to the Principal on any basis arising out of or in connection with the design or specification of the Works, other than:-

a. Defects or omissions in the Scope of Works that would be apparent on initial inspection by a competent and experienced builder;

b. any design or specification provided by the Contractor.

4. Licences, permits and approvals

4.1.1. The Contractor must obtain any licences, permits or approvals required for the Works except those specified in this Contract to be obtained by the Principal or by the Principal's Representative.

4.1.2. All costs payable for any licences, permits or approvals and any other government charges in connection with the Works must be paid by the Contractor.

5. Security

5.1.1. The Contractor must provide the Security.

5.1.2. The Principal may have recourse to the Security to compensate the Principal for cost loss or expense arising from a breach of this Contract by the Contractor or where the Principal remains unpaid 5 days after the due date for payment to the Principal by the Contractor.

5.1.3. Subject to the Contractor not otherwise being in breach, upon the issue of the Certificate of Practical Completion the Principal must return one half of the Security to the Contractor within 14 days.

5.1.4. The Principal shall release the balance of any Security held by it within 14 days after the issue of the final payment certificate by the Principal's Representative under clause 21.1.16.

6. Admission of Contractor's personnel to the Site

6.1.1. On entering and occupying the Site and/or the Principal's premises in which it is situated, the Contractor and its personnel must:-

a. Comply with all reasonable requirements of the Principal as advised by the Principal's Representative or that a responsible and experience contractor would expect

b. identify themselves in such way as the Principal requires.

6.1.2. The Principal may object to Contractor's Personnel or subcontractor personnel being on Site or on the Principal's Premises. The Principal must act reasonable when making any such decision. The Principal's decision to refuse admittance to any of the Contractor's or subcontractor's personnel shall be binding upon the Contractor, the Contractor's subcontractors and any other person or organisation engaged upon or in connection with the Works. The Contractor will make no claim against the Principal for any such decision and promptly secure a replacement acceptable to the Principal.

6.1.3. Where the Works are being carried out in a place where normal working hours have been established, the Contractor must adopt those hours of working and must not engage in the Works outside those hours except by specific arrangement with the Principal.

6.1.4. The cost of any supervision of the Contractor or its personnel outside normal working hours will be for the Contractor's account.

6.1.5. The Contractor is required to comply with the requirements of the High Court Contractor Site Manual.

7. Supply of labour, materials, equipment, and transport

7.1.1. Unless otherwise specified in this Contract, the Contractor must, at its own expense, supply and provide:

a. all labour (including the supervision thereof);

b. all materials;

c. all necessary mechanical equipment, tools, implements, ladders, plant, scaffolding and staging, tarpaulins, temporary fencing etc;

d. all necessary temporary shoring, strutting etc and any other necessary temporary works;

e. transportation of labour, materials, plant and equipment to and from the Site; and

f. all other articles, things or services of any kind,

required for the proper execution, completion and protection of the Works.

8. Assignment or subcontracting

8.1.1. The Contractor must not without the written consent of the Principal's Representative subcontract the Works or assign the benefit of this Contract or any portion or allow a subcontractor to subcontract any part of the Works or assign any benefit of the subcontract.

8.1.2. Even if the Principal's Representative has consented to a subcontracting of the Works or any portion:

a. the Principal's Representative may prohibit any subcontractor from performing any portion of the Works and may remove any subcontractor from the Works; and

b. the Contractor shall remain fully responsible for the completion of the Works in accordance with this Contract.

8.1.3. Subject to a direction from the Principal's Representative to the contrary, the Approved Subcontractors may be used by the Contractor in the execution of the Works.

8.1.4. The Contractor must ensure that all subcontractors comply with this Contract insofar as it specifies the manner of carrying out the Works.

9. Nominated Subcontractors and Specialist Contractors

9.1.1. The Principal may:

a. nominate subcontractors for any portion or portions of the Works and require the Contractor to enter into a subcontract with those subcontractors; and

b. directly employ Specialist Contractors.

9.1.2. The Contractor shall be responsible for the whole of the Works including works carried out by Nominated Subcontractors.

9.1.3. All instructions given by the Principal's Representative to the Contractor referring to the works of Nominated Subcontractors shall be forwarded by the Contractor to the Nominated Subcontractors without delay and the Contractor shall ensure that the instructions are carried out promptly.

9.1.4. The Contractor is responsible for the co-ordination of any Specialist Contractors employed directly by the Principal.

9.1.5. The Contractor must give all Nominated Subcontractors and Specialist Contractors all particulars relating to their respective work with regard to the order of its execution.

9.1.6. The Principal shall not be liable for any claims arising out of lack of liaison between the Contractor and Nominated Subcontractors or Specialist Contractors.

10. Labour

10.1.1. The Contractor and any subcontractors must provide and employ on the Site in connection with the execution of the Works:

a. only such technical assistants as are skilled and experienced in their respective callings and such supervisors, foremen and leading hands as are competent to give proper supervision to the work they are required to supervise; and

b. such skilled and semi-skilled labour as is necessary for the proper and timely execution and maintenance of the Works.

10.1.2. The Principal may object to Contractor's Personnel or subcontractor personnel being on Site or on the Principal's Premises. The Principal must act reasonable when making any such decision. The decision of the Principal and/or the Principal's Representative as to the competence of the appointed Supervisor, any other personnel of the Contractor, the subcontractors and any other persons or organisations engaged upon or in connection with the Works shall be final and binding. The Contractor will make no claim against the Principal for any such decision and promptly secure a replacement acceptable to the Principal.

10.1.3. The Contractor shall be fully responsible at all times for the behaviour and discipline of all personnel engaged upon or in connection with the Works.

10.1.4. The Contractor must, at the request of the Principal's, remove from the Site any personnel engaged upon or in connection with the Works and this shall not in any way affect the Contractor's obligations under this Contract.

11. Materials

11.1.1. The Contractor must supply all plant equipment and material for the execution of the Works. The Contractor must confirm the availability and delivery times of all materials

11.1.2. The Contractor will be responsible for delays in the delivery of materials, except those purchased directly by the Principal.

11.1.3. All materials supplied by the Contractor must be in accordance with any Scope of Works or otherwise approved by the Principal Representatives.

11.1.4. No alternative materials may be substituted without the prior written approval of the Principal's Representative.

11.1.5. Any unauthorised substitution of materials must be removed and replaced with the specified materials at the Contractor's expense.

11.1.6. All materials to be used in permanent work must be new unless otherwise specified.

11.1.7. All materials must in any event be entirely to the satisfaction of the Principal's Representative.

11.1.8. Before bulk supplies are ordered, the Contractor must provide at its expense samples of materials specified and, if approved by the Principal's Representative, such samples shall establish the quality for all such materials used in the Works.

11.1.9. The submission to and approval by the Principal's Representative of any samples does not relieve the Contractor of its obligations under this Contract.

11.1.10. If any material or article is rejected by the Principal's Representative it must be removed from the Site at the Contractor's expense.

11.1.11. The Contractor is solely responsible for measuring or otherwise determining the quantity of all materials and articles for use in the Works.

11.1.12. Neither the Principal nor the Principal's Representative shall be liable for any errors in such measurement or other determination.

11.1.13. On receipt of materials (including any purchased directly by the Principal) the Contractor must examine them to ensure that the correct material, colour and quantity have been delivered and bring any discrepancy immediately to the attention of the Principal's Representative.

12. Dilapidation Report

12.1.1. Within five days of being granted access to Site, the Contractor shall complete and provide to the Principal's Representative a dilapidation report of the existing condition of the Site and thing, property or item which is adjacent to the Site and may be affected by the works.

12.1.2. The dilapidation report must include a detailed description and assessment of existing conditions including photographs.

12.1.3. The Principal's Representative will have five working days to review the dilapidation report.

12.1.4. The Principal's Representative will advise the Contractor in writing if the dilapidation report has any omissions or errors. The contractor will have five days to correct to update the dilapidation report.

12.1.5. The Contractor cannot commence works until the Principal's Representative has approved in writing the dilapidation report.

12.1.6. No receipt, review, comment or approval as to the suitability of a dilapidation report by the Principal's Representative shall:

a. relieve or limit the Contractor from any obligation or liability under this Contract;

b. relieve or limit the Principal's rights under the Contract; or

c. amount to acceptance by the Principal that a dilapidation report complies with the requirements of the Contract

13. Execution of the Works

13.1.1. Materials, workmanship and the Works as a whole must conform to the minimum required by the Contract Documents, the Building Code of Australia, and all other applicable laws, regulations, standards and codes of practice, including those described in the Scope of Works.

13.1.2. The Contractor must executed the Works in accordance with the Scope of Works. If requirements are indicated in any specifications contained in the Scope of Works but not indicated in the drawings in the Scope of Works, or indicated in the drawings but not in the specifications, as if it were indicated in both.

13.1.3. The division of the Scope of Works into sections does not affect the allocation of work and the Contractor remains responsible for all work in all sections.

13.1.4. The Contractor is responsible for setting out the Works and must rectify at its own expense all errors or defects in the Works.

13.1.5. If any discrepancy occurs between the measurements on Site and any dimensions written on drawings the Contractor must bring it to the attention of the Principal's Representative before commencing that portion of the Works.

13.1.6. The Contractor must promptly notify the Principal of any errors, omissions or defects in the design of the Works before commencing that portion of the Works. The Principal's Representative will instruct the Contractor as to how to proceed in respect of any such errors, omissions or defects.

13.1.7. The Contractor must promptly notify the Principal's Representative (and in any event before they undertake the Work) if they regard any direction of the Principal's Representative as varying this Contract or would delay the Contractor in the execution of the Works.

13.1.8. Subject to the previous clause and confirmation of the instruction, if compliance with an instruction of the Principal's Representative under this clause 13:

a. causes the Contractor to incur more or less cost than otherwise would have been incurred had the instruction not been given the difference will be assessed by the Principal's Representative and added to or deducted from the Contract Price; and

b. delays the Contractor reaching Practical Completion, the Contractor may request an extension of time to the Date for Practical Completion under clause 22.1.2.

13.1.9. The Contractor must not execute on the Principal's premises any works not in connection with the Works.

14. Inspection of Works

14.1.1. The Principal's Representative may inspect the Works at any time.

14.1.2. Inspection by the Principal's Representative does not relieve the Contractor from its obligation to ensure that the Works are executed in accordance with this Contract.

14.1.3. The Contractor must not cover up any work without the prior approval of the Principal's Representative.

14.1.4. The Contractor must, at the request of the Principal's, open up and re-cover at its own expense, any work covered up without the said prior approval.

15. Testing and Commissioning

15.1.1. The Contractor must comply with any hold and test requirements in the Scope of Works and associated specifications.

15.1.2. The Contractor must comply with any testing and commissioning requirements in the Scope of Works and associated specifications.

16. Cleaning up

16.1.1. The Contractor must at all times keep the Site in a clean, tidy, safe and sanitary condition, free of all debris, surplus materials, scrap, crates, rubbish and combustible matter and must remove the same at its own expense at frequent intervals throughout the course of Works or when so instructed by the Principal's Representative.

16.1.2. On completion of the Works and before the issue of the Certificate of Practical Completion, the Contractor must remove all remaining debris, surplus materials, scrap, crates and rubbish from the Site and leave the whole of the Works and the Site in a clean and proper condition to the satisfaction of the Principal, the Principal's Representative.

17. Contract Price

17.1. Contract Price

17.1.1. This Contract is a lump sum, fixed price contract.

17.1.2. The Contract Price is not subject to, and the Principal is not liable for, re-measurement or re-calculation on account of any of the following:

a. where actual quantities of work and materials differ from any estimates available at the date of this Contract, except with regard to Variations ordered by the Principal's Representative which shall be priced in accordance with clause 19;

b. any increase in wages and/or emoluments and expenses of any kind payable to workmen; or

c. any increases in the cost of materials, goods, plant or equipment, irrespective of whether such increases come into effect during the progress of this Contract or after the acceptance of the Contractor's tender for the Works.

17.1.3. These provisions apply equally to the Contractor's subcontractors and suppliers.

17.1.4. The Contract Price includes all government taxes and duties, irrespective of whether any increase comes into effect during the progress of this Contract or after acceptance of the Contractor's tender.

17.1.5. The final Contract Price shall be the sum of the original contract price and the total amount of all adjustments made in accordance with the Contract (if any).

17.2. Interest

17.2.1. For the purpose of this clause 16.2:

General Interest Charge Rate	means the general interest charge rate determined under section 8AAD of the *Taxation Administration Act 1953* (Cth) on the day payment is due, expressed as a decimal rate per day; and
the day that payment is made	is the day when the Principal's system generates a payment request into the banking system for payment to the Contractor.

17.2.2. Subject to clause 17.2.3, if the Principal fails to pay to the Contractor an amount under this Contract by the due date for payment, the Principal will pay simple interest on the unpaid amount at the General Interest Charge Rate calculated in respect of each day from the due date up to and including the day that payment is made in accordance with the formula set out below:

SI = UA x GIC x D

where:

SI = simple interest amount;

UA = the unpaid amount;

GIC = General Interest Charge daily rate; and

D = the number of days from the day after payment was due up to and including the day that payment is made

17.2.3. The Principal will pay interest under this clause 17.2:

a. where the amount of interest exceeds A$10; and

b. where the payment of the unpaid amount is made by the Principal:

   i. up to 30 days after the due date for payment, where the Contractor has issued a correctly rendered invoice for the interest; or

   ii. more than 30 days after the due date for payment, at the same time payment of the unpaid amount is made.

18. Supervisor and Principal's Representative's instructions

18.1.1. The Contractor must appoint a Supervisor to be responsible for the Contractor's carrying out of the Works in accordance with this Contract.

18.1.2. Subject to clause 18.1.3, the Contractor must upon receipt comply with all instructions issued to the Contractor by the Principal's Representative relating to the carrying out of the Works.

18.1.3. Where instructions are given to the Contractor by the Principal's Representative which the Contractor considers will affect the Contract Price and/or Construction Period, the Contractor must, within 7 days of the receipt of such instructions and prior to complying with them, apply to the Principal's Representative for an adjustment to the Contract Price and/or Construction Period. If the Contractor fails to comply with the requirements of this sub clause it waives any right to make a claim against the Principal for the instruction

18.1.4. The Principal's Representative shall either reject such application or shall issue a Variation Order pursuant to clause 19.1.2 stating the amount by which the Contract Price and/or Construction Period is adjusted.

18.1.5. The Contractor is not entitled to any adjustment of the Contract Price or Construction Period for Variations to the Works or alterations to the construction schedule:

a. in respect of compliance with the instructions of the Principal's Representative except pursuant to a Variation Order issued under clause 19.1.2; or

b. if the Contractor's application for an adjustment is made subsequent to the commencement of the Variation to the Works giving rise to such application.

19. Variations to the Works

19.1.1. The Principal's Representative may direct the Contractor to carry out a Variation to the Works, which may consist of additions, deletions or alterations to the Works or any portion thereof.

19.1.2. Any adjustment of the Contract Price or Construction Period arising out of any Variations to the Works or alterations to the construction schedule shall be valid only if authorised in a written Variation Order signed by the Principal's Representative and countersigned by the Principal.

19.1.3. If a Variation Order is given in accordance with clause 19.1.2, it shall be deemed to be incorporated into this Contract.

19.1.4. The Contractor may add 10% of the price of Variations which constitute additions or alterations on account of management fee, overhead and profit.

19.1.5. Any Variations to the Works for which instructions have been issued by the Principal's Representative must be measured in accordance with the *Standard*

Method of Measurement of Building Works for use in Australia and priced in accordance with the Schedule of Unit Rates.

19.1.6. The Works include any Variations directed by the Principal's Representative whether or not such Variations affect the Contract Price or Construction Period.

20. Progress of the Works

20.1.1. Immediately after the date of this Contract, and before possession of site, the Contractor must prepare and submit to the Principal's Representative for the Principal Representative's approval a construction program for the carrying out of the Works in accordance with this Contract.

20.1.2. The program will need to take into account Court sitting days and public opening hours.

20.1.3. None of the Principal's Representative shall be liable for any errors in the Construction Program.

20.1.4. A copy of the Construction Program shall be retained at the Site and the Contractor must note on it the actual progress of the Works and inform the Principal's Representative of any circumstances that might affect the Construction Program or delay completion of the Works by the Date for Practical Completion.

20.1.5. The Contractor must submit regular progress reports to the Principal's Representative, as nominated by the Principal's Representative, containing information on the progress of the Works, labour and materials on Site and details of any information required by the Principal's Representative.

20.1.6. Site meetings must be held by the Contractor as requested by the Principal's Representative.

20.1.7. The Contractor must arrange for a senior member of its staff and the Supervisor to attend all Site meetings.

20.1.8. The Contractor must maintain a complete copy of the drawings and specifications and Construction Program at the Site at all times during all phases of the Works.

20.1.9. The Principal's Representative will produce minutes of all Site meetings and distribute copies to the Principal, the Contractor and other interested parties as soon as possible after the meeting.

20.1.10. Where appropriate, the minutes of Site meetings shall be regarded as written instructions by the Principal's Representative to the Contractor and the provisions of clause 18.1.2 shall apply.

21. Payment of the Contract Price

21.1.1. In consideration of the Contractor carrying out the Works in accordance with this Contract the Principal agrees to pay to the Contractor the Contract Price.

21.1.2. The Contract Price is inclusive of:

a. all costs, expenses, disbursements, levies and taxes incurred by the Contractor in carrying out and completing the Works; and

b. all ancillary and other works and expenditure, whether separately or specifically mentioned or described in the Contract Documents or not, which are necessary to carry out and bring to completion the Works as described in the Contract Documents.

21.1.3. The Contract Price will be paid progressively by progress payments monthly upon the Contractor performing the Works to the satisfaction of the Principal's Representative.

21.1.4. The Contractor must at the end of each month during the term of this Contract prepare and submit to the Principal's Representative for approval and payment a correct tax invoice for the Works completed in the previous month.

21.1.5. The tax invoice shall set out the Contractor's claim for that part of the Contract Price that it considers payable for Works completed during the relevant month.

21.1.6. The form and content of the tax invoice shall be determined by the Principal.

21.1.7. Whenever called upon so to do by the Principal's Representative, the Contractor must:

a. provide additional information and documentation; and

b. allow access to all records relating to the Works,

in order to check the accuracy of the tax invoices submitted by the Contractor.

21.1.8. The Principal's Representative may inspect the works and seek advice on the claimed invoiced works.

21.1.9. The Principal's Representative will assess tax invoices submitted by the Contractor and, subject to this clause 21, pay the amount claimed or such proportion thereof that it considers payable within 30 days of receipt.

21.1.10. Where the amount determined as payable by the Principal's Representative is less than the amount claimed by the Contractor, the Principal's Representative will provide to the Contractor with written reasons for the difference.

21.1.11. If the Principal exercises its rights under this clause, the 30 day period for payment will be extended by a period equivalent to that which it takes the Contractor to rectify any deficiency in a tax invoice or performance of the Works to the satisfaction of the Principal.

21.1.12. The Principal may, without derogating from any other right it may have, defer assessing a tax invoice or paying the amount payable thereunder until the Contractor has completed to the satisfaction of the Principal the whole or any part of the Works in accordance with this Contract to which the tax invoice relates.

21.1.13. Any payment of the Contract Price made to the Contractor will not be taken as evidence against or as an admission by the Principal that the Works have been

carried out in accordance with this Contract or of the value thereof, but will be taken to be payment on account only and no payment will be deemed to release the Contractor from the requirements of this Contract.

21.1.14. Within 14 days after the expiry of the Defects Liability Period as varied under this Contract, the Contractor must lodge a final claim for a progress payment under this clause 21, which claim includes all moneys to which the Contractor considers itself entitled in connection with this Contract

21.1.15. After the expiry of the period in clause 21.1.14, any claim which the Contractor may otherwise have made against the Principal and which has not been made is barred.

21.1.16. Within 14 days after the lodgement of a final claim under clause 21.1.14 or, where the Contractor fails to lodge such a claim, the expiry of the period in which such a claim may have been lodged by the Contractor, the Principal's Representative shall issue a final payment certificate certifying the amount, which in the Principal's Representative's opinion, is finally due from the Principal to the Contractor or from the Principal to the Contractor or arising out of or in connection with this Contract.

22. Completion of the Works

22.1.1. The Contractor must bring the Works to Practical Completion by the Date for Practical Completion.

22.1.2. The Contractor may request an extension to the Date for Practical Completion for any delay to the Works reaching Practical Completion due to a cause beyond the Contractor's reasonable control. Such a request to the Principal should include reasons to support a change in the Date for Practical Completion.

22.1.3. The Principal will pay the Contractor any cost reasonably incurred due to a delay to the Works caused by an act or omission of the Principal or the Principal's agents (including a Specialist Contractor).

23. Suspension of the Works

23.1.1. The Principal may, at any time, suspend the Works or any part thereof and the Contractor shall comply with a written direction to that effect from the Principal's Representative.

23.1.2. The Principal's Representative shall notify the Contractor when the Works or part thereof are to be resumed and the number of days (if any) by which the Construction Period shall be extended as a result of such suspension.

23.1.3. Subject to clause 23.1.4, the Principal is not liable for any loss or damage whatsoever incurred by the Contractor as a result of the Works being suspended or in respect of work done or lost during the period of such suspension.

23.1.4. The Principal will pay for the expense of personnel necessarily retained at the Site during the period of suspension if agreed to by the Principal at the time of suspension.

23.1.5. The Principal is not liable to compensate the Contractor for any loss or damage arising out of suspension of the Works or any part thereof caused by or attributable to the Contractor and such suspension shall not excuse the Contractor from any of its obligations under this Contract.

24. Acceptance of the Works

24.1.1. When the Contractor believes that Practical Completion of the Works has been achieved it must notify the Principal's Representative.

24.1.2. A joint inspection of the Works will be carried out by the Principal, the Principal's Representative and the Contractor.

24.1.3. The Principal's Representative will compile a list of defects and omissions (if any) and will furnish the Contractor with a copy together with written notice requiring the Contractor to rectify the same.

24.1.4. The Contractor must immediately execute and complete within a reasonable period all necessary rectification works.

24.1.5. On completion of the rectification works (other than minor defects or omissions permitted under the definition of Practical Completion in clause 1.1.1) to the satisfaction of the Principal's Representative, the Principal's Representative shall certify accordingly by issuing the Certificate of Practical Completion.

24.1.6. The Defects Liability Period shall begin from the date of the Certificate of Practical Completion issued by the Principal's Representative.

24.1.7. During the Defects Liability Period the Principal's Representative may notify the Contractor of any defects or omissions in the Works.

24.1.8. The Contractor must immediately execute and complete within a reasonable period all necessary rectification works.

24.1.9. In respect of defects and omissions in the Works required to be rectified by the Contractor under clause 24.1.8, the Defects Liability Period will be extended to a period of 12 months commencing on the completion of such rectification or further rectification, as the case may be.

24.1.10. The date of the Certificate of Practical Completion issued by the Principal's Representative shall be the date of acceptance of the Works by the Principal, prior to which the Works shall not be considered as accepted, either in whole or in part.

24.1.11. The presence of the Principal, the Principal's Representative during the execution of the Works, or use being made of part of the Works, shall not constitute acceptance of the Works or of part of the Works.

25. Care and protection of the Works

25.1.1. The Contractor is responsible for the care of the Works and, in case of any loss or damage from any cause whatsoever, shall at its own cost repair and make good the same.

25.1.2. The Contractor must safeguard the Site and all materials, parts, plant, equipment and machinery (including that of the Principal) on the Site which shall always remain at the Contractor's sole risk.

25.1.3. All materials supplied to and all other property placed in the care of the Contractor or any subcontractor by the Principal is at the Contractor's absolute risk from time of receipt by the Contractor or subcontractor until issue of the Certificate of Practical Completion.

25.1.4. The Contractor must provide adequate protection, hoarding and other temporary measures necessary to protect all occupants of and visitors to the Site during the Works and to protect all existing structures, equipment, finishes, furniture and furnishings, and adjacent motor vehicles from damage.

25.1.5. The Contractor must take every precaution necessary to protect all occupants of the Site and the public from nuisance, injury or death during the course of the Works.

25.1.6. The Works shall be at the risk of the Contractor until 4.00pm on the Date of Practical Completion.

26. Insurance

26.1.1. The Contractor must take out and maintain the insurances in accordance with this clause.

26.1.2. The Contractor must insure the Works against loss or damage by fire, explosion, lightning, flood, earthquake, terrorism, aircraft or aerial devices dropped there from and riot for the full value of the Works and all unfixed materials and goods intended for, delivered to and placed on or adjacent to the Works. This insurance must include professional fees and removal of debris so that in the event of serious loss the Site may be cleared without reducing the amount available for reconstruction. The amount of such cover shall be as specified in Schedule 1.

26.1.3. The Contractor must maintain a public liability policy of insurance for an amount not less than that specified in Schedule 1, providing cover for any loss of or damage to property or claims by any person in respect of personal injury or death arising from or in connection with the carrying out of the Works.

26.1.4. The Contractor must insure against any liability, loss, damage, claim or proceeding whatsoever arising at common law or under any statute relating to workers compensation as a result of personal injury to or death of any person employed by the Contractor or any subcontractor in or about the carrying out of the Works.

26.1.5. The Contractor shall maintain the insurances described in this clause from the date the Works commence until the Date of Practical Completion and thereafter must extend them to provide cover during the Defects Liability Period in respect of the Contractor carrying out its maintenance obligations and until no further work of any kind is being carried out.

26.1.6. The insurances shall be taken out with a company or companies acceptable to the Principal and certificates of currency and copies of the policies must be given to the Principal before the Works commence.

26.1.7. The Principal is not obliged to make any payment to the Contractor under this Contract until copies of the required certificates of currency and insurance policies have been given to the Principal.

27. Liability

27.1.1. To the extent permitted by law, the operation of any legislative proportionate liability regime is excluded in relation to any claim against the Contractor under or in connection with this Contract (including (if applicable) the *Civil Law (Wrongs) Act 2002* (ACT).

27.1.2. The Contractor indemnifies the Principal against:

a. all claims for royalties, licence fees, damages or other claims arising out of the use of any copyright material, patents, patented apparatus, materials, devices or processes forming the whole of, or incorporated in part of, the Works provided by the Contractor;

b. any expense, liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of the Works, unless due to any act or neglect of the Principal or any person for whom the Principal is responsible other than the Contractor; and

c. any expense, liability, loss, claim or proceedings in respect of any death, injury or damage whatsoever to any property real or personal in so far as such death, injury or damage arises out of or in the course of or by reason of the carrying out of the Works, provided that the same is due to any negligence, omission or default of the Contractor, its employees or agents or of any subcontractor, and is not due to any act or neglect of the Principal or any person for whom the Principal is responsible other than the Contractor.

27.1.3. If any worker or other person employed on the Works or in connection with this Contract, whether in the employment of the Contractor or others, suffers any death or personal injury and whether there be a claim for compensation or not, the Contractor must without delay give notice in writing of such death or personal injury to the Principal.

28. Defective work, default and breach of Contract

28.1.1. The Principal's Representative may reject any work or materials not in accordance with this Contract.

28.1.2. If, before the issue of a Certificate of Practical Completion, the Principal's Representative notifies the Contractor:

a. that any work performed or material used is defective or does not conform to the Contractor Documents; and

b. that the Contractor has failed to remedy any defect in the Works,

the Contractor shall be bound to forthwith remedy any such default.

28.1.3. If the Contractor fails to remedy any default as described in clause 28.1.2, the Principal may employ or pay other persons to remedy the default and complete the Works as it considers necessary without prejudice to any other rights or remedies the Principal may have against the Contractor.

28.1.4. If the Principal does employ or pay such other persons to remedy the default and complete the Works, the Contractor's engagement under this Contract is terminated and the Principal may cause the Contractor and its equipment and other goods to be removed from the Site.

28.1.5. All costs and charges incurred as a result of, or incidental to, such new appointment and the Works to be carried out thereunder may be deducted from moneys otherwise due to the Contractor.

28.1.6. Where such costs and charges exceed the amount due to the Contractor, the balance shall become a debt due to the Principal from the Contractor.

28.1.7. If, during the term of this Contract, the Contractor becomes subject to a form of external administration under Chapter 5 of the *Corporations Act 2001* (Cth):

a. the Principal may immediately terminate this Contract and engage another contractor to complete the Works;

b. the Principal shall be under no liability to make any further payment to the Contractor and may prove in any liquidation for any loss and damage consequent upon the engagement of another contractor; and

c. ownership of the Contractor's materials on the Site shall vest in the Principal who may deal with them as it sees fit.

28.1.8. In the event of the termination of this Contract by the Principal pursuant to this clause, the Contractor shall have no further rights or claims against the Principal under or by virtue of this Contract.

29. Building Code 2013

29.1. Building Code 2013

29.1.1. The Contractor must comply with the Building Code 2013 (**Building Code**). Copies of the Building Code are available at www.deewr.gov.au/BuildingCode.

29.1.2. Compliance with the Building Code shall not relieve the Contractor from responsibility to perform the Contract, or from liability for any defect in the Works arising from compliance with the Building Code.

29.1.3. Where a change in the 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 Code and Guidelines will be affected.

29.1.4. The Contractor shall maintain adequate records of the compliance with the Code and Guidelines by:

a. the Contractor;

b. its subcontractors;

c. consultants; and

d. its related entities (refer Section 8 of the Building Code).

29.1.5. 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 shall 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.

29.1.6. 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 and consultants that have a demonstrated commitment to:

a. adding and/or retaining trainees and apprentices;

b. increasing the participation of women in all aspects of the industry; or

c. promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.

29.1.7. The Contractor must not appoint a subcontractor, consultant or material supplier in relation to the Works where:

a. the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or

b. the subcontractor or consultant 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 tenderer has not fully complied, or is not fully complying, with the order.

29.1.8. The Contractor agrees to require that it and its subcontractors, consultants or material suppliers and its related entities provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, with access to:

a. inspect any work, material, machinery, appliance, article or facility;

b. inspect and copy any record relevant to the Project and Works the subject of this Contract; and

c. interview any person,

as is necessary to demonstrate its compliance with the Code and Guidelines.

29.1.9. Additionally, the Contractor agrees that the Contractor and its related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.

29.1.10. For the avoidance of doubt, clause 29.1.9 applies in relation to the Contractor's new privately funded construction sites.

29.1.11. The Contractor shall ensure that all subcontracts impose obligations on the subcontractors equivalent to the obligations under this clause 29.

30. Protection of Personal Information

30.1. Obligations of the Contractor in relation to privacy

30.1.1. The Contractor agrees, in carrying out the Works:

a. not to do any act or engage in any practice which, if done or engaged in by the Principal, would be a breach of the requirements of Division 2 of Part III of the *Privacy Act 1988* (Cth); and

b. to comply with any directions, guidelines, determinations or recommendations referred to in, or relating to the matters set out in Schedule 1, to the extent that they are consistent with the obligations referred to in subclause a above.

30.1.2. The Contractor agrees to notify the Principal immediately if it becomes aware of a breach or possible breach of any of its obligations under this clause

30.1.3. The Contractor agrees to ensure that any subcontract entered into by the Contractor for the purpose of fulfilling its obligations under this Contract imposes on the subcontractor the same obligations that the Contractor has under this clause (including this requirement in relation to subcontracts).

31. Intellectual Property

31.1. Intellectual Property Rights

31.1.1. The Contractor represents and warrants that any design, material, document or method of work prepared or supplied by it for the purposes of the Works does not infringe any patent, registered design, trade mark or name, copyright or other right or form of protection (such as moral rights) available to a person in respect of intellectual property('IP Rights') and the Contractor indemnifies the Principal against all losses, costs and damages incurred by the Principal by reason of any such infringement.

31.1.2. The Contractor grants to (or will procure for) the Principal a permanent irrevocable, royalty-free, world-wide, non-exclusive licence (including a right to sub-licence) to use, reproduce, adapt and exploit all intellectual property provided by the Contractor which is protected by any form of IP Rights (including moral rights).

31.1.3. The Contractor must provide moral rights consents in a form approved by the Principal if requested by the Principal.

32. Confidentiality of Official Information

32.1. Interpretation of clause

32.1.1. In this clause 32.1:

Official Information	means any information developed, received or collected by or on behalf of the Principal to which the Contractor gains access under or in connection with this contract;
Official Resources	includes: a. Official Information; b. people who work for or with the Principal; and c. assets belonging to (even if in the possession of contracted providers) or in the possession of the Principal;
Security Classified Resources	means Official Resources that, if compromised, could have adverse consequences for the Principal; and
Security Incident	means a security breach, violation, contact or approach from those seeking unauthorised access to Official Resources.

32.2. Confidentiality of Official Information

32.2.1. The Contractor will not, without prior written authorisation of the Principal, disclose any Official Information to any person (unless required to do so by law).

32.2.2. The Contractor is authorised to provide Official Information to those personnel and subcontractors who require access for the purposes of this Contract.

32.2.3. The Contractor agrees, on request by the Principal at any time, to arrange for the personnel and subcontractors referred to in clause 32.2.2 to give a written undertaking in a form acceptable to the Principal relating to the use and non-disclosure of Official Information.

32.2.4. The Contractor agrees to secure all Official Information against loss and unauthorised access, use, modification or disclosure.

32.3. Other security obligations of Contractor

32.3.1. The Contractor agrees:

a. to ensure that all personnel that require access to Security Classified Resources have obtained the appropriate security clearance;

b. to make its personnel available to attend any security training provided by the Principal; and

c. to notify the Principal immediately if it becomes aware that a Security Incident has occurred and otherwise implement the Principal's procedures for Security Incident reporting as advised by the Principal from time to time.

32.3.2. The Contractor agrees to implement security procedures to ensure that it meets its obligations under this clause 31 and will provide details of these procedures to the Principal on request.

32.4. Media or other enquiries

32.4.1. The Contractor must not release any information relating the Site or the Works, for publication in any media without prior approval of the Principal. The Contractor must refer all media and other enquiries to the Principal.

33. General

33.1. Subcontractors

33.1.1. The Contractor agrees to ensure that:

a. its subcontractors and personnel comply with all relevant obligations and requirements binding on the Contactor under this Contract; and

b. any contract entered into in connection with this Contract imposes all those obligations and relevant requirements on the other party.

33.2. Work health and safety

33.2.1. In this clause 33.2, 'WHS Law' means the *Work Health and Safety Act 2011* (Cth) and the *Work Health and Safety Regulations 2011* (Cth).

33.2.2. The Contractor agrees, in carrying out this Contract, to comply with:

a. all relevant legislation, codes of practice and national standards relating to work health and safety; and

b. all applicable policies and procedures relating to work health and safety including those that apply to the Principal's premises when using those premises.

33.2.3. Prior to commencement of Work and before possession of Site the Contractor shall provide a Work Health and Safety Plan and, if applicable, an approved Traffic Management Plan as required by Schedule 4.

33.2.4. In the event of any inconsistency between any of the policies and procedures referred to in clause 33.2.2, the Contractor will comply with those policies and procedures that produce the highest level of health and safety.

33.2.5. The Contractor agrees and acknowledges that for the purposes of the WHS Law, in carrying out the Works:

a. it is a person conducting a business or undertaking;

b. it has been authorised by the Principal to have management and control of the Site; and

c. it has been engaged by the Principal and has accepted appointment as the 'principal contractor' in relation to the Works;

33.2.6. The Contractor must comply with all the duties and obligations imposed on a principal contractor under the WHS Law, including but not limited to:

a. complying with its health and safety duties in relation to all Works;

b. complying with the consultation, representation and participation requirements, including any consultation required with designers and manufacturers;

c. preparing safe work method statements for high risk construction work and ensuring that the high risk construction work is carried out in accordance with the safe work method statements;

d. complying with all relevant codes of practice approved under the WHS Law; and

e. permitting entry to the Site work health and safety entry permit holders.

33.2.7. In relation to the Works the Contractor further agrees to:

a. comply with any direction or requirement of the Principal or the Principal's Representative in relation to work health and safety in relation to the Works and acknowledges that such direction shall not relieve the Contractor of its obligation to carry out the Works in accordance with the Contract or entitle the Contractor to an extension of time or delay damages;

b. if applicable, consult and co-operate with any designers in relation to an obligation imposed on the designer by WHS Law;

c. immediately notify the Principal of any notifiable incident as defined in the WHS Law;

and

d. not permit any act or omission that causes or may cause the Principal or the Contractor to not comply with the WHS Law.

33.3. Hazardous Substances and Asbestos

33.3.1. The Contractor must ensure that no materials containing Asbestos or other Hazardous Substances are used in the execution of the Works or in any materials to be installed as part of them.

33.3.2. If at any time the Contractor discovers the presence on the Site of any material suspected of containing or likely to contain Asbestos or any other substance defined or listed as a Hazardous Substance it must:

a. not disturb the material under any circumstances;

b. contact and inform the Principal's Representative of the existence of the material on Site; and

c. ensure that all persons are protected from exposure to the material until the nature of the material has been competently determined.

33.3.3. The Principal will issue Directions to the Contractor in respect of further action to be taken.

33.3.4. All such materials upon the Site must if so directed by the Principal be treated or removed in accordance with the requirements of the Australian Safety and Compensation Council *Safe Removal of Asbestos 2nd Edition [NOHSC:2002(2005)*] or similarly endorsed "Code of Practice" for the safe removal of such materials and any other legislation or regulations in the Country in which the Works are situated that relate to the removal of such materials.

33.4. Compliance with Laws

33.4.1. The Contractor must comply with the laws from time to time in force in the Commonwealth of Australia and the Australian Capital Territory in performing its obligations under this Contract.

33.5. No outstanding judicial decisions in relation to employee entitlements

33.5.1. The Contractor warrants that at the date of this Contract it does not have any judicial decision against it (not including decisions under appeal) relating to employee entitlements which has not been paid

33.6. Affirmative Action

33.6.1. The Contractor:

a. must comply with its obligations, if any, under the *Workplace Gender Equality Act 2012* (Cth) ("Act"); and

b. must not enter into a subcontract under this Contract with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the Act.

33.7. Conflict of Interest

33.7.1. The Contractor:

a. warrants that, at the commencement of this Contract, no conflict of interest exists or is likely to arise in the carrying out of the Works; and

b. must if a conflict, or risk of conflict, of interest arises during the term of this Contract:

i. notify the Principal immediately in writing of that conflict or risk;

ii. make full disclosure of all relevant information relating to the conflict or risk; and

iii. comply with any requirement of the Principal to eliminate or otherwise deal with that conflict or risk.

33.8. Audit and Access

33.8.1. The Contractor agrees:

a. to give the Principal's Representative, or any persons authorised in writing by the Principal's Representative, access to premises occupied by the Contractor; and

b. to permit those persons to inspect and take copies of any material relevant to the carrying out of the Works.

33.8.2. The rights referred to in this clause are subject to:

a. the Principal providing reasonable prior notice;

b. the Contractor's reasonable security procedures; and

c. if appropriate, execution of a deed of confidentiality relating to non-disclosure of the Contractor's Confidential Information.

33.8.3. Without in any way affecting the statutory powers of the Auditor-General under the *Auditor-General Act 1997* (Cth), and subject to the provisions of that Act, the Auditor-General is a person authorised for the purposes of this clause.

33.9. Compliance with Fair Work Principles

33.9.1. The Contractor must comply, and as far as practicable must ensure its subcontractors comply, with all relevant requirements of the Fair Work Principles as set out in the Fair Work Principles User Guide (available at http://deewr.gov.au/fair-work-principles), including by:

a. complying with all applicable workplace relations, occupational health and safety and workers' compensation laws;

b. informing the Principal of any adverse court or tribunal decision for a breach of workplace relations law, occupational health and safety laws or workers' compensation laws made against it during the term of this Contract and any remedial action it has taken, or proposes to take, as a result of the decision;

c. providing the Principal with any information the Principal reasonably requires to confirm that the Contractor (and any subcontractor) is complying with the Fair Work Principles; and

d. participating in all compliance activities associated with its legal obligations, including those arising under the Fair Work Principles. Compliance activities may include responding to requests for information and/or audits undertaken by the Commonwealth, its nominees and/or relevant regulators.

33.9.2. Compliance with the Fair Work Principles shall not relieve the Contractor from its responsibility to comply with its other obligations under this Contract.

33.9.3. If the Contractor does not comply with the Fair Work Principles, without prejudice to any rights that would otherwise accrue to the Principal, the Principal, or any other Commonwealth agency, shall be entitled to publish details of the Contractor's failure to comply (including the Contractor's name) and to otherwise provide those details to other Commonwealth agencies.

33.9.4. As far as practicable, the Contractor must:

a. not use a subcontractor in relation to this Contract where the subcontractor would be precluded from contracting directly with the Principal under the requirements of the Fair Work Principles; and

b. ensure that all subcontracts impose obligations on subcontractors equivalent to the obligations specified in clauses 33.9.1 to 33.9.4.

33.10. Assignment

33.10.1. The Contractor cannot assign its obligations, and agrees not to assign its rights, under this contract without the Agency’s prior written approval.

33.11. Joint and Several Liability

33.11.1. If the Contractor consists of 2 or more persons, all of them are jointly and severally liable to the Principal for the performance of every Contractor obligation under the Contract.

33.12. Survival

33.12.1. Unless the contrary intention appears, the expiry or earlier termination of this contract will not affect the continued operation of any provision relating to:

a. licensing of Intellectual Property;

b. confidentiality;

c. security;

d. privacy;

e. dealing with copies;

f. books and records;

g. audit and access;

h. an indemnity;

or any other provision which expressly or by implication from its nature is intended to continue.

33.13. Entire agreement

33.13.1. This Contract contains the entire agreement of the parties with respect to its subject matter and supersedes all earlier conduct by the parties with respect to its subject matter.

33.14. Goods and Services Tax

33.14.1. Unless otherwise indicated, all consideration for any supply made under this Contract is exclusive of any GST imposed on the supply.

33.14.2. If one party (the supplier) makes a taxable supply to the other party (the recipient) under this Contract, on receipt of a tax invoice from the supplier, the recipient must pay without set off an additional amount to the supplier equal to the GST imposed on the supply in question.

33.14.3. No party may claim from the other party under this Contract any amount for which the first party may claim an input tax credit.

33.15. Relationship of parties

33.15.1. Nothing contained in this Contract will or is to be construed as creating a partnership, joint venture or relationship of principal and agent between the parties.

33.16. Notices

33.16.1. Any notice, request, consent, demand or communication required or permitted to be given under this Contract must be in writing and delivered by hand, by post or by facsimile transmission to the address of the party in Schedule 1 or to such other address as a party may specify by notice given in accordance with this clause.

33.16.2. Any such notice, request, demand or communication given will be deemed to have been given, in the case of delivery by hand, when delivered, in the case of delivery by post, 3 working days after posting and in the case of delivery by facsimile transmission, when a legible facsimile is received by the recipient.

33.17. Good faith

33.17.1. The parties shall act in good faith towards one another in relation to this Contract.

33.18. Further assurances

33.18.1. Each of the parties will execute and deliver all such further documents and do such further acts and things as may be reasonably required from time to time to give effect to this Contract.

33.19. Amendments

33.19.1. This Contract or any part can only be amended, supplemented, replaced or novated by agreement in writing signed by the parties.

33.20. Waiver and consent

33.20.1. No consent or waiver, express or implied, by a party to or of any breach or default by the other party of any or all of its obligations under this Contract will be valid unless it is in writing, nor will it eliminate or modify the need for a specific consent or waiver in any other or subsequent instance.

33.21. Severability

33.21.1. If any provision of this Contract is determined by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, such determination will not impair or affect the validity, legality or enforceability of the remaining provisions of this Contract and each provision is hereby declared to be separate, severable and distinct.

33.22. Counterparts

33.22.1. This Contract may be executed in counterparts, including facsimile copies, and when each party has executed a counterpart, each of such counterparts will be deemed to be an original and when taken together will constitute one and the same contract.

33.23. Governing law

33.23.1. The provisions of this Contract will be governed by and construed in accordance with the laws of the Australian Capital Territory.

33.24. Site Conditions

33.24.1. The Principal acknowledges that the Contractor may suffer cost, loss, expense or damage (losses) if any site condition encountered by the Contractor differs from conditions that the Contractor should reasonably have anticipated at the date of the Contract.

33.24.2. The Contract Price will be adjusted by the amount of any losses suffered or incurred by the Contractor by reason of any such difference.

33.25. Liquidated Damages

33.25.1. If the Works do not reach Practical Completion by the Date for Practical Completion, the Contractor must pay to the Principal by way of liquidated damages the amount specified in Schedule 1for every day after the Date for Practical Completion up to and including the Date of Practical Completion or the date the Contract is terminated, whichever occurs first.

SCHEDULE 1 CONTRACT DETAILS

Site:	High Court of Australia Parkes Place Parkes ACT 2600
Principal's Representative:	Property Projects Manager
Works:	As described in the Scope of Works Schedule
Contract Price:	$[Insert lump sum price including GST] (incl GST)
Amount of liquidated damages:	None
Construction Period and Date for Practical Completion:	Construction Period: [insert the period of time in which the Contractor must carry out the Works] Date for Practical Completion: [insert the date by which Practical Completion must be achieved].
Security	2.5% + 2.5 % (TBA - Retention sum or bank guarantee)
Contract Documents:	The Contract is comprised of the following documents: a. the terms and conditions; b. the Schedules; c. the documents referred to in the Schedules; and d. any Annexure.
Insurance:	1 Works insurance: value of the Contract Price plus 20% 2 Public liability insurance: $20 million 3 Workers compensation insurance as required by law

Confidential Information:	None
Approvals to be obtained by Principal:	None
Approvals to be obtained by Contractor	
Principal's address for notices:	[INSERT ADDRESS]
Contractor's address for notices:	[INSERT ADDRESS]
Privacy Codes, Guidelines, Determinations or Recommendations	None specified
Approved Subcontractors **(Clause 8.1.3)**	TBA

SCHEDULE 2 SCOPE OF WORKS SCHEDULE

The purpose of the works is to supply and install a new Building Management System at the High Court of Australia building in accordance with the enclosed specification and drawings.

Enclosed:

Specification (High Court of Australia BMS Upgrade Specification, Issue dated 12/11/13)

Drawing No	Title	Issue
13783 M1000	Cover Sheet	02
13783 M1002	Basement 1 – BMS Panel Locations	02
13783 M1003	Basement 2 – BMS Panel Locations	02
13783 M1004	Ground floor – BMS Panel Locations	02
13783 M1005	Level 2 – BMS Panel Locations	02
13783 M1006	Level 3 – BMS Panel Locations	02
13783 M1007	Level 4 – BMS Panel Locations	02
13783 M1008	Level 5 – BMS Panel Locations	02
13783 M1009	Level 6 – BMS Panel Locations	02
13783 M1010	Level 7 – BMS Panel Locations	02
13783 M1011	Level 8 – BMS Panel Locations	02
13783 M1012	Level 9 – BMS Panel Locations	02
13783 M1013	Level 10 – BMS Panel Locations	02
13783 M1014	Roof – BMS Panel Locations	02

SCHEDULE 3 SCHEDULE OF UNIT RATES

TBA

SCHEDULE 4 SITE REQUIREMENTS

A. Safety

A.1. Work Health and Safety Plan

A.1.1. Prior to the commencement of Works and before possession of the Site the Contractor must have a Work Health and Safety Plan (**the WH&S Plan**) approved by Principal which will address all WH&S issues relevant to the Work and the Site, including but not limited to:

a. recognition of its duty of care to employees and the wider community;

b. outlining the planning processes and procedures in place that have the capacity to identify possible health and safety impacts;

c. site and task specific safe work method statements including site induction;

d. outlining the planning processes and procedures in place to develop measures to minimise health and safety impacts and risks;

e. establishing a formal communication process for consultation and input from all staff on health and safety matters;

f. establishing responsibilities and procedures for implementing required mitigation measures and for rehabilitating affected staff;

g. establishing systems and procedures to report all actual and potential WH&S incidents and safety issues; and

h. establishing a process of management review of systems and procedures that supports the WH&S policy and which will lead to continually improving performance.

A.1.2. The Contractor must comply with the WH&S Plan and all relevant Work Health and Safety legislation.

A.2. Safety on Site

A.2.1. The Contractor shall have full regard and responsibility for safety on the Site, including the safety of all staff and visitors, throughout the execution of the Works.

A.2.2. The Contractor must provide a full incident report if any safety incident or accident occurs whilst its employees, agents or subcontractors are on Site and must take such measures as are deemed necessary by the Principal's Representative to address and prevent the re-occurrence of similar safety incidents or accidents

A.2.3. The Contractor must appoint one suitably qualified person to act as 'Safety Officer' for the Site on or prior to the Commencement Date. The appointment shall be subject to the approval of the Principal's Representative.

A.2.4. The Contractor must not allow smoking in any part of the Site.

B. Traffic Management

B.1. Traffic Management Plan

B.1.1. If required, the Contractor is required to provide a traffic management plan for the delivery of materials.

C. Car Parking

C.1.1. The Principal may allocate car parking spaces in the High Court of Australia car park for use by the Contractor.

C.1.2. The Contractor must ensure that any car parking spaces used are kept clean and tidy at all times to the satisfaction of the Principal.

C.1.3. At no time must the Contractor park any vehicles on the Site or on any other part of the podium at the entrance to the High Court of Australia unless the prior approval of the Principal's Representative has been obtained.

D. Site

D.1. Temporary Fencing and Hoarding

D.1.1. If required the Contractor must erect and maintain all necessary hoardings and fall protection for the protection of the Works, persons and property in and adjacent to the Works area.

D.1.2. The Contractor is to provide details of hoardings and fall protection to the Principal's Representative for acceptance prior to erection, prior to commencement of the works.

D.2. Sheds and Services

D.2.1. Deleted

D.2.2. The Contractor will be allowed to access power and water from existing building services on site at no cost to the Contractor.

D.3. Security

D.3.1. The Contractor is responsible for the secure storage of all materials, tools and other supplies during both working and non-working hours.

D.3.2. At all intervals between work (e.g. overnight, public holidays, weekends, shutdowns, court sitting days) the Work must be left in a secure condition and not be left in a condition considered to be an enticement for trespass, theft or other interference.

D.4. Existing Services

D.4.1. The Contractor is responsible for ensuring that the Works do not interfere or damage existing services to the Site.

E. Contractor not to hamper other work

E.1. The Contractor must not hamper or disrupt any other work being undertaken in the area surrounding the Site and must promptly comply with any directions of the Principal with regards to such work.

F. Environment

F.1. Dust and Noise

F.1.1. The Contractor must:

a. restrict dust caused by the Works to a minimum and take all practicable steps to minimise noise resulting from the Works; and

b. comply with all applicable laws, regulations and guidelines concerning noise and nuisance arising from the Contract being carried out.

F.1.2. The Works must be carried out in and around the existing building in a manner so as to cause the least possible inconvenience to the public, staff, clients and visitors.

F.2. Waste Management

F.2.1. The Contractor is to remove from Site daily all refuse, including food scraps and the like, resulting from the Works.

SCHEDULE 5 HIGH COURT CONTRACTOR SITE MANUAL

Refer attached Contractor Site Terms and Conditions

SCHEDULE 6 NOMINATED SUBCONTRACTORS

[Insert details of any nominated sub-contractors and the part of the Works they are required to undertake].

Nominated Sub Contractor	Scope of Works

SCHEDULE 7 PRACTICAL COMPLETION

Practical Completion of the Works means the stage when:

a. the works have been completed in accordance with this Contract and they are ready to be handed over to the Principal;

b. all tests required under the Contract or by the Principal's Representative have been satisfactorily completed;

c. all services, plant and equipment have been commissioned and certified as operating according to the required standards;

d. the Contractor has obtained the necessary certification and approvals from relevant authorities required under the Contract;

e. the Contractor has delivered all plans, drawings, specifications, warranties, as-built plans, drawings and other similar material relating to the works in draft form to the Principal and they have been accepted by the Principals Representative. The Contractor must provide final forms of all documentation within 30 days of the Date of Practical Completion;

f. the Works are complete except for minor defects:

   i. which do not prevent the Works from being reasonably capable of being used for their stated purpose;

   ii. which the Principal's Representative determines the Contractor has reasonable grounds for not promptly rectifying;

   iii. the rectification of which will not prejudice or inconvenience the use of the Works by the Principal;

   iv. the immediate making good of which is not practicable; and

   v. which do not cause any legal or physical impediment to the use of the Works by the Principal;

g. draft maintenance manuals and operating instructions have been provided to the Principal. The Contractor must provide final forms of all documentation within 30 days of the Date of Practical Completion;

h. all rubbish, surplus material, temporary structures and offices and minor items of plant and equipment have been removed so as to leave the works in a clean and tidy condition;

i. all documents, warranties, guarantees and other information reasonably requested by the Principal's Representative as part of the Operations and Maintenance Manual which, in the Principal's Representative's opinion, are essential for the use, operation and maintenance of the Works have been supplied to the Principal.

3 hard copies and one electronic version (in a format acceptable to the Principal) of all 'as built' drawings and other material are to be provided within 30 days of Practical Completion.

SIGNED for and on behalf of the Commonwealth of Australia acting through the High Court of Australia by its authorised delegate:)
)
)

Name of signatory

Signature

In the presence of:

Name of witness

Signature of witness

SIGNED by [Name of Contractor] [ACN XX XXX XXX XXX] in accordance with the requirements of section 127 of the *Corporations Act 2001* (Cth):)
)
)

Name of Director

Signature

In the presence of:

Name of Director/Secretary

Signature