



LICENCE

for

Licensee:

Date:

Conditions of use:

[Click here for full conditions of Licence](#)

WEB LINKS

- Check if this document is current
- Find similar documents
- StandardsWatch (*info and login*)
- Visit our website

International Standards on-line at www.saiglobal.com/shop

AS 4000—1997
(Incorporating Amendment Nos. 1, 2 & 3)

Australian Standard™

General conditions of contract

Internal Use Only



**STANDARDS
AUSTRALIA**

This Australian Standard was prepared by Committee OB/3 – General Conditions of Contract. It was approved on behalf of the Council of Standards Australia on 25 July 1997 and published on 5 August 1997.

The following interests are represented on the Committee OB/3:

Association of Consulting Engineers Australia
Australasian Railways Association
Australian Chamber of Commerce and Industry
Australian Procurement and Construction Council
AUSTROADS
Construction Industry Engineering Services Group
Construction Policy Steering Committee
Electricity Supply Association of Australia
Institution of Engineers, Australia
Institution of Professional Engineers, New Zealand
Law Council of Australia
Master Builders Australia
National Construction Council / MTIA
Process Engineers and Constructors Association
Royal Australian Institute of Architects

This Standard was issued in draft form for comment as DR 96319.

Originated as part of AS CA24—1952.
Previous edition AS 2124—1992.
Revised and designated AS 4000—1997.
Reissued incorporating Amendment No. 1 (August 1999),
Amendment No. 2 (October 2000), and Amendment No. 3 (March 2005).

Keeping Standards up-to-date

Standards are living documents which reflect progress in science, technology and systems. To maintain their currency, all Standards are periodically reviewed, and new editions are published. Between editions, amendments may be issued. Standards may also be withdrawn. It is important that readers assure themselves they are using a current Standard, which should include any amendments which may have been published since the Standard was purchased.

Detailed information about Standards can be found by visiting the Standards Web Shop at www.standards.com.au and looking up the relevant Standard in the on-line catalogue.

Alternatively, the printed Catalogue provides information current at 1 January each year, and the monthly magazine, *The Global Standard*, has a full listing of revisions and amendments published each month.

Australian Standards™ and other products and services developed by Standards Australia are published and distributed under contract by SAI Global, which operates the Standards Web Shop.

We also welcome suggestions for improvement in our Standards, and especially encourage readers to notify us immediately of any apparent inaccuracies or ambiguities. Contact us via email at mail@standards.org.au, or write to the Chief Executive, Standards Australia, GPO Box 5420, Sydney, NSW 2001.

ISBN 0 7337 1375 0

COPYRIGHT

© Standards Australia

All rights are reserved. No part of this work may be reproduced or copied in any form or by any means, electronic or mechanical, including photocopying, without the written permission of the publisher.

Published by Standards Australia, GPO Box 5420, Sydney, NSW 2001, Australia

AS 4000 — 1997

General conditions of contract

Incorporating:
Amdt 1—1999
Amdt 2—2000
Amdt 3—2005

Internal Use Only

Preface

This Standard was prepared by the Joint Standards Australia/Standards New Zealand Committee OB/3, General Conditions of Contract.

This Standard incorporates Amendment 1 (August 1999), Amendment 2 (October 2000), and Amendment 3 (March 2005). The changes required by the Amendments are indicated in the text by a marginal bar and amendment number against the clause, note, table, figure, or part thereof affected.

This Standard is the result of a consensus among Australian and New Zealand representatives on the Joint Committee to produce it as an Australian Standard.

Subclauses 8.6 and 29.2 (prefixed by an asterisk) are optional, and may be omitted in the Contract, where necessary, without making consequential amendments but such omission should be clearly shown on the face of the document by striking out these subclauses or indicating clearly in clause 1 of Annexure Part B or elsewhere that they are *not to apply*. See paragraph (i) of clause 1 on page 5 for the effect of stating deletions in Annexure Part B.

Warning

Users of this Australian Standard are warned that clause 15 (Damage to persons and property other than work under the Contract ('WUC')) does not limit the liability of parties for special, indirect or consequential losses.

This unlimited liability applies notwithstanding any limitations or exclusions permitted under insurance clauses 16 (Insurance of the Works) and 17 (Public liability insurance).

Parties wishing to limit their liability should seek insurance and legal advice before entering a contract under this Standard.

Legislation has come into force in some jurisdictions dealing with security of payments. Parties intending to use this Standard should seek expert advice as to their rights and obligations under such legislation.

Contents

Clause	Title	Page
1	Interpretation and construction of Contract	1
2	Nature of Contract	5
3	Provisional sums	6
4	Separable portions	7
5	Security	7
6	Evidence of Contract	8
7	Service of notices	9
8	Contract documents	9
9	Assignment and subcontracting	10
10	Intellectual property rights	11
11	Legislative requirements	12
12	Protection of people and property	12
13	Urgent protection	13
14	Care of the work and reinstatement of damage	13
15	Damage to persons and property other than WUC	14
16	Insurance of the Works	15
17	Public liability insurance	16
18	Insurance of employees	17
19	Inspection and provisions of insurance policies	17
20	Superintendent	18
21	Superintendent's Representative	19
22	Contractor's representative	19
23	Contractor's employees and subcontractors	19
24	Site	20
25	Latent conditions	21
26	Setting out the Works	21
27	Cleaning up	22

Clause	Title	Page
28	Materials, labour and construction plant	23
29	Quality	23
30	Examination and testing	24
31	Working hours	25
32	Programming	25
33	Suspension	26
34	Time and progress	27
35	Defects liability	29
36	Variations	29
37	Payment	30
38	Payment of workers and subcontractors	32
39	Default or insolvency	33
40	Termination by frustration	37
41	Notification of claims	37
42	Dispute resolution	38
43	Waiver of conditions	39
	Annexure Part A	41
	Annexure Part B	50
	Annexure Part C	51
	Index	53

Internal Use Only

This page has been left blank

1 Interpretation and construction of Contract

In the *Contract*, except where the context otherwise requires:

Item	means an <i>Item</i> in Annexure Part A;
bill of quantities	means a document named therein as a bill of quantities issued to tenderers by or on behalf of the <i>Principal</i> , stating estimated quantities of <i>work</i> to be carried out;
certificate of practical completion	has the meaning in subclause 34.6;
compensable cause	means: <ul style="list-style-type: none"> a) any act, default or omission of the <i>Superintendent</i>, the <i>Principal</i> or its consultants, agents or other contractors (not being employed by the <i>Contractor</i>); or b) those listed in <i>Item</i> 26;
construction program	has the meaning in clause 32;
construction plant	means appliances and things used in the carrying out of <i>WUC</i> but not forming part of <i>the Works</i> ;
Contract	has the meaning in clause 6;
contract sum	means: <ul style="list-style-type: none"> a) where the <i>Principal</i> accepted a lump sum, the lump sum; b) where the <i>Principal</i> accepted rates, the sum of the products ascertained by multiplying the rates by the corresponding quantities in the priced <i>bill of quantities</i> or <i>schedule of rates</i>; or c) where the <i>Principal</i> accepted a lump sum and rates, the aggregate of the sums referred to in paragraphs (a) and (b), including <i>provisional sums</i> but excluding any additions or deductions which may be required to be made under the <i>Contract</i> ;
Contractor	means the person bound to carry out and complete <i>WUC</i> ;
date of acceptance of tender	means the date which appears on the written notice of acceptance of the tender;
date for practical completion	means: <ul style="list-style-type: none"> a) where <i>Item</i> 7(a) provides a date for <i>practical completion</i>, the date; b) where <i>Item</i> 7(b) provides a period of time for <i>practical completion</i>, the last day of the period, but if any <i>EOT</i> for <i>practical completion</i> is directed by the <i>Superintendent</i> or allowed in any arbitration or litigation, it means the date resulting therefrom;

date of practical completion	means: <ol style="list-style-type: none"> a) the date evidenced in a <i>certificate of practical completion</i> as the date upon which <i>practical completion</i> was reached; or b) where another date is determined in any arbitration or litigation as the date upon which <i>practical completion</i> was reached, that other date;
deed of guarantee, undertaking and substitution	has the meaning in subclause 5.6;
defects	has the meaning in clause 35 and includes omissions;
defects liability period	has the meaning in clause 35;
dispute	has the meaning in clause 42;
direction	includes agreement, approval, assessment, authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement;
EOT (from 'extension of time')	has the meaning in subclause 34.3;
excepted risk	has the meaning in subclause 14.3;
final certificate	has the meaning in subclause 37.4;
final payment	has the meaning in clause 37;
final payment claim	means the final payment claim referred to in subclause 37.4;
Intellectual property right	means any patent, registered design, trademark or name, copyright or other protected right;
latent condition	has the meaning in subclause 25.1;
legislative requirement	includes: <ol style="list-style-type: none"> a) Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction where <i>WUC</i> or the particular part thereof is being carried out; b) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of <i>WUC</i>; and c) fees and charges payable in connection with the foregoing;
practical completion	is that stage in the carrying out and completion of <i>WUC</i> when: <ol style="list-style-type: none"> a) <i>the Works</i> are complete except for minor <i>defects</i>: <ol style="list-style-type: none"> i) which do not prevent <i>the Works</i> from being reasonably capable of being used for their stated purpose; ii) which the <i>Superintendent</i> determines the <i>Contractor</i> has reasonable grounds for not promptly rectifying; and iii) the rectification of which will not prejudice the convenient use of <i>the Works</i>; b) those <i>tests</i> which are required by the <i>Contract</i> to be carried out and

	passed before <i>the Works</i> reach <i>practical completion</i> have been carried out and passed; and
	c) documents and other information required under the <i>Contract</i> which, in the <i>Superintendent's</i> opinion, are essential for the use, operation and maintenance of <i>the Works</i> have been supplied;
prescribed notice	has the meaning in subclause 41.1;
Principal	means the Principal stated in <i>Item 1</i> ;
progress certificate	has the meaning in subclause 37.2;
provisional sum	has the meaning in clause 3 and includes monetary sum, contingency sum and prime cost item;
public liability policy	has the meaning in clause 17;
qualifying cause of delay	means: <ul style="list-style-type: none"> a) any act, default or omission of the <i>Superintendent</i>, the <i>Principal</i> or its consultants, agents or other contractors (not being employed by the <i>Contractor</i>); or b) other than: <ul style="list-style-type: none"> i) a breach or omission by the <i>Contractor</i>; ii) industrial conditions or inclement weather occurring after the <i>date for practical completion</i>; and iii) stated in <i>Item 23</i>;
schedule of rates	means any schedule included in the <i>Contract</i> which, in respect of any section or item of <i>work</i> to be carried out, shows the rate or respective rates of payment for the execution of that <i>work</i> and which may also include lump sums, <i>provisional sums</i> , other sums, quantities and prices;
security	means: <ul style="list-style-type: none"> a) cash; b) retention moneys; c) bonds or inscribed stock or their equivalent issued by a national, state or territory government; d) interest bearing deposit in a bank carrying on business at the place stated in <i>Item 9(c)</i>; e) an approved unconditional undertaking (the form in Annexure Part C is approved) or an approved performance undertaking given by an approved financial institution or insurance company; or f) other form approved by the party having the benefit of the security;
selected subcontract work	has the meaning in subclause 9.3;
selected subcontractor	has the meaning in subclause 9.3;
separable portion	means a portion of <i>the Works</i> identified as such in the <i>Contract</i> or by the <i>Superintendent</i> pursuant to clause 4;

site	means the lands and other places to be made available and any other lands and places made available to the <i>Contractor</i> by the <i>Principal</i> for the purpose of the <i>Contract</i> ;
Superintendent	means the person stated in <i>Item 5</i> as the <i>Superintendent</i> or other person from time to time appointed in writing by the <i>Principal</i> to be the <i>Superintendent</i> and notified as such in writing to the <i>Contractor</i> by the <i>Principal</i> and, so far as concerns the functions exercisable by a <i>Superintendent's Representative</i> , includes a <i>Superintendent's Representative</i> ;
Superintendent's Representative	means an individual appointed in writing by the <i>Superintendent</i> under clause 21;
survey mark	in clause 26 means a survey peg, bench mark, reference mark, signal, alignment, level mark or any other mark for the purpose of setting out, checking or measuring <i>WUC</i> ;
temporary works	means <i>work</i> used in carrying out and completing <i>WUC</i> , but not forming part of the <i>Works</i> ;
test	has the meaning in subclause 30.1 and includes examine and measure;
the Works	means the whole of the <i>work</i> to be carried out and completed in accordance with the <i>Contract</i> , including <i>variations</i> provided for by the <i>Contract</i> , which by the <i>Contract</i> is to be handed over to the <i>Principal</i> ;
variation	has the meaning in clause 36;
work	includes the provision of materials;
WUC (from 'work under the Contract')	means the <i>work</i> which the <i>Contractor</i> is or may be required to carry out and complete under the <i>Contract</i> and includes <i>variations</i> , remedial <i>work</i> , <i>construction plant</i> and <i>temporary works</i> , and like words have a corresponding meaning.

In the Contract:

- a) references to days mean calendar days and references to a person include an individual, firm or a body, corporate or unincorporate;
- b) time for doing any act or thing under the *Contract* shall, if it ends on a Saturday, Sunday or Statutory or Public Holiday, be deemed to end on the day next following which is not a Saturday, Sunday or Statutory or Public Holiday;
- c) clause headings and subclause headings in these General Conditions of Contract shall not form part of these General Conditions and shall not be used in the interpretation of the *Contract*;
- d) words in the singular include the plural and words in the plural include the singular, according to the requirements of the context. Words importing a gender include every gender;
- e) communications between the *Principal*, the *Superintendent* and the *Contractor* shall be in the English language;
- f) measurements of physical quantities shall be in legal units of measurement of the jurisdiction in *Item 8*;

- g) unless otherwise provided, prices are in the currency in *Item 9(a)* and payments shall be made in that currency at the place in *Item 9(b)*;
- h) the law governing the *Contract*, its interpretation and construction, and any agreement to arbitrate, is the law of the jurisdiction in *Item 8*; and
- i) if pursuant to Annexure Part B to these General Conditions of Contract, clauses or their parts in these General Conditions are deleted, the *Contract* shall be read and construed as though the clause or its part has been deleted, whether or not that particular clause or its part has been struck from these General Conditions.

2 Nature of Contract

2.1 Performance and payment

The *Contractor* shall carry out and complete *WUC* in accordance with the *Contract* and *directions* authorised by the *Contract*.

The *Principal* shall pay the *Contractor*:

- a) for *work* for which the *Principal* accepted a lump sum, the lump sum; and
- b) for *work* for which the *Principal* accepted rates, the sum of the products ascertained by multiplying the measured quantity of each section or item of *work* actually carried out under the *Contract* by the rate accepted by the *Principal* for the section or item,

adjusted by any additions or deductions made pursuant to the *Contract*.

2.2 Bill of quantities

The Alternative in *Item 10(a)* applies.

Alternative 1

A *bill of quantities* forms part of the *Contract* and shall be priced in accordance with subclause 2.3.

Alternative 2

A *bill of quantities* does not form part of the *Contract* and shall not be priced in accordance with subclause 2.3 unless so stated in *Item 10(b)*.

2.3 Priced bill of quantities

Where a *bill of quantities* is to be priced:

- a) all items included in the *bill of quantities* shall be priced and extended by the *Contractor* and the prices as extended shall on addition equal the sum accepted by the *Principal* for carrying out the whole of the *work* to which the *bill of quantities* relates;
- b) the *Contractor* shall lodge the *bill of quantities* so priced and extended with the *Superintendent* before the expiration of the time for lodgement stated in *Item 10(c)* or such further time as may be directed by the *Superintendent* from time to time;

- c) notwithstanding any other provision of the *Contract*, the *Contractor* shall not be entitled to payment until the *Contractor* has lodged the *bill of quantities* so priced and extended.

If the aggregate amount in a priced *bill of quantities* does not equal the sum accepted for the *work*, the subject of the *bill of quantities*, the *Superintendent* shall (unless the parties agree within 7 days of notification) determine an appropriate correction of errors and inconsistencies in rates and prices therein, so that the aggregate amount equals such sum.

2.4 Quantities

Quantities in a *bill of quantities* or *schedule of rates* are estimated quantities only.

The *Superintendent* is not required to give a *direction* by reason of the actual quantity of an item required to perform the *Contract* being greater or less than the quantity shown in a *bill of quantities* which forms part of the *Contract* or *schedule of rates*.

2.5 Adjustment for actual quantities

Where, otherwise than by reason of a *direction* to vary *WUC*, the actual quantity of an item required to perform the *Contract* is greater or less than the quantity shown in a *bill of quantities* which forms part of the *Contract* or *schedule of rates*:

- a) the *Principal* accepted a lump sum for the item, the difference shall be a deemed *variation*;
- b) the *Principal* accepted a rate for the item, the rate shall apply to the greater or lesser quantities provided that where limits of accuracy for a quantity in a *schedule of rates* are stated in *Item 11*, the rate shall apply to the greater or lesser quantities within the limits, and quantities outside the limits shall be a deemed *variation*.

If such a *bill of quantities* or *schedule of rates* omits an item which should have been included, the item shall be a deemed *variation*.

Notwithstanding the preceding provisions of this subclause in respect of a *bill of quantities*, a *variation* shall not be deemed for actual quantities of an item pursuant to paragraph (a), or for an omitted item or any adjustment made for actual quantities of an item pursuant to paragraph (b), if the difference, the value of the omitted item or the adjustment respectively is less than \$400.

3 Provisional sums

A *provisional sum* included in the *Contract* shall not itself be payable by the *Principal* but where pursuant to a *direction* the *work* or item to which the *provisional sum* relates is carried out or supplied by the *Contractor*, the *work* or item shall be priced by the *Superintendent*, and the difference shall be added to or deducted from the *contract sum*.

Where any part of such *work* or item is carried out or supplied by a subcontractor, the *Superintendent* shall allow the amount payable by the *Contractor* to the subcontractor for the *work* or item, disregarding:

- a) any damages payable by the *Contractor* to the subcontractor or vice versa; and
- b) any deduction of cash discount for prompt payment.

plus an amount for profit and attendance calculated by using the percentage thereon stated in *Item 12* or elsewhere in the *Contract*, or, if not so stated, as assessed by the *Superintendent*.

4 Separable portions

Separable portions may be directed by the *Superintendent*, who shall clearly identify for each, the:

- a) portion of *the Works*;
- b) *date for practical completion*; and
- c) respective amounts for *security*, bonus, liquidated damages and delay damages (all calculated pro-rata according to the ratio of the *Superintendent's* valuation of the *separable portion* to the *contract sum*).

5 Security

5.1 Provision

Security shall be provided in accordance with *Item 13* or *14*. All delivered *security*, other than cash or retention moneys, shall be transferred in escrow.

5.2 Recourse

Security shall be subject to recourse by a party who remains unpaid after the time for payment where at least 5 days have elapsed since that party notified the other party of intention to have recourse.

5.3 Change of security

At any time a party providing retention moneys or cash *security* may substitute another form of *security*. To the extent that another form of *security* is provided, the other party shall not deduct, and shall promptly release and return, retention moneys and cash *security*.

5.4 Reduction and release

Upon the issue of the *certificate of practical completion* a party's entitlement to *security* (other than in *Item 13(e)*) shall be reduced by the percentage or amount in *Item 13(f)* or *14(d)* as applicable, and the reduction shall be released and returned within 14 days to the other party.

The *Principal's* entitlement to *security* in *Item 13(e)* shall cease 14 days after incorporation into *the Works* of the plant and materials for which that *security* was provided.

A party's entitlement otherwise to *security* shall cease 14 days after *final certificate*.

Upon a party's entitlement to *security* ceasing, that party shall release and return forthwith the *security* to the other party.

5.5 Trusts and interest

Except where held by a government department or agency or a municipal, public or statutory authority, any portion of *security* (and interest earned thereon) which is cash or retention moneys, shall be held in trust for the party providing them until the *Principal* or the *Contractor* is entitled to receive them.

Interest earned on *security* not required to be held in trust shall belong to the party holding that *security*.

5.6 Deed of guarantee, undertaking and substitution

Where:

- a) a party is a related or subsidiary corporation (as defined in the applicable corporations law of the jurisdiction); and
- b) a form of *deed of guarantee, undertaking and substitution* was included in the tender documents,

that party shall, within 14 days after receiving a written request from the other party, provide such *deed of guarantee, undertaking and substitution* duly executed and enforceable.

6 Evidence of Contract

Until a formal instrument of agreement is executed by the parties, documents evidencing the parties' consensus shall constitute the *Contract*. If such *Contract* requires a formal instrument of agreement, the *Principal* shall, within 28 days of the *date of acceptance of tender*, send it in duplicate for execution by the *Contractor*. Within 14 days after receiving them, the *Contractor* shall (if they are correct) properly execute both copies and return them.

Within 14 days after receiving them, the *Principal* shall execute both copies, have them stamped as necessary and send one copy to the *Contractor*.

The *Superintendent* may extend the time under this clause by written notice to the parties.

7 Service of notices

A notice (and other documents) shall be deemed to have been given and received:

- a) if addressed or delivered to the relevant address in the *Contract* or last communicated in writing to the person giving the notice; and
- b) on the earliest date of:
 - i) actual receipt;
 - ii) confirmation of correct transmission of fax; or
 - iii) 3 days after posting.

8 Contract documents

8.1 Discrepancies

Figured shall prevail over scaled dimensions in a discrepancy. Otherwise, if either party discovers any inconsistency, ambiguity or discrepancy in any document prepared for the purpose of carrying out *WUC*, that party shall give the *Superintendent* written notice of it. The *Superintendent*, thereupon, and upon otherwise becoming aware, shall direct the *Contractor* as to the interpretation and construction to be followed.

If compliance with any such *direction* under this subclause causes the *Contractor* to incur more or less cost than otherwise would have been incurred had the *direction* not been given, the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

8.2 Principal-supplied documents

The *Principal* shall supply to the *Contractor* the documents and number of copies thereof, both stated in *Item 15*.

They shall:

- a) remain the *Principal's* property and be returned to the *Principal* on written demand; and
- b) not be used, copied nor reproduced for any purpose other than *WUC*.

8.3 Contractor-supplied documents

The *Contractor* shall supply to the *Superintendent* the documents and number of copies thereof, both stated elsewhere in the *Contract*.

If the *Contractor* submits documents to the *Superintendent*, then except where the *Contract* otherwise provides:

- a) the *Superintendent* shall not be required to check such documents for errors, omissions, inconsistencies, ambiguities, discrepancies or compliance with the *Contract*;
- b) notwithstanding clause 20, any *Superintendent's* acknowledgment or approval shall not prejudice the *Contractor's* obligations; and

- c) if the *Contract* requires the *Contractor* to obtain the *Superintendent's direction* about such documents, the *Superintendent* shall give, within the time stated in *Item 16*, the appropriate *direction*, including reasons if the documents are not suitable.

Copies of documents supplied by the *Contractor* shall be the *Principal's* property but shall not be used or copied otherwise than for the use, repair, maintenance or alteration of *the Works*.

8.4 Availability

The *Contractor* shall keep available to the *Superintendent* and the *Principal*:

- a) on *site*, one complete set of documents affecting *WUC* and supplied by a party or the *Superintendent*; and
- b) at the place of manufacture or assembly of any significant part of *WUC* off *site*, a set of the documents affecting that part.

8.5 Confidential information

The parties shall ensure that there are kept confidential such documents, samples, models, patterns and other information as are supplied and clearly identified as confidential.

If required in writing by a party, the other party shall enter into a separate agreement not to disclose to anyone else any confidential matter even after *final certificate* or earlier termination of the *Contract*. If so required by the *Contractor*, the *Principal* shall ensure that the *Superintendent* also enters into such an agreement.

*8.6 Media

The *Contractor* shall not disclose any information concerning the project for distribution through any communications media without the *Principal's* prior written approval (which shall not be unreasonably withheld). The *Contractor* shall refer to the *Principal* any enquiries from any media concerning the project.

9 Assignment and subcontracting

9.1 Assignment

Neither party shall, without the other's prior written approval (including terms) assign the *Contract* or any payment or any other right, benefit or interest thereunder.

9.2 Subcontracting generally

The *Contractor* shall not without the *Superintendent's* prior written approval (which shall not be unreasonably withheld):

- a) subcontract or allow a subcontractor to subcontract any *work* described in *Item 17*; or
- b) allow a subcontractor to assign a subcontract or any payment or any other right, benefit or interest thereunder.

With a request for approval, the *Contractor* shall give the *Superintendent* written particulars of the *work* to be subcontracted and the name and address of the proposed subcontractor. The *Contractor* shall give the *Superintendent* other information which the *Superintendent* reasonably requests, including the proposed subcontract documents without prices.

Within 14 days of the *Contractor's* request for approval, the *Superintendent* shall give the *Contractor* written notice of approval or of the reasons why approval is not given.

Approval may be conditional upon the subcontract including:

- a) provision that the subcontractor shall not assign nor subcontract without the *Contractor's* written consent; and
- b) provisions which may be reasonably necessary to enable the *Contractor* to fulfil the *Contractor's* obligations to the *Principal*.

9.3 Selected subcontract work

If the *Principal* has included in the invitation to tender a list of one or more *selected subcontractors* for particular *work*, the *Contractor* shall subcontract that *work* to a *selected subcontractor* and thereupon give the *Superintendent* written notice of that *selected subcontractor's* name.

If no subcontractor on the *Principal's* list will subcontract to carry out the *selected subcontract work*, the *Contractor* shall provide a list for the written approval of the *Superintendent*.

9.4 Novation

When directed by the *Principal*, the *Contractor*, without being entitled to compensation, shall promptly execute a deed of novation in the form included in the invitation to tender, such deed being between the *Principal*, the *Contractor* and the subcontractor or *selected subcontractor* stated in *Item 18* for the particular part of *WUC*.

9.5 Contractor's responsibility

Except where the *Contract* otherwise provides, the *Contractor* shall be liable to the *Principal* for the acts, defaults and omissions of subcontractors (including *selected subcontractors*) and employees and agents of subcontractors as if they were those of the *Contractor*.

Approval to subcontract shall not relieve the *Contractor* from any liability or obligation under the *Contract*.

10 Intellectual property rights

The *Principal* warrants that, unless otherwise provided in the *Contract*, design, materials, documents and methods of working, each specified in the *Contract* or provided or directed by the *Principal* or the *Superintendent* shall not infringe any *intellectual property right*.

The *Contractor* warrants that any other design, materials, documents and methods of working, each provided by the *Contractor*, shall not infringe any *intellectual property right*.

Each party shall indemnify the other against such respective infringements.

11 Legislative requirements

11.1 Compliance

The *Contractor* shall satisfy all *legislative requirements* except those in *Item 19(a)* or directed by the *Superintendent* to be satisfied by or on behalf of the *Principal*.

The *Contractor*, upon finding that a *legislative requirement* is at variance with the *Contract*, shall promptly give the *Superintendent* written notice thereof.

11.2 Changes

If a *legislative requirement*:

- a) necessitates a change:
 - i) to the *Works*;
 - ii) to so much of *WUC* as is identified in *Item 19(b)*;
 - iii) being the provision of services by a municipal, public or other statutory authority in connection with *WUC*; or
 - iv) in a fee or charge or payment of a new fee or charge;
- b) comes into effect after the 14th day before the closing of tenders but could not reasonably then have been anticipated by a competent *Contractor*; and
- c) causes the *Contractor* to incur more or less cost than otherwise would have been incurred,

the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

12 Protection of people and property

Insofar as compliance with the *Contract* permits, the *Contractor* shall:

- a) take measures necessary to protect people and property;
- b) avoid unnecessary interference with the passage of people and vehicles; and
- c) prevent nuisance and unreasonable noise and disturbance.

If the *Contractor* damages property, the *Contractor* shall promptly rectify the damage and pay any compensation which the law requires the *Contractor* to pay.

If the *Contractor* fails to comply with an obligation under this clause, the *Principal*, after the *Superintendent* has given reasonable written notice to the *Contractor* and in addition to the *Principal's* other rights and remedies, may have the obligation performed by others. The cost thereby incurred shall be certified by the *Superintendent* as moneys due from the *Contractor* to the *Principal*.

13 Urgent protection

If urgent action is necessary to protect *WUC*, other property or people and the *Contractor* fails to take the action, in addition to any other remedies of the *Principal*, the *Superintendent* may take the necessary action. If the action was action which the *Contractor* should have taken at the *Contractor's* cost, the *Superintendent* shall certify the cost incurred as moneys due from the *Contractor* to the *Principal*.

If time permits, the *Superintendent* shall give the *Contractor* prior written notice of the intention to take action pursuant to this clause.

14 Care of the work and reinstatement of damage

14.1 Care of WUC

Except as provided in subclause 14.3, the *Contractor* shall be responsible for care of:

- a) the whole of *WUC* from and including the date of commencement of *WUC* to 4:00 pm on the *date of practical completion*, at which time responsibility for the care of the *Works* (except to the extent provided in paragraph (b)) shall pass to the *Principal*; and
- b) outstanding *work* and items to be removed from the *site* by the *Contractor* after 4:00 pm on the *date of practical completion* until completion of outstanding *work* or compliance with clauses 29, 30 and 35.

Without limiting the generality of paragraph (a), the *Contractor* shall be responsible for the care of unfixed items accounted for in a *progress certificate* and the care and preservation of things entrusted to the *Contractor* by the *Principal* or brought onto the *site* by subcontractors for carrying out *WUC*.

14.2 Reinstatement

If loss or damage, other than that caused by an *excepted risk*, occurs to *WUC* during the period of the *Contractor's* care, the *Contractor* shall, at its cost, rectify such loss or damage.

In the event of loss or damage being caused by any of the *excepted risks* (whether or not in combination with other risks), the *Contractor* shall to the extent directed by the *Superintendent*, rectify the loss or damage and such rectification shall be a deemed *variation*. If loss or damage is caused by a combination of *excepted risks* and other risks, the *Superintendent* in pricing the *variation* shall assess the proportional responsibility of the parties.

14.3 Excepted risks

The *excepted risks* causing loss or damage, for which the *Principal* is liable, are:

- a) any negligent act or omission of the *Superintendent*, the *Principal* or its consultants, agents, employees or other contractors (not being employed by the *Contractor*);
- b) any risk specifically excepted elsewhere in the *Contract*;
- c) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any Government or public authority;
- d) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the *Contractor* or its subcontractors or either's employees or agents;
- e) use or occupation of any part of *WUC* by the *Principal* or its consultants, agents or other contractors (not being employed by the *Contractor*); and
- f) defects in the design of *WUC*, other than design provided by the *Contractor*.

15 Damage to persons and property other than WUC

15.1 Indemnity by Contractor

Insofar as this subclause applies to property, it applies to property other than *WUC*.

The *Contractor* shall indemnify the *Principal* against:

- a) loss of or damage to the *Principal's* property; and
- b) claims in respect of personal injury or death or loss of, or damage to, any other property,

arising out of or as a consequence of the carrying out of *WUC*, but the indemnity shall be reduced proportionally to the extent that the act or omission of the *Superintendent*, the *Principal* or its consultants, agents or other contractors (not being employed by the *Contractor*) may have contributed to the injury, death, loss or damage.

This subclause shall not apply to:

- a) the extent that the *Contractor's* liability is limited by another provision of the *Contract*;
- b) exclude any other right of the *Principal* to be indemnified by the *Contractor*;
- c) things for the care of which the *Contractor* is responsible under subclause 14.1;
- d) damage which is the unavoidable result of the construction of the *Works* in accordance with the *Contract*; and

- e) claims in respect of the *Principal's* right to have *WUC* carried out.

15.2 Indemnity by Principal

The *Principal* shall indemnify the *Contractor* in respect of damage referred to in paragraph (d) of subclause 15.1 and claims referred to in paragraph (e) of subclause 15.1.

16 Insurance of the Works

The Alternative in *Item 20(a)* applies.

Alternative 1: Contractor to insure

Before commencing *WUC*, the *Contractor* shall insure all the things referred to in subclause 14.1 against loss or damage resulting from any cause until the *Contractor* ceases to be responsible for their care.

Without limiting the generality of the obligation to insure, such insurance shall cover the *Contractor's* liability under subclause 14.2 and things in storage off *site* and in transit to the *site* but may exclude:

- a) the cost of making good fair wear and tear or gradual deterioration, but shall not exclude the loss or damage resulting therefrom;
- b) the cost of making good faulty design, workmanship and materials, but shall not exclude the loss or damage resulting therefrom;
- c) consequential loss of any kind, but shall not exclude loss of or damage to *the Works*;
- d) damages for delay in completing or for the failure to complete *the Works*;
- e) loss or damage resulting from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel resulting from any cause;
- f) loss or damage resulting from the *excepted risks* referred to in paragraphs (b) and (c) of subclause 14.3.

The insurance cover shall be for an amount not less than the aggregate of the:

- a) *contract sum*;
- b) provision in *Item 20(b)* to provide for costs of demolition and removal of debris;
- c) provision in *Item 20(c)* for consultants' fees;
- d) value in *Item 20(d)* of any materials or things to be supplied by the *Principal* for the purposes of *WUC*; and
- e) additional amount or percentage in *Item 20(e)* of the total of the items referred to in sub-paragraphs (a) to (d) of this paragraph.

Insurance shall be in the joint names of the parties, shall cover the parties and all subcontractors whenever engaged in *WUC* for their respective rights, interests and liabilities and, except where the *Contract* otherwise provides, shall be with an insurer and in terms both approved in writing by the *Principal* (which approvals shall not be unreasonably withheld).

The insurance shall be maintained until the *Contractor* ceases to be responsible under subclause 14.1 for the care of anything.

Alternative 2: Principal to insure

Before the *date of acceptance of tender*, the *Principal* shall insure *WUC* in the terms of the policy included in the tender documents and nominating or stating the insurer. The *Principal* shall maintain such insurance while ever the *Contractor* has an interest in *WUC*.

17 Public liability insurance

The Alternative in *Item 21(a)* applies.

Alternative 1: Contractor to insure

Before commencing *WUC*, the *Contractor* shall effect and maintain for the duration of the *Contract*, a *public liability policy*.

The policy shall:

- a) be in the joint names of the parties,
- b) cover the:
 - i) respective rights and interests; and
 - ii) liabilities to third parties,
 of the parties, the *Superintendent* and subcontractors from time to time, whenever engaged in *WUC*;
- c) cover the parties' respective liability to each other for loss or damage to property (other than property required to be insured by clause 16) and the death of or injury to any person (other than liability which the law requires to be covered under a workers compensation insurance policy);
- d) be endorsed to cover the use of any *construction plant* not covered under a comprehensive or third party motor vehicle insurance policy;
- e) provide insurance cover for an amount in respect of any one occurrence of not less than the sum in *Item 21(b)*; and
- f) be with an insurer and otherwise in terms both approved in writing by the *Principal* (which approvals shall not be unreasonably withheld).

Alternative 2: Principal to insure

Before the *date of acceptance of tender*, the *Principal* shall effect in relation to *WUC*, a *public liability policy* in the terms of the policy included in the tender documents and nominating or stating the insurer. The *Principal* shall maintain such insurance while ever the *Contractor* has an interest in *WUC*.

18 Insurance of employees

A1

Before commencing *WUC*, the *Contractor* shall insure against statutory and common law liability for death of or injury to persons employed by the *Contractor*. The insurance cover shall be maintained until completion of all *WUC*.

Where permitted by law, the insurance policy or policies shall be extended to provide indemnity for the *Principal's* statutory liability to the *Contractor's* employees.

The *Contractor* shall ensure that all subcontractors have similarly insured their employees.

19 Inspection and provisions of insurance policies

19.1 Proof of insurance

Before the *Contractor* commences *WUC* and whenever requested in writing by the other party, a party liable to insure shall provide satisfactory evidence of such insurance effected and maintained.

Insurance shall not limit liabilities or obligations under other provisions of the *Contract*.

19.2 Failure to produce proof of insurance

If after being so requested, a party fails promptly to provide satisfactory evidence of compliance with clause 16, 17 or 18, then without prejudice to other rights or remedies, the other party may insure and the cost thereof shall be certified by the *Superintendent* as moneys due and payable from the party in default to the other party. Where the defaulting party is the *Contractor*, the *Principal* may refuse payment until such evidence is produced by the *Contractor*.

19.3 Notices from or to insurer

The party insuring under clause 16 or 17 shall ensure that each insurance policy contains provisions acceptable to the other party which:

- a) requires the insurer to inform both parties, whenever the insurer gives a party or a subcontractor a notice in connection with the policy;
- b) provides that a notice of claim given to the insurer by either party, the *Superintendent* or a subcontractor shall be accepted by the insurer as a notice of claim given by both parties, the *Superintendent* and the subcontractor; and
- c) requires the insurer, whenever the party fails to maintain the policy, promptly to give written notice thereof to both parties and prior to cancellation of the policy.

19.4 Notices of potential claims

A party shall, as soon as practicable, inform the other party in writing of any occurrence that may give rise to a claim under an insurance policy required by clause 16 or 17 and shall keep the other party informed of subsequent developments concerning the claim. The *Contractor* shall ensure that subcontractors in respect of their operations similarly inform the parties.

19.5 Settlement of claims

Upon settlement of a claim under the insurance required by clause 16:

- a) to the extent that reinstatement has been the subject of a payment or allowance by the *Principal* to the *Contractor*, if the *Contractor* has not completed such reinstatement, insurance moneys received shall, if requested by either party, be paid into an agreed bank account in the joint names of the parties. As the *Contractor* reinstates the loss or damage, the *Superintendent* shall certify against the joint account for the cost of reinstatement; and
- b) to the extent that reinstatement has not been the subject of a payment or allowance by the *Principal* to the *Contractor*, the *Contractor* shall be entitled immediately to receive from insurance moneys received, the amount of such moneys so paid in relation to any loss suffered by the *Contractor*.

19.6 Cross liability

Any insurance required to be effected in joint names in accordance with the *Contract* shall include a cross liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons constituting the insured and for the purpose of which the insurer accepts the term 'insured' as applying to each of the persons constituting the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased thereby).

20 Superintendent

The *Principal* shall ensure that at all times there is a *Superintendent*, and that the *Superintendent* fulfils all aspects of the role and functions reasonably and in good faith.

Except where the *Contract* otherwise provides, the *Superintendent* may give a *direction* orally but shall as soon as practicable confirm it in writing. If the *Contractor* in writing requests the *Superintendent* to confirm an oral *direction*, the *Contractor* shall not be bound to comply with the *direction* until the *Superintendent* does so.

21 Superintendent's Representative

The *Superintendent* may from time to time appoint individuals to exercise delegated *Superintendent's* functions, provided that:

- a) no aspect of any function shall at any one time be the subject of delegation to more than one *Superintendent's Representative*;
- b) delegation shall not prevent the *Superintendent* exercising any function;
- c) the *Superintendent* forthwith gives the *Contractor* written notice of respectively:
 - i) the appointment, including the *Superintendent's Representative's* name and delegated functions; and
 - ii) the termination of each appointment; and
- d) if the *Contractor* makes a reasonable objection to the appointment of a *Superintendent's Representative*, the *Superintendent* shall terminate the appointment.

22 Contractor's representative

The *Contractor* shall superintend *WUC* personally or by a competent representative. Matters within a *Contractor's* representative's knowledge (including *directions* received) shall be deemed to be within the *Contractor's* knowledge.

The *Contractor* shall forthwith give the *Superintendent* written notice of the representative's name and any subsequent changes.

If the *Superintendent* makes a reasonable objection to the appointment of a representative, the *Contractor* shall terminate the appointment and appoint another representative.

23 Contractor's employees and subcontractors

The *Superintendent* may direct the *Contractor* to have removed, within a stated time, from the *site* or from any activity of *WUC*, any person employed on *WUC* who, in the *Superintendent's* opinion, is incompetent, negligent or guilty of misconduct.

Intellectual Property

24 Site

24.1 Possession

Provided the *Contractor* has complied with subclause 19.1, the *Principal* shall before the expiry of the time in *Item 22*, give the *Contractor* possession of sufficient of the *site* for commencement of *WUC* on *site*. If the *Principal* has not given the *Contractor* possession of the whole *site*, the *Principal* shall give the *Contractor* possession of such further portions of the *site* as may, from time to time, be necessary for carrying out *WUC*. Subject to subclause 39.7, delay by the *Principal* in giving possession shall not be a breach of the *Contract*.

Possession of the *site* shall confer on the *Contractor* a right to only such use and control as is necessary to enable the *Contractor* to carry out *WUC* and shall exclude camping, residential purposes and any purpose not connected with *WUC*, unless approved by the *Superintendent*.

24.2 Access for Principal and others

The *Principal* and the *Principal's* employees, consultants and agents may at any time after reasonable written notice to the *Contractor*, have access to any part of the *site* for any purpose. The *Contractor* shall permit persons engaged by the *Principal* to carry out work on the *site* other than *WUC* and shall cooperate with them. The *Principal* shall give to the *Contractor* the names and roles of the persons so engaged.

The *Contractor* shall at all reasonable times give the *Superintendent* access to *WUC*.

The *Principal* shall ensure that none of the persons referred to in this subclause impedes the *Contractor*.

24.3 Minerals, fossils and relics

Valuable minerals, fossils, articles or objects of antiquity or of anthropological or archaeological interest, treasure trove, coins and articles of value found on the *site* shall as between the parties be and remain the property of the *Principal*. Immediately upon the discovery of these things the *Contractor* shall:

- a) take precautions to prevent their loss, removal or damage; and
- b) give the *Superintendent* written notice of the discovery.

All costs so incurred by the *Contractor* shall be assessed by the *Superintendent* and added to the *contract sum*.

25 Latent conditions

25.1 Scope

Latent conditions are physical conditions on the *site* and its near surrounds, including artificial things but excluding weather conditions, which differ materially from the physical conditions which should reasonably have been anticipated by a competent *Contractor* at the time of the *Contractor's* tender if the *Contractor* had inspected:

- a) all written information made available by the *Principal* to the *Contractor* for the purpose of tendering;
- b) all information influencing the risk allocation in the *Contractor's* tender and reasonably obtainable by the making of reasonable enquiries; and
- c) the *site* and its near surrounds.

25.2 Notification

The *Contractor*, upon becoming aware of a *latent condition* while carrying out *WUC*, shall promptly, and where possible before the *latent condition* is disturbed, give the *Superintendent* written notice of the general nature thereof.

If required by the *Superintendent* promptly after receiving that notice, the *Contractor* shall, as soon as practicable, give the *Superintendent* a written statement of:

- a) the *latent condition* encountered and the respects in which it differs materially;
- b) the additional *work*, resources, time and cost which the *Contractor* estimates to be necessary to deal with the *latent condition*; and
- c) other details reasonably required by the *Superintendent*.

25.3 Deemed variation

The effect of the *latent condition* shall be a deemed *variation*, priced having no regard to additional cost incurred more than 28 days before the date on which the *Contractor* gave the notice required by the first paragraph of subclause 25.2 but so as to include the *Contractor's* other costs for each compliance with subclause 25.2.

26 Setting out the Works

26.1 Setting out

The *Principal* shall ensure that the *Superintendent* gives the *Contractor* the data, *survey marks* and like information necessary for the *Contractor* to set out *the Works*, together with those *survey marks* specified in the *Contract*. Thereupon the *Contractor* shall set out *the Works* in accordance with the *Contract*.

26.2 Errors in setting out

The *Contractor* shall rectify every error in the position, level, dimensions or alignment of any *WUC* after promptly notifying the *Superintendent* and unless the *Superintendent* within 3 days directs otherwise.

If the error was caused by incorrect data, *survey marks* or information given by the *Superintendent*, the cost incurred by the *Contractor* in rectifying the error shall be assessed by the *Superintendent* and added to the *contract sum*.

26.3 Care of survey marks

The *Contractor* shall keep in their true positions all *survey marks* supplied by the *Superintendent*.

The *Contractor* shall reinstate any *survey mark* disturbed, after promptly notifying the *Superintendent* and unless the *Superintendent* within 3 days directs otherwise.

If the disturbance was caused by the *Superintendent* or a person referred to in subclause 24.2 other than the *Contractor*, the cost incurred by the *Contractor* in reinstating the *survey mark* shall be assessed by the *Superintendent* and added to the *contract sum*.

27 Cleaning up

The *Contractor* shall keep the *site* and *WUC* clean and tidy and regularly remove rubbish and surplus material.

Within 14 days after the *date of practical completion*, the *Contractor* shall remove *temporary works* and *construction plant*. The *Superintendent* may extend the time to enable the *Contractor* to perform remaining obligations.

If the *Contractor* fails to comply with the preceding obligations in this clause, the *Superintendent* may direct the *Contractor* to rectify the non-compliance and the time for rectification.

If:

- a) the *Contractor* fails to comply with such a *direction*; and
- b) that failure has not been made good within 5 days after the *Contractor* receives written notice from the *Superintendent* that the *Principal* intends to have the subject *work* carried out by others,

the *Principal* may have that *work* so carried out and the *Superintendent* shall certify the cost incurred as moneys due from the *Contractor* to the *Principal*. The rights given by this paragraph are additional to any other rights and remedies.

28 Materials, labour and construction plant

Except where the *Contract* otherwise provides, the *Contractor* shall supply everything necessary for the proper performance of the *Contractor's* obligations and discharge of the *Contractor's* liabilities.

In respect of any materials, machinery or equipment to be supplied by the *Contractor* in connection with the *Contract*, the *Superintendent* may direct the *Contractor* to:

- a) supply particulars of the mode and place of manufacture, the source of supply, the performance capacities and other related information; and
- b) arrange reasonable inspection at such place or sources by the *Superintendent*, the *Principal* and persons authorised by the *Principal*.

The *Superintendent* may give the *Contractor* a written *direction* not to remove materials or *construction plant* from the *site*. Thereafter the *Contractor* shall not remove them without the *Superintendent's* prior written approval (which shall not be unreasonably withheld).

29 Quality

29.1 Quality of material and work

Unless otherwise provided the *Contractor* shall use suitable new materials and proper and tradesmanlike workmanship.

*29.2 Quality assurance

If the *Contract* elsewhere requires further quality assurance, the *Contractor* shall:

- a) plan, establish and maintain a conforming quality system; and
- b) ensure that the *Superintendent* has access to the quality system of the *Contractor* and subcontractors so as to enable monitoring and quality auditing.

Any such quality system shall be used only as an aid to achieving compliance with the *Contract* and to document such compliance. Such system shall not discharge the *Contractor's* other obligations under the *Contract*.

29.3 Defective work

If the *Superintendent* becomes aware of *work* done (including material provided) by the *Contractor* which does not comply with the *Contract*, the *Superintendent* shall as soon as practicable give the *Contractor* written details thereof. If the subject *work* has not been rectified, the *Superintendent* may direct the *Contractor* to do any one or more of the following (including times for commencement and completion):

- a) remove the material from the *site*;
- b) demolish the *work*;
- c) reconstruct, replace or correct the *work*; and
- d) not deliver it to the *site*.

If:

- a) the *Contractor* fails to comply with such a *direction*; and
- b) that failure has not been made good within 8 days after the *Contractor* receives written notice from the *Superintendent* that the *Principal* intends to have the subject *work* rectified by others,

the *Principal* may have that *work* so rectified and the *Superintendent* shall certify the cost incurred as moneys due from the *Contractor* to the *Principal*.

29.4 Acceptance of defective work

Instead of a *direction* pursuant to subclause 29.3, the *Superintendent* may direct the *Contractor* that the *Principal* elects to accept the subject *work*, whereupon there shall be a deemed *variation*.

29.5 Timing

The *Superintendent* may give a *direction* pursuant to this clause at any time before the expiry of the last *defects liability period*.

30 Examination and testing

30.1 Tests

At any time before the expiry of the last *defects liability period*, the *Superintendent* may direct that any *WUC* be tested. The *Contractor* shall give such assistance and samples and make accessible such parts of *WUC* as may be directed by the *Superintendent*.

30.2 Covering up

The *Superintendent* may direct that any part of *WUC* shall not be covered up or made inaccessible without the *Superintendent's* prior written *direction*.

30.3 Who conducts

Tests shall be conducted as provided elsewhere in the *Contract* or by the *Superintendent* or a person (which may include the *Contractor*) nominated by the *Superintendent*.

30.4 Notice

The *Superintendent* or the *Contractor* (whichever is to conduct the *test*) shall give reasonable written notice to the other of the date, time and place of the *test*. If the other does not attend, the *test* may nevertheless proceed.

30.5 Delay

Without prejudice to any other right, if the *Contractor* or the *Superintendent* delays in conducting a *test*, the other, after giving reasonable written notice of intention to do so, may conduct the *test*.

30.6 Completion and results

On completion of the *tests*, the *Contractor* shall make good *WUC* so that it fully complies with the *Contract*.

Results of *tests* shall be promptly made available by each party to the other and to the *Superintendent*.

30.7 Costs

Costs in connection with testing pursuant to this clause shall be borne by the *Principal* except where the *Contract* otherwise provides or the *test* is consequent upon, or reveals a failure of the *Contractor* to comply with the *Contract* (including this clause).

31 Working hours

If the working hours and working days on the *site* are not stated elsewhere in the *Contract*, they shall be as notified by the *Contractor* to the *Superintendent* before commencement of work on *site*. They shall not be varied without the *Superintendent's* prior written approval, except when, in the interests of safety of persons or property, the *Contractor* finds it necessary to carry out *WUC* otherwise, whereupon the *Contractor* shall give the *Superintendent* written notice of those circumstances as early as possible.

32 Programming

The *Contractor* shall give the *Superintendent* reasonable advance notice of when the *Contractor* needs information, materials, documents or instructions from the *Superintendent* or the *Principal*.

The *Principal* and the *Superintendent* shall not be obliged to give any information, materials, documents or instructions earlier than the *Principal* or the *Superintendent*, as the case may be, should reasonably have anticipated at the *date of acceptance of tender*.

The *Superintendent* may direct in what order and at what time the various stages or portions of *WUC* shall be carried out. If the *Contractor* can reasonably comply with the *direction*, the *Contractor* shall do so. If the *Contractor* cannot reasonably comply, the *Contractor* shall give the *Superintendent* written notice of the reasons.

A *construction program* is a written statement showing the dates by which, or the times within which, the various stages or portions of *WUC* are to be carried out or completed. It shall be deemed a *Contract* document.

The *Superintendent* may direct the *Contractor* to give the *Superintendent* a *construction program* within the time and in the form directed.

The *Contractor* shall not, without reasonable cause, depart from a *construction program*.

If compliance with any such *directions* under this clause, except those pursuant to the *Contractor's* default, causes the *Contractor* to incur more or less cost than otherwise would have been incurred had the *Contractor* not been given the *direction*, the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

33 Suspension

33.1 Superintendent's suspension

The *Superintendent* may direct the *Contractor* to suspend the carrying out of the whole or part of *WUC* for such time as the *Superintendent* thinks fit, if the *Superintendent* is of the opinion that it is necessary:

- a) because of an act, default or omission of:
 - i) the *Superintendent*, the *Principal* or its employees, consultants, agents or other contractors (not being employed by the *Contractor*); or
 - ii) the *Contractor*, a subcontractor or either's employees or agents;
- b) for the protection or safety of any person or property; or
- c) to comply with a court order.

33.2 Contractor's suspension

If the *Contractor* wishes to suspend the carrying out of the whole or part of *WUC*, otherwise than pursuant to subclause 39.9, the *Contractor* shall obtain the *Superintendent's* prior written approval. The *Superintendent* may approve the suspension and may impose conditions of approval.

33.3 Recommencement

As soon as the *Superintendent* becomes aware that the reason for any suspension no longer exists, the *Superintendent* shall direct the *Contractor* to recommence suspended *WUC* as soon as reasonably practicable.

The *Contractor* may recommence *WUC* suspended pursuant to subclause 33.2 or 39.9 at any time after reasonable notice to the *Superintendent*.

33.4 Cost

The *Contractor* shall bear the cost of suspension pursuant to paragraph (a)(ii) of subclause 33.1 and subclause 33.2. If the *Contractor* made the protection, safety or court order necessary, the *Contractor* shall bear the cost of suspension pursuant to paragraph (b) or (c) of subclause 33.1. If the *Contractor* otherwise incurs more or less cost than otherwise would have been incurred, the difference shall be assessed by the *Superintendent* and added to or deducted from the *contract sum*.

34 Time and progress

34.1 Progress

The *Contractor* shall ensure that *WUC* reaches *practical completion* by the *date for practical completion*.

34.2 Notice of delay

A party becoming aware of anything which will probably cause delay to *WUC* shall promptly give the *Superintendent* and the other party written notice of that cause and the estimated delay.

34.3 Claim

The *Contractor* shall be entitled to such extension of time for carrying out *WUC* (including reaching *practical completion*) as the *Superintendent* assesses ('*EOT*'), if:

- a) the *Contractor* is or will be delayed in reaching *practical completion* by a *qualifying cause of delay*; and
- b) the *Contractor* gives the *Superintendent*, within 28 days of when the *Contractor* should reasonably have become aware of that causation occurring, a written claim for an *EOT* evidencing the facts of causation and of the delay to *WUC* (including extent).

If further delay results from a *qualifying cause of delay* evidenced in a claim under paragraph (b) of this subclause, the *Contractor* shall claim an *EOT* for such delay by promptly giving the *Superintendent* a written claim evidencing the facts of that delay.

34.4 Assessment

When both non-qualifying and *qualifying causes of delay* overlap, the *Superintendent* shall apportion the resulting delay to *WUC* according to the respective causes' contribution.

In assessing each *EOT* the *Superintendent* shall disregard questions of whether:

- a) *WUC* can nevertheless reach *practical completion* without an *EOT*; or
- b) the *Contractor* can accelerate,

but shall have regard to what prevention and mitigation of the delay has not been effected by the *Contractor*.

34.5 Extension of time

Within 28 days after receiving the *Contractor's* claim for an *EOT*, the *Superintendent* shall give to the *Contractor* and the *Principal* a written *direction* evidencing the *EOT* so assessed. If the *Superintendent* does not do so, there shall be a deemed assessment and *direction* for an *EOT* as claimed.

Notwithstanding that the *Contractor* is not entitled to or has not claimed an *EOT*, the *Superintendent* may at any time and from time to time before issuing the *final certificate* direct an *EOT*.

34.6 Practical completion

The *Contractor* shall give the *Superintendent* at least 14 days written notice of the date upon which the *Contractor* anticipates that *practical completion* will be reached.

When the *Contractor* is of the opinion that *practical completion* has been reached, the *Contractor* shall in writing request the *Superintendent* to issue a *certificate of practical completion*. Within 14 days after receiving the request, the *Superintendent* shall give the *Contractor* and the *Principal* either a *certificate of practical completion* evidencing the *date of practical completion* or written reasons for not doing so.

If the *Superintendent* is of the opinion that *practical completion* has been reached, the *Superintendent* may issue a *certificate of practical completion* even though no request has been made.

34.7 Liquidated damages

If *WUC* does not reach *practical completion* by the *date for practical completion*, the *Superintendent* shall certify, as due and payable to the *Principal*, liquidated damages in *Item 24* for every day after the *date for practical completion* to and including the earliest of the *date of practical completion* or termination of the *Contract* or the *Principal* taking *WUC* out of the hands of the *Contractor*.

If an *EOT* is directed after the *Contractor* has paid or the *Principal* has set off liquidated damages, the *Principal* shall forthwith repay to the *Contractor* such of those liquidated damages as represent the days the subject of the *EOT*.

34.8 Bonus for early practical completion

If the *date of practical completion* is earlier than the *date for practical completion* the *Superintendent* shall certify as due and payable to the *Contractor* the bonus in *Item 25(a)* for every day after the *date of practical completion* to and including the *date for practical completion*.

The *Contractor* hereby waives that part of a bonus exceeding the *Item 25(b)* amount.

34.9 Delay damages

For every day the subject of an *EOT* for a *compensable cause* and for which the *Contractor* gives the *Superintendent* a claim for delay damages pursuant to subclause 41.1, damages certified by the *Superintendent* under subclause 41.3 shall be due and payable to the *Contractor*.

35 Defects liability

The *defects liability period* stated in *Item 27* shall commence on the *date of practical completion* at 4:00 pm.

The *Contractor* shall carry out rectification at times and in a manner causing as little inconvenience to the occupants or users of the *Works* as is reasonably possible.

As soon as possible after the *date of practical completion*, the *Contractor* shall rectify all *defects* existing at the *date of practical completion*.

During the *defects liability period*, the *Superintendent* may give the *Contractor* a *direction* to rectify a *defect* which:

- a) shall identify the *defect* and the date for completion of its rectification; and
- b) may state a date for commencement of the rectification and whether there shall be a separate *defects liability period* therefor (not exceeding that in *Item 27*, commencing at 4:00 pm on the date the rectification is completed and governed by this clause).

If the rectification is not commenced or completed by the stated dates, the *Principal* may have the rectification carried out by others but without prejudice to any other rights and remedies the *Principal* may have. The cost thereby incurred shall be certified by the *Superintendent* as moneys due and payable to the *Principal*.

36 Variations

36.1 Directing variations

The *Contractor* shall not vary *WUC* except as directed in writing.

The *Superintendent*, before the *date of practical completion*, may direct the *Contractor* to vary *WUC* by any one or more of the following which is nevertheless of a character and extent contemplated by, and capable of being carried out under, the provisions of the *Contract*:

- a) increase, decrease or omit any part;
- b) change the character or quality;
- c) change the levels, lines, positions or dimensions;
- d) carry out additional *work*;
- e) demolish or remove material or *work* no longer required by the *Principal*.

36.2 Proposed variations

The *Superintendent* may give the *Contractor* written notice of a proposed *variation*.

The *Contractor* shall as soon as practicable after receiving such notice, notify the *Superintendent* whether the proposed *variation* can be effected, together with, if it can be effected, the *Contractor's* estimate of the:

- a) effect on the *construction program* (including the *date* for practical completion); and
- b) cost (including all time-related costs, if any) of the proposed *variation*.

The *Superintendent* may direct the *Contractor* to give a detailed quotation for the proposed *variation* supported by measurements or other evidence of cost.

The *Contractor's* costs for each compliance with this subclause shall be certified by the *Superintendent* as moneys due to the *Contractor*.

36.3 Variations for convenience of contractor

If the *Contractor* requests the *Superintendent* to direct a *variation* for the convenience of the *Contractor*, the *Superintendent* may do so. The *direction* shall be written and may be conditional. Unless the *direction* provides otherwise, the *Contractor* shall be entitled to neither extra time nor extra money.

36.4 Pricing

The *Superintendent* shall, as soon as possible, price each *variation* using the following order of precedence:

- a) prior agreement;
- b) applicable rates or prices in the *Contract*;
- c) rates or prices in a priced *bill of quantities*, *schedule of rates* or *schedule of prices*, even though not *Contract* documents, to the extent that it is reasonable to use them; and
- d) reasonable rates or prices, which shall include a reasonable amount for profit and overheads,

and any deductions shall include a reasonable amount for profit but not overheads.

That price shall be added to or deducted from the *contract sum*.

37 Payment

37.1 Progress claims

The *Contractor* shall claim payment progressively in accordance with *Item 28*.

An early progress claim shall be deemed to have been made on the date for making that claim.

Each progress claim shall be given in writing to the *Superintendent* and shall include details of the value of *WUC* done and may include details of other moneys then due to the *Contractor* pursuant to provisions of the *Contract*.

37.2 Certificates

The *Superintendent* shall, within 14 days after receiving such a progress claim, issue to the *Principal* and the *Contractor*:

- a) a *progress certificate* evidencing the *Superintendent's* opinion of the moneys due from the *Principal* to the *Contractor* pursuant to the progress claim and reasons for any difference ('*progress certificate*'); and
- b) a certificate evidencing the *Superintendent's* assessment of retention moneys and moneys due from the *Contractor* to the *Principal* pursuant to the *Contract*.

If the *Contractor* does not make a progress claim in accordance with *Item 28*, the *Superintendent* may issue the *progress certificate* with details of the calculations and shall issue the certificate in paragraph (b).

If the *Superintendent* does not issue the *progress certificate* within 14 days of receiving a progress claim in accordance with subclause 37.1, that progress claim shall be deemed to be the relevant *progress certificate*.

The *Principal* shall within 7 days after receiving both such certificates, or within 21 days after the *Superintendent* receives the progress claim, pay to the *Contractor* the balance of the *progress certificate* after deducting retention moneys and setting off such of the certificate in paragraph (b) as the *Principal* elects to set off. If that setting off produces a negative balance, the *Contractor* shall pay that balance to the *Principal* within 7 days of receiving written notice thereof.

Neither a *progress certificate* nor a payment of moneys shall be evidence that the subject *WUC* has been carried out satisfactorily. Payment other than *final payment* shall be payment on account only.

37.3 Unfixed plant and materials

The *Principal* shall not be liable to pay for unfixed plant and materials unless they are listed in *Item 29* and the *Contractor*:

- a) provides the additional *security* in *Item 13(e)*; and
- b) satisfies the *Superintendent* that the subject plant and materials have been paid for, properly stored and protected, and labelled the property of the *Principal*.

Upon payment to the *Contractor* and the release of any additional *security* in paragraph (a), the subject plant and materials shall be the unencumbered property of the *Principal*.

37.4 Final payment claim and certificate

Within 28 days after the expiry of the last *defects liability period*, the *Contractor* shall give the *Superintendent* a written *final payment claim* endorsed 'Final Payment Claim' being a progress claim together with all other claims whatsoever in connection with the subject matter of the *Contract*.

Within 42 days after the expiry of the last *defects liability period*, the *Superintendent* shall issue to both the *Contractor* and the *Principal* a *final certificate* evidencing the moneys finally due and payable between the *Contractor* and the *Principal* on any account whatsoever in connection with the subject matter of the *Contract*.

Those moneys certified as due and payable shall be paid by the *Principal* or the *Contractor*, as the case may be, within 7 days after the debtor receives the *final certificate*.

The *final certificate* shall be conclusive evidence of accord and satisfaction, and in discharge of each party's obligations in connection with the subject matter of the *Contract* except for:

- a) fraud or dishonesty relating to *WUC* or any part thereof or to any matter dealt with in the *final certificate*;
- b) any *defect* or omission in the *Works* or any part thereof which was not apparent at the end of the last *defects liability period*, or which would not have been disclosed upon reasonable inspection at the time of the issue of the *final certificate*;
- c) any accidental or erroneous inclusion or exclusion of *any work* or figures in any computation or an arithmetical error in any computation; and
- d) unresolved issues the subject of any notice of *dispute* pursuant to clause 42, served before the 7th day after the issue of the *final certificate*.

37.5 Interest

Interest in *Item 30* shall be due and payable after the date of default in payment.

37.6 Other moneys due

The *Principal* may elect that moneys due and owing otherwise than in connection with the subject matter of the *Contract* also be due to the *Principal* pursuant to the *Contract*.

38 Payment of workers and subcontractors

38.1 Workers and subcontractors

The *Contractor* shall give in respect of a progress claim, documentary evidence of the payment of moneys due and payable to:

- a) workers of the *Contractor* and of the subcontractors; and
- b) subcontractors,

in respect of *WUC* the subject of that claim.

If the *Contractor* is unable to give such documentary evidence, the *Contractor* shall give other documentary evidence of the moneys so due and payable to workers and subcontractors.

Documentary evidence, except where the *Contract* otherwise provides, shall be to the *Superintendent's* satisfaction.

38.2 Withholding payment

Subject to the next paragraph, the *Principal* may withhold moneys certified due and payable in respect of the progress claim until the *Contractor* complies with subclause 38.1.

The *Principal* shall not withhold payment of such moneys in excess of the moneys evidenced pursuant to subclause 38.1 as due and payable to workers and subcontractors.

38.3 Direct payment

Before *final payment*, the *Principal*, if not aware of a relevant relation-back day (as defined in the Corporations Law) may pay unpaid moneys the subject of subclause 38.1 directly to a worker or a subcontractor where:

- a) permitted by law;
- b) given a court order in favour of the worker or subcontractor; or
- c) requested in writing by the *Contractor*.

Such payment and a payment made to a worker or subcontractor in compliance with a *legislative requirement* shall be deemed to be part-satisfaction of the *Principal's* obligation to pay pursuant to subclause 37.2 or 37.4, as the case may be.

39 Default or insolvency

39.1 Preservation of other rights

If a party breaches (including repudiates) the *Contract*, nothing in this clause shall prejudice the right of the other party to recover damages or exercise any other right or remedy.

39.2 Contractor's default

If the *Contractor* commits a substantial breach of the *Contract*, the *Principal* may, by hand or by certified post, give the *Contractor* a written notice to show cause.

Substantial breaches include, but are not limited to:

- a) failing to:
 - i) provide *security*;
 - ii) provide evidence of insurance;
 - iii) comply with a *direction* of the *Superintendent* pursuant to subclause 29.3; or
 - iv) use the materials or standards of *work* required by the *Contract*;
- b) wrongful suspension of *work*;
- c) substantial departure from a *construction program* without reasonable cause or the *Superintendent's* approval;
- d) where there is no *construction program*, failing to proceed with due expedition and without delay; and

- e) in respect of clause 38, knowingly providing documentary evidence containing an untrue statement.

39.3 Principal's notice to show cause

A notice under subclause 39.2 shall state:

- a) that it is a notice under clause 39 of these General Conditions of Contract;
- b) the alleged substantial breach;
- c) that the *Contractor* is required to show cause in writing why the *Principal* should not exercise a right referred to in subclause 39.4;
- d) the date and time by which the *Contractor* must show cause (which shall not be less than 7 clear days after the notice is received by the *Contractor*); and
- e) the place at which cause must be shown.

39.4 Principal's rights

If the *Contractor* fails to show reasonable cause by the stated date and time, the *Principal* may by written notice to the *Contractor*:

- a) take out of the *Contractor's* hands the whole or part of the *work* remaining to be completed and suspend payment until it becomes due and payable pursuant to subclause 39.6; or
- b) terminate the *Contract*.

39.5 Take out

The *Principal* shall complete *work* taken out of the *Contractor's* hands and may:

- a) use materials, equipment and other things intended for *WUC*; and
- b) without payment of compensation to the *Contractor*:
 - i) take possession of, and use such of the *construction plant* and other things on or in the vicinity of the *site* as were used by the *Contractor*; and
 - ii) contract with such of the *Contractor's* subcontractors and consultants,

as are reasonably required by the *Principal* to facilitate completion of *WUC*.

If the *Principal* takes possession of *construction plant* or other things, the *Principal* shall maintain them and, subject to subclause 39.6, on completion of the *work*, shall return such of them as are surplus.

The *Superintendent* shall keep records of the cost of completing the *work*.

39.6 Adjustment on completion of work taken out

When *work* taken out of the *Contractor's* hands has been completed, the *Superintendent* shall assess the cost thereby incurred and shall certify as moneys due and payable accordingly the difference between that cost (showing the calculations therefor) and the amount which would otherwise have been paid to the *Contractor* if the *work* had been completed by the *Contractor*.

If the *Contractor* is indebted to the *Principal*, the *Principal* may retain *construction plant* or other things taken under subclause 39.5 until the debt is satisfied. If after reasonable notice, the *Contractor* fails to pay the debt, the *Principal* may sell the *construction plant* or other things and apply the proceeds to the satisfaction of the debt and the costs of sale. Any excess shall be paid to the *Contractor*.

39.7 Principal's default

If the *Principal* commits a substantial breach of the *Contract*, the *Contractor* may, by hand or by certified post, give the *Principal* a written notice to show cause.

Substantial breaches include, but are not limited to:

- a) failing to:
 - i) provide *security*;
 - ii) produce evidence of insurance;
 - iii) rectify inadequate *Contractor's* possession of the *site* if that failure continues for longer than the time stated in *Item 31*; or
 - iv) make a payment due and payable pursuant to the *Contract*; and
- b) the *Superintendent* not giving a *certificate of practical completion* or reasons as referred to in subclause 34.6.

39.8 Contractor's notice to show cause

A notice given under subclause 39.7 shall state:

- a) that it is a notice under clause 39 of these General Conditions of Contract;
- b) the alleged substantial breach;
- c) that the *Principal* is required to show cause in writing why the *Contractor* should not exercise a right referred to in subclause 39.9;
- d) the date and time by which the *Principal* must show cause (which shall not be less than 7 clear days after the notice is received by the *Principal*); and
- e) the place at which cause must be shown.

39.9 Contractor's rights

If the *Principal* fails to show reasonable cause by the stated date and time, the *Contractor* may, by written notice to the *Principal*, suspend the whole or any part of *WUC*.

The *Contractor* shall remove the suspension if the *Principal* remedies the breach.

The *Contractor* may, by written notice to the *Principal*, terminate the *Contract*, if within 28 days of the date of suspension under this subclause, the *Principal* fails:

- a) to remedy the breach; or
- b) if the breach is not capable of remedy, to make other arrangements to the reasonable satisfaction of the *Contractor*.

Damages suffered by the *Contractor* by reason of the suspension shall be assessed by the *Superintendent*, who shall certify them as moneys due and payable to the *Contractor*.

39.10 Termination

If the *Contract* is terminated pursuant to subclause 39.4(b) or 39.9, the parties' remedies, rights and liabilities shall be the same as they would have been under the law governing the *Contract* had the defaulting party repudiated the *Contract* and the other party elected to treat the *Contract* as at an end and recover damages.

39.11 Insolvency

If:

- a) a party informs the other in writing, or creditors generally, that the party is insolvent or is financially unable to proceed with the *Contract*;
- b) execution is levied against a party by a creditor;
- c) a party is an individual person or a partnership including an individual person, and if that person:
 - i) commits an act of bankruptcy;
 - ii) has a bankruptcy petition presented against him or her or presents his or her own petition;
 - iii) is made bankrupt;
 - iv) makes a proposal for a scheme of arrangement or a composition; or
 - v) has a deed of assignment or deed of arrangement made, accepts a composition, is required to present a debtor's petition, or has a sequestration order made, under Part X of the Bankruptcy Act 1966 (Cwth) or like provision under the law governing the *Contract*; or
- d) in relation to a party being a corporation:
 - i) notice is given of a meeting of creditors with a view to the corporation entering a deed of company arrangement;
 - ii) it enters a deed of company arrangement with creditors;
 - iii) a controller or administrator is appointed;
 - iv) an application is made to a court for its winding up and not stayed within 14 days;
 - v) a winding up order is made in respect of it;
 - vi) it resolves by special resolution that it be wound up voluntarily (other than for a member's voluntary winding up); or
 - vii) a mortgagee of any of its property takes possession of that property,

then, where the other party is:

- A) the *Principal*, the *Principal* may, without giving a notice to show cause, exercise the right under subclause 39.4(a); or
- B) the *Contractor*, the *Contractor* may, without giving a notice to show cause, exercise the right under subclause 39.9.

The rights and remedies given by this subclause are additional to any other rights and remedies. They may be exercised notwithstanding that there has been no breach of *Contract*.

40 Termination by frustration

If the *Contract* is frustrated:

- a) the *Superintendent* shall issue a *progress certificate* for *WUC* carried out to the date of frustration, evidencing the amount which would have been payable had the *Contract* not been frustrated and had the *Contractor* been entitled to and made a progress claim on the date of frustration;
- b) the *Principal* shall pay the *Contractor*:
 - i) the amount due to the *Contractor* evidenced by all unpaid certificates;
 - ii) the cost of materials and equipment reasonably ordered by the *Contractor* for *WUC* and which the *Contractor* is liable to accept, but only if they will become the *Principal's* property upon payment; and
 - iii) the costs reasonably incurred:
 - A) removing *temporary* works and *construction plant*;
 - B) returning to their place of engagement the *Contractor*, subcontractors and their respective employees engaged in *WUC* at the date of frustration; and
 - C) by the *Contractor* in expectation of completing *WUC* and not included in any other payment; and
- c) each party shall promptly release and return all *security* provided by the other.

41 Notification of claims

41.1 Communication of claims

The *prescribed notice* is a written notice of the general basis and quantum of the claim.

As soon as practicable after a party becomes aware of any claim in connection with the subject matter of the *Contract*, that party shall give to the other party and to the *Superintendent* the *prescribed notice* or a notice of *dispute* under subclause 42.1.

This subclause and subclause 41.3 shall not apply to any claim, including a claim for payment (except for claims which would, other than for this subclause, have been included in the *final payment claim*), the communication of which is required by another provision of the *Contract*.

41.2 Liability for failure to communicate

The failure of a party to comply with the provisions of subclause 41.1 or to communicate a claim in accordance with the relevant provision of the *Contract* shall, inter alia, entitle the other party to damages for breach of *Contract* but shall neither bar nor invalidate the claim.

41.3 Superintendent's decision

If within 28 days of giving the *prescribed notice* the party giving it does not notify the other party and the *Superintendent* of particulars of the claim, the *prescribed notice* shall be deemed to be the claim.

Within 56 days of receipt of the *prescribed notice* the *Superintendent* shall assess the claim and notify the parties in writing of the decision. Unless a party within a further 28 days of such notification gives a notice of *dispute* under subclause 42.1 which includes such decision, the *Superintendent* shall certify the amount of that assessment to be moneys then due and payable.

42 Dispute resolution

42.1 Notice of dispute

If a difference or dispute (together called a '*dispute*') between the parties arises in connection with the subject matter of the *Contract*, including a *dispute* concerning:

- a) a *Superintendent's direction*; or
- b) a claim:
 - i) in tort;
 - ii) under statute;
 - iii) for restitution based on unjust enrichment or other quantum meruit; or
 - iv) for rectification or frustration,
 or like claim available under the law governing the *Contract*,

then either party shall, by hand or by certified mail, give the other and the *Superintendent* a written notice of *dispute* adequately identifying and providing details of the *dispute*.

Notwithstanding the existence of a *dispute*, the parties shall, subject to clauses 39 and 40 and subclause 42.4, continue to perform the *Contract*.

42.2 Conference

Within 14 days after receiving a notice of *dispute*, the parties shall confer at least once to resolve the *dispute* or to agree on methods of doing so. At every such conference each party shall be represented by a person having authority to agree to such resolution or methods. All aspects of every such conference except the fact of occurrence shall be privileged.

If the *dispute* has not been resolved within 28 days of service of the notice of *dispute*, that *dispute* shall be and is hereby referred to arbitration.

42.3 Arbitration

If within a further 14 days the parties have not agreed upon an arbitrator, the arbitrator shall be nominated by the person in *Item 32(a)*. The arbitration shall be conducted in accordance with the rules in *Item 32(b)*.

42.4 Summary relief

Nothing herein shall prejudice the right of a party to institute proceedings to enforce payment due under the *Contract* or to seek injunctive or urgent declaratory relief.

43 Waiver of conditions

Except as provided at law or in equity or elsewhere in the *Contract*, none of the provisions of the *Contract* shall be varied, waived, discharged or released, except with the prior written consent of the parties.

Internal Use Only

Internal Use Only

This page has been left blank

Part A

Annexure to the
Australian Standard General Conditions of Contract
AS 4000 – 1997

This Annexure shall be completed and issued as part of the tender documents and, subject to any amendments to be incorporated into the *Contract*, is to be attached to the General Conditions of Contract and shall be read as part of the *Contract*.

<i>Item</i>		
1	<i>Principal</i> (clause 1)	..... ..... ACN
2	<i>Principal's address</i>	..........
3	<i>Contractor</i> (clause 1)	..... ..... ACN
4	<i>Contractor's address</i>	..........
5	<i>Superintendent</i> (clause 1)	..... ..... ACN
6	<i>Superintendent's address</i>	..........
† 7	a) <i>Date for practical completion</i> (clause 1)	.....
	OR	
	b) <i>Period of time for practical completion</i> (clause 1)	.....
8	<i>Governing law</i> (page 5, clause 1(h))	..... If nothing stated, that of the jurisdiction where the <i>site</i> is located

† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A

Part A
AS 4000 – 1997

- 9 a) Currency (page 5, clause 1(g)) If nothing stated, that of the jurisdiction where the *site* is located
- b) Place for payments (page 5, clause 1(g)) If nothing stated, the *Principal's* address
- c) Place of business of bank (page 3, clause 1(d)) If nothing stated, the place nearest to where the *site* is located
- 10 *Bills of quantities* (subclause 2.2)
- a) Alternative applying (subclause 2.2) If nothing stated, Alternative 1 applies
- b) If Alternative 2 applies, is the *bill of quantities* to be priced? (subclause 2.2) No/Yes (delete one)
If neither deleted, the *bill of quantities* shall not be priced
- c) Lodgement time (subclause 2.3(b)) If nothing stated, 28 days after *date of acceptance of tender*
- 11 Quantities in *schedule of rates*, limits of accuracy (subclause 2.5(b)) Upper Limit
Lower Limit
- 12 *Provisional sum*, percentage for profit and attendance (clause 3) %
- † 13 *Contractor's security*
- a) Form (clause 5)
- b) Amount or maximum percentage of *contract sum* (clause 5) If nothing stated, 5% of the *contract sum*
- c) If retention moneys, percentage of each *progress certificate* (clause 5 and subclause 37.2) If nothing stated, 10%, until the limit in *Item 13(b)*
- d) Time for provision (except for retention moneys) (clause 5) If nothing stated, within 28 days after *date of acceptance of tender*
- e) Additional *security* for unfixed plant and materials (subclauses 5.4 and 37.3) \$

† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A

- f) *Contractor's security upon certificate of practical completion is reduced by (subclause 5.4)*% of amount held
If nothing stated, 50% of amount held
- † 14 *Principal's security*
- a) *Form (clause 5)*
- b) *Amount or maximum percentage of contract sum (clause 5)*
If nothing stated, nil
- c) *Time for provision (clause 5)*
If nothing stated, within 28 days after date of acceptance of tender
- d) *Principal's security upon certificate of practical completion is reduced by (subclause 5.4)*% of amount held
If nothing stated, 50% of amount held
- 15 *Principal-supplied documents (subclause 8.2)*
- | | Document | No. of copies |
|---|----------|---------------|
| 1 | | |
| 2 | | |
| 3 | | |
| 4 | | |
| 5 | | |
| 6 | | |
- If nothing stated, 5 copies of the drawings, specification, bill of quantities or schedule of rates (if any)
- 16 *Time for Superintendent's direction about documents (subclause 8.3)*days
If nothing stated, 14 days
- 17 *Subcontract work requiring approval (subclause 9.2)*
-
-
-
-
-
-
-

† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A

18	Novation (subclause 9.4)	Subcontractor	Particular part of <i>WUC</i>
		
		
		
		<i>Selected subcontractor</i>	Particular part of <i>WUC</i>
		
		
		
19	<i>Legislative requirements</i>		
	a) Those excepted (subclause 11.1)	.....
		
		
	b) Identified <i>WUC</i> (subclause 11.2(a)(ii))	.....
		
		
20	Insurance of <i>the Works</i> (clause 16)		
	a) Alternative applying	.....
		If nothing stated, Alternative 1 applies	
		If Alternative 1 applies	
	b) Provision for demolition and removal of debris	.....
		\$	
		OR	
		.....% of the <i>contract sum</i>	
	c) Provision for consultants' fees	.....
		\$	
		OR	
		.....% of the <i>contract sum</i>	
	d) Value of materials or things to be supplied by the <i>Principal</i>	.....
		\$	
	e) Additional amount or percentage	.....
		\$	
		OR	
		.....% of the total of paragraphs(a) to (d) in clause 16	

Licensed to ROMANA VRECKO on 16 Feb 2006. 1 user personal user licence only. Storage, distribution or use on network prohibited.

- 21 Public liability insurance (clause 17)
- a) Alternative applying
 If nothing stated, Alternative 1 applies
- If Alternative 1 applies
- b) Amount per occurrence shall be not less than
 \$
- If nothing stated, then not less than the *contract sum*
- 22 Time for giving possession (subclause 24.1) within..... days of *date of acceptance of tender*
 If nothing stated, 14 days
- 23 *Qualifying causes of delay*
 Causes of delay for which *EOTs* will not be granted
 (page 3, paragraph (b)(iii) of clause 1 and subclause 34.3)
- † 24 Liquidated damages, rate (subclause 34.7)
 per day \$ per day
- † 25 Bonus for early *practical completion* (subclause 34.8)
- a) Rate
 per day \$ per day
- b) Limit
 \$
- OR
- % of *contract sum*
- If nothing stated, there is no waiver
- † 26 Delay damages, other *compensable causes* (page 1, clause 1 and subclause 34.9)

† If applicable, delete and instead complete equivalent *Item* in the *separable portions* section of the Annexure Part A

- 27 *Defects liability period*
(clause 35) If nothing stated, 12 months
- 28 **Progress Claims**
(subclause 37.1)
- a) Times for progress claims day of each month for *WUC*
done to the day of that month
- OR
- b) Stages of *WUC* for progress claims
.....
.....
.....
.....
.....
.....
.....
.....
- 29 **Unfixed plant and materials for**
which payment claims may be
made
(subclause 37.3)
- 30 Interest rate on overdue payments % per annum
(subclause 37.5) If nothing stated, 18% per annum
- 31 Time for *Principal* to rectify days
inadequate possession
(subclause 39.7) If nothing stated, 14 days
- 32 **Arbitration**
(subclause 42.3)
- a) Person to nominate an
arbitrator
.....
.....
- If no-one stated, the President of the Institute of Arbitrators & Mediators Australia

A3 |

- b) Rules for arbitration
-
-
-
-

If nothing stated:

- a) rules 5-18 of the Rules of The Institute of Arbitrators, Australia for the Conduct of Commercial Arbitrations;

OR

- b) if one or more of the parties are nationals of and habitually resident in, incorporated in, or where the central management and control is exercised in, different countries as between the parties, then the UNCITRAL Arbitration Rules shall apply and the appointing authority shall be the person provided in *Item 32(c)*

A3 |

- c) Appointing Authority under UNCITRAL Arbitration Rules
- If no-one stated, the President of the Institute of Arbitrators & Mediators Australia

Internal Use Only

Part A

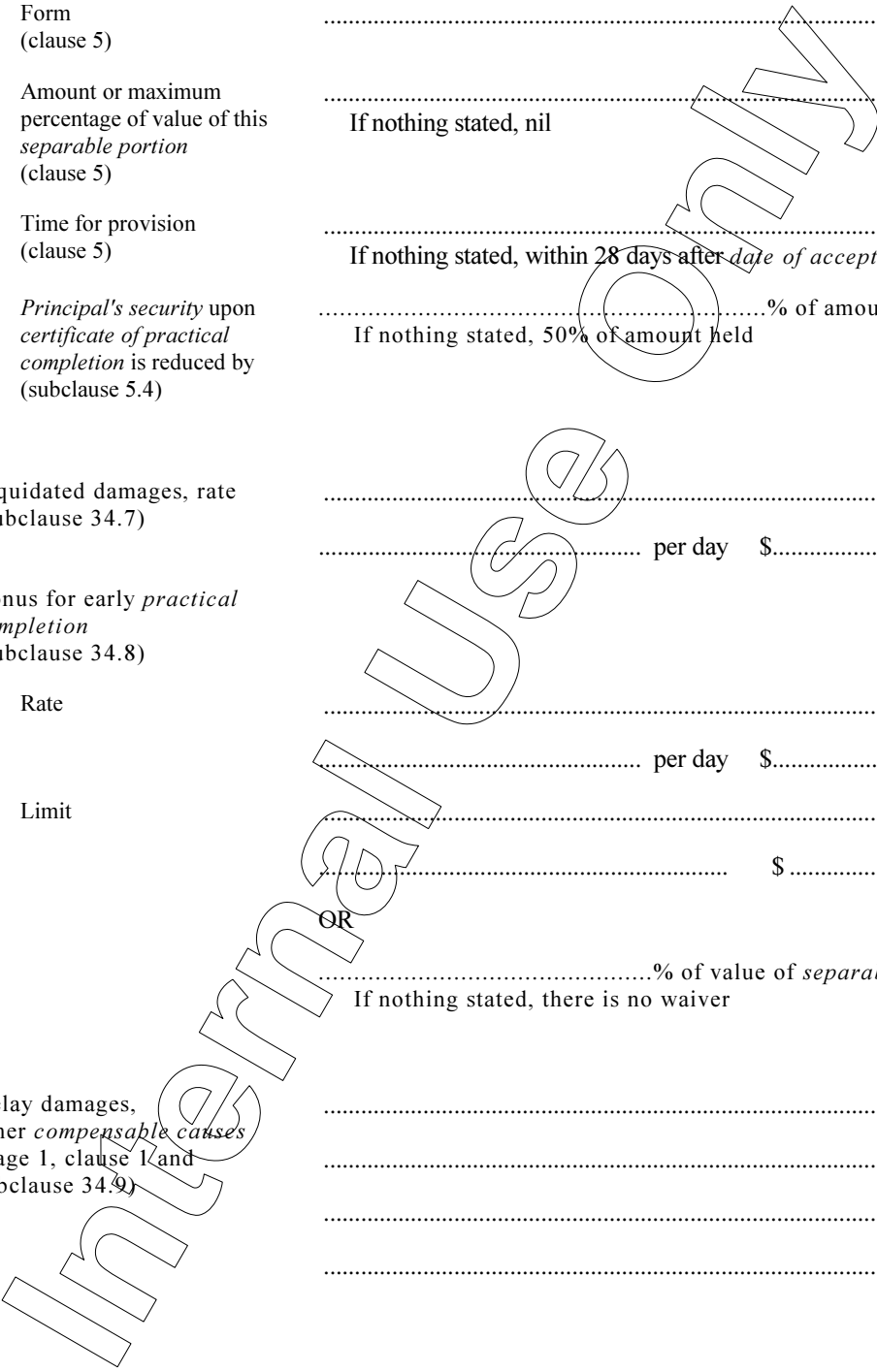
■ This section should only be completed if the *Contract* provides for *separable portions*.

Separable Portions

■ Complete a separate page for each *separable portion* which should be numbered appropriately. Any balance of the *Works* should also be a *separable portion*.

	<i>Separable portion</i> (clause 1)	No.	
	Description of <i>separable portion</i> (clause 1)	.....	.....
	
<i>Item</i>			
7	a) <i>Date for practical completion</i> (clause 1)	.....	.....
	OR		
	b) <i>Period of time for practical completion</i> (clause 1)	.....	.....
13	<i>Contractor's security</i>		
	a) <i>Form</i> (clause 5)	.....	.....
	b) <i>Amount or maximum percentage value of this separable portion</i> (clause 5)	.....	If nothing stated, 5% of value of this <i>separable portion</i>
	c) <i>If retention moneys, percentage of each progress certificate applicable to this separable portion</i> (clause 5 and subclause 37.2)	.....	If nothing stated, 10%, until the limit in <i>Item 13(b)</i> %
	d) <i>Time for provision (except for retention moneys)</i> (clause 5)	.....	If nothing stated, within 28 days after <i>date of acceptance of tender</i>
	e) <i>Additional security for unfixed plant and materials</i> (subclauses 5.4 and 37.3)	.....	..... \$ .....
	f) <i>Contractor's security upon certificate of practical completion is reduced by</i> (subclause 5.4)	.....	.....% of amount held If nothing stated, 50% of amount held

- 14 *Principal's security*
- a) Form
 (clause 5)
- b) Amount or maximum
 percentage of value of this
 separable portion
 (clause 5) If nothing stated, nil
- c) Time for provision
 (clause 5) If nothing stated, within 28 days after *date of acceptance of tender*
- d) *Principal's security* upon% of amount held
 certificate of practical
 completion is reduced by
 (subclause 5.4) If nothing stated, 50% of amount held
-
- 24 Liquidated damages, rate
 (subclause 34.7) per day \$.....per day
- 25 Bonus for early *practical*
 completion
 (subclause 34.8)
- a) Rate
 per day \$.....per day
- b) Limit
 \$.....
- OR
-% of value of *separable portion*
If nothing stated, there is no waiver
-
- 26 Delay damages,
 other *compensable causes*
 (page 1, clause 1 and
 subclause 34.9)



Licensed to ROMANA VRECKO on 16 Feb 2006. 1 user personal user licence only. Storage, distribution or use on network prohibited.

Part C

This form may also be used where the *Principal* is required to provide an unconditional undertaking, by substituting *Principal* for *Contractor* and vice versa, wherever occurring

Annexure to the
Australian Standard General Conditions of Contract
AS 4000 – 1997

Approved form of unconditional undertaking

(clause 1 – *security*)

At the request of ('the *Contractor*') and in consideration of ('the *Principal*') accepting this undertaking in respect of the *Contract* for
..... ('the *financial institution*') unconditionally undertakes to pay on demand any sum or sums which may from time to time be demanded by the *Principal* to a maximum aggregate sum of (\$)

The undertaking is to continue until notification has been received from the *Principal* that the sum is no longer required by the *Principal* or until this undertaking is returned to the *financial institution* or until payment to the *Principal* by the *financial institution* of the whole of the sum or such part as the *Principal* may require.

Should the *financial institution* be notified in writing, purporting to be signed by for and on behalf of the *Principal* that the *Principal* desires payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the *financial institution* will make the payment or payments to the *Principal* forthwith without reference to the *Contractor* and notwithstanding any notice given by the *Contractor* not to pay same.

Provided always that the *financial institution* may at any time without being required so to do pay to the *Principal* the sum of (\$)
less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and specified by the *Principal* and thereupon the liability of the *financial institution* hereunder shall immediately cease.

Dated at.....this.....day of.....19.....

Internal Use Only

This page has been left blank

Clause	Clause		
Acceleration.....	32, 34.4(b)	interest	37.6
Acceptance (see Approval)		liquidated damages	34.7
Acceptance of tender		minerals, fossils and relics	24.3
date of, defined	1	omitted items	2.4
formal instrument of agreement	6	on completion of work taken out of the	
security - time for	5.1, <i>Items</i> 13(d), 14(d)	hands of the Contractor	39.6
Access (see also possession of Site)		pricing	36.4
during defects liability period	35	protection of people and property	12
for Principal and others	24.2	provisional sums	3
for testing	30.1	quantities	2.5
Accident (see also Insurance, Urgent protection and Protection		set-offs by the Principal	37.2, 37.6
of persons and property)		urgent protection	13
reinstatement of damage	14.2	Agreement	
to employees	18	Contract in absence of formal instrument	6
to third parties	15, 17	formal instrument of	6
to WUC	14, 16	interpretation of	1, 8.1
Actions		rectification when dispute	42.1
arbitration	42	Alignments (see Survey mark)	
indemnification of Contractor	10, 15.1, 17	Alternative clauses	2.2, 16, 17
indemnification of Principal	10, 12, 15.1, 17	Ambiguity in documents	8.1
Acts, (of Parliament) (see Legislative requirements)		Appliances (see Construction plant)	
Additions and/or deductions		Approval	
adjustment generally	2.1	effect of certificates	37.2
care of survey marks	26.3	examination and testing	30
changes in legislative requirements	14.2	extension of time	34.4, 34.5
contract sum definition, excluded in	1	of defective material or work	29.4
direction on programming	32	of documents	8.3
discrepancies in documents	8.1	of form of security	1
error in setting out	26.2	of insurance policies	16, 17
generally	2.1	of media releases	8.6
legislative requirements	11.2	of municipal and statutory authorities	
minerals, fossils and relics	24.3	(see Legislative requirement)	
order of work	32	of subcontracting	9.2
pricing variations generally	36.4	of variations of convenience	36.3
programming	32	to suspension by Contractor	33.2
provisional sums	3	working days	31
suspension	33.4	working hours	31
Address for service (see also Service)	7	Approved form of unconditional undertaking	
change of	7	security	1
Contractor	7, <i>Item</i> 4	form of	Annexure Part C
Principal	7, <i>Item</i> 2	Arbitration	
Superintendent	7, <i>Item</i> 6	agreement to arbitrate	42.2
Adjustment (for)		ambit of	42.1
actual quantities	2.4	nomination of arbitrator	42.3, <i>Item</i> 32(a)
bonus	34.8	rules of	42.3, <i>Item</i> 32(b)
cost of suspension	33.4	Assessment (see Superintendent, assessments by)	
cost of tests	30.7	Assignment	
defective material and work	29.3	of Contract	9.1
delay damages	34.9	of subcontract	9.2(a)
directions on order of work	32	by subcontractor	9.2(b)
errors in documents	8.1	Asterisk clauses	8.6, 29.2
errors in setting out	26.2		
fees and charges	11.2		

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause
Australasian Dispute Centre	Items 32(a), (c)
Authorisation (see Direction)	
Awards (see Legislative requirements)	
Bank guarantee (see Unconditional undertaking)	
Bank — place of business	1, <i>Item</i> 9(c)
Bankruptcy	
of Contractor	39.11
of Principal	39.11
Basis of payment	2.1
Bench mark (see Survey mark)	
Bill of quantities	2.2
alternative applying	2.2, <i>Item</i> 10(a)
definition of	1
errors in	2.5
lodgement	2.3(b)
no payment until lodged	2.3(c)
not part of Contract	2.2, <i>Item</i> 10(b)
omission of items in	2.5
priced and extended	2.3(a)
pricing, errors in	2.3
purpose of	2.2
quantities in	2.4
time for lodgment	2.3(b), <i>Item</i> 10(c)
to be priced	2.2, <i>Item</i> 10(b)
valuation of variation by	36.4(c)
Bonus	
for early practical completion	34.8, <i>Item</i> 25(a)
limit of	34.8, <i>Item</i> 25(b)
rate of	34.8, <i>Item</i> 25(a)
waiver of part of bonus	34.8, <i>Item</i> 25(b)
where separable portions	4(c)
Breach of Contract	
claims for	41
default of the Contractor	39.2
default of the Principal	39.7
liquidated damages	34.7
preservation of other rights	39.1
substantial breaches	39.2, 39.7
By-laws (see Legislative requirements)	
Calendar days	1(a)
Care of WUC	
cleaning up	27
Contractor's obligations for	14.1
excepted risks	14.3
generally	14.1
reinstatement of loss or damage	14.2
urgent protection of	13
Certificate(s) (see also Direction and Payment)	
effect of	37.2
final certificate	37.4
of cost to complete on default by Contractor	39.6
of municipal and statutory authorities (see Legislative requirements)	
practical completion	34.6
progress certificate	37.2
Certificate of Practical Completion	
defined	1
issue of	34.6
meaning of	34.6
non-issue of	34.6
request for	34.6
Claims (see also Adjustment)	
arbitration of	42.3
compensation to third party	12
failure to notify, effect	41.2
for damages	41.1, 42.1
for extension of time for practical completion	34.3
for final payment	37.4
for progress payment	37.1, <i>Item</i> 28
indemnity by Contractor	10, 15.1
indemnity by Principal	10, 15.2
notice of dispute	41.1, 41.3, 42.1
notice of potential claims on insurance policies	19.4
notification of	41
settlement of claims under policy of insurance	19.5
settlement of disputes	42
Superintendent's decision on	41.3
valuation of	37.2, 41.3
Clause headings — effect	1(c)
Cleaning up	27
Commencement of WUC	
generally	16, 17, 18, 19.1
insurance, proof of	19.1
possession of site	24.1
production of policies before	19.1
Communications between parties	1(c)
Compensable cause	
defined	1
others listed	<i>Item</i> 26
Completion	
by Principal on default	39.4, 39.5, 39.6
final certificate	37.4
practical (see Practical completion)	
Compliance	
with legislative requirements	11.1
with Superintendent's interpretation	8.1
Concurrent delay	34.4

<i>Clause</i>	<i>Clause</i>
Conditions, waiver of .....43	Contract sum
Confidential information	defined 1
agreement as to 8.5	insurance of WUC 16(a)
generally 8.5	Contract works insurance
Construction of Contract 1, 8.1	amount of cover of 16, <i>Item</i> 20
Construction plant	Contractor controlled 16 Alt 1
care of 14.1	exclusions in 16
Contractor to supply .....28	in joint names 16
defined 1	length of cover 16
insurance of 16	policy 16
not to be removed 28	Principal controlled 16 Alt 2
removal of 27, 39.6, 40	Contractor
use by Principal 39.5, 39.6	appointment of representative 22
WUC includes 1	default by 34.2
Construction program	defined 1
defined 1	named <i>Item</i> 3
departure from 32	rights of 34.9, 34.11
direction as to 32	security by 5, <i>Item</i> 13
failing to adhere to 39.2(d)	service on 7
meaning of 32	to insure 16 Alt 1, 17, 18
Consultant fees	use of site by 24.1
in Contract works policy 16, <i>Item</i> 20(c)	Contractor-supplied documents
Contingency sum (see Provisional sum)	approval of 8.3(b)
Contract	availability of 8.4
assignment 9.1	checking of 8.3(a)
breach of (see Breach of Contract)	copies of 8.3
construction of 1	rejection of 8.3(c)
defined 1	responsibility for 8.3
disputes under 42	submission of 8.3
documents 8	suitability of 8.3(c)
evidence of 6	supply of 8.3
formal instrument of 6	Contractor's all risk insurance
frustration of 40, 42.1	(see Contract works insurance)
governing law of 1(h), <i>Item</i> 8	Contractor's employees
interpretation of 1	accident or injury 18
nature of 2	control of 23
proper law of 1(h), <i>Item</i> 8	insurance of 18
rectification of 42.1	payment of 38
subcontracting 9.2	removal of, from site 23
termination — effect of 39.10	Contractor's representative 22
termination of	Contractor's responsibility (see also Contractor and Care of WUC)
by Principal 34.4, 34.11	for employees (see Contractor's employees)
by Contractor 34.9, 34.11	for payment of workers and subcontractors 38
work under the (WUC) 1	for selected subcontractors 9.5
Contract documents 8	for subcontractors 9.5
ambiguities in 8.1	to carry out WUC 2.1
construction of 8.1	Contributory negligence
discrepancies in 8.1	indemnity as to 15.1
inconsistencies in 8.1	reduction of liability for 14.2, 15.1
interpretation of 8.1	Copyright (see Intellectual property right)
	Corporation (also see Person) 1(a), 5.6

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause		
Corporations Law	5.6, 38.3	Deed of guarantee, undertaking and substitution	
Cost(s) (see also Adjustment)		defined	1
added to contract sum	24.3, 26.2, 26.3	provision of	5.6
completion of work taken out of		requirement for	5.6
the hands of the Contractor	39.6	Deed of novation	9.4
complying with legislative requirements	11.2	Deemed variation	
examination and testing	30.7	as to acceptance of defective work	29.4
latent conditions	25.3	for latent condition	25.3
protection of person, etc.	12	omission in bill or schedule of rates	2.4
provisional sums	3	reinstatement of damage	14.2
reinstatement	14.2	Default by Principal	
set-offs by Principal	37.6	Contractor's rights on	39.9
setting out	26.3	Contractor's show cause notice	39.8
urgent protection	13	generally	39.7
variations	36.4	in making due payment	39.7(a)
Covering up of WUC	30.2	in providing evidence of insurance	39.7(a)
Cross liability clause	19.6	in providing security	39.7(a)
Currency	1(g), <i>Item</i> 9(a)	in rectifying inadequate possession	39.7(a), <i>Item</i> 31
Damage (see also care of the Works and Insurance)		in Superintendent not issuing	
prevention of	12	certificate of practical completion	39.7(b)
protection of property, etc.	12	on termination	39.10
reinstatement of	14.2	rights of the Contractor	39.7, 39.8, 39.9
to persons and property other than WUC	15.1	where to show cause on	39.7, 39.8
to WUC	14.1	Default by the Contractor	39.2, 39.3
urgent protection	13	adjustment of costs on	39.6
Damages (see also Adjustment and Claims)		assessment of cost to complete on	39.6
for delay by Contractor	34.7, <i>Item</i> 24	failing to comply with a direction of the	
for delay due to compensable cause	34.9	Superintendent	39.2(a)
liquidated	34.7, <i>Item</i> 24	failing to proceed with due expedition	
on termination of the Contract	39.10	and without delay	39.2(d)
Date		failing to provide evidence of insurance	39.2(a)
for practical completion	1, <i>Item</i> 7, 34.7, 34.8	failing to use materials or standards of	
of acceptance of tender	1	workmanship	39.2(a)
of practical completion	1, 34.6, 34.7, 34.8	in providing documentary evidence	39.2(e)
Date of acceptance of tender		in providing security	39.2(a)
defined	1	may use plant and materials on	39.5
Date for practical completion		on termination	39.10
defined	1, <i>Item</i> 7	possession of plant and materials	39.5
effect of proposed variation on	36.2(a)	procedure on	39.2, 39.3, 39.4, 39.5, 39.6
period of time for	1, <i>Item</i> 7	records of cost to complete	39.5
Date of practical completion		retention of plant and materials	39.6
defined	1	show cause notice to	39.3
Days		substantial breach by	39.2
mean calendar days	1(a)	substantial departure from construction	
working	31	program	39.2(c)
Daywork (see Pricing)		suspension of payment on	39.4
Debt due to the Principal	12, 13, 27, 29.3, 34.7, 35, 37.6, 39.6	when the Principal takes work	
Decision (see also Direction)		out of hands of Contractor	39.5, 39.6
		Default of subcontractor	9.5
		Default or insolvency	
		by Contractor	39.2, 39.11
		by Principal	39.7, 39.11
		generally	39
		preservation of other rights	39.1
		substantial breaches	39.2, 39.7
		show cause notices	39.3, 39.8

Clause	Clause
Defective work	
acceptance of.....	29.4
correction of.....	29.3
cost of rectification.....	29.3
delivery of.....	29.3
demolition of.....	29.3
examination and testing.....	30
generally.....	29.3
includes material.....	29.3
quality assurance.....	29.2
reimbursement of.....	29.3
removal of.....	29.3
replacement of.....	29.3
time of notice of.....	29.5
Defects	
costs of rectification.....	29.3, 35
defined.....	1
direction to rectify.....	35
examination and testing for.....	30
in design - excepted risk.....	14.3(f)
length of liability period.....	35, <i>Item 27</i>
material and work.....	29.3, 29.4, 35
minor, practical completion.....	1
remedying.....	29.3, 35
removal and replacement.....	29.3
times for rectification.....	35
work.....	29.3, 29.4, 35
Defects liability period	
defined.....	1
duration of.....	35, <i>Item 27</i>
generally.....	35, <i>Item 27</i>
Definitions (generally).....	1
dispute.....	42.1
Delay	
concurrent.....	34.4
construction program.....	32, 39.2(c)
damages.....	4(c), 34.9
further delay.....	34.3
in giving possession.....	24.1
notice of.....	34.2
rate of progress.....	34.1
Delay damages	
certified by Superintendent.....	34.9
claim for.....	34.9
due and payable.....	34.9
for compensable cause.....	34.9
other compensable causes.....	1, 34.9, <i>Item 26</i>
where separable portions.....	4(c)
Deletion of clauses, etc. - effect.....	1(i)
Deletions, amendments and additions (generally).....	Annexure Part B
Demand (see also Direction)	
Demolition and removal of debris	
in Contract works policy.....	16(b), <i>Item 20(b)</i>
Deposit (see Security)	
Determination (see also Direction)	
defined in direction.....	1
disputes.....	42
interpretation of discrepancy.....	8.1
pricing of variation.....	36.4
value of work.....	37.2
Determination of Contract (see Termination of Contract)	
Dimensions	
figured.....	8.1
scaled.....	8.1
Direct payment to subcontractor.....	38.3
Direction	
construction program.....	32
covering up of work.....	30.2
defective materials or work.....	29.3, 29.4
defined.....	1
dissatisfaction with.....	42.1(a)
examination and testing.....	30
oral, to be confirmed in writing.....	20
order of work.....	32
notice of tests.....	30.4
relating to Contractor's employees.....	23
relating to subcontractors.....	23
suspension of WUC.....	33.1
written.....	20
Discrepancies	
Contract documents.....	8.1
dimensions.....	8.1
Dispute (see Dispute resolution)	
Dispute resolution	
after final certificate.....	37.4(d)
ambit of.....	42.1
arbitration.....	42.3
conference.....	42.2
continue performance of Contract.....	42.1
dispute defined.....	1, 42.1
includes difference.....	42.1
meaning of dispute.....	1, 42.1
notice of dispute.....	42.1
summary relief.....	42.4
Documents	
ambiguities in.....	8.1
approval of the Superintendent.....	8.3
availability of.....	8.4
confidential information.....	8.5
construction of.....	8.1
Contractor-supplied.....	8.3
discrepancies in.....	8.1
evidencing Contract.....	6

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause
generally	8
inconsistencies in	8.1
interpretation of	8.1
Principal-supplied	8.2
property in	8.2, 8.3
results of tests	30.6
service of	7
Due (see Moneys due)	
Due and owing (see Moneys due and owing)	
Due and payable (see Moneys due and payable)	
Emergency work	13
Employees	
control of	23
insurance of	17(c), 18
of Contractor (see Contractor's employees)	
of subcontractor	23
responsibility for	9.5
English language	1(e)
EOT (extension of time)	
application for	34.3
assessment of	34.4, 34.5
claim for	34.3
deemed assessment	34.5
defined	1
exclusions	1, 34.3, <i>Item</i> 23
grant of	34.5
in event of further delay	34.3
partial grant of	34.5
qualifying cause of delay	1, 34.3
refusal of	34.5
time for applying for	34.3
Superintendent may direct	34.5
Equipment to be provided by Contractor (see Construction plant)	28
Errors	
Contract documents	8.1
in bill of quantities or schedule of rates	2.2, 2.4
setting out	26.2
Escrow	
security transferred in	5.1
Examination and testing	30
Excepted risk	
defined	1
meaning	14.3
Explanation (see also Direction)	
Extension of time (see EOT)	
Failure of Contractor (see also Delay and Default of Contractor)	
to arrange urgent protection	13
to lodge security	5.1, 39.2(a)
to make claims	41.1
to produce proof of insurance	19.2, 39.2(a)
to show cause	39.3
Failure of Principal (see also Default of Principal)	
rights of the Contractor on	39.9
to give possession of Site	24.1, 39.7(a)
to insure	19.2, 39.2(a)
to make payment	37.5, 39.7(a)
Faulty work (see Defective material or work)	
Fees and charges (see Legislative requirements)	
Figured dimensions	8.1
Final certificate	
accord and satisfaction	37.4
defined	1
effect of	37.4
final payment claim for	37.4
generally	37.4
meaning	37.4
release of security	5.4
Final payment (see also Final certificate)	
defined	1
meaning	37.4
Final payment claim	
defined	1
endorsement of	37.4
includes all claims	37.4
meaning	1, 37.4
time for	37.4
Financial institution	
form of unconditional undertaking by	Annexure Part C
security provided by	1
Finding of minerals, fossils and relics	24.3
Float	34.4(a)
Formal instrument of agreement	
execution of	6
generally	6, AS4001
stamping of	6
Form of unconditional undertaking	Annexure Part C
Fossils	24.3
Frustration	
generally	40
notice of dispute when	42.1(b)
payment on	40
release and return of security	40
termination by	40
Gender includes every gender	1(d)

<i>Clause</i>	<i>Clause</i>
Governing law 1, <i>Item</i> 8	Insurance
Guarantee, etc. deed of 5.6	cross-liability 19.6
Headings of clauses 1(c)	failure to provide proof of 19.2, 39.2(a), 39.7(a)
Hours of work 31	inspection of policies 19.1
Incompetence of employees, etc. 23	notice of potential claims 19.4
Indemnity	notices to and from insurer 19.3
by Contractor 15.1	of employees 18
by Principal 15.2	of Works 16, <i>Item</i> 20
care of work 14	proof of insurance 19.1
damage to persons and property 15	provisions of policies 19.3
infringement of intellectual	public liability 17
property rights 10	settlement of claims 19.5
Information to be supplied	workers' compensation 18
advance notice 32	Intellectual property rights
by Principal 32	Contractor's warranty as to 10
confidential information 8.5	defined 1
Contract documents 8	indemnity as to 10
examination of information made available	Principal's warranty as to 10
for tendering 25.1(a)	Interpretation of Contract documents 1, 8.1
examination of information relevant to	Interest
risks, contingencies, etc. 25.1(b)	on security 5.5
for setting out the Works 26.1	overdue payments 37.5, <i>Item</i> 30
latent conditions 25	rate of 37.5, <i>Item</i> 30
particulars of materials and plant 28(a)	Issue of
results of tests 30.6	certificate of practical completion 34.6
to media 8.6	final certificate 37.4
working hours 31	payment certificate 37.2
Injury to persons 12	<i>Item</i>
indemnity by Contractor 15.1	defined 1
insurance 17, 18	Labour
measures to prevent 12	provision by Contractor 28
Insolvency	Language of Contract 1(e)
bankruptcy 39.11(c)	Latent conditions
Contractor rights on 39.11(B)	costs of 25.3
deed of arrangement 39.11(d)	deemed variation on 25.3
generally 39.11	defined 1, 25.1
meeting of creditors 39.11(d)	meaning 1, 25.1
mortgagee in possession 39.11(e)	notification of 25.2
Principal's rights on 39.11(A)	scope of 25.1
voluntary winding up 39.11(d)	Law
when corporation 39.11(d)	compliance with legislative requirements 11.1
when exercisable 39.11	Corporations 5.6, 38.3
when individual 39.11(c)	giving of notices 11.1
Inspection	governing the Contract 1(h), <i>Item</i> 8
access for testing 30.1	Legislative requirements
access to Principal and others 24.2	changes in 11.2
insurance policies 19.1	changes to WUC 11.2(a)
testing 30.1	changes to the Works 11.2(a)
Institute of Arbitrators, Australia	compliance with 11.1
rules of <i>Item</i> 32(b)	cost of 11.2(c)
Instruction (see also Direction)	defined 1
	excepted 11.1, <i>Item</i> 19(a)

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause
fees and charges.....	1, 11.2(a)
identified WUC.....	11.2, <i>Item</i> 19(b)
payment to subcontractor under.....	38.3
payment to worker under.....	38.3
provision of services.....	11.2(a)
satisfaction of.....	11.1, <i>Item</i> 19(a)
time of effect of.....	11.2(b)
variance in.....	11.1
Level mark (see Survey mark)	
Liability of the Contractor	
for care of WUC.....	14
for compliance with legislative requirements.....	11
for selected subcontractors.....	9.5
for subcontractors.....	9.5
Licences (see Legislative requirements)	
Limits of accuracy.....	2.5(b), <i>Item</i> 11
Liquidated damages	
certifying of.....	34.7
rate of.....	34.7, <i>Item</i> 24
repayment of.....	34.7
separable portions.....	4(d)
Litigation.....	42.4
Local authorities.....	11
Loss or damage to WUC	
care of WUC.....	14.1
excepted risks.....	14.3
generally.....	14
protection.....	12, 13
reinstatement.....	14.2
urgent protection.....	13
Lump sum.....	2.1
Making good (see also Reinstatement).....	14.2, 29.3, 35
Materials (see also Work)	
acceptance of defective.....	29.4
defective.....	29.3, 29.4
examination and testing of.....	30
failure to use proper materials.....	39.2(a)
manufacture and supply of.....	28
not to remove from site.....	28
particulars of.....	28
possession on default.....	39.5
provision of by Contractor.....	28
quality of.....	29.1
supply of.....	28
testing of.....	30
unfixed.....	37.3
upon frustration of Contract.....	40
use of new materials.....	29.1
Measurement	
generally.....	37.2
of quantities.....	1(f)
Media releases.....	8.6
Minor defects	
practical completion, in definition of.....	1
remedying.....	29.3, 35
Misconduct of employee.....	23
Monetary sum (see Provisional sum)	
Moneys due	
cleaning up costs.....	27
cost of proposed variation.....	36.2
cost of protection.....	12
cost of remedying defective work.....	29.4
cost of urgent protection.....	13
moneys certified due to Principal.....	37.2(b)
on frustration.....	40(b)
other moneys due.....	37.6
progress certificate.....	37.2(a)
progress claim.....	37.1
Moneys due and owing to Principal otherwise.....	37.6
Moneys due and payable	
bonus.....	34.8
claims generally.....	41.3
cost of defect rectification.....	35
costs of suspension on breach.....	39.9
delay damages.....	34.9
final certificate.....	37.4
interest.....	37.5
liquidated damages.....	34.7
on work taken out of the hands of Contractor.....	39.6
substantial breach.....	39.7(a)
to workers and subcontractors.....	38.2
unpaid insurance premium.....	19.2
Nature of Contract.....	2
Negligence of employee.....	23
Nominated subcontractor (see Novation).....	9.3, 9.4
Notice (see also Direction, Notice of dispute)	
for testing.....	30.4
for urgent protection.....	13
from or to insurer.....	19.3
of availability of site.....	27.1
of claim for EOT.....	34.3
of claims generally.....	41
of default by the Contractor.....	39.3
of default by the Principal.....	39.8
of delay.....	34.2
of discovery of minerals, fossils or relics.....	24.3
of dispute.....	42.1
of errors in setting out.....	26.2
of latent conditions.....	25.1
of names of persons entitled to access.....	24.2
of potential insurance claims.....	19.4

Clause	Clause		
of working hours.....	31	calculation of.....	37.2
oral or written.....	20	certificates.....	37.2
prescribed.....	41.1	claims for.....	37.1
service of.....	7	currency of.....	1(g), <i>Item</i> 9(a)
to statutory authorities.....	11.1	deductions.....	37.2
to suspend work.....	33.1	default by Principal.....	39.7(a)
Notice of dispute		delay damages.....	34.9
arbitration.....	42.3	during arbitration.....	42.1
concerning claims.....	41.1, 41.3	for defective materials and work.....	29.3, 35
conference following.....	42.2	for progress certificates.....	37.2
generally.....	42	for unfixed plant and materials.....	37.3
how served.....	42.1	insurance premiums, proof of.....	19.2
includes difference.....	42.1	interest on overdue.....	37.5
when final certificate.....	37.4(d)	liquidated damages.....	34.7
Notification of claims (see also Claims)		not evidence of satisfactory WUC.....	37.2
failure to supply.....	41.2	of balance after set off.....	37.2
generally.....	41	of security and retention moneys.....	5.1
notice of dispute concerning.....	41.1, 41.3	of workers and subcontractors.....	38
prescribed notice.....	41.1	on completion by Principal.....	39.6
Superintendent's decision on.....	41.3	on final certificate.....	37.4
Novation		on payment certificate.....	37.2
deed of.....	9.4	on practical completion.....	37.2
selected subcontractor.....	9.4, <i>Item</i> 18	payment on account.....	37.2
subcontractor.....	9.4, <i>Item</i> 18	place for.....	1(g), <i>Item</i> 9(b)
Omissions (see also Defects and Minor defects)		provisional sums.....	3
at final certificate.....	37.4(b)	retention moneys.....	5.1, <i>Item</i> 13(c)
bill of quantities.....	2.4	set-offs by Principal.....	37.2, 37.6
schedule of rates.....	2.4	suspension of by Principal.....	39.4
Opening up for examination and testing.....	30.1	to subcontractors.....	38
Oral direction.....	20	to workers.....	38
Order (see also Direction)		urgent protection.....	13
Order of work.....	32	within 7 days of certificate.....	37.2
Orders (see Legislative requirements)		within 21 days of claim.....	37.2
Ordinances (see Legislative requirements)		withholding by Principal.....	38.2
Ordinary working days.....	31	Payment to workers and subcontractors	
Ordinary working hours.....	31	direct payment to.....	38.3
Other moneys due.....	37.6	documentary of.....	38.1
Ownership of documents		Principal may withhold payment.....	38.2
supplied by Contractor.....	8.3	where required by law.....	38.3
supplied by Principal.....	8.2	withholding of payment.....	38.2
Patent, (see Intellectual property right)		Performance and payment.....	2.1
Payment(s) (see also Adjustments)		Permission (see also Direction)	
adjustment for errors in the bill of quantities.....	2.5	Permits (see Legislative requirements)	
adjustment for fees to statutory authorities.....	11.2	Person, meaning.....	1(a)
and performance.....	2.1	Persons	
basis of.....	2.1	death of.....	15.1
bonus.....	34.8	indemnity by Principal.....	15.1
calculated by rates.....	2.1	injury to.....	15.1
		insurance of.....	17, 18
		protection of.....	12
		suspension to protect.....	33.1
		unavoidable damage to.....	15(d)
		Place for payment.....	1(g), <i>Item</i> 9(b)

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause		
Place of business of bank.....	1, <i>Item</i> 9(c)	not evidence WUC is satisfactory.....	37.2
Plant (see Construction plant).....	1, 28, 39.5, 39.6	on account only.....	37.2
Plant and materials		Progress claims	
security for.....	5.4, 37.3, <i>Item</i> 13(e)	generally.....	37.1
unfixed.....	37.3, <i>Item</i> 29	time for.....	37.1, <i>Item</i> 28
Possession of site (see also Access).....	24.1	Progress, failure to maintain.....	39.2(c), 39.2(d)
Practical completion		Prompt payment discount.....	3(b)
certificate of.....	34.6	Proper law of Contract.....	1(h), <i>Item</i> 8
date for.....	1, 34.1, 34.3, 34.6, 34.7	Property	
date of.....	1, 34.7	damage to.....	12
defined.....	1	indemnity as to.....	15
early practical completion.....	34.8	insurance of.....	17
extension of time for.....	34.3	loss of.....	15.1
request for certificate of.....	34.6	protection of.....	12
separable portions.....	4	unavoidable damage to.....	15.1(d)
Prescribed notice		Protected right (see Intellectual property right)	
defined.....	1	Protection	
meaning.....	1, 41.1	of persons and property.....	12
Priced bill of quantities.....	2.2	of WUC.....	14
Pricing		suspension due to.....	33.1
variations.....	36.4	urgent, by Principal.....	13
Prime cost item (see Provisional sum)		Provisional sum.....	3
Principal		defined.....	1
address of.....	<i>Item</i> 2	included in contract sum.....	1
certificate to.....	37.2	included in schedule of rates.....	1
default of.....	39.7	meaning.....	1, 3
defined.....	1	percentage for profit and attendance.....	3, <i>Item</i> 12
dispute with Contractor.....	42.1	Public authorities.....	5.5, 11
named.....	<i>Item</i> 1	Public liability policy	
rights of.....	39.2, 39.3, 39.4, 39.5	amount of.....	17, <i>Item</i> 21(b)
security by.....	5, <i>Item</i> 14	defined.....	1
set off by.....	37.6	meaning.....	1, 17
Principal-supplied documents		Qualifying cause of delay	
availability of.....	8.4	defined.....	1
copies of.....	8.2, <i>Item</i> 15	excludes those in.....	<i>Item</i> 23
copying of.....	8.2	EOT for.....	34.3
details of.....	8.2	further delay due to.....	34.3
number of.....	8.2	Quality.....	29
property in.....	8.2	Quality assurance.....	29.2
supply of.....	8.2, <i>Item</i> 15	Quality of materials and work	
Proclamation (see Legislative requirements)		defective materials and work.....	29.3
Profit and overheads/attendance		examination and testing of.....	30
in pricing variations.....	36.4	generally.....	29.1
on provisional sums.....	3	Quality system.....	29.2
Programming (see Construction program)			
Progress certificate			
deemed.....	37.2		
defined.....	1		
issue of.....	37.2		
meaning.....	1, 37.2		

Clause	Clause
Quantities, bill of	Repudiation of Contract
defined 1	parties rights on 39.1, 39.10
estimated only 2.4	Request (see also Direction)
generally 2.2, 2.3, 2.4, 2.5	Requirement (see also Direction)
lodgement of priced bill 2.3(c)	Requirements of legislation 11.1
omitted items in 2.5	Responsibility
priced and extended 2.3	of Contractor for subcontractors 9.5
purpose of 2.2	for performance 2.1
quantities in 2.4	Retention moneys (see Security)
Quantities, errors in 2.5	Risks
Rates (see also Schedule of rates)	excepted 1, 14.3
adjustment of 2.5	Royalties (see Intellectual property rights)
limits of accuracy 2.5(b), <i>Item</i> 11	Schedule of prices
payment of 2.1	included in definition of schedule of rates 1
provisional sums 3	valuation of variations by 36.4(c)
valuation of variations 36.4(c)	Schedule of rates
Receiver 39.11	defined 1
Reference mark (see also Survey marks)	generally 2.3, 2.4, 2.5
defined 1	limits of accuracy of 2.5(b), <i>Item</i> 11
survey mark, included in 1, 26.1	omitted items in 2.5
Registered design (see Intellectual property right)	payment by 2.1
Regulations (see Legislative requirements)	quantities in 2.4
Reinstatement of damage	valuation of variations 36.4(c)
excepted risks 14.3	Security (includes Retention moneys)
generally 14.2	change of 5.3
Rejection (see also Direction)	Contractor's <i>Item</i> 13
Rejection of materials or work 29.3	defined 1
Relation-back day	form of 5.1
concerning direct payment to workers	generally 5
and subcontractors 38.3	include retention moneys 1
Release of security 5.4	interest earned on 5.5
Remedial work	Principal's <i>Item</i> 14
generally 29.3, 35	provision of 5.1, <i>Items</i> 13 & 14
included in definition of WUC 1	purpose of 5.1
Removal of	recourse to 5.2
construction plant 28	reduction of 5.4, <i>Items</i> 13 & 14
materials 28	release of 5.4
Removal of Contractor's employees, and	return of 5.4
subcontractors 23	substitution of 5.3
Repairs, urgent (see Urgent protection) 13	time of lodgement of 5.1, <i>Items</i> 13 & 14
Replacement (see Reinstatement)	trust 5.5
Replacement of defective	unfixed plant and materials 5.4
materials or work 29.3	upon frustration of the Contract 40(c)
Representative of	Selected subcontract work
Contractor 22	defined 1
Superintendent 21	meaning 9.3
	Selected subcontractor
	defined 1
	meaning 1, 9.3

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause
Separable portion(s)..... 4, Annexure Part A	substantial breach in giving possession of..... 39.7(a), <i>Item</i> 31
date for practical completion..... 4(b)	Statutory requirements (see Legislative requirements)
defects liability..... 35	Subclause headings — effect..... 1(c)
defined..... 1	Subcontract work
directed by Superintendent..... 4	generally..... 9
liquidated damages..... 4(c)	requiring approval..... 9.2, <i>Item</i> 17
security in..... 4(c)	Subcontractor
Service	approval of..... 9.2
by certified mail..... 39.2, 39.7, 42.1	Contractor's responsibility for..... 9.5
by fax..... 7(b)(ii)	novation of..... 9.4, <i>Item</i> 18
by hand..... 39.2, 39.7, 42.1	removal of..... 22
by post..... 7(b)(iii)	selected..... 9.3, 9.4, <i>Item</i> 18
by the Contractor on the Principal..... 39.7, 39.11	terms of approval..... 9.2
by the Principal on the Contractor..... 39.2, 39.11	when Contract frustrated..... 40(b)
from or to the insurer..... 19.3	Subcontractors' employees (see also Employees)..... 23
notification of latent conditions..... 25.1	control of..... 23
of appointment of Superintendent..... 1	insurance of..... 18
of appointment of Superintendent's Representative..... 21	responsibility for..... 9.5
of claims to the Superintendent..... 41.1	Substantial breach..... 39.2, 39.7
of finding of minerals, fossils and relics..... 24.3	Superintendent (see also Directions)
of notice of dispute..... 42.1	address of..... <i>Item</i> 6
of notice(s) (see also Notices)..... 7	appointment of..... 20
of potential (insurance) claims..... 19.4	appointment of Superintendent's representative..... 21
of taking the work out of the hands of Contractor..... 39.4	assessments by..... 3, 8.1, 11.2, 14.2, 24.3, 26.2, 26.3, 32, 33.4, 34.5, 39.6, 39.9, 41.3
of terminating the Contract..... 39.4, 39.9	certifications by..... 12, 13, 19.2, 19.5, 27, 29.3, 34.7, 34.8, 34.9, 35, 36.2, 37.2, 37.4, 39.6, 39.9, 40(a), 41.3
personal service..... 7	defined..... 1
Set-off	directions of..... 20
by Principal..... 37.2, 37.6	generally..... 20
election by Principal..... 37.2	includes Superintendent's representative..... 1
generally..... 37.6	named..... <i>Item</i> 5
Setting out the Works	notice to in relation to dispute..... 42.1
care of..... 26.3	obligations of..... 20
disturbance to..... 26.3	pricing by..... 3, 14.2, 25.3, 36.4
errors in..... 26.2	to confirm oral directions..... 20
generally..... 26	valuations by..... 4
survey marks for..... 26.1	Superintendent's representative..... 1
Settlement	appointment of..... 21
arbitration..... 42.3	defined..... 1
notice of dispute..... 42.1	functions of..... 21
of disputes..... 42.1	notice of appointment of..... 21(c)
Signal (see Survey mark)	objection to appointment of..... 21(d)
Site	termination of appointment of..... 21(c)
access to by Principal, etc..... 24.2	Survey mark
access to by Superintendent..... 24.2	care of..... 26.3
cleaning up..... 27	defined..... 1
commencement of work on..... 24.1	supply of..... 26.1
defined..... 1	Survey peg (see Survey mark)
delay in making available..... 24.1	
generally..... 24	
latent conditions on..... 25	
materials, delivery to..... 24.1	
minerals, fossils, relics, etc. on..... 24.3	
possession of..... 24.1	

Clause	Clause
Suspension	for effecting insurance..... 16, 17, 18
by the Contractor..... 33.2, 39.9	for executing formal instrument of agreement..... 6
by the Superintendent..... 33.1	for final payment..... 37.4
cost of..... 33.4, 39.9	for granting an extension of time..... 34.5
due to acts, etc. of Contractor..... 33.1(a)	for lodging bill of quantities..... 2.2(b), <i>Item</i> 10(c)
due to acts, etc. of Principal..... 33.1(a)	for lodging security..... 5.1, <i>Items</i> 13 & 14
effect of..... 33.4	for making claims..... 41
end of..... 33.3	for notice of latent condition..... 25.2
generally..... 33	for notice of tests..... 30.4
to comply with court order..... 33.1(c)	for notice to show cause..... 39.3, 39.8
Suspension of payment by Principal..... 38.2, 39.4	for notification of claims..... 41
Taking over of work by Principal..... 39.5	for possession of Site..... 24.1, <i>Item</i> 22
Temporary works	for practical completion..... 34.1, <i>Item</i> 7
care of..... 14.1	for progress claims..... 37.1, <i>Item</i> 28
defined..... 1	for progress payments..... 37.2
insurance of..... 16	for release of security or retention..... 5.4
removal of..... 27	for service of notices..... 7
Tender (see Acceptance of tender)	for Superintendent to confirm oral direction..... 20
date of acceptance, defined..... 1	for Superintendent's direction
Termination of the Contract (see Default, Frustration)	about documents..... 8.3, <i>Item</i> 16
by frustration..... 40	for supply of construction program..... 32
by the Contractor..... 39.9, 39.10	for testing..... 30.1
by the Principal..... 39.4, 39.10	for urgent protection..... 13
insolvency..... 39.11	suspension of work..... 33.1
rights of parties on..... 39.10	variations after practical completion..... 40.1
Test	Trademark or name (see Intellectual property right)
completion of..... 30.6	Unconditional undertaking (see Security)
costs of..... 30.7	approved form..... Annexure Part C
covering up of work..... 30.2	UNCITRAL Rules..... <i>Items</i> 32(b), (c)
defined..... 1	Unfixed plant and materials
delay in testing..... 30.5	additional security for..... 37.3(a), <i>Item</i> 13(e)
notice of..... 30.4	generally..... 37.3, <i>Item</i> 29
procedure if delayed..... 30.5	labelled..... 37.3(b)
results of..... 30.6	payment for..... 37.3
Superintendent may direct..... 30.1	Principal's liability for..... 37.3
who conducts..... 30.3	security for..... 5.4, 37.3, <i>Item</i> 13(e)
Tests (see definition of Practical completion)	stored and protected..... 37.3(b)
Third party insurance	unencumbered property of Principal..... 37.3
(see Public liability insurance)..... 17	Unpaid moneys..... 42.11
Time (see also EOT)	Urgent protection..... 39
acceleration of work..... 32, 34.4(b)	Urgent relief..... 47.4
construction program..... 32	Valuation
Contractor's float..... 34.4(a)	of final payment claims..... 37.4
defects liability period..... 35, <i>Item</i> 27	of progress payment claims..... 37.2
delay damages..... 34.9	of variations..... 36.4
for approval of Contractor's	Variation
drawings..... 8.3(c), <i>Item</i> 16	character and extent of..... 36.1
for arbitration..... 42.2	cost of complying..... 36.2
for carrying of work..... 32	cost of proposed..... 36.2
for claiming extensions of time..... 34.3	deductions – valuing..... 36.4
for cleaning up..... 27	deemed..... 2.5(b), 14.2, 25.3, 29.4
for completing WUC..... 34.1	defined..... 1
for doing any act..... 1(b)	directing of..... 36.1

Index

AS 4000 – 1997

References to *Items* are to *Items* in Annexure Part A

Clause	Clause		
direction by Principal	36.1	WUC (work under the Contract)	
direction by Superintendent	36.1	acceleration of	34.4
for convenience of Contractor	36.3	care of	14.1
generally	36	damage to property other than	15
indispensable	36.1	defined	1
meaning	1, 36.1	delay to	34.2, 34.3
measurements	36.2	excepted risks	14.3
notice of proposed	36.2	insurance of property other than	17
order of precedence in pricing	36.4	novation relating to	9.4, <i>Item</i> 18
pricing of	36.4	order and time of carrying out	32
proposed	36.2	programming of	32
quotation for	36.2	progress of	34.1
scope of	36.1	recommencement of	33.3
valuation of	36.4	reinstatement of	14.2
Wages		suspension of	33
of workers	38	urgent protection of	13
Waiver of conditions			
generally	43		
in writing	43		
Winding up	39.11		
Words — singular includes plural and vice versa	1(d)		
Work (includes Materials)			
acceptance of defective work	29.4		
care of	14.1		
deemed variation as to defective work	29.4		
defective	29.3		
defined	1		
examination and testing of	30		
not complying with the Contract	30.3		
order of work	32		
outside working hours	32		
progress of	34		
quality of	29.1		
remedial	29.3, 35		
suspension of	33		
testing of	30		
times for work	32		
under the Contract, defined (WUC)	1		
variations (see Variations)	36		
Work under the Contract (see WUC)			
Workers' compensation	18		
Workers, payment of	38		
Working days	31		
Working hours	31		
Works (see also care of WUC)			
defined	1		
handing over	24.1		
insurance of	16		
setting out of	26		

AMENDMENT CONTROL SHEET

AS 4000—1997

Amendment No. 1 (1999)

REVISED TEXT

SUMMARY: This Amendment applies to Clause 18.

Published on 5 August 1999.

Amendment No. 2 (2000)

REVISED TEXT

SUMMARY: This Amendment applies to the Preface.

Published on 11 October 2000.

Amendment No. 3 (2005)

REVISED TEXT

SUMMARY: This Amendment applies to Clause 32 (a) and (c) of Annexure Part A.

Published on 30 March 2005.

Internal Use Only

Standards Australia

Standards Australia is an independent company, limited by guarantee, which prepares and publishes most of the voluntary technical and commercial standards used in Australia. These standards are developed through an open process of consultation and consensus, in which all interested parties are invited to participate. Through a Memorandum of Understanding with the Commonwealth government, Standards Australia is recognized as Australia's peak national standards body. For further information on Standards Australia visit us at

www.standards.org.au

Australian Standards

Australian Standards are prepared by committees of experts from industry, governments, consumers and other relevant sectors. The requirements or recommendations contained in published Standards are a consensus of the views of representative interests and also take account of comments received from other sources. They reflect the latest scientific and industry experience. Australian Standards are kept under continuous review after publication and are updated regularly to take account of changing technology.

International Involvement

Standards Australia is responsible for ensuring that the Australian viewpoint is considered in the formulation of international Standards and that the latest international experience is incorporated in national Standards. This role is vital in assisting local industry to compete in international markets. Standards Australia represents Australia at both ISO (The International Organization for Standardization) and the International Electrotechnical Commission (IEC).

Electronic Standards

All Australian Standards are available in electronic editions, either downloaded individually from our web site, or via On-Line and DVD subscription services. For more information phone 1300 65 46 46 or visit Standards Web Shop at

www.standards.com.au

Internal Use Only



**STANDARDS
AUSTRALIA**

GPO Box 5420 Sydney NSW 2001

Administration Phone (02) 8206 6000 Fax (02) 8206 6001 Email mail@standards.com.au

Customer Service Phone 1300 65 46 46 Fax 1300 65 49 49 Email sales@standards.com.au

Internet www.standards.org.au