

## CONDITIONS OF ENGAGEMENT

### (Consultant and Professional Services)

#### CLAUSE 1 DEFINITIONS AND INTERPRETATION

**Confidential Information** means any information and all other knowledge (including trade secrets and confidential know-how) in whatever form relating to the Principal's business or the conduct of its activities that is disclosed to the Contractor by the Principal, or is acquired by the Contractor in providing the Services, which:-

- (a) is by its nature confidential;
- (b) is designated, marked or stipulated as confidential; or
- (c) the Contractor knows or ought to know is confidential, and includes (but is in no way limited to):
  - (d) the Contract Material;
  - (e) the Principal's Material;
  - (f) any Material relating to the affairs of a third party, but does not include information that:
    - (g) is or becomes public knowledge other than by breach of the Contract;
    - (h) is in the lawful possession of the Contractor without restriction in relation to disclosure before the date of receipt of the information from the Principal or a third party;
  - (i) was developed or acquired by the Contractor independently;
  - (j) is ascertainable through independent enquiries; or
  - (k) is required to be disclosed pursuant to law or legal process.

**Contract** means the contract created by the Principal's acceptance of the Contractor's proposal or offer by issue of a Purchase Order or Letter of Acceptance. These Conditions of Engagement apply to and form part of the Contract.

Subject to Clause 18.1, these Conditions of Engagement prevail any conditions the Contractor may seek to impose.

**Contract Date** means the date on which the Principal accepted the Contractor's proposal to provide the Services.

**Contract Material** means any Material created, written or otherwise brought into existence by the Contractor in the course of providing the Services.

**Contract Particulars** means the particulars and information specified in Annexure to these Conditions of Engagement.

**Contractor** means the legal entity whose proposal to provide the Services was accepted by the Principal.

**Contractor's Representative** means the person named in the Annexure - Contract Particulars who has the legal power to bind the Contractor in respect of any matters arising in connection with the Services.

**Date for Completion** means the date specified in the Principal's Purchase Order or Letter of Acceptance, unless otherwise agreed by the parties.

**day** means calendar day.

**Fee** means the lump sum fee or the fee determined by applying the service rates specified in the Contract.

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

**GST, taxable** and **Tax Invoice** have the meanings given in the GST Act.

**Intellectual Property Rights** means all intellectual property rights including:-

- (a) copyright, design, patent, trade mark, semi-conductor or circuit layout rights, trade secrets, trade, business or company names and all other rights of intellectual property defined in Article 2 of the *Convention Establishing the World Intellectual Property Organisation of 1967*, whether created before or after the Contract Date in Australia or elsewhere; and

- (b) any licence, consent, application or right to use or grant the use of, or apply for the registration of, any of the rights referred to in (a).

**Material** includes, but is not limited to, documents, data, information and software, whether or not in material form.

**Moral Rights** means the right of attribution of authorship, the right to not have authorship falsely attributed and the right of integrity of authorship, more particularly as conferred by the *Copyright Act 1968 (Cth)*, and rights of a similar nature anywhere in the world whether existing at the Contract Date or which may come into existence on or after the Contract Date.

**Principal's Material** means any Material provided by the Principal to the Contractor by whatever means in relation to the Contract. The Contractor is not allowed to alter the Principal's Material without the written approval of the Principal.

**Principal's Representative** means the person named in the Annexure - Contract Particulars or such other person as the Principal may nominate in writing from time to time.

**Services** means the services described by the Principal includes all Contract Material or proposal submitted by the Contractor and subsequently accepted by the Principal.

**Specified Personnel** means the personnel nominated and proposed by the Contractor for the provision of Services.

**The Principal** means Sydney Harbour Foreshore Authority established under the *Sydney Harbour Foreshore Authority Act 1998 (NSW)*. (ABN 51 437 725 177).

#### CLAUSE 2 PRINCIPAL'S REPRESENTATIVE

The Principal's Representative has the authority to represent the Principal for all purposes associated with the Contract and will give directions and instructions and carry out its functions as the Principal's agent and not as an independent certifier, assessor or valuer.

The Contractor must promptly comply with any direction or instruction that the Principal's Representative may give to the Contractor.

#### CLAUSE 3 FEE

The Fee:

- (a) includes all costs necessary and incidental to provision of the Services and compliance with the terms of the Contract;
- (b) excludes GST;
- (c) is expressed in Australian currency; and
- (d) is firm and not subject to adjustment.

#### CLAUSE 4 PROVISION OF THE SERVICES

##### Clause 4.1 Due diligences

The Contractor must:

- (a) provide the Services diligently, with all necessary care and skill expected in the provision of such Services;
- (b) comply with all applicable laws and standards relevant to the Contract and the provision of the Services;
- (c) obtain all approvals, authorities, licences and permits which are required from government or other responsible authorities for the lawful provision of the Services; and
- (d) comply at all times with the Principal's Statement of Business Ethics and Code of Conduct for Staff Members. Copies of these documents are available at the Principal's website <http://www.shfa.nsw.gov.au>

##### Clause 4.2 Personnel

The Contractor must:

- (a) ensure that all personnel engaged by it in connection with the Services are appropriately qualified, licensed, competent and experienced; and
- (b) ensure that the Specified Personnel (or alternates only as agreed to by the Principal) are engaged to provide the Services.

##### Clause 4.3 Co-operation

The Contractor must:

- (a) liaise, consult and meet with the Principal to inspect, discuss or assess the provision of the Services; and
- (b) consult, cooperate and confer with others, as reasonably necessary or as directed by the Principal.

#### **Clause 4.4 Records**

The Contractor must keep accurate and detailed financial records and other information relevant to the Contract and must give the Principal reasonable access to and copies of such records and information if requested to do so.

#### **Clause 4.5 Reports**

The Contractor must provide progress reports to the Principal at such times and containing such information as may be agreed between the Principal and the Contractor, or as the Principal may reasonably direct.

#### **Clause 4.6 Principal's Material**

The Contractor must:

- (a) take all reasonable care of the Principal's Material;
- (b) use the Principal's Material only for the purpose of providing the Services;
- (c) not make any alteration to the Principal's Material (except as necessary to provide the Services);
- (d) promptly inform the Principal of any damage to or loss or destruction of the Principal's Material; and
- (e) if no longer required, return the Principal's Material as soon as practicable.

### **CLAUSE 5 VARIATIONS**

#### **Clause 5.1 Variation proposals and directions**

The Contractor may propose, or the Principal may direct, a variation to the Services, including a variation to the extent, quantity, time for provision or other requirement of the Services.

The Contractor must immediately comply with a direction by the Principal to vary the Services.

#### **Clause 5.2 Valuation of variations**

The Principal will value proposed and directed variations using the following order of precedence:

- (a) by applying the service rates schedules (to the extent these rates are applicable);
- (b) by agreement with the Contractor (to the extent the service rates are inapplicable); or
- (c) by using reasonable rates or prices, having regard to market rates or prices for the provision of identical or similar services.

#### **Clause 5.3 No variation without a direction**

The Contractor must not vary the Services unless directed to do so by the Principal in writing. The Principal will not be liable for any work carried out or any expenditure incurred by the Contractor, which has not been agreed to or authorised by the Principal.

#### **Clause 5.4 Disputes over valuation**

A dispute over the valuation of a variation shall not affect the Contractor's obligation to comply with a direction by the Principal to vary the Services.

### **CLAUSE 6 ADMINISTRATION SUPPORT**

#### **Clause 6.1 Scope of assistance**

The Principal will, as soon as practicable or as required by the Contract:

- (a) make or arrange to make available to the Contractor all relevant instructions, information, documents, data or any other material necessary for the provision of the Services;
- (b) provide assistance to the Contractor, as reasonably required, so that the Contractor may perform its obligations under the Contract.

#### **Clause 6.2 No duty of care**

The Contractor acknowledges and agrees that the Principal's provision of information and assistance in accordance with Clause 6.1 is by way of assistance only and will not in any way be deemed to give rise to a duty of care on the part of the Principal. The Contractor must rely on its own professional and personal expertise when providing the Services.

### **CLAUSE 7 WORKING AT PRINCIPAL'S PREMISES**

When providing the Services at the Principal's premises the Contractor must:

- (a) comply with the Principal's safety requirement and all directions, procedures and policies relating to conduct,

safety and security at those premises that the Principal may give,

- (b) take all reasonable precautions to safeguard, protect and avoid injury or damage to people, property and the environment;
- (c) prevent unreasonable noise, disturbance and nuisance;
- (d) ensure that its plant and equipment is safely and properly stored and secured when not in use; and
- (e) liaise, cooperate and confer with the Principal's employees, other contractors and consultants who may be working at the premises as necessary or as directed by the Principal.

### **CLAUSE 8 TIMETABLE AND COMPLETION**

#### **Clause 8.1 Time for provision of the Services**

The Contractor must provide the Services by the Date for Completion.

#### **Clause 8.2 Extension of time**

As soon as practicable after becoming aware of any matter which will or is likely to delay the provision of the Services, the Contractor must give to the Principal a notice detailing the circumstances and extent or likely extent of the delay and requesting an extension to the Date for Completion.

Provided the Principal is satisfied that:

- (a) the delay arose from a cause beyond the reasonable control of the Contractor and did not arise from any act or omission on the part of the Contractor; and
- (b) the Contractor took all reasonable steps to mitigate the delay and its consequences,

The Principal will grant a reasonable extension to the Date for Completion.

### **CLAUSE 9 CONFIDENTIALITY**

#### **Clause 9.1 Contractor's obligations**

The Contractor must:

- (a) keep safe, secure and protected against unauthorized use and access all Confidential Information;
- (b) use Confidential Information solely for the purpose of performing its obligations under the Contract and for no other purpose;
- (c) ensure Confidential Information is not copied or reproduced without the Principal's express written consent;
- (d) disclose Confidential Information to only those persons who have a need to know, and where disclosure is essential to the provision of the Services;
- (e) ensure that each person to whom the Contractor discloses Confidential Information:
  - (i) is aware of the confidentiality requirements of the Contract;
  - (ii) is advised that he or she is strictly forbidden to disclose the Confidential Information to any other person or use the Confidential Information for any purpose other than providing the Services; and
  - (iii) if required by the Principal, executes a deed as the Principal may require relating to the use and non-disclosure of the Confidential Information; and
- (f) not issue any information, publication, document or article or make any statement to or advertise in any media about any matters relating to the Contract, unless otherwise approved in writing by the Principal.

#### **Clause 9.2 Survival of obligations**

The Contractor's obligations under Clause 9.1 shall survive discharge or termination of the Contract.

### **CLAUSE 10 INTELLECTUAL PROPERTY AND MORAL RIGHTS**

#### **Clause 10.1 Existing intellectual property**

The Contractor:

- (a) warrants that it owns, or is licensed by the owner to use and sub-license the use of, all intellectual property existing at the Contract Date and incorporated in the Contract Material; and
- (b) grants to the Principal a perpetual and irrevocable licence to use, reproduce, adapt and sub-licence the use of such intellectual property for any purpose.

### **Clause 10.2 New intellectual property**

The Contractor:

- (a) acknowledges and agrees that ownership of all intellectual property created by the Contractor or arising out of or in connection with anything done by the Contractor pursuant to the Contract, including intellectual property incorporated in the Contract Material, shall immediately be assigned to and vest in the Principal upon creation; and
- (b) warrants that it will execute all documents and do all acts and things reasonably required by the Principal to assure the assignment to and vesting in the Principal of ownership of intellectual property created pursuant to the Contract.

The Contractor shall not use, copy, supply or reproduce any of the Contract Material except for the purpose of the Contract or as permitted by the Principal.

### **Clause 10.3 Moral Rights**

The Contractor:

- (a) consents to the Principal doing any act or omitting to do any act that constitutes an infringement of the Contractor's Moral Rights (including not naming the Contractor as the author of any work);
- (b) warrants that it will obtain from each of its employees his or her signed consent to the Principal doing any act or omitting to do any act that constitutes an infringement of the employee's Moral Rights (including not naming the employee as the author of any work); and
- (c) warrants that it will use its best endeavours to ensure that none of its employees institute, maintain or support any claim or action for infringement by the Principal of any of the employee's Moral Rights arising out of or in connection with anything done by the employee pursuant to the Contract.

### **Clause 10.4 Survival of clause**

This Clause 10 shall survive discharge or termination of the Contract.

## **CLAUSE 11 WARRANTIES**

The Contractor acknowledges and agrees that the Principal relies on the Contractor's skill, knowledge and experience in providing the Services and warrants that:

- (a) it has fully informed itself of the Principal's requirements;
- (b) it possesses the requisite skill, knowledge and experience necessary to provide the Services;
- (c) at the Contract Date no conflict of interest exists or is likely to arise in the provision of the Services and it will immediately notify the Principal upon becoming aware of the existence or possibility of any conflict of interest;
- (d) it will provide the Services in a diligent, proper and professional manner, with due care and skill;
- (e) it will not, in providing the Services, infringe, or permit the infringement of, any third party's Intellectual Property Rights or Moral Rights;
- (f) the Services, and all work done in connection with the Services, will comply with the requirements of all applicable laws, legislation, regulations and standards; and
- (g) all Contract Materials will be free of defects, errors and omissions and suitable in all respects for their intended use or purpose.

## **CLAUSE 12 INDEMNITIES**

The Contractor indemnifies the Principal, its officers, employees, contractors and agents against any damages, expense, loss or liability (including legal fees on a solicitor-client basis) incurred by the Principal as a result of:

- (a) any act or omission by the Contractor or any of its employees, contractors and visitors that resulted in personal injury to or the death of any person, or the loss of or damage to any property;
- (b) any claim by a third party alleging that the provision, supply or use of the Services or any Contract Material infringes that third party's Intellectual Property Rights or Moral Rights; and
- (c) breach of Contract or of Environmental Law which give rise to a prosecution against the Principal's personnel under the Environmental Law. For the purpose of this Clause 12, Environmental Law means any acts or regulation of the Local, State or Federal Governments pertaining to the

environment including but not limited to the Protection of the *Environmental Operations Act 1997* (NSW).

arising out of or by reason of anything done or omitted intentionally or negligently by the Contractor in respect of the Services.

## **CLAUSE 13 INSURANCE POLICIES**

### **Clause 13.1 Public liability insurance**

The Contractor must obtain or maintain for the term of the Contract a public liability insurance policy for at least the amount of any one claim specified in the Annexure - Contract Particulars.

### **Clause 13.2 Professional indemnity insurance**

If specified, as required in the Annexure - Contract Particulars, the Contractor must obtain or maintain for the term of the Contract and for a period of seven (7) years thereafter a professional indemnity insurance policy for at least the amount for any one claim specified in the Annexure - Contract Particulars.

### **Clause 13.3 Insurance of employees**

The Contractor must obtain or maintain workers' compensation insurance as required by the *Workers Compensation Act 1987* (NSW).

### **Clause 13.4 Terms of insurance policies**

The insurance policies to be obtained and maintained by the Contractor must:-

- (a) be obtained from and maintained with either a general insurer authorized by the Australian Prudential Regulatory Authority (APRA) to conduct general insurance business in Australia or a Lloyds underwriter or, in the case of New South Wales workers' compensation insurance, with an insurer that has been granted a licence by the WorkCover Authority of New South Wales to provide workers' compensation insurance,
- (b) cover the Contractor, its employees and contractor for all their respective obligations and liabilities under the Contract, and
- (c) not contain any restrictions or be amended without the Principal's approval.

### **Clause 13.5 Evidence of insurance**

The Contractor must:

- (a) provide to the Principal satisfactory documentary evidence of the insurance policies obtained and maintained by the Contractor, (including, if requested, certified copies of the terms of the policies and certificates of currency) before providing any Services and thereafter when requested to do so by the Principal or as and when renewals fall due;
- (b) promptly notify the Principal of any insurer's notice to cancel an insurance policy;
- (c) promptly notify the Principal of any circumstance that may give rise to a claim under any of the insurance policies; and
- (d) keep the Principal fully informed of subsequent action and developments in relation to any claim.

### **Clause 13.6 Failure to obtain insurance**

If the Contractor fails to obtain or maintain any insurance policy specified in this Clause 13, the Principal may obtain and maintain an equivalent insurance policy and recover the cost of doing so from the Contractor.

## **CLAUSE 14 SUBCONTRACTING**

The Contractor must not subcontract any part of the Services without the Principal's consent, which may be given or refused at the Principal's absolute discretion.

The Contractor acknowledges and agrees that:

- (a) the Principal may, in giving its consent, impose such conditions as it sees fit;
- (b) any consent that the Principal may give to subcontract any part of the Services shall not relieve the Contractor of its obligations and liabilities under the Contract; and
- (c) it shall, before any subcontractor commences work in respect of the Services, obtain from the subcontractor:
  - (i) a written assignment to the Contractor of ownership of the intellectual property created as a result of the subcontractor performing that work; and

- (ii) the subcontractor's and its employees' consent to the Contractor or the Principal doing any act or omitting to do any act that constitutes an infringement of the subcontractor's or its employees' Moral Rights (including not naming the subcontractor or any of its employees as the author of any work).

## **CLAUSE 15 GOODS AND SERVICES TAX (GST)**

### **Clause 15.1 Taxable supply**

The Principal will pay to the Contractor an amount equal to any GST payable on any taxable supply made under or in connection with the Contract.

### **Clause 15.2 Contractor's registration for GST**

The Contractor warrants that it is registered for GST under the GST Act and will immediately notify the Principal if it ceases to be registered or ceases to satisfy any of the requirements of any determination or ruling made by the Australian Taxation Office under the GST Act.

## **CLAUSE 16 INVOICES AND PAYMENT**

### **Clause 16.1 Submission of invoices**

The Contractor may submit invoices to the Principal at the frequency specified in the Annexure - Contract Particulars.

### **Clause 16.2 Format and content of invoices**

The Contractor's invoices must:

- (a) be Tax Invoices complying with the requirements of the GST Act;
- (b) set out details of the Services provided, the Fee for those Services, any reimbursable expenses, applicable GST and the total amount payable; and
- (c) contain the Principal's order number and any other details reasonably required by the Principal.

### **Clause 16.3 Time for payment**

Payment shall be made by the Principal within 30 days of receiving a valid Tax Invoice from the Contractor.

### **Clause 16.4 Australian payments**

All payments to be made by the Principal under the Contract will be made in Australia and in Australian currency.

### **Clause 16.5 Conditions precedent to payment**

The Principal may withhold payment of any Tax Invoice until the Contractor has provided to the Principal:

- (a) satisfactory evidence that the Contractor is registered for GST;
- (b) satisfactory evidence of the Contractor's insurance policies; and
- (c) if required, a correctly completed statutory declaration, as evidence that all employees and subcontractors of the Contractor engaged on the work or service under the Contract have been paid in full all amounts due to them as wages and allowances of every kind required to be paid under an industrial award or industrial agreement or an award of a Court or certified by a Court or an agreement approved by the Principal and to the latest date at which such wages and allowances are due.

### **Clause 16.6 Right of set-off**

The Principal may deduct from any amount payable to the Contractor any amount due or any amount that, in the Principal's opinion, is likely to become due from the Contractor to the Principal.

### **Clause 16.7 Effect of payment**

The Contractor acknowledges that any payment made to it by the Principal is payment on account only and:

- (a) is not an acknowledgment that the Services have been provided in accordance with the terms of the Contract; and
- (b) does not imply or constitute a waiver or release of the Contractor's obligations under the Contract.

## **CLAUSE 7 RESOLUTION OF DISPUTES**

### **Clause 17.1 Notice of dispute**

If a dispute arises between the Contractor and the Principal in connection with the Contract the dispute must be determined in accordance with the procedure in this Clause 17.

Either party may give to the other party a notice specifying the nature of the dispute and all relevant facts.

### **Clause 17.2 Executive negotiation**

A dispute, the subject of a notice given under Clause 17.1, shall be referred to a senior executive of each of the disputing parties who is authorised to meet and undertake genuine and good faith negotiations with a view to resolving the dispute.

### **Clause 17.3 Reference to mediation**

If the senior executives do not resolve the dispute within 14 days after the giving of the notice under Clause 17.1 (or such longer period as the parties may agree), either party may refer the dispute to Australian Commercial Disputes Centre Limited (ACDC) for mediation.

If a dispute is referred to ACDC for mediation:

- (a) the mediation will be conducted in accordance with ACDC's Guidelines for Commercial Mediation current at the time; and
- (b) each party will bear its own costs of the mediation and share equally in the costs of the mediator and ACDC.

### **Clause 17.4 Litigation**

If the parties fail to resolve the dispute by mediation, either party may commence litigation.

### **Clause 17.5 Continuation of obligations**

Despite the existence of a dispute, the Contractor must continue to comply with its obligations under the Contract.

### **Clause 17.6 Survival of clause**

This Clause 17 shall survive expiry or termination of the Contract.

## **CLAUSE 18 TERMINATION**

### **Clause 18.1 Termination for convenience**

The Principal may by notice terminate the Contract, with effect from the date stated in the notice, for convenience and without the need to give reasons.

If the Principal terminates the Contract for convenience:

- (a) the Contractor must immediately comply with any directions given in the notice and do everything possible to mitigate the cost of ceasing provision of the Services including re-deploying personnel; and
- (b) the Principal will pay the Contractor a fair and reasonable price for all Services provided up to the time of termination but otherwise shall not be liable to pay the Contractor any other amount whatsoever including amounts in respect of unrealised overheads and profits.

### **Clause 18.2 Termination for default**

The Principal may by notice terminate the Contract with immediate effect if the Contractor:

- (a) breaches the Principal's Code of Conduct for Staff Members;
- (b) breaches any term of the Contract which, in the Principal's opinion, is not capable of remedy;
- (c) breaches any term of the Contract which is capable of remedy, but fails to remedy the breach within a reasonable time after receiving notice to do so; or
- (d) becomes insolvent, bankrupt or subject to any form of external administration.

If the Contract is terminated by the Principal under this Clause 18.2, the Contractor will not be entitled to claim any amounts by way of damages or other payments.

## **CLAUSE 19 SUSTAINABILITY**

- (a) The Contractor, including all personnel and subcontractors acknowledges and commits to the Principal's sustainability policy that seeks to maximise resource and energy efficiency and minimise carbon emissions through all operations, products and processes.

Services provided shall have the least impact on the environment through all stages of their lifecycle.

- (b) The Contractor shall maintain business practices that optimise sustainable use of energy, water and materials, and

minimise waste, travel and emissions, through avoidance, minimisation, reuse and responsible sourcing.

The Principal's sustainability information is available from the Principal's website at [www.shfa.nsw.gov.au](http://www.shfa.nsw.gov.au).

## **CLAUSE 20 GENERAL PROVISIONS**

### **Clause 20.1 No partnership**

The Principal and the Contractor are independent entities and nothing in the Contract creates or constitutes a partnership, joint venture, agency, employment relationship or other legal relationship between the Principal and the Contractor.

### **Clause 20.2 Authorisation**

Unless expressly authorised by the Principal in writing, the Contractor must not enter into any agreement or contracts with any party which binds the Principal.

### **Clause 20.3 Assignment**

The Contractor must not assign any right or interest (including money payable) under the Contract without the Principal's prior written consent, which may be given or withheld at the Principal's absolute discretion.

### **Clause 20.4 Notices**

Notices must be left at or sent by pre-paid post or facsimile to:

- (a) in the case of the Contractor, the Contractor's representative at the address specified in Annexure - Contract Particulars; or
- (b) in the case of the Principal, the Principal's Representative at the address specified in the Annexure - Contract Particulars.

The parties agree that a notice shall be deemed received:

- (c) if delivered by hand to the recipient's address, on the date of delivery;
- (d) if sent by pre-paid post, 3 days after posting; or
- (e) if sent by facsimile, upon confirmation of correct transmission of the facsimile.

### **Clause 20.5 Communications between the parties**

Approvals, agreements, consents, directions, notices, proposals and other communications referred to in the Contract must be in writing.

### **Clause 20.6 Measurements**

All measurements of physical quantities are in Australian legal units of measurement within the meaning of the *National Measurement Act 1960 (Cth)*.

### **Clause 20.7 Severance**

Any part of the Contract that is or becomes invalid, unenforceable or illegal will be severed from the Contract and will not affect the validity or enforceability of the remaining parts of the Contract.

### **Clause 20.8 No waiver**

The Principal's failure to insist that the Contractor perform an obligation under the Contract is not a waiver of the Principal's right to insist that the Contractor perform, or to claim damages for breach of, that obligation, or to insist that the Contractor perform any other obligation.

### **Clause 20.9 Governing law**

The Contract shall be subject to and construed in accordance with the laws in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

### **Clause 20.10 Survival of rights**

Discharge or termination of the Contract shall not prevent either party from relying on rights accrued under the Contract prior to discharge or termination or any other rights that survive discharge or termination.

### **Clause 20.11 Contractor performance reporting**

The Contractor may be required to attend meetings to discuss, review and obtain feedback on their performance to assist with the preparation of 'contractor performance reports' in order to facilitate the continuous improvement and management of Contractor's performance.

The Principal may make available, on request, to any NSW government agencies or state-owned corporations ("NSW government entities"), information including but not limited to information relating to the Contractor's performance under the Contract. Such information may be used by the recipient of the NSW government entities for assessment of suitability for

registration, pre-qualification, selective tender lists, expressions of interest or the award of a contract.

The Contractor acknowledges that the provision of the information by the Principal to any other NSW government entities is a communication falling within Section 30 of the *Defamation Act 2005 (NSW)*, and the Contractor acknowledges and agrees that they will have no claim against the Principal or the State of New South Wales in respect of any matter arising out of the provision or receipt of such information, including any claim for loss to the Contractor arising out of the communication.

### **Clause 20.12 Entire agreement**

The Contract is the entire agreement between the parties in relation to its subject matter and supersedes all prior representations, negotiations and communications between the parties.

## Annexure – Contract Particulars

ITEM	PARTICULARS	
1.	<b>Principal's Representative</b> [See Clauses 1 and 2]	
	Name:	
	Position/Title:	
	Street Address:	
	Facsimile:	
	Telephone:	
	Mobile:	
	e-Mail:	
2.	<b>Contractor's Representative</b> [See Clauses 1]	
	Name:	
	Position/Title:	
	Street Address:	
	Facsimile:	
	Telephone:	
	Mobile:	
	e-Mail:	
3.	<b>Public liability insurance:</b> [See Clause 13.1]  Minimum Cover: (\$10 million for any one occurrence if no amount is specified)	Required  Minimum cover of <insert amount> for any one occurrence
4.	<b>Professional indemnity insurance:</b> [See Clause 13.2]  Minimum Cover: (\$2 million for any one occurrence if required and no amount is specified)	Required/Not Required  Minimum cover of <insert amount> for any one occurrence
5.	<b>Invoice frequency:</b> [See Clause 16.1]  (If no frequency is specified then at the end of the month in which the work was carried out)	<insert period>