

## Schedule 3 – Conditions of Contract

### 1. WORKS

#### 1.1. Performance of the Works

The Contractor must carry out the Works:

- a) on and from the Start Date;
- b) in accordance with the requirements of the Scope of Works (including in accordance with all designs, plans and specifications in the Scope of Works);
- c) for the Contract Sum;
- d) in accordance with DHA's reasonable directions;
- e) in accordance with the Building Laws; and
- f) otherwise in accordance with the terms and conditions of this Contract.

#### 1.2. Completion

The Contractor must complete all the Works by the Date for Practical Completion varied in accordance with this Contract.

#### 1.3. Notification of issues

If the Contractor discovers any error, inconsistency, ambiguity or discrepancy in or between any document, direction or schedule forming part of this Contract, the Contractor must immediately seek DHA's direction as to the interpretation to be followed.

#### 1.4. Obligation to provide everything necessary for Works

The Contractor must provide everything necessary or implied to carry out the Works including using only qualified, experienced and competent personnel to carry out the Works.

#### 1.5. Engagement of subcontractors

The Contractor may employ or engage others to complete some but not all of the Works. The use of subcontractors does not relieve the Contractor from liability or performance under this Contract.

#### 1.6. Testing of the Works

The Contractor must comply with any direction of DHA to uncover and recover the Works or carry out additional testing or retesting.

#### 1.7. Liability for cost of testing of the Works

The Contractor will be liable for the cost of testing if required by DHA under clause 1.6. However, if the work uncovered or tested is in conformity with this Contract, DHA will pay the costs of the work or testing as reasonably determined by DHA.

### 2. ACCEPTANCE OF EXISTING CONDITIONS

#### 2.1. Acceptance of Existing Conditions as satisfactory

The Contractor is deemed to have accepted the Existing Conditions as satisfactory at the commencement of this Contract.

#### 2.2. Variation in Existing Conditions

If during the performance of the Works the Contractor discovers any material problem or issue with or difference in the Existing Conditions (problem), the Contractor must:

- a) immediately notify DHA of the problem;
- b) provide DHA with a recommendation on the proposed method, time and likely cost of rectifying the problem; and
- c) perform any additional work if the Contractor is instructed by DHA to carry out that additional work.

#### 2.3. Payment for additional work

The Contractor is not entitled to payment for additional work carried out as a result of problematical Existing Conditions, unless, in DHA's reasonable opinion:

- a) an experienced and competent contractor who had examined the Existing Conditions would not have detected or anticipated the issue or problem; or
- b) DHA did not permit (after a request in writing) the Contractor to inspect the Existing Conditions and an inspection would have disclosed the problem.

#### **2.4. Calculation of payment for additional work**

If the Contractor is entitled to payment for additional work under clause 2.3, then the amount to be paid by DHA for that additional work will be determined on the Agreed Basis.

### **3. INSURANCE**

#### **3.1. Requirement to take out insurance**

Prior to commencement, the Contractor must, at its own cost, take out and maintain until the completion of the Works:

- a) a policy of insurance in respect of loss or damage to the Works for not less than the amount specified in the Contract Details;
- b) Builder's Insurance as required by the relevant Building Law;
- c) public liability insurance for not less than the amount specified in the Contract Details;
- d) workers compensation or any like insurance as required by law; and
- e) where the Contractor is a sole trader, personal accident and disability insurance providing cover at least equivalent to that provided to an employee under insurance referred to in sub-clause 3(c).

#### **3.2. Proof of existence of insurance cover**

When asked by DHA, the Contractor must, within 3 days, produce evidence of the existence and currency of any insurance policy required under this clause 3.

### **4. WARRANTIES**

#### **4.1. Contractor's warranties**

The Contractor warrants that:

- a) the Works will be carried out in a proper and skilful manner consistent with best industry standards;
- b) the Works will be fit for their intended purpose;
- c) any materials used by it will be suitable, new and free of defects;
- d) any goods provided by it as part of the Works will have manufacturers warranties that expire no earlier than the end of the Defects Liability Period; and
- e) it holds all licences or approvals required to carry out the Works.

#### **4.2. Assignment of warranties**

The Contractor must transfer to DHA at Practical Completion all product and manufacturers warranties.

### **5. SECURITY**

#### **5.1. Provision of the Security**

- a) Where the Security is specified in the Contract Details as a Bank Guarantee the Contractor must provide the Security to DHA prior to the Start Date.
- b) Where the Security is specified in the Contract Details as retention or an amount of money, DHA may retain the Security amount from payments to be made under clause 6.

#### **5.2. Recourse to the Security**

In addition to exercising any rights of set off under this Contract, DHA may have recourse to the Security for the payment of Liquidated Damages, any costs incurred by DHA in rectifying Defects where the Contractor has failed to comply with clause 12 or any other money owed to DHA by the Contractor under this Contract.

#### **5.3. Release of the Security**

The Security must be released at the end of the Defects Liability Period subject to:

- a) the completion of works to rectify any Defects notified to the Contractor prior to that date; and
- b) the deduction from the Security of any amount referred to in clause 5.2.

### **6. PAYMENT**

#### **6.1. Obligation to make payments**

- a) DHA must pay the Contractor the Contract Sum subject to and in accordance with this Contract.
- b) Subject to the terms of the Security of Payments Laws, DHA is not obliged to make a payment to the Contractor unless a valid Invoice has been issued in accordance with the terms and conditions of this Contract and DHA must be satisfied, acting reasonably, that the work is sufficiently complete for the invoice to be issued. See also "Invoice" definition- Clause 25..

**6.2. Timing for Issue of Invoices**

On each Invoice Date, the Contractor must deliver to DHA a valid Invoice.

**6.3. Access to records**

The Contractor must allow DHA or its nominees access to its records to check the accuracy of the Invoice and any other matter relating to the Works.

**6.4. Timing for payment by DHA**

DHA will pay the Contractor the amount approved for payment in the Invoice by the end of the month following the month in which the Invoice was submitted and approved for payment.

**6.5. Condition precedent to payment by DHA**

If required by DHA as a precondition to lodgement of an Invoice, the Contractor must give DHA, a signed statutory declaration that all its subcontractors and employees have been paid all amounts then due for work under this Contract.

**6.6. Payment on account only**

Any payment, other than a final payment, by DHA to the Contractor is payment on account only.

**6.7. Release**

After the date for submitting the final Invoice specified in the Contract Details, the Contractor releases DHA from any claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Works or this Contract.

**6.8. Right of set-off**

DHA has the right to deduct from or set off against amounts owing to the Contractor any amounts of money owing by the Contractor to DHA or otherwise. This includes the deduction of any Liquidated Damages assessed as payable by the Contractor or amounts payable by the Contractor because of a failure by the Contractor to 'make good' or rectify Defects.

**6.9. GST**

a) If the Contractor provides goods, materials, services, or labour under this Contract, then

the Contractor must include the proper amount of GST in all Invoices.

- b) All amounts specified in this Contract are GST inclusive unless otherwise stated.
- c) Each Invoice issued by the Contractor must be a tax invoice.

**7. PROVISIONAL SUM**

**7.1. Provisional Sum Work**

Where Provisional Sum Work is included in the Contract Details, the Contractor agrees to perform this work in accordance with this clause 7.

**7.2. Pricing of Provisional Sum Work**

Upon request, the Contractor will provide to DHA its proposed price for the Provisional Sum Work and the basis of calculation of that amount. The Contractor must price the Provisional Sum Work using the Agreed Basis.

**7.3. Provisional Sum Work instruction and price**

DHA may:

- a) at any time have contractors, other than the Contractor, perform the Provisional Sum Work; or
- b) refer the matter to the Quantity Surveyor for determination in accordance with the Agreed Basis, if DHA disputes the price provided by the Contractor and the parties do not reach agreement. The price determined by the Quantity Surveyor will be final; and
- c) for urgent work, by giving a written instruction, direct the Contractor's to carry out the Provisional Sum Work even if the price has not been agreed at the time of the instruction.

**7.4. Completion of the Provisional Sum Work**

Upon completion of the Provisional Sum Work, the amount either agreed by DHA or determined under 7.3c, will be payable by DHA in addition to the Contract Sum, subject to these terms.

**8. VARIATION**

**8.1. Restriction on Variations**

The Contractor must not:

- a) make any changes to the Works;

- b) carry out any extra work or supply any extra goods; or
- c) leave any of the Works unfinished, unless directed by DHA in writing.

**8.2. Variation Request**

The Contractor must within two (2) business days of a request provide from DHA to vary the Contract or the Scope of Works provide DHA with:

- a) the proposed price of the Variation calculated on the Agreed Basis;
- b) details of how the Contractor calculated the price of the Variation in accordance with Agreed Basis (if requested); and
- c) any additional time required by the Contractor to carry out the Variation.

**8.3. Instruction to perform Variation**

For urgent work, DHA may by giving a written Variation instruction, require the Contractor to carry out a Variation even if the price or additional time has not been agreed at the time of the instruction.

**8.4. Determination of Price of Variation**

- a) If the parties cannot agree on the price of the Variation, the price will be determined by DHA using (as far as practicable) the Agreed Basis and this will be notified to the Contractor.
- b) If the Contractor objects to the amount determined by DHA, it must within 5 days of notification, give DHA notice setting out the reasons for the objection. If DHA does not agree with the objection, DHA will appoint the Quantity Surveyor to determine the amount payable for the Variation. The price determined by the Quantity Surveyor will be final.

**8.5. Adjustment of Contract Sum for Variation**

The Contract Sum is to be adjusted by the price of a Variation and paid in accordance with clause 6.

**9. WORKING HOURS**

The working hours and working days on the Site will be unless otherwise notified by DHA 7.30am to 5.00 pm Monday to Friday. DHA must approve any variation to working hours.

**10. PROTECTION OF PEOPLE AND PROPERTY**  
**10.1. Obligation of protection**

The Contractor must at the Site:

- a) take all steps to protect people and property;
- b) where there is no existing occupant on the Site, keep the Site secure;
- c) avoid unnecessary interference with others on the Site; and
- d) prevent nuisance and unreasonable noise disturbance.

**10.2. Obligation to rectify damage**

If the Contractor, its employees or agents damage any property, the Contractor must promptly rectify the damage and pay any compensation necessary.

**11. CLEANING AND MAKE GOOD**

**11.1. Obligation to keep clean and make good**

The Contractor is responsible for as part of the Works:

- a) keeping the Contractor's areas clean at all times,
- b) the removal of its tools, plant and equipment, and the removal daily (unless DHA otherwise agrees) of all waste, debris and refuse arising out of the Works; and
- c) restoring the site and adjoining areas to a reasonable standard acceptable to DHA at completion of the Works.

**11.2. Right to remedy**

If the Contractor fails to comply with clause 11.1, DHA may rectify the breach and the cost of that rectification is recoverable as a debt due and payable by the Contractor to DHA.

**12. DEFECTS LIABILITY PERIOD**

**12.1. Obligation to make good Defects**

The Contractor must, at its own cost, make good any Defect before the end of the Defects Liability Period.

**12.2. Right to require remedy of Defects**

DHA may direct the Contractor to correct, remedy or replace any Defect before or during the Defects Liability Period. If the Contractor does not comply with such a direction, DHA may

have that work carried out or the goods replaced by others and the cost is a debt due and payable by the Contractor to DHA.

### **13. COMPLETION**

#### **13.1. Notice of Practical Completion**

The Contractor must give DHA at least 5 Business Days written notice of the date upon which the Contractor anticipates achieving Practical Completion.

#### **13.2. Certificate of Practical Completion**

If DHA is of the opinion, acting reasonably, that Practical Completion has been achieved, DHA will issue a Certificate of Practical Completion.

#### **13.3. Works Not Complete**

- a) If DHA is of the opinion, acting reasonably, that Practical Completion has not been achieved, it will notify the Contractor of the work needed to be carried out to achieve Practical Completion.
- b) The Contractor will carry out the work referred to in clause 13.3(a) and notify DHA in accordance with clause 13.1 and clauses 13.2 or 13.3(a) will apply again as appropriate.

#### **13.4. Final Completion**

On expiration of the Defects Liability Period and rectification of all defects notified to the Contractor, DHA will issue the Contractor with a certificate confirming the Works are complete and the Contractor has no further obligation to DHA (**Final Completion**) subject to the Warranties in clause 4.

### **14. DAMAGES**

#### **14.1. Liquidated Damages**

If the Works (or any part of them) do not reach Practical Completion by the Date for Practical Completion, then the Contractor must pay the Liquidated Damages per day from the Date for Practical Completion until the date the Works reach Practical Completion. This does not exclude DHA from seeking damages other than those contemplated by this clause.

### **15. EXTENSION OF TIME**

#### **15.1. Claim for extension of time**

The Contractor will be entitled to make a claim for an extension of time to the Date for Practical Completion if:

- a) the Contractor is or will be delayed in reaching Date for Practical Completion by an Event of Delay; and
- b) the Contractor gives DHA, within 3 days of when the Contractor should reasonably have become aware of the Event of Delay, a written claim for an extension of time outlining the cause of the delay.

#### **15.2. Grant of extension of time**

Upon receipt of the written claim, DHA, may, in its absolute discretion but acting reasonably, grant an extension of time to the Date for Practical Completion for a reasonable amount of days as determined by DHA by written notification to the Contractor. The Contractor will not be entitled to additional amounts or costs for the extension.

### **16. INTELLECTUAL PROPERTY**

#### **16.1. Copyright**

Copyright in any plans or designs supplied by DHA to the Contractor or any material, plans or designs created by the Contractor under this contract belong or are assigned to DHA.

#### **16.2. Restriction on use**

The Contractor must not reproduce or use any plans or designs, in whole or in part, other than for the purpose of completing the Works.

#### **16.3. Moral rights**

To the extent permitted by law and for the benefit of DHA, the Contractor consents to the use by DHA of the material under this Clause 16 and of any pre-existing material supplied by it to DHA, even if the use may otherwise be an infringement of their moral rights.

#### **16.4. Licence to use intellectual property**

The Contractor grants to DHA and its nominees a perpetual, irrevocable royalty free, non exclusive, world wide licence to use and reproduce for the Project or any related project any material developed for this agreement or provided by the Contractor to DHA. This licence includes any pre existing material of the Contractor or third party owned material incorporated into the material so developed or provided.

**16.5. Other material**

The Contractor must ensure that each author of material supplied by it to DHA (if any), consents in writing to the rights of DHA under this clause 16 (including 16.4 and 16.3.

**17. CONFIDENTIALITY**

The Contractor, its employees, agents and subcontractors must not, without written consent of DHA:

- a) disclose or make public any of DHA's Confidential Information; or
- b) make any public announcement regarding this Contract or the Works.

**18. SUSPENSION**

**18.1. Suspension of Works by DHA**

DHA may suspend the Works or any part of the Works at any time by written notice to the Contractor.

**18.2. Costs arising from suspension of Works**

If the suspension:

- a) is due to a default by the Contractor, then the Contractor is not entitled to any costs or damages arising from the suspension; or
- b) arises for any other reason, then the Contractor is entitled to its actual direct costs (established to DHA's reasonable satisfaction) arising from the suspension.

**18.3. Recommencement of the Works**

The Contractor must recommence as soon as practicable after notice from DHA.

**19. TERMINATION**

**19.1. Default**

A party is in default under this Contract if it:

- a) is in substantial breach of this Contract;
- b) wrongfully fails to carry out the Works;
- c) ceases to be able to pay its creditors;
- d) ceases, or threatens to cease, to carry on its business;
- e) becomes insolvent, bankrupt or makes an assignment of that party's estate for the benefit of creditors;
- f) makes an arrangement or composition with creditors, or

- g) being a company, goes into liquidation or comes under one of the forms of external administration referred to in Chapter 5 of the Corporations Act 2001 (Cth) or an order is made to place the company under external administration.

**19.2. Right to terminate**

If a party remains in default 5 Business Days after the other party had given it written notice requiring the default to be remedied then, without prejudice to any other rights or remedies, the non defaulting party may, by giving a further written notice, end this Contract.

**19.3. Termination for convenience**

DHA may, by giving notice in writing to the Contractor, terminate (or reduce the scope of) this Contract at any time without reason or cause. Upon receipt the Contractor;

- a) Must stop (or reduce work) in accordance with the notice, and
- b) Must mitigate all loss, costs and expenses in connection with the termination (or reduction in scope); and
- c) Must comply with DHA's reasonable directions
- d) Is only entitled to reimbursement for supplies made or work done (and related expenses) up to the date of termination (or reduction in scope); and
- e) Is not entitled to quantum meruit or profit on any part of the Contract that is terminated or subject to a reduction in scope.

**20. INDEMNITY**

**20.1. Contractor's indemnity**

Where the Contractor breaches this Contract or is otherwise in default under this Contract (including negligence) the Contractor indemnifies DHA against:

- a) loss of or damage to any property;
- b) claims in respect of personal injury or death; and
- c) any liability, loss, damage or expense (other than the obligation to pay the Contract Sum) that DHA may suffer or incur,

arising out of or in connection with that breach or default.

## 20.2. Limit of indemnity

The obligation of the Contractor to indemnify DHA under clause 20.1 is reduced to the extent that the event giving rise to the applicable loss, damage, costs, claim or liability suffered by DHA was caused or contributed to by DHA.

## 21. COMMONWEALTH REQUIREMENTS

The Contractor must comply with all policies, procedures and codes of conduct set out in Schedule 4, including the National Code of Practice.

## 22. COMPLIANCE WITH WHS LAW

### 22.1. Compliance

In carrying out the Works, the Contractor and its agents, employees and contractors must observe and take all steps required by all relevant workplace and work health and safety laws.

In carrying out the Works, the Contractor must not:

- a) breach the WHS Law; or
- b) do or allow to be done, or omit or allow to be omitted anything which may result in DHA being in breach of the WHS Law.

### 22.2. Directions and Documentation

- a) The Contractor shall comply with and shall ensure Workers comply with:-
  - i. any work health and safety direction, policy or procedure required to be implemented by DHA in respect of work health and safety and WHS Law matters; and
  - ii. any work health and safety related documentation submitted by the Contractor to DHA, as updated from time to time.
- b) The Contractor agrees that any direction given or policy or procedure required to be implemented by DHA under this Contract does not relieve the Contractor of its obligations under the WHS Law or to carry out the Works in accordance with this contract.
- c) In event of inconsistency between the requirements of this Clause 22, the Contractor will comply with that which imposes the higher level of work, health and safety.

## 22.3. Consultation, representation and participation

- a) The Contractor must participate and must ensure that all Workers participate in any consultation and representation to ensure compliance with the WHS Law in connection with the Works, including (without limitation) taking reasonable steps to initiate and participate in any meetings, invite Worker feedback, furnish and maintain current information and to take any other steps agreed between the parties.
- b) The Contractor must also consult, co-operate and co-ordinate activities with other persons holding a duty under a Corresponding WHS Law involved in or connected to the Works, to ensure compliance with the WHS Law, including (without limitation) taking reasonable steps to participate in any meetings, furnish and maintain current information and to take any other steps agreed between the parties and those other persons;

## 22.4. Safety of personnel

The Contractor must, in carrying out the Works, ensure that:

- a) any Worker or other person is not exposed to risks to their health and safety;
- b) a sufficient WHS management plan (including consultation with Workers) is developed, implemented and maintained for the Works.

## 22.5. Principal contractor

If the Contractor is described as a 'principal contractor' in Item 22 of Schedule 1:

- a) it has been authorised by the DHA to have management and control of the Site ; and
- b) has been engaged by the DHA as and accepts the appointment of, 'principal contractor' in relation to the Works and Site.

As principal contractor it must, in carrying out the Works, comply with and ensure compliance with the obligations of a principal contractor under the WHS Law, ensuring that at all times the requirement that imposes the higher level of work health and safety is observed.

Those duties and obligations include but are not limited to:

- a) complying with and ensuring compliance with health and safety duties in relation to all aspects of the Works;
- b) complying with consultation, representation and participation requirements;
- c) preparing and ensuring the preparation of safe work method statements for high risk construction work and ensuring that the high risk construction work is carried out in accordance with the safe work method statements;
- d) complying with and ensuring compliance with all relevant approved codes of practice under the WHS Law; and
- e) permitting entry to the Site to work health and safety entry permit holders.

#### 22.6. Notification

The Contractor must immediately notify DHA of any notifiable incident (being an incident which is notifiable under WHS Law) or injury which arises:

- a) during the performance of the Works; or
- b) in connection with the Works.

#### 23. TRANSFER AND ASSIGNMENT

DHA may assign or transfer to another party any right or obligation under this Contract by notice in writing to the Contractor. Any such assignment or transfer will operate to release DHA from any further obligation or liability under this Contract. The Contractor agrees to perform its remaining obligations under this Contract for the assignee or transferee.

#### 24. DISPUTE RESOLUTION

##### 24.1. Dispute notice

If a dispute or difference arises between the parties in connection with this Contract, then either party may give a notice (Dispute Notice) in writing to the other party specifying:

- a) the dispute or difference;
- b) particulars of the party's reasons for being dissatisfied; and
- c) the position which the party believes is correct.

##### 24.2. Resolution of dispute or difference by negotiation

- a) The dispute or difference identified in the Dispute Notice is to be referred to the DHA's Representative and the Contractor's Representative (collectively, **Representatives**) who must within 5 Business Days of service of a Dispute Notice, meet and undertake genuine and good faith negotiations with a view to resolving the dispute or difference.
- b) If the parties cannot resolve the dispute or difference, provided the parties have complied with this clause 24, the parties may have recourse to any other remedy available to them to resolve the dispute.
- c) The parties should give consideration to alternative dispute resolution processes to resolve the dispute.

#### 25. INTERPRETATION

In this Contract the defined words have the following meaning:

**Agreed Basis** means the methodology to be used by any party when calculating any amount payable under this Contract being in order of application:

- a) an amount as agreed between DHA and the Contractor;
- b) an amount calculated using the Schedule of Rates (if applicable);
- c) an amount calculated using reasonable market prices; or
- d) an amount being the actual cost of the Work plus a margin for profit as set out in the Contract Details.

**Building Laws** means all laws, codes and standards regulating, or relating to, the building industry applicable in the Jurisdiction, including:

- a) the Building Code of Australia;
- b) all laws, ordinances, rules, codes, regulations, requirements and orders of any legislation or authority applicable to, or having jurisdiction over, the Works or the Project; and
- c) all laws, ordinances, rules, codes, regulations, requirements and orders of any legislation or authority relating to occupational health, safety and rehabilitation management.

**Building Code of Australia** means the Building Code of Australia, including the relevant State or Territory appendix, as amended from time to



time, produced by the Australian Uniform Building Regulations Co-ordinating Council on behalf of the Commonwealth, State and Territory Governments.

**Builder's Insurance** means any policy of insurance required by the relevant Building Law in the Jurisdiction for the carrying out of domestic or residential work by the Contractor.

**Business Day** means any day which is not a Saturday, Sunday or a public holiday in the State or Territory in which the Site is located.

**Certificate of Practical Completion** means the certificate issued by DHA in accordance with clause 13.

**Contract** means the contractual relationship between the parties constituted by the documents referred to in clause 3 of the Formal Contract.

**Contract Details** mean the details relating to this Contract as set out in Schedule 1.

**Corresponding WHS Law** has the same meaning as in Regulation 6A of the WHS Regulations.

**Date for Practical Completion** means the date specified in the Contract Details as adjusted in accordance with this Contract.

**Defect** means any defect, shrinkage, deficiency, fault or omission in the Works including any aspect of the Works which is not in accordance with the requirements of this Contract.

**Defects Liability Period** means the period commencing at 4.00pm on the date the Certificate of Practical Completion is issued and ending within the period specified in the Contract Details.

**Defence** means the Commonwealth Department of Defence.

**Events of Delay** means:

- a) an act, default, omission or direction of the DHA, or any of the DHA's consultants, agents or other contractors (not being employed by the Contractor);
- b) an event beyond the reasonable control of the Contractor; or
- c) inclement weather not contemplated in the Scope of Works,

which actually delays the Works.

**Existing Conditions** means the condition of the Site and the building and other improvements if any, including the work carried out by others, on or over which the Contractor is to carry out the Works.

**Final Completion** has the meaning in accordance with clause 13.

**DHA's Confidential Information** includes information that is designated by DHA as confidential (including DHA property addresses, tenant's names and contact details and Defence Base information).

**Invoice** means a tax invoice (including GST) which is also a claim for payment by the Contractor for all or part of the Contract Sum which:

- a) covers the amount preapproved for payment by DHA;
- b) identifies and relates to the part of the Works actually performed and completed by the Contractor;
- c) makes allowance for the Security (if applicable); and
- d) includes any supporting documentation required by DHA.

**Invoice Date** means the date for submitting an Invoice referred to in the Contract Details or such other date as is expressly agreed by DHA in writing.

**Jurisdiction** means the jurisdiction in the State or Territory in which the Site is located.

**Liquidated Damages** means the liquidated damages specified in the Contract Details.

**National Code of Practice** means, collectively, the National Code of Practice for the Construction Industry 1997, the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, May 2012 or reissued from time to time.

**Payment Terms** means the payment terms specified in the Contract Details.

**Payment Certificate** means the certificate issued by DHA to the Contractor in accordance with clause 6.

**Practical Completion** is the stage when the Works have been completed so that they are fit for their intended purpose and lawfully able to be used for that purpose, excluding minor defects which do not affect the use of the Works for their intended purpose.

**Provisional Sum** means the amount, if any, included in the Contract Details which is an initial assessment of the cost of carrying out work or providing goods or materials which could not be entirely foreseen or estimated at the date of this Contract.

**Provisional Sum Work** means the work to be carried out or goods or material to be supplied if required by DHA, under clause 7 for which a Provisional Sum is included in this Contract.

**Quantity Surveyor** means the quantity surveyor appointed by DHA, at the cost of DHA equally, to determine the price of Provisional Sum Work or a Variation.

**Scope of Works** (also SOW) means the scope of the Works specified in Schedule 2 and includes anything reasonably foreseeable as incidental to the Works and necessary to complete the Works even if not expressly stated in the Scope of Works.

**Security** means the security to be provided to DHA by the Contractor specified in the Contract Details.

**Security of Payments Laws** means the laws relating to security of payments in the building and construction industry in the Jurisdiction.

**Site** means the site specified in the Contract Details.

**Start Date** means the date specified in the Contract Details or such later date as is notified by DHA before or after the date of this Contract.

**Variation** means any change to the form, quality or extent of the Works.

**WHS Law** means all statutes, regulations, statutory instruments, subordinate legislation, codes of practice and standards (including those of the Commonwealth of Australia and of the

State or Territory where the Works are carried out) dealing with or relevant to health and safety at work and of Workers and others who may be affected by the carrying out of work, and includes any approvals, permits, licences, directions or requirements of an authority exercising regulatory powers in respect of such matters and includes the Work Health and Safety Act 2011 (Cth) and the WHS Regulations as amended from time to time.

**WHS Regulations** means the Work Health and Safety Regulations 2011 (Cth).

**Worker** means any person who carries out work in any capacity for the Contractor including work as an employee; a contractor or subcontractor; an employee of a contractor or subcontractor; an employee of a labour hire company who has been assigned to undertake any part of the Works; an outworker; an apprentice or trainee; a student gaining work experience; a volunteer; or any other category of worker prescribed by the WHS Regulations.

**Works** means the work (including the provision of materials) which the Contractor is or may be required to carry out and complete under this Contract and includes any Variations or remedial work.

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