

Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Friday, 2 December 2022 12:26 PM
To: Natt, Ashley (DIIS)
Subject: RE: Activation of GISA under SEMP for disaster waste management

Importance: High

OFFICIAL

Hi Ash

Further to my below email, we'd be happy to provide whatever information Damien needs to satisfy the activation of GISA. This could be in the form of a conversation between Damien and Ian (Damien has a phone message from Ian on this from earlier in the week) or formally as required.

Cheers

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]

Clause 6(1)
Exemption

From: Wheeler, Josh (GISA)
Sent: Friday, 2 December 2022 11:44 AM
To: Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au>; Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Cc: Overton, Ian (GISA) <Ian.Overton@sa.gov.au>; Heinson, Michaela (GISA) <Michaela.Heinson@sa.gov.au>
Subject: Activation of GISA under SEMP for disaster waste management
Importance: High

OFFICIAL

Hi Tim and Ash

Thank you for your time this morning. See below high level summary of the mechanism to activate GISA for disaster waste management under the State Emergency Management Plan:

- The Disaster Waste Management Capability Plan (DWM Plan) and Disaster Waste Management Guidelines (DWM Guidelines) form part of the State Emergency Management Plan.
- The DWM Plan supports preparedness, response and recovery activities associated with managing waste generated by a disaster. The Plan establishes emergency management arrangements and corresponding roles and responsibilities. Accompanying the DWM Plan is the DWM Guidelines, which provide practical guidance on the steps and activities undertaken in managing waste resulting from a disaster.
- Response and recovery activities under the DWM Plan are activated by the relevant Control Agency (in the current case, the SES) or the State Recovery Coordinator appointed by the state government (in the current case, Damien Walker). **There is no formal instrument for this activation, so an email from Damien Walker would be sufficient to communicate within government that GISA has been activated.**
- GISA is functional lead for disaster waste management and when activated is responsible for overseeing implementation of the DWM Plan (activities vary from advisory to operational support depending on the scale of the event). The DWM Plan outlines other participating state government agencies that will assist with the preparedness, response and recovery phases associated with disaster waste management. Their roles and responsibilities are outlined in the DWM Plan.

- The DWM Plan outlines that the state government will provide operational support to affected communities to assist with managing disaster waste when:
 - the affected community/communities do not have the capacity to deal with the waste volumes and associated issues; and
 - the nature of the waste volumes or associated issues means there are high consequences to human health, economic assets, the environment and/or community recovery if it is not appropriately managed.
- The state government is also able to decide to provide operational support if either of the above conditions do not exist.
- Under the DWM Plan, GISA reports to the Control Agency during the response phase and to DPC during the recovery phase. Participating agencies report to GISA on their progress with completion of assigned activities.

Links to the documents:

- [Disaster Waste Management Capability Plan](#)
- [Disaster Waste Management Guidelines](#)

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]
E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au
Level 4/ 81-95 Waymouth St, Adelaide SA 5000

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Green Industries SA

Green Industries SA acknowledges the traditional owners of the land, offering our respect to their elders past, present and emerging.

Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Thursday, 8 December 2022 12:08 PM
To: Natt, Ashley (DIIS); Van Nieuwmans, Leah (DIS)
Subject: FW: Activation of GISA under SEMP for disaster waste management
Importance: High

OFFICIAL: Sensitive//SA CABINET

Hi Ash and Leah

Note below advice from [REDACTED]

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Ian will be invited to the meeting for this agenda item.

Thank you

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | M: [REDACTED]

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From: Watt, Amber (DPC) <Amber.Watt@sa.gov.au>
Sent: Thursday, 8 December 2022 11:35 AM
To: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Cc: Emergency Management Cabinet Committee <EMCC@sa.gov.au>
Subject: RE: Activation of GISA under SEMP for disaster waste management

OFFICIAL: Sensitive//SA CABINET

Hi Josh

Just confirming from our previous discussion that [REDACTED]

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[REDACTED]

Clause 1(1)
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Kind regards,
Amber

Amber Watt (she/her)
Manager, Social Policy
Cabinet Office
Department of the Premier and Cabinet

Monday-Tuesday; Thursday-Friday

T +61 (8) 8429 0169

E amber.watt@sa.gov.au | W dpc.sa.gov.au

Level 14, 200 Victoria Square (Tarntanyangga), ADELAIDE SA 5000
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DX 56201



We acknowledge this land. The Dreaming is still living. From the past, in the present, into the future, forever.

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From: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Sent: Wednesday, 7 December 2022 5:22 PM
To: Watt, Amber (DPC) <Amber.Watt@sa.gov.au>
Cc: Echegaray, Javier (DPC) <Javier.Echegaray@sa.gov.au>
Subject: FW: Activation of GISA under SEMP for disaster waste management
Importance: High

OFFICIAL

Hello Amber

Further to the phone message you will receive from Ben regarding [REDACTED]
[REDACTED] I look forward to discussing with you in the morning.

Clause 1(1)
Exemption

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]

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From: Overton, Ian (GISA) <Ian.Overton@sa.gov.au>
Sent: Wednesday, 7 December 2022 1:31 PM
To: Heinson, Michaela (GISA) <Michaela.Heinson@sa.gov.au>; Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Subject: FW: Activation of GISA under SEMP for disaster waste management

OFFICIAL

Kind regards,

Ian

Prof. Ian Overton (He/Him) | Chief Executive
Green Industries SA
M: [REDACTED]

Clause 6(1)
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From: Walker, Damien (DPC) <Damien.Walker@sa.gov.au>
Sent: Wednesday, 7 December 2022 1:02 PM
To: Chandler, Nari (DPC) <Nari.Chandler@sa.gov.au>; Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au>
Cc: Rich, Cheyne (DPC) <Cheyne.Rich@sa.gov.au>; Gorvett, Jon (DPC) <Jon.Gorvett@sa.gov.au>; Lloyd-Wright, Alison (DPC) <Alison.Lloyd-Wright@sa.gov.au>; Overton, Ian (GISA) <Ian.Overton@sa.gov.au>; Baldry, Keith (EPA) <Keith.Baldry@sa.gov.au>
Subject: RE: Activation of GISA under SEMP for disaster waste management

OFFICIAL

I have spoken with Jon Gorvett and Ian. [REDACTED]

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[REDACTED]

[REDACTED]

Clause 1(1)
Exemption

[REDACTED]

Regards

Damien

From: Chandler, Nari (DPC) <Nari.Chandler@sa.gov.au>
Sent: Wednesday, 7 December 2022 8:40 AM
To: Walker, Damien (DPC) <Damien.Walker@sa.gov.au>; Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au>
Cc: Rich, Cheyne (DPC) <Cheyne.Rich@sa.gov.au>
Subject: RE: Activation of GISA under SEMP for disaster waste management

OFFICIAL

Hi Tim,

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[REDACTED]

Clause 1(1)
Exemption

[REDACTED]

Please don't hesitate to contact me if you need any further information.

Kind regards,

Nari Chandler

Executive Director, Intergovernmental and Diplomatic Relations
Department of the Premier and Cabinet

T +61 8 8363 8648 | M [REDACTED]

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Exemption

[e nari.chandler@sa.gov.au](mailto:nari.chandler@sa.gov.au) | [W dpc.sa.gov.au](http://www.dpc.sa.gov.au)

Level 14, 200 Victoria Square (Tarntanyangga), ADELAIDE SA 5000
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Department of the Premier
and Cabinet

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From: Walker, Damien (DPC) <Damien.Walker@sa.gov.au>
Sent: Wednesday, 7 December 2022 6:56 AM
To: Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au>
Cc: Rich, Cheyne (DPC) <Cheyne.Rich@sa.gov.au>; Chandler, Nari (DPC) <Nari.Chandler@sa.gov.au>
Subject: Re: Activation of GISA under SEMP for disaster waste management

Thank you Tim. Leave with nari and I. Back to you soon.

Regards

Damien Walker
Chief Executive
Department of the Premier and Cabinet

Sent from my iPhone

On 6 Dec 2022, at 1:08 pm, Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au> wrote:

OFFICIAL

Dear Damien,

Our office met with Green Industries SA (GISA) late last week and they flagged the preparatory work they are undertaking for the recovery phase of the Riverland floods - GISA have responsibility for rubbish clean up under the Disaster Waste Management Plan that sits under the State Emergency Management Plan.

GISA expect this could be a significant clean up task with water damaged housing, and waterlogged furniture, mould, and so on, as well as the potential for hazardous material like asbestos (from the river shacks) to be washed down the river.

GISA undertook the clean-up task most recently in the aftermath of the bushfires on KI.

I am new to this so asked them to outline how the 'activation' process works – and since it appears to land with you, I wanted to flag it with you and let you know they are ready to get to work.

Happy to discuss,
Tim

Tim Ryan

Chief of Staff

Hon Susan Close MP

Deputy Premier

Minister for Climate, Environment and Water | Minister for Industry, Innovation and Science |
Minister for Defence and Space Industries

Level 13, State Administration Centre, 200 Victoria Square, ADELAIDE SA 5000
GPO Box 11071, Adelaide SA 5001

T: 08 8429 3238 | M: [REDACTED] | E: tim.ryan@sa.gov.au

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From: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>

Sent: Friday, 2 December 2022 11:44 AM

To: Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au>; Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>

Cc: Overton, Ian (GISA) <Ian.Overton@sa.gov.au>; Heinson, Michaela (GISA) <Michaela.Heinson@sa.gov.au>

Subject: Activation of GISA under SEMP for disaster waste management

Importance: High

OFFICIAL

Hi Tim and Ash

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state government agencies that will assist with the preparedness, response and recovery phases associated with disaster waste management. Their roles and responsibilities are outlined in the DWM Plan.

5. The DWM Plan outlines that the state government will provide operational support to affected communities to assist with managing disaster waste when:
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 2. the nature of the waste volumes or associated issues means there are high consequences to human health, economic assets, the environment and/or community recovery if it is not appropriately managed.
6. The state government is also able to decide to provide operational support if either of the above conditions do not exist.
7. Under the DWM Plan, GISA reports to the Control Agency during the response phase and to DPC during the recovery phase. Participating agencies report to GISA on their progress with completion of assigned activities.

Links to the documents:

1. [Disaster Waste Management Capability Plan](#)
2. [Disaster Waste Management Guidelines](#)

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business

Green Industries SA

P: +61 8204 2586 | **M:** [REDACTED]

E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au

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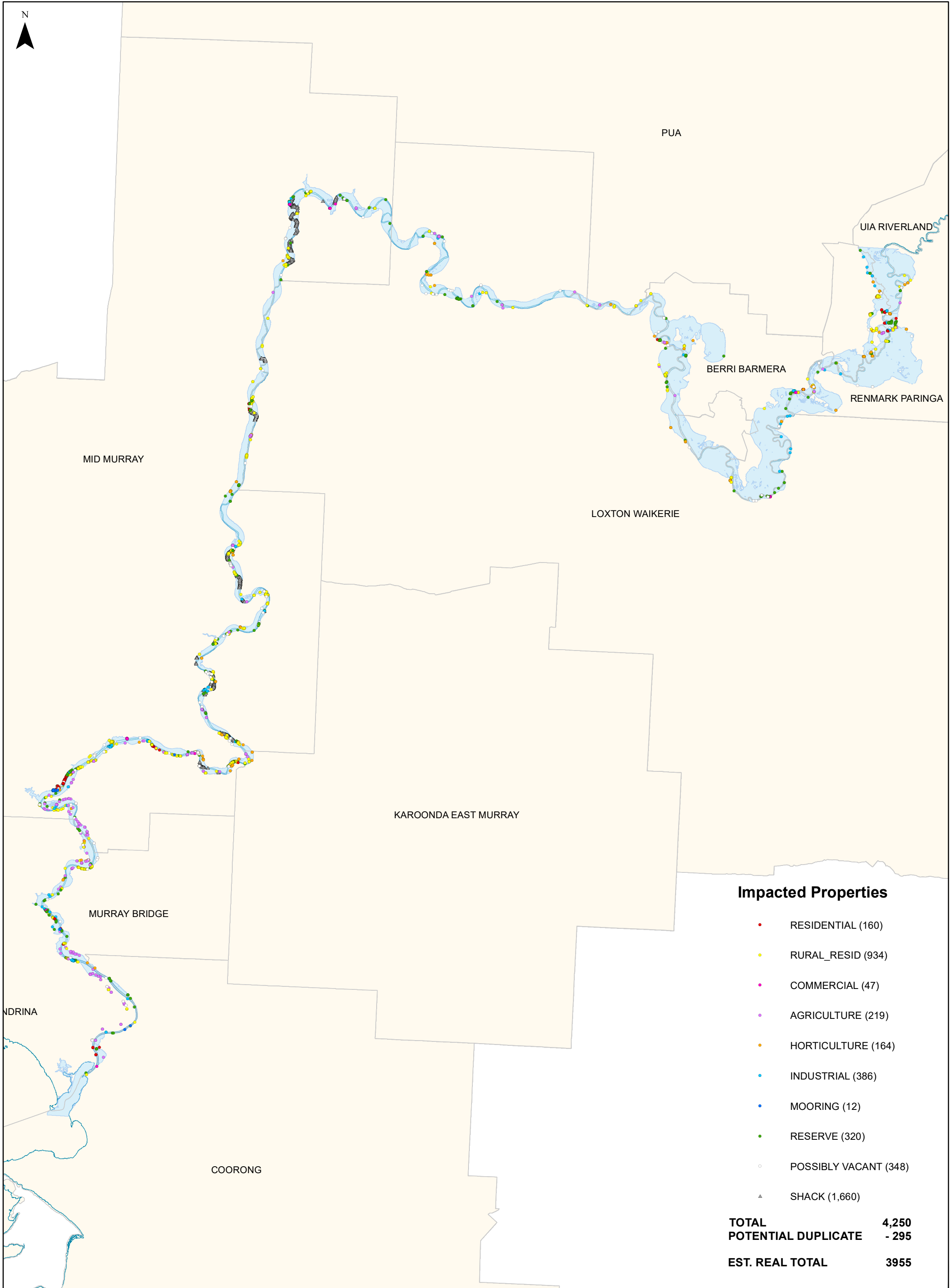


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Green Industries SA

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200GL Map with Potential Duplicate Removed - 1/12/2022



Wheeler, Josh (GISA)

From: Overton, Ian (GISA)
Sent: Tuesday, 3 January 2023 11:36 AM
To: Gorvett, Jon (DPC)
Cc: Chandler, Nari (DPC); Scales, Matthew (GISA); Ryan, Tim (DIS)
Subject: Flood clean-up

OFFICIAL

Hi Jon and Nari, (cced to Tim and Matt)

Following the conversation with Minister Szakacs this morning regarding the clean-up process, I have asked Matt to prepare a short briefing to share with the Minister, Premier and other agencies, etc. We should have this ready tomorrow to share and ready in case a specific clean-up media event is required later in the week.

Kind regards,
Ian

Professor Ian Overton (He/Him) | Chief Executive
Green Industries SA
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E: ian.overton@sa.gov.au | **W:** greenindustries.sa.gov.au
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Executive Officer: Bernadette Gersbach | **P:** +61 8204 1553 | **E:** bernadette.gersbach@sa.gov.au



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Wheeler, Josh (GISA)

From: Deputy Premier Ministerials
Sent: Tuesday, 10 January 2023 2:34 PM
To: GISA:Ministerial Business
Cc: Agars, Sue (GISA)
Subject: RE: CEW23/00047 - Agenda, briefing, attachments for Monday
Attachments: CEW2300047 - GISA - River Murr~ement Update - SIGNED BRIEFING.pdf

OFFICIAL

Good afternoon,

Please find attached signed briefing for your records.

Kind regards,

Karl

Office of the Deputy Premier

The Hon Susan Close MP

Minister for Climate, Environment and Water
Minister for Industry, Innovation and Science
Minister for Defence and Space Industries

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From: Scales, Matthew (GISA) <Matthew.Scales@sa.gov.au>
Sent: Friday, 6 January 2023 1:58 PM
To: Potter, Kiana (DIIS) <Kiana.Potter@sa.gov.au>; Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Cc: Agars, Sue (GISA) <Sue.Agars2@sa.gov.au>
Subject: Agenda, briefing, attachments for Monday

OFFICIAL

Hi Kiana and Ash, sorry this wasn't with you sooner.

Agenda for Monday
Flood Disaster Waste Clean-up Briefing
2 x supporting attachments.

Let me know if you need anything else ahead of the Monday meeting.

Kind Regards,
Matt

Matt Scales | Associate Director, Engagement and Communications
Green Industries SA

P: +61 8204 2051 | **M:** [REDACTED]

E: matthew.scales@sa.gov.au | **W:** www.greenindustries.sa.gov.au

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Security Classification: Official

TO: MINISTER FOR CLIMATE, ENVIRONMENT AND WATER

FOR NOTING

RE: RIVER MURRAY FLOODING - DISASTER WASTE MANAGEMENT UPDATE

Priority: High

Critical Date: 9 January 2023

1. RECOMMENDATIONS

That you:

1. Note that Green Industries SA has been activated as Functional Lead for Disaster Waste Management following the River Murray Flooding State Emergency

NOTED

2. Note the activities that GISA has been undertaking to date in this role

NOTED

3. Note the communication messages regarding River Murray flood damage clean-up included as Attachment 1

NOTED

Comments

A handwritten signature in blue ink, appearing to read 'S. Close', positioned above a horizontal dashed line.

HON SUSAN CLOSE MP
Minister for Climate, Environment and
Water

7 / 1 / 2023

2. PRIORITY

High.

For discussion at Agency meeting with Minister on 9 January 2023

3. BACKGROUND

On 21 November 2022, the River Murray flooding was declared a major emergency for the state. In response to this major emergency, Green Industries SA (GISA) has now been activated as the functional lead agency responsible for managing waste arising from this emergency in accordance with the Disaster Waste Management Capability Plan and the associated guidelines, under Part 4 of the *State Emergency Management Plan* (SEMP).

GISA previously led the state's waste clean-up response following the 2019-20 bushfires that impacted the Adelaide Hills, Kangaroo Island, Yorke Peninsula and the South-East.

This involved managing contracts for clean-up and demolition at 547 affected properties, many with hazardous materials like CCA timber ash and asbestos. More than 50,000 tonnes of waste material were managed through the 2019-20 bushfire clean-up response operations, which cost more than \$23million.

4. DISCUSSION

Since declaration of the State Emergency, GISA has been in the 'Early Recovery' phase of the Disaster Waste Management (DWM) Plan, laying the groundwork for implementing a DWM Program during the subsequent recovery phase. This early recovery phase involves mapping the expected types of waste; identifying, establishing, and managing interim storage and disposal sites; streamlining logistics for waste collection; transportation; and reuse/recycling initiatives to avoid valuable resources going to landfill wherever possible.

Current estimates suggest there may be more than 1,800 houses, outbuildings, shacks and businesses affected by the River Murray flooding, which may result in 10 times the volume of disaster waste compared to 2019-20 bushfires.

Factors contributing to the complexity of the clean-up response to this event include:

- Flood impact to essential transport infrastructure like roads and bridges, delaying heavy vehicle access to flood affected areas for several weeks or more as the flood waters recede.
- Lack of electricity: more than 3,190 properties are without power as at 4/1/2023.
- The nature of flood damaged property and possessions compared to bushfires

On January 3, joint funding of more than \$70million from the Australian and South Australian Governments was announced by federal Emergency Management Minister Senator Murray Watt and Premier Peter Malinauskus for the waste clean-up of flood affected properties. This is the largest funding package for disaster waste in the history of South Australia. This includes \$10million for property assessment and reconnection and \$60million for waste clean-up. GISA sought independent estimation from a waste

contractor for this amount based on the predicted number of properties and their locations. This amount also correlated with an estimate from a Tier 1 contractor who is involved in the Victorian and New South Wales flood waste clean-ups (Johns Lyng Group).

As part of 'Early Recovery' planning a streamlined process for registration and collection of disaster waste data has been identified and established. The flood relief information line, run by the SA Fire and Emergency Services Commission (SAFECOM) call centre team, is a single-entry point of contact for people in flood affected areas to register their impacts and relief needs, including for waste management assessments. People calling this line will be registered via the Emergency Client Information System (ECIS) operated by SA Housing Authority (SAHA) and be allocated a client ID that will allow their case to be managed, updated and tracked as they receive a range of government services like emergency housing, rental assistance, and Disaster Recovery Allowance payments. The single source of registration for relief will avoid data losses, reduce unnecessary duress of filling in repeated forms and provide a consistent way to find and contact those impacted. SAHA have granted GISA permission to access waste clean-up data gathered through the ECIS, which will allow for identification as early as possible the level of inundation, the type and quantities of materials impacted and the geographical location of impacted properties.

In December 2022 GISA advertised a broad Request For Quote for services to assist with a DWM clean-up of this size on the Tenders SA website. 32 responses were received by the closing date of January 2nd and evaluation and assessment of tender responses has commenced.

The scale and complexity of this disaster, and management of the resulting flood affected waste that will require recovery and recycling/disposal, means it is unlikely a single state government agency has the capacity to coordinate the multiple individual contractors and services that will be required to deliver clean-up recovery for the impacted communities in the same manner as the 2019-20 bushfires recovery.

Instead, GISA will adopt a procurement strategy of appointing a 'Tier 1' contractor to deliver operational support. Tier 1 contractors have resources and capabilities to plan, coordinate and undertake largescale operations.

A Tier 1 contractor is expected to be appointed within the next few weeks.

Early Stage communications activities on the matter of flood clean-up and recovery has been prepared for your consideration in Attachment 1.

5. CONSULTATION

State Emergency Centre, Department of Premier and Cabinet, SAPOL, SASES, SAFECOM, SA Housing, DEW and EPA, along with various independent disaster waste and waste contractors including Rawtec and Sustainable Solutions. Regional Recovery Coordinator and relevant regional local government/councils impacted by floods.

6. FINANCIAL IMPLICATIONS

Are there financial implications? Yes

OFFICIAL

We should give details on funding arrangement between State and Federal governments

Funding has been approved through DFRA for joint support between Federal and State Governments. The most relevant programs include:

- \$10million for property assessment and reconnection. This program will provide funding for the structural property assessments that will detect hazards such as structural damage, asbestos, mould and electricity. A report will be prepared for each property and hazard removal will be undertaken if required. The funding also provides for home and business owner grants to reconnect electricity which is being managed by DPC.
- \$60million waste clean-up, which will cover the cost of demolition if required, waste collection, recycling and disposal for primary and holiday residences and small businesses. It will also fund regional collections of sand bags, fencing and posts and other community focussed waste. Clean-up of inside home will be managed by homeowners but support will be provided by coordinating volunteer groups to assist.

Other funding for primary produces to clean-up properties may be available to support the waste clean-up activities led by GISA.

ATTACHMENTS

Attachment 1 - Early Stage Recovery Communications Activity

Attachment 2 - Waste Clean-up process visual



Ian Overton
Chief Executive
Green Industries SA

Date: 06/01/2023

COMMUNICATIONS – ‘Early Recovery’ planning:

The flood affected areas are still classed as an ongoing incident, and the area has not been designated as having moved from the ‘Response’ and ‘Relief’ phases of the State Emergency Management Plan to the ‘Early Recovery’ state. South Australian State Emergency Services (SASES) are the lead agency on the Response and Relief phases. GISA is currently contributing content for distribution through the *Public Information Group*, being led by SASES and SAPOL. GISA is a core member of the Public Information Group, assisting agencies with a presence at Relief Centres and those on the ground on a daily basis like DIT, DEW, SA Health and SA Housing. GISA is also working closely with SA Power Networks and SA Water. Agencies across the South Australian government are collaborating to deliver consistent, effective messaging. The Public Information Group meets daily, 7 days a week at present to ensure the current key message is to get property owners who have been inundated with flood water to register their properties now through the Flood Information Helpline.

GISA is already delivering creative assets and strategic messaging to support the planning and delivery of waste clean-up efforts. Until flood waters recede and road and bridges can be safely navigated, the on-the-ground assessments and actual clean-up work can’t commence. This will cause frustration for homeowners and businesses. To address that frustration, communications will be transparent and consistent about planning and progress, acknowledging the desire for every aspect of the recovery process needs to move as quickly as possible, while also being managed safely for both property owners and the environment and to ensure the responsible use of the joint commonwealth and state funding.

A key tool in GISA’s communications for the bushfire waste clean-up and recovery phase was the provision of timely, accurate and detailed lists of upcoming activities in regions. Maps will be a key tool to show property owners what activity is taking place in their area and when.

GISA’s model for communications and service delivery is iterative and adaptive and will respond in near real-time to changing circumstances. Being able to show the community the planning and outcomes provides a strong sense of action being taken and progress being made.

It is still very early stages and more detailed communications planning and service delivery will evolve in the coming weeks as waters recede. At the earliest opportunity to begin undertaking assessments, communications will begin to focus on safe material handling for householders undertaking their own clean-up and waste removal, and drop-off locations like landfills and transfer stations and community collections for materials like e-waste, sandbags and metal sheeting and fencing.

Key Lines – public and media

- Please be patient – we know this will be difficult.
- There may be significant hazards in your property such as structural damage, asbestos, mould and electricity that may not be visible but will require specialist identification and treatment.
- Registering for an assessment is an essential first step to cleaning up flood damaged

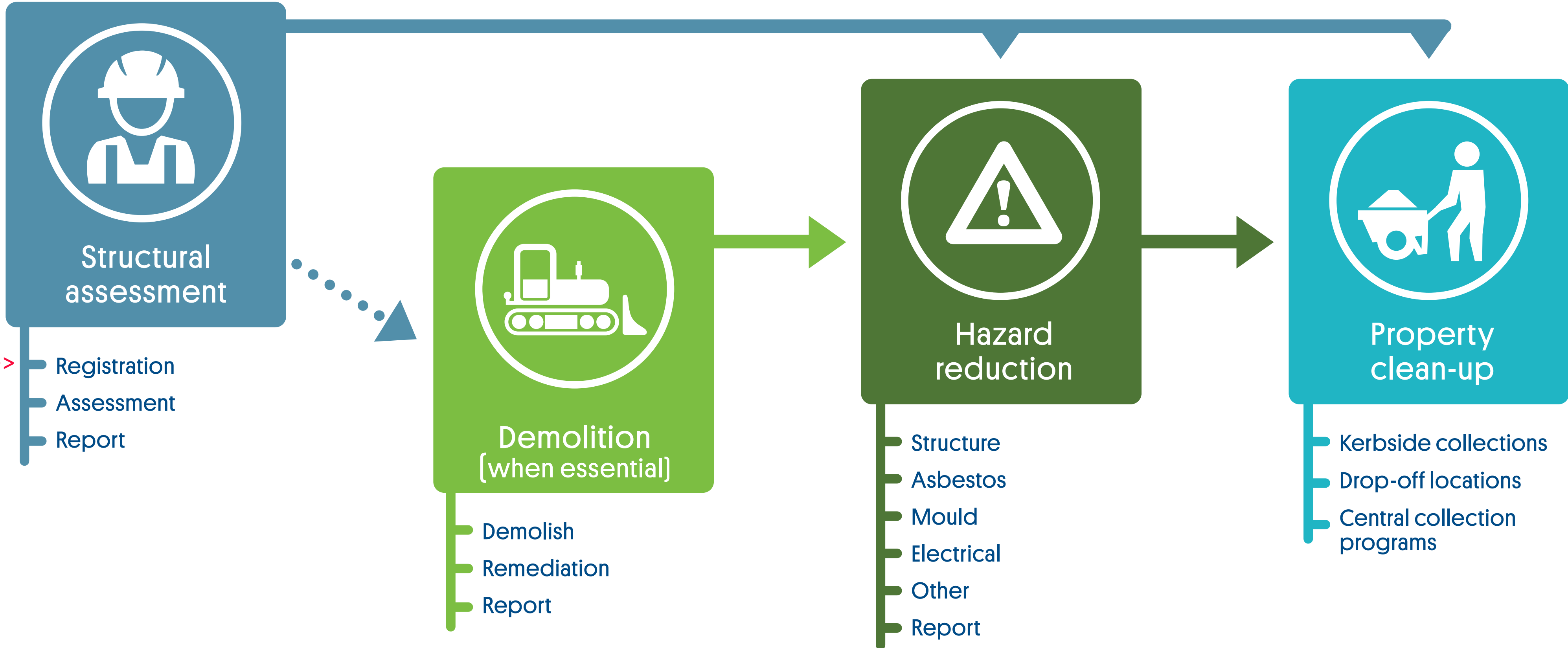
OFFICIAL

materials. Please register for free clean-up assistance as soon as possible through the flood relief hotline 1800 302 787.

- The flood waters have peaked, but there is still a lot more water to come over the next few weeks. Clean-up work can't commence until the water has receded enough to allow safe access for heavy vehicles via roads and bridges.
- Regular updates are being published on www.greenindustries.sa.gov.au/floods and www.sa.gov.au/floods
- The assessment and the clean-up will be provided by the state government for free.
- While the jointly funded Commonwealth/State clean-up is free, it is not a '*free for all*'. Householders should not rush to use private contractors or to clean-up at their own cost assuming this cost will be covered by the government.
- Authorised government contractors will have ID that you can check and will never ask you directly for money.
- If you are insured, you should contact your insurer directly as soon as possible to ask their advice. Always remember to document all flood damage with photographs where safe to do so.
- Approved contractors are being appointed to manage the clean-up cost effectively, and safely to ensure the joint funding is responsibly managed and the environment and community protected from risks.
- Please rely on the advice of our professional assessment teams, who will identify hazards within the property, such as asbestos, black mould, electrical issues and any structural damage and ensure they are managed safely to avoid risk to the community and the environment.
- Handling hazardous materials requires specific personal protective equipment (PPE) and specific skills. Waiting for the approved government contractors is the safest and most cost-effective way to get your property cleaned-up and back to normal.
- The speed of the commencement by approved contractors will take time, and this will be frustrating to people wanting to return to life and business as usual in the River Murray region.
- More waste disposal options and locations are being planned right now to provide onsite clean-up services, kerbside collection where possible, drop-off locations like transfer stations and landfill, as well as community collection programs for items like scrap metal, fencing and sandbags.
- There will be a lot of 'displaced' waste in rivers and public lands as a result of the flood waters. A direct contact phone number will be provided for people to report flood waste for clean-up and removal where the waste is not on a property or business.
- Authorised contractors will be in direct contact with residents throughout the process.
- GISA will publish regular mapped updates on progress and options and upcoming clean-up activities on its website (in the same format as the bushfire waste clean-up activity schedules) at www.greenindustries.sa.gov.au/floods

STRUCTURAL ASSESSMENTS

 Property registration
- Flood helpline
1800 302 787



WE ARE HERE >>



Wheeler, Josh (GISA)

From: GISA:Ministerial Business
Sent: Tuesday, 17 January 2023 3:16 PM
To: Natt, Ashley (DIIS)
Subject: Urgent Ministerial Briefing: Defence Cell contamination
Attachments: Ministerial Briefing - Defence Cell.pdf

OFFICIAL

Hi Ashley,

Please see attached urgent Ministerial briefing as requested, regarding Defence Cell (sandbag levee).

The briefing has been drafted in consultation with EPA and Berri and Barmera Councils, and has been approved by the Chief Executive, Green Industries SA.

Should you have any queries, please don't hesitate to let either myself know, or contact the author directly (Justin Lang).

Warmest Regards,

Sue Agars (she/her)

Board and Governance Officer

Green Industries SA

E: sue.agars2@sa.gov.au or GISA.BoardofGreenIndustriesSA@sa.gov.au

T: (08) 8204 9046 **M:** [REDACTED]

W: greenindustries.sa.gov.au

Level 4, 81-95 Waymouth St, Adelaide SA 5000

Clause 6(1)
Exemption



Government of South Australia

Green Industries SA

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From: Natt, Ashley (DIIS)

Sent: Friday, 13 January 2023 12:19 PM

To: Lang, Justin (GISA) <Justin.Lang@sa.gov.au>

Cc: GISA:Ministerial Business <GISA.MinisterialBusiness@sa.gov.au>

Subject: Defence Cells

OFFICIAL

Hi Justin

As discussed, the DP will require an urgent briefing on the Defence Cell matter we discussed. We would like GISA to lead and to work with the EPA (and obviously council).

Obviously questions around the source of material, handling, timeline, actions taken to date, testing results, way forward etc will need to be addressed.

I understand Jason our media adviser has been in contact with media from both GISA and EPA on the matter.

Ash

Ashley Natt

Adviser

Office of the Deputy Premier

The Hon Susan Close MP

Minister for Climate, Environment and Water

Minister for Industry, Innovation and Science

Minister for Defence and Space Industries

Level 13, State Administration Centre

200 Victoria Square

ADELAIDE SA 5000

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E: ashley.natt2@sa.gov.au



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South Australia**

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TO: MINISTER FOR CLIMATE, ENVIRONMENT AND WATER

FOR NOTING

RE: ASBESTOS CONTAMINATED MATERIAL IN FLOOD LEVEE BANK

Priority: Urgent. At request of your office.

Critical Date: NA

1. RECOMMENDATIONS

That you:

1. Note that during preparation for the River Murray flooding event, asbestos was identified in the fill material to be used in a temporary levee bank (Defence Cell) in Cobdogla.

NOTED

2. Note that once the asbestos had been identified and removed, the remainder of the fill material was inspected, and no further asbestos was found.

NOTED

3. Note that the fill material was sourced from a Berri Barmera Council owned borrow pit, where it is believed illegal dumping resulted in the presence of asbestos. Council had suggested partitioning material 10 metres either side of where the asbestos was found as potentially contaminated. Green Industries SA has advised Council that when it is appropriate to remove the levee, the contamination fill material should be removed for landfill disposal as a precaution.

NOTED

<p>Comments</p>	<p>-----</p> <p>HON DR SUSAN CLOSE MP</p> <p>Minister for Climate, Environment and Water</p> <p>/ / 2023</p>
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2. PRIORITY

Urgent.

Requested as an urgent briefing by your office.

3. BACKGROUND

As you are aware, the River Murray flooding is a declared major emergency for South Australia. Green Industries SA (GISA) is the functional lead agency responsible for managing waste arising from this emergency (CEW2300047).

On Wednesday 11 January 2023, through involvement in the SAPOL coordinated Public Information Group, GISA became aware that asbestos had been identified in the fill material that was used to construct a temporary levee (Defence Cell) on Morgan Road in Cobdogla.

4. DISCUSSION

During November 2022 in preparation for the River Murray flooding event, a temporary levee (Defencell) was constructed on Morgan Road in Cobdogla to prevent damage that would be caused to surrounding properties by rising water levels. Approximately 70 cubic meters of soil sourced from a Berri-Barmera Council owned borrow pit in Loveday was used to fill this Defence Cell.

During the filling of the Defencell by State Emergency Service (SES) volunteers, Country Fire Service (CFS) volunteers and interns from Cadell Training Centre, two small pieces of material were discovered that were suspected at the time of being asbestos.

Upon discovery, the pieces were handled as though confirmed asbestos. They were separated and placed in a plastic bag by personnel wearing appropriate personal protective equipment. The pieces were sent to Greencap Safety and Risk Management in Adelaide for testing and were confirmed as asbestos by a licenced and registered assessor on 28 November 2022.

Following identification and removal of the two pieces by SES crew, the remaining fill material was screened by Council and no further fragments were found. Following this screening, works to fill the Defencell continued using the screened material. Handling of the moist, screened fill material was by mechanical loaders with operators within air-conditioned, enclosed cabins.

SafeWork SA were notified by CFS at the time of the incident and deemed there had been no dangerous exposure to asbestos as the soil and fragments were moist and no actions taken would have caused any damage, dust, or airborne fibres to arise.

The borrow pit from which the fill material was sourced is not known to or licensed by the Environmental Protection Agency (EPA). It is suspected that the asbestos was present in this borrow pit as a result of illegal dumping.

A contractor working on behalf of GISA visited the site on Monday 16 January 2022 and visually confirmed the section of the Defencell from which the asbestos was removed.

Depending on the recession of flood water levels, the Defencell will likely be removed in two weeks' time (approx. 25 January). The council intends to return most of the fill material to the borrow pit from which it was sourced. As a precaution, the section of the Defence Cell where the asbestos pieces were discovered (approximately 20 cubic metres) will not be returned to the borrow pit, but will be disposed to a licenced landfill. GISA will continue to liaise with the Berri Barmera Council about landfill disposal of this material as part of the Flood Waste Clean-Up Program.

The fill material for temporary levees and ~230,000 sandbags that have been used in the River Murray Flood response has primarily been sourced from quarries and rural properties. It is not expected that these contain asbestos, and it is anticipated that this fill material will be recoverable for use in rebuilding roads and other infrastructure during the recovery phase of the emergency event.

5. CONSULTATION

This Information was first raised via the intra-governmental Public Information Group. GISA consulted with the EPA and Berri Barmera Council in preparation of this briefing.

6. FINANCIAL IMPLICATIONS

Are there financial implications? No

ATTACHMENTS



Ian Overton
Chief Executive
Green Industries SA

Date: 17/01/23

Wheeler, Josh (GISA)

From: Overton, Ian (GISA)
Sent: Monday, 30 January 2023 3:01 PM
To: Wheeler, Josh (GISA)
Subject: FW: Text from Tim Whetstone

OFFICIAL

FYI

Kind regards,
Ian

Prof. Ian Overton (He/Him) | Chief Executive
Green Industries SA
M: [REDACTED]

Clause 6(1)
Exemption

From: Vines, Josh (DIIS) <Josh.Vines@sa.gov.au>
Sent: Monday, 30 January 2023 11:15 AM
To: Overton, Ian (GISA) <Ian.Overton@sa.gov.au>
Subject: RE: Text from Tim Whetstone

OFFICIAL

Hi Ian, I've left it with the Premier's office to see if they need anything from us, but suspect your "yeah, we know and are working on it" response is sufficient.

Cheers,

Josh.

From: Overton, Ian (GISA) <Ian.Overton@sa.gov.au>
Sent: Wednesday, 25 January 2023 2:37 PM
To: Vines, Josh (DIIS) <Josh.Vines@sa.gov.au>
Subject: Text from Tim Whetstone

OFFICIAL

Hi Josh,

I received this text message from John Schutz today. Tim Whetstone contacted the Premier this morning and included John (I'm thinking he may have got the wrong Department/CE) in the text message.

Hello Gents,

An in site to community meetings I've held over the last couple of weeks, particularly with the cleanup. I've had associations reps from permanent and shack owners representing almost 2500 owners. The cleanup will be a massive task, particularly with registrations and the current thinking with Council landfill sites that are open a couple of hours once or twice per week. After meeting with Green Industies, SES, Local Govt. and the community response advocate, Alex Zimmermann, please consider a rethink of rubbish collection.

After the waste audit, we should have 24/7 drop off and collection points for waste at refuse points on land high and dry. Or,
Provide man power at landfill sites which there are 16.
Making the task of cleanup, simple and effective will keep peoples focus firmly on the job ahead of them. Cheers,
TW

We are in daily discussion with the Regional Recovery Coordinator – Alex Zimmermann and are having multiple discussions with Councils that operate landfill and waste transfer stations, including about capacity and opening hours.

Would you like me to do anything in regards to this?

Kind regards,
Ian

Professor Ian Overton (He/Him) | Chief Executive
Green Industries SA
P: +61 8204 1553 | **M:** [REDACTED]
E: ian.overton@sa.gov.au | **W:** greenindustries.sa.gov.au
Level 4/ 81-95 Waymouth St, Adelaide SA 5000

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Executive Officer: Bernadette Gersbach | **P:** +61 8204 1553 | **E:** bernadette.gersbach@sa.gov.au



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Green Industries SA

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Wheeler, Josh (GISA)

From: GISA:Ministerial Business
Sent: Wednesday, 1 February 2023 3:11 PM
To: Ward, Heidi (DIS)
Subject: RE: ENV23/00094 - Murray River clean up

OFFICIAL: Sensitive

Hi Heidi,

Welcome back! I hope you had a lovely break, and are ready for the new year ahead?

I just wanted to check in with you around this request – GISA would be happy to provide some comment around arrangements for the clean-up of the River Murray Flood zone, however the main point of this constituents correspondence seems to be around the management of the European Carp in the river system.

For your consideration, but might this be better directed to PIRSA or DEW in the first instance to address the concerns?

Please just let me know and I would be happy to follow up as required.

Warmest Regards,

Sue Agars (she/her)

Board and Governance Officer

Green Industries SA

E: sue.agars2@sa.gov.au or GISA.BoardofGreenIndustriesSA@sa.gov.au

T: (08) 8204 9046 **M:** [REDACTED]

W: greenindustries.sa.gov.au

Level 4, 81-95 Waymouth St, Adelaide SA 5000

Clause 6(1)
Exemption



Government of South Australia

Green Industries SA

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From: Ward, Heidi (DIS) <Heidi.Ward2@sa.gov.au>
Sent: Wednesday, 1 February 2023 12:10 PM
To: GISA:Ministerial Business <GISA.MinisterialBusiness@sa.gov.au>
Cc: Deputy Premier Ministerials <DeputyPremierMinisterials@sa.gov.au>
Subject: ENV23/00094 - Murray River clean up

OFFICIAL: Sensitive

Good afternoon,

Please see below for appropriate action.

**OFFICE OF THE DEPUTY PREMIER/MINISTER FOR CLIMATE, ENVIRONMENT AND WATER
MINISTERIAL CORRESPONDENCE REQUEST**

	<input type="checkbox"/> GISA
Reference Number:	ENV23/00094
Author & Subject:	[REDACTED] re: Murray River clean up
Action Required:	For draft response please.
Department Rep	
Notes:	
MLO	Heidi
Due Date - OCE:	
Due Date - Minister's Office:	15 Feb 2023

Clause 6(1)
Exemption

Thank you

Heidi Ward
Ministerial Liaison Officer

Office of the Deputy Premier
The Hon Susan Close MP

Minister for Climate, Environment and Water | Minister for Industry, Innovation and Science | Minister for Defence and Space Industries

Level 13, State Administration Centre, 200 Victoria Square, ADELAIDE SA 5000
GPO Box 11071, Adelaide SA 5001

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Wheeler, Josh (GISA)

From: Overton, Ian (GISA)
Sent: Wednesday, 8 February 2023 1:50 PM
To: Ryan, Tim (DIS); Agness, James (DTI)
Cc: Natt, Ashley (DIIS); Wheeler, Josh (GISA)
Subject: RE: Contacts

OFFICIAL: Sensitive//SA CABINET

Hi Tim,

Absolutely. Hi James, please send through the details and we will follow up.

Kind regards,
Ian

Professor Ian Overton (He/Him) | Chief Executive
Green Industries SA
P: +61 8204 1553 | **M:** [REDACTED]
E: ian.overton@sa.gov.au | **W:** greenindustries.sa.gov.au
Level 4/ 81-95 Waymouth St, Adelaide SA 5000

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Executive Officer: Bernadette Gersbach | **P:** +61 8204 1553 | **E:** bernadette.gersbach@sa.gov.au



Government of South Australia
Green Industries SA

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From: Ryan, Tim (DIS) <Tim.Ryan@sa.gov.au>
Sent: Wednesday, 8 February 2023 1:28 PM
To: Agness, James (DTI) <James.Agness@sa.gov.au>; Overton, Ian (GISA) <Ian.Overton@sa.gov.au>
Cc: Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Subject: Contacts

OFFICIAL: Sensitive//SA CABINET

Hi Ian,

James is Minister Champion's Chief of Staff, his office has had contact from some contractors interested in offering their services in the clean up effort.

If James provides details can you please have your team follow up accordingly?

Cheers
Tim

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Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Wednesday, 8 February 2023 5:58 PM
To: Vines, Josh (DIIS)
Cc: Natt, Ashley (DIIS); Lang, Justin (GISA); GISA:Ministerial Business
Subject: Asbestos in defence cell, Cobdogla
Attachments: Ministerial Briefing - Defence Cell.pdf

Importance: High

OFFICIAL: Sensitive

Hi Josh

Further to the briefing from January (attached), we are following up with Berri Barmera Council regarding the status and confirmation of removal of the defence cell barrier and disposal of the fill material.

Justin (copied into this email) will email you directly as soon as he gets a response from Council.

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA

P: +61 8204 2586 | **M:** [REDACTED]
E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au
Level 4/ 81-95 Waymouth St, Adelaide SA 5000

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Green Industries SA

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TO: MINISTER FOR CLIMATE, ENVIRONMENT AND WATER

FOR NOTING

RE: ASBESTOS CONTAMINATED MATERIAL IN FLOOD LEVEE BANK

Priority: Urgent. At request of your office.

Critical Date: NA

1. RECOMMENDATIONS

That you:

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3. Note that the fill material was sourced from a Berri Barmera Council owned borrow pit, where it is believed illegal dumping resulted in the presence of asbestos. Council had suggested partitioning material 10 metres either side of where the asbestos was found as potentially contaminated. Green Industries SA has advised Council that when it is appropriate to remove the levee, the contamination fill material should be removed for landfill disposal as a precaution.

NOTED

<p>Comments</p>	<p>-----</p> <p>HON DR SUSAN CLOSE MP</p> <p>Minister for Climate, Environment and Water</p> <p>/ / 2023</p>
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2. PRIORITY

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5. CONSULTATION

This Information was first raised via the intra-governmental Public Information Group. GISA consulted with the EPA and Berri Barmera Council in preparation of this briefing.

6. FINANCIAL IMPLICATIONS

Are there financial implications? No

ATTACHMENTS



Ian Overton
Chief Executive
Green Industries SA

Date: 17/01/23

Wheeler, Josh (GISA)

From: Scales, Matthew (GISA)
Sent: Monday, 13 February 2023 11:57 AM
To: Wheeler, Josh (GISA); Vines, Josh (DIIS)
Subject: Flood clean-up vouchers - media announcement

OFFICIAL: Sensitive

Hi Josh and Josh.

Josh V: Josh Wheeler just called me asking about the voucher program announcement. Patrick Cronin and Jessica Leo-Kelton are also aware of this opportunity, they are both on the SA Gov Communications 'Public Information Group' and this has been a topic at our last few meetings and I sent a summary of this through last week to Patrick, Jessica and Jason.

Happy to answer any questions you might have about how this works. I'm drafting a media release this afternoon tomorrow based on the details below.

The voucher system should be fully operational by Feb 22 but in theory can be announced earlier – we just don't want people arriving at these transfer stations before they increase staff numbers and start operating with increased hours. We would be keen to work around the timing of having the Premier or Deputy Premier announce this and as part of that make sure we do the required joint acknowledgement as part of the Disaster Recovery Funding Arrangements with the Feds.

This is the first major announcement on the recovery process for property owners to begin their own clean-up where safe to do so. We are also producing a range of factsheets on safe handling when it comes to debris where hazards like black mould and asbestos might be present. The SA Government is still in the planning and contracting stage, and until the waters have receded and the roads are safe for heavy vehicles major waste and debris cleaning can't commence. This is still several weeks away.

Vouchers for free flood affected material disposal now available (*they will be, not yet though)

- Property owners with flood affected material and debris will be provided with five free vouchers for drop-offs to transfer stations in the River Murray region.
- The vouchers can be picked up from the landfill sites with your client ID.
- *You do not need a voucher for your first visit, just your client ID.*
- Get your client ID by calling 1800 302 787
- You will then be issued with four physical vouchers that you need to present on each future visit to a transfer station.
- Ute and trailer sized drop offs with any building material, including wood, metal, masonry, carpet, e-waste and furniture will be accepted from residents starting their own clean-ups.
- No asbestos will be accepted. Where asbestos is present on your property, Green Industries SA's contractors will safely remove and dispose of asbestos for free.
- Small amounts of sandbags will be accepted (20 or less).
- For larger amounts of sandbags, GISA will organise to collect these from your property.

- To access asbestos assessment and free removal, please register your property 1800 302 787

Once you have a client ID, you can access any these 11 drop-off locations for free, and collect vouchers for disposal:

Blanchetown Transfer Station
3814 Murraylands Road, Blanchetown
SAT 2pm–5pm

Bowhill Transfer Station
7556 Hunter Road, Bowhill
SUN 2:30pm–5pm

Cadell Transfer Station
524 Mackintosh Road, Cadell
SUN 2pm–4:30pm

Mannum Transfer Station
96 Belvedere Road, Mannum
SAT 8am–12pm, SUN 8am–11:30am

Morgan Transfer Station
157 Murraylands Road, Morgan
SUN 10am–1:00pm

Swan Reach Transfer Station
2695 Hunter Road, Swan Reach
SAT 1:30pm–4:30pm

Walker Flat Transfer Station
4756 Angas Valley Road, Walker Flat
SAT 9:30am–1pm

Berri Barmera: Riverland Resource Recovery Facility
92 Hoskin Road, Berri
MON-FRI. 8am–4pm, SAT. 8am–12pm

Loxton Waste Transfer Station
360 Mackey Road, Loxton
SAT 9am–12pm, SUN 1pm–4pm

Murray Bridge / Brinkley
27 Brinkley Road, Brinkley
MON-FRI 8am–4pm SAT. 10am–3pm

Waikerie Waste Transfer Station
264 Maggea Road, Waikerie
SAT 1pm–4pm, SUN 1pm–4pm

Matt Scales | Associate Director, Engagement and Communications
Green Industries SA
P: +61 8204 2051 | **M:** [REDACTED]
E: matthew.scales@sa.gov.au | **W:** www.greenindustries.sa.gov.au
Level 4, 81-95 Waymouth St, Adelaide SA 5000

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Green Industries SA

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Wheeler, Josh (GISA)

From: GISA:Ministerial Business
Sent: Wednesday, 15 February 2023 1:12 PM
To: Ward, Heidi (DIS)
Subject: RE: ENV23/00094 - Murray River clean up
Attachments: Draft Response - [REDACTED] ENV23-00094.docx

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OFFICIAL: Sensitive

Hello Heidi,

Please find attached partial draft Ministerial Response for the above-mentioned Ministerial request.

As previously discussed, PIRSA and/or DEW may wish to provide some content re: Carp numbers in the River Murray.

GISA have included general information on the clean-up and some additional information around registering for assistance and volunteering.

Please don't hesitate to let me know if you need anything further.

Warmest Regards,

Sue Agars (she/her)

Board and Governance Officer

Green Industries SA

E: sue.agars2@sa.gov.au or GISA.BoardofGreenIndustriesSA@sa.gov.au

T: (08) 8204 9046 **M:** [REDACTED]

W: greenindustries.sa.gov.au

Level 4, 81-95 Waymouth St, Adelaide SA 5000

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Government of South Australia

Green Industries SA

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From: Ward, Heidi (DIS) <Heidi.Ward2@sa.gov.au>
Sent: Wednesday, 1 February 2023 12:10 PM
To: GISA:Ministerial Business <GISA.MinisterialBusiness@sa.gov.au>
Cc: Deputy Premier Ministerials <DeputyPremierMinisterials@sa.gov.au>
Subject: ENV23/00094 - Murray River clean up

OFFICIAL: Sensitive

Good afternoon,

Please see below for appropriate action.

**OFFICE OF THE DEPUTY PREMIER/MINISTER FOR CLIMATE, ENVIRONMENT AND WATER
 MINISTERIAL CORRESPONDENCE REQUEST**

	<input type="checkbox"/> GISA
Reference Number:	ENV23/00094
Author & Subject:	██████████ re: Murray River clean up
Action Required:	For draft response please.
Department Rep	
Notes:	
MLO	Heidi
Due Date - OCE:	
Due Date - Minister's Office:	15 Feb 2023

Clause 6(1)
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Thank you

Heidi Ward
Ministerial Liaison Officer

Office of the Deputy Premier
The Hon Susan Close MP

Minister for Climate, Environment and Water | Minister for Industry, Innovation and Science | Minister for Defence and Space Industries

Level 13, State Administration Centre, 200 Victoria Square, ADELAIDE SA 5000
GPO Box 11071, Adelaide SA 5001

T: 08 8429 4826 | E: heidi.ward2@sa.gov.au



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**Government
of South Australia**

Reference Number

The Hon Susan Close MP
 Deputy Premier
 Minister for Climate, Environment and Water
 Minister for Industry, Innovation and Science
 Minister for Defence and Space Industries
 Level 13, State Administration Centre
 200 Victoria Square, Adelaide SA 5000
 Tel (08) 8226 8520
 Email: OfficeoftheDeputyPremier@sa.gov.au

Mr [REDACTED]

Via email: [REDACTED]

Clause 6(1)
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Dear [REDACTED]

Thank you for your email dated 27 January 2023 regarding the River Murray Flood and disaster waste management.

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(insert PIRSA content re: Carp)

In the coming weeks the government will publish maps and timelines on this webpage (www.greenindustries.sa.gov.au/flood-disaster-waste-management) and on the www.sa.gov.au/topics/emergencies-and-safety/river-murray-flood website so you can see when and where clean-up activities are starting in your area. Safe road access may take time for some flood-impacted communities and for the government approved contractors.

If you require an assessment for structural or property damage, or assistance with clean-up, please call 1800 302 787 between 9:00 am and 5:00 pm, 7 days a week to register. Once registered, assessment for property impacted by the flood will start as soon as it's safe to do so. This will be after water levels recede in the next few weeks and access via roads is restored. You will receive a phone call from a contractor to organise a time to conduct the assessment.

Volunteering SA&NT is taking registrations from people interested in helping River Murray communities prepare for and recover from flooding. Please contact them directly via the website: www.volunteeringsa-nt.org.au Volunteer opportunities will depend on the type of help the community needs, and short-term volunteering may include tasks like sandbagging, cleaning up, transport or specialist administration tasks. Longer-term volunteering may include tasks like building and environment restoration and supporting community organisations.

For further information around the clean-up, please refer to the Green Industries SA website <https://www.greenindustries.sa.gov.au/flood-disaster-waste-management>

Yours sincerely

Hon Susan Close MP
 Deputy Premier
 Minister for Climate, Environment and Water

/ / 2023
Enc
CC Name, Organisation



Wheeler, Josh (GISA)

From: GISA:Ministerial Business
Sent: Thursday, 16 February 2023 8:59 AM
To: Ward, Heidi (DIS)
Cc: Deputy Premier Ministerials
Subject: ENV23/00181 - Sustainable Demolition - River Murray flood clean up
Attachments: Minister-Close-Premier-Minute-████████.docx; Draft response - Premier.docx

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Exemption

OFFICIAL

Good Morning Heidi,

Please see attached draft Minute to the Premier and draft response as approved by the Chief Executive, Green Industries SA, for consideration by the Deputy Premier.

Warmest Regards,

Sue Agars (she/her)

Board and Governance Officer

Green Industries SA

E: sue.agars2@sa.gov.au | GISA.BoardofGreenIndustriesSA@sa.gov.au

T: (08) 8204 9046 **M:** ██████████

W: greenindustries.sa.gov.au

Level 4, 81-95 Waymouth St, Adelaide SA 5000

Clause 6(1)
Exemption



Government of South Australia

Green Industries SA

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OFFICE OF THE DEPUTY PREMIER/MINISTER FOR CLIMATE, ENVIRONMENT AND WATER MINISTERIAL CORRESPONDENCE REQUEST	
	<input type="checkbox"/> GISA
Reference Number:	ENV23/00181
Author & Subject:	████████ re: Murray River flood clean up
Action Required:	For briefing to Premier and draft response from Premier to ██████████
Department Rep	Justin Lang
Notes:	Approved, Michaela Heinson
MLO	Heidi
Due Date - OCE:	
Due Date - Minister's Office:	15/2/23

Clause 6(1)
Exemption

MINUTE

Document Ref: fB331958

TO: PREMIER**RE: [REDACTED] ENQUIRY: RIVER MURRAY FLOOD CLEAN UP**Clause 6(1)
Exemption**PURPOSE***Draft letter in response to [REDACTED] enquiry with your office*Clause 6(1)
Exemption**DISCUSSION**

[REDACTED] contacted your office on 10 February 2023, regarding the contract to clean up following the River Murray flood.

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Exemption

On 21 November 2022, the River Murray flood was declared a major emergency for the state. In response to this major emergency, Green Industries SA (GISA) was activated on 15 December 2022 as the functional lead agency responsible for managing waste arising from this emergency event, in accordance with the Disaster Waste Management Capability Plan and the associated guidelines, under Part 4 of the State Emergency Management Plan (SEMP). GISA previously led the state's waste clean-up response following the 2019-20 bushfires that impacted the Adelaide Hills, Kangaroo Island, Yorke Peninsula and the South-East.

In preparation for the recovery effort from the River Murray flood, in December 2022, GISA advertised a broad Request for Quote (RFQ) for services to assist with a disaster waste management clean-up of this size on the Tenders SA website. 32 responses were received by the closing date of 2 January 2023, which included a submission from [REDACTED]

Clause 6(1)
Exemption

The scale and complexity of this disaster, and management of the resulting flood affected waste that will require recovery and recycling/disposal, meant it was unlikely a single state government agency had the capacity to coordinate the multiple individual contractors and services required to deliver clean-up recovery for the impacted communities, in the same manner as the 2019-20 bushfires recovery.

It was confirmed that GISA would adopt a procurement strategy of appointing a 'Tier 1' principal contractor to deliver operations. Tier 1 contractors have resources and capabilities to plan, coordinate and undertake large-scale operations.

The RFQ was subsequently terminated on 19 January 2023. All respondents were sent a letter to confirm this and to seek permission to forward their contact details to the Tier 1 principal contractor (once appointed) so they could be considered for any subcontracting opportunities. GISA received a positive response from [REDACTED] who has been in contact with GISA on a regular basis to remain informed of timeframes and the current process of engaging a lead disaster waste recovery company.

Clause 6(1)
Exemption

It is surprising that [REDACTED] is of the understanding that his company had already been appointed as a contractor to carry out the clean-up from the River Murray Floods.

Clause 6(1)
Exemption

██████████ most recently contacted GISA staff member Mr Justin Lang, Manager Disaster Waste on Friday 10 February 2023. At no point was ██████████ informed that he or ██████████ had been awarded a contract, or the details of the preferred supplier. ██████████ was simply informed that his details would be provided to the lead contractor, that works involving heavy equipment were expected to commence from April 2023, once initial assessments are completed and roads are trafficable (so he could continue to schedule other work), and that it was expected that work would be available across the asbestos removal and demolition sectors.

Clause 6(1)
Exemption

GISA is currently preparing for formal negotiations with a preferred Tier 1 supplier, however no contract has been signed and this is not public information. The preferred Tier 1 supplier is a publicly listed building and restorative services company headquartered in Victoria which has a Disaster Management component. The company is currently involved in this same flood event upstream of the River Murray in both New South Wales and Victoria.

A draft response letter is included for your consideration.

BUDGET

N/A

RECOMMENDATIONS

It is recommended that you:

- 1. Note this contents of this Minute.
 - 2. Approve and send the attached draft response to ██████████
- Noted**
Approved/Not Approved

Clause 6(1)
Exemption

Hon Dr Susan Close MP
Deputy Premier
Minister for Industry, Innovation and Science
Minister for Defence and Space Industries
Minister for Climate, Environment and Water

Hon Peter Malinauskas MP
PREMIER

/ /2023

/ /2023

[REDACTED]
[REDACTED]

Email: [REDACTED]

Dear [REDACTED]

Thank you for your enquiry of 10 February 2023 regarding the contract for disaster waste management following the River Murray floods.

I am advised that Sustainable Demolition SA Pty Ltd submitted a response to Green Industries SA (GISA) request for quote (RFQ), for services to assist with a disaster waste management clean-up. I would like to thank you for your interest and commitment to support the clean-up efforts in what is now recognised as the largest natural disaster to affect South Australia with over 3,000 properties inundated with flood water.

As you may be aware, GISA are the functional lead agency responsible for managing waste arising from the River Murray floods. GISA previously led the state's waste clean-up response following the 2019-20 bushfires that impacted the Adelaide Hills, Kangaroo Island, Yorke Peninsula and the South-East and I understand that you also played an important role in this clean-up.

The state government has determined that due the scale and complexity of the flood event, a specialist disaster recovery company was required to lead, co-ordinate and manage the recovery effort, and as a result, the RFQ process was terminated. I am able to confirm that no contractor has been appointed at this stage.

I understand you have responded to GISA's request to share your details with the preferred specialist disaster recovery company, and once they are appointed you may expect to be contacted in due course.

Should you have any further enquiries in relation to the nature of the clean-up program, I encourage you to contact Mr Justin Lang, Manager Disaster Waste on justin.lang@sa.gov.au or [REDACTED]

Thank you for contacting my office and I trust this information is of assistance.

Yours sincerely

Peter Malinauskas
PREMIER

/ /

Clause 6(1)
Exemption

Clause 6(1)
Exemption

Clause 6(1)
Exemption

Clause 6(1)
Exemption

Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Tuesday, 21 February 2023 1:27 PM
To: Natt, Ashley (DIIS)
Cc: Ward, Heidi (DIS); Deputy Premier Cabinet
Subject: Flood clean-up program PBN
Attachments: PBN - Clean-up program and progress.docx

Importance: High

OFFICIAL: Sensitive

Hi Ash

See attached new flood clean-up program progress PBN.

Kind regards

Josh Wheeler | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]
E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au
Level 4/ 81-95 Waymouth St, Adelaide SA 5000

**Clause 6(1)
Exemption**



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Green Industries SA

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Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Friday, 24 February 2023 5:38 PM
To: Natt, Ashley (DIIS)
Cc: Ward, Heidi (DIS)
Subject: RM flood clean-up - initial street waste removal

Importance: High

OFFICIAL

Hi Ash

As discussed, here is a summary of the initial clean-up activity that is occurring urgently due to public health issues associated with material starting to be accumulated at kerbside.

- Tomorrow (25/2) SOLO will undertake a Hard Waste collection. Items collected will be those that can be safely handled manually by two operators.
- They will complete a 12hour day and service as many properties for hard waste collection as practically possible at the following sites, working south from Blanchetown:
 - McPhee Avenue, Blanchetown
 - Page Drive, Blanchetown
 - Marks Landing, Swan Reach
- All hard waste will be disposed at the Cambrai Landfill.
- Starting Monday (27/2), Royal Park Salvage will mobilise (likely plant bobcat/excavator and tipper truck) to collect and transport mostly mud and sandbag waste that can't be handled by SOLO.
- Royal Park salvage have been engaged for up to 3 days work to collect material from the following sites, starting from Bow Hill
 - Providence Drive, Bowhill
 - Marks Landing, Swan Reach
 - McPhee Avenue, Blanchetown (post Solo)
 - Page Drive, Blanchetown (post Solo)
- Waste will be disposed at Brinkley and Cambrai landfills
- GISA has engaged SOLO and Royal Park Salvage to undertake this work under the broader clean-up program, in advance of the engagement of the principal contractor being finalised.

A copy of the email message that went out today to people that have registered for clean-up assistance is copied below for your info.

Let me know if you'd like to discuss or would like further info.

Cheers

Josh

[View this email in your browser](#)



RIVER MURRAY FLOOD PUBLIC HEALTH AND SAFETY

Public health and safety street waste clearances commencing

Dear XXXX,

From 25 February, urgent waste and debris street clearances are taking place from Blanchetown to Bow Hill, where road access for heavy vehicles permits.

This will not be the only clearance of waste and debris in these areas.

This is an urgent advance clean-up ahead of much larger recovery efforts that will commence in the next 2 to 3 weeks.

Also in the next 2 to 3 weeks:

- clean-up in other flood-affected areas will commence
- further details about the ongoing clean-up process will be announced.

No one will miss out on free access to kerbside hard waste and debris clean-up. Residents will have ongoing, free support for waste clean-up until all debris and flood-affected material across the River Murray region has been removed.

Large scale support is still being planned, and will make sure all flood-affected areas receive the services they need to assess the damage, make safe and remove waste and debris and begin the process of rebuilding and recovering.

Free disposal vouchers for flood-affected materials

Free disposal vouchers are now available for anyone impacted by flood water.

The vouchers can be used if you wish to dispose of materials before the free assessments and wider clean-up commence.

If you have more materials than 5 vouchers will cover, we will remove this for you once scheduled collections are in place. There is no limit to the amount of flood-affected materials that will be collected for free.

For further information, including updated hours and locations of transfer stations, how to access the vouchers, and what materials will be accepted, visit the [Green Industries SA website](#).

If you or someone you know is feeling overwhelmed and struggling to cope, [visit the SA Health website](#) for local services that can provide mental health and wellbeing support.

For further assistance, call 1800 302 787 (9 am to 5 pm, Monday to Friday).

Kind regards,
The team at Green Industries SA



Government of South Australia
Green Industries SA

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You are receiving this email because you registered your property for a free flood waste clean-up assessment.

Our mailing address is:
Green Industries SA
PO Box 1047
ADELAIDE, SA 5001
Australia

[Add us to your address book](#)

Want to change how you receive these emails?
You can [update your preferences](#) or [unsubscribe](#)

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business

Green Industries SA

P: +61 8204 2586 | **M:** [REDACTED]

E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au

Level 4/ 81-95 Waymouth St, Adelaide SA 5000

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Wheeler, Josh (GISA)

From: Goodall, Sarah (DIS)
Sent: Tuesday, 21 March 2023 4:13 PM
To: Wheeler, Josh (GISA)
Cc: Natt, Ashley (DIIS)
Subject: RE: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Hi Josh

Hope all is well.

I have a placeholder in for 28 March – can you please let me know if this will be going ahead?

Kind regards

Sarah

From: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Sent: Tuesday, 7 March 2023 12:38 PM
To: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>
Cc: Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Subject: RE: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Thanks Sarah. We're awaiting confirmation on the schedule of meetings. I'll get back to you ASAP.

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]

Clause 6(1)
Exemption

From: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>
Sent: Tuesday, 7 March 2023 9:55 AM
To: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>; Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Subject: RE: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Hi Josh

I can make work 28 March 2023 in Adelaide for the Deputy Premier to attend.

Can you please confirm and send through the details asap.

Kind regards

Sarah

From: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Sent: Tuesday, 7 March 2023 9:31 AM
To: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>; Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Subject: RE: Confirmed and proposed dates for community meetings for Riverland communities
Importance: High

OFFICIAL

Hi Sarah and Ash

We have been informed that the Milang community meeting planned to be held next Monday has been cancelled. It will be rescheduled but we don't have an indication on what date this will be.

Are there other dates and locations (tentative listing below) that suit the Deputy Premier?

Thank you

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]

Clause 6(1)
Exemption

From: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>
Sent: Monday, 6 March 2023 12:13 PM
To: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Subject: RE: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Thanks Josh

I've attached our FIS and if you can please advise of guest list and map by 9 March that would be much appreciated.

Kind regards

Sarah

From: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Sent: Monday, 6 March 2023 11:14 AM
To: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>
Subject: RE: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Hi Sarah

Thanks for confirming the Deputy Premier's attendance at the Milang community meeting next Monday. I'll obtain further details on the meeting ASAP and send them through.

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]

Clause 6(1)
Exemption

From: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>
Sent: Monday, 6 March 2023 11:02 AM
To: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Subject: FW: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Morning Josh

Confirming the Deputy Premier would like to attend the Milang Community Meeting – will this still be going ahead on the public holiday, Monday 13 March 2023 at 6:00pm?

Do you have any further information regarding the meeting?

Kind regards

Sarah

Sarah Goodall
A/Executive Officer to the Deputy Premier

Office of the Deputy Premier
The Hon Susan Close MP
Minister for Climate, Environment and Water
Minister for Industry, Innovation and Science
Minister for Defence and Space Industries

Level 13, State Administration Centre
200 Victoria Square
ADELAIDE SA 5000

M: [REDACTED]
e: sarah.goodall2@sa.gov.au



Government of
South Australia

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From: Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Sent: Monday, 6 March 2023 10:34 AM
To: Goodall, Sarah (DIS) <Sarah.Goodall2@sa.gov.au>
Subject: FW: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

Hi Sarah

The DP has expressed an interest to me via text in attending the Milang Community Meeting with GISA.

See below.

Can we please have this added to calendar with travel time etc?

From: Wheeler, Josh (GISA) <Josh.Wheeler@sa.gov.au>
Sent: Monday, 6 March 2023 10:01 AM
To: Natt, Ashley (DIIS) <Ashley.Natt2@sa.gov.au>
Subject: FW: Confirmed and proposed dates for community meetings for Riverland communities

OFFICIAL

FYI

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | M: [REDACTED]

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Exemption

Swan Reach – date confirmed	6/3	6-8pm
Mannum – date confirmed	9/3	2-4pm
Murray Bridge – date confirmed	9-3	6-8pm
Milang – date confirmed	13/3	6-8pm
<i>Meningie - TBC</i>	<i>14/3?</i>	<i>6-8pm</i>
<i>Mannum -TBC</i>	<i>16/3</i>	<i>6-8pm</i>
<i>Renmark - TBC</i>	<i>22/3</i>	<i>6-8pm</i>
<i>Loxton - TBC</i>	<i>23/3</i>	<i>6-8pm</i>
<i>Adelaide - TBC</i>	<i>28/3</i>	<i>6-8pm</i>

Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Monday, 6 March 2023 12:40 PM
To: Deputy Premier Cabinet; Natt, Ashley (DIIS)
Cc: Ward, Heidi (DIS); GISA:Ministerial Business
Subject: Updated PBN - Flood Clean-Up
Attachments: PBN - Clean-up program and progress_2023.03.06.docx

Importance: High

OFFICIAL: Sensitive

Hi Leah and Ash

Please find enclosed the updated PBN on the status of the River Murray flood clean-up program. Let me know if you require any further information or clarification on any of this content.

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business
Green Industries SA
P: +61 8204 2586 | **M:** [REDACTED]
E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au
Level 4/ 81-95 Waymouth St, Adelaide SA 5000

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Wheeler, Josh (GISA)

From: GISA:Ministerial Business
Sent: Wednesday, 22 March 2023 12:03 PM
To: Deputy Premier Ministerials
Cc: Natt, Ashley (DIIS); Wheeler, Josh (GISA)
Subject: Urgent: Deputy Premier Briefing - River Murray Flood Principal Contractor
Attachments: Att 3 - Minister to GISA CE Instrument of Authorisation RM Flood 2023.docx; Deputy Premier Briefing - RM Flood Principal Contractor.pdf; Att 1a - Head Agreement.pdf; Att 1b - Terms of Engagement.pdf; Att 1c - Initial Works Order.pdf; Att 2 - Minister to GISA CE Instrument of Authorisation HA Powers RM Flood 2023.docx

OFFICIAL: Sensitive

Good Morning,

Please find attached urgent Briefing and associated attachments, as approved by the Chief Executive, Green Industries SA, for consideration by the Deputy Premier.

I understand that Josh Wheeler, Associate Director Governance and Business (GISA), has had previous communication with Ashley Natt, and also providing copy for his reference.

Warmest Regards,

Sue Agars (she/her)

Board and Governance Officer

Green Industries SA

E: sue.agars2@sa.gov.au or GISA.BoardofGreenIndustriesSA@sa.gov.au

T: (08) 8204 9046 **M:** [REDACTED]

W: greenindustries.sa.gov.au

Level 4, 81-95 Waymouth St, Adelaide SA 5000

**Clause 6(1)
Exemption**



Government of South Australia
Green Industries SA

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TO: MINISTER FOR CLIMATE, ENVIRONMENT AND WATER

FOR APPROVAL

RE: RIVER MURRAY FLOOD DISASTER WASTE - ENGAGEMENT OF LEAD CONTRACTOR AND ASSOCIATED FINANCIAL AUTHORISATIONS

Priority: Urgent

Critical Date: N/A

1. RECOMMENDATIONS

That you:

1. Note the procurement and negotiation process undertaken to engage a Lead (Tier 1) Contractor for delivery of the River Murray Flood Disaster Waste program.

NOTED

2. Approve the attached contractual documents (**attachment 1 – multiple documents**) to be executed by the Contractor Johns Lyng Disaster Management (Australia) Pty Ltd and yourself (Principal).

APPROVED / NOT APPROVED

3. Note that subject to your approval of the contractual documents, these will be immediately actioned for signing by Johns Lyng Disaster Management (Australia) Pty Ltd and returned to you for execution through signing and affixing the Common Seal of the Minister for Climate, Environment and Water.

NOTED

4. Approve and endorse the attached Instrument of Authorisation (**attachment 2**) to delegate to the Chief Executive Green Industries SA the powers of the Principal under the contractual documents, to enable decisions on issuing and managing works on the program to be made expediently by Green Industries SA commensurate with the agency's role as functional lead for disaster waste management under the State Emergency Management Plan.

APPROVED / NOT APPROVED

5. Agree to nominate the Associate Director Economic Growth and Sustainability Green Industries SA, for the time being Michaela Heinson, as the Principal's Contract Manager for the purposes of the River Murray Flood Disaster Waste program and the contractual documents.

APPROVED / NOT APPROVED

6. Approve and endorse the attached Instrument of Authorisation for Payment and Disbursement to the Chief Executive, Green Industries SA, pursuant to Treasurer's Instruction 8 – Financial Authorisations (**attachment 3**) for the purpose of making payments for the River Murray Flood Disaster Waste program.

APPROVED / NOT APPROVED

7. Note that subject to your approval of the Instrument of Authorisation for making payments under the program, sub-delegation of financial authorisations will be provided to specific staff in Green Industries SA for the River Murray Flood Disaster Waste program.

NOTED

8. Note that Green Industries SA will provide you with regular updates on the progress of River Murray Flood Disaster Waste program.

NOTED

Comments	<p>-----</p> <p>HON DR SUSAN CLOSE MP</p> <p>Minister for Climate, Environment and Water</p> <p>/ / 2023</p>
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2. PRIORITY

Urgent.

3. BACKGROUND

As you are aware, on 21 November 2022, the River Murray flooding was declared a major emergency under the *Emergency Management Act 2004*. In response to this, on 15 December 2022, Green Industries SA (GISA) was activated as the functional lead agency responsible for managing waste arising from this emergency in accordance with the Disaster Waste Management Capability Plan and the associated guidelines, under Part 4 of the State Emergency Management Plan (SEMP).

On 3 January 2023, joint funding of \$60 million from the Australian and South Australian governments was announced for the waste clean-up of flood affected properties. This is the largest funding package for disaster waste in the history of South Australia.

The amount (\$60 million) for the clean-up program was based on information from GISA informed by an independent estimation from a waste contractor based on the predicted number of impacted properties and their locations and projected flow rates.

In December 2022 GISA advertised an open Request for Quote (RFQ) on the Tenders SA website to engage a panel of suppliers to assist with the management and disposal of flood-affected waste and debris. 32 responses were received by the closing date of 2 January 2023.

The scale and complexity of this disaster, and management of the resulting flood affected waste that will require recovery and recycling/disposal, requires significant resources to coordinate the multiple contractors and services to deliver clean-up recovery for the impacted communities. The resources required exceed the capacity of GISA and it was determined that the clean-up program for the River Murray flooding event could not be undertaken in the same manner as the 2019-20 bushfires recovery (i.e. GISA engaging all sub-contractors involved with the government clean-up program), and that a lead contractor (also known as 'head' or 'tier 1' contractor) would be engaged.

GISA terminated the original RFQ process on 18 January 2023 and notified all respondents to the RFQ accordingly. GISA commenced a procurement strategy of appointing a lead contractor that would have the experience, resources and capabilities to plan, coordinate and undertake the large-scale multifaceted clean-up program.

4. DISCUSSION

Procurement of Lead Contractor

GISA first became aware of Johns Lyng Disaster Management (Australia) Pty Ltd, subsidiary of Johns Lyng Group Ltd (JLG), due to its involvement in this same flood event upstream of the River Murray in both New South Wales (NSW) and Victoria. JLG has supported the NSW Government flood recovery across 65 local government areas (LGAs), which includes over 5,000 property assessments and safety inspections, building 4 temporary accommodation villages housing over 200 displaced residents, conducting over 200 habitable repairs, and managing the safe demolition of over 100 buildings. JLG has also supported the Victorian Government supporting the Victorian flood recovery across 63 LGAs, which includes over 2,000 property assessments and safety inspections, building 2 temporary accommodation villages of over 450 beds, and conducting a comprehensive debris removal and waste management program.

JLG responded to the initial RFQ issued by GISA in December 2022 for flood clean-up works, indicating that it could undertake all of the clean-up activities outlined in the specification. As detailed above, this RFQ process ceased in January 2023 due to the scale of the flooding event and the nature of the clean-up program required.

During February 2023, GISA undertook a second RFQ process directly with JLG, which included a supplier briefing and issuing a revised specification.

To support the lead contractor procurement process, GISA sought the assistance of Emergency Recovery Victoria (ERV), a Government of Victoria agency that has considerable experience in disaster waste management utilising the services of a lead contractor. ERV has engaged JLG in the capacity of 'lead contractor' to provide flood related waste management services in its jurisdiction. The assistance provided by ERV to GISA included access to personnel, including secondment within GISA for one week, along with provision of non-commercially sensitive contractual information and documents which were subsequently provided to the Crown Solicitor's Office (CSO) to assist in developing legally appropriate documentation to support GISA to engage the services of JLG.

GISA has also received advice from staff within the Accreditation, Prequalification, Audit, Professional, Technical, Asbestos & Advisory Services – Across Government Services group of the Department for Infrastructure and Transport (DIT) and engaged Rider Levett Bucknell (RLB) to provide independent contract and cost management advice and assurance aspects for the project.

JLG provided a response to the RFQ in late February 2023. Following consideration of JLG's response, GISA advised JLG on 28 February 2023 of the intention to enter into negotiations to engage JLG as lead contractor for the River Murray Flood Disaster Waste program and a negotiation process commenced immediately after.

Negotiation

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Clause 16(2)
Exemption

Clause 16(2)
Exemption

Clause 6(1)
Exemption

[Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

█ [Redacted]

• [Redacted]

█ [Redacted]

Clause 16(2)
Exemption

Contract particulars

The following summarises (other, in addition to the above) key conditions and governance requirements included in the contract documents. Further information can be provided on these and the contract more broadly if required.

- Industry Participation Plan and Local Works, Plant and Equipment: the standard state government industry participation clauses are included in the Head Agreement. JLG are required to submit a plan to GISA within 7 days of contract

Clause 6(1)
Exemption

execution and have a target of 80% for both the number of On-Site Hours performed by Local Workers (engaged by either the Contractor or its subcontractors) and On-Site Hours performed by Local Plant and Equipment (engaged by either the Contractor or its subcontractors) required to execute the work under the Engagement.

- Performance Management Framework (PMF) and (KPIs): the contract includes provisions for a PMF and clear KPI's. If the contractor does not perform satisfactorily against the PMF including the key KPIs or performance targets, then the contractor will be considered to have breached the contract.
- Project Control Group (PCG): PCG will be established that will meet weekly and include members from GISA, JLG, RLB, DIT, Environment Protection Authority, SafeWork SA and the Department of the Premier and Cabinet.
- No guarantee of work: the Principal does not guarantee any volume of work to the Contractor under the Head Agreement.
- Unsatisfactory performance: clauses related to the Principal's ability to manage unsatisfactory performance by the Contractor.
- Indemnity and Insurance: provisions commensurate with the nature and scale of the program, informed by CSO, DIT and RLB.
- Pricing and rates: set through the contract documents to ensure consistency for subcontractors and the prevention of profiteering by the Contractor.
- Compliance with government policy and other requirements: provisions commensurate with the nature and scale of the program including finance and audit, workplace relations, work health and safety, industry participation, licensing, environmental and Aboriginal heritage.
- Confidentiality and publicity: clauses related to management of information, records management, the making of public statements and protection of personal information and data security.
- Termination: clauses for insolvency, breach, unsatisfactory performance and convenience.
- Parent company support: JLG has provided GISA with a letter confirming that it fully supports its subsidiaries, and stating that it guarantees and indemnifies any obligations and liabilities of Johns Lyng Disaster Management (Australia) Pty Ltd.

Contract Execution

Treasurers Instruction 8 - Financial Authorisations (TI8) sections 6.1 and 6.2 gives you authority to execute a contract over \$15 million if you have taken into account advice from the Department of Treasury and Finance (DTF) on the budget impact, and other relevant budgetary aspects, associated with the contract.

[REDACTED]

Clause 1(1)
Exemption

The final contractual documents developed by CSO with advice from GISA can be found in **attachment 1**. They comprise a Head Agreement, Terms of Engagement and initial Works Order, plus attachments related to the clean-up program under seven phases that can be undertaken concurrently.

Subject to your approval of the contractual documents, GISA will facilitate signing by JLG

and return them to you for execution by applying your signature and affixing the Common Seal of the Minister for Climate, Environment and Water.

As signatory to the contractual documents, you are considered the Principal. To enable decisions on issuing and managing works on the program to be made expediently by GISA commensurate with the agency's role as functional lead for disaster waste management under the State Emergency Management Plan, it is recommended that you delegate to the Chief Executive Green Industries SA powers of the Principal under the contractual documents. An instrument of delegation to implement this is provided at **attachment 2**.

In the contract documents, the Principal's Contract Manager has certain duties in respect of managing the clean-up program. These are different to the Principal's powers referred to above and are more managerial in ensuring the program is being completed as intended and in accordance with the Principal's expectations. It is recommended that you agree to nominate Associate Director Economic Growth and Sustainability at GISA, for the time being and expected for the duration of the program, Michaela Heinson, as the Principal's Contract Manager for the purposes of the River Murray Flood Disaster Waste program. This nomination is enacted through the contract documents.

Financial Authorisations and Contract Execution

The GISA Act vests statutory powers to the Board of Green Industries SA as the governing body of GISA. The Board executes Instruments of Delegation to vest powers in the Chief Executive to enter into contracts and apply money from the Green Industry Fund, which may be further delegated to GISA staff.

Delegations under the GISA Act do not require your approval, however, consistent with the requirements for all South Australian Public Sector agencies, GISA is also required to have financial authorisations in place under various Treasurer's Instructions.

The Payment Authorisation for the Chief Executive of GISA under TI 8 is recommended to increase for the purposes of the flood waste management only to \$11 million (GST inclusive). This threshold exceeds the CE's current \$5.5 million delegation (for climate change initiatives) as it is needed to approve large invoices for the Contractor.

An Instrument of Authorisation for Payment Authorisation to the CE GISA for the flood waste management program, pursuant to TI8, is provided for your approval at **attachment 3**. The CE will sub-delegate special payment authorisations to selected GISA positions for the purposes of the flood waste management only.

5. CONSULTATION

As discussed throughout this briefing.

6. FINANCIAL IMPLICATIONS

Are there financial implications? Yes

Funding source

GISA understands that the Treasurer has determined that the source of the \$60 million for the clean-up program is the Green Industry Fund under s17(5)(b)(ii) of the GISA Act.

The balance of the fund is currently estimated to be \$73 million at 30 June 2023. There are sufficient funds to support the clean-up program.

GISA will seek reimbursement of 50% of funds expended under the Commonwealth-State Disaster Recovery Funding Arrangements for return to the Green Industry Fund.

Should the works being undertaken indicate that additional funding to the initial estimate of \$60 million is required, GISA will bring this to your and DTF's attention.

Payments to contractor and subcontractors

Once engaged, JLG will submit fortnightly payment claims to GISA based on the project-related costs incurred within that payment period, including invoices issued to the JLG by subcontractors. Payment claims will be evidenced by invoices and details as to how costs were incurred.

Each payment claim will be assessed for accuracy and compliance with contract terms by RLB (quantity surveyor) within 10 days. Following its assessment of claims, RLB will issue a payment certificate which will confirm the amount that is eligible to be paid by GISA to JLG. JLG can then raise an invoice to GISA for this certified amount and make any outstanding payments on invoices from subcontractors.

While JLG will be required to monitor and report to GISA on its subcontractor invoice processing times, the necessary validation steps across the payment claim process will mean that many subcontractor invoices are unlikely be paid by JLG within a 15-day period. GISA will endeavour to process payment claims and invoices as soon as possible to assist JLG to meet 15-day payment terms for subcontractors.

ATTACHMENTS

Attachment 1 – Contract documents:

- Head Agreement
- Terms of Engagement
- Initial Works Order

Attachment 2 – Instrument of Authorisation – Powers of the Principal

Attachment 3 – Instrument of Authorisation under T18 – Payment and Disbursement



Ian Overton
Chief Executive
Green Industries SA

Date: 22/03/2023

Wheeler, Josh (GISA)

From: Wheeler, Josh (GISA)
Sent: Monday, 27 March 2023 6:09 PM
To: Ward, Heidi (DIS)
Cc: Heinson, Michaela (GISA)
Subject: Flood contractor documents for execution Tuesday
Attachments: Att 1 - Signed by JLG.pdf; Att 2 - Minister to GISA CE Instrument of Authorisation HA Powers RM Flood 2023.docx; Att 3 - Minister to GISA CE Instrument of Authorisation RM Flood 2023.docx; Works Order #1_March 2023_with Schedules_FINAL.pdf

Importance: High

OFFICIAL: Sensitive

Hi Heidi

As discussed, the head contractor has signed the Head Agreement and it is now ready for execution by the Deputy Premier through application of her signature and the common seal. Please find enclosed the following for signing/execution:

1. Head Agreement (Att 1) – signed by JLG. An unsigned version was delivered earlier this afternoon. We are seeking the Deputy Premier’s execution through signing and affixing the seal to page 8 on two copies. This can be done by printing pages 7-8 only and replacing these in the version delivered earlier this afternoon, or by printing two complete versions of the Head Agreement and replacing this part of the package
2. Instrument of Delegation (Att 2) – execution date updated to 28th March. This replaces the version delivered earlier today. Only one copy of this document is required
3. Instrument of Authorisation (Att 3) – no change. You can use the version delivered this afternoon. Only one copy of this document is required
4. Works Order (new att) – Seeking the Deputy Premier’s execution of the first Works Order under the Head Agreement and Terms of Engagement. Ian is still unwell and will not be at work tomorrow. We do not consider it appropriate that the principal’s powers be delegated further within GISA at this point in time and therefore, we are seeking the Deputy Premier’s approval by signing page 5. It is then provided to the contractor for them to accept the Works Order. Only one copy of this document is required.

I would be happy to discuss with you and Delia, and deliver hardcopies of these documents tomorrow if preferred.

Kind regards

Josh Wheeler (He/Him) | Associate Director Governance and Business

Green Industries SA

P: +61 8204 2586 | **M:** [REDACTED]

E: josh.wheeler@sa.gov.au | **W:** greenindustries.sa.gov.au

Level 4/ 81-95 Waymouth St, Adelaide SA 5000

**Clause 6(1)
Exemption**



Government of South Australia
 Green Industries SA

Green Industries SA acknowledges the traditional owners of the land, offering our respect to their elders past, present and emerging.

OFFICIAL

**HEAD AGREEMENT
FOR
RIVER MURRAY FLOOD WASTE CLEAN-UP PROGRAM
2023**

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SECTION 1 INTRODUCTION

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INTRODUCTION

1. The Minister for Climate, Environment and Water for and on behalf of the State of South Australia acting through Green Industries SA (**Principal**) has established the River Murray Flood Waste Clean-Up Program (**Program**).
2. The purpose of the Program is to provide emergency clean-up-related activities set out in Section 5 to the Principal.
3. This document sets out the basis of the relationship between the Principal and the Contractor. The document is divided into the following sections:
 - (a) Section 1 - this introduction;
 - (b) Section 2 - the Conditions;
 - (c) Section 3 - the Description of the Indicative Engagement Process;
 - (d) Section 4 - the Terms of Engagement; and
 - (e) Section 5 - the indicative Scope of Works.
4. The Principal may engage the Contractor to carry out any of the following phases (but is not obliged to do so):
 - (a) plan, scope and commence the Works (Scoping, Establishment and Site Assessment Phase);
 - (b) undertake the Works required to coordinate and manage any immediate risks to people and property (Hazard Reduction Phase);
 - (c) deliver and complete the Works required to clear the Site of eligible flood material (Removal and Disposal Phase);
 - (d) undertake demolition of eligible buildings (Demolition Phase);
 - (e) deliver and complete the Works required to clear the Site of any other waste relocated by the flood (Other Waste Removal Phase);
 - (f) removal and processing of sandbags (Sandbag Removal Phase). and
 - (g) sign-off and commence Defects Liability Period (Sign-Off Phase).
5. In consideration of the Contractor undertaking the Contractor's Activities under a Contract arising from any Engagement, the Principal will pay the Contractor the Contract Price, as determined in accordance with the terms of the Contractor for the relevant Engagement.

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**SECTION 2
CONDITIONS**

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FORMAL AGREEMENT

This Head Agreement is made on 28th day of March 2023

Parties Minister for Climate, Environment and Water for and on behalf of the State of South Australia acting through Green Industries SA of Level 4, 81-95 Waymouth Street SA 5000 (Principal)

And

Johns Lyng Disaster Management (Australia) Pty Ltd (A.C.N 651 213 348) of 1 Williamsons Road, Doncaster, VIC 3108 (Contractor)

1. The Principal and the Contractor acknowledge and agree that they must perform the obligations imposed on them by the Head Agreement.
2. This Head Agreement may be executed in any number of counterparts and all such counterparts taken together will be deemed to constitute one and the same instrument.

SIGNED as an Agreement

THE COMMON SEAL of the MINISTER FOR CLIMATE, ENVIRONMENT AND WATER was hereunto affixed in the presence of:



[Handwritten signature]

SARAH GOODALL

Name of Witness in full

EXECUTED by JOHNS LYNG DISASTER MANAGEMENT (AUSTRALIA) PTY LTD (ACN 651 213 348) in accordance with section 127 of the Corporations Act 2001 (Cth):

[Handwritten signature]

Signature of director

LINDA BARBER

Full name of director

[Handwritten signature]

Signature of company secretary/director

JOHN M YONG

Full name of company secretary/director

HEAD AGREEMENT CONDITIONS

1. GLOSSARY OF TERMS

Unless the context otherwise indicates, wherever used in this document, each word or phrase in the headings in this clause 1 has the meaning given to it under the relevant heading. Terms used in the Head Agreement that are defined in the Terms of Engagement have the meaning given to them in the Terms of Engagement.

Award Date

The date on which the Contract for any Engagement is formed, as stated in the relevant Works Order or the relevant Contract Particulars attached to the relevant Works Order.

Base Date

The date upon which the Term commences as set out in the Particulars.

Change of Control

In relation to the Contractor, where a person who did not (directly or indirectly) effectively Control the Contractor at the Award Date, either alone or together with others, acquires Control of the Contractor.

Confidential Information

Information disclosed by or on behalf of a party that:

- (a) is by its nature confidential or by the circumstances in which it is disclosed is confidential; or
- (b) is designated by the disclosing party as confidential or identified in terms connoting its confidentiality;

but does not include information which:

- (c) is included within the Project Documents;
- (d) is or becomes public knowledge other than by a breach of the Head Agreement; or

which was known to the Contractor prior to the commencement of this Head Agreement;

Contract

A contract for each Engagement arising from the operation of clause 2.2.

Contract Particulars

The contract particulars attached to the relevant Works Order for each Engagement based on the indicative contract particulars annexed to Section 4 (Terms of Engagement) and entitled "Contract Particulars".

Contractor

The Contractor who is the party to this Head Agreement.

Contractor's Activities

All things or tasks which the Contractor may be engaged to undertake for any Engagement, which will be generally of the same or similar type to those set out in Section 5 of this Head Agreement, refined to address the nature of the Emergency.

Contractor's Contract Manager

The person nominated by the Contractor to act as its representative for this Contract set out in the Particulars, as replaced by written notice from the Contractor to the Principal and with the prior written approval of the Principal.

Control

Includes:

- (a) the ability to exercise or control the exercise of the right to vote in respect of more than 50% of the voting shares or other form of voting equity in a corporation;
- (b) the ability to dispose or exercise control over the disposal of more than 50% of the shares or other form of equity in a corporation;
- (c) the ability to appoint or remove all or a majority of the directors of a corporation;
- (d) the ability to exercise or control the exercise of the casting of a majority of the votes cast at the meetings of the board of directors of a corporation; and
- (e) any other means, direct or indirect, of dominating the decision making and financial and operating policies of a corporation.

day

For the purposes of:

- (a) the Head Agreement, means calendar day; and
- (b) the Terms of Engagement and any Engagement, has the meaning set out in clause 1.1 of the Terms of Engagement.

Emergency

The River Murray flood event in South Australia which has given rise to the need for an Engagement.

Engagement

An engagement to perform the Contractor's Activities for the Principal under the Head Agreement on the terms set out in the Works Order.

Head Agreement

This Head Agreement for the River Murray Flood Waste Clean-Up Program between the Principal and the Contractor.

Insolvency Event

Any one of the following:

- (a) notice is given of a meeting of creditors with a view to the corporation entering into a deed of company arrangement;
- (b) a liquidator or provisional liquidator is appointed in respect of a corporation;
- (c) the corporation entering a deed of company arrangement with creditors;
- (d) a controller (as defined in section 9 of the *Corporations Act 2001 (Cth)*), administrator, receiver, receiver and manager, provisional liquidator or liquidator is appointed to the corporation;
- (e) an application is made to a court for the winding up of the corporation and not stayed within 14 days;
- (f) any application (not withdrawn or dismissed within 7 days) is made to a court for an order, an order is made, a meeting is convened or a resolution is passed, for the purpose of proposing or implementing a scheme of arrangement other than with the prior approval of the Principal under a solvent scheme of arrangement pursuant to Part 5.1 of the *Corporations Act 2001 (Cth)*;

- (g) a winding up order or deregistration order is made in respect of the corporation;
- (h) the corporation resolves by special resolution that it be wound up voluntarily (other than for a members' voluntary winding-up);
- (i) as a result of the operation of section 459F(1) of the *Corporations Act 2001* (Cth), the corporation is taken to have failed to comply with a statutory demand (as defined in the *Corporations Act 2001* (Cth)); or
- (j) a mortgagee of any property of the corporation takes possession of that property;
- (k) the Commissioner of Taxation issues a notice to any creditor of a person under the *Taxation Administration Act 1953* (Cth) requiring that creditor to pay any money owing to that person to the Commissioner in respect of any tax or other amount required to be paid by that person to the Commissioner (whether or not due and payable) or the Commissioner advises that creditor that it intends to issue such a notice; or
- (l) anything analogous to anything referred to in paragraphs (a) to (k) inclusive) of this definition, or which has a substantially similar effect, occurs with respect to a person or corporation under any law of any jurisdiction.

Key Performance Indicator (or KPI)

A key performance indicator specified in clause 2 of the Performance Management Framework.

Machinery of Government Change

A change to the structure, function or operations of the South Australian Government or the Principal as a result of any government reorganisation, restructuring or other organisational or functional change.

Margin

The component of;

- (a) the Contract Price;

which reflects the Contractor's:

- (b) non-reimbursable costs;
- (c) corporate overheads; and
- (d) profit.

Margin %

The maximum percentage to be applied to Reimbursable Costs forming the Fee payable to the Contractor under any Contract arising from any Engagement.

Material Change

Means any actual, potential or perceived material change:

- (a) to the circumstances of the Contractor, including any change:
 - (i) arising out of or in connection with:
 - A. a Change of Control;
 - B. an Insolvency Event; or

- C. the Contractor's financial viability or capacity to perform the Contractor's Activities and otherwise meet its obligations under the Head Agreement; or
- (ii) which affects the truth, completeness or accuracy of:
 - A. any other information, documents, evidence or clarifications provided by the Contractor to the Principal arising out of or in any way in connection with the Head Agreement or the Contractor's Activities.
- (b) which could adversely affect:
 - (i) the Contractor's Activities the subject of any Contract arising from any Engagement;
 - (ii) a Site the subject of any Contract arising from any Engagement;
 - (iii) the Principal;
 - (iv) the furthering of the achievement of the objectives of the Head Agreement or the Performance Targets under any Contract arising from any Engagement;
 - (v) compliance with the Head Agreement or any Contract arising from any Engagement,
- (c) including any matter which could change or which has changed:
 - (i) the nature, scope or timing of the Contractor's Activities;
 - (ii) the level of expenditure by the Principal under any Contract arising from any Engagement;
or
 - (iii) the Contractor's ability to achieve the Performance Targets under any Contract arising from any Engagement.

Measurement Period

The period during which the performance of a Key Performance Indicator is measured as identified in Section 6.

Particulars

The Particulars set out in Appendix 1 - to these Conditions. Performance Management Framework (or PMF)

The Performance Management Framework at Section 6 of the Terms of Engagement as amended as necessary for each Engagement, based on the indicative Performance Management Framework in Section 6 as amended as necessary for each Engagement.

Performance Target

Minimum level of performance against a KPI to be achieved by the Contractor specified in the Performance Management Framework.

Personal Information

Information or an opinion, whether true or not, relating to a natural person or the affairs of a natural person whose identity is apparent, or can reasonable be ascertained, from the information or opinion.

Phase

A phase specified in this contract, which may include one or more of the phases described in clause 2 of Section 3 (Description of Indicative Engagement Process).

Principal

Minister for Climate, Environment and Water for and on behalf of the State of South Australia.

Principal's Contract Manager

The person nominated by the Principal to act as the Contract Manager under this Head Agreement, who for the time being is the person specified in the Particulars.

Principal's Requirements

Policies, guidelines, instructions of the Principal and other South Australian Government requirements.

Recipient

Any person provided with Confidential Information (or any part of it) (whether in a tangible or an intangible form), including potential or actual subcontractors, suppliers and material suppliers.

Schedule of Rates

The schedule of rates referred to in clause 5 and set out in Appendix 2.

Scope of Works

The scope of works described in Section 5 of this Head Agreement and the Works Order.

Subcontractor

The Subcontractors who are engaged by the Contractor.

Target Date

The target date for the Completion (as defined in Section 4 (Terms of Engagement) of a Phase.

Term

The period of time during which the Contractor may be engaged to perform the Contractor's Activities, which commences on the Base Date and ends on the first anniversary of the Base Date subject to the Principal's right to extend the Term for any period up to a maximum of: one year (**Option**) by written notice to the Contractor 14 days before the expiry of the current Term.

Terms of Engagement

The terms of engagement set out in Section 4 of this Head Agreement.

Works Order

The Works Order issued under clause 7(a) of Section 3 (Description of Indicative Engagement Process) based on the indicative Works Order in Schedule 2 of the Terms of Engagement.

2. NATURE OF HEAD AGREEMENT

2.1 Engagement Process

- (a) If at any time during the Term the Principal requires the performance of the Contractor's Activities, it may engage the Contractor through the indicative process in Section 3 of this Head Agreement or other process as determined by the Principal, as necessary to ensure it can efficiently and proactively respond to the Emergency.

2.2 Formation of Contract for Performance of the Contractor's Activities

- (a) If the Principal elects to engage the Contractor for the performance of the Contractor's Activities and issues a Works Order to the Contractor:

- (i) in respect of proposal accepted by the Principal under the Engagement Process described in Section 3, or;
- (ii) in accordance with clause 8 of Section 3 and the Contractor accepts (under clause 7(b)(i) of Section 3), or is deemed to have accepted (under clause 7(c) of Section 3), the Works Order,

then the Contractor and the Principal will be deemed to have entered into a Contract for the performance of the relevant Contractor's Activities on the Award Date stated in the Contract Particulars. The terms and conditions for each Phase of any Engagement will comprise:

- (iii) the Works Order;
- (iv) the Contract Particulars (as finalised for the purposes of Schedule 2 to the Terms of Engagement);
- (v) the Contract Price (as finalised for the purposes of Schedule 1 to the Terms of Engagement)
- (vi) the Terms of Engagement in Section 4 of this Head Agreement;
- (vii) the Performance Management Framework (as finalised for the purposes of Schedule 6 to the Terms of Engagement);
- (viii) this Head Agreement;
- (ix) any other documents listed in the Contract Particulars; and
- (x) any approval of the Principal for the Contractor to proceed with commencement of a Phase.

2.3 No Guarantee of Work

- (a) The Principal does not guarantee any volume of work to the Contractor under this Head Agreement. The level and volume of any work awarded to the Contractor will depend substantially upon (among other matters):
 - (i) the demand for the Contractor's Activities;
 - (ii) its general performance at a Head Agreement level and Engagement level as assessed by the Principal; and
 - (iii) how pro-active it is in building relationships and displaying an understanding of the Principal's support and service needs.
- (b) Where under this Head Agreement the Principal (or the Principal's Contract Manager) has a right, power, discretion or other function (including to accept, agree, approve, comment to or reject any matter), the Principal (or other person on its behalf) will be entitled to exercise that right, power, discretion or other function in its absolute discretion, unless the content otherwise expressly provides.

2.4 Unsatisfactory Performance

- (a) The Contractor acknowledges that, if its performance under the Head Agreement or any Engagement is assessed as unsatisfactory in any respect, including with respect to any failure to meet the Performance Targets, the Principal may elect to (in its absolute discretion):
 - (i) require the Contractor's Contract Manager to meet with the Principal's Contract Manager at a time and location notified by the Principal's Contract Manager in writing to discuss the Contractor's unsatisfactory performance (and any steps that the Contractor is taking or proposes to take to address its unsatisfactory performance);
 - (ii) omit any part of the Works or a Phase from a Contract, and the Principal may thereafter carry out this omitted work either itself or by engaging Other Contractors; or

- (iii) suspend or discontinue to seek proposals from the Contractor for any future work under the Head Agreement.
- (b) If the Principal elects, under paragraph (a), to omit Works or suspend or discontinue to seek proposals from the Contractor:
 - (i) the Principal will give the Contractor written notice of this decision; and
 - (ii) the Principal may, in the notice under subparagraph (i), state the matters which the Contractor must address (to the satisfaction of the Principal) before the Principal may reconsider its decision.

2.5 Matters Affecting the Contractor

- (a) Without limiting clauses 3.3 and 3.4 and 12, the Contractor must immediately, at any time during the Term, notify the Principal of:
 - (i) any material changes to its legal name, size, structure, financial viability, financial standing or of any other fact, matter or thing which could:
 - A. adversely affect its ability to perform its obligations under this Head Agreement;
 - B. give rise to any actual or perceived conflict of interest under clause 6 (whether under the Head Agreement or in respect of a specific Engagement); or
 - C. require any changes to or otherwise affect the arrangements under this Head Agreement; and
 - (ii) where it submits a notice under subparagraph (i):
 - A. all steps necessary being taken to address the matters set out in subparagraph (i); and
 - B. all other information required by the Principal.
- (b) If the Principal considers the effect of any notification received in accordance with paragraph (a):
 - (i) will adversely affect the Contractor's ability to perform its obligations under this Head Agreement; or
 - (ii) may give rise to an actual or perceived conflict of interest under clause 6 (whether under the Head Agreement or in respect of a specific Engagement),it may elect to discontinue to seek proposals from the Contractor for future work.
- (c) If the Principal elects to discontinue to seek proposals from the Contractor:
 - (i) the Principal will give the Contractor written notice of this decision; and
 - (ii) the Principal may, in the notice under subparagraph (i), state the matters which the Contractor must address (to the satisfaction of the Principal) before the Principal may reconsider its decision.

3. PERSONNEL

3.1 Principal's Contract Manager

The Contract provisions dealing with the Principal's Contract Manager are in the Terms of Engagement.

3.2 Contractor's Contract Manager

The Contract provisions dealing with the Contractor's Contract Manager are in the Terms of Engagement.

3.3 Subcontractors

Without limiting the Contractor's obligations or liabilities under this Head Agreement, any obligation of the Contractor under this Head Agreement or a Contract is deemed to include an obligation on the Contractor to ensure that its subcontractors comply with a corresponding obligation.

3.4 Succession, internal communication and training

The Contractor must, and must ensure that its personnel (including all personnel engaged on each Engagement), comply with the requirements of the Head Agreement in respect of succession, internal communication and training.

4. INDEMNITY AND INSURANCE

4.1 Indemnity

The Contractor must indemnify the Principal against:

- (a) any liability to or claim by a third party including a subcontractor or Other Contractor; and
- (b) all costs, losses and damages suffered or incurred by the Principal,

arising out of any breach by the Contractor of a term of the Head Agreement. This indemnity shall not extend to claims made or liability to third parties in respect of the loss of or damage to their personal property except where the Contractor has failed to exercise the skill, care and diligence to the standard required by the Head Agreement in respect of that personal property or except where a policy of insurance required to be in place under the Head Agreement responds to the circumstance and then only to the extent of any payment made under that policy.

The Contractor's indemnity obligations under this Head Agreement must be reduced proportionately by the extent to which an act or omission of:

- (a) the Principal or invitees of the Principal;
- (b) an Other Contractor;
- (c) the Site Owner; or
- (d) members of the public where the Contractor does not have control of the Site,

contributed to the claim.

4.2 Insurance

The Contractor must:

- (a) as a minimum, without limiting any insurance policies it is required to have in place for any Engagement, maintain for the duration of the Term the minimum levels of insurance coverage specified by the Principal as set out in the Particulars;
- (b) immediately notify the Principal's Contract Manager in writing if any of the insurance policies required by paragraph (a) cease to be available for the amounts of cover and in terms specified in the Particulars on commercially reasonable terms;

- (c) if it gives notice under paragraph (b), take all such reasonably available steps (including those required by the Principal's Contract Manager) to effect and maintain alternative arrangements which will mitigate any risk to the Principal arising out of the matters raised in the notice; and
- (d) where requested from time to time:
 - (i) provide the Principal with copies of certificates of currency of; and
 - (ii) allow the Principal's Contract Manager to inspect,the insurance policies the Contractor is required to maintain under either paragraph (a) or any Engagement.

5. INDICATIVE PRICING METHODOLOGY

5.1 Role of Indicative Pricing Methodology

The pricing for each Engagement may comply with:

- (a) the pricing methodology in Appendix 2 - INDICATIVE Pricing Methodology to this Head Agreement; or
- (b) the other pricing requirements specified in the Works Order.

5.2 Role of Schedule of Rates

- (a) The Schedule of Rates has the following roles:
 - (i) where the Contractor is engaged in accordance with the procedures set out in Section 3 of the Head Agreement on a schedule of rates basis, the Schedule of Rates will apply to the Contract arising from that Engagement in accordance with clause 2.2;
 - (ii) the Schedule of Rates may be used for the valuation of any "Variation" under any Engagement; and
 - (iii) the Schedule of Rates will be used for valuing amounts payable to the Contractor for Contractor's Activities performed under the direct engagement process in accordance with Section 3 of the Head Agreement.

5.3 Review of the Pricing Methodology

The Principal may during the Term review and adjust the indicative pricing methodology applicable to the Terms of Engagement, including by:

- (a) the adoption of a pricing methodology that links any Contract Price to a pain / gain regime or other incentive and abatement regime, in addition to those included in the Performance Management Framework; and
- (b) requiring the Contractor to submit a proposal (which the Principal may accept, reject or negotiate in its absolute discretion) detailing how it proposes the indicative pricing methodology is reviewed by the Principal, by reference to the following key principles:
 - (i) continuous improvement and a proactive and flexible response to the Principal and Emergency specific requirements;
 - (ii) achievement of and compliance with all environmental, cultural and safety obligations and objectives of the Head Agreement and Terms of Engagement;
 - (iii) optimising the value for money provided to the State regarding any Emergency clean up via the Schedule of Rates and the Fee;

- (iv) ensuring the timely, proactive and efficient delivery of the Contractor's Activities and the Works for any Engagement and
- (v) ensuring the proposed methodology supports the engagement of Local Workers and Local Plant and Equipment.

6. CONFLICT OF INTEREST

- (a) The Contractor warrants that:
 - (i) as at the Base Date, no conflict of interest exists or is likely to arise in the performance of its obligations under this Head Agreement;
 - (ii) it will ensure that no conflict of interest exists or is likely to arise at any time during the Term;
 - A. whether in performance of its obligations:
 - 1) under this Head Agreement;
 - 2) in respect of any Engagement; or
 - 3) otherwise in the performance of works for any third party; or
 - B. when it seeks to:
 - 1) engage a subcontractor; or
 - 2) enter into a subcontract with another subcontractor;for the purposes of any Engagement;
 - (iii) if any such conflict of interest or risk of such conflict of interest arises, the Contractor will:
 - A. immediately notify the Principal's Contract Manager in writing of the conflict or risk;
 - B. include in the notice provided to the Principal's Contract Manager under subparagraph A details of the steps which the Contractor has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the conflict of interest; and
 - C. take such steps as may be required by the Principal to remove or minimise the conflict or risk of conflict; and
 - (iv) it will not submit a proposal for any Engagement if the Contractor has a conflict of interest or if there is a risk of conflict of interest in respect of the Engagement.
- (b) The Principal's Contract Manager may (in its absolute discretion), at any time during the Term, notify the Contractor in writing that it considers that an actual, potential or perceived conflict of interest has arisen between the interests of the Principal and the Contractor in respect of the:
 - (i) Head Agreement; or
 - (ii) any Engagement (including any proposal submitted by the Contractor in respect of any Engagement).
- (c) If a notice is given under paragraph (b), the Contractor will:
 - (i) immediately respond to the Principal's Contract Manager in writing, providing details of:
 - A. the actual, potential or perceived conflict of interest identified in the Principal's Contract Manager's notice; and

- B. the steps which the Contractor has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the conflict of interest; and
- (ii) comply with any direction given by the Principal's Contract Manager in relation to the actual, potential or perceived conflict of interest.

7. CONTRACTOR'S ACKNOWLEDGEMENT

The Contractor:

- (a) acknowledges that:
 - (i) the Principal has entered into this Head Agreement in reliance upon certain promises, undertakings and representations given by the Contractor; and
 - (ii) the requirements of the Head Agreement are minimum requirements for the Contractor's Activities only and do not limit the Contractor's obligations under any Engagement; and
- (b) where requested by the Principal, must perform or otherwise fulfil those promises, undertakings and representations, whether in the performance of any specific Contractor's Activities under any Engagement or otherwise.

8. QUALITY ASSURANCE

The Contractor:

- (a) must implement a quality management plan, quality assurance process, system or framework;
- (b) must allow the Principal's Contract Manager or anyone else acting on behalf of the Principal access to the quality assurance process, system or framework of the Contractor and its subcontractors so as to enable auditing or other monitoring; and
- (c) will not be relieved from compliance with any of its obligations or from any of its liabilities whether under the Head Agreement, any Terms of Engagement or otherwise according to law as a result of:
 - (i) the implementation of, and compliance with, the quality assurance requirements of the Head Agreement or Terms of Engagement;
 - (ii) any direction by the Principal's Contract Manager concerning the Contractor's quality assurance process, system or framework or its compliance or non-compliance with the process, system or framework;
 - (iii) any audit or other monitoring by the Principal's Contract Manager or anyone else acting on behalf of the Principal of the Contractor's compliance with the quality assurance process, system or framework; or
 - (iv) any failure by the Principal's Contract Manager, or anyone else acting on behalf of the Principal, to detect:
 - A. all or any part of the Contractor's performance of its obligations under the Head Agreement; or
 - B. any Contractor's Activities,
which are not in accordance with the requirements of the Head Agreement or Terms of Engagement (as the case may be), including where any such failure arises from any negligence on the part of the Principal's Contract Manager or other person.
- (d) must, if it receives a notice of non-complying services under the Terms of Engagement in respect of any Engagement:

- (i) update its quality assurance system to ensure that it is adequate to prevent a reoccurrence of that non-complying service in that or similar Engagements; and
- (ii) take any other steps necessary to avoid a reoccurrence of the non-complying Services in that or similar Engagements,

and must upon request provide evidence of its compliance with subparagraphs (i) and (ii) to the Contractor's Contract Manager.

9. PERFORMANCE MANAGEMENT

9.1 Performance review

- (a) The Contractor's Contract Manager must participate in performance management discussions with the Principal as and when required by the Principal's Contract Manager, which will:
 - (i) be held at a time and location required by the Principal's Contract Manager and notified to the Contractor in writing;
 - (ii) be conducted at not less than three monthly intervals; and
 - (iii) consider the Contractor's:
 - A. performance under this Head Agreement; and
 - B. individual Engagement level performance for any Contract.
- (b) The Contractor must:
 - (i) no later than two weeks before each performance management discussion conducted under paragraph (a), submit to the Principal's Contract Manager such information as the Principal's Contract Manager requires for the purpose of monitoring and measuring the Contractor's performance and for the purposes of conducting the performance management discussions under paragraph (a); and
 - (ii) in the event of any significant issue with respect to the performance of the Contractor immediately notify the Principal's Contract Manager in writing, providing full details of:
 - A. the significant performance issue; and
 - B. the steps which the Contractor has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the risk of the significant performance issue.
- (c) Without limiting the Contractor's obligations under this Head Agreement, under a Contract arising from any Engagement or otherwise, the Contractor must:
 - (i) ensure it maintains a consistently high standard of performance;
 - (ii) capture, manage and report on data regarding the Contractor's performance (including any processes and systems for managing performance);
 - (iii) report to the Principal on its performance and management of performance issues that may arise from time to time (including the performance of its key personnel and subcontractors); and
 - (iv) ensure that it will otherwise meet the Principal's requirements and best practice, under this Head Agreement and in respect of each Engagement.

9.2 Performance Management Framework

For the purposes of any performance management discussion under clause 9.1 the Principal may:

- (a) assess the Contractor's performance under this Head Agreement and individual Engagement level performance for any Contract, having regard to:
 - (i) the Contractor's performance against the Performance Management Framework, including the key performance indicators (**KPIs**) and performance targets (**Performance Targets**) specified in the Performance Management Framework and the Contractor's actual performance against the KPIs and Performance Benchmarks;
 - (ii) the Contractor's compliance with all of its obligations under this Head Agreement and any Contract arising from any Engagement;
 - (iii) the outcomes of any auditing or other monitoring performed under clause 8; and
 - (iv) such other matters as the Principal may notify to the Contractor from time to time.
- (b) where the Contractor's performance under this Head Agreement or any Contract arising from any Engagement has been assessed as unsatisfactory, avail itself of its rights under clause 2.4; and
- (c) without limiting clause 2.4, take into account the Contractors:
 - (i) performance under the Head Agreement; and
 - (ii) individual Engagement level performance,when determining whether to seek a proposal from the Contractor for any future work under the Head Agreement.

9.3 Not Used

9.4 Review of Performance Management Framework

- (a) During the Term, the Principal may review and may, if the Principal, acting reasonably, considers it necessary, adjust the KPIs, Performance Benchmarks, and other terms of the Performance Management Framework for future assessments of performance under this Head Agreement and/or performance under an individual Contract arising from any Engagement having regard to:
 - (i) the KPIs and Performance Targets specified in the Performance Management Framework and the Contractor's actual performance against the KPIs and Performance Benchmarks for any Contract arising from any Engagement;
 - (ii) the need to maintain an incentive for the Contractor to achieve continuous improvement in the quality of the Services and adjust performance levels to satisfy revised needs and targets;
 - (iii) any changes in the needs of the Principal;
 - (iv) the objective of the Principal in ensuring the Performance Management Framework incentivises performance and includes a flexible and responsive incentive and abatement regime for Engagements and Contracts; and
 - (v) the outcomes of any auditing or other monitoring performed under clause 8.
- (b) Following the review under paragraph (a), the Principal may give the Contractor a notice setting out the revised Performance Management Framework for the Head Agreement and/or the Terms of Engagement, having regard to the matters set out in paragraph (a).
- (c) In revising the Performance Management Framework under paragraph (b), the Principal may (acting reasonably) increase, decrease, replace, omit and add KPIs and Performance Targets to the Performance Management Framework for the Head Agreement and/or the Terms of Engagement.

10. COMPLIANCE WITH GOVERNMENT POLICY

10.1 Generally

The Contractor:

- (a) acknowledges that there are (and will be) numerous Principal's Requirements which apply (or will apply) to the performance of the Contractor's Activities; and
- (b) must comply with all such Principal's Requirements (including those notified to the Contractor by the Principal throughout the Term as they come into existence or otherwise become applicable) in performing the Contractor's Activities and otherwise discharging its obligations under this Head Agreement.

10.2 Statutory requirements and guidelines

- (a) The Contractor is responsible for:
 - (i) compliance with all Statutory Requirements, except if (because of the nature of the requirement) only the Principal can comply; and
 - (ii) the giving of all notices necessary to comply with Statutory Requirements and the payment of all necessary fees, charges and other imposts, other than those notices and imposts to be given or paid by the Principal (or given or paid by the Principal prior to the Base Date).

10.3 South Australia policy matters

- (a) Nothing in this Head Agreement derogates from the powers of the Auditor General under the *Public Finance and Audit Act 1987* (SA).
- (b) The Contractor must, if it is a relevant employer within the meaning of the *Equal Opportunity for Women in the Workplace Act 1999* (Cth) comply with its obligations under that Act and use its best endeavours to ensure that any Subcontractor who is a relevant employer complies with its obligations under that Act.
- (c) The Contractor must not accept the services of any person who, either directly or through an independent contractor or third party, has received a separation package from the South Australian Government under its various schemes where the service may breach the conditions under which the separation package was paid to the former public sector employee.

10.4 Compliance with codes

- (a) Subject to the express provisions of the Head Agreement, the parties must comply with the relevant provisions of the codes of practice listed in the Particulars in Appendix 1.

10.5 Work, health and safety management

- (a) The Contractor is responsible for and must comply with the requirements of the Head Agreement for work health and safety, subject to the express provisions of the *Work Health and Safety Act 2012* (SA) (**WHS Act**) and the *Work Health and Safety Regulations 2012* (SA) (**WHS Regulations**).
- (b) Unless specified otherwise in the Particulars, the Contractor:
 - (i) is engaged as principal contractor in accordance with regulation 293 of the WHS Regulations;
 - (ii) is authorised to have management and control of the workplace as necessary to enable it to discharge the duties of a principal contractor and of a person having management or control of a workplace;
 - (iii) must perform the duties of:

- (iv) a principal contractor, as specified in the WHS Regulations; and
 - (v) a person with management or control of a workplace as specified in the WHS Act and the WHS Regulations; and
 - (vi) must notify the Principal promptly of any matter affecting work health and safety where consultation with the Principal is necessary.
- (c) The Contractor must systematically manage its work health and safety management processes in accordance with the systems, plans, standards and codes specified in the Head Agreement.
- (d) The Contractor must demonstrate to the Principal, whenever requested, that it has met and is meeting at all times its obligations under clause 10.5(b).

10.6 South Australian Industry Participation Policy

- (a) The Contractor must comply with the requirements of the Standard or Tailored Industry Participation Plan ("**SIPP**" or "**TIPP**") in Attachment 3 and submit an Industry Participation Plan to the Principal within 7 days of the Base Date.
- (b) The Contractor must implement the Contractor's SIPP or TIPP (as applicable).
- (c) The Contractor must provide an Industry Participation Report ("**IPP Report**") in respect of each Industry Participation Reporting Period to the Principal within two weeks of the end of each period, in the format set out in the report template available at: <https://industryadvocate.sa.gov.au/policy-and-resources/>
- (d) An Industry Participation Reporting Period is:
- (i) the period between the Base Date and the date six (6) months after the Base Date;
 - (ii) each subsequent six (6) month period during the term of the Head Agreement;
 - (iii) if the Head Agreement ends on a date other than an anniversary of the Base Date or an anniversary of the date in subclause 10.6(d)(ii), the period from the conclusion of the preceding Industry Participation Reporting Period until the date of termination or expiry of the Head Agreement;
 - (iv) for short-term projects of strategic importance to the Principal, the period notified by the Industry Advocate ("**IA**") to the Contractor in writing; and
 - (v) where the term of the Contract is for a period less than six (6) months, the term of the Contract.
- (e) The Contractor must attend any meeting scheduled by the IA during the term of the Contract to review how the SIPP or TIPP is being implemented and advanced, and for this purpose, the Contractor must provide all information reasonably requested by the IA. The IA must give the Contractor not less than 10 Business Days' notice of any such meeting.
- (f) The IA may, by written notice require that the Contractor within a reasonable time specified in the notice, provide information or documents to enable the Industry Advocate to assess the Contractor's compliance with this clause 10.6
- (g) If the IA reasonably believes that the Contractor is not complying with the requirements of this clause 10.6, the IA may by notice in writing direct that the Contractor comply with those requirements.
- (h) Upon receipt of the notice, if the Contractor is of the opinion that its noncompliance is reasonable and justified, the Contractor may provide a response to the IA outlining that opinion and the reasons for it.
- (i) The Contractor's failure to comply, in whole or in part, with the commitments contained within the SIPP or TIPP will be a factor taken into account in the award of future contracts for the Government of South Australia.

- (j) In this clause, '**Industry Advocate**' or '**IA**' means the person who from time to time has been appointed by the Governor to the position of Industry Advocate under s. 5 of the *Industry Advocate Act 2017*.

10.7 Respectful Behaviour

- (a) The Contractor acknowledges the White Ribbon Australia – Primary Prevention Strategies towards men's violence against women in the workplace and the broader community.
- (b) White Ribbon Australia Workplaces promote respectful relationships and gender equality within the workplace and demonstrate a culture of a zero tolerance of violence against women.
- (c) The Contractor agrees that, in undertaking the work, its personnel will at all times:
- (i) act in a manner that is non-threatening, courteous, and respectful; and
 - (ii) comply with any instructions, policies, procedures or guidelines issued by the Principal regarding acceptable workplace behaviour.
- (d) If the Principal believes that personnel are failing to comply with the behavioural standards specified in this clause, then the Principal may in its absolute discretion:
- (i) prohibit access by the relevant personnel to the Site; and
 - (ii) direct the Contractor to withdraw the relevant personnel from undertaking the Works.

10.8 Registration and licences

- (a) All vehicles and plant used in performing work in connection with the Head Agreement and/or any Contract arising under an Engagement must be properly registered by the Contractor, if required by law to be registered.
- (b) The Contractor must ensure that all drivers who operate vehicles or plant in performing work in connection with the Head Agreement and/or any Contract arising under an Engagement must be properly and appropriately licensed as required by law to operate those vehicles or plant.
- (c) Whenever requested by the Principal, the Contractor must provide promptly, documentary evidence of compliance with clauses 10.8(a) and (b).

10.9 Construction training fund levy

- (a) If the Principal authorises the Contractor to commence the Contractor's Activities, the Contractor must:
- (i) comply with the *Construction Industry Training Fund Act 1993* (SA) and must pay to the Construction Industry Training Board the levy imposed under the Act in respect of this project;
 - (ii) produce to the Principal documentary evidence of payment of the levy,
- before commencing the Contractor's Activities.
- (b) If the Contractor fails to provide the documentary evidence required under clause (a) before commencing the Contractor's Activities, then notwithstanding any other provision of this Head Agreement, the Principal may withhold payment of moneys due to the Contractor until the documentary evidence is received by the Principal.

10.10 Local Workers, Plant and Equipment

- (a) An objective of this Head Agreement is to increase the employment of Local Workers and use of Local Plant and Equipment.
- (b) Without limiting other remedies available to the Principal, the Contractor acknowledges that failure to comply in part or in whole with the requirements of this clause 10.10 will be deemed a breach of this

Head Agreement and may be a factor that will be taken into account in the award of future contracts by the South Australian Government.

(c) **Targets**

- (i) The Contractor must, subject to this clause 10.10, ensure that the number of On-Site Hours performed by Local Workers (engaged by either the Contractor or its subcontractors) is no less than 80% ("Local Workers Percentage") of the total labour hours required to execute the work under the Engagement.
- (ii) The Contractor must, subject to this clause 10.10, ensure that the number of On-Site Hours performed by Local Plant and Equipment (engaged by either the Contractor or its subcontractors) is no less than 80% ("Local P&E Percentage") of the total hours required to execute the work under the Engagement.

(d) **Reporting**

- (i) The Contractor must submit to the Principal, such information and reports as the Principal may require to verify the Contractor's compliance with clause 10.10(c).
- (ii) The Contractor must (and must ensure that its subcontractors) keep records of compliance with clause 10.10 and provide the Principal with such assistance, including the provision of information, as it may reasonably require in connection with it carrying out an audit of the Contractor's compliance with this clause 10.10.

(e) In this clause 10.10:

- (i) **"Local Plant and Equipment"** means plant, equipment and vehicles owned by a business that whose principal place of business for taxation purposes is in South Australia.;
- (ii) **"Local Worker"** means an employee whose principal place of residence for taxation purposes is in South Australia.;
- (iii) **"On-site Hour"** means an hour of work performed by a person, plant, equipment or vehicles on site under an Engagement.

11. CONFIDENTIAL INFORMATION

11.1 Contractor's Warranty

- (a) The Contractor acknowledges and agrees that the Confidential Information is confidential.
- (b) The Contractor warrants that, on the Base Date, it is not aware of any breach of clause 11 by the Contractor or any Recipient.

11.2 Confidential Information Requirements

The Contractor must:

- (a) not disclose any Confidential Information without the prior written consent of the Principal, except to the extent that the disclosure is genuinely and necessarily required for the Contractor to carry out its obligations under the Head Agreement or any Contract arising from any Engagement; and
- (b) ensure that any subcontract made in connection with a Contract arising under any Engagement under the Head Agreement contains enforceable obligations requiring the subcontractor to comply with the Contractor's obligations arising under this clause 11.2 as if the subcontractor were the Contractor.

11.3 Disclosure by Principal and Contractor

- (a) A Party may disclose Confidential Information belonging to the other Party:
 - (i) to an employee, agent or adviser of that Party, on a "need to know" and confidential basis;

- (ii) as required by law or a court order;
 - (iii) in accordance with any Parliamentary or constitutional convention;
 - (iv) to the Australian Competition and Consumer Commission (ACCC) if the party reasonably suspects, or is notified by the ACCC that it reasonably suspects, that there is Cartel Conduct or unlawful collusion in connection with the supply of Goods or Services under this Agreement; or
 - (v) for the purposes of prosecuting or defending proceedings.
- (b) The parties may mutually agree to disclose Confidential Information.

11.4 Public statements

The Contractor must not make a media release or public announcement in relation to the fact of the Head Agreement or a Contract arising from any Engagement without the written approval of the Principal. The wording of such release and the manner or publication of such release must first be approved in writing by the Principal and a representative of the Australian Government.

12. MATERIAL CHANGE

12.1 Contractor's Warranty

Subject to clause 12.2, the Contractor warrants that, on the Base Date, it is not aware of any Material Change in relation to the Contractor.

12.2 Notice of Material Change

If, at any time, the Contractor becomes aware of any Material Change the Contractor must immediately notify the Principal's Contract Manager, providing details of:

- (a) the Material Change; and
- (b) the steps which the Contractor has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the risk of any adverse effect of the Material Change on the interests of the Principal, including any resequencing or acceleration of the Contractor's Activities which the Contract Administrator could require under clause.

12.3 Mitigation of Material Change

Without limiting the Contractor's obligations, the Contractor must at its own cost take all reasonable steps to avoid or mitigate the effect of a Material Change, including taking all such positive steps to reschedule, reprogram, expedite and adjust the activities, sequences and the performance of the Contractor's Activities and Works and deploying all such additional resources in the performance of the Contractor's Activities and Works as may be reasonably required to ensure that the effect of the Material Change is avoided or mitigated to the maximum extent possible (including those steps reasonably required by the Contract Administrator).

12.4 Principal May Act

Without limiting any other provision of the Head Agreement, if:

- (a) the Contractor notifies the Principal's Contract Manager under clause 12.2; or
- (b) the Principal otherwise considers (in its absolute discretion) that there exists (or is likely to exist) a Material Change in relation to the Contractor,

the Principal may (in its absolute discretion) do any one or more of the following:

- (c) notify the Contractor that it is required to:

- (i) meet with representatives of the Principal to provide further information, documents or evidence in relation to, and otherwise clarify, the:
 - A. nature and extent of the Material Change; and
 - B. steps which the Contractor has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the risk of any adverse effect of the Material Change on the interests of the Principal,by the time and date specified in the notice; or
- (ii) provide the Principal with further information, documents or evidence in relation to, and otherwise clarify, the:
 - A. nature and extent of the Material Change; and
 - B. steps which the Contractor has taken (or will take) to prevent, end, avoid, mitigate, resolve or otherwise manage the risk of any adverse effect of the Material Change on the interests of the Principal,by the time and date specified in the notice; or
- (d) regardless of whether or not the Principal has notified the Contractor under paragraph (c), notify the Contractor that the Principal has elected to treat the Material Change as an Insolvency Event for the purposes of clause 14 and (without limiting its other rights) terminate the Contractor's Head Agreement under clause 14.

13. ACCESS TO PROJECT DOCUMENTS

The Contractor must, at the request of the Principal's Contract Manager, at any time during the Term, on expiration of the Term and for the period of 10 years following the end of the Term:

- (a) make the Project Documents immediately available for inspection and copying by the Principal's Contract Manager or any other person nominated by the Principal's Contract Manager;
- (b) provide to the Principal's Contract Manager such copies of the Project Documents as the Principal's Contract Manager may require;
- (c) provide all such facilities and assistance and answer all such questions which may be required to enable the Principal's Contract Manager or any nominated persons to identify the amounts being (or proposed to be) incurred or expended by the Contractor in performing the Contractor's Activities; and
- (d) make available any officers, employees, agents or subcontractors for interviews with the Principal's Contract Manager or any nominated persons; and
- (e) ensure that it maintains copies of all Project Documents in such a manner as to enable convenient and efficient review by the Commonwealth when required.

14. TERMINATION FOR INSOLVENCY OR BREACH

If the Contractor:

- (a) suffers an Insolvency Event;
- (b) assigns (including via a Change of Control) the Head Agreement or any Contract arising from any Engagement without the consent of the Principal;
- (c) ceases to carry on business;
- (d) disposes of the whole or part of its assets, operations or business other than in the ordinary course;

- (e) breaches this Head Agreement and does not remedy the breach to the satisfaction of the Principal in the time required by the Principal (acting reasonably);
- (f) the Contractor has failed to comply with an obligation relating to the protection of personal information, including those obligations in clause 15.3, which, in the opinion of the Principal, is of a significant nature justifying termination of the Head Agreement or any Contract arising from any Engagement;
- (g) the Contractor has failed to comply with an obligation relating to safety, including, without limitation, those obligations in clauses 8.17 and 8.18 of the Terms of Engagement of any Contract arising from any Engagement which, in the opinion of the Principal, is of a significant nature justifying termination of the Head Agreement or any Contract arising from any Engagement; or
- (h) fails to perform the Contractor's Activities to a standard which is reasonably satisfactory having regard to the Head Agreement, the Performance Targets and other provisions of any Contract arising from any Engagement,

the Principal may immediately terminate the Contractor's Head Agreement by written notice.

15. GENERAL

15.1 Governing Law

This Head Agreement is subject to and to be construed in accordance with the laws of South Australia.

15.2 Authority to Act

The Contractor is not an employee of the Principal and is authorised to act as the Principal's agent only in respect of the matters set out or implied in any Engagement.

15.3 Protection of Personal Information and Data Security

- (a) The Contractor must:
 - (i) comply with the South Australian Government Information Privacy Principles (a copy of which can be found at <http://www.dpc.sa.gov.au/documents/rendition/B17711#sthash.s76QhRX6.dpuf>) ("**IPPs**") as if the Supplier were an "agency" for the purposes of the IPPs, in undertaking its obligations under this Head Agreement or any Contract arising from any Engagement including in relation to all Personal Information received, created or held by it for the purposes of this Head Agreement or any Contract arising from any Engagement; and
 - (ii) allow the Principal to undertake, and cooperate with any audit or investigation which the Principal deems necessary to verify that the Contractor is complying with the IPPs.
- (b) The Contractor must promptly notify the Principal if it fails to comply with this clause or if it becomes aware of any actual or threatened disclosure of or unauthorised access to Personal Information.
- (c) The Contractor agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Head Agreement or any Contract arising from any Engagement contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under paragraphs (a) and (b).
- (d) Paragraphs (a) and (b) apply only where the Contractor deals with Personal Information when, and for the purpose of, undertaking the Contractor's Activities under the Head Agreement or any Contract arising from any Engagement.
- (e) The provisions of paragraphs (a) and (b) survive termination or expiration of the Head Agreement or any Contract arising from any Engagement.
- (f) Nothing in clause 15.3 limits any of the Contractor's other obligations or liabilities under the Head Agreement or any Contract.

15.4 Assignment

- (a) The Contractor must not, without the prior written approval of the Principal and except on the terms and conditions determined in writing by the Principal, assign, mortgage, charge or encumber any of its rights or obligations under Head Agreement, any Engagement or any part or any benefit or moneys or interest under the Head Agreement or any Engagement.
- (b) For the purpose of, but without limiting paragraph (a), an assignment of this Head Agreement and each relevant Engagement will be deemed to have occurred where there has been a Change of Control or Material Change.
- (c) Subject to any contrary legislative intention, the parties agree that if there is any Machinery of Government Change, this Head Agreement is deemed to refer to the new entity succeeding or replacing the Principal and all of the Principal's rights and obligations under this Head Agreement will continue and will become rights and obligations of that new entity.

15.5 Publicity

Without limiting clause 11, the Contractor must:

- (a) not furnish any information or issue any document or other written or printed material arising out of or in connection with this Head Agreement, the Contractor's Activities or any Engagement for publication in the media without the prior written approval of the Principal's Contract Manager; and
- (b) refer any enquiries from the media arising out of or in connection with this Head Agreement, the Contractor's Activities or any Engagement to the Principal's Contract Manager.

APPENDIX 1 - PARTICULARS

CLAUSE 1 - GLOSSARY OF TERMS

Base Date: (Clause 1) The date the Head Agreement is signed by the last party.

Contractor: (Clause 1) Johns Lyng Disaster Management (Australia) Pty Ltd (A.C.N 651 213 348) of 1 Williamsons Road, Doncaster, VIC 3108

Contractor's Contract Manager: (Clause 1)

Name: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED] u

Clause 6(1)
Exemption

Principal's Contract Manager: (Clause 1)

Name: [REDACTED]

Phone: [REDACTED]

Email: [REDACTED]

Clause 6(1)
Exemption

CLAUSE 4 - INSURANCE

Public Liability Insurance: (Clause 4.2) \$20,000,000.00
In respect of any one occurrence

Public Liability Insurance: (Clause 4.2) \$20,000,000.00
In respect of any one occurrence

\$1,000,000.00
In annual aggregate

Asbestos, Pollution & Environmental Liability Insurance (Clause 4.2) \$1,000,000.00
In respect of any one occurrence, to be provided by the relevant trade Subcontractor

CLAUSE 10.4 – COMPLIANCE WITH GOVERNMENT POLICY

Codes of Practice (Clause 10.4)

SafeWork SA Codes of Practice

Confined spaces – June 2020

Demolition work – June 2020

Excavation Work Code of Practice – June 2020

First Aid in the Workplace Code of Practice – June 2020

Hazardous Manual Tasks Code of Practice – June 2020

How to manage and control asbestos in the workplace

How to manage work health and safety risks

How to safely remove asbestos

Labelling of workplace hazardous chemicals

Managing electrical risks in the workplace

Managing noise and preventing hearing loss at work

Managing psychosocial hazards at work

Managing risks of hazardous chemicals in the workplace

Managing risks of plant in the workplace

Managing the risk of falls at workplaces

Managing the work environment and facilities

Preparation of safety data sheets for hazardous chemicals

Safe design of structures

Work health and safety consultation, cooperation and coordination

APPENDIX 2 - INDICATIVE PRICING METHODOLOGY

1. Indicative Pricing Model Engagements

For each Phase:

- (a) daily rates, for the Contractor's key personnel (or positions) who are likely to be involved in the performance or management of the Contractor's Activities which are no less favourable than the daily rates specified in the Schedule of Rates;
- (b) a Margin %, which is no higher than the Margin % specified in clause 2.2 below, to be applied as a percentage on Reimbursable Costs, subject to 1(c).
- (c) The Margin % will not be applied to the following items:
 - (i) reworks, defects and rectification work;
 - (ii) related party costs;
 - (iii) invoices for costs generated by Disaster Relief Australia;
 - (iv) Self-Performed Works;
 - (v) insurances;
 - (vi) Contractor's Non Wage Personnel (only) allowances which include living-away-from-home allowance (LAFHA), travel allowance, meal allowance, personal IT equipment, phones and ipads; and
 - (vii) waste disposal and recycling facility gate fees.
- (d) Reimbursable Costs, being costs actually incurred by the Contractor (for example, subcontractor costs) in the performance of the relevant Contractor's Activities for the relevant Phase, but excluding any costs which are specified as being 'not reimbursable' in the Reimbursable Schedule set out in Attachment 1.

2. Contractor's Schedule of Rates

2.1 Rates for Contractor Non-wage Personnel

#	Description	Rate per day (excl GST)	Rate per hour (excl GST)	Overtime rate per hour (excl GST)
1	Project Leader & Contractors Authorised Person	\$300	\$2,400	
2	Head of Program and Strategy	\$300	\$2,400	
3	Performance and Compliance manager	\$300	\$2,400	
4	Cultural & Heritage Advisor	\$300	\$2,400	
5	Lead WHS Manager	\$250	\$2,000	
6	General Manager Finance	\$300	\$2,400	
7	Operations Director	\$300	\$2,400	
8	Commercial Director	\$300	\$2,400	

9	Operations Manager	\$250	\$2,000	
10	Regional Operations Manager	\$250	\$2,000	
11	Stakeholder Engagement Manager	\$250	\$2,000	
12	Commercial Manager	\$220	\$1,760	
13	Contractors Logistics Manager	\$220	\$1,760	
14	Project Manager - General	\$180	\$1,440	\$220
15	HSE / Environmental Manager	\$180	\$1,440	\$220
16	Contracts Administrator	\$140	\$1,120	\$180
17	Supervisor / QA	\$160	\$1,280	\$200
18	IT Manager	\$170	\$1,360	\$190
19	IT Support	\$130	\$1,030	\$170
20	Data Specialist	\$160	\$1,280	\$200
21	Project Accountant	\$200	\$1,600	
22	Accounts Payable / Receivable	\$110	\$880	\$150
23	General Administration	\$90	\$720	\$130
24	Systems training and onboarding manager	\$180	\$1,440	\$220
25	Case Management Team Lead	\$250	\$2,000	
26	Bookings and Case Management Team	\$90	\$720	\$130
27	Field Case Managers	\$130	\$1,030	\$170
28	Human Resources Manager	\$180	\$1,440	\$220
29	Communications and community manager	\$200	\$1,600	
30	Estimating Manager	\$200	\$1,600	
31	Estimator	\$160	\$1,280	\$200
32	Report Writer / QA	\$160	\$1,280	\$200

2.2 Margin %

5 %

ATTACHMENT 1 - REIMBURSABLE SCHEDULE

1. Reimbursable Schedule

All reasonable project and site-related costs, properly incurred, are reimbursable except for the exclusions specified below:

Category	Description of non-reimbursable items
Corporate Overhead	Head office including but not limited to head office rent, head office maintenance, IT levy/charges, bank charges, bank guarantees, bad debts, depreciation, entertainment, subscriptions, advertising, marketing, courier, medical, recruitment, training, penalties, industry relations, donations and gifts. This does not include reasonable project overhead costs.
Contractor's non-project Personnel	C-suite and C-suite support personnel. Non-project based head office personnel unless hours incurred reasonably necessary to support delivery of the River Murray Flood Clean-up Project. Bonuses or other financial or non-financial personnel incentives.
Contractor's Overtime	Overtime rates incurred by the Contractor without approval of the Principal. The Principal can approve overtime retrospectively if satisfied the overtime was necessary to achieve program KPIs.
IT costs	Software and software development, such as accounting, financial, management software, Microsoft and any other software unless approved by the Principal as program-specific software. Approved program-specific software includes Aconex, Hammertech and ArcGIS. Corporate IT levy or charges, licence, and subscriptions. Laptops, iPads, computers, radios, mobile phones, phones, printers, monitors, internet and data expenses that a staff member is expected to come equipped with in order to perform their normal role, unless the cost is reimbursable Field ICT.
Contractor's Travel	Travel from a Personnel's home, home office or accommodation to site(s) if the total distance travelled that day is less than 100kms. The allowances are paid by Cents per KM based on ATO Cents per kilometre rate table. No other costs, such as petrol, repairs and maintenance are reimbursable costs.
Accommodation	Accommodation which is already covered by a reimbursable allowance.
Meals	Meals which are already covered by a reimbursable allowance.
Small tools	The equipment a person commonly brings to a project in order to perform their role ("standard tools of trade") which is clearly defined the respective companies Industrial Instrument and/or defined by the Master Builders .
Plant Utilisation	Unreasonable level of non-productive time of the plant.

If reimbursable, the following conditions apply where relevant and must be approved by the Principals Contract Manger:

Category	Description
Project Overheads	Project-specific overhead costs include but are not necessarily limited to advertising, marketing, courier, JEV vaccinations and training costs which are necessary to deliver the River Murray Clean-up Project.
Contractor's Personnel	The Parties can update the key personnel organisation chart by agreement at any time during the Contract.
Contractor's Field ICT	Reasonable costs incurred for field ICT including laptops, iPads, computer expenses, mobile phones, phones, field communications, radios, printers, computers, and monitors are reimbursable. At the end of the River Murray Clean-up project all reimbursed Field ICT will be handed over to the Principal or gifted to an organisation (or organisations) at the instruction of the Principal. Reasonable costs incurred for field ICT connections, data, internet, IT routers/remote setup are reimbursable.
LAFHA for Contractor and Subcontractor Works	A living-away-from-home allowance (LAFHA) is an allowance to cover additional expenses and any disadvantages suffered due to employee being temporarily required to live away from their normal residence to perform their employment duties. The reimbursable amount is the lower of ATO LAFHA table and the actual amount paid to the employees.
Travel for Subcontractor Works	Maximum travel time is applied. Any travel time above the maximum travel time is subject to the Principal's approval. The Principal will determine the maximum travel time for each clean up Engagement.

ATTACHMENT 2 - STATUTORY DECLARATION TEMPLATE

State of South Australia

Statutory Declaration

DEFINITIONS

The Principal is: »
The Contractor is: »
The Contract: The contract between the Principal and the Contractor
Contract Title: »
Contract Number: »

Dated: (Date of Contract) between the party identified as the Principal and the party identified as the Contractor.

Subcontractors means any entity engaged by the Contractor to carry out part of the work under the Contract including a Subcontractors, supplier or consultant.

Declaration

Full Name: I »
of »
»

do hereby truly and solemnly declare the following and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1936 (SA):

- 1. I am a director, senior executive or project manager of the Contractor and authorised by the Contractor to make this statutory declaration on its behalf;
2. I am in a position to make this statutory declaration about the facts attested to.

Remuneration of Contractor's employees engaged to carry out work in connection with the Contract

3. All remuneration payable to the Contractor's relevant employees and Subcontractors for work done in connection with the Contract has been paid and the Contractor has made provision for all other benefits accrued in respect of the employees and Subcontractors. Relevant employees and Subcontractors are those engaged in carrying out the work done in connection with the Contract. Remuneration means remuneration or other amounts payable to relevant employees and Subcontractors by legislation, or under an industrial instrument, in connection with work done by the employees and Subcontractors.

Workers Compensation Insurance of the Contractor's workers

4. All workers compensation insurance premiums payable by the Contractor in respect of the work done in connection with the Contract have been paid and the insurance policy is current.

Workers Compensation insurance for workers of Subcontractors

5. The Contractor has been given a written statement that all workers compensation insurance premiums payable by each Subcontractor in respect of that work done have been paid and the insurance policy is current.

Payments to Subcontractors

- 6. Except for amounts identified in the table below, the Contractor has paid every Subcontractor all amounts due and payable to each of them as at the date of this statutory declaration with respect to the work undertaken in connection with the Contract.
- 7. The Contractor has entered into contracts with Subcontractors in accordance with the prescribed requirements of the Contract and otherwise complied with the provisions relating to Subcontractors.
- 8. The Contractor has paid to the Subcontractors any adjustments calculated and payable to the Subcontractors.

Subcontract Cash Security

- 9. All subcontract security held in the form of cash (if any) from Subcontractors payments are held in trust by the Contractor. The cash security is held in trust for whichever party is entitled to them, until payment is made to that party.
- 10. The Contractor is maintaining complete records to account for the cash. The records are available to the relevant Subcontractors and the Principal on request.

Industry Participation and Skills Development

- 11. The Contractor has complied with the requirements under the Contract of skills development and Industry Participation policies including all reporting requirements.

Status of Subcontractors Payments

Subcontractor Name and ACN/ABN	Contract No.	Date of works (period)	Payment claim dated (head contractor claim)	Amount of claim (previous period)	Amount Paid (previous period)	Reasons for Difference

I acknowledge that this declaration is true and correct and I make it with the understanding and believe that a person who makes a false declaration may be guilty of an offence.

Signature of Declarant:

declared at:

Place: »

on»

before me:

Signature of legally authorised person* before whom the declaration is made:

Name and title of person*
before whom the declaration
is made

* *"The declaration must be made before one of the following persons:*

- a Commissioner for taking affidavits in the Supreme Court
- a person who is registered as a conveyancer under the Conveyancers Act 1994
- a justice of the peace
- a police officer, other than a police officer who is a probationary constable
- persons admitted and enrolled as a notary public of the Supreme Court;
- an agent of the Australian Postal Corporation in charge of an office supplying postal services to the public
- an Australian Consular Officer or an Australian Diplomatic Officer within the meaning of the Consular Fees Act 1955 of the Commonwealth
- a bailiff
- a bank officer who has 5 or more years of continuous service
- a building society officer who has 5 or more years of continuous service
- a chief executive officer of a Commonwealth court
- a clerk of a court
- a credit union officer who has 5 or more years of continuous service
- an employee of the Australian Trade and Investment Commission who is in a country or place outside Australia; and is authorised under paragraph 3(d) of the Consular Fees Act 1955 of the Commonwealth; and is exercising their function in that place
- an employee of the Commonwealth who is (i) in a country or place outside Australia; and (ii) authorised under paragraph 3(c) of the Consular Fees Act 1955 of the Commonwealth; and (iii) exercising their function in that place
- a fellow of the National Tax and Accountants' Association
- a registered health practitioner
- a finance company officer who has 5 or more years of continuous service
- a marriage celebrant registered under Part IV Division 1 Subdivision C of the Marriage Act 1961 of the Commonwealth
- a member of the Governance Institute of Australia
- a member of Engineers Australia, other than at the student grade
- a member of the Association of Taxation and Management Accountants
- a member of the Australasian Institute of Mining and Metallurgy
- a member of the Australian Defence Force who is— (i) an officer; or (ii) a non-commissioned officer within the meaning of the Defence Force Discipline Act 1982 of the Commonwealth who has 5 or more years of continuous service; or (iii) a warrant officer within the meaning of the Defence Force Discipline Act 1982 of the Commonwealth
- a member of the Institute of Chartered Accountants in Australia, CPA Australia (Certified Public Accountants) or the Institute of Public Accountants;
- a Member of— (i) the Parliament of the Commonwealth; or (ii) the Parliament of a State; or (iii) a Territory legislature; or (iv) a local government authority of a State or Territory
- a minister of religion registered under Part IV Division 1 Subdivision A of the Marriage Act 1961 of the Commonwealth
- a patent attorney or a trade marks attorneys
- a permanent employee of the Australian Postal Corporation who has 5 or more years of continuous service who is employed in an office supplying postal services to the public
- a permanent employee of
- the Commonwealth or a Commonwealth authority
- a State or Territory or a State or Territory authority
- a local government authority, with 5 or more years of continuous service who is not specified in another item in this list
- a Senior Executive Service employee of— (i) the Commonwealth or a Commonwealth authority; or (ii) a State or Territory or a State or Territory authority
- a sheriff
- a sheriff's officer
- a teacher employed on a full-time basis at a school or tertiary education institution
- a veterinary surgeon.

ATTACHMENT 3 – INDUSTRY PARTICIPATION PLAN

See separate document

**SECTION 3
ENGAGEMENT PROCESS**

DESCRIPTION OF INDICATIVE ENGAGEMENT PROCESS

A. GENERAL

1. Generally, as and when the Contractor's Activities are required to be performed by the Contractor, the indicative engagement processes set out in this Section 3 will be invoked by the Principal.
2. The Contractor's Activities will be delivered in the following seven (7) phases, unless otherwise determined and directed by the Principal:
 - (a) Scoping, Establishment and Site Assessment Phase;
 - (b) Hazard Reduction Phase;
 - (c) Removal and Disposal Phase;
 - (d) Demolition Phase;
 - (e) Other Waste Removal Phase;
 - (f) Sandbag Removal Phase; and
 - (g) Sign-off Phase.
3. Each Engagement may involve a number of Phases and Stages (whether based on a different location, timing or otherwise). Stages and Phases may be required to be carried out concurrently by the Contractor for an Engagement.
4. The Principal does not guarantee that a Works Order will be issued for each Phase and the Contractor shall have no claim against the Principal in respect of the Principal's failure to issue Works Orders.

B. ENGAGEMENT

5. The Principal may engage Other Contractors for works related to the Emergency, in which case the Contractor will be required to consult, co-operate, co-ordinate and integrate their respective Contractor's Activities as set out in the relevant Works Order.
6. The indicative engagement process for an Engagement is as follows:
 - (a) the Principal will contact the Contractor's Contract Manager, either verbally (over the phone or face-to-face) or by email and request confirmation from the Contractor whether it has capacity to resource an Engagement;
 - (b) where the Contractor confirms its capacity to resource an Engagement, the Principal may issue a Works Order to the Contractor in accordance with clause 7.
7. If the Principal proceeds with the engagement process:
 - (a) the Principal may in its absolute discretion elect to issue to the Contractor an unexecuted Works Order setting out the:
 - (i) indicative scope of each Phase and Stage relevant to the Engagement;
 - (ii) indicative Contract Particulars;
 - (iii) indicative Target Date for the Scoping, Establishment and Site Assessment Phase;
 - (iv) indicative Approved Limit for the Scoping, Establishment and Site Assessment Phase (if applicable).

- (b) within 24 hours of the Principal issuing the Works Order, (or other timeframe as provided by the Principal in the Works Order or otherwise agreed by the Principal) the Contractor must either;
 - (i) acknowledge receipt and accept the Works Order by returning an executed copy to the Principal and provide to the Principal the Chargeable Rates Table completed by the Contractor in accordance with the Indicative Pricing Methodology set out in Appendix 2 - INDICATIVE Pricing Methodology (which will form part of the Contract arising from the Engagement);
 - (ii) notify the Principal of aspects of the Works Order that it wishes to negotiate changes to and promptly seek to negotiate those changes; or
 - (iii) notify the Principal that it does not wish to provide the Works specified in the Works Order (**Non-acceptance Notice**);
- (c) if the Principal does not accept the completed Chargeable Rates Table submitted by the Contractor under clause 6(b)(i) the Principal may withdraw the Works Order;
- (d) if the Principal notifies the Contractor that it accepts the completed Chargeable Rates Table submitted by the Contractor under clause 6(b)(i) and executes the Work Order, the Contractor must undertake the Works set out in the Works Order;
- (e) if the Contractor provides notification to the Principal under clause 6(b)(ii) and the parties are unable to negotiate agreed changes to the Works Order then the Principal may engage another contractor for the performance of the Contractor's Activities and Works the subject of the Works Order;
- (f) if the Contractor issues a Non-acceptance Notice to the Principal under clause 6(b)(iii), the Principal may engage another contractor for the performance of the Contractor's Activities and Works the subject of the Works Order.

C. Works Order

- 8. If a Works Order is agreed and executed by both parties, a Contract will be formed between the Principal and the Contractor in accordance with the terms of this Head Agreement and the terms of Engagement, including the relevant Contract Particulars.
- 9. Unless otherwise specified in the Works Order or agreed by the Principal, the Contractor must within 48 hours of a Works Order being agreed and executed by the parties, mobilise, attend the site(s) of the specified Emergency and begin the Scoping, Establishment and Site Assessment Phase.
- 10. The Contractor must deliver and perform the Works in compliance with and in accordance with the Works Order.
- 11. Unless otherwise specified in the Works Order, before the Scoping, Establishment and Site Assessment Phase Target Date, the Contractor must conduct and carry out all such investigations to allow it to prepare accurate:
 - (a) Scope Documentation;
 - (b) a Cost Plan; and
 - (c) a Program; and

the documents referred to in this clause 11 will, including others, form the basis of the Principal's approval to proceed with the Hazard Reduction Phase.

SECTION 4 TERMS OF ENGAGEMENT

See separate document

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**SECTION 5
SCOPE OF WORKS**

INDICATIVE SCOPE OF WORKS

1. INTRODUCTION

This is an indicative/outline scope which will be subject to amendment during the detailed scoping undertaken under each Engagement.

2. BACKGROUND AND OVERVIEW

Clean-up and disposal of debris is a common requirement following any Emergency. This includes assessment of impacted sites and damaged structures, disposal of organic matter, building material, household, and other types of hazardous waste. Communities, households, primary producers, businesses, industry, government agencies and councils often are required to manage and dispose of large amounts this debris.

Clean-up is as an end-to-end process of assessment, hazard reduction, demolition as required, removal, collection, disposal and the arrangements required to support the delivery of those activities. Predominantly clean-up will relate to residential properties however it will vary and may also extend to agricultural land, industry and small businesses.

Contractors may be engaged to perform the Scope of Works set out in clause 3 below or any other analogous Scope of Work required arising from an Emergency.

Subcontractors may be engaged to perform any part of the Scope of Works set out in clause 3 below as specified in the Works Order or any other analogous Scope of Work arising from an Emergency, to the extent that scope relates to the Subcontractor's Statement of Capability set out in Appendix 3 of Section 2.

3. SCOPE OF WORKS

Except as otherwise specified in the Works Order, any Works Order and any Contract arising from any Engagement may include, but is not limited to the following (noting some or all of the management services may be delivered by the Principal for any Works Order and Contract arising from any Engagement):

- (a) Management (or any part thereof as specified in the Works Order):
 - (i) Prioritisation of works based on risks assessments of the immediate public health and safety of the impacted community/ies;
 - (ii) Region specific considerations for rural, remote and metro locations; and
 - (iii) Communication and engagement with Local and State Government, regulatory agencies and the impacted community/ies.
 - (iv) Managing any disputes between Site owners and the Contractor or Subcontractors;
- (b) Clean-up activities (or any part thereof as specified in the Works Order):
 - (i) Hazard reduction activities include securing Sites and carrying out urgent clean-up Works where there is a safety, health or environment management issue, with the prior written consent of the Principal and property owners;
 - (ii) Provide the opportunity for discovery of the Site to the property owner and facilitate the collection of personal property from the Site by the property owner prior to the commencement of any demolition works. Where the Site is deemed by the Site Supervisor to be unsafe for a physical inspection by the property owner, the Contractor must provide the property owner with the opportunity for a virtual inspection (including via a live stream on an electronic device)
 - (iii) Demolition activities include but are not limited to whole or partial building structures, storage sheds and fencing;

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- (iv) Debris removal activities include but are not limited to collection, transportation and disposal of debris and waste, including hazardous materials and materials in water, in accordance with South Australian regulatory requirements;
 - (v) Recycling of debris, as appropriate;
 - (vi) Assessment and removal of vegetation, as appropriate; and
 - (vii) Rectification activities include rectification of damage incurred as a result of the hazard reduction, demolition and debris removal activities.
- (c) Service requirements (or any part thereof as specified in the Works Order and the Terms of Engagement):
- (i) Brokerage and coordination of clean-up;
 - (ii) Project and case management;
 - (iii) Accreditations and regulatory expertise;
 - (iv) Engagement of Local Workers and Local Plant and Equipment;
 - (v) Commercial models - time and material and cost plus preferred;
 - (vi) Service level agreements (SLAs) and key performance indicators (KPIs); and
 - (vii) Supervising and managing volunteer organisations.

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**SECTION 6
PERFORMANCE MANAGEMENT FRAMEWORK**

INDICATIVE PERFORMANCE MANAGEMENT FRAMEWORK

1. SUMMARY

1.1 Introduction¹

The Performance Management Framework (PMF) is a:

- (a) tool to monitor and measure the Contractor's performance and individual Engagement level performance; and
- (b) mechanism intended to drive improvements in the Contractor's performance and individual Engagement level performance.

The PMF is to be read in conjunction with the terms of any Works Order, the Head Agreement, and the Terms of Engagement applicable to any Contract.

1.2 Objectives

The objectives of the PMF are to:

- (a) outline the processes and mechanisms by which the parties will drive continuous improvement of the Contractor's performance; and
- (a) provide for qualitative and quantitative mechanisms to measure the performance of the Contractor against specified key performance indicators (KPIs) and Performance targets for the purpose of determining whether the Principal will avail itself of the rights afforded to it by clause 14 of the Head Agreement or clause 14 of the Terms of Engagement.

2. KEY PERFORMANCE INDICATORS

- (a) The Principal will monitor and measure the Contractor's performance against the following KPIs and Performance Targets in respect of the Head Agreement, and any other KPIs and Performance Targets applicable under the Contract:

KPI No.	Description	Performance Target to be met in each Progress Claim period	Measurement Period
KPI 1	Compliance with Statutory Requirements	Full compliance with all Statutory Requirements for each Engagement as identified and measured by the Principal's audit and verification activities.	Monthly (2 Progress Claims)
KPI 2	Safety	For each Engagement, full compliance with the Work Health and Safety obligations specified in clause 8.17 of the Terms of Engagement as identified by and measured the Principal's audit and verification activities.	Monthly (2 Progress Claims)

¹ Unless otherwise stated terms used in this PMF have the meaning given to them in the Head Agreement and the Terms of Engagement.

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KPI 3	Local Workers Percentage and Local P&E Percentage	Full compliance with the Local Workers Percentage and Local P&E Percentage requirement for each Engagement as identified and measured by the Principal's audit and verification activities.	Monthly (2 Progress Claims)
KPI 4	Cleanup Standards	Full compliance with the agreed Cleanup Standard for each Engagement as identified and measured by the Principal's audit and verification activities.	Monthly (2 Progress Claims)
KPI 5	Environment	Full compliance with the Environmental Management Plan for each Engagement as identified and measured by the Principal's audit and verification activities.	Monthly (2 Progress Claims)
KPI 6	Community and stakeholder engagement	Full compliance with the Communications and Media Plan and Key Stakeholder Engagement Plan for each Engagement as identified and measured by the Principal's audit and verification activities.	Monthly (2 Progress Claims)
KPI 7	Quality (Inspection Plan)	Full compliance with the Inspection Plan for each Engagement as identified and measured by the Principal's audit and verification activities.	Monthly (2 Progress Claims)
KPI 8	Subcontractor payments	Full compliance with subcontractor payment terms outlined in cl. 8.4 of the Terms of Engagement	Monthly (2 Progress Claims)

- (b) Any failure to reach or comply with a Performance Target of a Key Performance Indicator will constitute a KPI Failure.

South Australian River Murray Flood Clean-Up Program

Terms of Engagement

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TERMS OF ENGAGEMENT

1. GLOSSARY OF TERMS, INTERPRETATION AND MISCELLANEOUS

1.1 Glossary of Terms

Unless the context otherwise indicates, whenever used in this Contract, each word or phrase in the headings in this clause 1.1 has the meaning given to it under the relevant heading.

Act of Prevention

Any one of:

- (a) a breach of the Contract by the Principal;
- (b) any other act or omission of the Principal, the Principal's Contract Manager or an Other Contractor engaged by the Principal.

Approval

Any licence, permit, consent, approval, determination, certificate, notice or other requirement of any Commonwealth, State or local authority, body or other organisation having any jurisdiction in connection with the Sites, the Works or the Contractor's Activities or under any other applicable Statutory Requirement, which must be obtained or satisfied to:

- (a) carry out the Contractor's Activities; or
- (b) service, occupy and use the completed Works.

Award Date

The date stated in the Contract Particulars.

Contractor IP

Intellectual property owned by the Contractor that was created prior to and independently of this Contract and the Works.

Change of Control

In relation to the Contractor, where a person who did not (directly or indirectly) effectively Control the Contractor at the Award Date, either alone or together with others, acquires Control of the Contractor.

Claim

Includes any claim for an increase in the Contract Price or payment of money (including damages):

- (a) under, arising out of, or in any way in connection with, the Contract, including any direction of the Principal's Contract Manager;
- (b) arising out of, or in any way in connection with, the Contractor's Activities, the Works or either party's conduct before the Contract; or
- (c) otherwise at law or in equity including:
 - (i) by statute;
 - (ii) in tort for negligence or otherwise, including negligent misrepresentation; or
 - (iii) for restitution.

- (d) Cleanup Standard; or
- (e) as described in the Contract Particulars.

Completion Notice

A notice issued by the Contractor stating the date when it considers Completion of all Phases for a Site was achieved and includes an Environmental Certificate and a certificate from a surveyor identifying the Site upon which the Works were undertaken.

Completion

The point in time when, in respect of a Phase, for a Stage or Site (to the extent applicable to that Phase):

- (a) the Works and the Contractor's Activities are complete except for minor Defects:
 - (i) which do not prevent the Works from being reasonably capable of being used for the intended purpose of the Works; and
 - (ii) which can be corrected without prejudicing the convenient use of the Works;
- (b) those tests which are required by the Contract to be carried out and passed before the Phase for a Stage or Site reaches Completion (including that the Cleanup Standard has been achieved in relation to the Works) have been carried out and passed;
- (c) all documents and other information referred to in the Contract, including all Approvals, which are required for the use and operation of the Works have been supplied to the Principal's Contract Manager; and
- (d) without limiting paragraph (c), the Contractor has done everything which the Contract requires it to do as a condition precedent to Completion, including those things described in the Contract Particulars, and including:
 - (i) in respect of the Scoping, Establishment and Site Assessment Phase for a Stage or Site - achieving Scoping, Establishment and Site Assessment Phase Completion for that Stage or Site;
 - (ii) in respect of the Hazard Reduction Phase for a Stage or Site - achieving Hazard Reduction Phase Completion for that Stage or Site;
 - (iii) in respect of the Removal and Disposal Phase for a Stage or Site - achieving Removal and Disposal Phase Completion for that Stage or Site;
 - (iv) in respect of the Demolition Phase for a Stage or Site - achieving Demolition Phase Completion for that Stage or Site;
 - (v) in respect of the Other Waste Removal Phase for a Stage or Site - achieving Other Waste Removal Phase Completion for that Stage or Site;
 - (vi) in respect of the Sandbag Removal Phase for a Stage or Site - achieving Sandbag Removal Phase Completion for that Stage or Site;
 - (a) in respect of the Sign-Off Phase for a Stage or Site – achieving Sign-Off Completion for that Stage or Site.

Contamination

Has the meaning given to site contamination in the EPA Act.

Contract

The contractual relationship between the parties in respect of an Engagement constituted by the documents referred

to in clause 2.2 of the Head Agreement and any other document listed in the Contract Particulars attached to the Works Order for the relevant Engagement.

Contract Price

Means, in respect of a Phase, the sum of:

- (a) the Reimbursable Costs; and
- (b) the Fee; and
- (c) any other amounts due and owing under the Contract.

Contractor

The person named in the Contract Particulars.

Contractor's Activities

All things or tasks which the Contractor is, or may be, required to do to comply with its Contract obligations including all Reimbursable Work.

Contractor Code of Conduct

Any code of conduct issued by the Principal in relation to the Principal's requirements for suppliers, as amended from time to time.

Contractor's Contract Manager

The person named in the Contract Particulars or any other person from time to time appointed as Contractor's Contract Manager in accordance with clause 3.

Contract Particulars

The particulars for an Engagement annexed to these Terms of Engagement and entitled "Contract Particulars".

Control

Includes:

- (a) the ability to exercise or control the exercise of the right to vote in respect of more than 50% of the voting shares or other form of voting equity in a corporation;
- (b) the ability to dispose or exercise control over the disposal of more than 50% of the shares or other form of equity in a corporation;
- (c) the ability to appoint or remove all or a majority of the directors of a corporation;
- (d) the ability to exercise or control the exercise of the casting of a majority of the votes cast at the meetings of the board of directors of a corporation; and
- (e) any other means, direct or indirect, of dominating the decision making and financial and operating policies of a corporation.

Cost Plan

The cost plan approved by the Principal's Contract Manager under clause 5.3(e), as revised with the approval of the Principal's Contract Manager under clause 12.1.

Cyber Incident

The misappropriation or accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, State Data that compromises the security, confidentiality or integrity of such State Data.

Date of Site Completion

The date of Completion set out in a Notice of Site Completion.

Defect

Any defect, shrinkage, 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

The period which commences on the Date of Site Completion of the Works, and which continues for the period described in the Contract Particulars, as extended by clause 9.11.

Demolition Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites:

- (a) the Contractor has prepared the Scope Documentation for the Other Waste Removal Works, which has been approved by the Principal's Contract Manager as required by clause 5.4; and
- (b) the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including Completion of the Demolition Works.

Demolition Works

Works required to be carried out for the Demolition Phase of an Engagement as specified in the Works Order.

direction

Any agreement, approval, authorisation, certificate, consent, decision, demand, determination, direction, explanation, failure to consent, instruction, notice, notification, order, permission, rejection, request or requirement.

Emergency Event Waste

As described in the Contract Particulars.

Environment

Means land, air, water, organisms and ecosystems, and includes:

- (a) human-made or modified structures or areas; and
- (b) the amenity values of an area.

Environmental Certificate

Means a certificate issued by an environmental hygienist/analyst employed by the Contractor which states that a Site has been cleared of Emergency Event Waste in accordance with the standards referenced in the certificate.

Environmental Harm

Means any harm, or potential harm, to the Environment (of whatever degree or duration) and includes:

- (a) an Environmental Nuisance; and

- (b) anything declared by regulation under the EPA Act to be Environmental Harm for the purposes of the EPA Act; and
- (c) anything declared by an environment protection policy to be Environmental Harm for the purposes of the EPA Act.

Any actual or threatened adverse impact on, or damage to, the Environment.

Environmental Incident

Any Environmental Harm or Contamination caused by or in relation to the Contractor's Activities.

Environmental Management Plan

The environmental management plan prepared by the Contractor and finalised under clause 9.2, which must set out in adequate detail the procedures the Contractor will implement to manage the Contractor's Activities from an environmental perspective and describe how the Contractor proposes to ensure the Contractor's Activities will be performed consistently with:

- (a) the Government Requirements;
- (b) the Statutory Requirements;
- (c) the Environmental Objectives; and
- (d) the requirements set out in the Scope Documentation.

Environmental Nuisance

Means:

- (a) any adverse effect on an amenity value of an area that— (i) is caused by pollution; and (ii) unreasonably interferes with or is likely to interfere unreasonably with the enjoyment of the area by persons occupying a place within, or lawfully resorting to, the area; or
- (b) any unsightly or offensive condition caused by pollution.

Environmental Objectives

The Environmental Objectives are to:

- (a) encourage best practice environmental management through planning, commitment and continuous improvement;
- (b) prevent and minimise Environmental Harm;
- (c) identify the potential for, and respond to, Environmental Incidents, accidents and emergency situations and take corrective action;
- (d) identify and control possible environmental hazards associated with the Works and the Contractor's Activities;
- (e) establish procedures to ensure that no hazardous substance is stored on Principal land without approval;
- (f) recognise and protect any special environmental characteristics of the Sites (including cultural heritage significance);
- (g) define roles and responsibilities for personnel;
- (h) ensure environmental training and awareness programmes are provided to employees and subcontractors;

- (i) ensure subcontractors implement the Environmental Management Plan;
- (j) define how the management of the Environment during the Contractor's Activities is reported and performance evaluated;
- (k) describe all monitoring procedures required to identify impacts on the Environment as a result of the Works and the Contractor's Activities;
- (l) implement complaint reporting procedures and maintain records of complaints and response to complaints; and
- (m) establish and maintain programs and procedures for periodic Environmental Management Plan audits to be carried out.

EPA Act

Means the *Environment Protection Act 1993 (SA)*.

Excepted Risk

Any one of:

- (a) war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military or usurped powers, martial law or confiscation by order of any government or public authority;
- (b) the use or threat of unlawful violence against persons or property which does not arise out of any individual relationship between the perpetrator and the victim, or for purposes of robbery, but which is directed at victims as members of a class, race, organisation, nationality, religious or ethnic group, or which is intended to intimidate, coerce or inflict revenge upon any civilian population, government, institution or corporation; and
- (c) 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 any subcontractor or any of their employees or agents.

Executive Negotiators

The representatives of the parties nominated in the Contract Particulars or any person nominated by the relevant party to replace that person from time to time by notice in writing to the other party.

Fee

The amount determined in accordance with Schedule 1 which is payable to the Contractor, based on the application of the Margin % to the cost of Reimbursable Works for an Engagement, other than those that are excluded from the Fee.

Government Requirements

Includes all policies, plans, manuals, guidelines, instructions (including departmental procurement policy instructions) and other Principal, State or other governmental requirements which are, or may become, applicable to the Sites, the Works or the Contractor's Activities.

Handover Plan

The handover plan prepared by the Contractor and finalised under clause 9.2, which must set out in adequate detail the procedures the Contractor will implement to manage the Contractor's Activities from a handover perspective to ensure the smooth handover of the Works to the relevant landowner in accordance with the Contract.

Hazard Reduction Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites:

- (a) the Contractor has prepared the Scope Documentation for the Removal and Disposal Works, which has been approved by the Principal's Contract Manager as required by clause **Error! Reference source not found.**; and
- (b) the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including providing a Completion Notice in respect of Completion of the Hazard Reduction Works in accordance with clause 13.

Hazard Reduction Works

Works required to be carried out for the Hazard Reduction Phase of an Engagement as specified in the Works Order for the relevant Engagement.

Head Agreement

The Head Agreement for the South Australian River Murray Flood Clean-Up Project between the Principal and the Contractor.

Independent Verification

Verification by a person appointed by the Principal in its absolute discretion.

Information Privacy Principles

The Cabinet Administrative Instruction No.1 of 1989 (Re-issued 30 July 1992 and 18 May 2009) which can be found at <http://www.archives.sa.gov.au>

Intellectual Property Rights

All statutory and other proprietary rights in respect of inventions, innovations, patents, utility models, designs, circuit layouts, mask rights, copyrights (including future copyrights), confidential information, trade secrets, know-how, trademarks and all other rights in respect of intellectual property as defined in Article 2 of the Convention establishing the World Intellectual Property Organisation of July 1967.

Malicious Software

Software designed or intended to cause harm either by damaging or disrupting the performance of the computing and communications infrastructure owned or used by the Principal without the authority of the Principal.

Margin %

Has the meaning set out in the Contract Particulars.

No Fault Delay Cause

Means:

- (a) an Act of Prevention;
- (b) an Excepted Risk;
- (c) a state-wide industrial dispute which is not caused or contributed by the Contractor or any subcontractor of the Contractor;
- (d) a change in Statutory Requirements after the Award Date which the Contractor could not have reasonably contemplated at the time of submission of its proposal; or

- (e) a declared pandemic or epidemic.

Nominated Subcontract

Means a subcontract entered into by the Contractor and a Nominated Subcontractor for a part of the Reimbursable Works required for an Engagement in accordance with clause 8.5(b).

Nominated Subcontractor

A Subcontractor that the Contractor has been directed by the Principal to engage in respect of an Engagement in accordance with clause 8.5.

Notice of Site Completion

A notice under clause 13.2(a) by the Principal's Contract Manager stating that Completion of each Phase of the Works for a Site have been achieved.

Other Contractor

Any contractor, consultant, artist, tradesperson or other person engaged to do work other than the Contractor and its subcontractors.

Other Waste Removal Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites:

- (a) the Contractor has prepared the Scope Documentation for the Sandbag Removal Works, which has been approved by the Principal's Contract Manager as required by clause 5.4; and
- (b) the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including Completion of the Other Waste Removal Works.

Other Waste Removal Works

Works required to be carried out for the Other Waste Removal Phase of an Engagement as specified in the Works Order.

Project Control Group or PCG

The group established under clause 3.9.

Performance Management Framework (or PMF)

The performance management framework in Schedule 6.

Personal Information

Information or an opinion (including information or an opinion forming part of a database) that is recorded in any form and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Phase

Any, or all of, as relevant:

- (a) plan, scope and commence the Works (Scoping, Establishment and Site Assessment Phase);
- (b) undertake the Works required to coordinate and manage any immediate risks to people and property (Hazard Reduction Phase);

- (c) deliver and complete the Works required to clear the Site of eligible flood material (Removal and Disposal Phase);
- (d) undertake demolition of eligible buildings (Demolition Phase);
- (e) deliver and complete the Works required to clear the Site of any other waste relocated by the flood (Other Waste Removal Phase);
- (f) removal and processing of sandbags (Sandbag Removal Phase); and
- (g) sign-off and commence Defects Liability Period (Sign-Off Phase).

Plant, Equipment and Work

Those things used, or work undertaken, by the Contractor to deliver the Works but which will not form part of the Works.

Pre-existing Contamination

Contamination at a site which:

- (a) existed at the site before the Emergency commenced; and
- (b) the Emergency did not cause or contribute to.

Principal's Contract Manager

The person nominated in the Contract Particulars or any other person nominated by the Principal from time to time under clause 3 to replace that person.

Program

A program approved by the Principal's Contract Manager under clause 5.4(d) as updated with the approval of the Principal's Contract Manager under clause 10.2.

Project Documents

Includes:

- (a) Scope Documentation;
- (b) Cost Plan;
- (c) programs;
- (d) Project Plans;
- (e) Approvals;
- (f) warranties from subcontractors;
- (g) the documents which the Contractor is obliged to maintain under clause 12.17;
- (h) without limiting paragraphs (a)-(g), any other material:
 - (i) produced; or
 - (ii) provided, or required to be provided, to the Principal or the Principal's Contract Manager, under, for the purposes of or in connection with the Contract, the Contractor's Activities or the Works by, for or on behalf of the Contractor (including by subcontractors), including all documents, papers, books of account, labour time sheets, invoices (whether for services, materials, plant hire or otherwise),

financial accounts, reports, software, databases or other information stored in any electronically-retrievable medium, technical information, plans, drawings (including as-built drawings), specifications, charts, calculations, tables, schedules, correspondence (including correspondence by third parties to the Contractor), internal memoranda, minutes of meetings, diary notes, audio material, visual material, audio-visual material, working papers, draft documents and any other material of a similar nature to those materials relating to or arising out of or in connection with the Contract, the Contractor's Activities or the Works; and

- (i) without limiting paragraphs (a) - (h), all material at any time derived (under, for the purposes of or in connection with the Contract, the Contractor's Activities or the Works) from, or based on, the material described in paragraphs (a) - (h).

Project Plans

The:

- (a) Environmental Management Plan;
- (b) Sites Management Plan;
- (c) Handover Plan;
- (d) Work Health and Safety Plan;
- (e) Dangerous Items Plan;
- (f) Aboriginal Heritage Plan; and
- (g) other plans referred to in the Contract Particulars and prepared and finalised by the Contractor under clause 9.2(a)(ii),

as amended (if at all) with the written consent of the Principal's Contract Manager.

Reimbursable Costs

The aggregate of:

- (a) all amounts properly and actually incurred and payable by the Contractor for the performance of the Reimbursable Work:
 - (i) determined in accordance with Schedule 1;
 - (ii) excluding:
 - A. amounts (including damages) paid or payable by the Contractor by reason of any breach of contract or other wrongful act or omission by the Contractor including a breach by the Contractor of the Contract, except to the extent that such breach or wrongful act or omission was directly caused by any breach of contract or other wrongful act or omission of the Principal; and
 - B. other amounts not properly incurred in respect of the execution of the Reimbursable Work or which the Contract provides are to be borne by the Contractor or to be a debt due from the Contractor to the Principal; and
 - (iii) adjusted for Variations by the amounts determined in accordance with clause 11.3; and
- (b) any other amounts stated in this Contract to be "Reimbursable Costs",

less, in respect of any Defect which is the subject of an instruction under clause 9.6(b), the amount that, in the opinion of the Principal's Contract Manager, would have been payable to Subcontractors for correcting the Defect if an instruction had been made under clause 9.6(a).

Reimbursable Work

That part of the Contractor's Activities:

- (a) for which the Contractor must engage Subcontractors, or
- (b) which is Self-performed Work,

agreed between the parties when finalising the Scope Documentation and amended from time to time by agreement of the Parties.

Related Body Corporate

Has the meaning given to it in section 9 of the *Corporations Act 2001* (Cth).

Removal and Disposal Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites:

- (a) the Contractor has prepared the Scope Documentation for the Demolition Works, which has been approved by the Principal's Contract Manager as required by clause 5.4; and
- (b) the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including Completion of the Removal and Disposal Works.

Removal and Disposal Works

Works required to be carried out for the Removal and Disposal Phase of an Engagement as specified in the Works Order.

Sandbag Removal Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites:

- (a) the Contractor has prepared the Scope Documentation for the Sign-Off Works, which has been approved by the Principal's Contract Manager as required by clause 5.4; and
- the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including Completion of the Sandbag Removal Works.

Sandbag Removal Works

Works required to be carried out for the Sandbag Removal Phase of an Engagement as specified in the Works Order.

Schedule of Rates

The document attached in Appendix 2 to the Head Agreement.

Scope Documentation

All scope documentation (including drawings, specifications, reports, models, samples and calculations) in computer readable and written forms which the Principal's Contract Manager determines is necessary for the Contractor to establish the scope and enable Completion of each Phase of the Works.

Scoping, Establishment and Site Assessment Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites:

- (a) the Contractor has finalised the Scope Documentation under clause 5.2;

- (b) the Contractor has prepared a cost plan which has been approved by the Principal's Contract Manager as required by clause 5.3;
- (c) the Contractor has prepared a program which has been approved by the Principal's Contract Manager as required by clause 5.4;
- (d) the Contractor has prepared site assessment reports which have been approved by the Principal; and
- (e) the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including Completion of the Scoping, Establishment and Site Assessment Phase and finalisation of all of the Project Plans under clause 9.2.

Scoping, Establishment and Site Assessment Works

Works required to be carried out for the Scoping, Establishment and Site Assessment Phase of an Engagement as specified in the Works Order for the relevant Engagement.

Security of Payment Legislation

Building and Construction Industry Security of Payment Act 2009 (SA).

Self-performed Work

Those parts of the Contractor's Activities which are performed by the Contractor or a Related Body Corporate and not by a Subcontractor for which the Contractor will be paid in accordance with the Schedule of Rates, but for which no Margin % will be applied.

Sign-off Phase Completion

Means, in respect of each Stage or Site individually, and separately in respect of all Stages or Sites, the Contractor has otherwise complied with all of its obligations under the Contract to the extent applicable, including Completion of the Sign-Off Works.

Sign-off Works

Works required to be carried out for the Sign-Off Phase of an Engagement as specified in the Works Order.

Sites

The sites for the Works outlined in the Contract Particulars and may include a cluster of Sites as set out in Schedule 3, and may form part of a Stage, or form a separate individual Stage.

Sites Access Clean-up Protocol

As described in the Contract Particulars and as agreed by the parties in accordance with clause 3.9(b)(ii).

Sites Management Plan

The sites management plan prepared by the Contractor and finalised under clause 9.2, which must set out in adequate detail all procedures the Contractor will implement to manage the Contractor's Activities on and near the Sites including any other matters required by the Principal's Contract Manager.

Site Rectification

Rectification of unavoidable damage caused by the Contractor or Subcontractor to a Site in undertaking the Works.

Special Conditions

The document referred to in the Contract Particulars (if any).

Stage

A stage of the Works:

- (a) agreed by the parties as part of the Program under clause 5.4; or
- (b) as otherwise directed by the Principal's Contract Manager.

State Data

Data belonging to the Principal the State or third parties (including Confidential Information and Personal Information) that is generated, collected or stored by the Principal or the State in whatever form that information may exist and includes, but is not limited to, any content, materials, data and information provided by the Principal to the Contractor in the course of the Contract.

Statutory Requirements

Means:

- (a) any law applicable to the carrying out of the Contractor's Activities, including Acts, ordinances, regulations, by-laws and other subordinate legislation;
- (b) Approvals (including any condition or requirement under them); and
- (c) Government Requirements.

Structure

- (c) a building or object constructed from several parts
- (d) a building or object that rests on deliberately placed foundations*
- (d) a building or object that is connected to two or more essential systems (ie mains water, electricity or solar (including batteries), sewage or gas)

* Note: where a 'structure' has been moved because of the event but formerly sat on foundations or was connected to two or more services it is still considered a structure for the purposes of this specification.

Subcontractor

Any person (including a consultant, subcontractor or Contractor) engaged by the Contractor under clause 8 or otherwise in accordance with the Contract to perform the Reimbursable Work.

Subcontractor List

Has the meaning given in clause 8.1.

Target Cost

The target cost for a Phase, for all Stages or Sites, being for the:

- (a) Scoping, Establishment and Site Assessment Phase, the Target Cost specified in the Works Order for the relevant Engagement;
- (b) Hazard Reduction Phase, the Target Cost specified in the cost plan submitted by the Contractor under clause 5.3(a)(ii) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.3;
- (c) Removal and Disposal Phase, the Target Cost specified in the cost plan submitted by the Contractor under clause 5.3(a)(ii) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.3;

- (d) Demolition Phase, the Target Cost specified in the cost plan submitted by the Contractor under clause 5.3(a)(ii) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.3;
- (e) Other Waste Removal Phase, the Target Cost specified in the cost plan submitted by the Contractor under clause 5.3(a)(ii) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.3; or
- (f) Sandbag Removal Phase, the Target Cost specified in the cost plan submitted by the Contractor under clause 5.3(a)(ii) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.3.
- (g) Sign-off Phase, the Target Cost specified in the cost plan submitted by the Contractor under clause 5.3(a)(ii) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.3

as the case may be.

Target Date

The target date for the Completion of a Phase for all Stages or Sites, being for the:

- (a) Scoping, Establishment and Site Assessment Phase, the Target Date specified in the Works Order for the relevant Engagement;
- (b) Hazard Reduction Phase, the Target Date specified in the program submitted by the Contractor under clause 5.4 and approved by the Principal's Contract Manager, as amended in accordance with clause 5.4;
- (c) Removal and Disposal Phase, the Target Date specified in the program submitted by the Contractor under clause 5.4 and approved by the Principal's Contract Manager, as amended in accordance with clause 5.4;
- (d) Demolition Phase, the Target Date specified in the program submitted by the Contractor under clause 5.4 and approved by the Principal's Contract Manager, as amended in accordance with clause 5.4;
- (e) Other Waste Removal Phase, the Target Date specified in the program submitted by the Contractor under clause 5.4 and approved by the Principal's Contract Manager, as amended in accordance with clause 5.4;
- (f) Sandbag Removal Phase, the Target Date specified in the program submitted by the Contractor under clause 5.4(b)(iv) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.4.
- (g) Sign off Phase, the Target Date specified in the program submitted by the Contractor under clause 5.4(b)(iv) and approved by the Principal's Contract Manager, as amended in accordance with clause 5.4.

Variation

Unless otherwise stated in the Contract, means any change to the Works directed by the Principal's Contract Manager under clause 11 including any addition, increase, decrease, omission, deletion, demolition or removal to or from the Works.

WHS Accreditation Scheme

The Work Health and Safety Accreditation Scheme in force pursuant to section 43 of the *Building and Construction Industry (Improving Productivity) Act 2016* (Cth).

Workers Compensation Insurance

A policy of insurance in the form prescribed by Statutory Requirements in South Australia in which the Contractor's Activities are to be performed or the Contractor's employees are employed or normally reside, to insure against

liability for death of or injury to persons employed by the Contractor as required by the Statutory Requirements, and including Employees Liability Insurance, if applicable.

Work Health and Safety Legislation

All work health and safety related:

- (a) Statutory Requirements;
- (b) codes of practice;
- (c) other compliance codes;
- (d) directions on safety or notices issued by any relevant authority; and
- (e) standards,

where any part of the Works or the Contractor's Activities are being performed and includes the *Work Health and Safety Act 2012 (SA)*.

Work Health and Safety Plan

The work health and safety plan prepared by the Contractor and finalised under clause 9.2 which must set out in adequate detail the procedures the Contractor will implement to manage the Contractor's Activities from a work health and safety perspective and which must describe how the Contractor proposes to ensure the Contractor's Activities are performed consistently with Statutory Requirements in relation to work health and safety for the particular Emergency and Engagement. The plan must include as a minimum the following:

- (a) the names, positions and responsibilities of all persons at the workplace whose positions or roles involve specific health and safety responsibilities in connection with the Contractor's Activities and the Works;
- (b) the arrangements in place, or to be implemented, between any persons at the workplace where the Contractor's Activities and the Works are being undertaken regarding consulting, cooperating and coordinating activities where persons at the workplace and the Contractor owe an work health and safety duty in relation to the same matter (including procedures for information sharing and communication);
- (c) the arrangements in place, or to be implemented, for managing any work health and safety incidents that occur at a workplace where the Contractor's Activities and the Works are carried out, including:
 - (i) incident (including notifiable incident) reporting procedures;
 - (ii) preventative and corrective action procedures; and
 - (iii) record-keeping and reporting requirements;
- (d) any Site-specific health and safety rules, and the arrangements for ensuring that all persons at the workplace are informed of these rules;
- (e) the arrangements for the collection and recording, and any assessment, monitoring and review of safe work method statements at the workplace;
- (f) procedures and arrangements for the management of work health and safety generally, including:
 - (i) details of the Contractor's work health and safety policy;
 - (ii) details of any work health and safety management system (whether certified or uncertified);
 - (iii) inductions, training and other awareness programmes regarding work health and safety and any workplace specific work health and safety induction, training and other awareness programmes; and

- (iv) emergency procedures, emergency management planning, the use of emergency equipment and the establishment of workplace specific first aid facilities;
- (g) procedures for the management of subcontractors, including:
 - (v) inductions, training and other awareness;
 - (vi) the subcontractor's development and provision of safe work method statements, job safety assessments or equivalent documentation;
 - (vii) ensuring subcontractors comply with their obligation to consult, cooperate and coordinate activities (including the information-sharing and communication of information); and
 - (viii) ensuring subcontractor compliance with the Contractor's Work Health and Safety Plan;
- (h) details of the project and Contract specific hazards and risks identified by the Contractor and the Contractor's approach to the management of these hazards and risks including how the Contractor will identify hazards and eliminate or minimise risks so far as is reasonably practicable:
 - (ix) prior to commencing the Contractor's Activities and the Works; and
 - (x) during the delivery of the Contractor's Activities and the Works;
- (i) the approach the Contractor will adopt in identifying, controlling and managing work health and safety hazards and risks concerning hazardous substances, including, where they are used or handled in the delivery of the Contractor's Activities, incorporated into the Works, stored by the Contractor at the workplace or transported by the Contractor to or from the workplace;
- (j) the actions the Contractor will take to proactively identify and manage risks to ensure it avoids systematic work health and safety risk management failures occurring during the delivery of the Contractor's Activities and the Works; and
- (k) the procedures the Contractor will adopt to audit or otherwise monitor and verify its (and its subcontractors') compliance with the Work Health and Safety Plan and the WHS Legislation (including details of the regularity, form and content of such audit, monitoring and verification activities).

Works

The physical works, a brief description of which is set out in the Contract Particulars, which the Contractor must plan, scope, deliver, commission, complete and hand over to the Principal in accordance with the Contract, and includes:

- (a) Scoping, Establishment and Site Assessment Works;
- (b) Hazard Reduction Works;
- (c) Removal and Disposal Works
- (d) Demolition Works;
- (e) Other Waste Removal Works;
- (f) Sandbag Removal Works; and
- (g) Sign-off Works.

Works Order

The Works Order issued for an Engagement under clause 4, 5, or 6 of Section 3 of the Head Agreement, based on the indicative Works Order in Schedule 2.

1.2 Interpretation

In this Contract, unless the context otherwise indicates:

- (a) words in the singular include the plural and vice versa;
- (b) references to a person include an individual, firm, corporation or unincorporated body;
- (c) except in clause 1.1, headings are for convenience only and do not affect the interpretation of this Contract;
- (d) references to any party to this Contract include its successors or permitted assigns;
- (e) a reference to a party, clause, Annexure, Schedule, or exhibit is a reference to a party, clause, Annexure, Schedule or exhibit of or to this Contract;
- (f) references to this Contract and any deed, agreement or instrument are deemed to include references to this Contract or such other deed, agreement or instrument as amended, novated, supplemented, varied or replaced from time to time;
- (g) words denoting any gender include all genders;
- (h) references to any legislation or to any section or provision of any legislation include any:
 - (i) statutory modification or re-enactment of or any statutory provision substituted for that legislation, section or provision; and
 - (ii) ordinances, by-laws, regulations and other statutory instruments issued under that legislation, section or provision;
- (i) no rule of construction applies to the disadvantage of a party on the basis that the party put forward the Contract or any part;
- (j) a reference to "\$" is to Australian currency;
- (k) where under the Contract:
 - (i) a direction is required to be given or must be complied with; or
 - (ii) payment of money must be made (other than under clause 12.6),
within a period of 7 days or less from a specified event, then Saturdays, Sundays and public holidays in the place in which the Sites are situated will not be counted in computing the number of days;
- (l) for the purposes of clauses 12.5 and 12.6, references to "business days" are to days other than:
 - (i) a Saturday or Sunday; or
 - (ii) a day that is partly or wholly observed as a public holiday throughout South Australia;
- (m) other than as set out in paragraphs (k) and (l) references to "day" are references to calendar days;
- (n) the words "including" and "includes", and any variants of those words, will be read as if followed by the words "without limitation";
- (o) the word "subcontractor" will include subcontractors, suppliers, consultants and Subcontractors, and the word "subcontract" will include a contract with a subcontractor (including an Approved Subconsultant Agreement);
- (p) derivatives of a word or expression which has been defined in clause 1.1 will have a corresponding meaning to that assigned to it in clause 1.1; and

- (q) unless agreed or notified in writing by the Principal's Contract Manager, a reference to Standards Australia standards, overseas standards or other similar reference documents in the Scope Documentation is a reference to the edition last published prior to the preparation of the Scope Documentation (as the case may be). If requested by the Principal's Contract Manager, the Contractor must make copies of all Standards Australia standards, overseas standards or other similar reference documents referred to in the Scope Documentation available to the Principal's Contract Manager.

1.3 Miscellaneous

- (a) This Contract is subject to and is to be construed in accordance with the laws of the State or Territory set out in the Contract Particulars.
- (b) None of the terms of the Contract can be waived, discharged or released at law or in equity unless:
- (i) to the extent that the term involves a right of the party seeking to waive the term or one party seeking to waive an obligation of the other party - this is done by written notice to the other party; or
 - (ii) otherwise, both parties agree in writing.
- (c) This Contract constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite:
- (i) any prior agreement in conflict or at variance with the Contract; or
 - (ii) any correspondence or other documents relating to the subject matter of the Contract which may have passed between the parties prior to the Award Date and which are not included in the Contract.
- (d) Where a party comprises two or more persons, each person will be jointly and severally bound by the party's obligations under the Contract.
- (e) Any provision in this Contract which is illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability and such illegality, voidness or unenforceability will not invalidate any other provision of the Contract.
- (f) Subject to this clause, the parties must preserve the confidentiality of the Confidential Information, and must not, and must ensure that their contractors, employees and volunteers do not, disclose any Confidential Information to any person who is not a party, unless the other party otherwise agrees.
- (g) There will be no breach of the obligations under this Contract if the Confidential Information is legally required to be disclosed, is required to be disclosed by the Stock Exchange, or is permitted to be disclosed by this Contract.
- (h) The Contractor acknowledges that the Principal may disclose Confidential Information:
- (i) to Parliament, the Governor, Cabinet or a Parliamentary or Cabinet committee or sub-committee;
 - (ii) to any agency, authority, instrumentality, or officer of the State of South Australia to whom it is customary to disclose the Confidential Information (whether or not the Principal is legally obliged to do so); or
 - (iii) for the purposes of prosecuting or defending any legal proceedings.
- (i) The Contractor must ensure that any subcontract made in connection with this Contract contains enforceable obligations requiring the subcontractor to comply with the Contractor's obligations arising under paragraph (f) as if the subcontractor were the Contractor.
- (j) The Contractor must indemnify the Principal against:
- (i) any liability to or claim by a third party including a subcontractor or Other Contractor; and

- (ii) all costs, losses and damages suffered or incurred by the Principal,
arising out of any breach by the Contractor of a term of this Contract. This indemnity shall not extend to claims made or liability to third parties in respect of the loss of or damage to their personal property except where the Contractor has failed to exercise the skill, care and diligence to the standard required by clause 2.3(a) in respect of that personal property or except where a policy of insurance required to be in place under clause 4 responds to the circumstance and then only to the extent of any payment made under that policy.
- (k) The Contractor's indemnity obligations under this clause 1.3(j) must be reduced proportionately by the extent to which an act or omission of:
 - (i) the Principal or invitees of the Principal;
 - (ii) an Other Contractor;
 - (iii) the Site Owner; or
 - (iv) members of the public where the Contractor does not have control of the Site, contributed to the claim;
- (l) All obligations to indemnify under this Contract survive termination of the Contract.
- (m) Unless expressly stated to the contrary in this Contract, the Contractor must perform the Contractor's Activities at its cost.
- (n) The Principal does not guarantee a volume of work to the Contractor under this Contract, and make no representation and gives no warranty regarding the number of Sites or the volume or work required at any Site.
- (o) This Contract is entered into on a non-exclusive basis, and the Principal reserves the right to engage Other Contractors to provide clean-up works in respect of the Emergency the subject of the Contract.
- (p) The liability of either party for breach of this Contract or for any other common law or statutory cause of action arising out of the operation of this Contract shall be determined under the relevant law in Australia that is recognised, and would be applied, by the High Court of Australia.
- (q) The Principal agrees to limit the aggregate liability of the Contractor under clause 1.3(p) to an amount equal to the value of the Reimbursable Costs and Fees paid to the Contractor at the time the Principal's Claim is made.
- (r) The limitation of liability referred to in clause 1.3(q) does not apply to the following heads of liability:
 - (i) personal injury, including sickness and death;
 - (ii) loss of, or damage to, tangible property;
 - (iii) infringement of Intellectual Property Rights;
 - (iv) any liability to a third party arising from any negligent, or wrongful act or omission of the Contractor, its employees or agents, or arising from any breach of the Contractor's contractual obligations to the Principal;
 - (v) an intentional tort;
 - (vi) a breach of trust; and
 - (vii) fraud or dishonesty.
- (s) Clauses 1.3(p) to (s) (inclusive) will survive the termination of this Agreement.

2. NATURE OF CONTRACT

2.1 Fundamental Structure - Phases and Stages

- (a) The Principal engages the Contractor to carry out the Contractor's Activities and the Works in the following seven Phases, unless otherwise specified in the Works Order for the relevant Engagement or directed by the Principal:
- (i) plan, scope and commence the Works (Scoping, Establishment and Site Assessment Phase);
 - (ii) undertake the Works required to coordinate and manage any immediate risks to people and property (Hazard Reduction Phase);
 - (iii) deliver and complete the Works required to clear the Sites of eligible flood material (Removal and Disposal Phase);
 - (iv) undertake demolition of eligible buildings (Demolition Phase);
 - (v) deliver and complete the Works required to clear the Sites of any other waste relocated by the flood (Other Waste Removal Phase);
 - (vi) remove and process sandbags from Sites (Sandbag Removal Phase); and
 - (vii) sign-off and commence Defects Liability Period (Sign-Off Phase),
- in accordance with the Contract.
- (b) The Contractor may deliver the Phases concurrently.
- (c) In consideration of the Contractor undertaking the Contractor's Activities, the Principal will pay the Contractor the Fee component of the Contract Price, and the Reimbursable Cost component of the Contract Price.
- (d) Each Engagement may involve a number of Stages or Sites (whether based on a different location, timing or otherwise and each Site may be a Stage), each of which will have the Phases set out in the Works Order for the relevant Engagement.
- (e) For the purposes of this clause, all relevant provisions of the Contract will (mutatis mutandis) apply to each Stage as if they were the only activities and only work included in the Contractor's Activities and Works.
- (f) For the avoidance of doubt, the expiry of the Term under the Head Agreement will not limit or affect the Contractor's obligations under this Contract, and they will continue in full force and effect until they have been discharged or the earlier termination of this Contract.

2.2 Contractor's Primary Obligations

- (a) The Contractor:
- (i) will be primarily responsible for the performance of the Contractor's Activities in accordance with the Contract; and
 - (ii) acknowledges that the Principal is relying upon the advice, skill and judgment of the Contractor in the planning, scoping, commencement, delivery, completion and handover of the Works.
- (b) Without limiting the generality of the Contractor's obligations, the Contractor will be responsible for (and will control, co-ordinate, administer and direct) all activities necessary for the scoping, commencement, delivery, completion and handover of the Works including the engagement, supervision, control, co-ordination and direction of all subcontractors involved in the execution of the Reimbursable Work (including Nominated Subcontractors).

(c) Unless otherwise directed by the Principal's Contract Manager, the Contractor is responsible for obtaining the necessary Approvals (consents) from:

- (i) landowners;
- (ii) any other persons with a right or intention to occupy the Sites; and
- (iii) any person whose possessions are on the Sites,

to allow the Contractor and its subcontractors to access to the Sites and remove Emergency Event Waste from the Site and otherwise carry out the Scope of Works for the Phases relevant to the Engagement.

(d) The Principal acknowledges that:

- (i) the Contractor is not responsible for (including for the payment of any associated fees or levies) applying for and obtaining the necessary *Environment Protection Act 1993 (SA)* *Firearms Act 2015 (SA)* and relevant *Dangerous Substances Act 1979 (SA)* exemptions, licences or approvals required for the classification, removal, transport and disposal of contaminated materials, other Emergency Event Waste and firearms; and
- (ii) that any physical Emergency Event Waste removal Works on Site cannot be performed by the Contractor until those exemptions are obtained and/or facilitated by the Principal.

2.3 Contractor's Warranties

Without limiting clause 2.2, the Contractor warrants that:

- (a) without limiting the strict or absolute nature of any of its other obligations or warranties under this Contract, it will exercise (and ensure that its subcontractors exercise) the standard of skill, care and diligence in the performance of the Contractor's Activities that would be expected of an expert professional provider of the Contractor's Activities;
- (b) the scoping of the Works will be:
 - (i) performed in accordance, and so as to comply, with the Contract; and
 - (ii) fit for its intended purpose;
- (c) without limiting its obligations under paragraph (a), it will ensure that the Reimbursable Work is performed:
 - (i) in a proper and workmanlike manner;
 - (ii) so that it is fit for its intended purpose; and
 - (iii) in compliance with clause 8.10;
- (d) the Works will when delivered be fit for their intended purpose and comply with all Statutory Requirements (subject to paragraph (g)(i)) and all other requirements of the Contract;
- (e) it will use its best endeavours to ensure that:
 - (i) it achieves Completion of each Phase so that the relevant Contract Price does not exceed the relevant Target Cost;
 - (ii) it achieves Completion of each Phase by the relevant Target Date; and
 - (iii) it performs the Contractor's Activities so as to maximise the achievement of the objectives set in, and to be reasonably inferred from, the Contract;
- (f) it will exercise a duty of the utmost good faith to the Principal in performing its obligations under the Contract, including:

- (i) the preparation of the Cost Plan in accordance with clause 5.3 and the program in accordance with clause 5.4 and the Scope Documentation in accordance with clause 5.4
 - (ii) the administration of subcontract agreements including all negotiations concerning Variations and extensions of time; and
 - (iii) in making payment claims under clause 12.3;
- (g) it will:
- (i) unless otherwise specified in the Contract Particulars, in performing the Contractor's Activities, comply with all Statutory Requirements; and
 - (ii) apply for, obtain and give the Principal copies of all Approvals, other than those referred to in the Contract Particulars; and
- (h) its personnel are competent, careful, skilled and experienced in the type of work they are undertaking under the Contract; and
- (i) without limiting its other Contract obligations, it will keep the Principal's Contract Manager fully and regularly informed as to all matters affecting or relating to the Contractor's Activities or the Works, including any matter which may change or which has changed the nature, scope or timing of the Works.

2.4 Commencement

The Contractor must in relation to each Stage or Site:

- (a) immediately following the Award Date, commence the Contractor's Activities relevant to the Scoping, Establishment and Site Assessment Phase, in consultation with the Principal's Contract Manager;
- (b) take all possible steps to obtain approval from the Principal to proceed with each subsequent Phase, on the relevant Phase commencement date specified in the program prepared and approved in accordance with clause 5.4, after:
 - (i) the Scope Documentation for the relevant Phase has been prepared and approved in accordance with clause 5.2; and
 - (ii) the cost plan, Target Cost for the relevant Phase has been prepared and approved in accordance with clause 5.3.

2.5 All possible steps

For the purposes of this Contract "all possible steps" includes attending such meetings, providing such drafts of documents and such other information, responding to such queries and proposals and obtaining such assistance from consultants and other third parties as may be required by the Principal's Contract Manager for the purpose of achieving the required outcome.

3. PERSONNEL

3.1 Principal's Contract Manager

The Principal's Contract Manager will give directions and carry out all of the other functions of the Principal's Contract Manager under the Contract as the agent of the Principal (and not as an independent certifier, assessor or valuer).

The Contractor must:

- (a) comply with any direction by the Principal's Contract Manager given or purported to be given under a provision of this Contract; and
- (b) not comply with any direction of the Principal other than as expressly stated in the Contract.

Except where the Contract otherwise provides, the Principal's Contract Manager may give a direction orally but will as soon as practicable confirm it in writing.

3.2 Replacement of Principal's Contract Manager

The Principal may at any time replace the Principal's Contract Manager, in which event the Principal will appoint another person as the Principal's Contract Manager and notify the Contractor of that appointment.

Any substitute Principal's Contract Manager appointed under this clause 3.2 will be bound by anything done by the former Principal's Contract Manager to the same extent as the former Principal's Contract Manager would have been bound.

3.3 Parties' Conduct

Without limiting any of the rights or obligations of the Principal and Contractor under the Contract, the Principal and Contractor must co-operate with each other in carrying out their obligations under the Contract.

3.4 Principal's Contract Manager's Representative

The Principal's Contract Manager may:

- (a) by written notice to the Contractor appoint persons to exercise any of the Principal's Contract Manager's functions under the Contract;
- (b) not appoint more than one person to exercise a specific function under the Contract; and
- (c) revoke any appointment under paragraph (a) by notice in writing to the Contractor.

As at the Award Date, the Principal's Contract Manager is deemed to have appointed the persons set out in the Contract Particulars to carry out the functions set out in the Contract Particulars.

All references in the Contract to Principal's Contract Manager include a reference to a representative appointed under this clause 3.4.

3.5 Contractor's Contract Manager

- (a) The Contractor must ensure that the Contractor's Contract Manager is present on the Site at all times reasonably necessary to ensure that the Contractor is complying with its obligations under the Contract.
- (b) Notwithstanding paragraph (a), the requirement for the Contractor's Contract Manager to be present on the Site at all times reasonably necessary to ensure that the Contractor is complying with its obligations under the Contract is satisfied where the Contractor has engaged an appropriately qualified and experienced person to supervise the Site or multiple Sites where Works are carried out concurrently.
- (c) A direction is deemed to be given to the Contractor if it is given to the Contractor's Contract Manager.

3.6 Key People

The Contractor must:

- (a) employ those people specified in the Contract Particulars, including the Contractor's Contract Manager, in the jobs specified in the Contract Particulars;
- (b) subject to paragraph (c), not replace the people referred to in paragraph (a) without the Principal's Contract Manager's prior written approval; and
- (c) if any of the people referred to in paragraph (a) die, become seriously ill or resign from the employment of the Contractor, replace them with persons approved by the Principal's Contract Manager of at least equivalent experience, ability and expertise.

3.7 Removal of Persons

The Principal's Contract Manager may by notice in writing instruct the Contractor to remove any person from the Sites or the performance of the Contractor's Activities who in the reasonable opinion of the Principal's Contract Manager is guilty of misconduct or is incompetent or negligent.

The Contractor must ensure that this person is not again employed in the Contractor's Activities.

3.8 Industrial Relations

The Contractor must in carrying out the Contractor's Activities:

- (a) assume sole responsibility for and manage all aspects of industrial relations;
- (b) ensure that the rates of pay and conditions of employment specified in all relevant industrial awards and enterprise agreements and any relevant Statutory Requirements, for all employees engaged by any person, including Subcontractors, are always observed in full;
- (c) keep the Principal's Contract Manager fully and promptly informed of industrial relations problems or issues which affect or are likely to affect the carrying out of the Contractor's Activities; and
- (d) comply with all other requirements of the Contract relating to industrial relations.

3.9 Project Review

Subject to any requirements specified in the Works Order for the relevant Engagement:

- (a) the parties must:
 - (i) take "all possible steps" to agree to members of and procedures for a project control group (**PCG**) within 10 days of the Award Date; and
 - (ii) act in accordance with the agreed procedures for the PCG;
- (b) Without limiting any procedures agreed under paragraph (a)(i), the PCG will be responsible for (without limitation):
 - (i) determining the composition, purpose and governance of any working groups required for the Engagement; and
 - (ii) agreeing the terms of the Site Access Clean-Up Protocol (if any).
- (c) the Contractor must:
 - (i) meet weekly as part of the PCG (or at such other times as the Principal's Contract Manager may require) with the Principal's Contract Manager and any other persons whom the Principal's Contract Manager nominates;
 - (ii) discuss the reports it has prepared under clause 3.10 and such other matters as the Principal's Contract Manager may from time to time require;
 - (iii) promptly and fully respond to any questions which the Principal's Contract Manager asks in relation to any report; and
 - (iv) if it requires instructions from the Principal, make all necessary recommendations as to the action required; and
- (d) the Principal's Contract Manager must:
 - (i) before each meeting – prepare an agenda for that meeting; and
 - (ii) after each meeting – prepare minutes of the meeting and distribute them to all attendees of the meeting.

3.10 Contractor's Fortnightly Report

The Contractor must provide the Principal's Contract Manager with a fortnightly report in such form and on such matters as the Principal's Contract Manager requires from time to time and which must include:

- (a) a report on the progress of the Contractor's Activities and the Works including photographs of the Works (as relevant to each Phase, Stage and Site);
- (b) particulars of deviations from the then current program prepared by the Contractor in accordance with clause 10.2;
- (c) a comprehensive financial report with a summary, details for each Subcontract, the current cost forecast (compared to the Target Cost), explanation of changes from the previous month's forecast, options for reducing costs, a comparison of the original cash flow forecast, the revised cash flow forecast and the actual cash flow including comments on compliance with budgetary limitations and planned expenditure in any fiscal period;
- (d) a description of any matters which currently have a positive or adverse effect on the execution of the Contractor's Activities and the Works;
- (e) a description of any matters which in the Contractor's opinion have the potential to significantly affect the execution of the Contractor's Activities and the Works;
- (f) particulars of the preventative and remedial action which has been, is being or may be taken in respect of the items referred to in paragraphs (d) and (e);
- (g) a report on the status of all Variations (and any potential Variations);
- (h) a summary of all Claims made by the Contractor;
- (i) details of any other matters affecting or likely to affect the progress and cost of the Works including the Reimbursable Costs and time of completion for the Works;
- (j) a report on all Work health, and safety matters (including incident reporting and evidence of lead and lag indicator data related to the Contractor's Activities and the Works);
- (k) a report on tonnes of different waste types recycled or disposed to landfill (including hazardous waste, sandbags, organic matter) including recycling or disposal destination;
- (l) confirmation of compliance with:
 - (i) Building Code 2016 (if applicable); and
 - (ii) WHS Accreditation Scheme;
- (m) the matters specified in clauses 8.1(j)(iii)B;
- (n) a report on the compliance with the Local Workers and use of Local Plant and Equipment obligations in clause 10 of the Head Agreement, and if those obligations are not being met, details of the remedial action which has been, is being, or may be taken to comply with clause 10; and
- (o) a report on the number of Aboriginal personnel in the workforce it uses for the delivery of the Works, and the percentage of its workforce that number represents.

4. RISKS AND INSURANCE

4.1 Other Risks

Except to the extent that it arises from an Excepted Risk, the Contractor will indemnify the Principal against:

- (a) any loss of or damage to property of the Principal; and

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

caused by, or arising out of, or in any way in connection with, the Contractor's Activities provided that the Contractor's responsibility to indemnify the Principal will be reduced to the extent that an act or omission of the Principal, the Principal's Contract Manager or an Other Contractor may have contributed to the loss, damage, injury or death.

4.2 Contractor Insurance Obligations

The Contractor must:

- (a) effect and maintain the following insurance:
- (i) Public Liability Insurance from the Award Date;
 - (ii) Workers Compensation Insurance in each State and Territory in which the Contractor's Activities are to be performed or the Contractor's employees are employed or normally reside from the Award Date;
 - (iii) Professional Indemnity Insurance from the Award Date; and
 - (iv) such other insurances as are required under clause 4.7,
- each of which is to be:
- (v) for the respective amount referred to in the Contract Particulars or otherwise required under clause 4.7;
 - (vi) with reputable insurers having a Standard and Poors, Moodys, A M Best, Fitch's or equivalent rating agency's financial strength rating of A- or comparable rating; and
 - (vii) on terms which are satisfactory to the Principal's Contract Manager (confirmation of which must not be unreasonably withheld or delayed);
- (b) in relation to the Workers Compensation Insurance:
- (i) ensure that to the extent permitted by law, the insurance policy extends to provide indemnity to the Principal in respect of any statutory liability to the Contractor's employees; and
 - (ii) ensure that each of its subcontractors legally required to do so has Workers Compensation Insurance covering the subcontractor in respect of its statutory liability to employees, in the same manner as the Contractor is required to do so under subparagraph (a)(ii);
- (c) provide the Principal's Contract Manager with evidence satisfactory to the Principal's Contract Manager that each policy is current as required by the Principal's Contract Manager from time to time;
- (d) ensure that:
- (i) if the insurer gives the Contractor notice of expiry, cancellation or rescission of any required insurance policy, the Contractor as soon as possible informs the Principal in writing that the notice has been given and effects replacement insurance on terms and subject to limits acceptable to the Principal's Contract Manager, whose acceptance will not be unreasonably withheld; and
 - (ii) if the Contractor cancels, rescinds or fails to renew any required insurance policy, the Contractor as soon as possible obtains replacement insurance as required by this Contract and informs the Principal in writing as soon as possible of the identity of the replacement insurer, and provides such evidence as the Principal's Contract Manager reasonably requires that the replacement insurance complies in all relevant respects with the requirements of this Contract;

- (e) ensure that it:
 - (i) does not do or omit to do anything whereby any insurance may be prejudiced;
 - (ii) if necessary, takes all possible steps to rectify any situation which might prejudice any insurance;
 - (iii) renews any required insurance policy if it expires during the relevant period, unless appropriate replacement insurance is obtained;
 - (iv) does not cancel or allow an insurance policy to lapse during the period for which it is required by the Contract without the prior written consent of the Principal's Contract Manager;
 - (v) immediately notifies the Principal's Contract Manager (in writing) of any event which may result in a required insurance policy lapsing, being cancelled or rescinded; and
 - (vi) complies fully with its duty of disclosure and obligations of utmost good faith toward the insurer and in connection with all of the required insurance policies; and
- (f) ensure that any subcontractors that perform any scope of work forming part of the Contractor's Activities also maintain Professional Indemnity Insurance in the same manner and on the same terms as those required to be obtained by the Contractor under subparagraph (a)(iii), for not less than the amount referred to in the Contract Particulars.

The obtaining of insurance as required under this clause 4.2 will not in any way limit, reduce or otherwise affect any of the obligations, responsibilities and liabilities of the Contractor under any other provisions of the Contract or otherwise at law or in equity.

4.3 Failure to Insure

If the Contractor fails to:

- (a) provide evidence satisfactory to the Principal's Contract Manager that a policy is current; or
- (b) obtain insurance in accordance with clause 4.2,

the Principal may, without prejudice to any other rights it may have, take out the relevant insurance and the cost will be a debt due from the Contractor to the Principal.

4.4 Period of Insurance

The insurance which the Contractor is required to obtain under this clause 4 must be maintained:

- (a) in the case of Public Liability Insurance and Workers Compensation Insurance and any other insurance specified in the Contract Particulars as determined in accordance with clause 4.7, until the latest of:
 - (i) the end of the last Defects Liability Period;
 - (ii) the date upon which all Defects have been rectified in accordance with the Contract; and
 - (iii) the date upon which the Contractor ceases to carry out the Contractor's Activities; and
- (b) in the case of Professional Indemnity Insurance, until the expiration of the period specified in the Contract Particulars following the latest of:
 - (i) the last Date of Site Completion; and
 - (ii) the date upon which the Contractor ceases to carry out the Contractor's Activities.

4.5 Notice of Potential Claim

The Contractor must:

- (a) as soon as possible inform the Principal in writing of any occurrence that may give rise to a claim under an insurance policy required by the Contract;
- (b) keep the Principal informed of all significant developments concerning the claim, except in circumstances where the Principal is making a claim against the Contractor; and
- (c) ensure that its subcontractors similarly inform the Contractor and the Principal in respect of occurrences which may give rise to claims by them,

provided that, in respect of Professional Indemnity Insurance, the Contractor:

- (d) subject to paragraph (e), is not required to provide details of individual claims; and
- (e) must notify the Principal if the estimated total combined value of claims made against the Contractor and claims which may arise from circumstances reported by the Contractor to its insurer in a policy year would potentially reduce the available limit of policy indemnity for that year below the amount required by the Contract.

4.6 Cross Liability

This clause 4.6 does not apply to **Professional Indemnity Insurance** or **Workers Compensation Insurance**.

Where the **Contract** requires insurance to provide cover to more than one insured, the **Contractor** must ensure that the insurance policy provides that:

- (a) the insurance (with the exception of limits of liability) will operate in the same manner as if there were a separate policy of insurance covering each named insured;
- (b) the insurer waives all rights, remedies or relief to which it might become entitled by subrogation against any of the parties to whom coverage extends and that failure by any insured to observe and fulfil the terms of the policy will not prejudice the insurance in regard to any other insured; and
- (c) a notice to the insurer by one insured will be deemed to be notice on behalf of all insureds.

4.7 Project Specific Insurance Package

- (a) The parties will take all possible steps to promptly agree the project specific insurances required by the Principal (including insurance to cover Contamination and relevant environmental issues), having regard to the following objectives:
 - (i) cost-effectiveness;
 - (ii) breadth and duration of coverage; and
 - (iii) minimising exclusions and deductibles.
- (b) The Contractor will effect and maintain the insurances:
 - (i) agreed to be obtained under paragraph (a); or
 - (ii) if not agreed under paragraph (a), determined by the Principal's Contract Manager (acting reasonably).
- (c) The reasonable costs of the insurance required to be effected under clause 4.7 will be treated as Reimbursable Costs.

5. PLANNING AND SCOPE

5.1 Mobilisation

- (a) The Contractor must:

- (i) immediately commence to perform the Scoping, Establishment and Site Assessment Works in accordance with the Works Order for the relevant Engagement; and
 - (ii) use its best endeavours to achieve Completion of the Scoping, Establishment and Site Assessment Phase Works for all Stages or Sites by the Target Date for Completion of the Scoping, Establishment and Site Assessment Works.
- (b) The Contractor is to inform the Principal's Contract Manager when, in the Contractor's opinion, the Scoping, Establishment and Site Assessment Works have reached Completion for each Stage or Site.
- (c) Upon receipt of a notice under paragraph (b) the Principal's Contract Manager will:
- (i) determine whether the Scoping, Establishment and Site Assessment Works have reached Completion for the Stage or Site; and
 - (ii) notify the Contractor of its decision.
- (d) If Completion of the Scoping, Establishment and Site Assessment Works has not been achieved for all Stages by the Target Date for the Scoping, Establishment and Site Assessment Phase, the Contractor must:
- (i) inform the Principal's Contract Manager that in the Contractor's opinion the Scoping, Establishment and Site Assessment Phase Works for all Stages have not reached Completion by the Target Date for Completion of the Scoping, Establishment and Site Assessment Phase; and
 - (ii) provide details of all remaining Stages or Sites for which there is remaining Scoping, Establishment and Site Assessment Phase Works that in the Contractor's opinion has not achieved Completion by the Target Date for Completion of the Scoping, Establishment and Site Assessment Phase.

5.2 Scope Documentation

- (a) As part of the Scoping, Establishment and Site Assessment Phase, and prior to the Target Date for Completion of the Scoping, Establishment and Site Assessment Phase, by the time directed by the Principal's Contract Manager, the Contractor must:
- (i) develop the scope and prepare all relevant Scope Documentation for each Phase of the Works, in accordance with the Contract (including progressively as informed by Completion of the Scoping, Establishment and Site Assessment Phase for each Stage or Site);
 - (ii) undertake such:
 - A. site investigations; and
 - B. other risk reduction studies,as a prudent, competent and experienced contractor would consider necessary for the comprehensive and accurate planning, scoping, costing and programming of each Phase of the Works for each Stage or Site;
 - (iii) advise the Principal's Contract Manager of every reasonably available method of delivery of each Phase of the Works for each Stage or Site having regard to the investigations and studies undertaken under subparagraph (ii) and any limitations on Works (if any):
 - A. imposed by the Sites; or
 - B. arising from the Contractor's obligation under clause 2.3(g) to comply with all Statutory Requirements and obtain all Approvals unless otherwise specified;
 - (iv) in accordance with the program prepared and updated in accordance with clause 5.4, submit to the Principal's Contract Manager for approval a scope development program which

makes allowance for each Phase of the Works for each Stage or Site to be submitted to the Principal's Contract Manager in a manner and at a rate which will give the Principal's Contract Manager a reasonable opportunity to review the Scope Documentation each Phase of the Works within the period of time within which the Principal's Contract Manager may review it under paragraph (b); and

- (v) submit the Scope Documentation for each Phase of the Works for each Stage or Site it prepares to the Principal's Contract Manager in accordance with the scope development program approved by the Principal's Contract Manager under subparagraph (iv).
- (b) The Principal's Contract Manager may (in its absolute discretion):
 - (i) review any Scope Documentation for each Phase of the Works for each Stage or Site, or any resubmitted Scope Documentation, prepared and submitted by the Contractor (including having it Independently Verified); and
 - (ii) within the number of days set out in the Contract Particulars of the submission by the Contractor of such Scope Documentation for each Stage or Site, or resubmitted Scope Documentation, reject the Scope Documentation.
- (c) If any Scope Documentation for any Phase is rejected, the Contractor must submit amended Scope Documentation, to the Principal's Contract Manager.
- (d) The Contractor must not commence a Phase for a Stage or Site unless the Contractor has obtained the Principal's approval to proceed with the Phase for the Stage or Site, if relevant.
- (e) If the Contractor does not finalise the Scope Documentation for a Stage or Site to the satisfaction of the Principal's Contract Manager (in its absolute discretion) by the Target Date for the relevant Phase, then the Principal may (in its absolute discretion) elect to issue a notice under clause **Error! Reference source not found.**

5.3 Cost Planning

- (a) As part of the Scoping, Establishment and Site Assessment Phase, and prior to the Target Date for the Scoping, Establishment and Site Assessment Works, the Contractor must:
 - (i) prepare a cost plan for the Works for each Stage or Site in accordance with the requirements of the Principal notified in writing by the Principal's Contract Manager; and
 - (ii) submit the cost plan to the Principal's Contract Manager for approval, no later than the date notified in writing by the Principal's Contract Manager.
- (b) The cost plan to be prepared under paragraph (a) must include:
 - (i) identification in detail of all work required for, and all risks which could be encountered in, Completion of the Works for each Stage or Site, which a prudent, competent and experienced contractor would anticipate and provide for in its cost plan for the Works for each Stage or Site;
 - (ii) a cost analysis in respect of each part of the Works for each Stage or Site, including a detailed break-up of the Reimbursable Costs, including a budget and detailed break-up for each Site or Stage;
 - (iii) a detailed recommendation as to every reasonably possible alternative amount which the Principal could set as the Target Cost for the Works for each Stage or Site, having regard to all relevant considerations including:
 - A. the budgetary limitations and requirements of the Principal in respect of the Works which the Principal's Contract Manager may from time to time notify to the Contractor in writing;

- B. the paramount importance to the Principal of balancing between minimising both the cost and time to achieve Completion of the Works (on the one hand) and cost certainty for the Principal (on the other hand);
 - C. demonstrably maximising value for money for the Principal;
 - D. without limiting subparagraph C, all opportunities for cost savings (including pro-bono contributions and offers) which a prudent, competent and experienced contractor could implement without derogating from the achievement of the other requirements of the Contract; and
 - E. all other relevant considerations, arising out of or in connection with or reasonably incidental to or to be inferred from the considerations in subparagraphs A - D, which the Principal's Contract Manager may from time to time notify to the Contractor in writing; and
- (iv) all such other matters as the Principal's Contract Manager may require in writing.
- (c) The Principal's Contract Manager must review and respond to the cost plan submitted under clause 5.3(a) within 14 days of submission.
- (d) The Contractor must:
- (i) if any cost plan submitted by the Contractor is rejected by the Principal's Contract Manager (in the Principal's Contract Manager's absolute discretion), submit an amended cost plan;
 - (ii) in the process of preparing the cost plan or an amended cost plan, co-operate with the Principal, the Principal's Contract Manager and all other people nominated by the Principal's Contract Manager for the purpose of furthering the considerations referred to in paragraph (b)(iii); and
 - (iii) take all possible steps necessary to ensure that the Target Cost for the Works for all Stages or Sites does not exceed the budgetary limitations and requirements of the Principal in respect of the Works notified to the Contractor under paragraph (b)(iii)A, including all such reasonable steps directed by the Principal's Contract Manager.
- (e) If (in the Principal's Contract Manager's absolute discretion) the cost plan is approved by the Principal's Contract Manager, then the Principal's Contract Manager will issue a written notice to the Contractor.
- (f) If the Contractor does not prepare a cost plan (or a revised cost plan) which is approved by the Principal's Contract Manager (in the Principal's Contract Manager's absolute discretion) under paragraph (e) before the Target Date for the Scoping, Establishment and Site Assessment Works, then the Principal may (in its absolute discretion) elect to issue a notice under clause **Error! Reference source not found.**
- (g) To assist the Principal's Contract Manager in determining whether or not to approve a cost plan (or a revised cost plan):
- (i) the Principal's Contract Manager may engage a third party to perform an external audit of the cost plan; and
 - (ii) the Contractor must:
 - A. co-operate with the Principal's Contract Manager and that third party; and
 - B. without limiting clause 6.9, comply with its obligations under clause 6.9.
- (h) If the Principal considers, after having reviewed an initial or a revised cost plan, that the Principal cannot approve a cost plan or Target Cost then the Principal may terminate this Contract, without fault, on 7 days written notice. Clause 14.7 shall apply to a termination pursuant to this clause.

5.4 Programming

- (a) As part of the Scoping, Establishment and Site Assessment Phase, and prior to the Target Date for the Scoping, Establishment and Site Assessment Works, the Contractor must:
- (i) prepare a program for the Works for each Phase, Stage or Site in accordance with the requirements of the Principal notified in writing by the Principal's Contract Manager;
 - (ii) as part of the program it is to prepare under subparagraph (i), submit to the Principal's Contract Manager for approval a documentation program which makes allowance for the Scope Documentation for the Works for each Phase, Stage or Site to be submitted to the Principal's Contract Manager in a manner and at a rate which will give the Principal's Contract Manager a reasonable opportunity to review the Scope Documentation for the Works for each Phase, Stage or Site within the period of time within which the Principal's Contract Manager may review the Scope Documentation for Works; and
 - (iii) submit the program to the Principal's Contract Manager for approval no later than the date notified in writing by the Principal's Contract Manager.
- (b) The program to be prepared under paragraph (a) must:
- (i) include identification in detail of all work required for, and all risks which could be encountered in, Completion of the Works for each Phase, Stage or Site, which a prudent competent and experienced contractor would anticipate and provide for in its program for the Works for each Phase, Stage or Site;
 - (ii) include a separate sub-program for each separate Phase;
 - (iii) include a detailed recommendation as to every reasonably possible:
 - A. Stage which could be created (other than Stages directed by the Principal if any); and
 - B. date which the Principal could set as the Target Dates for the Works for all Phases, Stages or Sites;
 - (iv) have regard to all relevant considerations including:
 - A. the desirability of staging and sequencing the Works for each Phase, Stage or Site so as to enable the Completion of the Works for all Phases, Stages or Sites, as soon as possible; and
 - B. the paramount importance to the Principal of minimising the time to achieve Completion of the Works for all Phases, Stages or Sites,provided that no proposed Target Date for the Works for all Phases, Stages or Sites can be after the target date set out in a notice from the Principal's Contract Manager to the Contractor; and
 - (v) include all such other matters as the Principal's Contract Manager may require in writing.
- (c) The Contractor must:
- (i) if any program submitted by the Contractor under paragraph (a) is rejected by the Principal's Contract Manager (in the Principal's Contract Manager's absolute discretion), submit an amended program (within the time required by the Principal's Contract Manager); and
 - (ii) in the process of preparing a program under paragraph (a) or an amended program, cooperate with the Principal, the Principal's Contract Manager and all other people nominated by the Principal's Contract Manager for the purpose of furthering the considerations referred to in paragraph (b)(iv).

- (d) If (in the Principal’s Contract Manager's absolute discretion) any program and target dates are approved by the Principal’s Contract Manager, then the Principal’s Contract Manager will issue a written notice to the Contractor.
- (e) If the Contractor does not prepare a program (or a revised program) under paragraph (a) which is approved by the Principal’s Contract Manager (in the Principal’s Contract Manager's absolute discretion) under paragraph (d) before the Target Date for the Scoping, Establishment and Site Assessment Works, then the Principal may (in its absolute discretion) elect to issue a notice under clause **Error! Reference source not found.**
- (f) To assist the Principal’s Contract Manager in determining whether or not to approve a program (or a revised program) submitted under paragraph (a):
 - (i) the Principal’s Contract Manager may engage a third party to perform an external review of the program; and
 - (ii) the Contractor must:
 - A. co-operate with the Principal’s Contract Manager and that third party; and
 - B. without limiting clause 6.9, comply with its obligations under clause 6.9.

5.5 Updates and Completion

- (a) The Contractor must when requested by the Principal, update for each Phase:
 - (i) the Scope Documentation submitted under clause 5.2;
 - (ii) the cost plan submitted under clause 5.3; and
 - (iii) the program submitted under clause 5.4.
- (b) The Principal’s Contract Manager may (in its absolute discretion) for each Phase:
 - (i) review any Scope Documentation, or any resubmitted Scope Documentation prepared and submitted by the Contractor (including having it Independently Verified); and
 - (ii) within the number of days set out in the Contract Particulars, approve or reject the Scope Documentation.
- (c) If any Scope Documentation for a Phase is rejected, the Contractor must submit amended Scope Documentation to the Principal’s Contract Manager.
- (d) If (in the Principal’s Contract Manager's absolute discretion) any Scope Documentation for a Phase is approved by the Principal’s Contract Manager, then the Principal’s Contract Manager will issue a written notice to the Contractor.
- (e) The Contractor must not commence Works in respect of the relevant Phase unless the Principal’s Contract Manager has had the number of days set out in the Contract Particulars to review the relevant Scope Documentation and has not approved or rejected it.
- (f) The Principal must when Completion is achieved for a Phase, Stage or Site issue a written notice to the Contractor stating the date upon which Completion was achieved for the Phase, Stage or Site.

6. DOCUMENTATION

6.1 Absolute Discretion and No Obligation to Review

- (a) The Contractor acknowledges that:

- (i) an absolute discretion in the Principal's Contract Manager or the Principal under clause 5 is not required to be exercised for the benefit of the Contractor;
 - (ii) neither the Principal's Contract Manager nor the Principal is bound to exercise any such discretion in any particular manner or having regard to any particular consideration notwithstanding that such consideration might be stated in this Contract;
 - (iii) no provision of clause 5 conferring such absolute discretion gives the Contractor any rights (including the right to make any Claim arising out of the exercise or failure to exercise the discretion); and
 - (iv) the exercise or failure to exercise such an absolute discretion is not capable of being the subject of a dispute or difference for the purpose of clause 15.1 or otherwise subject to review.
- (b) The Principal's Contract Manager does not assume or owe any duty of care to the Contractor to review, or in reviewing, any Project Documents submitted by the Contractor under clause 5 for errors, omissions or compliance with the Contract.
- (c) No review of, comments upon, consent to or rejection of, or failure to review or comment upon or consent to or reject, any Project Documents prepared by the Contractor or any other direction by the Principal's Contract Manager about, or any other act or omission by the Principal's Contract Manager or otherwise by or on behalf of the Principal in relation to, Project Documents will:
- (i) relieve the Contractor from, or alter or affect, the Contractor's liabilities or responsibilities whether under the Contract or otherwise according to law; or
 - (ii) prejudice the Principal's rights against the Contractor whether under the Contract or otherwise according to law.

6.2 Copies of Project Documents

For the purposes of clauses 5.2(a)(v), (c), 5.7(a), 5.8(a), 5.9(a) and 5.10(a) the Contractor must submit or resubmit to the Principal's Contract Manager the number of copies specified in the Contract Particulars of any documentation in electronic copy, in each case in accordance with the requirements set out in the Contract Particulars.

6.3 Fitness for Purpose

The Contractor warrants that:

- (a) the Project Documents it prepares will be fit for its intended purpose; and
- (b) upon Completion, the Works will be fit for their intended purpose.

6.4 Availability

The Contractor must keep available for the use of the Principal's Contract Manager, the Principal and any person authorised by either the Principal's Contract Manager or the Principal:

- (a) on the Sites, one complete set of all Project Documents directed in writing by the Principal's Contract Manager; and
- (b) at any area off-Site where the Contractor's Activities are being carried out, one complete set of the Project Documents insofar as they are relevant to the Contractor's Activities being carried out in that area.

6.5 Licence over Project Documents

- (a) The Principal owns all Intellectual Property Rights in the Project Documents (including Project Documents created by either party during the Contract and excluding any part of the Contract Documents that comprises Contractor IP) or, to the extent that it does not, is entitled to grant the assignments and licences contemplated by this Contract.

- (b) The Principal grants to the Contractor a non-exclusive licence to use the Intellectual Property Rights in the Project Documents solely for the purposes of the Contract.
- (c) The Contractor grants to the Principal a non-exclusive licence to use the Contractor IP in the Project Documents solely for the purposes of the Contract.
- (d) These licences arise, for each Project Document, immediately the Project Document is:
 - (i) produced; or
 - (ii) provided, or required to be provided, to the Principal or the Principal's Contract Manager,
 - (iii) under, for the purposes of or in connection with the Contract, the Contractor's Activities or the Works by, for or on behalf of the Contractor.

6.6 Intellectual Property Warranties

The Contractor warrants that:

- (a) the Contractor owns all Intellectual Property Rights in any part of the Contract Documents that comprises Contractor IP, or, to the extent that it does not, is entitled to grant the assignments and licences contemplated by this Contract;
- (b) use by the Principal or any sublicensee or subsublicensee of the Project Documents in accordance with this Contract will not infringe the rights (including Intellectual Property Rights) of any third party;
- (c) neither the Principal nor any sublicensee or subsublicensee is liable to pay any third party any licence or other fee in respect of the use of the Project Documents, whether by reason of Intellectual Property Rights of that third party or otherwise; and
- (d) the use by the Principal or by any sublicensee or subsublicensee of the Project Documents in accordance with this Contract will not breach any laws (including any laws in respect of Intellectual Property Rights).

6.7 Intellectual Property Rights

The Contractor must:

- (a) ensure that the Contractor's Activities do not infringe any patent, registered design, trade mark or name, copyright, or other protected right; and
- (b) indemnify the Principal against any claims against, or costs, losses or damages suffered or incurred by, the Principal arising out of, or in any way in connection with, any actual or alleged infringement of any patent, registered design, trade mark or name, copyright or other protected right in the materials provided by the Contractor under the Contract.

The Contractor's indemnity obligations under clause 6.7(a) must be reduced proportionately by the extent that:

- (c) (a) the Principal's use of the Contractor IP is other than in accordance with the licence granted in clause 6.5(c); or
- (d) (b) the use by the Contractor of the IP rights in the Project Documents in accordance with the licence granted under cl 6.5(b),

caused or contributed to the claim,

6.8 Resolution of Ambiguities

If there is any ambiguity, discrepancy or inconsistency in the documents which make up the Contract or between the Contract and any Project Document:

- (a) subject to clause 6.8(b), the order of precedence in the Contract Particulars will apply;

- (b) where the ambiguity, discrepancy or inconsistency is between the Contract and any Project Document, the higher standard, quality or quantum will prevail but if this does not resolve the ambiguity, discrepancy or inconsistency, the Contract will prevail;
- (c) if it is discovered by the Contractor or the Principal's Contract Manager, then the party discovering it must promptly give notice to the other; and
- (d) the Principal's Contract Manager must instruct the Contractor as to the course it must adopt within 14 days of the notice under paragraph (c).

6.9 Open Book Access to Project Documents

The Contractor must:

- (a) at the request of the Principal's Contract Manager at any time during the execution of the Contractor's Activities:
 - (i) make the Project Documents available for inspection and copying by the Principal's Contract Manager or any other person nominated by the Principal's Contract Manager;
 - (ii) provide to the Principal's Contract Manager such copies of the Project Documents as the Principal's Contract Manager may require;
 - (iii) provide all such facilities and assistance and answer all such questions which may be required to enable the Principal's Contract Manager or any nominated persons to identify the amounts being (or proposed to be) incurred or expended by the Contractor in performing the Contractor's Activities; and
 - (iv) make available any officers, employees, agents or subcontractors for interviews with the Principal's Contract Manager or any nominated persons; and
- (b) ensure that its subcontractors comply with the requirements of paragraph (a) to the extent required by the Principal's Contract Manager.

7. SITE

7.1 Contractor to Inform Itself

The Contractor warrants that it has, and it will be deemed to have, done everything that would be expected of a prudent, competent and experienced contractor in:

- (a) assessing the risks which it is assuming under the Contract; and
- (b) ensuring that it has made sufficient allowances in the amounts comprising the Contract Price to price those risks and protect it against any of these risks eventuating.

7.2 Sites Information

Without limiting clause 7.5:

- (a) the Principal has made available to the Contractor, before the Award Date, certain information, data and documents which were obtained by the Principal for the purposes of the Works from investigations it carried out as to the conditions on, in, under or in the vicinity of the Sites;
- (b) the Principal does not warrant, guarantee or make any representation about the accuracy or adequacy of any such information, data and documents made available to the Contractor;
- (c) the Contractor acknowledges that such information, data and documents do not form part of the Contract and that clause 7.5 applies to the information, data and documents; and
- (d) to the extent permitted by law, the Principal will not be liable upon any Claim by the Contractor arising out of, or in any way in connection with, that information, data and documents.

7.3 Sites Access

- (a) The Principal:
- (i) is not obliged to:
 - A. provide the Contractor with sole access to the Sites; or
 - B. carry out any work or provide any facilities to the Contractor (other than as stated in the Contract) which may be necessary to enable the Contractor to obtain adequate access to carry out the Contractor's Activities;
 - (ii) may engage Other Contractors to work upon or in the vicinity of the Sites at the same time as the Contractor; and
 - (iii) must use reasonable endeavours to ensure that any Other Contractors engaged by the Principal comply with the reasonable requirements of the Contractor as to matters concerning industrial relations, site safety, noise levels, insurance and hours of working.
- (b) Unless otherwise directed by the Principal, the Contractor is only permitted to access the Sites following it or the Principal having obtained the Approvals specified in clause 2.2(c).
- (c) The Principal is not obliged to provide the Contractor with the contact details for those in control of the Sites unless:
- (i) the Sites Management Plan and the Work Health and Safety Plan have been finalised under clause 9.2;
 - (ii) the Contractor has provided the Principal's Contract Manager with evidence satisfactory to the Principal's Contract Manager under clause 4.2(c) that the Contractor has effected the insurances then required in accordance with clause 4.2; and
 - (iii) the Contractor has complied with all other obligations in the Contract or as directed by the Principal regarding Site access,

in which event the Principal must, upon receiving the contact details, promptly supply the Contractor with the contact details in accordance with clause 7.6.

7.4 Contractor's Obligation to Provide Access

In carrying out the Contractor's Activities, the Contractor must:

- (a) minimise disruption or inconvenience to the Principal and any person authorised by the Principal or the Principal's Contract Manager (including landowners and stakeholder personnel) to occupy, use or attend upon the Sites in their occupation or use of, or attendance upon, any part of the Sites;;
- (b) at all reasonable times give the Principal, the Principal's Contract Manager and any person authorised by either the Principal or the Principal's Contract Manager access to the Works, the Sites or any areas off-Site where the Contractor's Activities are being carried out; and
- (c) provide the Principal and the Principal's Contract Manager with every reasonable facility necessary for the supervision, examination and testing of the Contractor's Activities.

The Contractor acknowledges it may be required, in addition to the obligations imposed on it in clause 7.4, to also seek the consent of others in order to secure access to a Site.

7.5 Non-Reliance

The Contractor:

- (a) warrants that it did not in any way rely upon:

- (i) any information, data, representation, statement or document made by or provided to the Contractor by the Principal or anyone on behalf of the Principal; or
- (ii) the accuracy or adequacy of any such information, data, representation, statement or document,

for the purposes of entering into the Contract, except to the extent that any such information, data, representation, statement or document forms part of the Contract;

- (b) warrants that it enters into this Contract based on its own investigations, interpretations, deductions, information and determinations; and
- (c) acknowledges that it is aware that the Principal has entered into the Contract relying upon the warranties in paragraphs (a) and (b).

7.6 Contact Details

- (a) The Principal must promptly provide to the Contractor the contact details of the persons who have registered with the Principal for the clean up so as to enable the Contractor to seek the Approvals described in clause 2.2(c) (if required).
- (b) The Contractor is not obliged to carry out its obligations under clause 2.2(c) (if required) until such time as the contact details are provided by the Principal.
- (c) Subject to it having made reasonable enquires of the persons the subject of the contact details as to their interest in or ownership of the Site, the Contractor is entitled to rely upon the contact details provided to it by the Principal in seeking the Approvals described in clause 2.2(c) (if required).

8. REIMBURSABLE WORK

8.1 Restrictions on Reimbursable Work

- (a) The Reimbursable Work must, unless otherwise agreed by the Principal's Contract Manager in accordance with clause 8.2, be performed under subcontract agreements which will be made between the Contractor and Subcontractors in accordance with:
 - (i) the procedure in this clause; or
 - (ii) if the Principal's Contract Manager gives the Contractor a written direction to that effect, the relevant procedure agreed with the Contractor.
- (b) Prior to engaging any Subcontractors to perform Reimbursable Work the Contractor must establish, and provide to the Principal's Contract Manager for approval, a list of Subcontractors ("**Subcontractor List**") who will be engaged by the Contractor to perform the Works.
- (c) Each of the Subcontractors on the Subcontractor List must:
 - (i) hold a current licence appropriate for their area of expertise;
 - (ii) be appropriately qualified;
 - (iii) be competent, careful, skilled and experienced in the type of work they are undertaking under the subcontract;
 - (iv) be of good character and repute;
 - (v) hold an SA Police Check clearance that is less than 12 months old (or provide such other check required by the Principal);
 - (vi) be dressed and behave themselves at any Site in a manner which is consistent with the use of the Site and satisfactory to the Principal's Contract Manager;

- (vii) has a satisfactory record in respect of safety and environmental compliances; and
- (viii) holds appropriate workers compensation insurance, public liability insurance, and such other insurance as is appropriate for the type of work they are undertaking.
- (d) The Principal's Contract Manager must review and either approve or reject each Subcontractor on the Subcontractor List provided under clause 8.1(b). If the Principal's Contract Manager does not respond within 14 days of receipt of the Subcontractor List the list shall be deemed to be approved.
- (e) The Contractor must within 7 days of a request from the Principal's Contract Manager provide evidence confirming any Subcontractor's compliance with clause 8.1(c).
- (f) Reimbursable Work must only be undertaken by a Subcontractor on the Subcontractor List.
- (g) The Contractor must maintain the Subcontractor List during the Term by adding, with the prior approval of the Principal's Contract Manager, further Subcontractors to the list who comply with the requirements of clause 8.1(c).
- (h) The Contract must, if requested by the Principal's Contract Manager at any time during the Term, remove and cease to use any Subcontractor from the Subcontractor List.
- (i) The Contractor must not include any of the work which is covered by the Fee or is excluded from being considered Reimbursable Work in the scope of any part of the Reimbursable Work.
- (j) The Contractor must ensure in carrying out its engagement of Subcontractors, that:
 - (i) none of its Subcontractors have any arrangement or arrive at any understanding with any of the other Subcontractor about the work which is the subject of the tender;
 - (ii) without limiting subparagraph (i), no Subcontractor:
 - A. engages in any discussion or correspondence with any of the persons referred to in subparagraph (i) concerning the sum of money it is going to quote or tender;
 - B. engages in any collusive tendering with any of the other Subcontractor; or
 - C. engages in any conduct or has any arrangement or arrives at any understanding with any of the Subcontractor which in any way could have the effect of reducing the competitiveness of the process for selecting Subcontractors for the Works so increasing the price; and
 - (iii) all quotations and tender (if relevant) processes for subcontracts are conducted:
 - A. on terms which maximise value for money for the Principal; and
 - B. with the highest standards of probity, fairness and equal opportunity.

If directed by the Principal, the Contractor will use a competitive selection process to engage Subcontractors using a competitive selection process as the Principal so directs, and

8.2 Reimbursable Work by Contractor or Related Body Corporate (Self-performed Work)

The Contractor or a Related Body Corporate of the Contractor may not itself carry out any part of the Reimbursable Work unless:

- (a) the express written approval of the Principal's Contract Manager to undertake Self-performed Work is obtained, and in obtaining the express written approval of the Principal's Contract Manager, the Contractor can demonstrate that:

- (i) the works are being undertaken as Self-performed Work as this represents the best value-for-money option in the circumstances; and
- (ii) it has considered and complies in all respects with the Principal's requirements concerning restrictions on Reimbursable Work at clause 8.1 above;
- (b) the Contractor and the Principal's Contract Manager agree in writing upon a fixed price (or other agreed basis for payment) for the Self-performed Work prior to the Contractor or the Related Body Corporate of the Contractor commencing the Self-performed Work; and
- (c) there is no allowance in the Fee for any Self-performed Work.

8.3 Subcontractor & Other Rates and Prices

- (a) Subject to paragraph (c), where rates and prices (including any Subcontractor rates and prices) are not included in Schedule 1 to the Contract, such rates and prices (including any assumptions underlying the rates and prices and any other information required by the Principal's Contract Manager, including breakdowns of rates/prices) must be submitted by the Contractor to the Principal's Contract Manager for agreement and written approval prior to the Contractor incurring any cost in respect of such rates and prices.
- (b) The Principal's Contract Manager must inform the Contractor of its approval or rejection of the rates and prices submitted by the Contractor within 3 business days of their submission. If the rates and prices are rejected, the Contractor may resubmit the rates and prices together with further information to inform the basis of their calculation or submit alternate rates but it must not perform Works for which the relevant rates and prices would apply until the rates and prices applicable to the Works are approved in writing by the Principal's Contract Manager.
- (c) Where rates and prices have been agreed by the parties prior to the Award of Contract, these are not subject to the obligations imposed by paragraphs (a) and (b).

8.4 Subcontracts

- (a) Subject to paragraph (h) and clauses **Error! Reference source not found.** and 8.5, the Contractor must not subcontract any of the Works unless:
 - (i) it has given full particulars to the Principal's Contract Manager of:
 - A. the work it wishes to subcontract;
 - B. the proposed Subcontractor (including, if required by law, evidence that the subcontractor is registered or licensed to carry out the work proposed to be subcontracted); and
 - C. where required by the Principal's Contract Manager, the proposed terms of the subcontract and the levels of insurances to be maintained by the subcontractor; and
 - (ii) the Principal's Contract Manager has had the opportunity to review the proposed subcontractor under paragraphs (b) to (e) and the proposed terms of any subcontract under subparagraph (a)(i)C.
- (b) If no response is received from the Principal's Contract Manager within 5 business days of receipt of the information from the Contractor under paragraph (a), the Contractor may proceed to let the subcontract.
- (c) The Principal's Contract Manager may upon receipt of the information received from the Contractor under paragraph (a):
 - (i) review any proposed subcontractor submitted by the Contractor; and

- (ii) within 5 business days of the submission of the Contractor of a proposed subcontractor, reject the proposed subcontractor together with written reasons ("Rejected Proposed Subcontractor").
- (d) If a proposed subcontractor is rejected, the Contractor may resubmit to the Principal's Contract Manager:
 - (i) within 5 business days, the Rejected Proposed Subcontractor for reconsideration together with written reasons; or
 - (ii) a new proposed subcontractor.
- (e) The Rejected Proposed Subcontractor may again be rejected by the Principal's Contract Manager in its absolute discretion.
- (f) The Principal's Contract Manager does not assume or owe any duty of care to the Contractor to review, or in reviewing a proposed subcontractor by the Contractor for the appropriate skills or expertise of the proposed subcontractor.
- (g) No review of, comments upon, rejection of (including the reasons for rejection), or failure to review or comment upon or reject a proposed subcontractor will:
 - (i) relieve the Contractor from, or alter or affect, the Contractor's liabilities or responsibilities under this Contract or otherwise according to law; or
 - (ii) prejudice the Principal's rights against the Contractor whether under the Contract or otherwise according to law.
- (h) The Principal's Contract Manager may unilaterally, from time to time, or alternatively in response to a written request from the Contractor issue directions to the Contractor setting out subcontractors for which its review is not required under paragraph (a) whether by reference to type of service, subcontractor, materiality threshold or otherwise.
- (i) The Contractor must ensure that each subcontractor from whom a quote or tender is obtained in connection with the Works (including any subcontractor which the Principal's Contract Manager may nominate) has fulfilled and continues to fulfil any Principal's Contract Manager requirements and Statutory Requirements.
- (j) The Contractor must pay subcontractors strictly in accordance with the payment terms of its subcontracts. Such payment terms are to provide conditions no less favourable than payment within 15 days of receipt of an invoice/payment claim unless the Contractor acting reasonably requires further evidence to validate the subcontractor's invoice in which case payment must be within 15 days of receipt of satisfactory evidence.

8.5 Nominated Subcontractors

- (a) The Principal may direct the Contractor to engage a Subcontractor to perform part of the Reimbursable Works required for the Engagement in accordance with clause **8.5 (Nominated Subcontractor)**.
- (b) If directed by the Principal to engage a Nominated Subcontract under paragraph (a), the Contractor must promptly engage the Nominated Subcontractor to perform the part of the Reimbursable Works required for the Engagement as specified by the Principal, without the need to comply with clause 8.4, provided that:
 - (i) the terms of the Nominated Subcontract are in accordance with this Contract; and
 - (ii) the cost for the Reimbursable Work is based on rates no less favourable than the Subcontractor Rates.
- (c) The Contractor must:
 - (i) not extend the term of a Nominated Subcontract without the approval of the Principal; and

- (ii) extend the term of a Nominated Subcontract, if the Principal directs the Contractor to extend the Nominated Subcontract, in accordance with the direction.

8.6 Co-ordination of Subcontractors

The Contractor must:

- (a) administer, supervise, inspect, co-ordinate and control the work of all subcontractors engaged by it;
- (b) provide and direct all necessary personnel to administer, supervise, inspect, co-ordinate and control the subcontract agreements and all subcontractors engaged by it;
- (c) appoint a duly qualified person to exercise the functions of the Contractor's Contract Manager under the subcontract agreements and otherwise ensure the subcontract agreements are administered in accordance with:
 - (i) the terms of the subcontract agreements; and
 - (ii) the directions of the Principal's Contract Manager; and
- (d) at all times co-ordinate the Contractor's Activities and ensure execution and completion of the subcontract agreements in a proper and workmanlike manner according to:
 - (i) the Scope Documentation which the Contractor is entitled to use under clause 5.2; and
 - (ii) the obligations of the respective subcontractors.

8.7 Work under subcontract agreements not to be varied

The Contractor must:

- (a) not vary the work which is the subject of any subcontract agreement (including any Nominated Subcontract) unless:
 - (i) the Principal's Contract Manager has provided the Contractor with a Variation Order in accordance with clause 11.2 and that Variation Order relates directly to the work the subject of the subcontract agreement; or
 - (ii) the Contractor makes a written request to the Principal's Contract Manager to authorise it to issue a direction to a Subcontractor to vary the work, and the Principal's Contract Manager gives written consent to this request.

8.8 Responsibility for Subcontractors

The Contractor will:

- (a) not be relieved from any of its liabilities or obligations under the Contract; and
- (b) remain responsible for all subcontractors and for all work which is or may be subcontracted as if it was itself executing the work, whether or not any subcontractors default or otherwise fail to observe or comply with the requirements of the relevant subcontract.

8.9 Subcontractor Insolvency

Where an event analogous to an Insolvency Event occurs in relation to a Subcontractor, the Contractor must:

- (a) promptly notify the Principal's Contract Manager of this fact; and
- (b) if the Contractor terminates the subcontract agreement:
 - (i) promptly notify the Principal's Contract Manager of this; and

- (ii) engage another person as Subcontractor in accordance with this clause to complete the work the subject of the terminated subcontract agreement.

8.10 Description of Works

Subject to clause 6.8, the Contractor must deliver the Works in accordance with:

- (a) any Scope Documentation prepared by the Contractor in accordance with the requirements of the Contract, and which the Contractor is entitled to use under clause 5.2;
- (b) any direction of the Principal's Contract Manager given or purported to be given under a provision of the Contract, including any Variation directed by the Principal's Contract Manager by a document titled "Variation Order"; and
- (c) the other requirements of the Contract.

8.11 Statutory Requirements

The Contract Particulars describe the Approvals which exist at the Award Date or which the Principal will obtain after the Award Date.

In carrying out the Contractor's Activities, the Contractor must:

- (a) comply with all applicable Statutory Requirements (as set out in clause 2.3(g)(i));
- (b) without limiting paragraph (a):
 - (i) apply for and obtain all Approvals (as set out in clause 2.3(g)(ii)); and
 - (ii) give all notices and pay all fees and other amounts which it is required to pay in respect of the carrying out of its Contract obligations; and
- (c) promptly give the Principal's Contract Manager copies of all documents (including Approvals and other notices) that any authority, body or organisation having jurisdiction over the Works or the carrying out of the Contractor's Activities issues to the Contractor.

8.12 Change in Statutory Requirements or Variance with Contract

If:

- (a) there is any change in a Statutory Requirement after the Award Date; or
- (b) a Statutory Requirement is at variance with the Contract,

then:

- (c) the party discovering this must promptly notify the other;
- (d) the Principal's Contract Manager will instruct the Contractor as to the course it is to adopt insofar as the Contractor's Activities are affected by the change or variance (as the case may be); and
- (e) if the Principal's Contract Manager instruction results in a Variation, then the cost of the Variation will be valued in accordance with clause 11.3.

8.13 Co-operation with Other Contractors

The Contractor must:

- (a) permit Other Contractors to carry out their work;
- (b) fully co-operate with Other Contractors;

- (c) carefully co-ordinate and interface the Contractor's Activities with the work carried out or to be carried out by Other Contractors; and
- (d) carry out the Contractor's Activities so as to avoid interfering with, disrupting or delaying the work of Other Contractors.

8.14 Setting Out

The Contractor must:

- (a) set out the Works in accordance with the requirements of the Contract; and
- (b) carry out any survey set out in Site Access Cleanup Protocol (if any).

8.15 Survey

The Contractor must:

- (a) as a condition precedent to Completion of the Works specified in the Contract Particulars, submit to the Principal's Contract Manager the surveying certificates required by the Sites Cleanup Process Protocol; and
- (b) ensure that all work required under paragraph (a) is performed under subcontract agreements and must not include any allowance in the Fee for such work.

8.16 Safety

- (a) The Contractor must carry out the Contractor's Activities safely and so as to protect persons and property.
- (b) If the Principal's Contract Manager reasonably considers there is a risk of injury to people or damage to property arising from the Contractor's Activities, the Principal's Contract Manager may direct the Contractor to change its manner of working or to cease working.
- (c) The Principal's Contract Manager may at any time check or audit the Contractor's compliance with Work Health and Safety Legislation and the Work Health and Safety Plan either in person or via a consultant, and the Contractor shall cooperate and facilitate such checks or audit.

8.17 Work Health and Safety Management

The Contractor must:

- (a) ensure that in carrying out the Contractor's Activities:
 - (i) it complies with all Statutory Requirements and other requirements of the Contract for work health and safety management; and
 - (ii) all subcontractors comply with the requirements referred to in this clause 8.17;
- (b) it consults co-operates and co-ordinates activities with all other persons who have an work health and safety duty in relation to the same matter;
- (c) carry out the Contractor's Activities safely and in a manner that does not put the health and safety of persons at risk and in a manner that protects property;
- (d) ensure that, if any Statutory Requirement requires that:
 - (i) a person:
 - A. be authorised or licensed (in accordance with a Statutory Requirement) to carry out any work at that workplace, that person is so authorised or licensed, and complies with any conditions of such authorisation or licence; or

- B. has prescribed qualifications or experience, or if not, is to be supervised by a person who has prescribed qualifications or experience (as defined in the relevant Statutory Requirement), that person has the required qualifications or experience or is so supervised; or
- (ii) a workplace, plant or substance (or design), or work (or class of work) be authorised or licensed, that workplace, plant or substance, or work is so authorised or licensed;
- (e) not direct or allow a person to carry out work, or use plant or a substance at a workplace unless, the authorisation, licensing, prescribed qualifications or experience required by any Statutory Requirement and paragraph (d) are met;
 - (f) immediately notify the Principal's Contract Manager giving full particulars, so far as they are known to it, upon becoming aware of any intention on the part of a regulatory authority to cancel, revoke, suspend or amend an authorisation relating to work health and safety;
 - (g) if requested by the Principal's Contract Manager or required by a Statutory Requirement, produce evidence of any Approvals including any authorisations, licences, registrations, prescribed qualifications or experience, or any other information relevant to work health and safety to the satisfaction of the Principal's Contract Manager before the Contractor or any subcontractor commences such work;
 - (h) notify the Principal's Contract Manager:
 - (i) immediately upon becoming aware of all work health and safety incidents arising out of, or in any way in connection with, the Contractor's Activities that are required to be notified to a regulator;
 - (ii) of work health and safety incidents or accidents (which are not notifiable incidents) where the nature of the incident or accident can be classified as a 'near miss' or indicates a potential systemic failure to identify hazards and manage risks to health and safety, so far as is reasonably practicable, within 24 hours of the incident or accident occurring; and
 - (iii) all other work health and safety matters arising out of or in connection with the Contractor's Activities and the Works, including the occurrence of any other incident or accident, in its report required by clause 3.10 and otherwise as requested by the Principal's Contract Manager;
 - (i) if applicable, comply with all requirements of and maintain accreditation under the WHS Accreditation Scheme;
 - (j) provide any information or copies of documentation held by the Contractor or Subcontractor to the Principal's Contract Manager within 10 days of a request by the Principal's Contract Manager (and in the case of incidents notifiable to a regulator, immediately and if not immediately, as soon as that information is in the possession of the Contractor), to enable the Principal to comply with its obligations under Work Health and Safety Legislation.

8.18 Plant, Equipment and Work

The Contractor must not remove from the Sites any Plant, Equipment and Work without the Principal's Contract Manager's prior written approval except for the purpose of achieving Completion as contemplated under clause 8.19(b).

8.19 Cleaning Up

The Contractor must:

- (a) in carrying out the Contractor's Activities, keep the Sites and the Works clean and tidy and free of refuse;
- (b) as a condition precedent to Completion of the Works and each Phase, remove all rubbish, materials and Plant, Equipment and Work from the part of the Sites relevant to the Works or the Phase; and

- (c) ensure that all work required under paragraph (b) is performed under subcontract agreements and must not include any allowance in the Fee.

8.20 The Environment

The Contractor must:

- (a) ensure that in carrying out the Contractor's Activities:
- (i) other than to the extent identified in writing by the Principal's Contract Manager, it complies with all Statutory Requirements and other requirements of the Contract for the protection of the Environment;
 - (ii) it does not cause any Environmental Incident;
 - (iii) without limiting subparagraph (ii), it does not cause or contribute to Contamination of the Sites or any other land, air or water, or cause or contribute to any Contamination emanating from the Sites;
 - (iv) it immediately notifies the Principal's Contract Manager of:
 - A. any non-compliance with the requirements of this clause 8.20;
 - B. a breach of any Statutory Requirement for the protection of the Environment;
 - C. any Environmental Incident; or
 - D. the receipt of any notice, order or communication received from an authority for the protection of the Environment;
 - (v) ; and
 - (vi) its subcontractors comply with the requirements referred to in this clause 8.20; and
- (b) subject to the Special Conditions, clean up and restore the Environment, including any Contamination or Environmental Harm, arising out of, or in any way in connection with, the Contractor's Activities, whether or not it has complied with all Statutory Requirements or other requirements of the Contract for the protection of the Environment, provided that this obligation does not extend to Pre-existing Contamination, unless the Principal's Contract Manager directs a Variation under clause 11.2.

8.21 Aboriginal Heritage

The Contractor must ensure that in carrying out the Contractor's Activities it takes all necessary steps to identify all Aboriginal heritage and traditional owner considerations applicable to the Site and then to ensure that those considerations are fully addressed (including all such steps required by the Principal's Contract Manager)

8.22 Urgent Protection

The Principal may take any action necessary to protect the Works, other property, the Environment or people which the Contractor must take but does not take.

8.23 Valuable Objects Found on Sites

- (a) Any things of value or archaeological or special interest (as that term is defined in the Sites Access Cleanup Protocol) found on or in the Sites will, as between the parties, be the property of the Principal.
- (b) Where such an item is found the Contractor must on becoming aware of the item:
- (i) immediately notify the Principal's Contract Manager in writing;
 - (ii) protect it and not disturb it further other than where such disturbance is necessary to comply with paragraph (iii) or where disturbance is necessary to mitigate a safety hazard;

- (iii) ensure that the item is protected until the nature of the item has been competently determined; and
 - (iv) comply with any instructions of the Principal's Contract Manager in relation to the item.
- (c) The Principal's Contract Manager must, within 48 hours of receipt of a notice under paragraph (b)(i), instruct the Contractor as to the course it must adopt insofar as the Contractor's Activities are affected by the finding of the item.

8.24 The Principal May Act

The Principal may, either itself or by a third party, carry out an obligation under the Contract which the Contractor was obliged to carry out but which it failed to carry out within the time required in accordance with the Contract.

The costs, expenses and damages suffered or incurred by the Principal in so carrying out such a Contract obligation will be a debt due from the Contractor to the Principal.

8.25 Access Hours

Unless otherwise agreed in writing between the Contractor and the Principal's Contract Manager, the hours of access applicable to the Contractor's Activities to be carried out on each of the Sites are those set out in the Contract Particulars.

8.26 Salvaged Materials

Subject to clause 8.23, the Contractor must use its best endeavours to salvage from the Sites any material capable of being recycled, and enter into contracts as agent for the Principal for the disposal of such recyclable material. Such contracts are to be on terms acceptable to, and approved by the Principal. Any proceeds received from such disposal are to be paid directly to the Principal by the recycling contractor.

8.27 Hazardous Substances and Hazardous Materials

All hazardous substances and hazardous materials (including asbestos containing material) identified on or at the Site must be treated or removed in accordance with the relevant code of practice for the safe removal of such materials and any other Statutory Requirements.

8.28 Attendance at Sites by Emergency Services

The Contractor must immediately upon becoming aware of:

- (a) any issue which in the Contractor's opinion, acting reasonably, requires the attendance of any emergency services at a Site, or any issue at the Site that the Contractor is required by law to report to emergency services, notify the relevant emergency services of the issue first, then immediately after notify the Principal's Contract Manager of the issue; or
- (b) the attendance of any emergency services at a Site, notify the Principal's Contract Manager of the attendance by the emergency services.

9. QUALITY

9.1 Delivery

The **Contractor** must in carrying out the **Contractor's Activities**:

- (a) use workmanship:
 - (i) of a standard consistent with the best industry standards for work of a nature similar to the Works; and
 - (ii) which is fit for its purpose;
- (b) use materials (if any):

- (i) which:
 - A. comply with the requirements of the Contract; or
 - B. are new and consistent with the best industry standards for work of a nature similar to the Works; and
- (ii) of merchantable quality, which are fit for their purpose and consistent with the nature and character of the Works; and
- (c) comply with the requirements of the Contract and, to the extent they are not inconsistent, the requirements of the Building Code of Australia and all relevant standards of Standards Australia.

9.2 Project Plans

- (a) The Contractor:
 - (i) must carry out the Contractor's Activities in accordance with, and otherwise implement, the Project Plans; and
 - (ii) for the purposes of subparagraph (i), must:
 - A. prepare draft Project Plans in accordance with the requirements of the Contract and submit them to the Principal's Contract Manager so as to ensure that there is no delay or disruption to the Contractor's Activities and in any event no later than the number of days set out in the Contract Particulars after the Award Date for each Project Plan;
 - B. not commence any of the Contractor's Activities to which any Project Plan applies, unless the Principal's Contract Manager has had the number of days set out in the Contract Particulars to review the draft Project Plans and has not rejected them;
 - C. if any draft Project Plan is rejected, submit an amended draft of the Project Plan to the Principal's Contract Manager;
 - D. in any event, finalise each Project Plan so as to ensure that there is no delay or disruption to the Contractor's Activities and in any event in accordance with the requirements of the Contract to the satisfaction of the Principal's Contract Manager by the Target Date for the Scoping, Establishment and Site Assessment Works;
 - E. after the Project Plans have been finalised, continue to correct any defects in or omissions from a Project Plan (whether identified by the Principal's Contract Manager or the Contractor) and submit an amended draft of the Project Plan to the Principal's Contract Manager, after which subparagraphs A-D will apply (to the extent applicable); and
 - F. document and maintain detailed records of inspections or audits undertaken as part of any Project Plan.
- (b) The Contractor will not be relieved from compliance with any of its Contract obligations or from any of its liabilities whether under the Contract or otherwise according to law as a result of:
 - (i) the implementation of, and compliance with, the requirements of any Project Plan;
 - (ii) any direction by the Principal's Contract Manager concerning a Project Plan or the Contractor's compliance or non-compliance with a Project Plan;
 - (iii) any audit or other monitoring by the Principal's Contract Manager of the Contractor's compliance with a Project Plan; or

- (iv) any failure by the Principal's Contract Manager, or anyone else acting on behalf of the Principal, to detect any defect in or omission from a Project Plan including where any such failure arises from any negligence on the part of the Principal's Contract Manager or other person.
- (c) The Contractor will not be regarded as having failed to comply with this clause 9.2 if it has acted in a diligent and timely manner and the circumstance which might otherwise have been a non-compliance with this clause 9.2 results from an act or omission of a third party over which the Contractor does not have any control.

9.3 Principal's Contract Manager's Right to Inspect

The Principal's Contract Manager, or a nominee of the Principal's Contract Manager, may at any time inspect the Contractor's Activities.

The Contractor however acknowledges that:

- (a) the Principal's Contract Manager owes no duty to the Contractor to:
 - (i) inspect the Contractor's Activities; or
 - (ii) review the performance of the Works for errors, omissions or compliance with the requirements of this Contract if it does so inspect; and
- (b) no inspection of the Contractor's Activities or review of the Works by the Principal's Contract Manager (or nominee) will in any way lessen or otherwise affect:
 - (i) the Contractor's obligations whether under this Contract or otherwise according to law; or
 - (ii) the Principal's rights against the Contractor whether under this Contract or otherwise according to law.

9.4 Testing

The Contractor must carry out all tests required by the Contract or directed by the Principal's Contract Manager.

All tests are to be carried out in accordance with any procedure:

- (a) set out in the Contract which may apply to the tests; or
- (b) if no procedure exists, as reasonably directed by the Principal's Contract Manager.

9.5 Costs of Testing

If:

- (a) the Principal's Contract Manager directs the Contractor to carry out a test which:
 - (i) is not otherwise required by the Contract; or
 - (ii) does not relate to a Defect in respect of which the Principal's Contract Manager gave an instruction under clause 9.6; and
- (b) the results of the test show the work is in accordance with the Contract,

the reasonable costs incurred by the Contractor in carrying out the test will be determined by the Principal's Contract Manager as a Variation in accordance with clause 11.3(b).

9.6 Defects

Subject to paragraphs (b) and (c), the Contractor must correct all Defects.

If, prior to the expiration of the Defects Liability Period for the Works or a Phase, the Principal's Contract Manager discovers or believes there is a Defect, the Principal's Contract Manager may give the Contractor an instruction specifying the Defect and doing one or more of the following:

- (a) requiring the Contractor to correct the Defect, or any part of it, and specifying the time within which this must occur;
- (b) requiring the Contractor to carry out a Variation to overcome the Defect, or any part of it, and specifying the time within which this must be carried out; or
- (c) advising the Contractor that the Principal will accept the work, or any part of it, despite the Defect.

9.7 Correction of Defect or Variation

If an instruction is given under clause 9.6(a) or (b), the Contractor must correct the Defect or carry out the Variation:

- (a) within the time specified in the Principal's Contract Manager's instruction; and
- (b) if after Completion, at times and in a manner which cause as little inconvenience to the occupants of the Works as is reasonably possible.

9.8 Claim for Correction of Defect

Where an instruction is given under clause 9.6(a):

- (a) the Contractor will only be entitled to make a Claim for correcting the Defect (or the relevant part) if the Defect (or the relevant part) is something for which the Contractor is not responsible; and
- (b) where the Contractor is so entitled to make a Claim, the work involved in the correction of the Defect will be treated as if it were a Variation the subject of a direction by the Principal's Contract Manager and clause 11.3 applied.

9.9 Claim for Variation

Where a Variation has been instructed under clause 9.6(b) and:

- (a) the Contractor is not responsible for the Defect (or the relevant part) - the cost of the Variation will be valued in accordance with clause 11.3; or
- (b) the Contractor is responsible for the Defect (or the relevant part):
 - (i) the Principal's Contract Manager will determine:
 - A. the value of the Variation in accordance with clause 11.3; and
 - B. the cost of correcting the Defect (or the relevant part) as if clause 9.8(b) applied; and
 - (ii) the difference between the valuations under subparagraph (i) will be dealt with as follows:
 - A. if the value under subparagraph (i)A is greater than the cost under subparagraph (i)B, the Contractor will be entitled to the excess; or
 - B. if the value under subparagraph (i)B is greater than the cost under subparagraph (i)A, the difference will be a debt due from the Contractor to the Principal.

9.10 Acceptance of Work

If:

- (a) an instruction is given under clause 9.6(c) prior to the expiration of the Defects Liability Period; and

- (b) the Contractor is responsible for the Defect (or the relevant part),

the amount determined by the Principal's Contract Manager which represents the cost of correcting the Defect (or the relevant part) will be a debt due from the Contractor to the Principal.

9.11 Extension of Defects Liability Period

If:

- (a) the Principal's Contract Manager gives the Contractor an instruction under clause 9.6(a) or (b) during the Defects Liability Period; and
- (b) the Contractor is responsible for the Defect (or the relevant part),

the Defects Liability Period will be extended for the work required by the instruction by the period set out in the Contract Particulars, commencing upon completion of the correction of the Defect (or the relevant part) or completion of the Variation.

9.12 Common Law Rights not Affected

Neither the Principal's rights, nor the Contractor's liability, whether under the Contract or otherwise according to law in respect of Defects, whether before or after the expiration of the Defects Liability Period, will be affected or limited by:

- (a) the rights conferred upon the Principal or Principal's Contract Manager by this clause 9 or any other provision of the Contract;
- (b) the failure by the Principal or the Principal's Contract Manager to exercise any such rights;
- (c) any instruction of the Principal's Contract Manager under clause 9.6; or
- (d) the expiry or termination of this Contract.

9.13 Handover and Sign-Off

Without limiting the Contractor's obligations or liabilities, or the Principal's or the Principal's Contract Manager's rights under clause 12.20, the Contractor must:

- (a) fully co-operate with Other Contractors and otherwise to take all steps necessary to ensure the smooth handover of the Works to, and the initial occupation of the Works by the relevant landowner;
- (b) without limiting paragraph (a):
- (i) comply with its Handover Plan; and
- (ii) in consultation with the Principal's Contract Manager, provide the Principal with such other specific assistance as may be required by the Principal's Contract Manager to facilitate the smooth handover of the Works to the relevant landowner; and
- (c) as a condition precedent to Completion, hand to the Principal's Contract Manager or any Other Contractor or other person nominated by the Principal's Contract Manager all Project Documents which are required for the use of the Works.

9.14 Performance Monitoring and Measurement

During the term of the Contract, the Contractor must keep sufficient records of the Contractor's performance, as against the Performance Management Framework, and report to the Principal as required, to:

- (a) enable the parties to monitor the performance of the Contractor under the Contract;

- (b) enable the assessment of the usefulness and accuracy of the Performance Management Framework in evaluating the performance of the Contractor under the Contract; and
- (c) as required from time to time, the determination of new KPIs, Performance Benchmarks and other terms of the Performance Management Framework under clause 9.2 of the Head Agreement.

9.15 Notice of performance assessment

Following the Principal's assessment of the Contractor's performance in accordance with clause 9.1 of the Terms of Engagement the Principal will provide the Contractor with a notice of performance assessment setting out whether or not the Performance Benchmarks to be met in accordance with the Performance Management Framework have been achieved and/or the KPI targets have been achieved.

9.16 Undertakings

- (a) Within 14 days after the Award Date the Contractor must give the Principal the Completion Undertaking and the Post-Completion Undertaking for the amounts calculated as specified in the Contract Particulars. The Undertakings must be in the form specified in Schedule 2 (Undertaking).
- (b) Unless the Principal has made or intends to then make a demand against any Undertaking, the Principal must return Undertakings to the Contractor as follows:
 - (i) the Completion Undertaking within 14 days after the Completion of the whole of the Works; and
 - (ii) the Post-Completion Undertaking on the date which is nine months after Completion provided all Defects then known have been remedied and otherwise when all Defects then known are remedied.
- (c) All Undertakings must be provided by a bank, building society, credit union or insurance company acceptable to the Principal.
- (d) The Contractor must not prevent the Principal making any demand against the Undertakings, or prevent the provider of an Undertaking complying with the Undertaking or any demand by the Principal.
- (e) The Principal may:
 - (i) call in and convert all or part of an Undertaking at any time if the Contractor is in breach of this Contract, without reference to the Contractor; and
 - (ii) use all or part of any payment under an Undertaking to meet all the expenses of the Principal relating to the remedy of any breach of a provision of this Contract by the Contractor prior to applying any remaining amount to any liability of the Contractor to the Principal.
- (f) The Contractor agrees that if at any time a claim for payment is made against the Undertaking by the Principal, the Contractor must, if requested to do so by the Principal, provide additional security for a further sum as the Principal may require.

10. TIME

10.1 Progress and Time for Completion

The Contractor must:

- (a) regularly and diligently progress the Contractor's Activities;
- (b) use its best endeavours to achieve Completion of each Phase for all Stages or Sites by the relevant Target Date; and

- (c) without limiting paragraphs (a) and (b):
 - (i) use its best endeavours to anticipate and avoid delay in the progress of the Contractor's Activities;
 - (ii) do all that may be required to expedite Completion of each Phase for each Stage or Site, including steps to overcome or minimise the extent and effects of any delays or disruptions which may occur in the performance of the Contractor's Activities;
 - (iii) maintain progress in accordance with the rate of progress designed by the Program;
 - (iv) in consultation with the Principal's Contract Manager, take such positive steps to reschedule, reprogram, expedite and adjust activities, sequences and the carrying out of the Contractor's Activities generally so as to ensure that progress is maintained in accordance with the rate of progress designated by the Program and required by the Principal's Contract Manager to ensure that progress is maintained in accordance with the Program; and
 - (v) subject to having complied with the requirements of subparagraphs (i) to (iv), provide the Principal's Contract Manager with a detailed written notice proposing a reasonable period for the adjustment of a Target Date for a Phase if the Contractor would otherwise be actually delayed in achieving Completion of the Phase by the relevant Target Date by a No Fault Delay Cause.
- (d) If the Principal's Contract Manager receives a notice under paragraph (c)(v), then it must:
 - (i) determine the reasonable period (if any) by which the relevant Target Date should be adjusted; and
 - (ii) issue a notice to the Principal's Contract Manager setting out the period of adjustment (if any) and the new Target Date for the relevant Phase (if applicable).
- (e) The Contractor will not be regarded as having failed to comply with this clause 10.1 if it has diligently sought to secure access to the Sites in a reasonable and timely manner or has been unable to secure access to the Sites by reason of a decision, or absence of a decision, by any person having control over each of the Sites.
- (f) Provided the Contractor has complied with its obligations under clause 10.1, where the Principal's Contract Manager issues a notice under clause 10.1(a) setting a new Target Date for a Phase, the Contractor's failure to meet the original Target Date for the Phase will not be considered a breach of the Contract.

10.2 Programming

The Contractor must:

- (a) ensure that all programs prepared by the Contractor under the Contract contain the details required by the Contract or which the Principal's Contract Manager otherwise reasonably directs;
- (b) update the Program periodically, at least at intervals of no less than that specified in the Contract Particulars, to take account of:
 - (i) changes to the Program; or
 - (ii) delays which may have occurred (including on account of any adjustment to any Target Date notified to the Principal's Contract Manager under clause 10.1(d)(ii));
- (c) give the Principal's Contract Manager copies of all programs for approval;
- (d) ensure that the subcontractors adhere to the Program; and
- (e) provide all programs in a format compatible with the software described in the Contract Particulars.

10.3 Contractor Not Relieved

Any review of, comments upon or approval of, or any failure to review or comment upon, a program by the Principal's Contract Manager will not:

- (a) relieve the Contractor from or alter its liabilities or obligations under the Contract, especially (without limitation) the obligation to use its best endeavours to achieve Completion of each Phase by each Target Date;
- (b) evidence or constitute an instruction by the Principal's Contract Manager to accelerate, disrupt, prolong or vary any or all of the Contractor's Activities; or
- (c) affect the time for the carrying out of the Principal's or Principal's Contract Manager's Contract obligations.

10.4 Suspension

- (a) The Principal's Contract Manager:
 - (i) may instruct the Contractor to suspend and, after a suspension has been instructed, to re-commence, the carrying out of all or a part of the Contractor's Activities; and
 - (ii) is not required to exercise the Principal's Contract Manager's power under subparagraph (i) for the benefit of the Contractor.
- (b) If a suspension under this clause 10.4 arises as a result of the Contractor's failure to carry out its obligations in accordance with the Contract:
 - (i) the Reimbursable Costs will not include the costs incurred as a result of the suspension;
 - (ii) the Fee will not be adjusted as a result of the suspension; and
 - (iii) the Contractor will not be entitled to make any other Claim against the Principal arising out of, or in any way in connection with, the suspension.
- (c) If a suspension under this clause 10.4 arises during the and as a result of a cause other than the Contractor's failure to carry out its obligations in accordance with the Contract:
 - (i) an instruction to suspend under this clause 10.4 will entitle the Contractor to have the Reimbursable Costs increased by the amount of extra costs reasonably incurred by the Contractor as a result of the suspension, as determined by the Principal's Contract Manager;
 - (ii) the Contractor must take all steps possible to mitigate the extra costs incurred by it as a result of the suspension; and
 - (iii) the Contractor will not be entitled to make any Claim against the Principal arising out of, or in any way in connection with, the suspension other than under this paragraph.
- (d) Except to the extent permitted by the relevant Security of Payment Legislation, the Contractor may only suspend the Contractor's Activities when instructed to do so under this clause 10.4.

10.5 Extension of Time in Subcontract Agreements

The Contractor is required to administer the provisions of each subcontract agreement strictly in accordance with their terms and must not approve an extension of time or unilaterally grant an extension of time to any Subcontractor unless:

- (a) the Subcontractor is entitled to such extension of time under the terms of the subcontract agreement;
- (b) the Contractor has given notice of the proposed extension of time to the Principal's Contract Manager; and

- (c) the Principal's Contract Manager has given written approval to the extension of time.

11. VARIATIONS

11.1 Variation Price Request

- (a) At any time the Principal's Contract Manager may issue a document titled "Variation Price Request" to the Contractor which will set out details of a proposed Variation which the Principal is considering.
- (b) The Contractor must immediately take all action required under the relevant subcontract in relation to each subcontractor that would be involved in carrying out the proposed Variation.
- (c) Within the reasonable time set out in the "Variation Price Request" the Contractor must provide the Principal's Contract Manager with a written notice in which the Contractor sets out:
- (i) the Contractor's estimate of the costs which would be reasonably and properly incurred by the Contractor in carrying out the proposed Variation; and
 - (ii) the effect (if any) that the carrying out of the proposed Variation will have on the then approved program, including the achievement of Completion of each Phase by the relevant Target Date.

11.2 Variation Order

- (a) Whether or not the Principal's Contract Manager has issued a "Variation Price Request" under clause 11.1, the Principal's Contract Manager may at any time instruct the Contractor to carry out a Variation by a written document titled "Variation Order" in which the Principal's Contract Manager will state one of the following:
- (b) the proposed adjustments to the amounts payable under the Contract as set out in the Contractor's notice under clause 11.1 are agreed and will be made; or
- (c) any adjustment to the amounts payable under the Contract will be determined under clause 11.3.

11.3 Cost of Variation

Subject to clauses 9.9(b) and 11.8, the amounts payable under the Contract will be adjusted as follows:

- (a) as agreed under clause 11.2(b);
- (b) if subparagraph (a) does not apply, in accordance with the rates or prices included in any schedule of rates or schedule of prices under any relevant subcontract agreement, if and insofar as the Principal's Contract Manager determines that those rates or prices are applicable to the Variation; or
- (c) if subparagraph (b) does not apply, the amount of the cost properly and actually incurred or saved, or which ought reasonably to have been incurred or saved, by the Contractor as determined by the Principal's Contract Manager.

11.4 Variations Generally

The adjustment determined under clause 11.2 or 11.3 in respect of any Variation will be deemed to be in full satisfaction of all Claims in respect of such further work required for the Variation, notwithstanding that the amounts actually payable by the Contractor to relevant Subcontractors in respect of such Variation may be more or less than the adjustment.

No Variation will invalidate the Contract irrespective of the nature, extent or value of the work the subject of the Variation.

11.5 Not Used

11.6 Variations Requested by Contractor

The Contractor may, for its convenience, request the Principal's Contract Manager to direct a Variation. Any such request must be in writing and must contain the following details:

- (a) a description of the Variation;
- (b) the additional or reduced costs or time involved in the Variation and any proposal for sharing any savings in costs with the Principal including the amount;
- (c) any benefits which will flow to the Principal from the Variation; and
- (d) the effect which the Variation will have upon the future cost of operating and maintaining the Works.

11.7 Principal's Contract Manager's Determination

After a request is made by the Contractor in accordance with clause 11.6, the Principal's Contract Manager will, in the Principal's Contract Manager's absolute discretion, give a written notice to the Contractor:

- (a) rejecting the request; or
- (b) approving the request either conditionally or unconditionally.

The Principal's Contract Manager will not be obliged to exercise the Principal's Contract Manager's discretion for the benefit of the Contractor.

11.8 Variation Approved by Principal's Contract Manager

If the Principal's Contract Manager issues a written notice under clause 11.7 approving the Contractor's request under clause 11.6:

- (a) unless otherwise agreed, the Contractor will not be entitled to make a Claim against the Principal arising out of, or in any way in connection with, the Variation;
- (b) if the Contractor's request offered to share savings in cost with the Principal, the amounts payable under the Contract (or the methods of determining them) will be reduced or adjusted in accordance with the Contractor's offer; and
- (c) the Contractor will be responsible for all parts of the Works which are in any way affected by the Variation.

12. COST AND PAYMENT

12.1 Cost Control

The Contractor must:

- (a) without limiting its reporting requirements as specified in clause 3.10, use its best endeavours to ensure that it achieves Completion of each Phase for all Stages or Sites so that the Contract Price does not exceed the relevant Target Cost;
- (b) without limiting paragraph (a), review the Cost Plan for each Stage or Site with the Principal's Contract Manager as the preparation of the Project Documents and the performance of the Contractor's Activities proceeds, to:
 - (i) ensure that the cost of delivery of the relevant Phase for each Stage or Site is in accordance with the relevant Cost Plan; and
 - (ii) advise the Principal's Contract Manager how the scope should or can be modified to ensure that the cost of the relevant Phase for each State or Site is in accordance with the relevant Cost Plan; and

- (c) without limiting clause (a), institute a system of cost control and, together with the Principal's Contract Manager, review and, where approved by the Principal's Contract Manager, amend the relevant Cost Plan to take account of any item affecting or likely to affect any component of the relevant Cost Plan, and advise the Principal's Contract Manager as to the alternative steps available where the costs incurred under any subcontract agreement or otherwise incurred or to be incurred by the Contractor exceed (or appear likely to exceed) the amount allowed for the relevant work in the relevant Cost Plan.

12.2 Progressive Payments

Subject to clause 12.15 and to any other right to set-off which the Principal may have, the Principal will pay the Contractor in progressive payments as follows:

- (a) the Reimbursable Costs in fortnightly instalments based on the value of the Contractor's Activities which have been carried out; and
- (b) the Fee in fortnightly instalments in accordance with the Works Order for the relevant Engagement, the Contract Particulars and Schedule 1 of the Contract (as relevant).

12.3 Payment Claims

Subject to clause 12.4, the Contractor must give the Principal's Contract Manager claims for payment on account of all amounts then payable by the Principal to the Contractor under the Contract:

- (a) fortnightly, at the times stated in the Contract Particulars until Completion of the Works or termination of the Contract (whichever is earlier);
 - (b) unless terminated earlier, after Completion or the Defects Liability Period (as the case may be) within the time required by clause 12.9 or 12.11 (as the case may be);
 - (c) in the format set out in the Schedule of Collateral Documents or in any other format which the Principal's Contract Manager reasonably requires;
 - (d) which show separately the amounts (if any) claimed for each Phase for each Stage or Site, on account of:
 - (i) the Reimbursable Costs payable to:
 - A. Subcontractors; and
 - B. the Contractor;
 - (ii) the Fee; and
 - (e) which set out or attach sufficient details, calculations, supporting documentation and other information in respect of all amounts claimed by the Contractor:
 - (i) to enable the Principal's Contract Manager to fully and accurately determine (without needing to refer to any other documentation or information) the amounts then payable by the Principal to the Contractor under the Contract;
 - (ii) including any such documentation or information which the Principal's Contract Manager may by written notice from time to time require the Contractor to set out or attach, whether in relation to a specific payment claim or all payment claims generally; and
 - (iii) including any special requirements specified in the Contract Particulars.
 - (f) The Contractor acknowledges that all claims for payment will be subject to Independent Verification.
- ## **12.4 Conditions Precedent**
- (a) The Contractor's entitlement to submit a payment claim under clause 12.3 is conditional upon the Contractor having:

- (i) if directed by the Principal's Contract Manager, 2 days prior to the proposed date for submission of a payment claim, at a time convenient to the Principal's Contract Manager, conducted a 'Site' walk through with the Principal's Contract Manager (and/or their representatives/agents) to verify 'Completion' of Works proposed to be the subject of a payment claim (including verification of quantities/labour and materials used to complete the relevant Works);
 - (ii) subject to clause 4.7, obtained the insurance required by clause 4.2 and (if requested) provided evidence of this to the Principal's Contract Manager;
 - (iii) complied with its programming obligations under clause 10.2;
 - (iv) complied with clause 12.16; and
 - (v) if clause 14.7(b)(ii) applies - complied with clause 14.7(b)(ii).
- (b) If the Contractor has not satisfied the conditions in paragraph (a) at the time of submitting a payment claim, then:
- (i) the payment claim is deemed to have been invalidly submitted under clause 12.3;
 - (ii) the Principal's Contract Manager will not be obliged to include in any payment certificate under clause 12.5 any amount included in the payment claim; and
 - (iii) the Principal will not be liable to pay any amount included in the payment claim.
- (c) If the Contractor:
- (i) submits a payment claim; and
 - (ii) has failed to comply with the requirements of clause 12.3(e) in relation to any amount (or portion of any amount) claimed in the payment claim,
- then:
- (iii) the Contractor will not be entitled to payment of;
 - (iv) the Principal's Contract Manager will not be obliged to include in any payment certificate under clause 12.5; and
 - (v) the Principal will not be liable to pay,
- the amount (or the portion of the amount) claimed in the payment claim in relation to which the Contractor has failed to comply with the requirements of clause 12.3(e), unless:
- (vi) the Principal's Contract Manager (in its absolute discretion and without being under any obligation to exercise this discretion for the benefit of the Contractor) issues a written notice to the Contractor identifying the documentation or information which the Contractor has failed to provide under clause 12.3(e); and
 - (vii) the Contractor provides that documentation or information to the Principal's Contract Manager within the time required in the Principal's Contract Manager's notice.

12.5 Payment certificates

The Principal's Contract Manager:

- (a) must, within the number of days set out in the Contract Particulars of receiving a payment claim submitted or purported to be submitted in accordance with clause 12.3; or
- (b) may, if the Contractor fails to submit any such claim in accordance with clause 12.3, at any time,

give the Contractor (with a copy to the Principal), on behalf of the Principal, a payment certificate which is in the form set out in the Schedule of Collateral Documents and which states:

- (c) the payment claim to which it relates (if any);
- (d) the Contractor's total value of entitlement under the Contract;
- (e) the amount already paid to the Contractor;
- (f) the amount (if any) which the Principal's Contract Manager believes to be then payable by the Principal to the Contractor on account of all amounts payable in accordance with the Contract and which the Principal proposes to pay to the Contractor; and
- (g) if the amount in paragraph (f) is less than the amount claimed in the payment claim:
 - (i) the reason why the amount in paragraph (f) is less than the amount claimed in the payment claim; and
 - (ii) if the reason for the difference is that the Principal has retained, deducted, withheld or set-off payment for any reason, the reason for the retention, deduction, withholding or setting-off.

Any evaluation, or issue of a payment statement, by the Principal's Contract Manager will not:

- (h) constitute approval of any work nor will it be taken as an admission or evidence that the part of the Works covered by the payment certificate has been satisfactorily carried out in accordance with the Contract; or
- (i) constitute a waiver of the requirements of clauses 12.3 and 12.4 in relation to any payment claim other than to the extent (if any) to which the Principal expressly waives such requirements in respect of the payment claim the subject of the payment certificate.

12.6 Payment

- (a) Immediately upon receipt of a payment certificate, the Contractor must submit to the Principal a properly rendered tax invoice reflecting the details specified in the payment certificate.
- (b) Within the number of days set out in the Contract Particulars of the Principal issuing a payment certificate, the Principal will pay the Contractor the amounts set out as then payable in the payment certificate and tax invoice.
- (c) Where special circumstances might apply to the Contractor or a subcontractor, the Principal may consider requests by the Contractor to shorten the payment timeframe at clause 12.6(b) above. Such requests to shorten the payment timeframe must be in writing and supported with full particulars of the relevant special circumstances.

12.7 Payment on Account

Any payment of moneys under clause 12.6 is not:

- (a) evidence of the value of work or that work has been satisfactorily carried out in accordance with the Contract;
- (b) an admission of liability; or
- (c) approval by the Principal or the Principal's Contract Manager of the Contractor's performance or compliance with the Contract,

but is only to be taken as payment on account.

12.8 Unfixed Goods and Materials

Unfixed goods or materials will not be included in the value of work in a payment certificate under clause 12.5 unless:

- (a) the Principal's Contract Manager is satisfied that the unfixed goods and materials have not been prematurely ordered and are necessary to enable the Contractor to comply with its obligations under the Contract;
- (b) the Contractor gives the Principal's Contract Manager with its payment claim under clause 12.3:
 - (i) written confirmation that insurances reasonably satisfactory to the Principal are in place for those unfixed goods and materials; and
 - (ii) such evidence as may be required by the Principal's Contract Manager that title to the unfixed goods and materials will vest in the Principal upon payment;
- (c) the unfixed goods and materials are clearly marked as the property of the Principal and are on the Sites or available for immediate delivery to the Sites; and
- (d) the unfixed goods and materials are properly stored in a place approved by the Principal's Contract Manager.

Upon payment of a payment certificate which includes unfixed goods and materials, title in the unfixed goods and materials will vest in the Principal.

12.9 Completion Payment Claim and Notice

Within 28 days (or such longer period agreed in writing by the Principal's Contract Manager) after the issue of a Notice of Site Completion for the Works, the Contractor must give the Principal's Contract Manager:

- (a) a payment claim which complies with clause 12.3 and which must include all amounts which the Contractor claims from the Principal on account of all amounts payable under the Contract; and
- (b) notice of any other amounts which the Contractor claims from the Principal,

in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities or the Contract which occurred prior to the Date of Site Completion.

The payment claim and notice required under this clause 12.9 are in addition to the other notices which the Contractor must give to the Principal's Contract Manager under the Contract in order to preserve its entitlements to make any such Claims.

Without limiting the previous paragraph, the Contractor cannot include in this payment claim or notice any Claims which are barred by clause 16.5.

12.10 Release after Completion Payment Claim and Notice

After the date for submitting the payment claim and notice under clause 12.9 has passed, the Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities or the Contract which occurred prior to the Date of Site Completion, except for any Claim included in a payment claim or notice under clause 12.9 which is given to the Principal's Contract Manager within the time required by, and in accordance with the terms of, clause 12.9.

12.11 Final Notice

Within 28 days (or such longer period agreed in writing by the Principal's Contract Manager) after the end of the final Defects Liability Period for the Works, the Contractor must give the Principal's Contract Manager:

- (a) notice of any amounts which the Contractor claims from the Principal,

- (b) in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities or the Contract which occurred during the Defects Liability Period.

The notice required under this clause 12.11 is in addition to the other notices which the Contractor must give to the Principal's Contract Manager under the Contract in order to preserve its entitlements to make any such Claims.

Without limiting the previous paragraph, the Contractor cannot include in this notice any Claims which are barred by clause 16.5.

12.12 Release after Final Notice

- (a) After the date for submitting the notice under clause 12.11 has passed, the Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities or the Contract which occurred during the Defects Liability Period, except for any Claim included in a notice under clause 12.11 which is given to the Principal's Contract Manager within the time required by, and in accordance with the terms of, clause 12.11.
- (b) Without limited paragraph (a), the Contractor must ensure that prior to the payment of any final payment claim of a Subcontractor in respect of the Works, it obtains from the Subcontractor:
- (i) a deed of release; and
 - (ii) a completed exit questionnaire,
- (c) in the form reasonably required by the Principal's Contract Manager (**Subcontractor Exit Documentation**).

12.13 Interest

The Principal will pay simple interest at the rate stated in the Contract Particulars on any:

- (a) amount which has been set out as payable by the Principal's Contract Manager in a payment certificate under clause 12.5, but which is not paid by the Principal within the time required by the Contract; and
- (b) damages.

This will be the Contractor's sole entitlement to interest including damages for loss of use of, or the cost of borrowing, money.

12.14 Correction of Payment certificates

The Principal's Contract Manager may, in any payment certificate, correct any error in any previous payment certificate issued by the Principal's Contract Manager.

12.15 Right of Set-Off

The Principal may deduct from moneys otherwise due to the Contractor any debt or other moneys due from the Contractor to the Principal.

12.16 Payment of Workers and Subcontractors

The Contractor must with each payment claim under clause 12.3 provide the Principal's Contract Manager with:

- (a) a statutory declaration, together with any supporting evidence which may be reasonably required by the Principal's Contract Manager, duly signed by the Contractor or, where the Contractor is a corporation, by a representative of the Contractor who is in a position to know the facts declared, that, except to the extent disclosed in the statutory declaration (such disclosure to specify all relevant amounts, workers and subcontractors):
- (i) all workers who have at any time been employed by the Contractor on the Contractor's Activities have at the date of the payment claim been paid all moneys due and payable to them in respect of their employment on the Contractor's Activities; and

- (ii) all subcontractors have been paid all moneys due and payable to them in respect of the Contractor's Activities; and
- (b) documentary evidence that, except to the extent otherwise disclosed (such disclosure to specify all relevant amounts and workers), as at the date of the payment claim, all workers who have been employed by a subcontractor, have been paid all moneys due and payable to them in respect of their employment on the Contractor's Activities.

The Principal is entitled to withhold from any payment which would otherwise be due to the Contractor under the Contract the amount disclosed as unpaid under this clause 12.16.

12.17 Accounting Records

The Contractor must keep accurate and up to date accounting records including books of account, labour time sheets, invoices for materials, plant hire, final accounts and any other documents or papers which show all details in relation to:

- (a) Reimbursable Costs incurred or expended by the Contractor; and
- (b) Variations.

12.18 GST

- (a) Subject to paragraphs (b) and (c), where any supply occurs under or in connection with the Contract or the Works for which GST is not otherwise provided, the party making the supply ("**Supplier**") will be entitled to increase the amount payable for the supply by the amount of any applicable GST.
- (b) Reimbursable Costs payable to the Contractor will not be reduced for any input tax credits and will be paid in full. In consideration of this, the Contractor is not entitled to any additional amount in respect of GST on Reimbursable Costs.
- (c) Where an amount is payable to the Supplier for a supply under or in connection with the Contract or the Works, the amount payable for the supply will be reduced by the amount of any input tax credits available to the Supplier (or a representative member on the Supplier's behalf) in respect of such costs before being increased for any applicable GST under paragraph (a).
- (d) As a condition precedent to any amount on account of GST being due from the recipient to the Supplier in respect of a taxable supply, the Supplier must provide a tax invoice to the recipient in respect of that supply.
- (e) If the amount paid to the Supplier in respect of the GST (whether because of an adjustment or otherwise):
 - (i) is more than the GST on the supply, then the Supplier shall refund the excess to the recipient; or
 - (ii) is less than the GST on the supply, then the recipient shall pay the deficiency to the Supplier.
- (f) In this clause:
 - (i) "**GST**" means the tax payable on taxable supplies under the GST Legislation;
 - (ii) "**GST Legislation**" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any related Act imposing such tax or legislation that is enacted to validate, recapture or recoup such tax; and
 - (iii) terms defined in GST Legislation have the meaning given to them in GST Legislation.

12.19 Security of Payment Legislation

- (a) The Contractor agrees with the Principal that:

- (i) a payment claim submitted to the Principal's Contract Manager under clause 12.3 which also purports to be a payment claim under the Security of Payment Legislation is received by the Principal's Contract Manager as agent for the Principal;
 - (ii) unless otherwise notified to the Contractor by the Principal in writing, the Principal's Contract Manager will give payment certificates and carry out all other functions of the Principal under the Security of Payment Legislation as the agent of the Principal;
 - (iii) to the extent permitted by and for the purposes of the Security of Payment Legislation, the "reference dates" are those of the dates prescribed in clause 12.3(a) and (b) on which the Contractor has satisfied the requirements of clause 12.4(a); and
 - (iv) a reference to a "payment certificate" is also a reference to a "payment schedule" for the purposes of the Security of Payment Legislation.
- (b) Failure by the Principal's Contract Manager to set out in a payment certificate issued under the Security of Payment Legislation or otherwise an amount which the Principal is entitled to retain, deduct, withhold or set-off from the amount which would otherwise be payable to the Contractor by the Principal will not prejudice:
- (i) the Principal's Contract Manager's ability or power to set out in a subsequent payment certificate an amount which the Principal is entitled to retain, deduct, withhold or set-off from the amount which would otherwise be payable to the Contractor by the Principal; or
 - (ii) the Principal's right to subsequently exercise its right to retain, deduct, withhold or set-off any amount under this Contract.
- (c) The Contractor agrees that the amount set out in the payment certificate in accordance with clause 12.5(f) is, to the extent permitted by and for the purposes of the Security of Payment Legislation, the amount of the "progress payment" calculated in accordance with the terms of this Contract, which the Contractor is entitled to in respect of the Contract.
- (d) The Contractor irrevocably chooses the person set out in the Contract Particulars as, to the extent permitted by and for the purposes of the relevant Security of Payment Legislation, the authorised nominating authority.

12.20 Recovery of Monies by Principal

To the extent that the Contractor is required to make any payment of any amount to the Principal arising under or otherwise in connection with the Contract, the Contractor must ensure that amount is paid into a bank account nominated by the Principal for payment of that amount.

13. COMPLETION OF WORKS IN RESPECT OF SITES

13.1 Contractor to Notify

- (a) Nothing in this clause 13.1 limits the Contractor's obligations or liabilities, or the Principal's or the Principal's Contract Manager's rights, under clause 9.13.
- (b) When the Contractor considers that the Works in respect of a Site will be completed in 3 days, it must give notice to the Principal of this.
- (c) When the Contractor considers that it has completed the Works in respect of a Site, it must return the Site and provide a copy of the Completion Notice to the person who granted access to the Site, and give notice to the Principal of this having occurred.
- (d) The Contractor must give the Principal's Contract Manager a Completion Notice within 7 days of when the Contractor considers that it has achieved Completion of the Works in respect of a Site.

- (e) At the same time as the Contractor gives the Completion Notice in paragraph (d) to the Principal's Contract Manager, it must send to the person who has granted it access to the Site a copy of the Environmental Certificate applicable to the Site.
- (f) On issue of a Completion Notice in paragraph (d) and return of the Site to the person who granted access to it, the Contractor's obligations as principal contractor under the *Work Health and Safety Regulations 2012 (SA)* will cease.

13.2 Principal's Contract Manager to Inspect

The Principal's Contract Manager must, after receiving the Contractor's Completion Notice under clause 13.1(d) or paragraph (b):

- (a) if satisfied Completion has been achieved, issue a notice to the Principal and the Contractor:
 - (i) stating the date upon which the Principal's Contract Manager determines Completion was achieved; and
 - (ii) containing a list of any minor Defects of the type described in paragraph (a) of the definition of "Completion" in clause 1.1; or
- (b) if not satisfied Completion has been achieved, issue a notice so advising the Contractor and the Principal, containing a list of the Defects to be completed by the Contractor.

If the Principal's Contract Manager issues a notice under subparagraph 0(b) the Contractor must:

- (a) proceed to bring the Works to Completion; and
- (b) when it considers it has achieved Completion, give the Principal's Contract Manager written notice to that effect (after which this clause 13.2 will reapply).

13.3 Unilateral Issue of Completion Notice

If at any time a notice required to be given by the Contractor to the Principal's Contract Manager under clause 13.1(d) or 13.2(b) is not given by the Contractor yet the Principal's Contract Manager is of the opinion that Completion of Works has been achieved, the Principal's Contract Manager may issue a Notice of Site Completion for the Works, as relevant.

13.4 Correction of Defects

Upon the issue of a Notice of Site Completion, the Contractor must correct all Defects listed in the Notice of Site Completion within such period as is notified by the Principal's Contract Manager.

13.5 Effect of Notice of Site Completion

The return of the site to the person who granted access to it, or the issue of a Notice of Site Completion will not:

- (a) constitute approval by the Principal of the Contractor's performance of its Contract obligations;
- (b) be taken as an admission or evidence that the Works comply with the Contract; or
- (c) prejudice any rights or powers of the Principal or Principal's Contract Manager.

14. TERMINATION

14.1 Preservation of Rights

Nothing in this clause 14 or that the Principal does or fails to do pursuant to this clause 14 will prejudice the right of the Principal to exercise any right or remedy (including recovering damages) which it may have where the Contractor breaches (including repudiates) the Contract.

14.2 Contractor Default

The Principal may give a written notice under clause 14.3 to the Contractor if the Contractor:

- (a) does not commence the Contractor's Activities in accordance with the requirements of the Contract;
- (b) suspends the Contractor's Activities in breach of clause 10.4 or otherwise does not proceed with the Contractor's Activities regularly and diligently;
- (c) fails to comply with any of its obligations under clause 4.2 or 4.4;
- (d) fails to use the materials or standards of workmanship required by the Contract;
- (e) does not comply with any direction of the Principal's Contract Manager made in accordance with the Contract;
- (f) does not perform satisfactorily against the Performance Management Framework, including the key performance indicators (**KPIs**) or performance targets (**Performance Targets**) specified in the Performance Management Framework; or
- (g) is otherwise in substantial breach of the Contract.

14.3 Contents of Notice of Default

A notice under this clause 14.3 must state:

- (a) that it is a notice under this clause 14.3;
- (b) the breach relied upon; and
- (c) that the Principal requires the Contractor to remedy the breach within the number of days set out in the Contract Particulars of receiving the notice.

14.4 Termination for Insolvency or Breach

If:

- (a) an Insolvency Event occurs to the Contractor, or where the Contractor comprises 2 or more persons, to any one of those persons; or
- (b) the Contractor does not remedy a breach of Contract the subject of a notice under clause 14.3 within the number of days set out in the Contract Particulars of receiving the notice under clause 14.3,

then the Principal may by written notice to the Contractor terminate the Contract.

14.5 Principal's Entitlements after Termination

Subject to clause 14.1, if the Principal terminates the Contract under this clause 14, or if the Contractor repudiates the Contract and the Principal otherwise terminates the Contract:

- (a) the Principal will:
 - (i) be entitled to take over and use, or require the Contractor to remove from the Sites, the Plant, Equipment and Work and all materials, equipment and other things intended for the Works;
 - (ii) be entitled to require the Contractor to novate to the Principal or the Principal's nominee, any or all subcontracts between the Contractor and its subcontractors as required by the Principal;

- (iii) to the extent permitted by the Security of Payment Legislation, not be obliged to make any further payments to the Contractor, including any money the subject of a payment claim under clause 12.3 or a payment certificate under clause 12.5; and
 - (iv) be entitled to recover from the Contractor any costs, losses or damages incurred or suffered by it as a result of, or arising out of, or in any way in connection with, such termination; and
- (b) the Contractor must immediately hand over to the Principal all copies of:
- (i) documents provided by the Principal in connection with the Contractor's Activities; and
 - (ii) Project Documents prepared by the Contractor to the date of termination (whether complete or not).

14.6 Termination for Convenience

Without prejudice to any of the Principal's other rights under this Contract, and without being limited by the Principal's rights under clause 5, the Principal may:

- (a) at any time for its sole convenience, and for any reason, by written notice to the Contractor terminate the Contract effective from the time stated in the Principal's notice or if no such time is stated, at the time the notice is given to the Contractor; and
- (b) thereafter, at its absolute discretion, complete the uncompleted part of the Works either itself or by engaging Other Contractors.

14.7 Costs

If the Principal terminates the Contract under clause 14.6, the Contractor:

- (a) will be entitled to payment of the following amounts as determined by the Principal's Contract Manager:
 - (i) for work carried out prior to the date of termination, the amount which would have been payable if the Contract had not been terminated and the Contractor submitted a payment claim for work carried out to the date of termination;
 - (ii) the cost of goods or materials reasonably ordered by the Contractor for the Works for which the Contractor is legally bound to pay provided that:
 - A. the value of the goods or materials is not included in the amount payable under subparagraph (i); and
 - B. title in the goods and materials will vest in the Principal upon payment; and
 - (iii) the reasonable cost of removing from the Sites all labour, Plant, Equipment and Work and other things used in the Contractor's Activities; and
- (b) must:
 - (i) take all steps possible to mitigate the costs referred to in paragraphs (a)(ii) and (a)(iii); and
 - (ii) immediately hand over to the Principal all copies of:
 - A. documents provided by the Principal in connection with the Contractor's Activities; and
 - B. Project Documents prepared by the Contractor to the date of termination (whether complete or not).

The amount to which the Contractor is entitled under this clause 14.7 will be a limitation upon the Principal's liability to the Contractor arising out of, or in any way in connection with, the termination of the Contract under

clause 14.6 and the Contractor will not be entitled to make any Claim against the Principal arising out of, or in any way in connection with, the termination of the Contract other than for the amount payable under this clause 14.7.

This clause 14.7 will survive the termination of the Contract by the Principal under clause 14.6.

14.8 Cessation of Funding

The Principal may by written notice to the Contractor terminate the Contract if the South Australian Government and Commonwealth Government funding for the Works is, or is close to being, fully expended. If the Principal terminates the Contract under this clause 14.8, the Contractor's entitlement to payment will be limited to the amounts (if any) as determined by the Principal's Contract Manager for work carried out prior to the date of termination.

15. DISPUTES

15.1 Notice of Dispute

If a dispute or difference arises between the Contractor and the Principal or between the Contractor and the Principal's Contract Manager in respect of any fact, matter or thing arising out of, or in any way in connection with, the Contractor's Activities, the Works or the Contract, or either party's conduct before the Contract, the dispute or difference must be determined in accordance with the procedure in this clause 15.

Where such a dispute or difference arises, either party may give a notice in writing to the Principal's Contract Manager and 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.

15.2 Expert Determination

If the dispute or difference is in relation to a direction of the Principal's Contract Manager under one of the clauses referred to in the Contract Particulars and is not resolved within 21 days after a notice is given under clause 15.1 (and the parties do not agree another period of time to resolve the dispute or difference), the parties may by agreement submit the dispute or difference to expert determination.

15.3 The Expert

- (a) The expert determination under clause 15.2 is to be conducted by:
 - (i) the independent industry expert specified in the Contract Particulars; or
 - (ii) where no such independent industry expert is specified or paragraph (b) applies, an independent industry expert appointed by the person specified in the Contract Particulars.
- (b) If the expert appointed under this clause 15.3:
 - (i) is unavailable;
 - (ii) declines to act;
 - (iii) does not respond within 14 days to a request by one or both parties for advice as to whether he or she is able to conduct the determination;
 - (iv) does not enter into the agreement in accordance with clause 15.9(b) within 14 days of his or her appointment under this clause 15; or
 - (v) does not make a determination within the time required by clause 15.8,

the jurisdiction of the expert shall lapse and a further expert must be appointed under paragraph (a).

- (c) If there has been an appointment under paragraph (a) and one of the events in paragraph (b) has occurred, the further expert appointed under paragraph (a) shall not be an expert previously appointed under paragraph (a) in respect of the same dispute or difference.

15.4 Not Arbitration

An expert determination conducted under this clause 15 is not an arbitration and the expert is not an arbitrator. The expert may reach a decision from his or her own knowledge and expertise.

15.5 Procedure for Determination

The expert will:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in any manner he, she or they thinks fit;
- (c) conduct any investigation which he, she or they considers necessary to resolve the dispute or difference;
- (d) examine such documents, and interview such persons, as he, she or they may require; and
- (e) make such directions for the conduct of the determination as he, she or they considers necessary.

15.6 Disclosure of Interest

The expert must:

- (a) disclose to the parties any:
 - (i) interest he or she has in the outcome of the determination;
 - (ii) conflict of interest;
 - (iii) conflict of duty;
 - (iv) personal relationship which the expert has with either party, or either party's representatives, witnesses or experts; and
 - (v) other fact, matter or thing which a reasonable person may regard as giving rise to the possibility of bias; and
- (b) not communicate with one party to the determination without the knowledge of the other.

15.7 Costs

Each party will:

- (a) bear its own costs in respect of any expert determination; and
- (b) pay one-half of the expert's costs.

15.8 Conclusion of Expert Determination

Unless otherwise agreed between the parties, the expert must notify the parties of his or her decision upon an expert determination conducted under this clause 15 within 28 days from the acceptance by the expert of his or her appointment.

15.9 Agreement with Expert

- (a) The expert will not be liable to the parties arising out of, or in any way in connection with, the expert determination process, except in the case of fraud.
- (b) The parties must enter into an agreement with the appointed expert on the terms set out in the Schedule of Collateral Documents or such other terms as the parties and the expert may agree.

15.10 Determination of Expert

The determination of the expert:

- (a) must be in writing;
- (b) will be substituted for the relevant direction of the Principal's Contract Manager unless a party gives notice of appeal to the other party within 21 days of receiving such determination in which case, subject to clauses 15.11 and **Error! Reference source not found.**, any such appeal will be by way of a hearing de novo; and
- (c) will be final and binding, unless a party gives notice of appeal to the other party within 21 days of receiving such determination.

15.11 Executive Negotiation

- (a) If:
 - (i) clause 15.2 applies, and a notice of appeal is given under clause 15.10; or
 - (ii) clause 15.2 does not apply,the dispute or difference is to be referred to the Executive Negotiators.
- (b) The Executive Negotiators must within:
 - (i) 21 days of:
 - A. if the dispute or difference is not one which is to be referred to expert determination under clause 15.2, the notice of dispute given under clause 15.1; or
 - B. otherwise, the notice of appeal given under clause 15.10; or
 - (ii) such longer period of time as the Executive Negotiators may agree in writing,meet and undertake genuine and good faith negotiations with a view to resolving the dispute or difference and, if they cannot resolve the dispute or difference, endeavour to agree upon a procedure to resolve the dispute or difference (such as mediation or further expert determination).

15.12 Proportional Liability

Notwithstanding anything else, to the extent permissible by law, the expert or the arbitrator (as the case may be) will have no power to apply or to have regard to the provisions of any proportional liability legislation which might, in the absence of this provision, have applied to any dispute referred to arbitration or expert determination pursuant to this clause.

15.13 Continuation of Contractor's Activities

Despite the existence of a dispute or difference between the parties the Contractor must:

- (a) continue to carry out the Contractor's Activities; and
- (b) otherwise comply with its obligations under the Contract.

16. NOTICES

16.1 Notice of Variation

If a direction by the Principal's Contract Manager, other than a "Variation Order" under clause 11.2, constitutes or involves a Variation, the Contractor must, if it wishes to make a Claim against the Principal arising out of, or in any way in connection with, the direction:

- (a) within 7 days (or such other period as may be agreed in writing by the parties) of receiving the direction and before commencing work on the subject matter of the direction, give notice to the Principal's Contract Manager that it considers the direction constitutes or involves a Variation;
- (b) within 21 days (or such other period as may be agreed in writing by the parties) after giving the notice under paragraph (a), submit a written claim to the Principal's Contract Manager which includes the details required by clause 16.3(b); and
- (c) continue to carry out the Contractor's Activities in accordance with the Contract and all directions of the Principal's Contract Manager, including any direction in respect of which notice has been given under this clause 16.1.

16.2 Notices of Other Claims

Except for claims for:

- (a) payment under clause 12.3 of any component of the Contract Price; or
- (b) a Variation instructed in accordance with clause 11.2 or to which clause 16.1 applies,

the Contractor must give the Principal's Contract Manager the notices required by clause 16.3 if it wishes to make a Claim against the Principal in respect of any direction by the Principal's Contract Manager or any other fact, matter or thing (including a breach of the Contract by the Principal) under, arising out of, or in any way in connection with, the Contractor's Activities or the Contract, including anything in respect of which:

- (c) it is otherwise given an express entitlement under the Contract; or
- (d) the Contract expressly provides that:
 - (i) specified costs are to be added to any component of the Contract Price; or
 - (ii) any component of the Contract Price will be otherwise increased or adjusted,as determined by the Principal's Contract Manager.

16.3 Prescribed Notices

The notices referred to in clause 16.2 are:

- (a) a written notice within 14 days (or such other period as may be agreed in writing by the parties) of the first occurrence of the direction or other fact, matter or thing upon which the Claim is based, expressly specifying:
 - (i) that the Contractor proposes to make a Claim; and
 - (ii) the direction or other fact, matter or thing upon which the Claim will be based; and
- (b) a written Claim within 21 days (or such other period as may be agreed in writing by the parties) of giving the written notice under paragraph (a), which must include:
 - (i) detailed particulars concerning the direction or other fact, matter or thing upon which the Claim is based;

- (ii) the legal basis for the Claim, whether based on a term of the Contract or otherwise, and if based on a term of the Contract, clearly identifying the specific term;
- (iii) the facts relied upon in support of the Claim in sufficient detail to permit verification; and
- (iv) details of the amount claimed and how it has been calculated.

16.4 Continuing Events

If the direction or fact, matter or thing upon which the Claim under clause 16.1(b) or 16.2 is based or the consequences of the direction or fact, matter or thing are continuing, the Contractor must continue to give the information required by clause 16.3(b) every 28 days after the written claim under clause 16.1(b) or 16.3(b) (as the case may be) was submitted or given to the Principal's Contract Manager, until after the direction or fact, matter or thing upon which the Claim is based has, or the consequences thereof have, ceased.

16.5 Time Bar

If the Contractor fails to comply with clause 16.1, 16.2, 16.3 or 16.4:

- (a) the Principal will not be liable (insofar as it is possible to exclude such liability) upon any Claim by the Contractor; and
- (b) the Contractor will be absolutely barred from making any Claim against the Principal,

arising out of, or in any way in connection with, the relevant direction or fact, matter or thing (as the case may be) to which clause 16.1 or 16.2 applies.

16.6 Other Provisions Unaffected

Nothing in clauses 16.1 - 16.5 will limit the operation or effect of any other provision of the Contract which requires the Contractor to give notice to the Principal's Contract Manager in order to preserve an entitlement to make a Claim against the Principal.

16.7 Address for Service

Any notice to be given or served under or arising out of a provision of this Contract must:

- (a) be in writing;
- (b) be delivered by hand, sent by prepaid post or sent by email, as the case may be, to the relevant address or email address:
 - (i) stated in the Contract Particulars; or
 - (ii) last notified in writing to the party giving or serving the notice,for the party to whom or upon which the notice is to be given or served; and
- (c) be signed by the party giving or serving the notice or (on the party's behalf) by the solicitor for or attorney, director, secretary or authorised agent of the party giving or serving the notice.

16.8 Receipt of Notices

A notice given or served in accordance with clause 16.7 is taken to be received by the party to whom or upon whom the notice is given or served in the case of:

- (a) delivery by hand, on delivery;
- (b) prepaid post sent to an address in the same country, on the third day after the date of posting;
- (c) prepaid post sent to an address in another country, on the fifth day after the date of posting; and

- (d) email, one hour after electronic transfer of data.

17. GENERAL

17.1 Protection of Personal Information

- (a) The Contractor acknowledges and agrees in respect of the Contractor's Activities:
- (i) to use and disclose personal information and health information obtained during the course of undertaking the Contractor's Activities under the Contract, only for the purposes of this Contract and in accordance with the Information Privacy Principles (**IPPs**) ;
 - (ii) not to do any act or engage in any practice that would breach an IPPs contained in Schedule 1 of the PADP Act, which if done or engaged in by the Principal, would be a breach of that IPP;
 - (iii) to carry out and discharge the obligations contained in the IPPs as if it were a Government Agency;
 - (iv) to notify individuals whose personal information the Contractor holds, that complaints about acts or practices of the Contractor may be investigated by the Privacy Commissioner;
 - (v) to ensure that any employee of the Contractor who is required to deal with personal or health information for the purposes of this Contract is made aware of the obligations of the Contractor set out in paragraphs (a) and (b); and
 - (vi) to immediately notify the Principal if the Contractor becomes aware of a breach or possible breach of any of the obligations referred to in subparagraphs (a)(i) to (a)(v), whether by the Contractor or any subcontract.
- (b) The Contractor agrees to ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under paragraphs (a) and (b).
- (c) Paragraphs (a) and (b) apply only where the Contractor deals with personal information (as defined in the IPPs when, and for the purpose of, undertaking the Contractor's Activities under the Contract. The provisions of paragraphs (a) and (b) survive termination or expiration of this Contract.

17.2 Long Service Leave

Clause 17.2 only applies if any relevant Long Service Leave Legislation applies to the Contractor's Activities.

- (a) Without limiting its other obligations or liabilities under this Contract or otherwise, the Contractor must comply with its obligations under any relevant Long Service Leave Legislation.
- (b) If required by any relevant Long Service Leave Legislation, the Contractor must pay any levy, charge, contribution or associated amount in respect of the Contractor's Activities.
- (c) Any amount paid by the Contractor under paragraph (b) is deemed to be included in the Fee and the Contractor will have no Claim against the Principal arising out of or in connection with its obligations under this clause 17.2 or any other obligation under the relevant Long Service Leave Legislation.
- (d) In this clause 17.2, "**Long Service Leave Legislation**" means *Long Service Leave Act 1987* (SA).

17.3 Assignment

- (a) The Contractor must not, without the prior written approval of the Principal and except on the terms and conditions determined in writing by the Principal, assign, mortgage, charge or encumber the Contract or any part or any benefit or moneys or interest under the Contract.
- (b) For the purpose of but without limiting paragraph (a), an assignment of this Contract will be deemed to have occurred where there has been a Change of Control.

- (c) The Contractor is not required to obtain the Principal's prior written approval under paragraph (a) for mortgages or other security interests granted by the Contractor to its financiers in the ordinary course of business, provided that the Contractor must provide the Principal with reasonable details of all such mortgages or other security interests at any time on request by the Principal.

17.4 Publicity

Without limiting clause 1.3(f), the Contractor must:

- (a) not furnish any information or issue any document or other written or printed material concerning the Contractor's Activities or the Works for publication in the media without the prior written approval of the Principal's Contract Manager; and
- (b) refer any enquiries from the media concerning the Contractor's Activities or the Works to the Principal's Contract Manager.

17.5 Principal Contractor

- (a) The Contractor acknowledges that the Contractor:
- (i) has management and control of a particular Site for the period commencing from the time the Contractor accesses that Site in accordance with this Contract (**Site Entry**) and ending at the time at which the Contractor has Completed the Works relevant to the Site;
 - (ii) accepts appointment as the "principal contractor" for the Sites for the period specified in subparagraph (i) and will discharge the duties of a "principal contractor" under the Work Health and Safety Legislation, in particular the requirements of the *Work Health and Safety Regulations 2012 (SA)* (Regulations); and
 - (iii) must perform all relevant functions and fulfil all relevant duties of an employer, principal contractor and occupier under the Work Health and Safety Legislation during the period specified in subparagraph (i).
- (b) The parties will agree a process to obtain Site Entry to be included in the Site Access Process Protocol. Where the parties fail to agree, the process for Site Entry will be determined by the Principal's Contract Manager acting reasonably.
- (c) The Principal authorises the Contractor to exercise such authority of the Principal as is necessary to enable the Contractor to discharge the obligations and duties imposed on the Contractor under this clause 17.5 and the Work Health and Safety Legislation. If the Contractor becomes aware that the authority is not sufficient for this purpose, the Contractor must immediately provide detailed written notice to the Principal.
- (d) For the purposes of this clause 17.5, "Site" means, without limiting the definition of "Sites" in clause 1.1, a workplace where the construction project is to be carried out within the meaning of the Work Health and Safety Legislation.

17.6 Auditor General

- (a) The Contractor must permit the Auditor-General appointed under the Public Finance and Audit Act 1987 (SA) and any person nominated by the Auditor-General from time to time, during ordinary business hours and upon reasonable notice, to inspect and verify all records maintained by the Contractor for the purposes of the contract.
- (b) The Contractor and its agents and Subcontractors will give all reasonable assistance to any person authorised to undertake such audit or inspection.
- (c) Any information provided or to which the Auditor-General or nominee has access under this clause 17.6 will be treated as confidential information, and without limiting clause the other provisions of this Contract, must not be used other than for the purposes of the Contract, or disclosed other than as may be required to comply with any written request issued by the Auditor General.

- (d) The confidentiality obligations set out in this clause 17.6 do not limit the other confidentiality obligations of this Contract.

17.7 Not used

17.8 Workplace Gender Equality

- (a) This clause applies if the Contractor are relevant employer(s) within the meaning of the *Workplace Gender Equality Act 2012* (Cth) (WGE Act).
- (b) The Contractor must comply with their obligations under the WGE Act and remain compliant until the expiry or termination of the Agreement.
- (c) The Contractor must take reasonable steps to ensure that any Subcontractors and Sub-Alliance Participants comply with the WGE Act if that Subcontractor or Sub-Alliance Participant is a relevant employer within the meaning of the WGE Act.

17.9 Commonwealth Work Health And Safety Accreditation Scheme

- (a) The Contractor must maintain accreditation under the Work Health and Safety Accreditation Scheme (WHS Accreditation Scheme) while the Works are carried out.
- (b) The WHS Accreditation Scheme is established by the Building and Construction Industry (Improving Productivity) Act 2016 (Cth) and specified in the Building and Construction Industry (Improving Productivity) (Accreditation Scheme) Rules 2019 (Cth).
- (c) The Contractor must comply with all conditions of WHS Accreditation Scheme accreditation.

17.10 State Data

- (a) The Contractor acknowledges that:
- (i) by virtue of this Agreement it is in possession of State Data;
 - (ii) it is only the custodian of the State Data, and must deliver that data to the Principal or the State on demand, regardless of any other legal right or remedy that the Contractor may then have;
 - (iii) it may only use the State Data for the purposes of providing the Service; and
 - (iv) the Principal and the State have adopted policies and practices for security of the information assets of the State and the Principal as specified in the Contract Particulars (“Information Security Standards”).
- (b) The Contractor must:
- (i) ensure that the Principal and the State have access to their data in accordance with this Agreement at all times, whether or not any dispute exists between the Principal or the State and the Contractor;
 - (ii) ensure that the Service complies with the Information Security Standards in respect of access to and use of State Data in addition to any statutory obligation relevant to data security;
 - (iii) implement all technical and organisational measures necessary to meet the requirements of any applicable data protection laws and to protect the State Data against any misuse, including by prohibiting and preventing any of the Contractor’s personnel who do not have the appropriate level of security clearance from gaining access to the State Data contained in the Contractor Programs;
 - (iv) ensure that the State Data is backed up; and

- (v) not send or store State Data, Personal Information or other related data or information outside of Australia, or allow any of the Contractor's personnel located outside of Australia to access such data or information, except with the express written agreement of the Principal.
- (c) If the Contractor becomes aware that a Cyber Incident has or may have occurred, the Contractor must:
 - (i) notify the Principal as soon as possible (and in any event within 48 hours);
 - (ii) promptly provide to the Principal:
 - (iii) a description of the nature and anticipated consequences of the Cyber Incident;
 - (iv) where possible, information about the type of information the subject of the Cyber Incident; and
 - (v) other information concerning the Cyber Incident reasonably known or available to the Contractor that the Principal is required to disclose to a supervisory authority or data subjects; and
 - (vi) implement appropriate measures to mitigate any possible adverse effects of the Cyber Incident and prevent a recurrence.
- (d) The Contractor agrees that upon expiry or termination of this Agreement the Contractor must:
 - (i) immediately return to the Principal all State Data held by the Contractor and all copies of that data in accordance with clause 17.10(e); and
 - (ii) following the return of such State Data under clause (i) (and unless otherwise required by the Principal) destroy or permanently and irrevocably remove, purge or overwrite the Principal all copies of State Data held by the Contractor.
- (e) Where State Data is returned to the Principal in accordance with this Agreement (including in accordance with clause 17.10(c)) it must be returned:
 - (i) in a format determined by the Principal; and
 - (ii) at no additional cost to the Principal.
- (f) The Contractor must not destroy copies of State Data unless and until it has complied with clause 17.10(d)(i).
- (g) Where State Data is destroyed or removed in accordance with clause 17.10(d)(ii), the Contractor must certify to the Principal that the State Data and any copies have been destroyed or removed in accordance with the Principal's requirements.
- (h) If the Contractor is subject to legislation that requires it to retain a copy of State Data, the Contractor:
 - (i) must provide details of the relevant legislation to the Principal; and
 - (ii) warrants that it guarantees the confidentiality of the State Data and that the Contractor will not use, access or process the State Data following the expiry or termination of this Agreement.
- (i) Nothing in this Agreement has the effect of giving the Contractor any right or licence over State Data.
- (j) Specifically, and without limiting any of the Principal's rights, the Contractor acknowledges:
 - (i) it has no right to withhold State's Data from the Principal or the State;
 - (ii) the Principal or the State may seek immediate injunctive relief to secure access to State Data; and

- (iii) the Contractor must not obstruct, hinder or oppose any such application for relief.

17.11 Information Systems & Programs

Where the Contractor accesses or uses the Principal's information and communications technology systems, programs or infrastructure, the Contractor must:

- (a) comply with the Principal's instructions as to that access and use;
- (b) use its best endeavours to prevent the introduction of Malicious Software (including but not limited to using up to date virus protection and other security software on its own systems);
- (c) comply with all policies and procedures advised by the Principal from time to time; and
- (d) notify the Principal of any unauthorised use of the Principal's systems or programs of which it becomes aware.

17.12 Agreement Disclosure

- (a) The Principal may disclose the Contract and/or information in relation to the Contract and/or information prepared as a result of this Contract in either printed or electronic form and either generally to the public or to a particular person as a result of a specific request.
- (b) Nothing in this clause derogates from:
 - (i) the Grantee's obligations under any provision of the Contract; or
 - (ii) from the provisions of the Freedom of Information Act 1991.

INDICATIVE CONTRACT PARTICULARS

THESE CONTRACT PARTICULARS MAY BE FURTHER DEVELOPED AND REFINED BY AGREEMENT IN WRITING BETWEEN THE PRINCIPAL AND THE CONTRACTOR

CLAUSE 1 - GLOSSARY OF TERMS, INTERPRETATION AND MISCELLANEOUS

Award Date:
(Clause 1.1)

[AS DESCRIBED IN THE WORKS ORDER]

Clean-up Standard:
(Clause 1.1)

- (a) Means in respect of each of the Sites, cleanup of the Sites to the standard of a competent, prudent and experienced contractor, on the basis that each of the Sites is hazardous and requires Class/Category B site clearance including:
- (i) removal of Contamination and hazardous materials; and
 - (ii) transportation of all Contamination and hazardous materials to a land-fill site as directed by the Principal,
 - (iii) in accordance with the Sites Access Cleanup Protocol, or as otherwise agreed between the parties.

Completion - additional conditions precedent to Completion:
(Clause 1.1)

The following are conditions precedent for Completion of the relevant Phase for a Stage or Site:

- (a) it is a condition precedent for Completion of the Scoping, Establishment and Site Assessment Works for each Stage that the Contractor has obtained:
 - (i) via the Principal, the property's owners consent to the scope of clean-up work required for the Site in a form required by the Principal and notified to the Contractor;
 - (ii) the Principal's approval to commence Hazard Reduction Works for the Site;
- (b) it is a condition precedent to Completion of the Hazard Reduction Works for each Stage or Site that the Contractor has obtained the Principal's approval to commence Removal and Disposal Works for the Site;
- (c) it is a condition precedent to Completion of the Removal and Disposal Works for each Stage or Site that the Contractor has issued a copy of the Completion Notice to the relevant property owner within 10 days of Completion of the relevant works for the Site.
- (d) any conditions precedent advised by the Principal (acting reasonably) within a reasonable period before the expected Completion of a Phase for a Stage or Site.

Contract - other documents forming part of the Contract:

As described in the contract documents and works orders

(Clause 1.1)

Principal's Contract Manager:
(Clause 1.1)

The person holding the position of [REDACTED]
[REDACTED]
[REDACTED]

Clause 6(1)
Exemption

Contractor:
(Clause 1.1)

Johns Lyng Disaster Management (Australia) Pty Ltd
(A.C.N 651 213 348) of 1 Williamsons Road, Doncaster,
VIC 3108

Contractor's Contract Manager:
(Clause 1.1)

The person holding the position of [REDACTED]
[REDACTED]

Clause 6(1)
Exemption

Defects Liability Period:
(Clause 1.1)

9 months.

Emergency Event Waste:
(Clause 1.1)

Means waste materials resulting from the relevant emergency event and may include, but is not limited to, destroyed or damaged buildings, rubble and debris material resulting from natural disaster activity or other specified emergency-related event (including man-made events) and may include brick, concrete, asphalt, timber and levels of other contaminants (asbestos fibres and particles, residues from copper chrome arsenic (CCA) treated timber, lead and other toxic substances, green waste, household waste and other hazardous waste including biological hazard waste.

Executive Negotiators:
(Clause 1.1)

Principal:

The person holding the position of [REDACTED]
[REDACTED]

Clause 6(1)
Exemption

Contractor:

The person holding the position of [REDACTED]
[REDACTED]
[REDACTED]

Clause 6(1)
Exemption

Project Plans:
(Clause 1.1)

The Recovery Plan, Risk Management Plan, Management Plan and Risk Assessment, Key Stakeholder Engagement Plan, Communications and Media Plan, Inspection Plan, Handover Plan, and such other Project Plans directed by the Principal (acting reasonably), or as otherwise agreed.

Schedule of Collateral Documents:
(Clause 1.1)

1. Building Code 2016
2. Payment Claim
3. Payment certificate
4. Expert Determination Agreement

Each in a form reasonably required by the Principal's Contract Manager from time to time.

Sites:
(Clause 1.1)

The sites directed by the Principal, generally in the locations set out in Schedule 3.

Sites Access Clean-up Protocol: (Clause 1.1)	The sites access cleanup protocol prepared by the Contractor which: <ul style="list-style-type: none">(e) is based upon the protocol outlined in Schedule 5;(f) is to be agreed between the Principal, the Contractor and relevant stakeholders including the Environmental Protection Authority; and(g) details the manner in which the Contractor will conduct the cleanup process (including landowner consents) of each of the Sites.
Special Conditions: (Clause 1.1)	As applied by the Principal
Works: (Clause 1.1)	Management and delivery of the expeditious cleanup of hazardous materials in the affected areas in South Australia resulting from the River Murray flooding event 2022-23 in accordance with the Works Order and/or Scope Documentation.
Governing law: (Clause 1.3(a))	South Australia.

CLAUSE 2 - NATURE OF CONTRACT

Statutory Requirements with which the Contractor does not need to comply: (Clauses 2.3(g)(i) and 8.11)	None specified
Existing Approvals and other Approvals which the Principal is to obtain: (Clauses 2.3(g)(ii) and 8.11)	<p>The Contractor as agent of the Principal is to use its best endeavours to obtain the Approvals referred to in clause 2.2(c).</p> <p>The parties will be responsible for obtaining any Approvals set out in the Site Access Cleanup Protocol.</p>

CLAUSE 3 – PERSONNEL

Principal's Contract Manager's representatives and their functions: (Clause 3.4)	As advised in writing by the Principal
Contractor's key people: (Clause 3.6(a))	As set out in Schedule 4.

CLAUSE 4 - RISKS AND INSURANCE

Insurance policies required to be obtained by the Contractor: (Clause 4.2(a)(v))	Public Liability Insurance Amount of Cover: \$20,000,000 per claim
	Workers Compensation Insurance Amount of Cover: The minimum amounts required by statute in each State and Territory in which the Contractor's Activities are to be performed or

the Contractor's employees are employed or normally reside.

Professional Indemnity Insurance

Amount of Cover: \$1,000,000 per claim

Other Insurances: (Clause 4.2(a)(iv))

Asbestos, Pollution & Environmental Liability Insurance

Amount of Cover: \$1,000,000 per claim, to be provided by the relevant trade Subcontractor

Minimum amount of subcontractors' Professional Indemnity Insurance:
(Clause 4.2(f))

Professional Indemnity Insurance

Amount of Cover: \$20,000,000 per claim

The parties agree that the amount of Professional Indemnity Insurance to be obtained by Subcontractors will be determined in accordance with clauses 8.1 and 8.4.

Period for maintenance of Professional Indemnity Insurance:
(Clause 4.4(b))

11 years

CLAUSE 5 - PLANNING AND SCOPE

Period for Scope Documentation review:
(Clauses 5.2(b)(i) and 5.5(b)(ii))

[.....] days or as otherwise directed by the Principal.

Number of copies of documentation to be submitted by the Contractor to the Principal's Contract Manager:
(Clause 6.2)

1 hard copy

1 electronic copy

Documentation hard copy requirements:
(Clause 6.2)

Compatible with Autocad 14

To scale

Printed in black ink on white or transparent ISO Standard Sheet (size A1, A3, A4 or as determined by the Principal's Contract Manager)

Documentation electronic copy requirements:
(Clause 6.2)

PDF, .JPEG, MS Excel or equivalent,, or as determined by the Principal's Contract Manager

Order of precedence of documents in the case of any ambiguity, discrepancy or inconsistency:
(Clause 6.8(a))

1. Works Order
2. Attachments to the Works Order, including the Contract Particulars
3. Terms of Engagement
4. Head Agreement
5. Scope Documentation (which the Contractor is entitled to use under clause 5.2(d))
6. Project Plans
7. Any other documents forming part of the Contract (as set out in the relevant item under clause 1.1 in these Contract Particulars)

CLAUSE 8- REIMBURSABLE WORK

Access hours for Contractor's Activities on Sites: As agreed between the parties or if not agreed, as determined by the
(Clause 8.25) Principal's Contract Manager (acting reasonably).

CLAUSE 9 - QUALITY

Number of days for submission of Project Plans: 7 days
(Clause 9.2(a)(ii)A)

Number of days for review of Project Plans: 10 days
(Clause 9.2(a)(ii)B)

Period by which Defects Liability Period will be extended following rectification of a Defect or completion of a Variation to overcome a Defect: 9 months or as agreed by Principal
(Clause 9.11)

Amount of Undertaking Completion Undertaking: \$1 million
(Clause 9.16(a)) Post Completion Undertaking: \$0.5 million

CLAUSE 10 - TIME

Maximum intervals between program updates by Contractor: 4 weeks
(Clause 10.2(b))

Program format to be compatible with: MS Project or equivalent
(Clause 10.2(e))

CLAUSE 12 - PAYMENT

Times for submission of payment claims by the Contractor to the Principal's Contract Manager: Fortnightly.
(Clause 12.3(a))

Payment Claim special requirements: None specified
(Clause 12.3(e)(iii))

Time for submission of payment certificates by the Principal to the Contractor: Not later than 10 business days, provided that the time for payment under clause 12.6 will not be later than 15 business days after the submission of any payment claim
(Clause 12.5(a))

Time for payment after issue of the payment certificate As soon as practicable after the issue of the payment certificate provided that the time for payment is not later than 15 business days after the submission of any payment claim.
(Clause 12.6)

Interest rate: The rate of interest prescribed under any applicable Security of Payment Legislation.
(Clause 12.13)

Appointed Adjudicator/Prescribed Appointer/Authorised Nominating Authority: The Chair of the Resolution Institute of the Chapter in South Australia.
(Clause 12.19(d))

CLAUSE 14 - TERMINATION

Number of days to remedy breach:
(Clauses 14.3(c) and 14.4(b)) Fourteen (14) days

CLAUSE 15 - DISPUTES

Directions to be subject of an expert determination if disputed:
(Clause 15.2) Directions under clauses: 8.23, 9.5, 9.9(b)(i), 9.10, **Error! Reference source not found.**, 10.4(c)(i), 11.3(b), 11.3(c), 12.5, 14.7(a).

Industry expert who will conduct expert determinations:
(Clause 15.3(a)(i)) As agreed between the parties or if not agreed, as determined by the Principal's Contract Manager (acting reasonably).

Nominating authority for industry expert:
(Clause 15.3(a)(ii)) The President for the time being of the Resolution Institute unless otherwise stated

CLAUSE 16 - NOTICES

Address and email address, for the giving or serving of notices, upon:
(Clause 16.7(b)(i)) **Principal:**
Address (not PO Box): Level 13, State Administration Centre, 200 Victoria Square, ADELAIDE SA 5000

Email address: officeofthedeputypremier@sa.gov.au

Attention: Minister for Climate, Environment and Water

Principal's Contract Manager:

Address (not PO Box): Level 4, 81-95 Waymouth Street, ADELAIDE SA 5000

Email address: [REDACTED]

Attention: [REDACTED]

Clause 6(1)
Exemption

Contractor:

Address (not PO Box): 1 Williamsons Road, DONCASTER VIC 3108

Email address: [REDACTED]

Attention: [REDACTED]

Clause 6(1)
Exemption

CLAUSE 17 - GENERAL

CLAUSE 0 - BUILDING CODE 2016

Clause 0 - Building Code 2016 Clause 0 does apply unless otherwise stated)

SCHEDULE 1 - CONTRACT PRICE

1. FEE

[Note: the basis of calculations will be inserted by the Principal at the time it issues its request or Works Order for each individual engagement, based on the Margin % specified in Appendix 2 to the Head Agreement]

2. REIMBURSABLE COSTS

[Note: the basis of calculations, including a schedule of rates for subcontractor work, will be inserted by the Principal at the time it issues its request or Works Order for each individual engagement based on those included in the Head Agreement or otherwise provided by the Contractor or determined in accordance with the terms of the Contract based on the costs identified as being reimbursable for the Contractor in the Reimbursable Schedule in Appendix 2 to the Head Agreement.]

3. BENCHMARKING OF NOT ON SCHEDULE ITEMS

- (a) Where the Contractor proposes to undertake any Reimbursable Work items which are not specified or determined in accordance with clause 2 above (**Not on Schedule Items**), the Principal's Contract Manager may, regardless of whether they have previously approved the performance of the Not on Schedule Items, undertake a benchmarking exercise regarding the price of the Not on Schedule Item and require the Contractor to submit a quote for the Not on Schedule Items to be fully itemised and provided to the Principal's Contract Manager on an open book basis.
- (b) Where a quote for a Not on Schedule Item is approved in writing by the Principal's Contract Manager the approved price for that Not on Schedule Item will be used for all subsequent occasions where the Not on Schedule Item is necessary to complete the relevant Works.
- (c) Any benchmarking exercise undertaken under paragraph 3(a) will be reviewed by a Quantity Surveyor (as defined in clause **Error! Reference source not found.** of this Schedule 1). The Principal's Contract Manager will have regard to the assessment of the Quantity Surveyor but is not bound to approve for the purposes of paragraph 3(b) any cost assessed by the Quantity Surveyor.

SCHEDULE 2 - INDICATIVE WORKS ORDER

This Works Order once executed by the Principal and delivered in accordance with the Head Agreement will constitute acceptance by the Principal of the Contractor's offer to supply the Works specified below.

Works Scope

Sites: *[PRINCIPAL TO INSERT SITE DETAILS]*

[PRINCIPAL TO EDIT THE FOLLOWING AS REQUIRED]

The Contractor is to immediately commence initial clean-up works in respect of each of the Sites, to the standard of a competent, prudent and experienced contractor. The Principal's requirements initially are that the Contractor:

- (a) assess each Site;
- (b) make-good/make-safe any immediate hazards;
- (c) undertake such:
 - (i) site investigations; and
 - (ii) other risk reduction studies,as a prudent, competent and experienced contractor would consider necessary for the comprehensive and accurate planning, scoping, costing and programming of the Works; and
- (d) develop the Scope Documentation, Cost Plan, and Program for review by the Principal's Contract Manager.

Target Date for the Scoping, Establishment and Site Assessment Works/Phase

[PRINCIPAL TO INSERT THE DATE FOR COMPLETION OF THE SCOPING, ESTABLISHMENT AND SITE ASSESSMENT WORKS (EG, 30 DAYS FROM THE ISSUE DATE OF THE WORKS ORDER)]

Approved Limit for the Scoping, Establishment and Site Assessment Phase

[PRINCIPAL TO INSERT \$]

Nominated Subcontractors

[PRINCIPAL TO INSERT NOMINATED SUBCONTRACTORS (IF ANY)]

Signature of Principal's Authorised Officer:	
Issue Date:	

SCHEDULE 3 - SITES

[TO BE INSERTED AT THE TIME OF ISSUE OF WORKS ORDER]

SCHEDULE 4 - KEY PEOPLE

[TO BE INSERTED AT THE TIME OF ISSUE OF WORKS ORDER]

SCHEDULE 5 - SITE ACCESS CLEAN-UP PROTOCOL

The property owner contacts the Contractor (through the Principal) to arrange a discussion to develop the scope of the cleanup works and provide access consent to the Contractor to perform the agreed scope of cleanup works.

The Contractor liaises with relevant authorities and develops a plan, addressing each relevant property individually and collectively, for the cleanup works which includes the cost, scope of work and proposed commencement date. The State independently verifies whether the plan is fair and reasonable.

Following this, the Contractor provides the plan relevant to each property to the owner/insurer for written, final, approval, prior to conducting the cleanup works.

SCHEDULE 6 - PERFORMANCE MANAGEMENT FRAMEWORK

[TO BE INSERTED AT THE TIME OF ISSUE OF WORKS ORDER]

SCHEDULE 7 – FORM OF UNDERTAKING

Name of Financial Institution: »

The Principal: **Minister for Climate Environment and Water** a body corporate established pursuant to the *Administrative Arrangements Act 1994* (SA).

The Contractor: ».....

ABN »

Security Amount \$ »

The Contract: The contract between the Principal and the Contractor

Contract Title: River Murray Flood Clean-Up Program 2023

Contract Number: »

Other words and phrases in this *Undertaking* have the meanings given in the General Conditions of Contract.

1. UNDERTAKING

- 1.1 At the request of the Contractor and the Financial Institution, and in consideration of the Principal accepting this *Undertaking* from the Financial Institution in connection with the Contract, the Financial Institution unconditionally undertakes to pay on demand any amount or amounts demanded by the Principal to the maximum aggregate sum of the Security Amount.
- 1.2 The Financial Institution unconditionally agrees that, if notified in writing by the Principal (or someone authorised by the Principal) that it requires all or some of the Security Amount, the Financial Institution will pay the Principal at once, without reference to the Contractor and despite any notice from the Contractor not to pay.
- 1.3 The Principal must not assign this *Undertaking* without the prior written agreement of the Financial Institution, which must not be unreasonably withheld.
- 1.4 This *Undertaking* continues until one of the following occurs:
 - 1.4.1 the Principal notifies the Financial Institution in writing that the Security Amount is no longer required;
 - 1.4.2 this *Undertaking* is returned to the Financial Institution; or
 - 1.4.3 the Financial Institution pays the Principal the whole of the Security Amount, or as much as the Principal may require overall.
- 1.5 At any time, without being required to, the Financial Institution may pay the Principal the Security Amount less any amounts previously paid under this *Undertaking* (or a lesser sum specified by the Principal), and the liability of the Financial Institution will then immediately end.
- 1.6 This *Undertaking* shall be governed by the laws of the State of South Australia and is redeemable in the Adelaide CBD.

Dated »..... at »

Execution by the Financial Institution:

SOUTH AUSTRALIAN RIVER MURRAY FLOOD CLEAN-UP PROGRAM: WORKS ORDER 1

This Works Order once executed by the Principal and delivered in accordance with the Head Agreement will constitute acceptance by the Principal of the Contractor's offer to supply the Works specified below.

Works Scope

Sites:

The Sites directed by the Principal, being generally those sites in or in the vicinity of the Sites with any of the following declared local government areas and any additional Sites identified by the Contractor and agreed by the Principal in writing (in its absolute discretion):

- a) Alexandrina Council
- b) Berri Barmera Council
- c) Coorong District Council
- d) District Council of Karoonda East Murray
- e) District Council of Loxton Waikerie
- f) Mid Murray Council
- g) Murray Bridge Council
- h) Pastoral Unincorporated Area
- i) Renmark Paringa Council

1. Phase 1 Works – Scoping, Establishment and Site Assessment Phase

1.1. Initial Scoping and Establishment

The Contractor is to immediately (upon execution of the Contract), commence initial scoping and establishment works in respect of each of the Sites, to the standard of a competent, prudent and experienced contractor. The Principal's requirements initially are that the Contractor:

- a) activate and maintain licenses for the Principal's personnel to use the Contractor's Aconex system for the purposes of the Works, including:
 - i. as the primary mode of communications between the parties and the official repository of all Project Documents, including notices for the purposes of the Terms of Engagement;
 - ii. for the review and rejection by the Principal's Contract Manager of Subcontractors proposed under clause 8.4 of the Terms of Engagement; and
 - iii. for the review and rejection by the Principal's Contract Manager of the Scope Documentation submitted under clause 5.2 of the Terms of Engagement; and
 - iv. to allow monitoring of the Works by the Principal and other stakeholders;
- b) submit draft project plans in accordance with the following timeframes:

Submission of Project Plans

Number of days from execution of Works Order for submission of Project Plans:

Environmental Management Plan: 7 days

Sites Management Plan: 7 days

Handover Plan: 7 days

Work Health and Safety Management Plan (site reflective): 7 days

Asbestos Management Plan: 7 days

Dangerous Items Plan: 7 days

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Cultural Heritage Plan: 7 days

Key Stakeholder Engagement Plan: 7 days

Risk Management Plan: 7 days

Communication and Media Plan: 7 days

Project Management Plan: 7 days

Cost Plan for each Phase: 7 days

- c) establish and maintain a concierge (8am to 6pm, Monday to Friday ACDT and ACST) and case management service for the purpose of prioritizing works for the duration of the engagement or until advised;
- d) obtain approval, with evidence, from each property owner to access a Site and to undertake any essential work necessary to secure the property / structure to allow safe access for inspection and assessment e.g. elimination of electrical risk
- e) facilitate access and traffic management to Sites;
- f) assess each Site that has registered for the clean-up via the concierge service
- g) assess those Sites that have subsequently requested for a full hazard assessment, including carrying out a full hazard assessment and obtaining digital imagery of ingress and egress points (via photograph or video), for the purposes of determining the estimate scope, approvals, timing, resourcing and cost of the clean-up Works required to be carried out on each Site for any subsequent Phase of Works which may be required, at the discretion of the Principal;
- h) assess the requirements for waste management for the Works and provide to the Principal an estimate scope, timing, resourcing and cost of the waste management to be established;
- i) secure properties and carry out urgent clean-up Works where there is a safety, health or environment management issue posing a risk to the assessment teams, with the prior written consent of the Principal;
- j) conduct any other necessary investigations and provide any other information as reasonably required by the Principal;
- k) develop the scope of any Hazard Reduction Works, Demolition Works, Removal and Disposal Works, Other Waste Removal Works and Sandbag Works which are necessary for each Site, and prepare all relevant Scope Documentation for those works;
- l) develop the Program for the Hazard Reduction Works, Demolition Works, Removal and Disposal Works, Other Waste Removal Works and Sandbag Works based on the priority allocated by the Principal to the Sites for review by the Principal's Contract Manager;
- m) obtain the consent of the property owner and the Principal (and any other interested parties as advised by the Principal's Contract Manager, or as otherwise identified by the Contractor and agreed with the Principal's Contract Manager) to the Scope Documentation and Program developed by the Contractor using the forms and documentation approved by the Principal;
- n) obtain any other necessary consents and approvals required as a precondition to commencing any clean-up Works which may be required, in the discretion of the Principal, (and notify the Principal via the Aconex system and its reporting requirements under the Terms of Engagement when an application for any permit for demolition or the abolishment of services has been made by the Contractor and when any such permit has been granted) at the Contractor's cost to be reimbursed by the Principal;
- o) comply with any Sites Access Clean-up Protocol approved at any time by the PCG during Phase 1;
- p) if necessary, subject to clause 8.4 of the Terms of Engagement, and any review and rejection of proposed Subcontractors (having been submitted by the Contractor via the Aconex system) by the Principal's Contract Manager, engage suitable Subcontractors and suppliers, and to engage Local Workers and suppliers of Local Plant and Equipment;
- q) ensure that any Subcontractors complete the induction process developed by the Contractor for the cleanup program prior to their attendance at any Site/property, and maintain records regarding the Subcontractors' completion of the induction process;
- r) liaise with all stakeholders including community stakeholders, local councils and State Government bodies as required by the Principal regarding the clean-up Works and Contractor's Activities;
- s) attend meetings of any working groups of which it is a member as determined by the PCG at any time during Phase 1;
- t) provide progress and information reports to the principal as required by the Principal;

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- u) manage any disputes between a property owner and the Contractor or Subcontractor in accordance with its dispute handling procedure agreed with the Principal at the first PCG meeting;
- v) ensure the Phase 1 Contract Price will not exceed the Phase 1 Works Target Cost; and
- w) obtain approval from the Principal to proceed with a Hazard Reduction Phase before the relevant Target Date for the Phase 1 Works

Phase 1 Works Mobilisation

The Contractor must ensure that it has sufficient resources to achieve Completion of the Phase 1 Works by the Phase 1 Works Target Date, so as to not exceed the Phase 1 Target Cost and otherwise in accordance with the Contract.

Target Date for the Scoping Establishment and Site Assessment Phase

Target Date for each Stage will be agreed with the Principal's Contract Manager progressively as agreed within the PCG.

Approved Limit for the Scoping Establishment and Site Assessment Phase

The Phase 1 Works Target Cost for the initial scoping, establishment and site assessment works specified in clause 1.1 only will be capped at an amount determined by the Principal in consideration of submitted project documents.

The Phase 1 Contract Price will be assessed on a time and materials basis using rates that are not less favourable than the rates set out in Schedule 1 of the Terms of Engagement.

2. Phase 2 Works – Hazard Reduction Phase

The Contractor is to immediately upon completion of the Phase 1 Works for any Stage:

- (a) prioritise works based on risks assessments of the immediate public health and safety of the impacted community/ies or as determined by the Principal;
- (b) if determined safe to do so by the contractor, provide the opportunity for discovery of the Site to the property owner and facilitate the collection of personal property from the Site by the property owner prior to the commencement of any works. Where the Site is deemed by the Site Supervisor to be unsafe for a physical inspection by the property owner, the Contractor must provide the property owner with the opportunity for a virtual inspection (including via a live stream on an electronic device);
- (c) carry out Hazard Reduction activities where there is an immediate safety, health or environment management issue, including carrying out urgent clean-up Works required to ensure the safety of inspection crews with the prior written consent of the Principal and property owner, and in accordance with the Scope Documentation for the Hazard Reduction Works and the Program for the Hazard Reduction Works developed by the Contractor as part of the Phase 1 Works and approved by the property owner and the Principal (and any other interested parties as advised by the Principal's Contract Manager, or as otherwise identified by the Contractor and agreed with the Principal's Contract Manager);
- (d) facilitate access and traffic management to Sites;
- (e) liaise with all stakeholders including community stakeholders, local councils and State Government bodies as required by the Principal regarding the clean-up Works and Contractor's Activities;

3. Phase 3 – Removal and Disposal

The Contractor is to:

- (a) undertake removal of flood affected material
- (b) recycling of flood affected material, as appropriate;

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- (c) dispose of eligible flood affected material at an agreed licensed facility and report on tonnages;
in accordance with the Scope Documentation for the Removal and Disposal Works and the Program for the Removal and Disposal Works developed by the Contractor as part of the Phase 1 Works and approved by the property owner and the Principal (and any other interested parties as advised by the Principal's Contract Manager, or as otherwise identified by the Contractor and agreed with the Principal's Contract Manager);
- (d) facilitate access and traffic management to Sites;
- (e) liaise with all stakeholders including community stakeholders, local councils and State Government bodies as required by the Principal regarding the clean-up Works and Contractor's Activities;
- (f) attend meetings of any working groups of which it is a member as determined by the PCG at any time;
- (g) provide progress and information reports to the Principal as required by the Principal;
- (h) manage any disputes between a property owner and the Contractor or Subcontractor in accordance with its dispute handling procedure agreed with the Principal at the first PCG meeting;
- (i) comply with any Sites Access Clean-up Protocol approved at any time by the PCG; and
- (j) for each Stage, obtain approval from the Principal to proceed with a sign-off before the relevant Target Date for the Phase 3 Works.

4. Phase 4 Works - Demolition Phase

The Contractor is to:

- (a) undertake demolition activities
in accordance with the Scope Documentation for the Demolition Works and the Program for the Demolition Works developed by the Contractor as part of the Phase 1 Works and approved in writing by the property owner and the Principal (and any other interested parties as advised by the Principal's Contract Manager, or as otherwise identified by the Contractor and agreed with the Principal's Contract Manager);
- (b) facilitate access and traffic management to Sites;
- (c) liaise with all stakeholders including community stakeholders, local councils and State Government bodies as required by the Principal regarding the clean-up Works and Contractor's Activities;
- (d) attend meetings of any working groups of which it is a member as determined by the PCG at any time;
- (e) provide progress and information reports to the Principal as required by the Principal;
- (f) manage any disputes between a property owner and the Contractor or Subcontractor in accordance with its dispute handling procedure agreed with the Principal at the first PCG meeting;
- (g) comply with any Sites Access Clean-up Protocol approved at any time by the PCG;
- (h) remove and transport demolition material to an agreed licenced facility;
- (i) complete demolition in accordance with agreed demolition methodology as approved by the Principal and Principal's Contract Manager and
- (j) for each Stage, obtain approval from the Principal to proceed with sign-off before the relevant Target Date for the Phase 4 Works.

5. Phase 5 - Removal of other waste relocated by the flood

The Contractor is to:

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- (a) Remove other waste relocated by the flood that is accessible (including by boat or barge), in accordance with agreed methodology as approved by the Principal and Principal’s Contract Manager
- (b) Provide suitable and timely operations and equipment to safely remove waste from the River Murray channel and accessible floodplains, using boat/s or a barge, and process and dispose of this waste. Examples of these items may include, but is not limited to, the following: fridges, rainwater tanks, barbeques and furniture.
- (c) Remove, process or disposal, and reporting on tonnages for other waste relocated by the flood
- (d) Complete removal of other waste relocated by the flood.

6. Phase 6 - Removal and processing of sandbags


The Contractor is to:

- (a) Remove and process sandbags dry sandbags and flood affected sandbags in accordance with agreed methodology as approved by the Principal and Principal’s Contract Manager
- (b) Process sandbags at an approved location (or locations) to separate bags from sand and decontaminate sand for potential re-use.
- (c) Complete removal and processing of sandbags

7. Phase 7 Works - Sign-Off Phase

The Contractor is to immediately upon completion of the Works:

- (a) undertake rectification activities in accordance with the Scope Documentation for the Site Rectification Works and the Program for the Site Rectification Works developed by the Contractor as part of the Phase 1 Works and approved by the property owner and the Principal (and any other interested parties as advised by the Principal’s Contract Manager, or as otherwise identified by the Contractor and agreed with the Principal’s Contract Manager); and
- (b) Provide documentation inclusive of Certificate of compliances, Certificate of occupancies, updated asbestos registers;
- (c) Provide builders manual inclusive of all new materials, contractors/subcontractors information inclusive of warranties;
- (d) Statutory Declaration stating all subcontractors and other relevant stakeholders have been paid for works commissioned;
- (e) Contract statement stating all works required articulated by the scope has been completed, inclusive of all defects;
- (f) facilitate access and traffic management to Sites;
- (g) comply with any Sites Access Clean-up Protocol approved at any time by the PCG.

Signature of Principal:	
Issue Date:	28/3/23
Signature of Contractor’s Authorised Representative:	
Executed Date:	

CONTRACT PARTICULARS

THESE CONTRACT PARTICULARS MAY BE FURTHER DEVELOPED AND REFINED BY AGREEMENT IN WRITING BETWEEN THE PRINCIPAL AND THE CONTRACTOR

CLAUSE 1 - GLOSSARY OF TERMS, INTERPRETATION AND MISCELLANEOUS

Award Date:
(Clause 1.1)

28 March 2023

Clean-up Standard: (Clause 1.1)

Means in respect of each of the Sites, cleanup of the Sites to the standard of a competent, prudent and experienced contractor, on the basis that each of the Sites and requires site clearance including:

- (a) removal of debris and flood affected material and
- (b) transportation of all debris and flood affected material to a land fill site as directed by the Principal,
- (c) in accordance with the Sites Access Cleanup Protocol, or as otherwise agreed between the parties.

Completion - additional conditions precedent to Completion:
(Clause 1.1)

The following are conditions precedent for Completion of the relevant Phase for a Stage or Site:

- (a) it is a condition precedent for Completion of the Scoping, Establishment and Site Assessment Works for each Stage that the Contractor has obtained:
 - a. via the Principal, the property's owners consent to the scope of clean-up work required for the Site in a form required by the Principal and notified to the Contractor;
 - b. the Principal's approval to commence Hazard Reduction Works for the Site;
- (b) it is a condition precedent to Completion of the Hazard Reduction Works for each Stage or Site that the Contractor has obtained the Principal's approval to commence removal of flood affected material and Demolition Works for the Site;
- (c) it is a condition precedent to Completion of the Demolition Works for each Stage or Site that the Contractor has issued a copy of the Completion Notice to the relevant property owner within 10 days of Completion of the relevant works for the Site.

(d) any conditions precedent advised by the Principal (acting reasonably) within a reasonable period before the expected Completion of a Phase for a Stage or Site.

Contract - other documents forming part of the Contract
(Clause 1.1)

Works Activation Notice dated 28 March 2023

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Principal's Contract Manager: The person holding the position of [REDACTED]

Clause 6(1)
Exemption

(Clause 1.1)

Contractor: Johns Lyng Disaster Management (Australia) Pty Ltd
(Clause 1.1) (A.C.N 651 213 348) of 1 Williamsons Road, Doncaster, VIC 3108

Contractor's Contract Manager: The person holding the position [REDACTED]

Clause 6(1)
Exemption

Defects Liability Period: (Clause 1.1) 9 months

Emergency Event Waste: (Clause 1.1) Means waste materials resulting from the relevant emergency event and may include, but is not limited to, destroyed or damaged buildings, rubble and debris material resulting from natural disaster activity or other specified emergency-related event (including man-made events) and may include brick, concrete, asphalt, timber and levels of other contaminants (asbestos fibres and particles, residues from copper chrome arsenic (CCA) treated timber, lead and other toxic substances, green waste, household waste and other hazardous waste including biological hazard waste.

Executive Negotiators: (Clause 1.1) **Principal:**
The person holding the position of [REDACTED]

Clause 6(1)
Exemption

Contractor:
The person holding the position of [REDACTED]

Clause 6(1)
Exemption

Local Worker: (Clause 1.1) A Subcontractor personnel whose primary place of residence for taxation purposes is located within:

(a) in the first instance, the local government area of the Works for which the Subcontractor personnel is to be engaged);

(b) in the second instance, if a Subcontractor personnel in the first instance is not reasonably available in the first instance), the Riverland/Murraylands region of South Australia

(c) in the third instance, if a Subcontractor personnel in the first instance or the second instance is not reasonably available, South Australia

Local Workers Percentage Has the meaning given in clause 10.10 of the Head Agreement

For the purposes of measuring the Local Workers Percentage, the following trades are excluded:

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- (a) any Nominated Subcontractors; (other than local sub-contractors nominated by the principal)
- (b) All Hazard Assessment Teams

Project Plans: (Clause 1.1)

Sites Management Plan, Risk Management Plan, Key Stakeholder Engagement Plan, Communications and Media Plan, Handover Plan, the Project Management Plan and such other Project Plans directed by the Principal (acting reasonably), or as otherwise agreed.

Schedule of Collateral Documents: (Clause 1.1)

- (1) Payment Claim
- (2) Payment certificate

Each in a form reasonably required by the Principal's Contract Manager from time to time.

Sites:
(Clause 1.1)

The sites directed by the Principal in Schedule 3.

Sites Access Clean-up Protocol: (Clause 1.1)

The sites access cleanup protocol which:

- (a) is based upon the protocol outlined in Schedule 5;
- (b) is to be agreed between the Principal, the Contractor and relevant stakeholders including the Environmental Protection Authority, Return to WorkSA, the Department of Environment and Water.
- (c) details the manner in which the Contractor will conduct the cleanup process (including landowner consents) of each of the Sites.

Works: (Clause 1.1)

Management and delivery of the expeditious cleanup and removal/disposal of hazardous materials in the flood affected areas in accordance with the Works Order and/or Scope Documentation.

Governing law: (Clause 1.3(a))

South Australia

CLAUSE 2 - NATURE OF CONTRACT

Existing Approvals and other Approvals which the Principal is to obtain:

The Contractor as agent of the Principal is to obtain the Approvals referred to in clause 2.2(c).

The parties will be responsible for obtaining any Approvals set out in the Site Access Cleanup Protocol.

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Principal's Contract Manager's representatives and their functions:

As notified in writing by the Principal's Contract Manager

Contractor's key people:
(Clause 3.6(a))

As set out in Schedule 4.

CLAUSE 4 - RISKS AND INSURANCE

Insurance policies required to be obtained by the Public Liability Insurance Contractor:

(Clause 4.2(a)(v))

If written on an occurrence basis:

Amount of Cover: \$20,000,000 each and every occurrence for public liability claims

If written on a claims made basis: \$20,000,000

Amount of Cover: \$20,000,000 per claim and \$20,000,000 in the aggregate

Worldwide limits: [...]

Jurisdictional limits: [...]

Workers Compensation Insurance

Amount of Cover: The minimum amounts required by statute in each State and Territory in which the Contractor's Activities are to be performed or the Contractor's employees are employed or normally reside.

Professional Indemnity Insurance

Amount of Cover: \$1,000,000 per claim and \$1,000,000 in the aggregate

Worldwide limits: [...]

Jurisdictional limits: [...]

(if Professional Indemnity Insurance does not apply, insert "N/A" after the \$ references)

Other Insurances: (Clause 4.2(a)(iv)) Asbestos, Pollution & Environmental Liability Insurance \$1,000,000 per claim and in the aggregate

Minimum amount of subcontractors' Professional Indemnity Insurance: (Clause 4.2(f))

Professional Indemnity Insurance

Amount of Cover: \$1,000,000 per claim and \$1,000,000 in the aggregate

Worldwide limits: [...]

Jurisdictional limits: [...]

(if Professional Indemnity Insurance does not apply, insert "N/A" after the \$ references)

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The parties agree that the amount of Professional Indemnity Insurance to be obtained by Subcontractors will be determined in accordance with clauses 8.1 and 8.4.

Period for maintenance of Professional Indemnity Insurance:
(Clause 4.4(b))

11 Years

CLAUSE 5 - PLANNING AND SCOPE

Period for Scope Documentation review:
(Clauses 5.2(b)(ii), 5.5(b)(ii) and 5.5(e))

7 days or as otherwise directed by the Principal.

Number of copies of documentation to be submitted by the Contractor to the Principal's Contract Manager:
(Clause 6.2)

1 hard copy

1 electronic copy

Compatible with Autocad 14

To scale

Documentation electronic copy requirements: (Clause 6.2)

PDF, .JPEG, MS Excel or equivalent, or as determined by the Principal's Contract Manager

Order of precedence of documents in the case of any ambiguity, discrepancy or inconsistency: (Clause 6.8(a))

1. Works Order
2. Attachments to the Works Order, including the Contract Particulars
3. Terms of Engagement
4. Head Agreement
5. Scope Documentation (which the Contractor is entitled to use under clause 5.2(d))
6. Project Plans

Any other documents forming part of the Contract (as set out in the relevant item under clause 1.1 in these Contract

CLAUSE 8 - REIMBURSABLE WORK

Access hours for Contractor's Activities on Sites:

(Clause 8.25)

As agreed between the parties or if not agreed, as determined by the Principal's Contract Manager (acting reasonably).

CLAUSE 9 – QUALITY

Number of days for submission of Project Plans: (Clause 9.2(a)(ii)(A))

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Environmental Management Plan: 7 days

Sites Management Plan: 7 days

Handover Plan: 7 days

Work Health and Safety Plan: 7 days

Risk Management Plan: 7 days

Key Stakeholder Engagement Plan: 7 days

Cultural Heritage Plan: 7 days

Communication Management Plan: 7 days

Project Management Plan: 7 days

Quality Management Plan: 7 days

Cost Plan: 7 days

Asbestos Management Plan: 7 Days

Any other plans as directed by the Principal

Number of days for review of Project Plans: (Clause 9.2(a)(ii)(B))

10 days

Period by which Defects Liability Period will be extended following rectification of a Defect or completion of a Variation to overcome a Defect: (Clause 9.11) 9 months or as agreed by Principal

Amount of Undertaking

(Clause Error! Reference source not found.
million

Completion Undertaking is \$1

Post Completion Undertaking is \$0.5 million

CLAUSE 12 – PAYMENT

Times for submission of payment claims by the Contractor to the Principal's Contract Manager: (Clause 12.3(a))

Fortnightly

Payment Claim special requirements: (Clause 12.3(e)(iii))

Statutory Declaration

Time for submission of payment certificates by the Principal to the Contractor:

(Clause 12.5(a))

Not later than 10 business days, provided that the time for payment under clause 12.6 will not be later than 10 business days after the submission of any payment claim

Time for payment after issue of the payment certificate

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(Clause 12.6)

As soon as practicable after the issue of the payment certificate provided that the time for payment is not later than 15 business days after the submission of any payment claim.

Interest rate:

(Clause 12.13)

The rate of interest prescribed under any applicable Security of Payment Legislation.

Appointed Adjudicator/Prescribed Appointer/Authorised Nominating Authority (Clause 12.20(d))

As agreed between the parties or if not agreed, as determined by the Principal's Contract Manager (acting reasonably).

CLAUSE 14 - TERMINATION

Number of days to remedy breach: (Clauses 14.3(c) and 14.4(b))

14 days

CLAUSE 15 – DISPUTES

Directions to be subject of an expert determination if disputed: (Clause 15.2)

Directions under clauses: 8.23, 9.5, 9.9(b)(i), 9.10, 10.4, 10.5(c)(i), 11.3(b), 11.3(c), 12.5, 14.7(a).

Industry expert who will conduct expert determinations:

(Clause 15.3(a)(i))

As agreed between the parties or if not agreed, as determined by the Principal's Contract Manager (acting reasonably).

Nominating authority for industry expert: (Clause 15.3(a)(ii))

As agreed between the parties or if not agreed, as determined by the Principal's Contract Manager (acting reasonably).

CLAUSE 16 - NOTICES

Address and email address, for the giving or serving of notices, upon:

(Clause 16.7(b)(i))

Principal: Minister for Climate, Environment and Water

Address: Level 13, State Administration Centre, 200 Victoria Square, ADELAIDE SA 5000

Email address: officeofthedeputypremier@sa.gov.au

Attention: Minister for Climate, Environment and Water

Principal's Contract Manager: [REDACTED]

Address: Level 4, 81-95 Waymouth Street Adelaide SA 5000

Email address: [REDACTED]

Attention: [REDACTED]

Contractor: Johns Lyng Disaster Management (Australia) Pty Ltd

Address: 1 Williamsons Rd, Doncaster, Vic, 3108

Clause 6(1)
Exemption

Clause 6(1)
Exemption

OFFICIAL

Email address: [REDACTED]

Attention: [REDACTED]

Clause 6(1)
Exemption

SCHEDULE 1 - CONTRACT PRICE

1. FEE

- (a) The Fee is calculated by applying the Margin %, of the Reimbursable Costs except for the following costs:
- (i) reworks, defects and rectification work;
 - (ii) related party costs;
 - (iii) invoices for costs generated by Disaster Relief Australia
 - (iv) Self-Performed Works;
 - (v) insurances
 - (vi) Contractor's Non Wage Personnel (only) allowances which include living-away-from-home allowance (LAFHA), travel allowance, meal allowance, personal IT equipment, phones and ipads.
 - (vii) Waste disposal and recycling facility gate fees
- (b) The Fee includes all non-reimbursable costs, corporate overheads and profit.
- (c) The Margin % is 5% of the Reimbursable Costs (GST inclusive).

2. REIMBURSABLE COSTS

The Reimbursable Costs will be assessed on a time and materials basis using rates that are not less favourable than the rates set out in Attachment 1 to this Schedule 1.

Reimbursable Costs includes costs which are stated to be Reimbursable Costs, and excludes costs which are stated to be Non-Reimbursable Costs, in Attachment 2 to this Schedule 1.

3. BENCHMARKING OF NOT ON SCHEDULE ITEMS

- (a) Where the Contractor proposes to undertake any Reimbursable Work items which are not specified or determined in accordance with clause 2 above (**Not on Schedule Items**), the Principal's Contract Manager may, regardless of whether they have previously approved the performance of the Not on Schedule Items, undertake a benchmarking exercise regarding the price of the Not on Schedule Item and require the Contractor to submit a quote for the Not on Schedule Items to be fully itemised and provided to the Principal's Contract Manager on an open book basis.
- (b) Where a quote for a Not on Schedule Item is approved in writing by the Principal's Contract Manager the approved price for that Not on Schedule Item will be used for all subsequent occasions where the Not on Schedule Item is necessary to complete the relevant Works.
- (c) Any benchmarking exercise undertaken under paragraph 3(a) will be reviewed by a Quantity Surveyor. The Principal's Contract Manager will have regard to the assessment of the Quantity Surveyor but is not bound to approve for the purposes of paragraph 3(b) any cost assessed by the Quantity Surveyor.

The Schedule of Rates shall be read in conjunction with the Drawings, General Conditions of Contract and Specification and these documents are jointly explanatory and descriptive of the Works included in the Contract. A price or rate shall be entered against each item in the Schedule of Rates.

**TRADE & SPECIALIST
CONSULTANT RATES**

General directions and descriptions of work and material given elsewhere in the Contract Documents are not necessarily repeated in the Schedule of Rates. Reference shall be made to the whole of the documents for full information.

The rates shall be deemed to include the costs of all overheads, plant, labour, materials, transport, sub-contractors margins and other costs and profits together with all general risks and liabilities which are necessary for the performance of the obligations under the proposed contract.

Scope of Works Description		RLB Assessment			
DEMOLITION, STREET DEBRIS, CIVIL RELATED		Qty	Unit	RATE	Value
	STAFFING				
Demolition/Excavation	Exec - Director	8	hrs	\$ 200.20	\$ 1,601.60
Demolition/Excavation	Exec - Construction Manager	8	hrs	\$ 175.00	\$ 1,400.00
Demolition/Excavation	Exec - Project Manager	8	hrs	\$ 154.70	\$ 1,237.60
Demolition/Excavation	Exec - Project Engineer	8	hrs	\$ 105.00	\$ 840.00
Demolition/Excavation	Exec - Assets Coordinator	8	hrs	\$ 131.04	\$ 1,048.32
Demolition/Excavation	Exec - Office Based Claims Admin./Prep.	8	hrs	\$ 95.00	\$ 760.00
Demolition/Excavation	Travel Allowance - Per Person - Initial Allowance	1	ea	\$ 49.64	\$ 49.64
Demolition/Excavation	Travel Allowance - KM's after first 50km from Start Location	1	kms	\$ 1.25	\$ 1.25
Demolition/Excavation	Site - Project Administrator	8	hrs	\$ 101.00	\$ 808.00
Demolition/Excavation	Site - Project Administrator - Compliance	8	hrs	\$ 101.00	\$ 808.00
Demolition/Excavation	Site - Project Administrator - Claims	8	hrs	\$ 101.00	\$ 808.00
Demolition/Excavation	Site - Site Coordinator - Manager	8	hrs	\$ 131.04	\$ 1,048.32
Demolition/Excavation	Site - Site Coordinator - Logistics	8	hrs	\$ 118.00	\$ 944.00
Demolition/Excavation	Site - Site Coordinator - Logistics OT	8	hrs	\$ 177.00	\$ 1,416.00
Demolition/Excavation	Site - Site Coordinator - Supervision	8	hrs	\$ 118.00	\$ 944.00
Demolition/Excavation	Site - Site Coordinator - HSE Management & control O/T	8	hrs	\$ 180.18	\$ 1,441.44
Demolition/Excavation	Site - Site Coordinator - Supervision - OT	8	hrs	\$ 177.00	\$ 1,416.00
Demolition/Excavation	Site - Site Coordinator - HSE Management	8	hrs	\$ 135.00	\$ 1,080.00
Demolition/Excavation	Site - Utility Vehicle Per Day Allowance	1	ea	\$ 232.96	\$ 232.96
Demolition/Excavation	Site - Living Away From Home Allowance	1	ea	\$ 216.58	\$ 216.58
Demolition/Excavation	Site - Tipping Fees Per Tonne - Brinkley, General Waste	1	T	\$ 63.21	\$ 63.21
Demolition/Excavation	Site - Tipping Fees Per Tonne - Peats, Vegetation	1	T	\$ 50.00	\$ 50.00
Demolition/Excavation	Site - Tipping Fees Per Tonne - Peats, Soil (clean)	1	T	\$ 25.00	\$ 25.00
Demolition/Excavation	Site - Tipping Fees Per Tonne - Peats, Soil (mixed)	1	T	\$ 50.00	\$ 50.00
Demolition/Excavation	Site - Tipping Fees Per Tonne - Peats, Mortalities (animal carcasses)	1	T	\$ 80.00	\$ 80.00
Demolition/Excavation	Site - Tipping Fees Per Tonne - Cambrai, General Waste	1	T	\$ 90.00	\$ 90.00
Demolition/Excavation	Site - Truck Driver/Operator Extra/Over Overtime Component	1	ea	\$ 40.95	\$ 40.95
Demolition/Excavation	Site - Meal Allowance - Required as per Industrial Agreements	1	ea	\$ 27.80	\$ 27.80
Demolition/Excavation	Site - B Class Asbestos Supervisor O/T	1	hrs	\$ 130.00	\$ 130.00
Demolition/Excavation	Site - Labour General	8	hrs	\$ 91.35	\$ 730.80
Demolition/Excavation	Labour O/T	1	hrs	\$ 107.00	\$ 107.00
Demolition/Excavation	Operator - All Machinery, Trucks and Similar (unless otherwise noted)	8	hrs	\$ 96.60	\$ 772.80
Demolition/Excavation	Operator O/T	1	hrs	\$ 135.24	\$ 135.24
Demolition/Excavation	Site Engineer	8	hrs	\$ 105.00	\$ 840.00
Demolition/Excavation	Site Engineer Overtime	1	hrs	\$ 155.61	\$ 155.61
Demolition/Excavation	Class B Asbestos Removalist	8	hrs	\$ 81.90	\$ 655.20
Demolition/Excavation	Class B Asbestos Removalist Overtime	1	hrs	\$ 122.85	\$ 122.85
Demolition/Excavation	Class A Asbestos Removalist	8	hrs	\$ 90.00	\$ 720.00
Demolition/Excavation	Class A Asbestos Removalist Overtime	1	hrs	\$ 135.00	\$ 135.00
Demolition/Excavation	Class B Asbestos Supervisor	8	hrs	\$ 81.90	\$ 655.20
Demolition/Excavation	Class B Asbestos Supervisor Overtime	1	hrs	\$ 114.66	\$ 114.66
Demolition/Excavation	Class A Asbestos Supervisor	8	hrs	\$ 114.66	\$ 917.28
Demolition/Excavation	Class A Asbestos Supervisor Overtime	1	hrs	\$ 147.42	\$ 147.42
Demolition/Excavation	Air Monitoring			AS INVOICED	
Demolition/Excavation	Asbestos Clearance Certificate			AS INVOICED	
Demolition/Excavation	Electrical Spotter	8	hrs	\$ 95.00	\$ 760.00

		8	hrs	\$ 178.71	\$ 1,429.68
	MACHINERY	Qty	Unit	RATE	Value
Demolition/Excavation	Electrical Spotter - O/T	8	hrs	\$ 178.71	\$ 1,429.68
Demolition/Excavation	Compressor (per day)	8	hrs	\$ 57.00	\$ 456.00
Demolition/Excavation	Compressor (per day) Stand Down Cost	8	hrs	\$ 39.90	\$ 319.20
Demolition/Excavation	Skidsteer/posi track	8	hrs	\$ 45.00	\$ 360.00
Demolition/Excavation	Skidsteer/posi track Stand Down Cost	8	hrs	\$ 31.50	\$ 252.00
Demolition/Excavation	3.5T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve). excl Operator	8	hrs	\$ 45.50	\$ 364.00
Demolition/Excavation	3.5T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve). excl Operator Stand Down Cost	8	hrs	\$ 31.85	\$ 254.80
Demolition/Excavation	Telehandler	1	hrs	\$ 35.00	\$ 35.00
Demolition/Excavation	Telehandler Stand Down Cost	8	hrs	\$ 24.50	\$ 196.00
Demolition/Excavation	5T Excavator - Standard Inclusive of attachments (i.e. grab breaker, sieve). excl Operator	8	hrs	\$ 45.50	\$ 364.00
Demolition/Excavation	5T Excavator - Standard Inclusive of attachments (i.e. grab breaker, sieve). excl Operator Stand Down Cost	8	hrs	\$ 31.85	\$ 254.80
Demolition/Excavation	8T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve)	8	hrs	\$ 72.80	\$ 582.40
Demolition/Excavation	8T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve) Stand Down Cost	8	hrs	\$ 50.96	\$ 407.68
Demolition/Excavation	12T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve)	8	hrs	\$ 63.70	\$ 509.60
Demolition/Excavation	12T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve) Stand Down Cost	8	hrs	\$ 44.59	\$ 356.72
Demolition/Excavation	12T Excavator -Inclusive of attachments (i.e. grab breaker, sieve)	1	hrs	\$ 63.70	\$ 63.70
Demolition/Excavation	12T Excavator -Inclusive of attachments (i.e. grab breaker, sieve) Stand Down Cost	8	hrs	\$ 44.59	\$ 356.72
Demolition/Excavation	15T Excavator - Machine Only	1	hrs	\$ 85.00	\$ 85.00
Demolition/Excavation	12T Excavator - Machine Only	1	hrs	\$ 63.70	\$ 63.70
Demolition/Excavation	20T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve)	8	hrs	\$ 95.00	\$ 760.00
Demolition/Excavation	20T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve) Stand Down Cost	8	hrs	\$ 66.50	\$ 532.00
Demolition/Excavation	30T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve)	8	hrs	\$ 131.95	\$ 1,055.60
Demolition/Excavation	30T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve) Stand Down Cost	8	hrs	\$ 92.37	\$ 738.92
Demolition/Excavation	40T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve)	8	hrs	\$ 163.80	\$ 1,310.40
Demolition/Excavation	40T Excavator - StandardInclusive of attachments (i.e. grab breaker, sieve) Stand Down Cost	8	hrs	\$ 114.66	\$ 917.28
Demolition/Excavation	Excavator driver only with B class ticket	8	hrs	\$ 85.00	\$ 680.00
Demolition/Excavation	Excavator driver only with B class ticket - Overtime	8	hrs	\$ 127.50	\$ 1,020.00
Demolition/Excavation	Loader inc Operator	8	hrs	\$ 163.80	\$ 1,310.40
Demolition/Excavation	Loader inc Operator Stand Down Cost	8	hrs	\$ 114.66	\$ 917.28
Demolition/Excavation	Bulldozer inc Operator	8	hrs	\$ 236.60	\$ 1,892.80
Demolition/Excavation	Bulldozer inc Operator Stand Down Cost	8	hrs	\$ 165.62	\$ 1324.96
Demolition/Excavation	Bulldozer inc Operator Overtime	1	hrs	\$ 282.10	\$ 282.10
Demolition/Excavation	D7T Bulldozer inc Operator (ADDITIONAL RATE)	8	hrs	\$ 259.35	\$ 2,074.80
Demolition/Excavation	D7T Bulldozer inc Operator Overtime (ADDITIONAL RATE)	1	hrs	\$ 295.75	\$ 295.75
Demolition/Excavation	D10T Bulldozer inc Operator (ADDITIONAL RATE)	8	hrs	\$ 409.50	\$ 3,276.00
Demolition/Excavation	D10T Bulldozer inc Operator Overtime (ADDITIONAL RATE)	1	hrs	\$ 455.00	\$ 455.00
Demolition/Excavation	Water Tank per hour inc Operator - 13,000L	8	hrs	\$ 140.00	\$ 1,120.00
Demolition/Excavation	Water Tank per hour inc Operator Overtime - 13,000L	8	hrs	\$ 214.76	\$ 1,718.08
Demolition/Excavation	Large Water Tank per hour inc Operator - 20,000L	8	hrs	\$ 214.76	\$ 1,718.08
Demolition/Excavation	Large Water Truck(with broom)	1	hrs	\$ 113.75	\$ 113.75
Demolition/Excavation	Large Water Truck(with broom) Stand Down Cost	8	hrs	\$ 79.63	\$ 637.00
Demolition/Excavation	Truck & Trailer	8	hrs	\$ 163.80	\$ 1,310.40
Demolition/Excavation	Truck & Trailer Stand Down Cost	8	hrs	\$ 114.66	\$ 917.28
Demolition/Excavation	Overtime Truck & Trailer	1	hrs	\$ 188.37	\$ 188.37
Demolition/Excavation	Semi Tipper	8	hrs	\$ 155.00	\$ 1,240.00
Demolition/Excavation	Semi Tipper Stand Down Cost	8	hrs	\$ 108.50	\$ 868.00
Demolition/Excavation	Tipper (approx 4t)	8	hrs	\$ 120.00	\$ 960.00
Demolition/Excavation	Tipper (approx 4t) Stand Down Cost	8	hrs	\$ 84.00	\$ 672.00
Demolition/Excavation	Tandem per Hr inc Driver	8	hrs	\$ 128.31	\$ 1,026.48
Demolition/Excavation	Tandem per Hr inc Driver overtime	1	hrs	\$ 131.04	\$ 131.04
Demolition/Excavation	B-double semi tipper inc Driver	8	hrs	\$ 151.97	\$ 1,215.76
Demolition/Excavation	25 T Articulated Dump Truck (Moxy) - Excluding Operator	8	hrs	\$ 73.71	\$ 589.68
Demolition/Excavation	25 T Articulated Dump Truck (Moxy) - Excluding Operator Stand Down Cost	8	hrs	\$ 51.60	\$ 412.78
Demolition/Excavation	10 T Dump Truck	8	hrs	\$ 138.32	\$ 1,106.56
Demolition/Excavation	10 T Dump Truck Stand Down Cost	8	hrs	\$ 96.82	\$ 774.59
Demolition/Excavation	Crane Truck (specify size)	8	hrs	\$ 127.40	\$ 1,019.20
Demolition/Excavation	Crane Truck (specify size) Stand Down Cost	8	hrs	\$ 89.18	\$ 713.44
Demolition/Excavation	Tracked carrier	8	hrs	\$ 213.85	\$ 1,710.80
Demolition/Excavation	Tracked carrier Stand Down Cost	8	hrs	\$ 149.70	\$ 1,197.56
Demolition/Excavation	Bobcat per Half Day	4	hrs	\$ 45.00	\$ 180.00
Demolition/Excavation	Bobcat per Day	8	hrs	\$ 45.00	\$ 360.00

Demolition/Excavation	Bobcat per Day Stand Down Cost	8	hrs	\$ 31.50	\$ 252.00
	SCISSOR LIFTS	Qty	Unit	RATE	Value
Demolition/Excavation	Scissor Lift - Diesel - 7.6M - 9.4M	1	day	\$ 113.75	\$ 113.75
Demolition/Excavation	Scissor Lift - Diesel - 7.6M - 9.4M Stand Down Cost	8	hrs	\$ 79.63	\$ 637.00
Demolition/Excavation	Scissor Lift - Diesel - 9.7M - 10.0M	1	day	\$ 154.70	\$ 154.70
Demolition/Excavation	Scissor Lift - Diesel - 9.7M - 10.0M Stand Down Cost	8	hrs	\$ 108.29	\$ 866.32
Demolition/Excavation	Scissor Lift - Diesel - 12.1M - 13.1M	1	day	\$ 163.80	\$ 163.80
Demolition/Excavation	Scissor Lift - Diesel - 12.1M - 13.1M Stand Down Cost	8	hrs	\$ 114.66	\$ 917.28
Demolition/Excavation	Scissor Lift - Diesel - 15.2M - 16.1M	1	day	\$ 200.20	\$ 200.20
Demolition/Excavation	Scissor Lift - Diesel - 15.2M - 16.1M Stand Down Cost	8	hrs	\$ 140.14	\$ 1121.12
Demolition/Excavation	Scissor Lift - Diesel - 7.6M - 9.4M Tracked	1	day	\$ 273.00	\$ 273.00
Demolition/Excavation	Scissor Lift - Diesel - 7.6M - 9.4M Tracked Stand Down Cost	8	hrs	\$ 191.10	\$ 1528.80
Demolition/Excavation	Backhoe per Day	1	day	\$ 556.92	\$ 556.92
Demolition/Excavation	Backhoe per Day Stand Down Cost	8	hrs	\$ 389.84	\$ 3118.75
Demolition/Excavation	15t padfoot roller	8	hrs	\$ 44.59	\$ 356.72
Demolition/Excavation	15t padfoot roller Stand Down Cost	8	hrs	\$ 31.21	\$ 249.70
	CRANAGE	Qty	Unit	RATE	Value
Demolition/Excavation	10Tonne Bubble	8	hrs	\$ 171.99	\$ 1,375.92
Demolition/Excavation	10Tonne Bubble Stand Down Cost	8	hrs	\$ 120.39	\$ 963.14
Demolition/Excavation	16Tonne Bubble	8	hrs	\$ 180.18	\$ 1,441.44
Demolition/Excavation	16Tonne Bubble Stand Down Cost	8	hrs	\$ 126.13	\$ 1009.01
Demolition/Excavation	15Tonne Franna	8	hrs	\$ 171.99	\$ 1,375.92
Demolition/Excavation	15Tonne Franna Stand Down Cost	8	hrs	\$ 120.39	\$ 963.14
Demolition/Excavation	20Tonne Franna	8	hrs	\$ 180.18	\$ 1,441.44
Demolition/Excavation	20Tonne Franna Stand Down Cost	8	hrs	\$ 126.13	\$ 1009.01
Demolition/Excavation	25Tonne Franna	8	hrs	\$ 192.92	\$ 1,543.36
Demolition/Excavation	25Tonne Franna Stand Down Cost	8	hrs	\$ 135.04	\$ 1080.35
Demolition/Excavation	30t Crane	8	hrs	\$ 180.18	\$ 1,441.44
Demolition/Excavation	30t Crane Stand Down Cost	8	hrs	\$ 126.13	\$ 1009.01
Demolition/Excavation	50t Crane	8	hrs	\$ 221.13	\$ 1,769.04
Demolition/Excavation	50t Crane Stand Down Cost	8	hrs	\$ 154.79	\$ 1238.33
Demolition/Excavation	100t Crane	8	hrs	\$ 442.26	\$ 3,538.08
Demolition/Excavation	100t Crane Stand Down Cost	8	hrs	\$ 309.58	\$ 2476.66
Demolition/Excavation	130t Crane	8	hrs	\$ 491.40	\$ 3,931.20
Demolition/Excavation	130t Crane Stand Down Cost	8	hrs	\$ 343.98	\$ 2751.84
Demolition/Excavation	Rigger	8	hrs	\$ 90.00	\$ 720.00
Demolition/Excavation	Dogman	8	hrs	\$ 89.00	\$ 712.00
	OTHER MISC	Qty	Unit	RATE	Value
Demolition/Excavation	Site Toilet - rate is to capture delivery, service, and empty fees	1	week	\$ 136.50	\$ 136.50
Demolition/Excavation	Decontamination Unit	1	day	\$ 122.85	\$ 122.85
	PPE (for hazardous works i.e. asbestos removal - per day rate all inclusive)				
Demolition/Excavation	Black Plastic	1	roll	\$ 99.00	\$ 99.00
Demolition/Excavation	Clear Plastic - 100m roll	1	roll	\$ 131.00	\$ 131.00
Demolition/Excavation	Asbestos Bags	1	each	\$ 2.00	\$ 2.00
Demolition/Excavation	Duct Tape	1	each	\$ 4.00	\$ 4.00
Demolition/Excavation	Barrier Tape	1	100m roll	\$ 20.00	\$ 20.00
Demolition/Excavation	Coveralls	1	each	\$ 7.00	\$ 7.00
Demolition/Excavation	Pre-filters	1	each	\$ 1.00	\$ 1.00
Demolition/Excavation	Main Filters	1	each	\$ 26.00	\$ 26.00
Demolition/Excavation	Charcoal Filters	1	each	\$ 41.00	\$ 41.00
Demolition/Excavation	Gloves	1	each	\$ 7.00	\$ 7.00
Demolition/Excavation	Chemical Gloves	1	each	\$ 5.00	\$ 5.00
Demolition/Excavation	Booties	1	each	\$ 2.00	\$ 2.00
Demolition/Excavation	Silver Tape	1	each	\$ 17.00	\$ 17.00
Demolition/Excavation	Double Sided Tape	1	each	\$ 14.00	\$ 14.00
Demolition/Excavation	Vacuum Bags	1	each	\$ 11.00	\$ 11.00
Demolition/Excavation	Fabricon	1	roll	\$ 171.00	\$ 171.00
Demolition/Excavation	Alcohol Wipes	1	tub	\$ 14.00	\$ 14.00
Demolition/Excavation	PVA Glue	1	litre	\$ 11.00	\$ 11.00
Demolition/Excavation	Filter - 5 Micron	1	each	\$ 17.00	\$ 17.00
Demolition/Excavation	Drums	1	each	\$ 17.00	\$ 17.00
Demolition/Excavation	Temporary Fencing - chain mesh or panels - 30m or less	1	panel	\$ 1.00	\$ 1.00
Demolition/Excavation	Temporary Fencing - parrawebbing - 30m or less	1	m	\$ 0.60	\$ 0.60
Demolition/Excavation	Temporary Fencing - chain mesh or panels - 30m+	1	panel	\$ 0.80	\$ 0.80
Demolition/Excavation	Temporary Fencing - parrawebbing - 30m,+	1	panel	\$ 0.50	\$ 0.50
Demolition/Excavation	Ladder	1	day	\$ 45.00	\$ 45.00
Demolition/Excavation	Steel Star picket 1.8 meter tall	1	each	\$ 11.00	\$ 11.00
Demolition/Excavation	Storage Container	1	day	\$ 45.00	\$ 45.00
Demolition/Excavation	Aluminium mobile scaffolding	1	day	\$ 522.00	\$ 522.00

Demolition/Excavation	Compressor	1	day	\$ 57.00	\$ 57.00
Demolition/Excavation	HEPA Vacuum Hire	1	day	\$ 45.00	\$ 45.00
Demolition/Excavation	Demo saw	1	day	\$ 45.00	\$ 45.00
Demolition/Excavation	Division 05 Report (if required at Demolition Phase)	1	ea	\$ 1,400.00	\$ 1,400.00
Hydraulic Services	Plumber Labour	1	hrs	\$ 105.00	\$ 105.00
Electrical Services	Site Inspection - inspect and make safe	1	ea	\$ 380.00	\$ 380.00
Electrical Services	Living Away from Home Allowance	1	ea	\$ 130.00	\$ 130.00
Electrical Services	Price for call out and certificate of electrical safety	1	ea	\$ 180.00	\$ 180.00
Electrical Services	Electrician Hourly Rate	1	hrs	\$ 115.00	\$ 115.00
Electrical Services	Certificate of Electrical Safety - Non prescribed	1	ea	\$ 50.00	\$ 50.00
Electrical Services	Certificate of Electrical Safety - Prescribed	1	ea	\$ 100.00	\$ 100.00
Electrical Services	High Voltage Operator	1	hrs	\$ 125.00	\$ 125.00
Electrical Services	High Voltage Operator - Overtime	1	hrs	\$ 187.50	\$ 187.50
Electrical Services	Travel - From contractor head office	1	KM	\$ 1.65	\$ 1.65
Electrical Services	ESV - Electrical inspection	1	ea	\$ 300.00	\$ 300.00
Electrical Services	Electrical Linesman	1	hrs	\$ 136.50	\$ 136.50
Electrical Services	Electrical Linesman - Overtime	1	hrs	\$ 159.88	\$ 159.88
Electrical Services	Electrical Planner	1	hrs	\$ 130.00	\$ 130.00
Electrical Services	Electrical Planner - Overtime	1	hrs	\$ 155.00	\$ 155.00
Electrical Services	Electrical Scoper	1	hrs	\$ 136.50	\$ 136.50
Electrical Services	Electrical Scoper - Overtime	1	hrs	\$ 159.88	\$ 159.88
Electrical Services	Electrical Specialist EWP	1	hrs	\$ 98.40	\$ 98.40
	BUILDING SURVEYOR RATES	Qty	Unit	RATE	Value
Building Surveyor	Technical Officer	1	hrs	\$165.00	\$ 165.00
Building Surveyor	Building Inspector	1	hrs	\$220.00	\$ 220.00
Building Surveyor	Building Surveyor	1	hrs	\$275.00	\$ 275.00
Building Surveyor	Senior Building Surveyor	1	hrs	\$330.00	\$ 330.00
Building Surveyor	Living Away from Home Allowance	1	day	\$130.00	\$ 130.00
Building Surveyor	Demolition Permit Fee:			AS INVOICED	
Building Surveyor	Building Permit Fee: (price dependant on scope of works)			AS INVOICED	
Building Surveyor	Council Lodgment Fee: Per Stage Building or Demolition Permit			AS INVOICED	
	STRUCTURAL / CIVIL ENGINEER RATES	Qty	Unit	RATE	Value
Structural Engineer	Director	1	Hr	\$ 350.00	\$ 350.00
Structural Engineer	Project Director	1	Hr	\$ 290.00	\$ 290.00
Structural Engineer	Engineer with Greater than 5 Years Experience	1	Hr	\$ 290.00	\$ 290.00
Structural Engineer	Engineer with Less than 5 Years Experience	1	Hr	\$ 255.00	\$ 255.00
Carpentry	Qualified Carpenter, inc general Tools of Trade	8	hrs	\$ 90.00	\$ 720.00
	ARBORIST	Qty	Unit	RATE	Value
Arborist	Climber	8	hrs	\$ 131.00	\$ 1,048.00
Arborist	EWP - Spider lift 19mtr	8	hrs	\$ 131.00	\$ 1,048.00
Arborist	EWP - Spider lift 19mtr Stand Down Cost	8	hrs	\$ 91.70	\$ 733.60
Arborist	EWP - Truck mounted 15mtr	8	hrs	\$ 180.00	\$ 1,440.00
Arborist	EWP - Truck mounted 15mtr Stand Down Cost	8	hrs	\$ 126.00	\$ 1008.00
Arborist	EWP 50ft	8	hrs	\$ 225.00	\$ 1,800.00
Arborist	EWP 50ft Stand Down Cost	8	hrs	\$ 157.50	\$ 1260.00
Arborist	General Groundsman	8	hrs	\$ 90.00	\$ 720.00
Arborist	LAFHA	1	item	\$ 238.00	\$ 238.00
Arborist	Tipper/Chipper (up to 13") - small	8	hrs	\$ 149.00	\$ 1,192.00
Arborist	Tipper/Chipper (up to 13") - small Stand Down Cost	8	hrs	\$ 104.30	\$ 834.40
Arborist	Tipper/Chipper (up to 18") - medium	8	hrs	\$ 198.00	\$ 1,584.00
Arborist	Tipper/Chipper (up to 18") - medium Stand Down Cost	8	hrs	\$ 138.60	\$ 1108.80
Arborist	Tipper/Chipper - large	8	hrs	\$ 248.00	\$ 1,984.00
Arborist	Tipper/Chipper - large Stand Down Cost	8	hrs	\$ 173.60	\$ 1388.80
Arborist	Forestry Mower	8	hrs	\$ 189.00	\$ 1,512.00
Arborist	Forestry Mower Stand Down Cost	8	hrs	\$ 132.30	\$ 1058.40
Arborist	Stump Grinder (inc Operator)	8	hrs	\$ 198.00	\$ 1,584.00
Arborist	Stump Grinder (inc Operator) Stand Down Cost	8	hrs	\$ 138.60	\$ 1108.80
Arborist	Crane Truck (inc Operator)	8	hrs	\$ 126.00	\$ 1,008.00
Arborist	Crane Truck (inc Operator) Stand Down Cost	8	hrs	\$ 88.20	\$ 705.60
Arborist	Fire Fighting Unit & Trailer	8	hrs	\$ 195.00	\$ 1,560.00
Arborist	Fire Fighting Unit & Trailer Stand Down Cost	8	hrs	\$ 136.50	\$ 1092.00
Arborist	100hp Posi Mulcher, Float & Two Operators	8	hrs	\$ 167.00	\$ 1,336.00
Arborist	Tractor with Flail Mower (inc Operator)	8	hrs	\$ 275.00	\$ 2,200.00
Arborist	Tipper/Chipper 13"	8	hrs	\$ 95.00	\$ 760.00
Arborist	Skidster	8	hrs	\$ 99.00	\$ 792.00
Arborist	Skidster Stand Down Cost	8	hrs	\$ 69.30	\$ 554.40
Arborist	Tipper Hire (approx 10m3)	8	hrs	\$ 99.00	\$ 792.00
Arborist	Tipper Hire (approx 10m3) Stand Down Cost	8	hrs	\$ 69.30	\$ 554.40
Arborist	Telehandler	8	hrs	\$ 45.00	\$ 360.00
Arborist	Telehandler Stand Down Cost	8	hrs	\$ 31.50	\$ 252.00
Arborist	Support Vehicle	8	hrs	\$ 50.00	\$ 400.00
Arborist	Support Vehicle Stand Down Cost	8	hrs	\$ 35.00	\$ 280.00
Arborist	Project Manager	8	hrs	\$ 99.00	\$ 792.00
Arborist	Area Managers	8	hrs	\$ 135.00	\$ 1,080.00
Arborist	OH&S Officer	8	hrs	\$ 160.00	\$ 1,280.00
Arborist	Cert5+ Arborist (assessing/report)	8	hrs	\$ 120.00	\$ 960.00
Arborist	Cert 3 Arborist/Climber/EWP operator	8	hrs	\$ 85.00	\$ 680.00
Arborist	Machinery Operator	8	hrs	\$ 85.00	\$ 680.00

Arborist	Machinery Operators - Overtime	8	hrs	\$ 127.50	\$ 1,020.00
Arborist	Labour	8	hrs	\$ 75.00	\$ 600.00
Arborist	Labour - Overtime	8	hrs	\$ 112.50	\$ 900.00
Arborist	Supervisor	8	hrs	\$ 99.00	\$ 792.00
Arborist	Property Commencement Inspection - Arboriculture	4	hrs	140.00	\$ 560.00
Arborist	Property Commencement Inspection - Tree Assessment	4	hrs	140.00	\$ 560.00
	TRAFFIC MANAGEMENT	Qty	Unit	RATE	Value
Traffic Management	Staff				\$ -
Traffic Management	Normal Time	8	hrs	\$ 60.00	\$ 480.00
Traffic Management	Double Time	8	hrs	\$ 90.00	\$ 720.00
Traffic Management	Public Holidays	8	hrs		TBA
Traffic Management	Other Items				
Traffic Management	Traffic Control Vehicle	8	hrs	\$ 22.00	\$ 176.00
Traffic Management	Travel Allowance (Per Km outside of 50km's from Contractor Head Office)	1	km	\$ 1.65	\$ 1.65
Traffic Management	Meal Allowance	1	day	\$ 28.00	\$ 28.00
Traffic Management	Living Away From Home Allowance	1	day	\$ 207.00	\$ 207.00
Traffic Management	Additional Services				
Traffic Management	Traffic Management Plans - generic	1	item	\$ 80.00	\$ 80.00
Traffic Management	Traffic Management Plans - customised	1	item	\$ 80.00	\$ 80.00
Traffic Management	Council Submission Form	1	item	\$ 108.00	\$ 108.00
Traffic Management	Arrow Boards	1	item	\$ 50.00	\$ 50.00
Traffic Management	Variable Message Sign Boards	1	item	\$ 93.00	\$ 93.00
Traffic Management	Portable Traffic Lights (pair)	1	item	\$ 100.00	\$ 100.00
Traffic Management	Portable Safety Barrier/Boom gate			Location Dependant	
Traffic Management	Signage & After Care Hire	1	item	\$ 2.00	\$ 2.00
Traffic Management	Bollards/Cone Hire	1	item	\$ 2.00	\$ 2.00
Traffic Management	Pick Up & Delivery of Signs	1	item	\$ 221.00	\$ 221.00
Traffic Management	Truck Mounted Attenuator	1	item	\$ 1,381.00	\$ 1,381.00
Traffic Management	Bollard Truck	8	hour	\$ 249.00	\$ 1,992.00

NOTES

All plant and machinery is wet hire, excluding operator unless otherwise specified
 These Schedules of Rates are subject to adjustment and change depending upon the location and availability of trades in any one area and also due to the size and capacity of the individual subcontractor
 It is noted that rates from Subcontractor to Subcontractor will vary depending on their chosen Industrial Instrument and their respective overhead structures

Management Fees

Included & Excluded

MANAGEMENT FEE	5% on all costs
TRADE & SUPPLIER COSTS	As per Schedule of Rates or Appropriate Supplier Invoice
MANAGEMENT FEE INCLUSIONS & EXCLUSIONS	What is included or excluded from the 5% MGT Fee below

ITEMS INCLUDED WITHIN 5% FEE		INCLUSION
1	Subscriptions / Advertising	Inclusion
2	Bad / Doubtful Debts	Inclusion
3	Bank Charges	Inclusion
4	Bank Borrowing / Overdraft Costs	Inclusion
5	Depreciation	Inclusion
6	Donations	Inclusion
7	Legal & Professional Fees	Inclusion
8	Marketing	Inclusion
9	CORPORATE OFFICES - Rent	Inclusion
10	CORPORATE OFFICES - Associated Rates & Taxes, Maintenance	Inclusion
11	Human Resources Department	Inclusion
12	Tender Portals (Estimate One Etc)	Inclusion
16	Software Development & IT Support	Inclusion
20	Government Fees & Levies (Permits)	Inclusion
21	Bank Guarantees / Bonds	Inclusion
24	Postage & Printing	Inclusion
25	Recruitment	Inclusion
26	Stationery	Inclusion
27	Telephone / Data	Inclusion
60	Small Tool Purchases - Shovels, Grinders, Hand Tools Etc	Inclusion
62	Defects Maintenance & Management (9 Months DLP Period)	Inclusion
ITEMS COST PLUS 5% FEE		EXCLUSION
13	Programme Insurance - Contract Works, PI, PL	Exclusion
15	Software Licensing - Hammertech, Power BI	Exclusion
17	Site Amenities Cleaning	Exclusion
19	Safety / WH&S Equipment - JLG staff	Exclusion
22	Consultants	Exclusion
23	Security Static & Systems	Exclusion
28	Temporary Staff	Exclusion
29	Accommodation	Exclusion
30	Field Communications / Radios	Exclusion
31	Site Fencing / Hoardings	Exclusion
32	Shade Cloth to Fencing / Enviro Control / Dust	Exclusion
33	JLG CAT Rig	Exclusion
34	Site Offices / Compound	Exclusion
35	Site Shed Equipment	Exclusion

36	Worker Filtered Water Drinking Fountain	Exclusion
37	Portable Lunch Shed	Exclusion
38	Portable Toilet Block	Exclusion
39	Portable Meeting Room	Exclusion
40	Storage Containers	Exclusion
41	Portable Site Office	Exclusion
42	Portable First Aid	Exclusion
43	First Aid Kits / Equipment	Exclusion
44	Transportation of Sheds	Exclusion
45	Cleaning of Portable Sheds / Site Office	Exclusion
46	Installation of Sheds / Accommodation	Exclusion
47	Covered Walkways	Exclusion
48	Access Stairs	Exclusion
49	Temporary Power Installation / Generators / DB's	Exclusion
50	Temporary Lighting	Exclusion
51	Power Pole / Supply	Exclusion
52	Shed Wiring and Power Hook Up + Certification	Exclusion
53	Power Usage	Exclusion
54	Temp Water Connection to Feed Site Sheds	Exclusion
55	Connect Sheds	Exclusion
56	Water Usage	Exclusion
57	Internet - For Remote Set-Ups	Exclusion
58	IT Routers / Remote Set-Ups	Exclusion
59	Site office Bins / Waste / Disposal	Exclusion
61	Consumables (Milk, Coffee, Toilet Paper Etc)	Exclusion

Key Personnel & Critical Staff Listing



ROLE		Rate per hour (excl GST)	Rate per day (excl GST)	Overtime rate
Key Management Personnel				
Project Leader & Contractors Authorised Person	[REDACTED]	\$300	\$2,400	
Head of Program and Strategy	[REDACTED]	\$300	\$2,400	
Performance and Compliance manager	[REDACTED]	\$300	\$2,400	
Cultural & Heritage Advisor	[REDACTED]	\$300	\$2,400	
Lead WHS Manager	[REDACTED]	\$250	\$2,000	
General Manager Finance	[REDACTED]	\$300	\$2,400	
Critical Staff				
Operations Director	[REDACTED]	\$300	\$2,400	
Commercial Director	[REDACTED]	\$300	\$2,400	
Operations Manager	[REDACTED]	\$250	\$2,000	
Regional Operations Manager	[REDACTED]	\$250	\$2,000	
Stakeholder Engagement Manager	[REDACTED]	\$250	\$2,000	
Commercial Manager	[REDACTED]	\$220	\$1,760	
Contractors Logistics Manager	[REDACTED]	\$220	\$1,760	
Project Manager - General	[REDACTED]	\$180	\$1,440	\$220
HSE / Environmental Manager	[REDACTED]	\$180	\$1,440	\$220
Contracts Administrator	Various	\$140	\$1,120	\$180
Supervisor / QA	Various	\$160	\$1,280	\$200
IT Manager	[REDACTED]	\$170	\$1,360	\$190
IT Support	Various	\$130	\$1,030	\$170
Data Specialist	[REDACTED]	\$160	\$1,280	\$200
Project Accountant	[REDACTED]	\$200	\$1,600	
Accounts Payable / Receivable	[REDACTED]	\$110	\$880	\$150
General Administration	Various	\$90	\$720	\$130
Systems training and onboarding manager	Various	\$180	\$1,440	\$220
Case Management Team Lead	[REDACTED]	\$250	\$2,000	
Bookings and Case Management Team	Various	\$90	\$720	\$130
Field Case Managers	Various	\$130	\$1,030	\$170
Human Resources Manager	Various	\$180	\$1,440	\$220
Communications and community manager	Various	\$200	\$1,600	
Estimating Manager	[REDACTED]	\$200	\$1,600	
Estimator	Various	\$160	\$1,280	\$200
Report Writer / QA	Various	\$160	\$1,280	\$200

Clause 6(1)
Exemption

Reimbursable with conditions

Category	Description
Project Overheads	Project-specific overhead costs include but are not necessarily limited to advertising, marketing, courier, JEV vaccinations and training costs which are necessary to deliver the River Murray Clean-up Program.
Contractor's Personnel	The Parties can update the key personnel organisation chart by agreement at any time during the Contract.
Contractor's Field ICT	Reasonable costs incurred for field ICT including laptops, iPads, computer expenses, mobile phones, phones, field communications, radios, printers, computers, and monitors are reimbursable. At the end of the River Murray Clean-up project all reimbursed Field ICT will be handed over to the Principal or gifted to an organisation (or organisations) at the instruction of the Principal. Reasonable costs incurred for field ICT connections, data, internet, IT routers/remote setup are reimbursable.
LAFHA for Contractor and Subcontractor Works	A living-away-from-home allowance (LAFHA) is an allowance to cover additional expenses and any disadvantages suffered due to employee being temporarily required to live away from their normal residence to perform their employment duties. The reimbursable amount is the lower of ATO LAFHA table and the actual amount paid to the employees.
Travel for Subcontractor Works	Maximum travel time is applied. Any travel time above the maximum travel time is subject to the Principal's approval. The Principal will determine the maximum travel time for each clean up Engagement.

Non-reimbursable Costs

Category	Description of non-reimbursable items
Corporate Overhead	Head office including but not limited to head office rent, head office maintenance, IT levy/charges, bank charges, bank guarantees, bad debts, depreciation, entertainment, subscriptions, advertising, marketing, courier, medical, recruitment, training, penalties, industry relations, donations and gifts. This does not include reasonable project overhead costs.
Contractor's non-project Personnel	<p>C-suite and C-suite support personnel.</p> <p>Non-project based head office personnel unless hours incurred reasonably necessary to support delivery of the River Murray Flood Clean-up Project.</p> <p>Bonuses or other financial or non-financial personnel incentives.</p>
Contractor's Overtime	Overtime rates incurred by the Contractor without approval of the Principal. The Principal can approve overtime retrospectively if satisfied the overtime was necessary to achieve program KPIs.
IT costs	<p>Software and software development, such as accounting, financial, management software, Microsoft and any other software unless approved by the Principal as program-specific software. Approved program-specific software includes Aconex, Hammertech and ArcGIS.</p> <p>Corporate IT levy or charges, licence, and subscriptions.</p> <p>Laptops, iPads, computers, radios, mobile phones, phones, printers, monitors, internet and data expenses that a staff member is expected to come equipped with in order to perform their normal role, unless the cost is reimbursable Field ICT.</p>
Contractor's Travel	<p>Travel from a Personnel's home, home office or accommodation to site(s) if the total distance travelled that day is less than 100kms.</p> <p>The allowances are paid by Cents per KM based on ATO Cents per kilometre rate table. No other costs, such as petrol, repairs and maintenance are reimbursable costs.</p>
Accommodation	Accommodation which is already covered by a reimbursable allowance.
Meals	Meals which are already covered by a reimbursable allowance.
Small tools	The equipment a person commonly brings to a project in order to perform their role ("standard tools of trade") which is clearly defined the respective companies Industrial Instrument and/or defined by the Master Builders .
Plant Utilisation	Unreasonable level of non-productive time of the plant.

Key Personnel & Critical Staff Listing



ROLE		Rate per hour (excl GST)	Rate per day (excl GST)	Overtime rate
Key Management Personnel				
Project Leader & Contractors Authorised Person		\$300	\$2,400	
Head of Program and Strategy		\$300	\$2,400	
Performance and Compliance manager		\$300	\$2,400	
Cultural & Heritage Advisor		\$300	\$2,400	
Lead WHS Manager		\$250	\$2,000	
General Manager Finance		\$300	\$2,400	
Critical Staff				
Operations Director		\$300	\$2,400	
Commercial Director		\$300	\$2,400	
Operations Manager		\$250	\$2,000	
Regional Operations Manager		\$250	\$2,000	
Stakeholder Engagement Manager		\$250	\$2,000	
Commercial Manager		\$220	\$1,760	
Contractors Logistics Manager		\$220	\$1,760	
Project Manager - General		\$180	\$1,440	\$220
HSE / Environmental Manager		\$180	\$1,440	\$220
Contracts Administrator	Various	\$140	\$1,120	\$180
Supervisor / QA	Various	\$160	\$1,280	\$200
IT Manager		\$170	\$1,360	\$190
IT Support	Various	\$130	\$1,030	\$170
Data Specialist		\$160	\$1,280	\$200
Project Accountant		\$200	\$1,600	
Accounts Payable / Receivable		\$110	\$880	\$150
General Administration	Various	\$90	\$720	\$130
Systems training and onboarding manager	Various	\$180	\$1,440	\$220
Case Management Team Lead		\$250	\$2,000	
Bookings and Case Management Team	Various	\$90	\$720	\$130
Field Case Managers	Various	\$130	\$1,030	\$170
Human Resources Manager	Various	\$180	\$1,440	\$220
Communications and community manager	Various	\$200	\$1,600	
Estimating Manager		\$200	\$1,600	
Estimator	Various	\$160	\$1,280	\$200
Report Writer / QA	Various	\$160	\$1,280	\$200

Clause 6(1)
Exemption