



Government of **Western Australia**
VenuesWest

REQUEST FOR TENDER

GOLD NETBALL CENTRE CHANGE ROOM, MEETING & GYM REDESIGN

P25195

Contract Conditions

AS4906 -2002 Minor Works Contract Conditions (Principal Administered)

Principal

Chief Executive Officer, VenuesWest

Lodgment of Tender

Date: Friday 30 May 2025

Time: **Before 2:30pm**

Electronic: Tenders WA OR tenders@venueswest.wa.gov.au

Non-Mandatory Site Visit/Briefing

Date: Wednesday 14 May 2025

Time: 10 AM Australian Western Standard Time

Location: Gold Netball Centre (GNC)
200 Selby St Jolimont WA 6014

Volume 1 -

Conditions of Tendering and Contract Conditions

(Tenderer to Read and Keep this Part)

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SECTION A: CONDITIONS OF TENDERING

1. CONDITIONS OF TENDERING

1.1. TENDER DOCUMENTS

Documents for the purpose of tendering ("**Tender Documents**") are as follows:

REQUEST DOCUMENTS

- (a) Volume 1 - Conditions of Tendering (SECTION A) and contract conditions including special contract conditions (SECTION B)
- (b) Request Volume 2 - Scope and Specification and any Attachments listed within
- (c) Request Volume 3 - Form of Tender and Qualitative Criteria

SEPARATE DOCUMENTS

Addenda and any other special correspondence issued to tenderers by the Principal

REFERENCE DOCUMENTS

- (a) Contract safety management procedure

1.2. TENDER ENQUIRIES

Any enquiries regarding the provisions of the Tender Documents during the period prior to the close of tenders should be referred to:

Sunil Sirkissoo

Senior Procurement Officer (Capital Works)

Telephone No: (08) 94418311

Email: sunil.sirkissoo@venueswest.wa.gov.au

1.3. NON-MANDATORY SITE BRIEFING

1.3.1. VISITING THE SITE

Should tenderers choose to visit the Site and familiarise themselves with the Site upon which the work is to be undertaken then they shall comply with any Site access requirements specified in the Tender and at the Site.

1.3.2. BRIEFING DETAILS

VenuesWest will hold a non-mandatory site inspection - see the front cover of the Request document for details.

The briefing will provide tenderers the opportunity to clarify any tender enquiries they have in relation to the tender in person prior to the closing of the Tender.

Attendance by tenderers is not mandatory.

To confirm attendance at this briefing, you must contact:

Name: Ash Nyoka

Title: Capital Works Coordinator

E-mail: ash.nyoka@venueswest.wa.gov.au

The briefing will provide tenderers the opportunity to clarify any tender enquiries they have in relation to the Tender in person prior to the closing of the Tender.

1.4. BEST PRACTICE IN TENDERING

In consideration of being permitted to tender, the Tenderer promises to work with the Principal to achieve best practice in relation to the tender process. To this end both parties acknowledge that:

- (a) they have not engaged in any anti-competitive or unethical behaviour that has the potential to disadvantage other participants in the tender process, including any form of collusion; and
- (b) they will declare any conflict of interest to the affected party as soon as the conflict is identified and will endeavour to resolve that conflict in favour of the public interest.

1.5. LODGEMENT OF TENDERS

1.5.1. TIME

Tenders must be lodged electronically by the time set out on the front cover of this Request on the nominated date for closing of tenders via the method set out on the front cover of this Request.

Any tender submitted after this time will not be accepted.

1.5.2. SUBMITTED FROM

Tenders must be submitted from a permanent operational office from which the Tenderer intends to manage the Contract.

The Principal may request that the Tenderer demonstrate the bona fides of the permanent office from which the Tender is received. Where the Principal considers that the Tenderer has not adequately demonstrated the bona fides of that office the Principal may declare the status of that office for the purposes of the Tender, its evaluation or compliance with the terms of the Contract or may exclude the Tender from further consideration.

1.5.3. SUBMISSION OF TENDER VIA TENDERS WA WEBSITE

Tenders must be submitted electronically by uploading to the Tenders WA website (www.tenders.wa.gov.au) in an approved format ([Tenders WA File Formats](#)).

Tenderers must ensure the tender response to 1.7:

- (a) is submitted in full via the Tenders WA website on or before the date and time of close of tenders; and
- (b) is complete, signed, legible and includes all necessary information, schedules, etc. essential for establishing a bona fide tender capable of meaningful comparison with other tenders; and
- (c) is equal to or less than 100 megabytes in size.

The Tenderer must be registered with Tenders WA to submit a tender response electronically. The Tenderer is encouraged to register well before the closing time and utilise the online assistance available on the Tenders WA website.

Tenderers must upload their tender response to the corresponding tender number in Tenders WA in accordance with clauses 1.6 to 1.8 below. Tender responses loaded to the incorrect tender number in Tenders WA constitute an incorrect lodgement and will not be accepted.

1.6. REVIEW AND ACCEPTANCE OF TENDERS

1.6.1. GENERAL

The Principal is not obliged to accept the lowest or any tender and may reject without liability any or all tenders submitted.

1.6.2. VALUE FOR MONEY

The Contract, if any, will be awarded to the Tenderer that, in the opinion of the Principal, meets the requirements described in the Tender Documents and offers the best value for money.

Value for money will be determined solely by the Principal and will take into consideration, but is not bound or limited to:

- (a) the weighted qualitative criteria in the manner, format and to the extent contained in Volume 3 -

Qualitative Criteria;

- (b) tendered price, including;
 - Imported Content adjustments if applicable (see clause 1.18.(a). Buy Local Policy);
- (c) the Tenderer's past performance in relation to:
 - (i) compliance with any applicable code of practice for the building and construction industry;
 - (ii) payment of subcontractors, suppliers and/or workers;
 - (iii) quality, time and cost under previous contracts;
- (d) current workload and technical resources;
- (e) the Tenderer's financial viability and capacity;
- (f) whole of life costs including likely maintenance, disposal, replacement and repair costs associated with goods, materials, subcontractors and suppliers proposed by the Tenderer; compliance with the State Government's social, economic and environmental policies outlined within this Request;
- (g) compliance with relevant local, state and federal government requirements;
- (h) compliance with the requirements of the Tender Documents;
- (i) whether or not the Tenderer, or any director, officer or other key personnel of the Tenderer:
 - (i) has experienced; or
 - (ii) had a controlling interest in any other legal entity besides the Tenderer that has experienced;

in the last three years a bankruptcy event or an insolvency event as defined in Section 1 of the "Builders Prequalification Scheme" document available for download from the WA Government website at <https://www.wa.gov.au/government/publications/builders-prequalification-scheme-department-of-finance>;
- (j) the:
 - (i) number and value of any overdue tax debts currently owed, including any overdue tax debt for which the Tenderer is jointly and severally liable;
 - (ii) details on any other outstanding taxation obligations including the provision of information and returns; and
 - (iii) the amount of any tax debts that have been written off;
- (k) VenuesWest's obligations under the Government of Western Australia's Aboriginal Procurement Policy;
- (l) any demerits or sanctions issued against the Tenderer under the Department's "Supplier Demerit Scheme" as set out on the WA Government's website at www.wa.gov.au/government/multi-step-guides/supplying-works-related-services/supplier-performance-management-government-non-residential-building-projects. The Principal may elect to award, the earlier request; and
- (m) any prohibition notices issued, any enforceable undertakings accepted, prosecutions commenced by WorkSafe WA or any convictions recorded as a result of prosecutions commenced by WorkSafe WA under the Occupational Health and Safety Act 1984 (WA) or the Work Health and Safety Act 2020 (WA) (and associated regulations) in the last 4 years in respect of work health and safety issues.

If, in the Principal's opinion, a tenderer fails to meet, or is otherwise deficient in respect of, any one or more of the above criteria, the Tenderer may be excluded from further consideration.

If the Tenderer makes reference in its Tender to information on the Tenderer's website, or on any other website, the Principal will not take into account that information when evaluating the Tender. Any information on the Tenderer's website or on any other website which the Tenderer wishes the Principal

to rely must be set out in full in the Tender.

1.6.3. KEY PERSONNEL

Tenderers should note that the Contract (if awarded) will require the Contractor to retain the personnel nominated in their tender (if any) in the roles assigned to them in performing the Contract and to seek prior approval to replace any of the nominated personnel.

1.7. KEY DOCUMENTS TO BE SUBMITTED WITH TENDER

The following information and completed documentation must be submitted electronically on or before the date and time for lodgement of tenders (see clause 1.5 Lodgement of Tenders):

- (a) Volume 3 - Form of Tender and Qualitative Criteria
 - (i) duly completed, signed, dated and containing the legal entity of the Tenderer, their contact details and the tender price inclusive of GST;
 - (ii) a Breakdown of Tender Sum (summary) in the format provided in Volume 3;
 - (iii) a Schedule of Rates in the format provided in Volume 3; and
 - (iv) a response to the Qualitative Criteria as detailed in Volume 3

Any tender that is not accompanied by completed documents required under this clause may not be considered.

1.8. OTHER DOCUMENTS TO BE SUBMITTED WITH TENDER

If applicable, the following information and completed documentation must be submitted electronically on or before the date and time for lodgement of tenders:

- (a) acknowledgement of addenda to Tender Documents (see clause 1.26 Addenda to Tender Documents);
- (b) the Claim for Direct Employment Costs of Aboriginal Persons form;
- (c) the Claim for Aboriginal Persons or Enterprises Engaged as Suppliers or Subcontractors form;
- (d) technical information (see clause 0. Technical Information to Accompany Tender);
- (e) Current Workload Information form (see clause 1.11.A. Current Workload Information); and

If a tender is accompanied by the documents and information required by clause 1.7 (Key Documents to be Submitted with Tender) but is not accompanied by any document or information required under this clause the Principal may, in its absolute discretion:

- (a) consider the Tender in the absence of the required documents or information;
- (b) request that the Tenderer provide the document or information required under this clause and subsequently take the document or information into account when assessing the Tender; or
- (c) may exclude the Tender from further consideration.

1.9. DOCUMENTS TO BE SUBMITTED AFTER THE CLOSE OF TENDER AND ONLY UPON REQUEST OF THE PRINCIPAL

1.9.1. Request for Documents or Information

If requested by the Principal, the Tenderer shall lodge with the Principal within two days from the date of the Principal's request:

- (a) A detailed breakdown of the Tender Sum in the format provided by the Principal
- (b) Technical information, by way of further details, illustrations, catalogues, brochures and the like, as may be necessary to fully describe the tender.
- (c) Financial details including, but not limited to:
 - (i) details of the legal structure and ownership of the Tenderer and or the Tenderer's

- relationships with, for example, parent companies or joint venture parties;
- (ii) the previous three years financial reports prepared by a qualified accountant;
- (iii) details of debt facilities, financial covenants and contingent liabilities;
- (iv) details of any current or pending legal action; and
- (v) details of directors and senior management,

The Principal reserves the right to request further details relating to any information provided by tenderers. Tenderers must provide any additional information reasonably requested by the Principal within two days of notification unless otherwise specified.

The Principal reserves the right to provide any information submitted by tenderers, including financial details provided under this clause, to a third party for the purposes of tender evaluation.

1.9.2. Additional Clarifications of Tender

After the close of the Tender and prior to the conclusion of the assessment by the Principal of all Tenders, the Principal may in its absolute discretion seek clarification from any one or more Tenderers in respect of any element of their Tender in order to ensure that the Principal has understood the Tender properly and that the Tenderer has understood the requirements of the Request properly. If clarifications are sought, they must:

- (a) be sought by the Principal in writing and define a time and place by which the Tenderer must provide those clarifications before the conclusion of the Principal's assessment;
- (b) be responded to by the Tenderer as requested by the Principal, being either:
 - (i) in writing; or
 - (ii) by an interview between the Tenderer's representatives and the Principal's evaluation panel, provided that all clarifications and information received in that interview are confirmed in writing by the Tenderer within 24 hours of the interview;
- (c) not be of a nature that would materially alter any part of the Response or be a negotiation of any terms of the Request or Tender.

This clause is solely for the benefit of the Principal in its assessment of Tenders. It is envisaged that the Principal will only use this discretion in rare circumstances. Tenderers must not submit their Tenders with, and hereby warrant that they have not submitted their Tender with, any expectation that they may receive any opportunity under this clause or otherwise to provide any clarification of the Tender.

1.10. A DECLARATION OF TAX STATUS AND CONSENT TO OFFICE OF STATE REVENUE DISCLOSURE OF TAXPAYER INFORMATION

1.10.1. Declaration of Tax Status

The Tenderer must in its Tender declare whether it, any related entities, or a director, officer or majority shareholder of the Tenderer:

- (a) are currently or have ever been in liquidation, receivership, under external administration or bankrupt;
- (b) have any outstanding State tax, duty, interest, penalties or charges;
- (c) have or have had any outstanding State tax, duty, interest, penalties or charges that have been written off either in whole or in part, regardless of whether a payment arrangement has been entered into or not.

If the Tenderer's tax status is subject to any of the above, it must attach (with the OSR Consent and Declaration Form) a completed statutory declaration and copies of supporting documents as required.

1.10.2. Consent to Disclosure of Tax Information

The Tenderer for the purpose of determining its suitability to undertake work with the Government of Western Australia and for the duration of this Tender and any resulting contract period consents to the Western Australian Commissioner of State Revenue or their delegate(s) disclosing its tax information upon request of VenuesWest in accordance with the *Taxation Administration Act 2003* (WA) limited to:

- (a) the number and value of any State taxes, interest, penalties, or charges that are outstanding, overdue or subject to a deferred payment plan(s), and/or any such debts for which the Tenderer is jointly and severally liable;
- (b) the status and details of any State taxation obligations including assessment, returns lodgment, payment and audit history;
- (c) whether the Tenderer has been a party to an arrangement in which any State taxes, interest, penalties, or charges were sought to be recovered, were determined as not recoverable, or were written off in whole or in part, and details of those arrangements.

1.11. UNINTENTIONAL ERRORS OF FORM

If the Principal considers that there are unintentional errors of form in the Tender submitted by the Tenderer where the error is clear and not critical to comparative evaluation of tenders, the Principal may request the Tenderer to correct or clarify the error, but will not permit any material alteration or addition to that tender.

The decision to permit a tenderer to correct such an error is only within the sole and absolute discretion of the Principal, exercised by the Director Portfolio Management, VenuesWest.

1.11.A. CURRENT WORKLOAD INFORMATION

The Tenderer must submit the Current Workload Information form with the Other Documents to be Submitted with Tender (see clause 1.8).

1.11.A.1 Current Workload Information Required

Tenderers must provide in the Current Workload Information form listed in Volume 2 details for each current Project/Contract including:

- (a) Project/Contract name;
- (b) Description of project;
- (c) Contract Value (GST excluded);
- (d) Percentage (%) Complete;
- (e) Workload Remaining (GST excluded);
- (f) Start Date; and
- (g) End Date.

1.11.A.2 Declaration of Liquidity

The Tenderer must declare in the Current Workload Information form that it has sufficient financial capacity to meet its contractual obligations under its current workload and the resulting Contract from this Tender process.

The Current Workload Information form does not form part of the Contract. If the Tenderer is a shortlisted respondent, the information declared in the form will be taken into account as part of VenuesWest's business risk assessment processes.

The Principal reserves the right during tender evaluation to request the Tenderer provide documentary evidence to verify the information provided in its Current Workload Information form including (but not limited to) the declaration of liquidity.

Successful Tenderers found to have additional Project/Contract workload that was not declared at time of Tender, may have tendering sanctions imposed in addition to any contractual remedies available.

1.12. REQUIREMENTS UNDER THE BUILDING SERVICES (REGISTRATION) ACT 2011

Not Applicable.

1.13. SUBCONTRACTOR AGREEMENT

If the Contractor is permitted by the Principal to engage a subcontractor then the Contractor must be prepared to enter into a fair and reasonable agreement with the Subcontractor(s).

1.14. GENERAL CONDITIONS OF CONTRACT

The AS4906-2002 Minor Works Contract Conditions (Principal Administered) are applicable to this Request.

Tenderers shall include in their tender for the costs of complying with the terms of these contract conditions and any special contract conditions (see Special Conditions of Contract (Part B cont.)).

1.15. TENDER DOCUMENTS

1.15.1. CONTROL OF TENDER DOCUMENTS

Documents issued for tender purposes are the property of the Principal.

Tenderers shall keep the documents in a secure place and shall not divulge information contained within the documents except as is necessary for the compilation of a tender.

The Tender Documents shall not be used for any purpose other than the transmission of information concerning the Tender.

1.15.2. PRESENTATION OF TENDER DOCUMENTS

Tenderers should check to ensure that it includes all pages that are numbered consecutively and that all supplements referred to are also included.

Supplements, which have been referred to in any section of the specification, are included at the back of the document and shall be read with the section to which they refer.

1.16. OWNERSHIP OF TENDER RESPONSES

All documents, materials, articles and information submitted by a tenderer as part of, or in support of a tender shall become upon submission the absolute property of VenuesWest in right of the State of Western Australia and will not be returned to the Tenderer at the conclusion of the tender process provided that the Tenderer shall be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided in the Contract.

1.17. GOODS AND SERVICES TAX

Tenderers must be registered for goods and services tax (**GST**) under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST Act**) and have an Australian Business Number.

Where the requirement the subject of this Request or any part thereof is a taxable supply under the GST Act, the price, fee or rates tendered by the Tenderer shall be inclusive of all applicable GST at the rate in force for the time being.

In evaluating the tenders, the Principal shall be entitled (though not obliged) to take into account the effect of the GST upon each tender.

1.17.1. OTHER DEFINITIONS AND IMPACT OF GST REGISTRATION

TENDER SUM

The Tender Sum is deemed to be GST inclusive.

The Tender Sum will be the value on which the tender is accepted.

VALUE OF WORK

The Value of Work, where referred to under the Contract, shall be deemed to be ten elevenths of the Tender Sum.

1.18. MONETARY VALUES

Monetary values that appear in the Tender Documents, such as provisional sums, prime cost amounts, value of Principal supplied items, etc are net values. They do not include the Goods and Services Tax (GST).

1.18.A BUY LOCAL POLICY

The State Government's Buy Local Policy 2020 (**Buy Local Policy**) applies to this tender and any Contract that results.

The policy reflects the State Government's intention to maximise opportunities for Western Australia by supporting small and medium sized enterprises (**SMEs**) to successfully tender for Government contracts..

Tenderers are encouraged to obtain a copy of the Buy Local Policy available for download from the WA Government website: <https://www.wa.gov.au/government/document-collections/western-australian-buy-local-policy-2022>

The Department of Jobs, Tourism, Science and Innovation (**JTSI**) is the policy owner and administrator.

JTSI' contact details are:

Phone: (08) 6277 2999

Email: industrylink@jtsi.wa.gov.au

Tenderers should direct any Buy Local Policy enquiries to JTSI using their contact details above.

1.18.A.1 POLICY REQUIREMENTS

Tenderers must:

- (a) comply with the Buy Local Policy requirements set out in this clause for the purpose of the tendering process; and
- (b) if awarded the contract, comply with the Buy Local Policy and any undertakings given in respect of the policy.

1.18.A.2 IMPORTED CONTENT IMPOST

Not Applicable

1.19. ABORIGINAL PARTICIPATION

1.19.1. ABORIGINAL ENTERPRISE AND EMPLOYMENT TENDERING PREFERENCE

General

VenuesWest supports Aboriginal participation by offering an Aboriginal Business & Employment Tendering Preference (**Aboriginal Tendering Preference**). The Aboriginal Tendering Preference applies to this tender to the extent specified here.

Definitions

- (a) **Aboriginal Person** means a person who is of Aboriginal descent who identifies as such and is accepted as such by the community in which he or she lives or has lived.
- (b) **Aboriginal Business (or Businesses)** means a business registered on the Aboriginal Business Directory WA (ABDWA) at <http://www.abdwa.com.au> and/or Supply Nation at <http://supplynation.org.au>.
- (c) **Aboriginal Employer** is any legal entity that employs any Aboriginal Person, including an apprentice or trainee.
- (d) **Joint Venture with Aboriginal Participation** means a joint venture registered with Supply Nation or the ABDWA, formed through the incorporation of an Aboriginal business and a non-Aboriginal business and at least 50% equity owned by Aboriginal person(s).

Eligibility

Any tenderer that is an Aboriginal Enterprise, or an Aboriginal Employer, or a Joint Venture with Aboriginal

Participation, or an Aboriginal Person, may be eligible to receive the Aboriginal Tendering Preference.

For tender evaluation purposes, Aboriginal businesses or Joint Ventures with Aboriginal Participation (including subcontractors and suppliers) must be registered at time of tender with the ABDWA (<http://www.abdwa.com.au>) or Supply Nation (<http://supplynation.org.au>) to be eligible for the preference.

Refer to <http://www.abdwa.com.au> and <http://supplynation.org.au> for a complete list of registered Aboriginal businesses.

The Available Preference

The Tenderer's Tender Sum (GST Inclusive) may be subject to a preference in favour of the Tenderer, calculated at a rate of 10% for each of the preferences amount up to a maximum combined amount of \$250,000.

The **preference amount** is defined as follows:

- (a) The Tender Sum if the Tenderer is an Aboriginal Person, an Aboriginal Business or a Joint Venture with Aboriginal Participation; or
- (b) The Tender Sum portion attributable to Aboriginal Persons or Aboriginal Enterprises that are subcontractors or suppliers engaged for the work under the Contract; or
- (c) The Tender Sum portion attributable to the direct employment costs of Aboriginal Persons engaged on the work under the Contract, by either the Tenderer or its subcontractors or suppliers. It is not a requirement that Aboriginal Persons are employed at the close of the Tender or award of the Contract; or
- (d) Any combination of the above, up to an amount not exceeding the Tender Sum.

Tender consideration of Aboriginal Tendering Preferences

For Tender evaluation purposes, the Tenderer must:

- (a) claim the preference on the Form of Tender; and
- (b) on or before the close of the tender submit:
 - (i) A completed Aboriginal Claim Suppliers or Subcontractors form (for Aboriginal Persons or Businesses Engaged as Suppliers or Subcontractors); and, where appropriate
 - (ii) A completed Aboriginal Claim Direct Employment form (for direct employment costs of Aboriginal Persons).

However, the Aboriginal Tendering Preference is subject to ANZGPA provisions (and applicable FTAs). In accordance with the ANZGPA provisions:

- (a) the Aboriginal Tendering Preference cannot be applied where a Tender Response is received from a Tenderer located in another Australian State or Territory or New Zealand (ANZ) and it is being considered in the final analysis.
- (b) the Aboriginal Tendering Preference can be applied where an ANZ Tender Response is received but is not being considered in the final analysis.

1.19.2. VERIFICATION OF CLAIMS FOR PREFERENCES

The Principal reserves the right during the tender evaluation to request from the Tenderer evidence to the satisfaction of the Principal to verify the validity of the tenderer's claim for any Aboriginal Tendering Preference.

When a tenderer is unable to provide evidence to the Principal's satisfaction to verify its claimed preference, the Principal may consider that preference to be invalid and not be applied to the tender.

1.20. ANTI-DUMPING

Tenderers must ensure that dumped goods (i.e. goods from overseas that are imported into Australia at less than their normal value, causing or threatening to cause material injury to an Australian industry producing like goods, or materially hindering the establishment of such an industry) must not be used in the performance of this Contract.

Refer to clause 3.C.

1.21. DEBARMENT REGIME

1.21.1. THE POLICY

In January 2022 the Western Australian supplier debarment regime commenced operation. The debarment regime establishes grounds and processes through which a supplier can be excluded (by suspension or debarment) from supplying goods, services and works to State Agencies. The regulatory scheme is established under Part 7 of the Procurement Act 2020 and the Procurement (Debarment of Suppliers) Regulations 2021. Further information about the regulatory scheme is available from <https://www.wa.gov.au/organisation/departments-of-finance/debarment-regime-exclusion-table> and <https://www.tenders.wa.gov.au/watenders/news/browse.do?CSRFNONCE=ADB6ADF3E6A5FA508703E7C5CB641F89&&ss=1>

1.21.2. POLICY REQUIREMENTS

Unless operation of the Procurement (Debarment of Suppliers) Regulations 2021 has been excluded, the Principal will exclude from consideration any Offer received from a Respondent who is suspended or debarred, and will exclude any Offer which includes a subcontracting arrangement with a suspended or debarred subcontractor.

If awarded the Contract, the Tenderer will be required as a condition of the Contract to obtain consent from each subcontractor permitting the Tenderer to receive information from the Department of Finance and the Principal as to whether the subcontractor is a suspended supplier within the meaning of the Procurement (Debarment of Suppliers) Regulations 2021.

If awarded the Contract, Tenderers are required to not subcontract to suppliers who have been suspended or disbarred under the debarment regime.

1.22. TECHNICAL INFORMATION TO ACCOMPANY TENDER

Where technical information is to be submitted with the Tender, it shall be accompanied by such additional information, by way of further details, illustrations, catalogues, brochures and the like, as may be necessary to fully describe the offer.

1.23. BREAKDOWN OF TENDER SUM

The summary of the Breakdown of Tender Sum (and the Detailed Breakdown of Tender Sum if requested by the Principal) shall be used during the currency of the Contract for the valuation of progress payments under clause 23 and variations under clause 22 of the AS4906 Conditions of Contract.

1.24. REGISTRATION OR LICENSING OF CONTRACTOR

Where an Act or ordinance of the State of Western Australia requires that a Contractor (as defined by the Act or ordinance) be registered or licensed to carry out the work described in the Tender Documents, the Tenderer shall state on the tender form in the space provided, its registration or licence number.

The Tender may not be considered if the Tenderer fails to provide such registration or licence number.

1.25. ALTERNATIVE PROPOSALS

Not Applicable

1.26. ADDENDA TO TENDER DOCUMENTS

The Tenderer shall acknowledge with its tender the receipt of each addendum to the Tender Documents issued by the Principal and received by the Tenderer during the period prior to the close of tenders.

1.27. CUSTOMS DUTY

The Tenderer shall allow in its Tender for any customs duty and primage applicable to all imported materials, plant and equipment required in connection with the Works.

1.28. SITE ALLOWANCES

The Contract shall not be subject to adjustment for site allowances.

Tenderers are to allow in their tender submission for any site allowances that may be awarded by State or Federal Industrial Commissions on this project.

1.29. POST TENDER NEGOTIATIONS

- (a) The Principal may in its sole and absolute discretion:
 - (i) decline all tenders and end the tender process; or
 - (ii) commence post tender negotiations with the tenderer identified by the Principal as being the most preferred tenderer following the evaluation of the submissions received.
- (b) Where the situation dictates the Principal may commence negotiations with more than one tenderer at the same time but in doing so the Principal undertakes not to trade off one tenderer's prices against another.

1.30. REVIEW OF TENDER SUM IF TENDER ASSESSMENT PERIOD BECOMES LONGER THAN 90 DAYS**(a) Definitions**

For the purposes of this clause the following words shall have the following meaning:

- I. **"Index"** means the index number *3020 Non-residential building construction Western Australia A2333763W* being a data set of the *6427.0 Producer Price Indexes, Australia, in table 17 "Output of the Construction industries, subdivision and class index numbers"* published by the Australian Bureau of Statistics.
- II. **"Current Index Number"** means the last published index number of the Australian Bureau of Statistics, Cat 6427.0 Producer Prices Indexes, Table 17, 3020 Non-residential building construction Western Australia at 12:01 am WST on the date of award .
- III. **"Base Index Number"** means the last published index number of Australian Bureau of Statistics, Cat 6427.0 Producer Prices Indexes, Table 17, 3020 Non-residential building construction Western Australia at 12:01 am WST on the date 14 days prior to the date on which tenders closed (or if there is no such date, the date of the Contractor's offer).
- IV. **"Reviewed Tender Sum"** means the Tender Sum as reviewed by the formula contained in sub-clause (c) below.
- V. **"Tender Sum"** means the Tender Sum submitted by the tenderer in its tender pursuant to the terms and conditions of this Request.

(b) Review of Tender Sum

Where 90 days has elapsed since the closing date for the lodgement of tenders and the contract has not been awarded, the Tender Sum will be adjusted in accordance with the formula set out in subclause (c) below if:

- I. the contract does not contain Rise and Fall provisions; and
- II. the Tenderer requests a Tender Sum adjustment prior to the award of the contract.

(c) Formula for Review of Tender Sum

Where a Tender Sum is to be reviewed pursuant to sub-clause (b) above, the Tenderer's Tender Sum shall be reviewed using the following formula:

$$\text{Reviewed Tender Sum} = \text{Tender Sum} \times \left(\frac{0.95 \times \text{Current Index Number}}{\text{Base Index Number}} \right)$$

(d) Changes to Indexes

Where the Index is either renamed, varied, discontinued or revised then this clause shall be applied using the equivalent renamed, varied, replacement or revised index published by Australian Bureau of Statistics as determined by the Principal by notice in writing to the affected tenderers.

1.31. GOVERNMENT OF WESTERN AUSTRALIA ABORIGINAL PROCUREMENT POLICY

The State Government Aboriginal Procurement Policy (**APP**) sets targets for the number of government contracts awarded to registered Aboriginal businesses. The APP seeks to develop entrepreneurship and business opportunities for the Aboriginal community, supporting employment and business opportunities available to Aboriginal persons.

The APP applies to Government contracts awarded from 1 July 2018. Under the APP, Government agencies are required to award three percent (3%) of their contracts to registered Aboriginal businesses by the end of June 2022. The targets apply to all contracts for goods, services, community services and works.

Targets will apply as set out below:

- (a) 2021/2022 financial year – three percent of the number of awarded contracts;
- (b) 2022/2023 financial year – three point five percent of the number of awarded contracts;
- (c) 2023/2024 financial year – four percent of the number of awarded contracts;
- (d) from 2024 onwards – four percent of the number of awarded contracts onwards.

Tenderers accept that the agencies' obligations under the APP and compliance with the APP will be a factor taken into account in the assessment of tenders and may affect the Principal's decision on who to award a contract to pursuant to this Request, subject to existing legislation, policies and internal obligations.

The targets will be measured on contracts awarded in each financial year. If the term of a contract extends beyond that financial year, the contract will not be included in the following years.

1.32. ONGOING MAINTENANCE COSTS

Not Applicable

1.33. CONSTRUCTION INDUSTRY PORTABLE LONG SERVICE LEAVE**SCHEME**

The Construction Industry Long Service Leave Scheme known as 'MyLeave' established under the *Construction Industry Portable Paid Long Service Leave Act 1985* (WA) applies to this tender and any contract that results. Tenderers that meet the definition of employer under the Act must be registered with MyLeave.

If awarded the Contract, the Tenderer will be required to:

- (a) comply with all applicable conditions under the Act and MyLeave including payment of the relevant contribution levy; and
- (b) ensure any subcontractors carrying out the works similarly comply with all applicable conditions under the Act and MyLeave.

SECTION B CONDITIONS OF CONTRACT INCLUDING SPECIAL CONDITIONS OF CONTRACT

GENERAL CONDITIONS OF CONTRACT

The General Conditions governing the Contract are the AS4906-2002 Minor Works Contract Conditions (Principal administered) hereinafter referred to as “the General Conditions”, together with any Annexures specified. The Contractor shall ensure that they have their own copy of the General Conditions. A copy of the General Conditions will not be provided to the Contractor as part of the Contract.

Included in this section are the:

- Annexures Parts A and B of the General Conditions; and
- the Special Conditions of Contract,

which together are included in the Contract.

Annexure Part A

Annexure to the Australian Standard Minor works contract conditions (Principal administered) AS 4906—2002

This Annexure shall be completed and issued as part of the tender documents and, subject to any amendments to be incorporated into the Contract, is to be attached to these Minor works contract conditions and shall be read as part of the Contract.

Item		
1	Principal (Clause 1)	Chief Executive Officer, VenuesWest ABN 47 894 197 015
2	Principal's address	HBF Stadium, 100 Stephenson Avenue Mt Claremont, WA 6010 Phone 9411 8222
3	Contractor (Clause 1)	As indicated in the Letter of Acceptance
4	Contractor's address	As indicated in the Letter of Acceptance
5	(a) Date for Practical Completion (Clause 1)	29 day of August 2025Click or tap here to enter text.
6	Contractor's security	
	(a) Form (Clause 3)	Choose an Item. Not Applicable
	(b) Amount or maximum percentage of Contract Sum (Clause 3)	Not Applicable
	(c) If retention moneys, percentage of each payment certificate (Clause 3)	Not Applicable

	(d) Time for provision (except for retention moneys) (Clause 3)	within 14 days after Date of Acceptance of Tender
7	Amount of limit of indemnity for damage to other property of the Principal (Subclause 10.1(a))	The amount of the public liability insurance cover in Item 9
8	<i>The amount of Contract Works insurance cover</i> (Clause 11)	The Contract Sum
9	The amount of public liability insurance cover in respect of any one occurrence shall not be less than (Clause 12)	Click here to enter text. \$20 000 000
10	The time for giving possession of the Site to the Contractor (Clause 17)	As agreed by the Principal
11	Liquidated damages (Subclause 20.5)	
	(a) Rate	Not Applicable.
	(b) Limit	Not Applicable.
12	Delay damages, rate (Subclause 20.6)	Not Applicable.
13	Defects liability period (Clause 21)	52 weeks
14	Time for progress claims	As agreed with Principal

	(Subclause 23.1)	
15	The rate of interest on overdue payments (Subclause 23.4)	Reserve Bank of Australia cash rate per annum plus 3 % per annum
16	Arbitration (Subclause 27.3)	
	(a) The person to nominate an arbitrator	The Principal
	(b) Rules for arbitration	Rules 5–18 of the Rules of The Institute of Arbitrators & Mediators Australia for the Conduct of Commercial Arbitrations

Annexure Part B — Deletions, amendments and additions

Annexure to the Australian Standard Minor works contract conditions (Principal administered) AS 4906—2002

The following additions have been made to AS 4906—2002

SPECIAL CONDITIONS OF CONTRACT

The special conditions as specified below are deemed to be incorporated into the General Conditions and in the event that any inconsistency arises between the special conditions and the General Conditions, the special conditions prevail (to the extent of that inconsistency):

1. SUBCONTRACTOR AND SUPPLIER ARRANGEMENTS

1.1. SECURITY OF PAYMENT

It is a fundamental term of this Contract that the Contractor comply with all payment obligations under agreements between the Contractor and its subcontractors and suppliers in respect of the carrying out of the work under this Contract (WUC).

Failure, without good cause, to so comply with any of such payment obligations will constitute a default by the Contractor and the Principal may, at its own discretion, apply the provisions under Clause 30.

1.2. PRIVACY OF SUBCONTRACT

The Contractor shall inform all subcontractors that the relationship between the Contractor and the subcontractor, as evidenced by a contract or otherwise, does not impose on the Principal any express or implied legal obligation to the subcontractor of any nature whatsoever in contract or by any other means.

1.3. SUBCONTRACTOR AWARENESS PACKAGE

The Contractor shall ensure that prior to any subcontract being entered into with a subcontractor for the provision of goods or services required to enable the Contractor to meet the Contractor's obligations under the Contract, the Contractor will provide to any such subcontractor the subcontractor awareness brochure titled "*Subcontracting in the building and construction industry – Understanding your rights and obligations*" which can be obtained and must be printed by the Contractor from the following internet link:

<http://www.wa.gov.au/government/publications/subcontracting-the-building-and-construction-industry>

2. DISCLOSURE OF CONTRACT INFORMATION AND DOCUMENTS

2.1. PUBLIC DISCLOSURE OF CONTRACT DETAILS

- (a) The Contract Award information for all contracts above \$50,000 will be publicly available and published on the Tenders WA website after the Contract is legally established.
- (b) Documents and other information relevant to the Contract may be disclosed when required by law, under the *Freedom of Information Act 1992 (WA)*, under the *Building Act 2011 (WA)*, tabling of documents in Parliament or under a court order or a subpoena.

DEFINITIONS

Contract Award information includes Contractor's name(s) and Contract Prices.

2.2. ACCESS BY THE AUDITOR GENERAL

AUDITOR GENERAL ACT 2006 (WA) AND FINANCIAL MANAGEMENT ACT 2006 (WA)

The Parties acknowledge and agree that, notwithstanding any provisions of this Contract to the contrary, the powers and responsibilities of the Auditor General for the State of Western Australia under both the *Auditor General Act 2006* (WA) or the *Financial Management Act 2006* (WA) are not limited or affected by the terms of the Contract.

3. ENFORCEMENT OF GOVERNMENT PROCUREMENT POLICIES

It is a fundamental term of this Contract that the Contractor shall comply with the specific provisions of government procurement policies as set out in the Request for Tender and Contract documents.

When in response to those provisions:

- (a) the Contractor has:
 - (i) claimed a tender preference that required the Principal to accept the Contractor's Tender rather than another conforming tender; or
 - (ii) given undertakings in its tender that have induced the Principal to accept the Contractor's Tender rather than another conforming tender; and
- (b) the amount of that other conforming tender is/was lower than the amount of the Contractor's tender; and
- (c) the Contractor fails to comply with the whole or a discrete portion of those provisions or undertakings,

THEN the Principal may, in addition to any other remedy available to it under the Contract, do any one or more of the following:

1. recover from the Contractor the whole or any part of the difference between the Contractor's tender and the amount of the lowest conforming tender;
2. require the Contractor to use goods, materials or services that comply with the specific provisions of the policy or the Contractor's undertakings referred to above; and/or
3. terminate the Contract.

The Contractor shall, if requested by the Principal, certify in writing to the Principal that it has complied with the specific policy provisions and its undertakings set out or given in its Tender and provide adequate evidence of its compliance. The existence and extent of the Contractor's failure to comply with any such provisions or undertaking shall be determined by the Principal in its absolute discretion and, in the absence of manifest evidence to the contrary, the determination of the Principal in this regard shall be final and binding on the parties to this Contract.

On determination by the Principal that the Contractor has failed to comply with such provisions or undertakings, the difference between the amount of the Contractor's Tender and the amount of the lowest conforming tender shall be a debt due to the Principal, which the Principal shall be entitled to deduct from the Contract Sum or any Security or retention money held by the Principal, or to recover from the Contractor in any court of competent jurisdiction.

3.A NOT USED

3.B.2. ABORIGINAL PARTICIPATION COMPLIANCE REPORTING

Where the Contractor has claimed in its Tender an Aboriginal Tendering Preference, the Contractor must provide details of its aboriginal participation on its submitted Monthly Compliance Report (refer to clause 3.B.3. Compliance Reporting).

3.B.3. COMPLIANCE REPORTING

Where the Contractor was an Aboriginal Tendering Preference it must submit a *Monthly Compliance Report* (using the Department's Monthly Compliance Report template available on the WA

Government website: <https://www.wa.gov.au/government/publications/monthly-compliance-report-template>) and adequate supporting evidence:

- (a) where the Contract Sum is less than \$1,500,000.00 and if requested by the Principal, to the Principal reporting on its compliance with the Aboriginal Tendering Preference and its tender commitments; or
- (b) where the Contract Sum is \$1,500,000.00 or more, with each progress payment claim to the Principal reporting on its compliance with the Aboriginal Tendering Preference and its tender commitments.

The Principal may provide the Monthly Compliance Reports to the Department of Jobs, Tourism, Science and Innovation (JTSI), the Buy Local Policy owner and administrator. The Contractor acknowledges and consents to the Principal's disclosure of its Monthly Compliance Reports to JTSI for Buy Local Policy administration purposes.

3.C. ANTI-DUMPING

Dumped goods (i.e. goods from overseas that are imported into Australia at less than their normal value, causing or threatening to cause material injury to an Australian industry producing like goods, or materially hindering the establishment of such an industry) must not be used in the performance of this Contract.

Where a tender involving the supply of goods from overseas has been accepted and the Commonwealth Minister for Industry, Science, Energy and Resources (or their equivalent) subsequently determines the goods as dumped, the Principal may either direct the substitution of such goods or terminate the Contract. Any consequential costs or losses of the Contractor shall be borne and paid for by the Contractor. In addition, any extra costs or losses incurred by the Principal will constitute a debt recoverable from the Contractor.

Where it is reasonably suspected that any goods subject to a Contract constitute dumped goods, the Contract may be suspended to enable the suspicion to be confirmed or dismissed under the Commonwealth Customs legislation. Any costs or losses incurred by the Principal as a result of any suspension under this clause shall be borne and paid by the Contractor.

3.D. OBLIGATION TO COMPLY WITH THE WESTERN AUSTRALIAN BUILDING AND CONSTRUCTION INDUSTRY CODE OF CONDUCT 2016

The Contractor is subject to the Code and must comply with each of the obligations described in the Code, for the term of this Contract.

3.E. BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND LEVY

The Contractor is deemed to be the project owner under the *Building and Construction Industry Training Fund and Levy Collection Act 1990* (WA) and shall pay all levies required to be paid under this Act to the Building and Construction Industry Training Fund. The Contractor must not commence work on the Site until it has paid the levy.

The *Building Act 2011* (WA) requires a permit issuing authority to be satisfied that the Building and Construction Industry Training Fund and Levy has been paid prior to the issuance of a building permit. Within 7 days of the Date of Acceptance of Tender, the Contractor must provide evidence in writing that the Building and Construction Industry Training Fund and Levy has been paid. A failure to provide such evidence has the potential to delay the issuance of a building permit by the permit issuing authority.

Prior to the Principal issuing a Certificate of Practical Completion, where the costs of the Works increase by an amount greater than \$25,000, then:

- (a) Notwithstanding any provision of the Minor Works Conditions of Contract, the Contractor shall not become entitled to receive any outstanding progress payments until it provides

evidence to the Principal that it has paid any additional levy required to be paid into the Fund under the Act; and

- (b) Notwithstanding any provision of the General Conditions, the Contractor shall not become entitled to the release of any remaining security or retention money until it provides evidence to the Principal that it has paid any additional levy required to be paid into the Fund under the Act. The payment of any additional levy under this clause shall constitute a variation in favour of the Contractor, however the Contractor shall not be entitled to an extension of time as a result of such a variation.

3.F BUILDING SERVICES LEVY AND BUILDING, DEMOLITION AND OCCUPANCY PERMIT FEES

The Principal shall be liable to pay the Building Services Levy, together with any applicable building, demolition and occupancy permit fees (as the case may be).

4. CONTRACTOR PERFORMANCE REPORTING

In consultation with the Contractor, the Principal will, at various stages during this Contract, prepare a report for the sole use of the Principal in respect to aspects of the Contractor's performance. Once a contractor performance report is prepared it is subject to review at least once and may be reviewed and updated a number of times in the Principal's sole discretion. As a guide:

- The contractor performance reports may be reviewed by the Principal and, if necessary, updated following the expiry of the Defects Liability Period.
- The Contractor is entitled to the opportunity to respond to the contractor performance report and any update or review of the report.
- The Contractor is to be aware that the outcome of these contractor performance reports will be used by the Principal in consideration of the Contractor in future tendering and contracting opportunities with the Principal.

5. ADVERTISEMENTS AND PROMOTIONS

The Contractor may erect on site, or permit to be erected on site, only those signs:

- (a) required by law;
- (b) specified in the Contract documents; and
- (c) required to identify the Contractor's premises.

The Contractor must not erect on site, or permit to be erected on site, any other sign, advertisement, promotion or other display without the written approval of the Principal.

5.1. SITE SIGNAGE

Not Applicable.

6. DESCRIPTION OF THE WORKS

The Works comprise those as detailed in Volume 2 – Scope and Specification and such other work as shown on the drawings.

The premises will be occupied during the term of the Contract. The Contractor shall ensure that it causes minimal inconvenience and disturbance to the occupants.

7. MONETARY SUMS

The Contractor shall pay all fees to all relevant authorities for the connection to services or for the extension of services to the Site.

The Contractor shall provide a copy of receipts from authorities to the Principal.

Variations to the Contract Sum will be made in accordance with the clause "ADJUSTMENT OF PROVISIONAL SUMS" where receipts from authorities differ from the monetary sums.

Allow for the following monetary sums: Not Applicable

8. WORK NOT INCLUDED

Not Applicable

9. PUBLICITY

The Contractor shall not issue any information, publication, document or article for publication in any media that includes details of the work under the Contract without the written approval of the Principal.

10. NATURE OF CONTRACT

The Contractor shall be paid on a lump sum basis.

The Contract is not subject to adjustment for rise and fall in costs.

10.1. PAYMENT

The Contractor shall be paid on a lump sum basis as adjusted pursuant to the terms of this clause.

In determining the amount of each progress payment and the final payment, the value of work executed will be increased or decreased in accordance with this clause. Such calculations shall be undertaken as at the date that the Contractor is entitled to submit a claim for payment to the Principal in accordance with Clause 23.1 of the General Conditions of Contract.

Where any payment is made which omits an adjustment in the Contract Sum in accordance with this clause, the Principal may make correct such an omission except in respect of the Final Certificate.

10.2. EFFECTIVE VALUE

The Effective Value in respect of each progress payment or final payment is the value of work included in the progress valuation or the final value less:

- (a) the value of any work included therein on the basis of actual cost, unless the Principal agrees in writing that, for convenience of administration, a process equivalent to paragraph (b) will be used;
- (b) the value of any work included therein on the basis of current prices, unless the value has been de-escalated from the date the price was ascertained to the Date for the Base Index Number (once de-escalated, values can be included in Effective Value). The De-escalated Value is to be ascertained by reference to the following equation:

$$\text{De-escalated Value (for work on the basis of current prices)} = \text{Value of work} - \frac{\text{Value of work} \times 0.95 \times (\text{Index Number when price ascertained} - \text{Base Index Number})}{\text{Base Index Number}}$$

- (c) the value of any work which any clause of this Contract provides is not subject to adjustment for rise and fall in costs;
- (d) the value of any work which any clause of this Contract provides is subject to adjustment for rise and fall in costs on a different basis from that provided for by this clause; and
- (e) the Effective Value in respect of previous progress payments, disregarding any increase or decrease under this clause.

10.3. BASE INDEX NUMBER

“Base Index Number” means the last published index number of Australian Bureau of Statistics, Cat 6427.0 Producer Prices Indexes, Table 17, 3020 Non-residential building construction Western Australia at 12:01 am WST on the date 14 days prior to the date on which tenders closed (or if there is no such date, the date of the Contractor's offer).

10.4. CURRENT INDEX NUMBER

“Current Index Number” means the last published index number of the Australian Bureau of Statistics, Cat 6427.0 Producer Prices Indexes, Table 17, 3020 Non-residential building construction Western Australia at 12:01 am WST on the earlier of:

- a. 28 calendar days prior to the last day of the period to which the valuation for the purpose of the relevant progress or final payment relates; or
- b. the date for Practical Completion or, if the works comprise Separable Portions, the Date for Practical Completion of the relevant Separable Portion.

If the date for the Current Index Number is earlier than the date for the Base Index Number, the date for the Current Index Number will be the date for the Base Index Number.

10.5. RENAMED, VARIED OR DISCONTINUED INDEXES

If the index referred to in this clause 10 is renamed, discontinued or the basis on which an index is calculated is varied, the Principal will:

- (a) where an index is renamed, give a direction as soon as practicable, substituting the renamed index;
- (b) where an index is discontinued, give a direction as soon as practicable, substituting an index which will most closely correspond with the discontinued index; or
- (c) where the basis is altered and only if required, give a direction as soon as practicable, amending this clause 10, to ensure that as far as is practicable the intention of this clause is given effect to.

10.6. SITE ALLOWANCE, PRODUCTIVITY, AGREEMENT, SPECIAL ALLOWANCES

Rise and Fall will not include any adjustment to reimburse the Contractor for special payments or agreements paid to persons engaged in respect of the Contract (including any site allowance or over award payment). Such payments are included in the Contract Sum.

10.7. METHOD OF CALCULATING PAYMENT IN ACCORDANCE WITH THIS CLAUSE

So much of the value of work as is included in the Effective Value in each progress payment will be separately increased or decreased by multiplying it by Rise/Fall Rate calculated using the following formula.

$$\text{Rise/Fall Rate} = \frac{0.95 \times (\text{Current Index Number} - \text{Base Index Number})}{\text{Base Index Number}}$$

11. GOODS AND SERVICES TAX (GST)

11.1. DEFINITIONS

For the purposes of this clause:

GST means goods and services tax applicable to any taxable supplies as determined under the GST Act.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (Cth) and (where the context

permits) includes the Regulations and the Commissioner of Taxation's Goods and Services Tax Rulings and Determinations made thereunder and any other written law dealing with GST applying for the time being in the State of Western Australia.

Supply, taxable supply and tax invoice have the same meanings as in the GST Act.

Where the supply of the work under the Contract or any part thereof is a taxable supply under the GST Act:

- (a) The Contract Sum shall be inclusive of all applicable GST at the rate in force for the time being;
- (b) The Principal shall issue a Recipient Created Tax Invoice (**RCTI**) in respect of GST payable on each instalment of the Contract Sum and shall provide a copy of the RCTI to the Contractor. The RCTI shall contain all information required for a tax invoice under the GST Act and shall bear the ABN of the Contractor.
- (c) The Principal shall issue an adjustment to the Contractor in relation to any adjustment events as they occur.
- (d) The Contractor shall not issue tax invoices in respect of the work under the Contract or any part thereof.

This provision applies notwithstanding any other provision of the Contract or any legislation or rule of law to the contrary but does not apply if the Contractor is not registered for GST, and is not required to be so registered, under the GST Act.

The Contractor shall at all times observe, perform and comply with all applicable provisions of the GST Act relative to the supply of the work under the Contract.

12. COPIES OF DOCUMENTS

Where the Contractor requires hard copies of the documents, such additional copies of the documents will be available to the Contractor at the charge current at the time of request.

13. ASSIGNMENT AND SUBCONTRACTING

The subcontractors, suppliers or other parties that the Contractor nominated in its tender and for which the Contractor has received a price preference in the consideration of its tender are deemed to be approved subcontractors in accordance with clause 6 of the General Conditions.

The Contractor shall not without prior written approval of the Principal substitute a subcontractor deemed to be approved under this clause.

14. ADJUSTMENT OF PROVISIONAL SUMS

Not applicable

15. BUILDING ACT 2011 (WA)

15.1. COMPLIANCE

Prior to the commencement of the *Building Act 2011* (WA), for buildings that were owned or occupied by, or under the management or control, of government agencies, the Crown was not required to obtain building licences or show evidence of compliance with the National Construction Code and standards referenced therein.

The *Building Act 2011* (WA) binds the Crown and requires the Government to demonstrate that all of its building projects are designed and constructed in accordance with relevant standards, including the National Construction Code and other standards that will be referenced by the Act and subsidiary legislation. The legislation also requires that new buildings and incidental structures are:

- (a) demolished in accordance with demolition permits;
- (b) constructed in accordance with building permits; and
- (c) occupied in accordance with occupancy permits.

Under this new legislative regime, the Principal is required to apply to a permit authority for building permits, demolition permits, occupancy permits and/or building approval certificates for any building work and demolition work as defined by the Act.

The Principal or its agent will be responsible for submitting permit applications to the permit issuing authority.

Consistent with this new legislative regime, the Contractor must:

- (a) undertake to do all things and take all steps reasonably necessary to enable the Principal to obtain or vary building, demolition or occupancy permits (as the case may be) for the works under the Contract;
- (b) ensure that any building or demolition work is carried out pursuant to all requirements of the building or demolition permits (as the case may be) and any conditions that may be imposed on such permits;
- (c) ensure that any building or demolition work is undertaken in accordance with the design documentation or any variations directed under the Contract;
- (d) ensure that any building or demolition work carried out complies with any building orders issued by the permit authority;
- (e) ensure that where any variations affect compliance with any relevant code or standard, the Contractor assists the Principal and its agents to do all things necessary to facilitate the recertification of the work under the Contract;
- (f) ensure that all inspections and tests required under the building, demolition or occupancy permit, or otherwise required by the building certifier or building surveyor at any time when certifying the works, are carried out on Site during construction and provide documentation of results in a timely manner to the building certifier or building surveyor and the Principal so as to not prejudice or delay the issuance of a certificate of construction compliance;
- (g) assist the Principal and its agents to properly and duly obtain a certificate of construction compliance to permit the timely application for an occupancy permit or building approval certificate as the case may be from the permit authority to enable lawful occupancy of the building(s) or any part(s) thereof within the program timeframes required by the Principal and the Contract;
- (h) take into account the time periods and limits prescribed under the Act in its construction program;
- (i) provide such further information or materials that the permit authority may reasonably require to support an application or impose conditions on the permit or certificate;
- (j) otherwise comply with the following Acts and any subsidiary legislation made under them:
 - (i) *Building Act 2011 (WA)*;
 - (ii) *Building Services (Complaint Resolution and Administration) Act 2011 (WA)*;
 - (iii) *Building Services (Registration) Act 2011 (WA)*;
 - (iv) *Building Services Levy Act 2011 (WA)*; and
 - (v) *Building and Construction Industry Training Levy Act 2011 (WA)*,

without limiting the Contractor's general obligations under the Contract.

15.2. INDEMNITY

The Contractor irrevocably indemnifies and agrees to keep indemnified the Principal from any damage, loss, liability, claim, expense, cost, fees, penalty or fine, suffered by the Principal directly or indirectly

arising from any failure by the Contractor to comply with this clause and shall hold the Principal harmless for the same.

The Contractor further irrevocably indemnifies the Principal against any damage, loss, liability, claim, expense, cost, or fee suffered or incurred by the Principal with respect to any delay in the issuance of an occupancy permit caused or occasioned by the Contractor in failing to observe any term of this Contract or requirement under the *Building Act 2011* (WA).

The indemnities given by the Contractor pursuant to this clause are granted for the term of the Contract plus a period of 6 years from the date of the expiry of the Defects Liability Period and survive the earlier termination or expiration of the Contract.

15.A OTHER INSURANCE

In addition to those insurances required under the General Conditions, the Contractor must effect and maintain at all times during the Contract each of the following policies of insurance and for the amounts specified below:

Motor Vehicle Third Party Liability insurance covering legal liability of the Contractor against property damage and bodily injury to or death of a person (other than compulsory third party motor vehicle insurance) caused by motor vehicles used in connection with the WUC for an amount not less than \$20,000,000.00 in any one occurrence or accident.

15.A.1 SUBCONTRACTOR OTHER INSURANCE

The Contractor must ensure that any sub-contractors used in the performance of the Work are similarly insured for the duration of the Contract.

16. NOT USED

17. ENVIRONMENTAL PROTECTION

17.1. NOISE CONTROL

The Contractor must, at all times, take adequate measures to control noise on the site and comply with the requirements of the *Environmental Protection (Noise) Regulations 1997* (WA) as amended insofar as they relate to construction work, and comply with any local government requirements relating to noise from construction sites.

The Contractor is required to meet all costs of complying with this clause.

The Principal may, at any time, direct the Contractor to take reasonable steps to control noise including (but not limited to):

- (a) The substitution of noisy equipment or processes with less noisy alternatives;
- (b) The modification of equipment (where this is practical and can be done safely and following consultation with the manufacturer);
- (c) Situating noisy equipment away from noise sensitive areas;
- (d) Undertaking noisy work in areas or at times specified by the Principal;
- (e) Installing screens to limit the impact of noise on noise-sensitive areas; and
- (f) Any other measure the Principal considers reasonable.

Where the construction work is carried out after 7:00am and before 7:00pm on days other than a Sunday or Public Holiday, the Contractor must:

- (a) Carry out the work in accordance with Section 6 of AS 2436-1981- GUIDE TO NOISE CONTROL ON CONSTRUCTION, MAINTENANCE AND DEMOLITION SITES;
- (b) Ensure the equipment used is the quietest reasonably available; and
- (c) Prepare and have approved by the CEO of the Environmental Protection Authority a noise

management plan if required by the CEO of the Environmental Protection Authority.

Where the Contractor has prepared a noise management plan, work must be carried out in accordance with that plan.

Where the construction work is carried out after 7:00pm and before 7:00am, or on Sundays or Public Holidays, the Contractor must:

- (a) Carry out the work in accordance with Section 6 of AS 2436-1981;
- (b) Ensure the equipment used is the quietest reasonably available;
- (c) Advise the occupants of all affected properties of the work to be done at least 24 hours before it commences;
- (d) Be able to establish that it was reasonably necessary for the work to be carried out at that time; and
- (e) Prepare and have approved by the CEO of the Environmental Protection Authority a noise management plan if required by the CEO of the Environmental Protection Authority.

A local government may require the Contractor to submit a noise management plan and application fee. Where required, the Contractor must submit the noise management plan to the local government as well as any application fee due in relation to the noise management plan seven (7) calendar days prior to commencing the work. Where the Contractor has prepared a noise management plan, work must be carried out in accordance with that plan.

The Principal may direct the Contractor to provide to the Principal:

- (a) a written statement confirming it has complied with its requirements under this clause; and
- (b) a certificate of acoustic performance issued by a laboratory registered with the NATA for any equipment before permitting its use, or continued use, on the building site.

For the purpose of this clause, "equipment" has the same meaning as stated in section 3 of the *Environmental Protection Act 1986* (WA).

17.2. SITE CONTROL

The Contractor shall comply with all statutes, regulations and by-laws relating to the protection of the environment.

The Contractor shall at all times comply with the regulations and restrictions imposed by the Principal relating to the storage of materials, the routing of construction traffic, the interruption of existing services and facilities and any other regulations in force on the site.

The Contractor shall obtain written approval from the Principal for the formation of any temporary roads, the erection of temporary structures or any site clearing not specifically documented.

Flammable or explosive products shall be stored in accordance with the relevant statutes and to the approval of the Principal.

17.3. REMOVAL OF MATERIALS

The Contractor shall ensure that green waste, earth, fill, brick, mortar, concrete, and metal are recycled either for use onsite or by delivery to a recycling facility. The Contractor shall provide the Principal with offsite disposal documentation detailing the recycling facility destinations that received the materials.

The Contractor shall not remove, damage or destroy, or cause to be removed, damaged or destroyed, any trees or shrubs at the Site without the written approval of the Principal. No fire shall be lit at the Site without the written approval of the Principal.

17.4. SOIL EROSION

The Contractor shall take all proper precautions to prevent soil erosion from any land used or occupied by the Contractor in the execution of the work under the Contract.

17.5. DUST, DIRT, WATER AND FUMES

The Contractor shall prevent any nuisance occurring through the discharge of dust dirt, water, fumes and the like on to persons or property.

17.6. VEHICLES

All debris, spoil, rubbish or materials shall be suitably contained and covered in vehicles during transportation to or from the Site to prevent spillage or contamination of adjoining and other areas or property.

The Contractor shall maintain vehicles, wheels and tracks in a suitable clean condition to prevent transfer of mud onto adjacent streets or other areas.

17.7. REFUSE DISPOSAL

The Contractor shall handle and dispose of all site refuse (including foodstuffs) in accordance with the requirements of the waste materials recycling provisions detailed in the Site Control clause, relevant statutes and to the approval of the Principal.

The Contractor shall handle, transport and dispose of site refuse containing asbestos in accordance with the *Environmental Protection (Controlled Waste) Regulations 2004 (WA)*.

17.8. SMOKING ON CONSTRUCTION SITES

The Contractor shall at all times ensure that all workmen and visitors on the construction site comply with the following policy on smoking.

In respect of construction sites, smoking is prohibited:

- (a) in site offices, lunch rooms or enclosed toilet facilities;
- (b) inside existing premises that are designated as “no smoking” areas; and
- (c) inside, around, above or below any buildings under construction, or any areas where activities related to construction are being carried out, or any areas where materials related to construction are being prepared or stored.

17.9. WASTE MANAGEMENT COMPLIANCE REPORTING

The Contractor must on request from the Principal:

- (a) with each progress payment claim or as otherwise directed by the Principal, submit a Waste Management Report to the Principal on its waste management compliance under the Contract;
- (b) two weeks after Practical Completion, submit a Final Waste Management Report; and
- (c) promptly notify the Principal in writing if it fails to comply with its waste management obligations under the Contract and in accordance with applicable legislative and policy requirements.

The report should include construction and demolition waste disposal and detail quantities of waste that are recycled, reused or go to landfill.

18. CONTRACTOR'S REPRESENTATIVE

The Contractor's representative shall have sufficient command of the English language and of Australian construction and technical terminology, to be able to read, converse and receive instructions in English.

19. RESTRICTIONS ON ACCESS

Access to the Site shall be controlled as described hereunder.

The following conduct is prohibited in or around the Principal's premises and any offending person may be directed to leave the premises:

- (a) Causing disruption to or likely to cause disruption to the good order;
- (b) Using threatening or insulting language;
- (c) Using threatening or violent behaviour;
- (d) Adversely affecting the safety and welfare of persons;
- (e) Causing damage to property that comprises or is located at the premise;
- (f) Smoking;
- (g) Defacing the premises;
- (h) Lighting fires or bringing explosives onto the premises;
- (i) Bringing animals onto the premises;
- (j) Having intoxicating liquor;
- (k) Driving vehicles off roadways and parking areas;
- (l) Exceeding speed limits or driving in a dangerous or inconsiderate manner; or
- (m) Disobeying traffic signs.

20. SECURITY OF PREMISES

The Contractor shall carry out the WUC in such a manner that maximum security of the premises is maintained at all times.

If, in the opinion of the Principal at any period of the contract and during all non-working hours maximum security cannot be maintained, the Contractor shall employ an approved static guard security service on the Site.

In the event that the WUC cause the failure or partial failure of the alarm system that should be providing security to areas outside the Site, the Principal is to be advised and the Contractor will engage a security static guard until the security system is satisfactorily reinstated.

All costs associated with the employment of the guard service will be the Contractor's responsibility.

21. NOT USED

22. MATERIAL AND WORK

22.1. WORKPLACE SAFETY AND HEALTH COMPLIANCE

The Principal is committed to ensuring, so far as is practicable, a working environment for all workers and members of the public, that is safe and without risk to health.

The Contractor must at all times discharge its responsibilities under all statutory requirements relating to work health and safety, including the *Work Health and Safety Act 2020* (WA) (the "WHS Act") and the *Work Health and Safety (General) Regulations 2022* (WA) (the "WHS Regulations") (as amended from time to time) and mandatory codes of practice or guidelines, ("WHS Law") that are applicable to the work under the Contract including identifying and exercising all necessary precautions for the

safety and health of all persons including—

- (a) the Contractor's employees;
- (b) any subcontractor and their employees;
- (c) the Principal's employees, agents, contractors and subcontractors; and
- (d) any other person,

who may be affected directly or indirectly by or as a result of any work under the Contract.

In this clause 22.1 **Error! Reference source not found.**, "construction project", "construction work", "principal contractor", "worker" and "workplace" have the same meanings assigned to those terms in the WHS Act and WHS Regs.

Unless otherwise notified in writing by the Principal, for the purpose of the WHS Law — and to the extent the work under the Contract involves is a construction project:

- (a) the Principal engages the Contractor as the principal contractor and the Contractor accepts its appointment and engagement as the principal contractor and must comply with all obligations and duties of a principal contractor;
- (b) the Principal authorises the Contractor to have management and control of each workplace (including the means of entering and exiting the workplace) at which the WUC are carried out and to discharge the duties of a principal contractor, while the Contractor is performing the work under the Contract; and
- (c) the Contractor acknowledges and agrees that in the event that the appointment and engagement of the Contractor as principal contractor is not valid under the WHS Law, the Contractor must nevertheless perform the function of a principal contractor in accordance with the requirements of the WHS Law.

For the purpose of the WHS Law — and to the extent the work under the Contract involves a construction project VenuesWest will be the Principal Contractor.

22.2. WORK HEALTH AND SAFETY ACT AND WORK HEALTH AND SAFETY (GENERAL) REGULATIONS

The Contractor shall also comply with its obligations under Part 3 of the WHS Act concerning notification of incidents; and shall also report all such matters promptly to the Principal. The Contractor shall provide the Principal with any assistance it requires in relation to any incident or event that triggers a need to notify pursuant to the WHS Act.

The Contractor shall pay all fees payable under the WHS Laws which are payable in connection with the execution of the Works.

22.3. PRINCIPAL IDENTIFIED HAZARDS

If applicable, a design safety report, as required by regulation 295 of the WHS Regulations will be provided to the Contractor prior to the Contractor commencing work on Site.

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, the Principal has identified the following hazards which the Contractor shall incorporate into its Safety Management Plan:

- (a) The Site is part of an occupied premise or facility. The Contractor is to liaise with the occupier regarding Safety and Health requirements:
 - (i) The Principal will arrange a safety co-ordination meeting between the occupiers and the Contractor. The occupiers will provide to the Contractor their occupation requirements on and/or adjacent to the Site to assist the Contractor in the development of a Site-specific Safety Management Plan addressing the Contractor's and occupier's operational interface requirements.

- (ii) The Safety Management Plan shall incorporate the Contractor's own operations and the interface with the occupiers' operations.
- (iii) The Contractor shall be responsible for coordinating the implementation of the Safety and Health standards on the occupied Site for the duration of the Contract and shall co-ordinate and integrate the Works in order that the occupier is able to safely continue normal activities for the duration of the Contract.
- (iv) The Contractor shall obtain a copy of the Evacuation Plan for the occupied Site and ensure that all persons admitted onto the Site are familiarised with the Evacuation Plan and comply with its requirements.

22.4. SAFETY DATA SHEETS

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, the Contractor shall ensure that a copy of all manufacturer/supplier Safety Data Sheets are available on a register on site for each hazardous substance used in connection with the work under the Contract. Safety Data Sheets shall be consistent with the format of the National Code of Practice for the Preparation of Material Safety Data Sheets [NOHSC: 2011 (1994)].

22.5. WORK HEALTH AND SAFETY INFORMATION

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, prior to the commencement of work on Site, or at any other time the Principal direct, the Contractor shall consult with the Principal for the purposes of ensuring that, as far as practicable, the construction work can be done without risk to the health and safety of either those doing the work, or anyone else who may be at or near the construction site.

The Contractor shall also ensure that the following information is recorded, reviewed and updated regularly, and kept until the Works are completed:

- (a) The identification of hazards to which a person at the construction site is likely to be exposed;
- (b) An assessment of the risk of injury or harm to a person resulting from those hazards; and
- (c) The risk control measures through which the risk of injury or harm may be eliminated or otherwise controlled.

If the Contractor becomes aware that a change in the design of the Works could better eliminate or control a risk of injury or harm to those doing the construction work, or anyone else who may be at or near the Site, the Contractor shall ensure that this information is passed on to the Principal.

The Contractor shall ensure that any Work Health and Safety information it receives from the Principal is incorporated into its hazard identification, risk assessment and risk control measures.

The Contractor agrees to consult, co-operate and co-ordinate activities with the Principal and every other person having a work health and safety duty under the WHS Law in relation to the WUC.

22.6. SAFETY MANAGEMENT PLAN

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, prior to the commencement of the work on Site, the Contractor shall prepare and implement a Safety Management Plan relevant to the WUC that, as a minimum requirement, demonstrates compliance with the WHS Law. The Safety Management Plan shall be maintained, and where necessary updated, throughout the Contract. The Safety Management Plan shall be appropriate to the risks associated with the WUC and shall contain provision for, but not be limited to, the following elements:

- (a) work health and safety induction for new employees;
- (b) listing of competencies required for specialist work (e.g. rigger, scaffolder);
- (c) the arrangements for managing work safety and health incidents on the site, including accident/incident reporting and investigation;
- (d) the safety rules at the Site and description of the arrangements for ensuring that all persons

working at or visiting the Site are informed of the rules;

- (e) hazard identification, risk assessment and risk control including routine inspection processes;
- (f) plant/equipment inspection processes;
- (g) pre-job planning, procedural issues and Safe Work Method Statements. Within the Safety Management Plan, particular attention is to be given to identifying hazardous activities including, but not limited to, work in confined spaces, asbestos removal, demolition work, excavation work, working near power lines and live conductors and working at heights;
- (h) emergency response and evacuation procedures;
- (i) methods of communicating and consulting with employees and transmitting new work procedures to employees;
- (j) hazardous substances exposure management;
- (k) Site security;
- (l) purchasing/hiring controls (to avoid unknowingly bringing hazards onto the Site);
- (m) quantitative performance measures (application to be determined by contract size and duration); and
- (n) any other matters that the Principal may direct from time to time.

Each element of the Safety Management Plan shall specifically address:

- (a) the person on the Site who shall take responsibility for the successful implementation of each element;
- (b) the hierarchical structure by which the responsibility is performed; and
- (c) the specific manner by which the element is performed.

The Contractor shall prepare the Safety Management Plan in conjunction with a competent person suitably experienced and qualified in safety matters. The Principal may direct that the Contractor prepare the Safety Management Plan in conjunction with the Principal's Consultant (if any).

Prior to the commencement of the Works, the Contractor shall certify to the Principal that its Safety Management Plan:

- (a) has been prepared;
- (b) has been provided to each person doing construction work at the Site (where this is practical) or is otherwise available for inspection on the Site; and
- (c) has been implemented on Site.

The Contractor must ensure that its employees, subcontractors and all other persons employed or engaged on work under the Contract comply with the Safety Management Plan.

22.7. WORK HEALTH AND SAFETY INDUCTION TRAINING

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, the Contractor shall not permit its employees, the employees of other parties or other persons to commence work on the Site until they have been inducted. Such induction shall include but not necessarily be limited to:

- (a) Prior to undertaking any site works at any VenuesWest's venues, the Contractor and its subcontractors shall register and be fully inducted in VenuesWest Rapid Global system. Note that the registration and induction process may take time and the Contractor and its Sub-Contractor shall allow for the time in their work planning;
- (b) familiarisation with the Safety Management Plan;
- (c) reporting of accidents and incidents - which shall include the type of events to be reported,

how an event is reported and to whom the event is reported;

- (d) emergency procedures - which shall cover the procedure for a medical emergency and for evacuation of the Site in the event of a life threatening situation arising;
- (e) personal protective equipment (PPE) - the standard requirements for the Site;
- (f) lifting and manual handling skills;
- (g) sun protection;
- (h) avoidance of noise induced hearing loss;
- (i) location of and access to First Aid on the Site;
- (j) legislative framework;
- (k) procedure for the resolution of safety issues at the workplace (in accordance with Divisions 5 and 6 of Part III of the WHS Act); and
- (l) Site security.

The Contractor shall induct its employees, the employees of any subcontractor or other persons working on the Site with regard to Safe Work Method Statements and shall prepare Training Session Attendance sheets signed by each attendee verifying that such induction has occurred.

Upon commencement of work on the Site, the Contractor shall further induct each employee, the employees of any subcontractors or other persons working on the Site with regard to all significant hazards associated with their particular activity and area of work on the Site and where relevant shall include the use of powered plant, tools and equipment.

22.8. SITE AND PUBLIC SECURITY

Notwithstanding the Contractor's obligations to Site and public security under the WHS Act and WHS Regulations and as stated elsewhere in this Contract, the Contractor shall monitor and control, wherever practicable, the access of all persons to the Site. The Contractor shall use all types and methods of protection (such as temporary safety fencing and warning signage) that are reasonably practicable and necessary to protect the public from hazards associated with the WUC.

The Contractor shall ensure that no persons, unrelated to the Contract, enter the Site without the express permission of the Contractor.

PPE standards shall apply at all times and a person shall only enter the Site after that person has received a safety briefing regarding hazards relevant to the Site.

22.9. SAFE WORK METHOD STATEMENTS

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, where construction work on the Site is high risk construction work (within the meaning of the WHS Regulations), the Contractor shall ensure that a written Safe Work Method Statement (Statement) is prepared before the high risk construction work commences. The Contractor shall ensure that the Statement is kept up to date and that high risk construction work is carried out in accordance with the safe work method.

22.10. CONFIRMATION OF COMPLIANCE WITH SITE STANDARDS AND PREDEFINED PROCEDURES

Without limiting the Contractor's obligations under the WHS Act or WHS Regulations, the Contractor shall, if requested to do so by the Principal, audit its systems and procedures as defined by the Safety Management Plan and Safe Work Method Statement to ensure that specific activities are being applied as intended.

Audits shall be carried out by a competent person appointed by the Contractor who is not directly involved in the work under the Contract and is suitably experienced and qualified to carry out such audits. WorkSafe WA and the Master Builders Association of WA can assist by identifying suitably

qualified persons.

Audits shall identify non-conformances with the Safety Management Plan and Safe Work Method Statement. The Contractor shall take immediate action to implement actions to correct non-conformances identified by an Audit.

Audit results, non-conformances and corrective actions are to be standing agenda items for Site meetings.

22.11. TRADE NAMES

Where a trade name, brand or catalogue number is referred to in the Contract Documents, the Contractor may substitute similar material or equipment provided that the Contractor provides written argument, basis and evidence that in the opinion of the Principal establishes that the characteristics of type, quality, finish, appearance, method of construction and performance are not less than that specified, and are approved by the Principal.

Such approval shall not be anticipated because of a similar approval having been given in a previous contract.

22.12. BRANDS OF MATERIAL SCHEDULE

The Contractor shall, within 5 days from the Date of Acceptance of the Tender, notify the Principal of the brand or make of materials it intends to use for which the Contractor has a choice of brand or make and which can affect the colour selections such as paints, fabrics, vinyl sheet and tiles, ceramic tiles, laminated plastics and suchlike materials.

The Contractor shall not depart from the brands or makes nominated in its advice to the Principal unless it has been authorised by the Principal to do so.

If the Contractor fails to notify the Principal within the specified time of the brand or make of materials which it intends to use, the Principal may, in such cases, nominate the brand or make of materials to be used and the Contractor shall then use that brand or make nominated by the Principal and shall add no claim for any extra costs incurred.

22.13. FIRE PROTECTION SYSTEM SHUTDOWN, IMPAIRMENT OR ISOLATION INFORMATION REQUIRED FOR NOTIFICATION TO RISKCOVER

The Contractor acknowledges that the Principal is obliged to inform its insurers through Riskcover of any shutdown, impairment or isolation of fire protection systems affecting its buildings and property. In addition to any other obligations arising under this Contract and any warranties in respect of fire protection systems, the Contractor must also during the term of this Contract (including the defects liability period):

- (a) attend to and rectify any shutdown, impairment or isolation of any fire protection systems the subject of any WUC;
- (b) mitigate the risks created by any shutdown, impairment or isolation of fire protection systems the subject of or affected by any WUC by taking any reasonable precautions in the circumstances to protect people and property;
- (c) immediately inform the Principal, Project Manager and Facility Manager of the affected building or property, of any current or planned shutdown, impairment or isolation of any fire protection systems the subject of or affected by the work under the Contract (including but not limited to sprinkler systems, fire detection systems, gaseous agent fire suppression systems etc.) that has continued or will be likely to continue for more than 12 consecutive hours. In respect of which, the Contractor must inform:
 - (i) what systems have been shutdown, impaired or isolated (e.g. alarm connections, alarm panels, fire pumps, hydrants, sprinklers, smoke detectors, thermal detectors, water

supply or other) and give a description of the location and nature of the affected system;

- (ii) a description of the shutdown, impairment or isolation;
 - (iii) the reason for the shutdown, impairment or isolation;
 - (iv) the date and time the shutdown, impairment or isolation started;
 - (v) the date and time the shutdown, impairment or isolation ended or is expected to end;
 - (vi) if any of the following precautions have been taken:
 - A. the fire brigade has been notified;
 - B. managers and/or supervisors in the area have been notified;
 - C. the shutdown, impaired or isolated area is monitored by heat/smoke detection systems;
 - D. additional fire extinguishers have been made available in the shutdown, impaired or isolated area;
 - E. the hydrant/hose reel system in the shutdown, impaired or isolated area is operational;
 - F. additional security patrols or a fire watch has been put in place;
 - G. hazardous operations such as hot work has been discontinued;
 - H. the fire protection systems are being reinstated at the end of each day; and
 - I. any other additional precautions the Contractor has taken in relation to the shutdown, impairment or isolation;
- and
- (d) a description of all the precautions taken by the Contractor above;
 - (e) not do or plan to do anything that may shutdown, impair or isolate any fire protection systems the subject of or affected by the WUC without first giving the Principal and facility manager of the affected building or property at least 48 hours' notice before the shutdown, impairment or isolation is expected to occur; and
 - (f) restore to proper safe working condition and as soon as possible any fire protection services the subject of WUC that has been shutdown, impaired or isolated.

22.14. SYSTEM SHUTDOWN, IMPAIRMENT OR ISOLATION

Where the Contractor is required to shutdown, impair or isolate any systems ("**System Shutdown**") that will impact on the Principal's buildings and/or property the Contractor must:

- (g) notify the Principal days/hours prior to any System Shutdown that the System Shutdown will be proceeding;
- (h) carry out the work in accordance with the agreed construction program;
- (i) be carried out expeditiously in order to minimize disruption to the Principal's business;
- (j) mitigate the risks created by any System Shutdown by taking any reasonable precautions in the circumstances to protect people and property; and
- (k) restore to the system to its proper safe working condition as soon as possible.

23. SCHEDULE OF WARRANTIES

Obtain and ensure that the Principal will have the benefit of all warranties for materials and/or equipment and items of WUC including, but not limited to the following:

- (a) Electrical equipment
- (b) Mechanical equipment
- (c) Resilient finishes

24. CERTIFICATE OF PRACTICAL COMPLETION

Further to clause 20.4 of the General Conditions, notwithstanding any provision of the Contract to the contrary, a Certificate of Practical Completion certifying that the Works have been fully completed may not be granted to the Contractor prior to the provision of the following items to the Principal:

- (a) satisfactory evidence of tests and inspections required under the Contract having been conducted and passed;
- (b) as constructed drawings which:
 - (i) if required by the Principal, in PDF format during the course of the Contract and, or other format if so specified by the Principal; and
 - (ii) record the position of all in-ground services, personnel access chambers and service pits (for electrical, mechanical and hydraulic services) including the distance from the nearest property boundaries and any adjacent buildings or structures on the Site in in dwg format which are prepared and certified by a surveyor licensed pursuant to the Licensed Surveyors Act 1909 (WA) and which:
 - A. are supported by photographic evidence of the completion and location of in-ground services, personnel access chambers and service pits; and
 - B. detail the depth of each in-ground service, personnel access chamber and service pit relative to finished ground level;
- (c) operating manuals required for the use, operation and maintenance of the Works or any part thereof;
- (d) warranties and guarantees required to be provided pursuant to clause 23 and as otherwise required by the detailed Specification;
- (e) evidence as to the payment of further Building and Construction Industry Training Fund Levy in accordance with clause 3.E – Building and Construction Industry Training Fund Levy - if required;
- (f) a certificate of construction compliance, if required;
- (g) providing new asset information in the completed New Asset Template spreadsheet provided with tender; and
- (h) anything which is within or ought to be within the power, possession, custody or control of the Contractor to provide to the Principal, which the Principal is prescribed by the *Building Act 2011* (WA) or regulations to provide to a permit authority to obtain either an occupancy permit or building approval certificate.

The Principal has an absolute discretion, which is to be exercised solely for the benefit of the Principal, to grant Practical Completion to the Contractor notwithstanding that the Contractor has not complied with the requirements of this clause. In the event that a Certificate of Practical Completion is issued in circumstances where the Contractor has not met the requirements of this clause, the Principal shall be under no obligation under the Contract to reduce security until the requirements of this clause are met, notwithstanding any provision of the contract to the contrary.

Where there is a delay in the provision of a certificate of construction compliance which is beyond the reasonable control of the Contractor, the Contractor shall be entitled to an extension of time in accordance with clause 20.3 Extension of time of the Minor works contract conditions.

25. CONCLUSIVE EVIDENCE

Any certificates, assessment or direction issued by the Principal shall be considered as prima facie and conclusive evidence of:

- (a) the amounts due and owing between the parties or any other matter contained in the certificate, assessment or direction as determined by the Principal; and
- (b) that those amounts or matters were properly determined and made by the Principal;

save for manifest errors of arithmetic only.

26. LIQUIDATED DAMAGES

The Contractor acknowledges and agrees that the amount specified as liquidated damages (if any) is the best genuine pre-estimate of the detriment that the Principal will incur if the Date for Practical Completion is not achieved, and the Contractor further agrees to exclude and waive any right, or the benefit of the application of any legal rule or principle, including in accordance with statute equity and common law, relating to the enforceability of this clause or the characterisation of it or any amount specified as liquidated damages, as a penalty.

26.A. Payment for Goods and Materials related to the Construction Work

Not Applicable

27. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)

(a) Definitions

For the purposes of this clause:

- (i) **Law** means all applicable present and future laws of the Commonwealth or the State or Territory in which the Works or any part of the Works is carried out including:
 - A. all acts, ordinances, regulations, by-laws, orders, awards and proclamations;
 - B. authorisation by any national, state, local, regional, territorial or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body;
 - C. principles of law or equity;
 - D. standards, codes, policies and guidelines;
 - E. the ASX listing rules; and
 - F. fees, rates, taxes, levies and charges payable in respect of those things referred to in paragraphs A, B, C and D of this definition, whether or not existing at the Date of Acceptance of Tender.
- (ii) **PPSA** means the *Personal Property Securities Act 2009* (Cth);
- (iii) **the State's Personal Property** means all personal property the subject of a security interest granted to the Principal under this Contract; and
- (iv) words and phrases used in this clause that have defined meanings in the PPSA Law have the same meaning as in the PPSA Law unless the context otherwise indicates.
- (b) If the Principal determines that this Contract (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA Law, the Contractor agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which the Principal asks and considers necessary for the purposes of:
 - (i) ensuring that the security interest is enforceable perfected and otherwise effective;
 - (ii) enabling the Principal to apply for any registration, complete any financing statement or

- give any notification, in connection with the security interest; or
- (iii) enabling the Principal to exercise rights in connection with the security interest.
- (c) The Principal need not give any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA to be given and cannot be excluded.
- (d) The Contractor must notify the Principal as soon as the Contractor becomes aware of any of the following:
- (i) if any personal property which does not form part of the State's Personal Property becomes an accession to the State's Personal Property and is subject to a security interest in favour of a third party, that has attached at the time it becomes an accession; and
 - (ii) if any of the State's Personal Property is located or situated outside Australia or, upon request by the Principal, of the present location or situation of any of the State's Personal Property.
- (e) The Contractor must not:
- (i) create any security interest or lien over any of the State's Personal Property whatsoever (other than security interests granted in favour of the Principal);
 - (ii) sell, lease or dispose of its interest in the State's Personal Property;
 - (iii) give possession of the State's Personal Property to another person except where the Principal expressly authorises it to do so;
 - (iv) permit any of the State's Personal Property to become an accession to or commingled with any asset that is not part of the Works; or
 - (v) change its name without first giving the Principal 21 days notice of the new name or relocate its principal place of business outside Australia or change its place of registration or incorporation.
- (f) Everything the Contractor is required to do under this clause is at the Contractor's expense.
- (g) Neither the Principal nor the Contractor will disclose information of the kind mentioned in section 275(1) of the PPSA in response to a request under section 275(1).
- (h) The Contractor will not authorise, and will ensure that no other party authorises, the disclosure of information of the kind mentioned in section 275(1) of the PPSA.

28. DEFECTS REPORTING

From the date of issue of a Certificate of Practical Completion until fourteen days after the expiration of the Defects Liability Period, the Contractor shall provide at the end of each month, or as directed by the Principal a defects status report detailing all defects, the planned dates for rectification work, and the completion dates of the rectified work.

The Contractor shall certify the rectified defects works have been inspected by the Contractor ready for the final inspection by the Principal and any Consultants appointed by the Principal.

29. DIRECT PAYMENT TO SUBCONTRACTORS

- (a) Without limiting the Principal's rights under clause 24 of the Minor works contract conditions, where the Contractor informs the Principal, or the Principal becomes aware, that the Contractor has failed to pay an amount that is due and payable to a Subcontractor, the Principal may make that payment directly to the Subcontractor. Any amounts paid to a Subcontractor under this subclause or otherwise becomes a debt due to the Principal by the Contractor.
- (b) Where the Principal makes payment directly to a Subcontractor, the Principal will be relieved of its obligation to pay the Contractor in respect of the work performed by the Subcontractor the subject of the payment made by the Principal, including any margin or profit in respect of

that work.

- (c) The parties acknowledge that the Principal is not obliged to exercise the Principal's discretion under this clause for the benefit of either the Contractor, or any Subcontractor or at all.

30. PAYMENT OF WORKERS WAGES AND ALLOWANCE

The Principal may require the Contractor to make and deliver to the Principal a statutory declaration that all workers and subcontractors who are or at any time have been engaged on the WUC have been paid in full all amounts which have become due and payable to them under any contract, agreement, statute, ordinance of subordinate legislation, or by any relevant determination, judgment or order of any competent court, board commission or other industrial tribunal. If the Contractor fails to discharge this requirement, the Principal is entitled to withhold any and all payments due and payable to the Contractor.

At the written request of the Contractor and out of moneys payable to the Contractor, the Principal may on behalf of the Contractor make payments directly to any worker or subcontractor.

31. RECORDS MANAGEMENT

The Contractor must:

- (a) properly provide for the care, safety and protection of all Records (whether created by the Contract Authority, the Customer, the Contractor or any other person) that are in the custody or control of the Contractor;
- (b) if the Contractor has custody or control of State records, comply with the Contract Authority's and the Customer's record keeping plan to the extent necessary under the *State Records Act 2000*.
- (c) "**Records**" means information that is created or received by an organisation in the course of its business is a record. Records may be in any format that can be read and understood, such as: paper files and documents, emails, spreadsheets, PDFs, databases, photographs, maps, tape recordings, text messages from mobiles, and social media posts.

32. SPECIAL WORKING REQUIREMENTS AND INFORMATION

32.1. SITE AVAILABILITY AND ACCESSIBILITY

- (a) **Definitions**

For the purposes of this clause:

Compensable cause means any act, default or omission of the Principal or its consultants, agents or other contractors (not being employed by the Contractor) excluding any delays caused as a result of a change to the schedule of events, where that change occurs after the Date the Contract is awarded.

- (b) The Site or parts thereof will be made available to the Contractor during the Contract period as and when is required, in accordance with the agreed construction program.
- (c) If there is a change to the events schedule after the Contract award the Principal will endeavour to give the Contractor five (5) working days' notice of the change to the schedule of events and meet with the Contractor as soon as is reasonably practical for both parties to discuss the impact of the change on the construction program.
- (d) If the Works must be delayed, at the Principal's absolute discretion, then the Contractor will be entitled to an EOT as per clause 20.2 of the General Conditions but it will not be considered a Compensable Cause.
- (e) The Contractor must make safe or make good any construction areas impacted by events to accommodate events so that patrons and staff have safe access to all areas (other than negotiated storage areas or the specific construction site) for the purpose of undertaking routine maintenance, venue preparation, participation in sports or any other activity associated

with scheduled events and normal operations of the venue.

32.2. INDICATIVE CONSTRUCTION PROGRAM

Estimated Award Date of Contract	End of June 2025
Mobilisation Period & Ordering of Materials	Contractor to advise
Commencement of Works	As agreed with the Principal
Practical Completion	End of August 2025
End of Defects Period/Final Completion	12 months after PC

- (a) The indicative construction program will be agreed between the Principal and preferred Contractor prior to the award of Contract and the construction program must be schedule in accordance with the events schedule in clause 32.3 below.
- (b) The Works must be sequenced so that at all times the agreed access requirements with the Principal from and through Gold Netball Centre shall be maintained.

32.3. EVENTS SCHEDULED DURING THE CONSTRUCTION WORKS

Before entering into the Contract or soon after the Contract award, the Principal and Contractor will agree to a construction program to satisfy the current schedule of events and normal operations of the venue.

33. DETAILS OF THE SITE/BUILDING OCCUPANCY DURING CONSTRUCTION WORKS

The Contractor shall note that Gold Netball Centre be in use throughout the period of the Works and must ensure a high level of care is taken at all times when moving plant and materials to and from the site location so as to avoid injury or inconvenience to patrons, users and staff.

34. SITE FACILITIES

No site facilities will be made available to the Contractor during the Contract.

The Contractor may use the public facilities available at the venue where the work is to be carried out.

The Principal will make the following facilities available to the Contractor during the Contract:

Facility	Available on site for use Yes/No	Comments
Site Office	No	
Toilets	Yes	
Power	Yes	
Water	Yes	
Workers mess	No	
Lay down area	Yes	As agreed with Principal
Workers parking	Yes	As agreed with Principal

35. RETENTION OF KEY PERSONNEL (SPECIFIED PERSONNEL / TEAM NOMINATED) AT TENDER STAGE

- (a) In this special condition, the term “Key Personnel” means the Contractor's personnel listed in the Contractor's accepted tender as nominated key personnel, and any personnel replacing

such key personnel in accordance with paragraph (c) below.

- (b) The Contractor acknowledges that the Principal has engaged the Contractor on the basis that the Key Personnel will be involved in the performance of the Contract. The Contractor must employ or engage the Key Personnel, as applicable, in the roles assigned to them for the period during which those roles are required to be performed under the Contract.
- (c) The Contractor must not remove or replace Key Personnel unless:
 - (i) the person is unable to perform the services required of their position because of serious injury or illness, death or because they have ceased to be employed or engaged by the Contractor;
 - (ii) the Contractor has obtained the prior written approval of the principal (which approval must not be unreasonably withheld); and
 - (iii) the Contractor has demonstrated to the Principal that the proposed replacement Key Personnel is of good repute, has availability for the proposed role and has at least the same level of skill, capability and experience as the person they are replacing.

36. AMENDMENTS TO THE GENERAL CONDITIONS

The following clause has been amended in AS4906-2002 Minor Works General Conditions of Contract (Principal Administered).

CLAUSE 25.2 CONTRACTOR'S DEFAULT

Addition of the below item to the clause:

- (d) the Contractor becomes a debarred supplier as defined in section 32 of the Procurement Act 2020.

37. GENDER EQUALITY IN PROCUREMENT

The *Workplace Gender Equality Act 2012* (Cth) requires non-public sector employers with 100 or more employees to submit a report annually to the Workplace Gender Equality Agency. Non-public sector employers can find further information about reporting requirements at [Preparing to report | WGEA](#).

The Contractor must comply with the reporting requirements of the *Workplace Gender Equality Act 2012* (Cth) if has 100 or more employees.

The Western Australian Government is committed to advancing gender equality in Western Australia as demonstrated by [Stronger Together: WA's Plan for Gender Equality](#). Further information on how to advance gender equality is available [here](#).