

### **33.00 Conditions of Tendering & Conditions of Contract for Lump Sum Contracts**

#### **33.01 Conditions of Tendering**

The Griffith University General Conditions of Tendering included in this Section apply only to tenders for 'Traditional' Lump Sum Fixed Price Contracts.

The Head Consultant shall incorporate these General Conditions into the Tender Documentation without amendment.

#### **33.02 Conditions of Contract**

The Conditions of Contract to be used for all 'Traditional' Lump Sum Fixed Price Contracts shall be the General Conditions of Contract (AS 2124 – 1992) together with the Griffith University Amending Conditions of Contract Modifying the General Conditions of Contract (AS 2124 – 1992) dated July 2000.

The Amending Conditions as included in this Section shall be incorporated into the Tender Documentation by the Head Consultant without amendment, unless advised in writing by CLF.

#### **33.03 Minor Works Contracts**

For projects with a Contract Sum less than \$200,000, the 'Griffith University Minor Works Contract' will be used. This document incorporates the *Invitation to Submit a Tender*, the *Form of Tender*, *Conditions of tender for Minor Works*, and the *Conditions of Contract for Minor Works*.

The Head Consultant shall incorporate this Minor Works Contract document into the Tender Documentation without amendment.

The Tender Documents shall also include the 'Griffith University Project Preliminaries for Minor Works Contracts' without amendment

## General Conditions of Tendering

**1.00** In these conditions, unless the context otherwise indicates and requires, the following terms shall have the meanings respectively assigned to them;

**'Principal'** – Griffith University, Queensland 4111, a Body Corporate and Statutory Body within the meaning of the Financial Administration and Audit Act;

**'Invitation'** – The notice given to prospective Contractors indicating that Tenders for proposals will be received for the execution of work, supply of goods, equipment or services;

**'Tender'** – A response by a prospective Contractor to an Invitation;

**'Conditions'** – The General Conditions of Tendering as outlined in this document.

**'Contract'** – The agreement between the Contractor and the Principal for the execution of work or the supply of goods or the rendering of a service constituted by the;

- Invitation
- General Conditions of Tendering
- Any Special Conditions of Tendering
- GU Amending Conditions of Contract Modifying the Australian Standard General Conditions of Contract (AS 2124-1992)
- Specifications, Plans or Drawings (where applicable)
- Griffith University Design Guidelines and Procedures (where applicable)
- Schedule of Quantities and Prices or Rates (where applicable)
- Tender
- Letter of Acceptance
- Any Orders placed

**'Goods'** – Includes materials, plant or equipment;

**'Contractor'** – A person, business, partnership or company who has entered into a Contract with the Principal to supply the goods or perform the services offered;

**'State'** – The Crown in right of the State of Queensland;

**'Officer'** – An officer or employee of the Principal, or any other person engaged by the Principal in relation to a Contract or any part thereof, or any of the employees of that person;

**'Tenderer'** – Shall apply equally to all and each of the persons, businesses, partnerships, or companies, or to any single individual making a Tender.

**2.00** These conditions shall apply to traditional contracts, subject to any special conditions detailed in the Invitation.

**3.00** Tenders shall close and shall thereupon be opened in accordance with these conditions at the place, on the day, date and time shown on the Tender documents.

**4.00** Every Tenderer shall state in the Tender;

- In the case of an individual, full Christian or given names, surname, and address;
- In the case of a business name, the names and addresses of all proprietors and the address of the principal place of business;
- In the case of a company, the full name of the company and the address of the registered office of the company
- The Australian Business Number (ABN) registration number
- Workers' Compensation Policy number
- Public Liability Policy number
- Builder's Licence number

**5.00** Unless otherwise stated in the Invitation every Tender shall be submitted in the format as supplied by the Principal;

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- Appendix A General Conditions of Tendering; and
- Appendix B Form of Tender to these Conditions

**6.00** Unless otherwise stated in the Invitation, Tenders shall:

- be sealed
- be endorsed on the front of the envelope with the Tender Name and Closing Date and Time
- not be accepted by facsimile or electronic means

**7.00** Unless otherwise stated in the Invitation, **Tenders shall be lodged in the Tender Box at the Office of Finance and Business Services, Sewell Building (N12), Griffith University, Nathan, 4111** before the time specified for the closing of Tenders. Any Tender not so lodged before the specified closing time shall not be considered unless there is satisfactory evidence that such Tender;

- was delivered to the office of the Principal before the specified closing time; or
- was despatched to the office of the Principal via a third party in sufficient time before the specified closing time to reach that office under normal circumstances but was still in the course of delivery at the specified closing time

**8.00** The Principal at its discretion may reject a Tender delivered after the closing time for the receipt of Tenders no matter what the reason for the late delivery and in this regard;

- franking machine stamps will not be accepted as proof of the date of posting of a Tender received after the specified closing time for the receipt of Tenders

**9.00** The type of contract shall be as stated in the Invitation.

**10.00** Prices offered shall

- be in Australian currency
- be exclusive of GST (GST will be added to invoices and on payment of Progress Claims)
- include the GST component as a separate amount

**11.00** Trade and Settlement discounts deductible from the prices offered shall be stated in the Tender.

Firms are encouraged to submit settlement discounts for early payment; however, the Principal reserves the right as to whether these discounts for less than twenty-eight (28) days will be taken into account when deciding on the successful Tender.

**12.00** Where the Tender is for the execution of any work, Tenderers shall be deemed to have visited the site of the work and satisfied themselves of local conditions and facilities.

**13.00** All goods are required for prompt or early delivery. Tenders must state a definite time required for delivery of the goods after receipt of orders, and the time so stated shall become the time of delivery under the contract unless such time is stipulated in the specification. **TIME SHALL BE OF THE ESSENCE OF THE CONTRACT.**

**14.00** Tenderers must furnish technical data including illustrated descriptive literature with full particulars of all goods offered and Brands, Marks, Trade Numbers of the goods at the time of Tender.

**15.00** All goods, unless otherwise specified, shall be in accordance with Australian Standard specifications where such exist. Where an Australian Standard does not exist, relevant I.S.O. Standards shall apply.

**16.00** In addition to a fully conforming Tender, Tenders are encouraged to be submitted for:

- all works, goods and services which conform with the description or specifications; and
  - alternative Tenders or part Tenders
  - alternative technical and innovative solutions
  - any complete package proposals
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and the Principal reserves the right to accept one Tender for the whole or separate Tenders for any portion of the works or goods required in the Tender documents and to accept any alternative goods offered.

**17.00** Unless otherwise stated in the Invitation, post-tender negotiations are a prospect.

**18.00** Tenders shall, if required by the Principal, submit samples of the goods offered. Such samples shall be clearly labelled with Tenderer's name and Tender name.

**19.00** Section 67K of the Queensland Building Services Authority Act 1991 (as amended) implies conditions into building contracts as to limits retention amounts and security as follows;

At any time before practical completion of building work is reached, the total value of the following is not be more than 5% of the contract price for the contract:

- all retention amounts for the contract that are being withheld;
- all securities for the contract given and still held.

This Contract is not subject to those conditions and security will be withheld and/or retention deducted in accordance with clauses 5 and 42 of the Standard Conditions of Contract (AS 2124 – 1992).

**20.00** Generally Tender deposits are not required

- if a Tender deposit or security deposit is required from a Contractor it shall be in the amount and form specified in the Invitation
- the Principal reserves the right at its sole discretion to levy charges to potential Tenderers for copies of Invitation documents

**21.00** All payments and royalties payable in respect of any letters patent, design, trade mark or name, copyright or other protected right, shall be included by the Tenderer in the Tender and shall be paid by the Tenderer to the person or persons, corporation or other body to whom they may be due or payable.

The Contractor shall indemnify and at all times keep the Principal indemnified against any action, claim or demand, costs or expenses arising from or incurred by reason of any infringement or alleged infringement of any letters patent, design, trade mark or name, copyright or other protected right in respect of any stores, goods, articles, services, equipment, machinery, plant, computer software, system or method of performing, using, fixing, working or arrangement used or fixed or supplied by the Contractor.

In the event of any claim being made or brought against the Principal in respect of any of the aforesaid matters, the Contractor shall be immediately notified thereof, and the Contractor shall, with the assistance of the Principal, but at the sole expense of the Contractor, conduct all negotiations for the settlement of the same or any litigations that arise there from and in the event of the Contractor's failure so to do the Principal shall have power to suspend payment of any money due to the Contractor in respect of the Contract until such claim has been satisfied or withdrawn.

Should the money due, or which may thereafter become due, to the Contractor or that may have been deposited by the Contractor as security in respect of the Contract, be not sufficient for the purpose of settling any such claim in respect of the Contract, and such claim has not been satisfied or withdrawn at the date when the Contract would otherwise have been completed, the balance outstanding in respect of the claim shall be a debt due by the Contractor to the Principal and may be recovered from the Contractor in any Court of competent jurisdiction.

**22.00** Any Tender which does not comply in every respect with the requirements of the Invitation may be rejected.

**23.00** The Principal shall not be bound by any oral advice given or information furnished in respect of the Invitation but shall be bound only by written advice or information furnished by the Principal.

**24.00** Unless stated in the Invitation documents, Tenders will not be opened publicly.

Where Tenders are opened publicly, Tenderers or their representatives may be present at the opening of Tenders.

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Information as to the names of Tenderers and their prices may thereupon be supplied to the extent and in the manner determined by the Principal.

- 25.00** The Principal shall reserve the right to accept a Tender with minor departures from the specified mandatory requirements where, after taking all factors into consideration, it is considered this Tender provides the best solution.

The Principal shall not be bound to accept the lowest nor any tender.

No Tender shall be deemed to be accepted until advice in writing of acceptance thereof has been given to the Tenderer by the Principal.

- 26.00** Tenderers shall have the option to Tender new or enhanced goods, equipment or services during the evaluation period.

- 27.00** Unsuccessful Tenderers are entitled to full counselling and debriefing by the Principal.

- 28.00** No advertisement relating to the acceptance of any Tender shall be published in any advertising medium without the prior approval of the Principal.

- 29.00** All goods supplied shall be in new and unused condition and of recent origin unless the invitation specifies otherwise.

- 30.00** Packaging and labelling of all goods supplied and in particular poisons, drugs, chemicals, flammables, gases, volatiles, corrosives, explosives and goods of a dangerous nature, must comply with the provision of the relevant Acts and Regulations.

- 31.00** Invoices and delivery dockets, properly completed, stating order number and particulars of goods supplied, must be furnished at time of delivery.

## General Conditions of Tendering Supplementary Information

The Project shall be known as:

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### ◆ Clause 6.00

The envelope enclosing the tender shall be marked:

**Tender for:**

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***Tenders by facsimile will not be accepted***

### ◆ Clause 7.00

The closing date and time for the receipt of the tender is:

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/ /20 (day, month, year) 12:00 noon

at the  
Office of Finance & Business Services  
Sewell Building (N12), Griffith University, Nathan Campus, Queensland 4111

### ◆ Clause 10.00

The Contract is a Lump Sum Fixed Price **not** subject to adjustment for Rise and Fall in costs.

### ◆ Clause 20.00

- (a) The amount of the tender deposit is \$ NIL
  - (b) The charge for a set invitation of documents is \$ NIL
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## General Conditions of Tendering Form of Tender

I / We, the undersigned, do hereby tender to provide all materials and labour and perform all works required in and about and in connection with the full and proper construction of –

\_\_\_\_\_

\_\_\_\_\_

strictly in accordance with the Tender Documents and subject to the General Conditions of Contract and the General Conditions of Tendering issued by the Principal at or for the bulk or lump sum of

- Excluding GST \$ \_\_\_\_\_
- GST Component \$ \_\_\_\_\_
- TOTAL \$ \_\_\_\_\_

Dated at \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Name of Company Tendering \_\_\_\_\_

Address \_\_\_\_\_

ABN Registration No \_\_\_\_\_

Builder's Licence No \_\_\_\_\_

Worker's Compensation Policy No. \_\_\_\_\_ Expiry Date \_\_\_\_\_

Public Liability Policy No. \_\_\_\_\_ Expiry Date \_\_\_\_\_

Should the foregoing tender be accepted, \*I/we the undersigned hereby agree that \*I/we will within fourteen (14) days after the date of notice in writing by the Director, Campus Life, Griffith University, to \*me/us of the acceptance of the acceptance of the tender, deposit with the said Director a security for the due performance of the Contract arising out of the said acceptance, in the amount and form prescribed by the General Conditions of Contract, and will within fourteen (14) days after the receipt of the Form of Agreement from the Director, enter into with The Principal an indenture for the due performance of the said contract in accordance with the Drawings, Specifications and General Conditions of Contract.

(\*Strike out whichever is not applicable to the tender submitted)

Signature \_\_\_\_\_

Name and Position in Company \_\_\_\_\_

Witness \_\_\_\_\_

Name of Witness \_\_\_\_\_

\_\_\_\_\_

# Minor Works Contract

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## INVITATION TO SUBMIT A TENDER

You are invited to submit a Tender for the execution and completion of the works described below in accordance with the Drawings and Specification (if any) supplied herewith, the Griffith University Conditions of Tender & Conditions of Contract for 'Minor Works' herein, and any other information issued by the Principal for the purposes of tendering.

- Tenders shall close at:

**The Tender Box  
Office of Finance & Business Services  
Level 0, Sewell Building (N12)  
Griffith University, Nathan Qld 4111**

- Closing date and time for the receipt of the tender is:

**Date: (day/month/year)  
Time: 12.00 noon**

- The sealed envelope enclosing the tender shall be marked:

**Tender for:**

- The Contract is a Lump Sum Fixed Price **not** subject to adjustment for rise and fall in costs.
- Tenders shall remain valid for 30 calendar days.
- The tenders will **not** be opened publicly.
- Date for Practical Completion: within ..... weeks from acceptance or by .... / .... / .....
- Liquidated Damages: \$..... per day (Clause C13)
- Defects Liability period: ..... months from Practical Completion(Clause C14)
- Times for making payment claims: Monthly
- Retention: 10% of the value of work completed until 5% of the Contract Sum is held
- Amount of Retention to be held by Principal during Defects Liability period: 50%.

**Geoff Smith**  
Deputy Director, Campus Life  
Planning, Design & Construction

Date: (day/month/year)

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# FORM OF TENDER

I/We the undersigned, do hereby tender to Griffith University to provide all materials and labour and perform all works required in and about and in connection with the full and proper construction of -

**Project No.:**

**Description of Works:**

**Campus:**

This tender is strictly in accordance with the Tender Documents, and subject to the Griffith University Conditions of Tender & Conditions of Contract for Minor Works issued by the Principal for the Fixed Lump Sum of -

- Tender Sum (excluding GST) \$.....
- GST applicable \$.....
- **Total Tender Sum** \$.....

I/We acknowledge receipt of the following Addenda to the Tender Documents and my/our tender includes allowance for their provisions:

Addendum Nos. .... (List all, if none received state NIL).

I/We elect to provide retention by way of **Cash\* / Unconditional Bank Guarantee\*** (\*delete whichever not applicable). If no deletion is made then the Contractor shall be deemed to have elected to provide Cash retention.

I/We tender .....% as the margin for off-site overheads, attendance and profit to be applied to variations under the Contract. If no figure given, then 10% will apply.

## **Details of Individual / Company / Business submitting Tender:**

**Name:** .....

**Address:** .....

**State:** ..... **Postcode:** ..... **Telephone:** ( ) ..... **Facsimile:** ( ).....

**ABN:** ..... **QBSA Licence No.** .....

**Workers Compensation Policy No.** ..... **Expiry date** .../.../.....

**Public Liability Policy No.** ..... **Issued by:** ..... **Expiry date** .../.../.....

**Signature:** ..... **Name of Signatory:** .....

**Capacity in which signing:** .....

**Witness to signature:** ..... **Name of Witness:** .....

**Date:** .../.../.....

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## CONDITIONS OF TENDER FOR MINOR WORKS

- 1.0 Unless otherwise stated in the Invitation, the Tender shall be submitted in the format as supplied by the Principal, signed, fully priced where required and accompanied by any other documents such as technical data, required to be submitted. A Tender that does not comply with any requirement of the tender documents may be rejected.
- 2.0 The tender documents shall comprise the Form of Tender, these Conditions of Tender and the Conditions of Contract for Minor Works, and such Specifications, Drawings and any other information issued by the Principal for the purposes of tendering and which may be inspected or obtained at the Office of Facilities Management.
- 3.0 Unless otherwise stated in the Invitation, Tenders shall be enclosed in a sealed envelope, endorsed with the name of the Tender Name and Closing Date and Time. Tenders submitted by facsimile or electronic means shall not be considered.
- 4.0 The Principal at its discretion may reject a Tender delivered after the Closing Time for the receipt of Tenders no matter what the reason for the late delivery, and in this regard, franking machine stamps will not be accepted as proof of the date of posting of a Tender received after the nominated closing time.
- 5.0 The Tenderer is required to satisfy itself as to the correctness and sufficiency of its Tender. A Tender shall be deemed to be on the basis that the Tenderer has a full knowledge of all matters relating to the contract and has undertaken an inspection of the site and any existing structures or features thereon. Tenderers may submit a fully detailed offer for alternative technical or innovative solutions, however a Tender fully conforming with the tender documents must also be submitted.
- 6.0 The Principal shall not be bound by any oral advice or information furnished in respect of the Tender but shall be bound only by written advice or information given or furnished to it.
- 7.0 The Principal shall not be bound to accept the lowest or any tender. The Principal may accept a Tender which on consideration of all the circumstances appears to offer the best 'Value for Money' as defined by the Queensland Government State Purchasing policy, or the Principal may decline to accept any Tender. Unless otherwise stated in the Invitation, post-tender negotiations are a prospect. A Tender shall not be deemed to be accepted until the date of notification in writing to the Tenderer of such acceptance. The Contract shall commence from the date of granting possession of the site as nominated in the notification of acceptance.
- 8.0 The name of the Tenderer, the tendered sum and subsequent Contractor and Contract details including the Contract Sum, shall be subject to public disclosure under Freedom of Information legislation. Where any information is provided on a confidential basis, the Tenderer should clearly endorse such information 'In Confidence', and the principal may take this into account when deciding if this information is to be disclosed.
- 9.0 Unsuccessful Tenderers are entitled to full counselling and debriefing by the Principal.

## CONDITIONS OF CONTRACT FOR MINOR WORKS

### C01. Interpretation

In these Conditions, unless the context otherwise indicates or requires, the following words and expressions shall have the meanings respectively assigned to them:

**'Contract'** - The agreement in writing between the Principal and the Contractor for the execution of the work under the Contract, including documents or parts of documents to which reference may properly be made to ascertain the rights and obligations of the parties.

**'Contractor'** – The person, business, partnership or company who has entered into a Contract with the Principal to supply the goods or perform the services offered.

**'Date for Practical Completion'** – The date, or last day of the period of time, nominated in the Invitation or the letter of acceptance.

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**'Practical Completion'** – When the work under the Contract is complete in accordance with the Contract except for latent or undiscovered defects and for minor omissions and defects which will not (and the rectification of which will not) prevent or impair the normal use and occupation of the Works.

**'Principal'** – Griffith University, Queensland 4111, a Body Corporate and Statutory Body within the meaning of the Financial Administration and Audit Act.

**'Superintendent'** – The Deputy Director (PD&C), Campus Life shall exercise the functions of the Superintendent under the Contract. The Superintendent shall have the power to nominate from time to time a Superintendent's Representative to exercise any of the powers, duties, discretions and authorities conferred on the Superintendent by the Contract.

**'Work under the Contract'** – The work which the Contractor is or may be required to execute under the Contract including any variations.

**'Works'** – The whole of the work to be executed and completed in accordance with the Contract, including all variations provided for by the Contract, which by the Contract is to be handed over to the Principal.

## **C02. Execution and Completion of Works**

The Contractor shall undertake the Work under the Contract in accordance with the Contract and any drawings, specifications and other documents issued by the Principal to the Contractor under the Contract. Unless otherwise provided for by the Contract, the Contractor shall be responsible for all things, including items not expressly mentioned in the Contract, necessary for the satisfactory completion and performance of the work under the Contract. The documents forming the Contract shall be taken as mutually explanatory and anything contained in one but not in another shall be equally binding as if contained in all.

The Contractor shall comply with the requirements of legislation and public or other authorities affecting the Works, and unless otherwise specified shall unless otherwise specified pay all fees, give all notices and obtain all necessary consents.

## **C03. Assignment and Sub-contracting**

The Contractor shall not assign or subcontract the Work under the Contract, or any part thereof or any payment thereunder without the prior written approval of the Superintendent. The Contractor shall not, without the prior written approval of the Superintendent, allow a subcontractor to subcontract the Work under the Contract. The Superintendent may, in its entire discretion and without giving reasons, reject any request for approval by the Contractor pursuant of this clause

## **C04. Workplace Health and Safety Act 1995**

For the purpose of this clause the words 'Principal Contractor', 'construction workplace', 'serious bodily injury', 'work caused illness', 'work injury' and 'dangerous event' have the meanings assigned to them by the *Workplace Health and Safety Act 1995* ('the Act').

If the Work under the Contract is construction work performed at a workplace, upon acceptance by the Principal of the Contractor's tender:-

- (a) the Principal will appoint the Contractor to be the Principal Contractor pursuant to section 13 of the Act, regardless of the value of the Work under the Contract.
- (b) the Contractor shall accept the appointment and fulfil all requirements to effect that appointment prior to commencing any construction work; and
- (c) the Contractor shall be responsible for the performance of the functions of the Principal Contractor within the meaning of the Act and Associated Regulation in force under the Act; and
- (d) the Contractor shall consult with the Principal in relation to how construction work can be undertaken in a way that prevents or minimises all risks to health and safety.

The Contractor indemnifies the Principal against liabilities arising out of the Contractor's obligations under the Act or Regulations.

The Contractor shall notify the Superintendent of every work caused illness, work injury, serious bodily injury and dangerous event which occur on site as soon as possible but not later than twelve (12) hours after such occurrence.

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Except as stated in the Contract documents, if any material which may contain asbestos or any other hazardous material or substance is discovered, the Contractor shall not disturb the material or substance and shall inform the Superintendent who shall direct the action to be taken.

#### **C05. Protection of Persons and Property**

The Contractor shall take all measures necessary to protect people and property, avoid unnecessary interference with the passage of people and vehicles, prevent nuisance, unreasonable noise and disturbance. If the Contractor damages any property on or adjacent to the site, the Contractor shall provide temporary protection for and shall repair and reinstate the damaged property at its cost.

#### **C06. Care of Works and reinstatement of damage**

The Contractor shall be responsible for the care of the whole of the Work under the Contract. If loss or damage occurs to the Work under the Contract, the Contractor shall at the Contractor's cost rectify such loss or damage except loss or damage caused by the negligent act or omission of the Principal, or employees or agents of the principal, or caused by defects in the design of the Work under the Contract.

#### **C07. Indemnity by Contractor**

The Contractor indemnifies the Principal against:-

- (a) loss of or damage to the Principal's property; and
- (b) claims by any person in respect of personal injury or death or loss of or damage to any property;

resulting from or in any way connected with the Contractor carrying out the Work under the Contract, but the Contractor's liability to indemnify the Principal shall be reduced proportionally to the extent that the act or omission of the Principal or employees or agents of the Principal may have contributed to the loss, damage, death or injury.

#### **C08. Insurance of the Works and Public Liability Insurance**

Before commencing work under the Contract, the Contractor shall take out insurance sufficient to indemnify the Principal against loss or damage to the Works or to property of the Principal including existing property in or on which the Work under the Contract is being carried out.

The Contractor shall have public liability insurance for an amount not less than \$10 million to cover the Contractor's liability for loss of or damage to property and death or injury to any person.

The Contractor shall maintain such insurances for the duration of the Contract and provide evidence of such insurances prior to commencing the Work.

#### **C09. Insurance of Employees (WorkCover)**

Before commencing work the Contractor shall insure against liability for death of or injury to persons employed by the Contractor. Where the Contractor is a self employed person, The Contractor shall maintain an equivalent insurance policy for itself. The Contractor shall maintain the insurance for the duration of the Contract and shall produce evidence of the insurance prior to commencing work. The Contractor shall ensure that every sub-contractor is similarly insured.

#### **C10. Materials and Workmanship**

All materials used in any Work under the Contract and the standards of workmanship shall be in conformity with the provisions of the Contract. In the absence of such provisions in the Contract the

material or standard of workmanship as the case may be shall be of a kind which is suitable for its purpose and is consistent with the nature and character of the Works. Unless otherwise specified in the Contract documents, all materials shall be new, and workmanship shall be in accordance with the relevant manufacturer's recommendations or, if none, the relevant Australian Standard where applicable. Apart from any tests specified, the Superintendent may at any time direct that any materials or work shall be examined and/or tested.

The Contractor shall comply with any direction of the Superintendent to remedy any work not in accordance with the Contract within the period of time stipulated in writing by the Superintendent. If

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the Contractor fails to comply with such a direction to carry out rectification work within the time stipulated, the Principal may have the rectification work the subject of the direction carried out by others at the Contractor's expense or may accept the work at a reduced value. The Principal may deduct the estimated cost of rectification work from payments until such time as the principal has incurred the cost of the rectification

#### **C11. Time for Commencement**

The Contractor shall commence work under the Contract within the time stated in the letter of acceptance and shall, unless otherwise permitted, give at least two (2) days' notice to the Superintendent prior to the commencement of work.

#### **C12. Time for Completion**

The Contractor shall execute the Works to Practical Completion by the Date for Practical Completion or within any extended time agreed by the Principal. The Contractor shall not be entitled to an extension of time for delays caused by it whether occurring before or after the time for completion nor for delays due to inclement weather or industrial conditions occurring after the Date for Practical Completion. The Superintendent may extend the time for completion for any reason.

#### **C13. Liquidated Damages**

If the Contractor fails to complete the Works by the Date for Practical Completion together with any extensions of time granted by the Superintendent, the Contractor shall be liable to the Principal for liquidated damages in the amount stated in the Invitation for every day after that date until Practical Completion has been achieved or the Contract terminated, whichever is sooner.

#### **C14. Defects Liability Period**

The Contractor shall promptly rectify all defects and omissions notified to the Contractor during the defects liability period stated in the Invitation. If the Contractor fails to do so the Principal may have the omission or defect remedied by other persons and the cost so incurred shall be a debt due to the Principal which may be deducted from payments.

#### **C15. Cleaning of Site**

The Contractor shall keep the site and the Works clean and tidy and regularly remove from the site rubbish and surplus material arising from the execution of the Works. On completion of the Works the Contractor shall clear away and remove from the site all constructional plant, surplus materials, rubbish and temporary works of every kind.

#### **C16. Variations**

The Superintendent may direct in writing a variation to any Work under the Contract and the Contractor shall promptly comply with that direction. The Contractor shall submit to the Superintendent a detailed price for the variation within 14 days of the direction. The variation shall be valued by mutual agreement between the Contractor and the Superintendent or failing agreement, by the Superintendent, and the Contract price adjusted accordingly. The margin for off-site overheads, attendance and profit shall be that nominated by the Contractor in its Tender. No payment for additional work shall be made unless the additional work is authorised in writing by the Superintendent.

#### **C17. Latent Conditions**

If the Contractor discovers physical conditions on the site or its surroundings, excluding weather conditions, which differ materially from those which should reasonably have been anticipated at the time of tender if it had:

- a) examined all information made available in writing by the principal to the Contractor for the purpose of tendering; and
- b) examined all information relevant to the risks, contingencies and other circumstances having an effect on the tender and obtainable by the making of reasonable enquiries; and
- c) inspected the site and its surroundings,

the Contractor shall immediately notify the Superintendent in writing and may request that a variation be directed pursuant to Clause C16.

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The Superintendent may issue a direction in respect of the latent condition, and the Contractor shall be entitled to claim an extension of time for delays, and may be entitled to reimbursement of costs incurred as a consequence of the latent condition and directions issued in respect thereof.

#### **C18. Payment**

At the times stated in the Invitation, the Contractor shall give the Superintendent a detailed payment claim supported by information the Superintendent may reasonably require. Subject to the provisions of Clause C19, payment will be made as follows:

- a) where this contract is a 'building contract' as that term is defined in the *Queensland Building Services Authority Act 1991*, payment will be made within 15 business days of receipt of a valid claim; and
- b) in all other cases, payment will be made within 22 business days of receipt of a valid claim.

Payment shall take into account the deduction of retention moneys (if any) and any other amount which the Principal may be entitled to deduct or which is due and payable by the Contractor to the Principal whether under the Contract, any other contract or independent of contract. If the moneys to be deducted are insufficient to discharge the liability of the Contractor, the Principal may have recourse to retention moneys or unconditional undertakings provided in lieu of retention.

Payment of moneys to the Contractor shall not be evidence of the value of work or an admission of liability or evidence that work has been executed satisfactorily but shall be a payment on account only. The Superintendent may, in a later payment certificate correct an error in a previous payment certificate. Nothing in this Contract shall oblige the Principal to pay for work that is not in accordance with the Contract, or for plant or materials not incorporated in the works on site.

For the purposes of the *Building and Construction Industry Payments Act 2004*, the Superintendent is authorised to receive payment claims and issue payment schedules on behalf of the principal.

#### **C19. Default of Contractor**

- a) Subject to Clause C19(c), if the Contractor fails to commence the work under the Contract within the time stated in the tender, or fails to proceed with the work at a reasonable rate of progress or commits any substantial breach of the Contract or indicates that it is unable or unwilling to complete the Works, the Principal may, by written notice, require the Contractor to show cause by the date specified in the notice, which shall not be less than five (5) days, why the Principal should not exercise a right under Clause C19(b).
- b) If the Contractor fails to show reasonable cause by the date specified by the Principal, then the principal shall have the power upon notice in writing to the Contractor to terminate the Contract or suspend payment and take the work remaining to be completed wholly or partly out of hands of the Contractor without prejudice to any rights of the Principal under the Contract or at common law.
- c) If the Contractor:
  - (i) fails to hold a current licence required to perform the Work under the Contract; or
  - (ii) becomes insolvent or bankrupt, or being a company goes into liquidation, or takes or has instituted against it any action or proceedings which has as an object or may result in bankruptcy or liquidation; or
  - (iii) enters into a debt agreement, a deed of assignment or a deed of arrangement with its creditors, or an administrator or controller is appointed; or
  - (iv) has a receiver or a receiver and manager appointed or a mortgagee goes into possession of any of its assets,

the Principal may, without giving notice to show cause, exercise a right under Clause C19(b)

- d) In the event that the Principal takes work out of the hands of the Contractor, the Principal may itself or by means of other persons complete the whole or any part of that work and may without payment of compensation take possession of the constructional plant and other things on or in the vicinity of the site as are owned by the Contractor. If the cost incurred by the Principal in completing the work is greater than the amount which would have been paid to the Contractor if the Contractor had completed the work, the difference shall be a debt due from the Contractor to the Principal, otherwise any difference shall be a debt due from the Principal to the Contractor.

#### **C20. Settlement of Disputes**

Within 14 days of a dispute arising either party may refer it to the Superintendent. Within 28 days of receiving notice of the dispute the Superintendent shall give its written decision to each party. If the

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Superintendent fails to give a written decision on the dispute, or if either party is dissatisfied with the decision of the Superintendent the parties shall, within 14 days of the date of receipt of the decision, or the date upon which the decision should have been given, confer at least once to attempt to resolve the dispute.

**C21. GST and PAYG**

- (a) *GST included in Price* – payments for any taxable supplies under the Contract include GST.
  - (b) *Tax Invoices* – The Contractor must issue the Principal with a tax invoice or adjustment note (as the case may require) within five (5) business days after each of the following occurring in relation to that taxable supply:
    - (i) the Contractor submitting a claim for payment that is not in the form of a valid tax invoice;
    - (ii) the Superintendent certifying an amount for payment different to the amount claimed;
    - (iii) the amount for payment being otherwise determined to be different to the amount claimed or (if applicable) certified.
  - (c) *PAYG Withholding* – Whenever the principal reasonably considers itself bound by law to do so, the principal shall be entitled to withhold from any payment otherwise due to the Contractor, amounts calculated and to be withheld in accordance with the law.
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# Project Preliminaries for Minor Works Contracts

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## .01 General

These Preliminaries shall apply to any contracts involving the construction of new buildings, refurbishment of existing buildings, installation or upgrade of building services, site works including roadways and carparks, and site services.

## .02 Terminology

The following terms and their associated meaning are used in this document:

**Principal** – Griffith University (GU)

**Construction Authority** – Campus Life (CLF)

**Superintendent** – The Deputy Director (PD&C), CLF or his nominated Representative

**Contractor** – The individual, firm, business or company whose tender for the works has been accepted by the University.

## .03 Conditions of Contract

The 'Griffith University Conditions of Contract for Minor Works' dated August 2007.

## .04 Conditions of Tendering

The 'Griffith University Conditions of Tender for Minor Works' dated August 2007.

## .05 The Site

The works are located within the zone indicated on the Site Plan provide by CLF. Any additional site area for the use of the Contractor during construction must be approved by the Superintendent after appropriate consultation.

The Contractor must exert proper control on all persons engaged on the works, and restrict all construction activities within the designated site boundaries unless otherwise approved by the Superintendent.

The site boundaries must be clearly delineated and fenced before any site clearing commences. All construction activities shall be within the fenced area, and no rubbish, spoil, sand, gravel, equipment etc. shall be placed or stored outside the fence in bushland, on roads or pathways.

All roads and paths outside the fenced area shall be maintained clear and clean and in good condition at all times. Any damage shall be reinstated by the Contractor at no cost to GU.

Any turf, rock walls, gardens and planting surrounding the site damaged during construction are to be restored upon completion, unless otherwise agreed with the Superintendent.

Side tracks and paths through any adjacent bushland to access the site are strictly prohibited.

Contractors must visit the site during the tender phase of the project to ensure they are familiar with all existing site conditions, particularly with respect to the location and nature of existing services which enter or cross the site.

The Contractor shall ensure that all necessary precautions are taken to protect the site in accordance with the various requirements outlined later in this document. All employees of the Contractor and all Subcontractors, must be advised of all the University's requirements which impact on carrying out the Works as part of the Site Safety Induction.

## .06 Stamp Duty

The Contractor shall be responsible for the payment of any stamp duty levied on the Contract(s).

## .07 Import Duty

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The Contractor is responsible to pay all customs and other charges, duties or taxes which may be payable on any imported materials, plant or equipment required to execute the Contract Works.

#### **.08 Retention**

The University will accept Bank Guarantees for Retention as required under the Contract. The only acceptable format of the Bank Guarantee is reproduced at the end of this document.

#### **.09 Q Leave Levy**

The Principal will pay the Portable Long Service Leave levy and the Workplace Health & Safety fee on all projects where applicable.

#### **.10 Working Hours**

Working hours on site shall be by agreement between the Contractor and CLF.

Except for emergency works, work outside those agreed hours may only be carried out subject to the prior approval of the Superintendent.

#### **.11 Noise Control**

The Contractor shall manage the noise from construction activities in accordance with the requirements of AS 2436, the Environmental Protection Act and Local Authority regulations. Where necessary, provide effective means of noise suppression to plant and equipment.

Where excessive noise from activities such as saw cutting and jackhammer work will occur, this should be carried out either before or after normal University working hours as agreed with the Superintendent.

The Contractor shall provide reasonable notice to the Superintendent when he intends to undertake such activities, to allow warning to be given to occupants in adjacent buildings who will be affected by the noise, or for suitable alternative arrangements to be made.

Radios are not permitted on GU construction sites at any time.

#### **.12 Existing Site Data**

Drawings indicating the locations of existing buildings, site services where known, and other permanent features will be supplied to Contractors by GU on request. The University accepts no responsibility for the accuracy or otherwise of the information shown on these drawings.

Position, depth and size or capacity of existing services, floor levels of adjacent buildings etc, must be confirmed on site by the Contractor, including reference to supply authorities where appropriate before commencement of any excavation work. Where such investigation determines that an error exists in the drawings provided by GU, the correct information shall be provided in writing to the Superintendent.

The Contractor must take all necessary precautions to protect existing buildings, services, landscaping and other features where necessary.

#### **.13 Temporary Services**

The Contractor must consult with, and obtain the approval of the Superintendent for all temporary connections to existing campus services. The Contractor shall arrange for and provide adequate temporary services to the Works to suit its own and all Subcontractors' requirements, including all necessary connections and distribution systems, and remove all temporary work and make good on completion as follows:

**Water supply** - The temporary water service shall include hose points and hoses on all floor levels.

**Electricity supply** – Where the project is located within an existing campus, GU will supply all electricity for normal construction work, testing and commissioning, free of charge to the Contractor. The Contractor must take all necessary action to eliminate waste of energy.

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**Telecom service** – The Contractor shall pay all costs for the installation, rental, calls and disconnection of any telephone and fax services that it requires.

**Fire fighting equipment** – The requirements of the BCA shall be complied with for the duration of the Works.

#### **.14 Disruption to Services**

Where there is a requirement to disconnect, divert or replace any existing service which will result in the disruption of service supply to any occupied spaces adjacent to but not included in the Contractor's site, the Contractor shall give adequate notification to the Superintendent of its need to disrupt the service to enable it to undertake Contract works.

The date, time and duration of a proposed disruption to service must be advised to, and approved by, the Superintendent not less than 48 hours prior to the proposed shutdown of the service. Failure to comply with this requirement may result in the application of penalties for any loss or damage incurred by affected parties resulting from the loss of a service without prior notification.

#### **.15 Fences, Hoardings etc.**

**Site Fence** – Before commencement of any construction activity, the Contractor shall erect a temporary fence to the perimeter of the site as agreed with the Superintendent and Campus Facilities Manager to comply with the requirements of the Workplace Health & Safety Act & Regulations, but not less than 1800 mm high. The fence must be maintained in good condition at all times and gates shall not be cut in the wire for pedestrian access other than in designated areas. Gates must be locked when there is no construction activity on site. The fence construction and location must be suitable to prevent any exposure to construction site risks to all pedestrian and vehicular traffic passing the site.

**Hoardings** – The Contractor shall erect temporary hoardings, barricades etc as required by the relevant Australian Standard or regulations to ensure the safety of all persons and vehicles either on or adjacent to the site.

**Signs** – The Contractor shall provide all safety signage on the fence or hoardings as required by the WH&S Regulations. Signage necessary to direct deliveries to the site shall not be erected on, or obstruct the view of any GU campus signage. Contractors' or Consultants' corporate signage may be affixed to the site fence or hoardings, but such signage shall be kept to a minimum.

#### **.16 Site Sheds & Amenities**

The Contractor shall provide site offices, storage and amenities in accordance with the current Construction Workplace Amenities Advisory Standard as issued under the WH&S Act & Regulations. These temporary buildings must be in sound condition, weatherproof, erected on sound foundations and connected to temporary site services by licensed tradespersons.

The Contractor must maintain the sheds and amenities in a clean and tidy condition.

On completion of the works, all temporary buildings and structures must be removed, and the site restored to its original condition where such buildings are outside the site boundaries or not impacted on by the project landscaping.

#### **.17 Site Security**

The Contractor is responsible for safeguarding the Works and adjacent areas both during and after site working hours. The Contractor shall be responsible for employing any watchmen or security patrols, providing adequate lighting or other security measures as necessary.

The Contractor shall not rely in any way on the GU campus security service to provide any security for the site.

No extensions of time or extra costs will be allowed with respect to any damage, loss of materials or disruption to the works due to breaches of site security.

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Griffith University employs a master key system for all door locks. The Contractor shall be responsible for any keys issued to it for access, and shall be liable for the replacement of keys lost or not returned to the Principal. The Contractor shall also be liable for the replacement of all lock barrels affected by the loss or non-return of keys.

## **.18 Workplace Health & Safety**

The Contractor is appointed the Principal Contractor within the meaning of the Workplace Health and Safety (WH&S) legislation. The Contractor must fulfil the obligations of the Principal Contractor as set out in the legislation.

The Contractor shall be responsible to pay all penalties, costs and expenses which may be incurred by the Contractor as the Principal Contractor in respect of offences committed or alleged to be committed under the provisions of the WH&S legislation.

The Contractor must appoint a Workplace Health and Safety Officer in accordance with the WH&S legislation, and shall provide details of the appointed officer to the Superintendent prior to work commencing on the site.

The Contractor must ensure that a record is maintained of all incidents that occur in connection with the Contractor's Project, and must ensure that the record is available to the Superintendent if requested.

The Contractor must ensure that all notifiable incidents that occur on the work site are reported to the Superintendent as soon as possible after the incident and at the time of notifying the Department of WH&S. The Contractor must conduct a detailed investigation of any notifiable incident that occurs, and must also conduct an investigation into any other incident if requested by the Superintendent. The Contractor must provide the Superintendent a copy of the Incident Investigation Report within two (2) weeks of the incident date, including actions taken by the Contractor to prevent similar incidents occurring in the future.

The Contractor must ensure that a WH&S Construction Plan is developed for the project, which identifies, assesses, and controls all likely construction hazards and risks for the work site at all stages of the project as per the WH&S legislation. The Plan must be submitted to the Superintendent for review and comment by the CLF WH&S Coordinator, and any reasonable requirements raised by the Coordinator shall be incorporated into the Plan.

The Contractor must ensure that the WH&S Plan for the project, including each Sub-Contractors WH&S Plan, is updated as the project proceeds and as additional hazards or health and safety risks are identified. The updated Plan will be audited periodically by the CLF WH&S Coordinator.

For all plant installed as part of the works that is registrable under the WH&S legislation, the Contractor must ensure that a Plant Registration form is completed and lodged with the

Superintendent prior to the date of Practical Completion. The Principal will be responsible for undertaking the plant registration with the Division of Workplace Health and Safety and for paying all associated fees.

The Superintendent will provide the Contractor with any GU specific WH&S information, policies and procedures including the requirement for campus work permits when work is being performed outside the site fence. The Contractor must ensure that all persons working on the site are aware of this information. The Contractor shall include the said information in the Contractors Site Specific Safety Induction for all persons working on the construction site.

## **.19 Temporary Roads, Crossings, Loading Zones etc.**

The Contractor is responsible for the construction of any temporary roads, footpaths or kerb crossings that it may require to access the site, and shall remove same and reinstate to original condition on completion of the works.

If a loading zone is required on a public road to service the project, the Contractor is responsible for obtaining all permits from the relevant authority and paying all associated fees.

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## **.20 Parking**

There is no free parking on GU campuses, and all parking is strictly regulated. Parking shall only occur in designated parking zones in accordance with the signage, and enforceable penalties apply to any infringement of the zone signage requirements. Parking in bushland, on lawns or on footpaths is prohibited unless special approval has been obtained from the Campus Facilities Manager for each and every occasion. Parking on the site within the perimeter fence line shall be free of charge, however parking outside the site boundaries shall be at the Contractor's expense. Day and monthly parking permits can be purchased subject to availability at the going rates, which may vary depending on the time of year.

## **.21 Samples**

The Contractor must submit to the Superintendent, for approval, samples of all items, fittings, materials, workmanship, colour or finish described in the Specifications as 'approved'. Such samples must be submitted at least 14 days prior to the date when orders are to be placed or confirmed.

## **.22 Disposal of Spoil & Vegetation**

The Contractor must remove excess spoil from the campus unless noted otherwise in the Contract documents, or as directed by the Superintendent. No spoil from excavations shall be placed in bushland or on mulched gardens or lawns. Topsoil should be separated from subsoil, and stockpiled for future reuse if approved by the Superintendent.

Any trees removed shall be chipped, and the chips delivered to a location on the campus nominated by the Superintendent. Tree stumps and root boles within the site are to be completely removed and disposed of off campus. Burning of trees and stumps is not permitted.

Any rocks in excess of 300 mm diameter must be separated from the spoil and stockpiled in a location nominated by the Superintendent.

## **.23 Erosion & Sediment Control**

Earthworks carried out as part of the building contract shall be designed and carried out in a manner which prevents erosion by run-off during and after completion of construction. In particular, run-off must not be allowed to carry silt into adjoining bushland, creeks or stormwater systems.

All necessary action shall be taken to prevent any discharge of water containing polluting matter or visible suspended materials into gullies and watercourses. Discharge of grey water from ablutions and amenities into bushland is strictly prohibited.

The Contractor shall create earth berms, install geofabric screens, and any other measure to prevent run off from the site affecting creeks, bushland, roads, paths and stormwater systems. Such barriers must be monitored, repaired and cleaned until the landscaping or restoration of the bushland is completed.

The Contractor shall prepare an Environmental Site Management Plan outlining all proposed erosion and sediment control measures to be adopted, based on the 'Soil Erosion & Sediment Control Guidelines for Queensland Construction Sites'. A copy of this Plan shall be provided to the Superintendent for review and comment before site clearing commences.

During the course of the works, the CLF WH&S Coordinator will periodically inspect the site to ensure compliance with the Environmental Site Management Plan.

## **.24 Waste Management & Control of Hazardous Substances**

To reduce the amount of construction waste going to landfill and to conserve resources through avoidance, reuse and recycling, a Waste Minimisation Plan is to be submitted to the Superintendent detailing recycling and/or salvage actions that will achieve a diversion rate (by weight) of 50% or greater from landfill.

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GU has developed a Waste Minimisation Plan template and this must be completed prior to the Contractor commencing work on the site.

The Contractor must not dispose of any material in a manner contrary to the provisions of the Waste Minimisation Plan, or an amended version of the plan, lodged in accordance with the provisions of this Clause without first obtaining prior written approval from the Superintendent.

Storage of hazardous substances or Dangerous Goods on site should be minimised. Where required, storage of such materials shall comply with Qld WH&S or Dangerous Goods/Emergency Services legislation.

Hazardous or volatile materials must not be stored under or around trees to avoid accidental contamination of ground through leaks and spills or escalation of fire events in the event of ignition of the materials.

Waste oil, paint, solvents, soaps, detergents etc. shall not be dumped on site or emptied down stormwater systems as per EPA legislation.

The cleaning of wheelbarrows, cement mixers, buckets, containers or brushes is to be controlled so that no contaminant enters the stormwater or sewerage system or the natural environment.

## **.25 Environmental Site Management Generally**

GU is keen to ensure that the development of its campuses has been carried out to a predetermined plan, taking note of environmental issues and ensuring that construction activities do not impinge unnecessarily on the natural environment.

GU places considerable emphasis on the preservation of the natural features and the natural flora on each campus. All Contractors and their Subcontractors and employees are required to observe the GU strict requirements set out in the Clauses of this Section to ensure that the forest is protected from damage, creeks are not polluted, wildlife is not disturbed and soil erosion is prevented.

***Under no circumstances must a fire be lit on campus.***

## **.26 Protection of Fauna & Flora**

The following apply on all campuses:

- Particular attention is to be paid to protection of flora and fauna on the campus. The extent of the site shall be surveyed, pegged and clearly delineated before any site clearing takes place. Fences shall be erected before clearing.
- Under no circumstances are any trees, plants, shrubs etc. outside the fenced area to be disturbed, chopped down or removed. Any trees within the fenced area which have been designated for retention are to be protected.
- A penalty of \$500 per tree shall apply to any Contractor or subcontractor for damage done to any tree specifically designated for retention or in any case where the tree has a girth of 300 mm or more at a height of 750 mm above the ground, whether the tree is inside or outside the fenced area. A similar penalty applies to any Xanthorrhoea irrespective of size.
- Any animals including possums, snakes, goannas, birds and bees found in the area shall not be injured. If necessary, the University will assist with the relocation of these animals outside the fenced area.
- Domestic animals are not permitted on campus at any time, except guide dogs accompanied by their owners.
- The protection of flora by ensuring the ongoing eradication of weeds during site works.

## **.27 Red Imported Fire Ants (RIFA) *Solenopsis invicta***

Contractors and subcontractors are to ensure that if landscape and building materials and machinery used on any GU site are sourced from the current RIFA Treatment Zone, then appropriate precautions as set out in the legislation, are adhered to.

All Contractors and subcontractors are to be aware of their legislative requirements in relation to the risk management protocols and RIFA eradication and are to ensure that high risk items are stored and managed to prevent infestation by RIFA.

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The high risk items that may impact on GU may include:

- Soil and mulch,
- Equipment used for moving soil, products and associated materials,
- Potting Mix, pots and plants,
- Baled hay or straw,
- Landscaping and construction materials, and
- Any materials that have come into contact with RIFA infested ground.

All high risk items purchased from businesses within the treatment zone or which are sourced, or originate from within the treatment zone, are to be assured, certified or guaranteed in writing to be visually free of RIFA by that supplier.

All vehicles, machinery, plant and equipment that have been used to transport any high risk items are to be thoroughly cleaned before entering GU property. This may be done by wash down, brush down, high pressure pneumatic cleaning or physical removal of materials that may harbour RIFA.

Contractors and subcontractors are to notify the Department of Primary Industries (13 25 23) within 24 hours if suspect RIFA or ant nests are found as per legislation.

## **.28 Project Completion**

Prior to Practical Completion the Contractor must examine and clear all drains, pipes and gutters and submit testing and commissioning reports for all engineering services (including CCMS hardware and software where required under the Contract) to the relevant design Consultant for review and approval of the Superintendent.

All spaces must be progressively cleaned and locked off. If the Contractor allows access to or any further work to be carried out in a cleaned space, either externally or internally, the space must be thoroughly re-cleaned prior to handover.

The Contractor shall provide all necessary information to the Project Consultants after Practical Completion is granted for the Works for the preparation of 'As Constructed' drawings. The Contractor shall also provide all operating and maintenance manuals in both hard copy and electronic format for equipment installed under the Contract.

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# GRIFFITH UNIVERSITY

AMENDING CONDITIONS OF CONTRACT  
MODIFYING THE AUSTRALIAN STANDARD  
GENERAL CONDITIONS OF CONTRACT  
AS 2124 - 1992

*for use on Griffith University projects.*

**November 2007**

**CONDITIONS OF CONTRACT**

**CLAUSE 1 GENERAL**

The Conditions of Contract are the Australian Standard General Conditions of Contract AS 2124 - 1992 as amended herein.

**CLAUSE 2 INTERPRETATION**

INSERT the following:

"Adjudicator" means person who shall act as the Adjudicator pursuant to Clause 47;

"Claim" includes any claim, demand, action, proceeding or suit which the Contractor may make or bring against the Principal or its employees relating to the interpretation of the Contract or as to any fact, matter or thing arising out of or in connection with the Contract or at law;

"Installation" means every item of apparatus, machinery or service (whether gaseous, liquid or electrical) or any such service attached to such apparatus or machinery, supplied to, forming part of or comprising the Works together with all necessary and appropriate requisites for the proper functioning, as stipulated in the Specification, of any such apparatus, machinery or service.

In addition to the requirements for the stage of Practical Completion under the General Conditions of Contract, the stage of Practical Completion shall not have been reached until:-

- (i) all relevant Statutory Requirements have been complied with and the relevant Statutory Authority Certificates have been obtained by the Contractor and copies delivered to the Principal; and
- (ii) warranties, guarantees, certificates, operating and maintenance manuals, as built drawings and other documents or information required to be provided by the Contractor to the Principal under the Contract have been provided; and
- (iii) the keys and other security devices have been delivered to the Superintendent; and
- (iv) the whole of the engineering services installation satisfies the various operational modes and performance requisites (i.e. to ensure that all service systems are capable of operating effectively individually and in unison) including but not limited to the following:-
  - Performance achievement shall be demonstrated after all routine testing, adjusting, commissioning, approvals and building work associated with the contract is completed.
  - Emergency/fire modes shall be simulated in the presence of the Superintendent
  - As a minimum requirement, the following operational modes shall be demonstrated and in particular the effective transition from one mode to the other:
    - (a) The normal automatic mode (i.e. the condition the building will normally operate in when occupied).
    - (b) Ordinary essential mode (i.e. when a loss of supply authority power occurs).
    - (c) Fire essential mode (i.e. the occurrence of a fire alarm during the ordinary essential mode which shall be demonstrated by inserting smoke into the air conditioning air handling system at an appropriate point).



- (d) Five alarm mode (i.e. the occurrence of a fire alarm during the normal automatic mode which is to be demonstrated as for (c) above).
- (e) The various after hours call up operational mode (i.e. single floor after hours air conditioning and the like).
- (f) The manual call up modes (i.e. the start up on each engineering services installation as a whole on a manual basis).
- (g) The manual call up of major equipment items e.g.:
  - each air handling point
  - each chiller set
  - each standby generator set
- (h) The operation of the Building Management System in all of the modes listed above and the interfacing with all other systems nominated in the documents. This shall include all required formats for screen and printouts.
  - The above operational modes shall be demonstrated in the order nominated.
  - Notwithstanding the normal warranty/performance guarantees the whole of the engineering services systems shall operate in unison and in a normal automatic mode for seven consecutive days to demonstrate that satisfactory operation can be maintained before the installation can be considered to have attained practical completion. (Note: This shall be performed after the above operational modes have been satisfactorily demonstrated.)
  - Failure to satisfy the above shall not be deemed to be a defect to be rectified after Practical Completion.
  - The Principal will not be liable for any fuel, energy or other costs incurred to demonstrate performance achievement of engineering services.

"Working day" means a calendar day excluding Saturdays, Sundays, Statutory or Public Holidays and other non working days as provided under the relevant industrial award.

"Adjusted Contract Sum" means the Contract Sum adjusted to include all agreed Variations pursuant to Clause 40

### **CLAUSE 3     NATURE OF CONTRACT**

*ADD* new subclause 3.4 as follows:

#### **3.4     Goods and Services Tax (GST)**

The Principal shall pay GST on all goods and services provided by the Contractor. All invoices/progress claims shall be in the form of a Tax Invoice and shall include the GST component shown as a separate item.

### **CLAUSE 4     BILL OF QUANTITIES**

No amendments in respect of Clause 4.

**CLAUSE 5     SECURITY RETENTION MONEYS AND PERFORMANCE UNDERTAKINGS**

**Clause 5.2     Provision of Security**

*ADD* the following:

The Contractor shall provide security to the Principal in the amount determined in accordance with the following scale.

<u>Contract Sum</u>	<u>Amount of Security</u>
Above \$100,000	2% of the Accepted Tender

**Clause 5.3     Form of Security**

*ADD* the following:

Only a bank trading in Australia that has lender of last resort facilities is approved by the Principal for the purpose of providing an unconditional undertaking for security and retention.

The form of unconditional undertaking included (if any) in the Contract is approved.

**Clause 5.4**

**Clause 5.5**

**Clause 5.6**

**Clause 5.7**

**Clause 5.8**

**Clause 5.9**

No amendments.

**Clause 5.10    Deed of Guarantee, Undertaking and Substitution**

*ADD* the following:

Where the Contractor is a corporation referred to in Clause 5.10 of the General Conditions of Contract the Principal will require a Deed of Guarantee, Undertaking and Substitution in the format required by the Principal.

**CLAUSE 6     EVIDENCE OF CONTRACT**

*DELETE* from the first paragraph of Clause 6.2 the following words and punctuation:

", within 28 days after the date of acceptance of tender."

*ADD* new last paragraph to Clause 6.2:

The Formal Instrument of Agreement when required shall be in the form included in the Contract (if any).

ADD new subclause 6.3 as follows:

6.3 Collusive Arrangements

The Contractor warrants and represents to the Principal and agrees with the Principal that it is a condition precedent to the agreement between itself and the Principal that:

- (a) it had no knowledge of the tender price of any other tenderer for the work under the Contract at time of its submission of tender;
- (b) except as disclosed in its tender, it has not entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to a trade or industry association (above the published standard fee) or to or on behalf of any other tenderer in relation to this tender or any contract to be entered into consequent thereon, nor paid or allowed any money on that account, nor will it pay or allow any money on that account;
- (c) except by prior agreement with the Principal it has not paid or allowed or entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to or on behalf of any other tenderer nor received any money or allowance from or on behalf of any other tenderer in relation to its tender or this contract entered into consequent thereon, nor will it pay or allow or receive any money as aforesaid;
- (d) in the event of the Contractor paying or allowing to or on behalf of a trade or industry association or another tenderer any money in breach of these conditions, such money shall be held on trust for and become immediately payable to the Principal. The Principal shall be entitled to withhold from any payment due to the Contractor on any account an equivalent sum as liquidated damages.

**CLAUSE 7 SERVICE OF NOTICES**

ADD the following:

Notwithstanding Clause 7 of the General Conditions of Contract any document sent by electronic facsimile to the number last communicated by the receiver shall be deemed to have been issued or given to or served upon the Contractor, or the Principal or the Superintendent upon receipt of the activity report by the sender.

**CLAUSE 8 CONTRACT DOCUMENTS**

ADD to Clause 8.1 the following:

If the Contract provides for particular documents to take precedence over other documents then notwithstanding any other provisions of the Contract, in interpreting the Contract preference shall be given to the provisions relating to precedence of documents.

ADD to Clause 8.4 the following:

Notwithstanding Clauses 8 and 23 of the General Conditions of Contract any comments made by the Superintendent in respect of documents supplied by the Contractor (other than by a specific direction designated as such by the Superintendent) shall not constitute a direction under the Contract.

The Superintendent may make such comments but these comments shall not remove or affect the Contractor's obligations under the Contract. In particular the submission of documents by the Contractor and any such comments by the Superintendent shall have no effect on the Contractor's obligations as to progress of the Works or to not vary the work under the Contract without the direction of the Superintendent.

DELETE the following words from Clause 8.7:  
"which approval shall not be unreasonably withheld."

**CLAUSE 9     ASSIGNMENT AND SUBCONTRACTING**

No amendments.

**CLAUSE 10    SELECTED AND NOMINATED SUBCONTRACTORS**

DELETE Clause 10.5 of the General Conditions of Contract.

**CLAUSE 11    PROVISIONAL SUMS**

No amendments.

**CLAUSE 12    LATENT CONDITIONS**

DELETE Clause 12 of the General Conditions of Contract and SUBSTITUTE the following:

**12    LATENT CONDITIONS**

**12.1   No Warranty**

The Principal does not warrant, give or make any guarantee nor make any representation with respect to and the Contractor warrants that it has not placed any reliance upon the accuracy or adequacy of any information or data made available or provided to the Contractor as to the site or sub-surface conditions except any such information shown on the drawings or specifications prepared by the Principal specifically and exclusively for the Works.

Without limiting the generality of the foregoing the Contractor shall not be entitled to make a Claim for or receive compensation in respect of any fact, matter or thing arising out of or in any way connected with the information or data (including but not limited to site investigation reports) provided or failed to be provided to the Contractor by the Principal, his agents or employees except the information or data shown on the drawings or specifications prepared by the Principal specifically and exclusively for the Works.

**12.2   Site Information**

No information (including but not limited to site investigation reports), except the information or data shown on the drawings or specifications prepared by the Principal specifically and exclusively for the Works, in respect of the site or sub-surface conditions which is provided to the Contractor by the Principal, the Superintendent or their respective consultants, employees or agents shall form part of the drawings, the specification or of the Contract.

**12.3   Contractor to Inform Itself**

The Contractor warrants that it has and shall be deemed to have among other things:

- (a) examined carefully and to have acquired actual knowledge of the contents of the Drawings, Specifications, Conditions of Tendering, the General Conditions of Contract and the Amending Conditions (if any), and any other information made available in writing by the Principal or any other person on the Principal's behalf to the Contractor for the purpose of submitting its offer for the Works;

- (b) examined all information relevant to the risks, contingencies and other circumstances which could affect its offer for the Works and which the Contractor could have obtained by making detailed enquires;
- (c) visited and examined the site and its surroundings and informed itself fully as to the physical conditions or obstructions upon and below the surface of the site, and the local conditions, including but not limited to, climatic and hydrologic at near or relevant to the site, or any other condition or characteristic of the site affecting or which may affect its performance of the Contract and obtained all necessary information as to risks, contingencies and other circumstances which could have an effect on the performance and cost of executing the Works;
- (d) informed itself completely of the nature of the work and materials necessary for the execution of the Works and the means of access to and facilities at the site and transport facilities for deliveries to or from the site;
- (e) informed itself as to the availability and cost of labour including, without limitation, the costs of complying with obligations imposed by any agreement between the relevant building industry unions and employers relating to the execution of construction and building work nationally and in the State or Territory in which the Works are situated and the materials required;
- (f) satisfied itself as to the correctness and sufficiency of its tender for the Works and that the tender covers the cost of complying with all its obligations under the Contract and of all matters and things necessary for the due and proper performance and completion of the Contract;
- (g) informed itself of the requirements of any Governmental Body or Authority in relation to the Works generally and, without limiting the generality of the foregoing in relation to measures necessary to protect the environment from any adverse effect or damage arising from execution of the Works; and
- (h) obtained all appropriate professional and technical advice on all matters and circumstances in respect of matters referred to in sub-paragraphs (a) - (g) hereof prior to submitting its offer for the Works.

#### **12.4 Notification of Differing Conditions**

If during the execution of the work under the Contract, the Contractor becomes aware of a physical condition on or adjacent to the Site that differs from any physical conditions expressly stated in the contract documents, the Contractor shall before the physical conditions are disturbed and in any event within three (3) days of becoming aware of the differing condition, give written notice thereof to the Superintendent.

Within seven (7) days of giving such written notice, the Contractor shall provide the Superintendent with a statement in writing specifying:

- (a) the physical conditions encountered and in what respect they differ materially;
- (b) any change in the method of working, work or resources which the Contractor estimates to be necessary to deal with the physical conditions;
- (c) the time the Contractor anticipates will be required to deal with the physical conditions and the expected delay in achieving practical completion; and
- (d) the Contractor's estimate of the cost of the measures necessary to deal with the physical conditions.

Thereafter the Superintendent may request the Contractor to provide such other details as the superintendent may reasonably require and the Contractor shall provide such details within a reasonable time.

## 12.5 Extensions of Time and Cost

If encountering differing physical conditions as described in the clause causes the Contractor to:

- (a) carry out more or less work;
- (b) use more or less materials or constructional plant; or
- (c) incur more or less cost (including but not limited to the cost of delay or disruption);

which differs from that necessary to deal with the physical conditions expressly stated in the contract documents, an adjustment shall be made to the Contract Sum valued in accordance with Clause 40.2.

Differing physical conditions as described by this clause may entitle the Contractor to an extension of time.

## 12.6 Time Bar

Notwithstanding anything to the contrary in the Contract, if the Contractor fails to provide the notices required by Clause 12.4 within the times specified, the Contractor shall not be entitled to any variation, compensation or extension of time that it might otherwise be entitled to in respect of conditions that differ as described in Clause 12.4.

## **CLAUSE 13 PATENTS COPYRIGHT AND OTHER INTELLECTUAL PROPERTY**

No amendments.

## **CLAUSE 14 STATUTORY REQUIREMENTS**

No amendments to Clause 14.1.

### **Clause 14.2 Payment where there is No Variation**

*DELETE* Clause 14.2 of the General Conditions of Contract.

### **Clause 14.3 Notices and Fees**

*DELETE* the third paragraph of Clause 14.3 of the General Conditions of Contract.

*ADD* New Clause 14.5 as follows:

### **Clause 14.5 Workplace Health and Safety Act 1995**

For the purpose of this clause the words "Principal Contractor", "serious bodily injury", "work caused illness" and "work injury" have the meanings assigned to them by the Workplace Health and Safety Act ("the Act").

Upon acceptance by the Principal of the Contractor's offer:

- (i) the Principal shall be deemed to have appointed the Contractor to be the Principal Contractor within the meaning of Section 13 of the Workplace Health and Safety Act 1995;
- (ii) the Contractor shall be deemed to have accepted the appointment; and

- (iii) the Contractor shall, in respect of the Works to be executed under the Contract, be responsible for the performance of the functions and obligations of the Principal Contractor within the meaning of the Act and Regulations in force under the Act.

Such appointment as Principal Contractor under the Act shall be in force during the continuance of the Contract unless sooner revoked by the Principal giving twenty-one (21) days notice in writing to the Contractor of its revocation or by the Principal taking over or cancelling the Contract pursuant to any provision of the Contract or according to Law.

The Contractor shall indemnify and keep indemnified the Principal against all liabilities which may be imposed under or which may arise out of enforcement of any section of the Act or Regulations.

The Contractor shall notify the Superintendent of every work caused illness or work injury and of every serious bodily injury which occurs on site as soon as possible but no later than twelve (12) hours after such occurrence.

**CLAUSE 15 PROTECTION OF PEOPLE AND PROPERTY**

**CLAUSE 16 CARE OF THE WORK AND REINSTATEMENT OF DAMAGE**

**CLAUSE 17 DAMAGE TO PERSONS AND PROPERTY OTHER THAN THE WORKS**

**CLAUSE 18 INSURANCE OF THE WORKS**

**CLAUSE 19 PUBLIC LIABILITY INSURANCE**

**CLAUSE 20 INSURANCE OF EMPLOYEES**

**CLAUSE 21 INSPECTION AND PROVISION OF INSURANCE POLICIES**

**CLAUSE 22 CLERK OF WORKS AND INSPECTIONS**

No amendments in respect of Clauses 15 to 22.

**CLAUSE 23 SUPERINTENDENT**

Clause 23 is amended as follows:

The word "permission" is DELETED from the third paragraph of Clause 23 of the General Conditions of Contract. Permission given by the Superintendent or Superintendent's Representatives does not constitute a direction under the Contract.

No direction by the Superintendent with respect of the Works or any part thereof, shall amount to or be deemed to amount to an acceptance by him of any workmanship or materials which is not strictly in accordance with the Contract or which is otherwise defective and any such direction shall not relieve the Contractor of any of its obligations under the Contract.

Without limiting the generality of the foregoing, the Superintendent has no authority to alter or waive any terms of the Contract, nor authority to discharge or release the Contractor from any of its obligations pursuant to the Contract.

**CLAUSE 24 SUPERINTENDENT'S REPRESENTATIVE**

**CLAUSE 25 CONTRACTOR'S REPRESENTATIVE**

**CLAUSE 26 CONTROL OF CONTRACTOR'S EMPLOYEES AND SUBCONTRACTORS**

No amendments in respect of Clauses 24 to 26 inclusive.

**CLAUSE 27 SITE**

*ADD* to Clause 27.2:

Entry to the Site and Griffith University is at all times subject to the Statutes and Rules of Griffith University. The Contractor shall make itself familiar with relevant Statutes and Rules affecting the Contractor's operations and incorporate similar provisions in Subcontracts.

The Contractor, his employees, agents and subcontractors shall be permitted to park only in prescribed general parking areas and in accordance with the relevant Traffic and Parking Statute.

*ADD* new Clause 27.6 as follows:

**27.6 Extra Land Required by Contractor**

The Contractor shall procure for himself at his own cost the occupation or use of or relevant rights over any land in addition to the site which he may deem requisite or necessary for the execution of the work under the contract or for the purposes of the contract and shall, as a condition precedent to the issue of the Final Certificate, if so required by the Superintendent, provide a properly executed release from all claims or demands (whether for damages or otherwise howsoever) from the owner or occupier of and from other persons having an interest in such land. Any such release shall be in a form approved by the Principal.

**CLAUSE 28 SETTING OUT THE WORKS**

No amendments in respect of Clause 28.

**CLAUSE 29 MATERIALS, LABOUR AND CONSTRUCTIONAL PLANT**

*ADD* new subclause 29.4 as follows:

**29.4 Apprentice/Training Requirements**

The Contractor, in the execution of the work under the Contract, must employ on the site of the works either directly or indirectly through subcontractors, apprentices/trainees for a number of labour hours no less than 10% of the total hours of the remainder of the labour employed on site. In this regard -

- (i) this requirement excludes any consideration in respect of mechanical and electrical trades;
- (ii) the Contractor must submit to the Principal within seven (7) days after the issue of the Certificate of Practical Completion (or after the issue of the last Certificate of Practical Completion where the Contract is to be completed in separable parts) or termination of the Contract pursuant to Clause 44 herein a return in the Form attached to these Conditions. Without prejudice to any other rights under the Contract or otherwise, the Principal may suspend



payment and return of security and retention monies (whether or not held in alternative form) to the Contractor until the return is received.

- (iii) the Contractor acknowledges that failure to comply with this requirement for employment of apprentices/trainees will be a factor that may be taken into account in the award of future Contracts by the Principal.

### **CLAUSE 30 MATERIALS AND WORK**

*ADD* to Clause 30.1 the following:

The Contractor may propose alternative materials, designs or methods of working to those required by the Contract. Where such proposals are made by the Contractor, the Contractor shall specify with the proposal any effect the execution of the proposal would have on the quality, time or cost requirements of the Contract together with sufficient supporting data to substantiate the said effects.

Permission for the Contractor to undertake the proposal shall be entirely at the discretion of the Principal. If the Principal gives written permission for the Contractor to undertake the proposal the Contractor shall do so upon such terms and conditions as the Principal permits. The value of the proposal shall be valued under Clause 40.5 but in any case the Contractor shall be responsible for the consequences of the implementation of the proposal including but not limited to design suitability and construction.

*ADD* to Clause 30.2 the following:

The Contractor shall plan, establish and maintain a quality system that conforms in all respects with an appropriate Quality System so described in Australian Standard AS 2990 Quality Systems for Engineering and Construction Projects the Specification and to the satisfaction of the Superintendent.

The category of quality system which shall apply is Category B.

*DELETE* the words "increase or" from the third last line of Clause 30.5.

### **CLAUSE 31 EXAMINATION AND TESTING**

No amendments in respect of Clause 31.

### **CLAUSE 32 WORKING HOURS**

*ADD* to Clause 32:

The working hours shall be between 7:00 am and 6:00 pm and the working days shall be as defined in Clause 2.

*DELETE* the last paragraph of Clause 32 of the General Conditions of Contract and add:

If the Contractor works or intends to work outside the working hours or working days provided by this Clause, the Contractor accepts the responsibility and risk for all extra costs, damages and losses, (including the Principal's increased costs of supervision of the Contractor's work) which may arise out of such work.

### **CLAUSE 33 PROGRESS AND PROGRAMMING OF THE WORKS**

*ADD* to Clause 33.2 the following:

Within fourteen (14) days of the date of acceptance of Tender, the Contractor shall submit to the Superintendent the Contractor's construction programme as described in this clause for the whole of the Works.

will be On the last day of every month or whenever the duration of critical activities change by more than two (2) weeks (whichever is the less) the Contractor shall submit revised construction programmes to the Superintendent. The revised construction programmes shall be in the same form as the original programme and shall incorporate in a similar format the activities already completed as they were constructed by the Contractor to a date not earlier than five (5) working days prior to the date of submission together with details of the planned future work.

The format of the construction programme shall be a detailed graphic programme consisting of an activity oriented critical path network drawn to a daily time scale for contracts to be completed within eight (8) weeks and a weekly time scale for contracts to be completed within a time greater than eight (8) weeks. The construction programme shall be in an arrow and node format satisfactory to the Superintendent and showing at least the following:

- (a) the methods, duration and sequence of, and the dependencies between the planned activities which comprise the Works;
- (b) at least one activity for each item of work identifying the critical path and the logic of the construction programme, and no activity shall exceed three (3) weeks in time;
- (c) each separable part of the Works and the whole of the Works finishing on the due dates for Practical Completion of the separable part and the whole of the Works;
- (d) lead times for the supply of information or materials by the Principal or his agents;
- (e) lead times for significant off-site activities to be incorporated into the Works;
- (f) periods of extensions of time granted to the Contractor and the delays to which those extensions of time relate;

The programme shall also show prior to Practical Completion the duration and dates of the following activities:

- (a) Commissioning of all plant and equipment;
- (b) Consultants hand over inspections;
- (c) University acceptance inspections and defect identification.

If the Contractor fails to meet the starting and completion dates of any critical activity, they shall immediately undertake and continue such emergency measures as are necessary, including the working of over-time and/or shift work, until the lag in progress has been recovered and the works as a whole are progressing according to programme.

Should any Subcontractor's work be more than ten working days behind schedule, the Superintendent reserves the right to direct the Contractor to employ additional subcontractors as may be necessary to make up the time lag.

Similar directions may be given where goods or fabricated parts are behind schedule.

Any such emergency measures shall be at the Contractor's expense and no extras will be allowed on account of such work.

Failure of the Contractor to maintain a rate of progress in accordance with the program or otherwise to comply with requirements of the Principal under this clause, sufficient cause for the Superintendent to withhold the issue of any progress certificate.

The provisions of this clause shall in no way relieve the Contractor's entire responsibility for completion of the work within the contract period.

#### **CLAUSE 34 SUSPENSION OF THE WORKS**

No amendment.

**CLAUSE 35 TIMES FOR COMMENCEMENT AND PRACTICAL COMPLETION**

*INSERT* after the words "the claim is based," on the fourth line of the third paragraph of Clause 35.5 the following:

explanation and supporting evidence of how the critical activities on the program have been affected by the delay and the steps which the Contractor has taken and will take to alleviate and otherwise deal with the delay,

*DELETE* Sub-clauses 35.5 (b) (ii) and (vi).

*REPLACE* the full stop at the end of the sixth paragraph of Clause 35.5 with a semicolon and *ADD* the following:

delays that do not affect activities on the critical path of the construction programme or revised construction programme under Clause 33 current at the time the cause of the delay arose.

*DELETE* Clause 35.8.

**CLAUSE 36 DELAY OR DISRUPTION COSTS**

**CLAUSE 37 DEFECTS LIABILITY**

*ADD* to Clause 37:

The Contractor shall allow for the performance of regular preventative maintenance and servicing of the works during the period of the defects liability period. Such maintenance shall be in accordance with the manufacturer's instructions and the requirements of the Workplace Health and Safety Legislation, Australian Standards or other applicable regulations, legislation or advisory standards. With respect to any mechanical or electrical service, fire alarms, hydraulic systems, lifts etc, maintenance shall be carried out not less frequently than monthly. The Contractor shall provide a maintenance service schedule for all equipment for the first 12 months.

A written report shall be provided to the Principal through the Campus Facilities Manager immediately after each monthly service is performed. The report shall detail all work done, defects identified and repaired, and general comments on overall performance.

The Certificate of Final Completion will not be issued until such time as all preventative maintenance requirements have been completed.

**CLAUSE 38 CLEANING UP**

**CLAUSE 39 URGENT PROTECTION**

No amendments in respect of Clauses 36, 38 and 39.

**CLAUSE 40 VARIATIONS**

*DELETE* the last paragraph of Clause 40.2 and *INSERT* in lieu the following:

"The Contractor shall not be entitled to reimbursement of any additional expense or loss incurred in complying with the requirements of Clause 40.2."

*DELETE* paragraphs (c), (d), (e) and (f) of subclause 40.5 and *INSERT* in lieu the following:

- (c) to the extent that neither Clause 40.5 (a) or 40.5 (b) apply, reasonable rates or prices shall be used in any valuation made by the Superintendent. Only the actual cost of on site overheads as substantiated by the Contractor with

written evidence shall be taken into account. Off-site overheads and profit shall be applied at the rates stated in Annexure A;

- (d) in determining the deduction to be made for work which is taken out of the Contract, the deduction shall include an amount for profit and off-site overheads of 5% of the price of the variation otherwise;
- (e) if the valuation is of an increase or decrease in a fee or charge or is a new fee or charge under Clause 14.3, the value shall be the actual increase or decrease or the actual amount of the new fee or charge without regard to off-site overheads or profit;
- (f) if the valuation relates to extra costs incurred by the Contractor for delay or disruption, the valuation shall include the actual cost incurred for on site overheads and an amount calculated at the rate in Annexure A for off-site overheads substantiated by written evidence but shall not include profit or loss of profit;

*DELETE* all the words after "cost" in the second line of the last paragraph of Clause 40.5 and *INSERT* in lieu the following:

"the cost of doing so shall be deemed to be included in the Contract Sum and the Contractor shall not be entitled to any additional cost or loss so incurred."

#### **CLAUSE 41 DAYWORK**

No amendments in respect of Clause 41.

#### **CLAUSE 42 CERTIFICATES AND PAYMENTS**

*DELETE* Clause 42.1 and *INSERT* in lieu the following:

##### **42.1 Payment Claims, Certificates, Calculations and Time for Payment**

To accord with the times for payment claims stated in the Annexure or at the expiration of the Defects Liability Period, the Contractor shall provide to the Superintendent as agent for the Principal, progress payment calculations for review and agreement by the Superintendent. The progress payment calculations shall include the value of work carried out by the Contractor in the performance of the Contract to that time together with all amounts then due to the Contractor arising out of or in connection with the Contract and shall be supported by any documentary evidence or other information reasonably required by the Superintendent. Claims for any alleged breach of Contract including the costs of delays caused by breach shall not be submitted as part of a regular progress payment but shall be lodged as a separate claim in accordance with the relevant provisions of the contract.

On agreement between the Superintendent and the Contractor on the amount of payment to be made by the Principal to the Contractor, or by the Contractor to the Principal, the Superintendent shall issue to the Principal and the Contractor a payment certificate stating the agreed amount. The Superintendent shall allow in any payment certificate issued pursuant to this Clause 42.1 or any Final Certificate issued pursuant to Clause 42.8 or a certificate issued pursuant to Clause 44.6, amounts paid under the Contract and amounts otherwise due from the Principal to the Contractor and /or due from the Contractor to the Principal arising out of or in connection with the Contract including but not limited to any amount due or to be credited under any provision of the Contract. The Superintendent shall issue a separate payment certificate in respect of amounts due for breach of Contract.

On receipt of the payment certificate from the Superintendent, the Contractor shall lodge with the Principal, or the Principal shall lodge with the Contractor, a Tax Invoice corresponding to the agreed amount stated on the payment certificate issued by the Superintendent.

Subject to the provisions of the Contract, and except in respect of claims for breach of Contract, within 15 working days of providing the progress payment calculation for agreement by the Superintendent, the Principal shall pay the Contractor or the Contractor shall pay the Principal, an

amount not less than the amount shown in the Certificate as due to the Contractor or the Principal as the case may be.

Despite any other provision of the Contract, the principal shall not be obliged to pay the Contractor, or the Contractor pay the Principal, any amount certified by the Superintendent as due to the Contractor or due to the Principal, as the case may be, until five (5) business days after the Contractor provides to the Principal, or the Principal provides to the Contractor as the case may be, a Tax Invoice in respect of the claim for payment.

In respect of claims for breach of Contract, within 10 working days after issue by the Superintendent of the relevant payment certificate, the Principal shall pay to the Contractor or the Contractor shall pay to the Principal, an amount not less than the amount shown in the certificate as due to the Contractor or to the Principal as the case may be.

A payment made pursuant to this Clause shall not prejudice the right of either party to dispute under Clause 47 whether the amount so paid is the amount properly due and payable and on determination (whether under Clause 47 or as otherwise agreed) of the amount so properly due and payable, the Principal or Contractor, as the case may be, shall be liable to pay the difference between the amount of such payment and the amount so properly due and payable.

Payment of monies shall not be evidence of the value of work or an admission of liability or evidence that work has been executed satisfactorily but shall be a payment on account only, except as provided by Clause 42.8.

Except as provided in the Contract and where listed in the Annexure, the Principal shall not be obliged to pay for any item of unfixed plant or materials which is not incorporated into the works.

*ADD* to the first sentence of the first paragraph of Clause 42.8:

"or give to the Contractor and the Principal in writing the reasons for not issuing the certificate."

*DELETE* subclause 42.10 and *INSERT* in lieu the following:

#### **42.10 General Right of Set Off**

Without limiting the Principal's rights under any other provision in the contract and notwithstanding the provision of or the issue of a certificate by the Superintendent under Clause 42.1, the Principal may deduct from any monies due to the Contractor any sum which is due and payable by the Contractor to the Principal whether or not the Principal's right to payment arises by way of damages debt restitution or otherwise and whether or not the factual basis giving rise to the Principal's right to payment arises out of this contract, any other contract, or is independent of any contract. If the monies payable to the Contractor are insufficient to discharge the liability of the Contractor to pay such sum to the Principal, the Principal may have recourse to retention monies, and if they are insufficient, to security provided under Clause 5.2 of the contract and if that security is insufficient to any security provided under Clause 5.11 of the contract but in respect thereof only after satisfaction of all Subcontractors Charges. Nothing in this clause shall affect the right of the Principal to recover from the Contractor the whole of such monies or any balance that remains owing.

#### **CLAUSE 43 PAYMENT OF WORKERS AND SUBCONTRACTORS**

No amendment in respect of Clause 43.

#### **CLAUSE 44 DEFAULT OR INSOLVENCY**

*ADD* to Clause 44.2:

- (h) failing to comply in any respect with the requirements of Clause 5.

DELETE from subclause 44.3 (d) the words and punctuation:

"(which time shall not be less than 6 clear days after the notice is given to the Contractor)"

DELETE Clause 44.10 and INSERT in lieu the following:

#### **44.10 Rights of the Parties on Termination**

If the Contract is terminated under Clause 44.4 (b) or Clause 44.9 or under any other provision of the Contract it shall be deemed terminated as from the date when notice of termination in writing is served upon the relevant party.

On such termination of the Contract all or any sums of money which may be in the hands of the Principal or the Contractor in respect of the Contract and are not then payable to the Contractor or the Principal under or pursuant to any provision of the Contract, and the whole or part of any security, including cash lodged or retained for the due and proper performance of the Contract and all or any sums of money named in the Contract as liquidated damages which have accrued due to the Principal or the Contractor may be declared by the Principal or the Contractor to be forfeited and all sums and the whole or part of any security that are so declared to be forfeited shall be forfeited and shall be retained by or become payable to or vested in the Principal or the Contractor as the case may be, only to the extent required to complete the works and/or recover any damages.

On such termination of the Contract all moneys which have been previously paid together with all moneys then payable under or pursuant to any provision of the Contract to the Contractor or the Principal shall be deemed to be in full satisfaction of all claims of the Contractor and of the Principal of any kind or description whatsoever under or in respect of the Contract.

#### **CLAUSE 45 TERMINATION BY FRUSTRATION**

#### **CLAUSE 46 TIME FOR NOTIFICATION OF CLAIMS**

No amendments in respect of Clauses 45 and 46.

#### **CLAUSE 47 DISPUTE RESOLUTION**

DELETE Clause 47.2 and insert in lieu the following:

##### **47.2 Further Steps Required Before Proceeding:**

Within fourteen (14) days after service of a notice of dispute, the parties shall confer at least once, and at the option of either party and provided the Superintendent so agrees, in the presence of the Superintendent, to attempt to resolve the dispute and failing resolution of the dispute to explore and if possible agree on methods of resolving the dispute by other means. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute.

In the event that the dispute has not been so resolved within twenty-eight (28) days after the first conference of the parties, or if at any time either party considers that the other party is not making reasonable efforts to resolve the dispute, either party may by notice in writing delivered by hand or sent by certified mail to the other party refer such dispute to an Adjudicator selected by the Principal who has not been involved with the design of the Works or administration of the Contract.

The reference shall be in writing stating both parties opinions as to the facts, relevant legal provisions of the Contract or at law, the relevant supporting documents and the way in which the matter should be decided. The Adjudicator shall confer with the parties and give a decision on the matter to both parties within twenty-eight (28) days of receiving the reference unless extended by agreement of the parties.

The parties shall abide by the Adjudicator's decision until at least Practical Completion has been reached after which either party may refer the matter to arbitration or litigation.

ADD to the first line of Clause 47.3 after the words "who shall be", the words "agreed by the parties or failing agreement within fourteen (14) days after reference of the dispute to arbitration".

**CLAUSE 48 WAIVER OF CONDITIONS**

No amendments in respect of Clause 48.

**CLAUSE 49 RISE AND FALL**

INSERT new Clause 49 as follows:

Where it is stated elsewhere that the Contract shall be subject to adjustment for rise and fall in costs, then the provisions of Annexure 2 shall apply.

**CLAUSE 50 RATES OF WAGES AND CONDITIONS OF EMPLOYMENT**

INSERT new Clause 50 as follows:

Unless the Contract otherwise provides, the Contractor shall not be entitled to reimbursement over and above the Contract Sum for any costs or losses suffered by the Contractor in respect of rates of wages and conditions of employment of workmen including but not limited to in respect of Site Allowances, Site Agreements, adjustments to any Award to compensate for over-award payments or actual or proposed improvements in productivity or efficiency or any costs in respect of redundancy, portable long service leave or any building industry superannuation scheme.

**CLAUSE 51 RECORDS AND ACCESS TO RECORDS**

INSERT new Clause 51 as follows:

- 51.1 The Contractor shall make and keep and shall ensure all Subcontractors make and keep accurate records of their tenders and of the work under the Contract including but not limited to all documents referred to in these General Conditions of Contract, and the Specification, design calculations, tender estimates, calculations and make ups, records as to progress of the works, diary records of daily tasks, complete photographic records, quality system documents and records, manning and equipment records, results of the examination and testing of any work or materials, quality assurance records and reports, cost to date records, costs to complete calculations, time records, all cost records relating in any way to delays, variations and day works, all consultants' reports and opinions obtained by the Contractor in relation to the matters referred to in this clause and all necessary supporting documents, invoices, records and related financial statements whether in writing or stored on any other medium whatsoever.
- 51.2 The Superintendent shall have the right to inspect and to copy at any time any record referred to in Clause 51.1, notwithstanding anything to the contrary contained herein, and may defer any determination until after such inspection is permitted by the Contractor. In the case of any records referred to in Clause 51.1 stored on a medium other than in writing, the Contractor shall make available forthwith upon request such facilities as may be necessary to enable a legible reproduction thereof to be provided to the Principal.
- 51.3 The Contractor shall not be entitled to refuse inspection of any record referred to in Clause 51.1 on any basis whatsoever.

- 51.4 The records referred to in Clause 51.1 shall not be destroyed without the prior written approval of the Principal and a copy shall, if so required by the Superintendent be handed over to the Principal at the end of the defects liability period.



**PART `A'**

ANNEXURE to the Australian Standard General Conditions of Contract.

This Annexure shall be issued as part of the tender documents and is to be attached to the General Conditions of Contract and shall be read as part of the Contract.

The law applicable is that of the State or Territory of: (Clause 1)	Queensland
Payments under the Contract shall be made at: (Clause 1)	Griffith University Nathan, Brisbane, QUEENSLAND
The Principal: (Clause 2)	Griffith University
The address of the Principal:	c/- Director, Campus Life, Griffith University, NATHAN QLD 4111
The Superintendent: (Clause 2)	Deputy Director (PD&C), Campus Life, Griffith University, NATHAN QLD 4111
The address of the Superintendent:	Campus Life, Facilities Management Building, Griffith University, NATHAN QLD 4111
Limits of accuracy applying to quantities for which the Principal accepted a rate or rates:  (Clause 3.3(b))	The lower and upper limits are 75% and 125% respectively of total stated contract quantity
Bill of Quantities - the alternative applying: (Clause 4.1)	Alternative 1
The time for lodgement of the priced copy of the Bill of Quantities: (Clause 4.2)	Not Applicable
Contractor shall provide security in the amount of: (Clause 5.2)	The amount provided by Clause 5.2 of the Conditions of Contract plus retention monies Under Clause 42.3
Principal shall provide security in the amount of: (Clause 5.2)	NIL
The period of notice required of a party's intention to have recourse to retention moneys and/or to convert security: (Clause 5.5)	No Prior notice required
The percentage to which the entitlement to security and retention moneys is reduced: (Clause 5.7)	50%

Interest on retention moneys and security - the alternative applying: (Clause 5.9)	Alternative 2
The number of copies to be supplied by the Principal: (Clause 8.3)	Three (3) copies
The number of copies to be supplied by the Contractor: (Clause 8.4)	Three (3) copies
The time within which the Superintendent must give a direction as to the suitability and return the Contractor's copies: (Clause 8.4)	Ten (10) working days for each individual document (including but not limited to drawing, specification manual or part thereof) submitted. Where more than ten (10) documents are submitted on any one day than an additional day shall apply for each additional document and the period for giving a decision shall not commence to run for documents submitted at a later date until the expiration of the time for giving a decision for documents submitted previously
Work which cannot be subcontracted without approval: (Clause 9.2)	Any work under the Contract
The percentage of profit and attendance: (Clause 11)	5%
Insurance of the Works - the alternative applying: (Clause 18)	Alternative 1
The assessment for insurance purposes of the costs of demolition and removal of debris: (Clause 18(ii))	10% of the Contract Sum
The assessment for insurance purposes of consultants' fees: (Clause 18(iii))	2.5% of the Contract Sum
The value of materials to be supplied by the Principal (Clause 18(iv))	\$. . . . . /Not Applicable
The additional amount or percentage: (Clause 18(v))	Not Applicable
Public Liability Insurance - the alternative applying: (Clause 19)	Alternative 1
The amount of Public Liability Insurance shall be not less than: (Clause 19)	\$10 Million
The time for giving possession of the Site: (Clause 27.1)	
The date for Practical Completion:	

(Clause 35.2)

Liquidated Damages per day:  
(Clause 35.6)

Limit of Liquidated Damages:  
(Clause 35.7)

Bonus per day for early  
Practical Completion: Not Applicable  
(Clause 35.8)

Limit of bonus: Not Applicable  
(Clause 35.8)

Extra costs for Delay or Disruption: Not Applicable  
(Clause 36)

The Defects Liability Period: Twelve (12) months  
(Clause 37)

Percentages for off-site overheads or  
profit: Off-site overheads 3%  
(Clauses 40.5 (c) and (f)) Profit 4%

The Charge for overheads, profit, etc.  
of Daywork: In respect of Clauses 41(a), 41(b), 41(c) and  
(Clause 41(f)) 41(e) - 10% and in respect of Clause 41(d) -  
5% of the value otherwise

Times for payment claims: At a date to be mutually agreed but not less  
(Clause 42.1) than 30 days after acceptance of the tender and  
thereafter at monthly intervals unless otherwise  
permitted by the Principal

Unfixed plant and materials for which  
payment claims may be made  
notwithstanding that they are not  
incorporated in the Works: Lifts or any equipment requiring a pre  
(Clause 42.1) payment or deposit

Retention Moneys on:  
(Clause 42.3)

- (a) Work incorporated in the Works and any work items for which a different amount of retention is not provided, 10% of the value until 5% of the Adjusted Contract Sum is held;
- (b) items on Site but not yet incorporated in the Works, 100%;
- (c) Items off Site but in Australia, 100%;
- (d) Items not in Australia, 100%;
- (e) disbursements incurred by the Contractor or customs duties, freight, marine insurance, primage, landing and transport in respect of the work under the Contract, 100%.

Unfixed Plant or Materials - the  
alternative applying: Alternative 1  
(Clause 42.4)

The rate of interest on overdue  
payments: Interest at the rate of a judgement debt  
(Clause 42.9)

The delay in giving possession of the  
Site which shall be a substantial  
breach: Three (3) months  
(Clause 44.7)

Dispute Resolution - the alternative applying: (Clause 47.2)	Not applicable
The person to nominate an arbitrator: (Clause 47.3)	Director, Campus Life, Griffith University, NATHAN QLD 4111
Location of arbitration: (Clause 47.3)	BRISBANE
Contract to be subject to Adjustment for Rise and Fall in Costs: (Clause 49 and Annexure 2)	No

**PART `B'**

ANNEXURE to the Australian Standard General Conditions of Contract.

NOTE: This table is intended for easy reference to clauses that may have been deleted, amended or added to Australian Standard 2124 - 1992.

1. The following Clauses have been DELETED from the General Conditions in AS 2124 - 1992:

Clauses DELETED include:

Clause 10.5	- Direct Payment of Nominated Subcontractor
Clause 14.2	- Payments where there is no Variation
Sub-clause 35.5(b)(ii)&(vi)	-
Clause 35.8	- Bonus for Early Practical Completion
Clause 47.2	- Further Steps required before Proceedings

2. The following Clauses have been amended and differ from the corresponding Clauses in AS 2124 - 1992:

Clauses amended include:

Clauses 1, 2, 5.2, 5.3, 5.10, 6.2, 7, 8.1, 8.4, 8.7, 12, 14.3, 23, 27.2, 30.1, 30.2, 30.5, 32, 33.2, 35.5, 37, 40.2, 40.5, 42.1, 42.8, 42.10, 44.2, 44.3, 44.10, 47.2 &, 47.3.

3. The following Clauses have been added to those of AS 2124 - 1992:

Clauses added including in respect of Clauses 3.4, 6.3, 14.5, 27.6, 29.4, 44, 49, 50 & 51.