

Contract for Consultancy Services (WA)

Select Company (Georgiou)

[Insert name of Consultant](Consultant)

Project Document #

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Agreement

This Contract is made the [insert date] day Select Month of Select Year

BETWEEN: **Select Georgiou Entity**
68 Hasler Rd, Osborne Park, Western Australia 6017
(Georgiou)

AND: **[Insert name of Consultant] (Select ABN/ ACN [Insert ABN/ ACN])**
[Insert Consultant Address]
(Consultant)

Background

[Delete whichever does not apply. Delete this note.]

Alternative 1

Georgiou has been engaged to do works under the Head Contract relating to the Project and wishes to engage the Consultant to perform the Services under the Contract in accordance with the Contract.

Alternative 2

Georgiou wishes to engage the Consultant to perform the Services under the Contract in accordance with the Contract.

The Consultant agrees to enter into this Contract to perform the Services under the Contract in accordance with the Contract.

Form of Agreement

The Obligations of The Parties

- 1) The Consultant agrees to perform the Services under the Contract in accordance with the Contract.
- 2) Georgiou agrees to pay the Consultant for the Services in accordance with the Contract and subject to its terms.

The Contract Documents

The documents that comprise the Contract are:

- 1) This Form of Agreement;
- 2) The Special Conditions;
- 3) The General Conditions;
- 4) Schedules 1-5; excluding and Special Conditions
- 5) [Insert other documents e.g the Preliminaries, Specifications, Drawings and other documents]

Precedence

In the event of any ambiguity, discrepancy or conflict occurring between the documents that comprise the Contract, the order of precedence is as set out in The Contract Documents above, from highest to lowest.

Signed as an agreement

Signed for and on behalf of Georgiou:

in the presence of:

Signature



Signature of Witness



Name

Name of Witness

Signed for and on behalf of the Consultant:

in the presence of:

Signature



Signature of Witness



Name

Name of Witness

General Conditions

1. PERFORMANCE OF SERVICES

1.1 Performance

- 1) The Consultant must execute and complete the Services under the Contract:
 - I. with due expedition and without delay and in accordance with the Consultant's Program; and
 - II. with the care, knowledge and skill expected of a competent, professional consultant experienced in providing similar services to the Services for projects of similar complexity to the Project.
- 2) Georgiou must pay the Consultant the Services Fee, adjusted by any additions or deductions made under the Contract, and the Reimbursable Expenses.
- 3) In accepting the Services Fee, the Consultant has allowed for the provision of all labour, Consultant's Materials and other work or things necessary for the performance of the Services under the Contract, whether or not expressly mentioned in this Contract.
- 4) All labour, Consultant's Materials and other work or things incidental to or necessary for the performance of the Services under the Contract:
 - I. must be undertaken and provided by the Consultant; and
 - II. form part of the Services under the Contract and will not entitle the Consultant to make any Claim except as otherwise expressly provided for in the Contract.
- 5) The Consultant must, in addition to any other express or implied obligation, representation or warranty ensure that the Services comply with all the express or inferred requirements of:
 - I. the Contract;
 - II. directions from Georgiou's Representative;
 - III. all Legislative Requirements; and
 - IV. all relevant Authorities.

1.2 Relationship

- 1) The Consultant is engaged as an independent consultant. Nothing in this Contract constitutes the Consultant as an employee, agent, partner or joint venturer of Georgiou.
- 2) Subject to the provisions of this Contract, the Consultant acknowledges and agrees that it:
 - I. has no authority to enter into any agreement on behalf of Georgiou, or otherwise incur any obligation, liability, cost, loss or expense on behalf of Georgiou except with the express written instruction of Georgiou; and
 - II. must not engage in any negotiations or discussions with any statutory authority on behalf of Georgiou except as authorised in writing by Georgiou.

1.3 Consultant's General Warranties

- 1) The Consultant represents and warrants, in addition to any other applicable representation or warranty in the Contract or implied by law:
 - I. it and its employees and sub consultants will at all times be suitably qualified, skilled and experienced and exercise due care, skill, timeliness and diligence in undertaking the Services;
 - II. it will ensure that it and its employees and sub consultants will at all times have the qualifications, certificates and licences required by law or required by an Authority;
 - III. it has all necessary resources available to it, including financial resources and access to labour and materials, to undertake its obligations under the Contract;
 - IV. the Services under the Contract will be done with due diligence and expedition and within the times stated in the Contract;
 - V. it is satisfied that the provisions of the Contract are consistent and not conflicting;
 - VI. it has satisfied itself as to the correctness and sufficiency of the Services Fee and that the Services Fee covers the cost of complying with all of its obligations under the Contract and all matters and things necessary for the due and proper performance and completion of the Contract;
 - VII. the Services will in every respect be fit for the purposes made known to the Consultant and which could be reasonably inferred;
 - VIII. it has examined carefully and acquired actual knowledge of the contents of all of the Contract documents and any other information made available by Georgiou to the Consultant for the purposes of tendering;

- IX. it has made reasonable enquiries and obtained all information relevant to the risks, contingencies and other circumstances affecting its obligations under the Contract; and
 - X. it is and will remain the holder of all licences and registrations required to perform the Services and will promptly notify Georgiou of any change to its licensing or registration status. The Consultant indemnifies Georgiou against any loss or damage as a result of the Consultant carrying out work while unlicensed or unregistered.
- 2) The Consultant acknowledges that Georgiou has entered into this Contract in reliance on the representations and warranties given in this clause 1.3.

1.4 Time

The Consultant must:

- 1) on the Commencement Date, commence the Services under the Contract immediately and then diligently and regularly continue to perform its obligations under the Contract;
- 2) comply with the Consultant's Program; and
- 3) complete the Services by the Date for Services Completion.

2. CONSULTANT'S PROGRAM

- 1) The Consultant must within [insert] Business Days after execution of this Contract submit to Georgiou for approval a draft program for the performance of the Services which is consistent with the Consultant's tender, the Contract Program (if applicable) and Georgiou's requirements.
- 2) The draft program shall be submitted in hard (paper) copy and soft (electronic copy) in [insert i.e. Microsoft Project] format.
- 3) If Georgiou accepts the draft program submitted under subclause 1) above it will become the Consultant's Program. Where a draft program is rejected by Georgiou for any reason, Georgiou shall notify the Consultant and provide requirements for amendment to the draft program. The Consultant must submit an amended and revised draft program incorporating Georgiou's requirements within [insert] Business Days after being notified that the draft program is unacceptable.
- 4) The Consultant must update the Consultant's Program on the first Business Day of each month in a manner consistent with the Contract Program (if applicable) and Georgiou's requirements to show:
 - I. progress achieved and, where appropriate, changes to the sequence and duration of any Services;
 - II. any corresponding changes to the resources to be utilised by the Consultant; and
 - III. approved extensions of time in accordance with clause 10,
 - IV. and promptly provide two copies of each updated Consultant's Program for approval by Georgiou.

3. APPROVALS AND LEGISLATIVE REQUIREMENTS

- 1) The Consultant must at its own cost and without being entitled to make any Claim:
 - I. make itself aware of the requirements of all Approvals relevant to the Services;
 - II. obtain (and provide to Georgiou) those Approvals listed in item 5 of Schedule 1- Contract Particulars;
 - III. provide Georgiou with any reasonable assistance Georgiou requires to obtain any other Approvals required for the Project.

4. DOCUMENTS AND INFORMATION

4.1 Documents

[Delete whichever does not apply. Delete this note.]

Alternative 1

The Consultant agrees that it will make all documents relating to the Services under the Contract and all Services Materials available to Georgiou, Georgiou's Representative or any person Georgiou nominates.

OR

Alternative 2

- 1) The Consultant agrees that Georgiou is the owner of all Services Materials and the Consultant shall:
 - I. make all Services Materials available to Georgiou, Georgiou's Representative or any person Georgiou nominates for the duration of the Project; and
 - II. as soon as reasonably practicable after the Date of Services Completion but no later than 10 Business Days, provide all Services Materials to Georgiou in the format requested by Georgiou.
- 2) The Consultant and Georgiou agree that Georgiou-Supplied Information:
 - I. has been or will be provided only for the Consultant's convenience; and
 - II. has not been and will not be relied upon by the Consultant for any purpose.
- 3) The Consultant must satisfy itself as to the accuracy, completeness and adequacy of the Georgiou-Supplied Information.
- 4) The Consultant has no Claim arising out of or related to any Georgiou-Supplied Information.
- 5) If an inconsistency, ambiguity or discrepancy between the documents forming the Contract exists, the Consultant must immediately notify Georgiou's Representative of such ambiguity, inconsistency or discrepancy.
- 6) Georgiou's Representative may direct the interpretation to be adopted by the Consultant. The Consultant is not entitled to make any Claim in connection with the direction.

4.2 Design documentation program and review

- 1) The Consultant shall supply the Services Material in a form satisfactory to Georgiou and by the times stated in the Consultant's Program.
- 2) The Consultant must, at its cost, provide to Georgiou the number of copies of Services Material reasonably nominated by Georgiou in writing.
- 3) Georgiou may in its absolute discretion review and comment on the Services Material submitted to it by the Consultant and the Consultant must have regard to the review information and comments of Georgiou and resubmit the Services Material having so regard within [5] Business Days.
- 4) Georgiou is not bound to review or comment on Services Material and the Consultant agrees that no review or comment or failure to review or comment will relieve or affect the Consultant from its responsibilities, obligations and liabilities under this Contract.

5. SECURITY

- 1) Security must be given in the amount shown at Item 4(a) of Schedule 1 - Contract Particulars and in the form of unconditional undertaking(s) from an institution approved by Georgiou. Security is provided for the purposes of ensuring due and proper performance of the Contract by the Consultant.
- 2) The Consultant must, as a precondition to being entitled to progress payments under the Contract, provide the Security within 14 days of the Commencement Date.
- 3) The Consultant must pay all stamp duty and other taxes payable in relation to the Security.
- 4) Georgiou may have recourse, with five (5) days written notice, to the Security if it believes (acting reasonably) that:
 - I. the Consultant has breached or failed to comply with any of its obligations under the Contract;
 - II. Georgiou is entitled to claim payment of monies from the Consultant in relation to the work under the Contract; or
 - III. Georgiou is entitled to reimbursement of any monies paid to or to be paid to others under or in connection with the Contract.
- 5) The Consultant will have no Claim against Georgiou for any loss or damage suffered by recourse to the Security under this clause.
- 6) The Consultant indemnifies Georgiou in relation to any costs, losses or damages incurred as a result of defending or responding to any steps taken to injunct or otherwise restrain Georgiou from having recourse to the Security.
- 7) Within ten (10) working days after the Date of Services Completion, Georgiou must return the unconditional undertakings provided by the Consultant.
- 8) Georgiou will not hold on trust the Security or any proceeds received from Georgiou's recourse to the Security under this clause.

6. INDEMNITIES

The Consultant indemnifies Georgiou against any Claim or loss or damage which Georgiou is liable for in respect of:

- 1) death, disease or illness of, or personal injury to, persons;
- 2) loss of, or damage to, any real or personal property;
- 3) any breach of the Contract by the Consultant,

to the extent that the Claim or loss or damage arises in any way in connection with the Consultant's performance or non-performance of the Services under the Contract except to the extent such loss or damage was directly caused by an act or omission of Georgiou.

7. INSURANCES

Before commencing the Services or from the Commencement Date, the Consultant must take out and maintain during the Contract the insurances set out in Item 6 of Schedule 1 - Contract Particulars for the prescribed periods with insurers approved by Georgiou. Prior to the Commencement Date the Consultant must provide evidence to Georgiou of its compliance with this clause.

As soon as practicable, the Consultant must inform Georgiou's Representative in writing of any occurrence that may, or which the Consultant ought reasonably expect may, give rise to an insurance claim under any policy of insurance taken out pursuant to the requirements of this Contract.

- 1) The Consultant must ensure that it:
 - I. does not do anything which prejudices any insurance;
 - II. if necessary, rectifies anything which might prejudice any insurance;
 - III. reinstates a policy if it lapses;
 - IV. does not cancel, vary or allow to lapse an insurance policy;
 - V. immediately notifies Georgiou's Representative of any event which may result in an insurance policy lapsing or being cancelled or being rendered ineffective; and
 - VI. discloses full and true information to the insurer of all matters and things relevant to the insurance.
- 2) If the Consultant fails, prior to the Commencement Date, to:
 - I. provide copies of any insurance policy together with evidence satisfactory to Georgiou that the policy is current; or
 - II. effect insurance which is with insurers and on terms satisfactory to Georgiou,

as required by this clause, Georgiou may without prejudice to any other rights it may have, effect the insurance not taken out by the Consultant and the cost will be a debt due and owing from the Consultant to Georgiou.

8. REPRESENTATIVES AND KEY PERSONNEL

8.1 Georgiou's Representative

- 1) Georgiou's Representative is the person named in item 7 of Schedule 1 - Contract Particulars or the delegate of that person so notified by Georgiou's Representative to the Consultant.
- 2) Georgiou's Representative has full authority to act on behalf of Georgiou in connection with the Contract.
- 3) The Consultant must comply with any direction given by Georgiou's Representative.

8.2 Consultant's representative

- 1) The Consultant's Representative is the person named in item 8 of Schedule 1 - Contract Particulars or the delegate of that person so notified by the Consultant to Georgiou.
- 2) The Consultant's Representative has full authority to act on behalf of the Consultant in connection with the Contract.
- 3) The Consultant may not change the Consultant's Representative without obtaining Georgiou's prior written approval.

8.3 Consultant's Key Personnel

- 1) The Consultant must ensure that the persons identified in Item 9 of Schedule 1 - Contract Particulars or their replacement(s) fulfils the roles there stated in carrying out the Services under the Contract.
- 2) The Consultant must not replace any person identified in Item 9 of Schedule 1 - Contract Particulars without the prior written consent of Georgiou's Representative, such consent not to be unreasonably withheld.

9. VARIATIONS TO THE SERVICES

- 1) Georgiou may direct the Consultant to vary the Services by:
 - I. increasing, decreasing or omitting any part of the Services;
 - II. changing the character, quality, timing or sequence of the Services; or
 - III. performing additional Services,
 - IV. and the Consultant shall be bound to comply with the direction.
- 2) The Consultant shall not vary the Services except as directed by Georgiou's Representative.
- 3) Any variation in the Services Fee arising from a direction to vary the Services by Georgiou shall be agreed between the parties. If the parties cannot agree, the variation in the Services shall be valued in accordance with subclause 4).
- 4) Georgiou shall value variations to the Services which are not agreed between the parties in accordance with the rates by which the Services Fee is determined or, where the rates are not applicable or the Services Fee is a lump sum, the valuation of the variation to the Services shall be reasonable.
- 5) Where directed by Georgiou's Representative, the Consultant must indicate the effect of the variation in the Services on the Consultant's progress and the Consultant's Program.
- 6) Where a direction to vary the Services constitutes a decrease in or omission of part of the Services, Georgiou may engage and pay other consultants to perform the Services the subject of the direction. The decrease in or omission from the Services and/or the engagement of other consultants under this clause will not constitute a breach or a repudiation of this Contract and the Consultant will not be entitled to and forgoes any rights it may have to an addition to the Services Fee or to claim at law whether as damages or otherwise any additional payment arising out of or in connection with the direction for the decrease in, or omission from, the Services.
- 7) No increase in the Services Fee will be due or payable to the Consultant for any additional or increased Services that are required because of any negligence, omission or default by the Consultant.

10. EXTENSION OF TIME

- 1) The Consultant is only entitled to an extension of time to the Date for Services Completion if the Consultant demonstrates to the reasonable satisfaction of Georgiou's Representative that:
 - I. the Consultant is or will be delayed in reaching Services Completion by the Date for Services Completion by a Delay Event;
 - II. the Consultant has complied with all of the notice and information requirements set out in subclause 2); and
 - III. the Consultant has taken all reasonable steps to minimise the effect of the Delay Event on the Services under the Contract.
- 2) The Consultant must comply with the following notice and information requirements in relation to a Delay Event:
 - I. Within five (5) Business Days after the Consultant becomes aware or ought reasonably to have become aware of a Delay Event, the Consultant must give a written notice to Georgiou's Representative setting out full particulars of the Delay Event and its estimated duration.
 - II. With twenty eight (28) Business Days after a Delay Event occurring, the Consultant must give a written claim for an extension of time to Georgiou's Representative setting out the factual and legal basis of the extension of time claim and provide an updated Consultant's Program.
- 3) If the Delay Event continues for longer than one (1) calendar month, the Consultant must provide Georgiou's Representative with an updated claim on a monthly basis until the Delay Event has finished.
- 4) Time is not set at large by reason of the Consultant's failure to comply with the notice and information requirements of the Contract.
- 5) If the effects of Non Delay Events and Delay Events overlap, Georgiou's Representative may, in assessing an extension of time claim, apportion the resulting delay to the Services under the Contract.
- 6) Even though the Consultant is not entitled to or has not claimed an extension of time, Georgiou's Representative may, in his or her absolute discretion (but is not obliged to), at any time and before issuing the Certificate of Services Completion grant an extension of time to the Consultant.

11. DELAY AND DISRUPTION COSTS

- 1) Subject to the Consultant's compliance with subclause 2) below, for every day the subject of an extension of time granted under clause 10 for a Compensable Delay Event, the Consultant will be

- entitled (as its sole remedy for the Compensable Delay Event) to recover any additional Direct costs necessarily incurred as a result of the Compensable Delay Event from Georgiou.
- 2) In addition to the requirements set out in subclause 1), within twenty eight (28) days of the Compensable Delay Event occurring, the Consultant must also give a written claim for additional Direct costs to Georgiou's Representative setting out full particulars in relation to the additional Direct costs incurred or expected to be incurred.
 - 3) The Consultant has no entitlement to claim any costs in relation to any Delay Event unless it is also a Compensable Delay Event.

12. LIQUIDATED DAMAGES

If the Consultant does not reach Services Completion by the Date for Services Completion, the Consultant is indebted to Georgiou for liquidated damages at the rate specified in Item 10 of Schedule 1 - Contract Particulars for every day after the Date for Services Completion up to and including the earliest of the Date of Services Completion or termination of the Contract.

13. PAYMENT

In consideration of the provision of the Services, Georgiou must pay to the Consultant the Services Fee and the Reimbursable Expenses in accordance with this clause.

13.1 Progress claims

- 1) The Consultant must claim payment on a monthly basis progressively in accordance with the requirements set out in Item 11 of Schedule 1 - Contract Particulars.
- 2) Each Progress Claim must be given in writing to Georgiou's Representative and must set out:
 - I. a description of the Services under the Contract that the Consultant has performed;
 - II. a description of variations to the Services claimed under clause 10;
 - III. substantiation (including documentary evidence) that the Services and variations to the Services under the Contract have been performed; and
 - IV. documentary evidence that the Consultant has:
 - i) incurred the Reimbursable Expenses claimed in performing the Services; and
 - ii) made payment for the claimed Reimbursable Expenses.

13.2 Payment

- 1) Georgiou's Representative must, within 14 Business Days after receiving a valid Progress Claim, assess the Progress Claim and issue to Georgiou and the Consultant:
 - I. a Progress Certificate evidencing the assessment of the moneys due from Georgiou to the Consultant and reasons for any difference; and
 - II. a Negative Certificate evidencing the assessment of moneys due from the Consultant to Georgiou under the Contract.
- 2) If Georgiou's Representative does not issue a Progress Certificate within fourteen (14) Business Days after receiving a valid Progress Claim, that Progress Claim is deemed to be rejected by Georgiou's Representative.
- 3) Within seven (7) Business Days after receiving a Progress Certificate and (if applicable) a Negative Certificate, Georgiou must pay to the Consultant the balance of the Progress Certificate after setting off amounts owing to Georgiou under the Contract as set out in any Negative Certificate.
- 4) If that setting off produces a negative balance, the Consultant must pay to Georgiou the negative balance within seven (7) Business Days after receiving written notice from Georgiou demanding payment.
- 5) Payment of a Progress Claim will not constitute evidence that the Services under the Contract have been carried out satisfactorily, and payment other than the final payment will be payment on account only.

13.3 Set

off

- 1) Georgiou may at any time (including in the assessment of a Progress Claim by Georgiou's Representative) set off against any monies owing to the Consultant, any costs, losses or damages incurred as a result of any act or omission of the Consultant or any moneys due and owing by the Consultant to Georgiou in connection with the provision of the Services under the Contract.
- 2) Should there be insufficient monies owing to Georgiou against which such deduction may be made, Georgiou may have recourse to the Security.

[Subclause 2 above should be deleted if the Consultant will not be providing security. Delete this note.]

13.4 Certificate of Services Completion and Final Payment Claim

- 1) When the Consultant considers that it has completed the Services, it shall request Georgiou's Representative to issue a Certificate of Services Completion.
- 2) Georgiou's Representative shall, within seven (7) Business Days of receipt of the Consultant's request, issue the Certificate of Services Completion or provide reasons why Georgiou's Representative considers that the Services have not been completed.
- 3) Within twenty eight (28) days after receipt of the Certificate of Services Completion, the Consultant must give to Georgiou's Representative a written Final Payment Claim.
- 4) Within fourteen (14) days of receipt of the Final Payment Claim, Georgiou's Representative must issue to both the Consultant and Georgiou a Final Certificate stating the amount finally due and payable between the Consultant and Georgiou in connection with the Contract. Such amount is to be paid within seven (7) days.
- 5) As a pre-condition for the Consultant's entitlement to any payment under a Final Certificate, the Consultant must execute and attach to its Final Payment Claim, a Final Release.

14. DEFECTS OR OMISSIONS IN THE SERVICES

- 1) The Consultant must promptly notify Georgiou of any Defects or omissions in the Services.
- 2) If Georgiou considers (as a result of notification by the Consultant or at its own volition) that there are any Defects or omissions in the whole or any part of the Services or that the Services are unsatisfactory or do not comply with the requirements of this Contract then Georgiou may in its absolute discretion:
 - I. assess the reduction in the value of the Services as performed and deduct that amount from the Services Fee;
 - II. require the Consultant to rectify the Services not performed in accordance with the Contract at the Consultant's cost and within any time that may be specified by Georgiou; or
 - III. rectify or engage another party to rectify the Services not performed in accordance with the Contract and recover the cost to Georgiou as a debt due from the Consultant.

15. SUSPENSION

- 1) Georgiou may, at any time, direct the Consultant by notice in writing to suspend all or any part of the Services under the Contract.
- 2) If the suspension was caused by a Force Majeure event or an act or omission of the Consultant the Consultant is not entitled to any Claim in relation to the suspension.
- 3) Upon being directed by Georgiou's Representative to recommence all or part of the Services under the Contract, the Consultant must immediately recommence the Services under the Contract.

16. TERMINATION

16.1 Termination other than for breach or default

- 1) The Contract may be terminated:
 - I. at any time by mutual agreement between the parties; or
 - II. by Georgiou by giving the Consultant reasonable prior written notice.
- 2) If the Contract is terminated under subclause 1), II Georgiou shall pay the Consultant for Services performed and Reimbursable Expenses incurred, up to the date of the termination.
- 3) The Consultant shall not be entitled to any other payment, damages, compensation or Claim for a termination under subclause 1) other than that provided under subclause 2).
- 4) Georgiou may, in its absolute discretion, have the terminated Services performed by it or by a third party.

16.2 Breach or Default

- 1) Georgiou may give the Consultant a written notice to show cause if the Consultant breaches any provision of the Contract, setting out full particulars of the breach and the particular time by which the Consultant must show cause (which must not be less than seven (7) Business Days after the notice).
- 2) If the Consultant fails to show reasonable cause by the time set out in the notice, Georgiou may by written notice to the Consultant terminate all or part of the Contract and suspend any further payment to the Consultant.

- 3) If the Contract is terminated, Georgiou may complete all or part of the Services taken out of the Consultant's hands and may, without payment of compensation to the Consultant:
 - I. contract with the Consultant's sub consultants and subcontractors; and
 - II. immediately take possession of, and use, the Services Materials at Georgiou's absolute discretion.
- 4) When the Services under the Contract taken out of the Consultant's hands have been completed, Georgiou's Representative will assess the cost thereby incurred and such costs will be certified as due and payable to Georgiou from the Consultant.

16.3 Insolvency

Either party may immediately terminate the Contract by notice to the other, upon the occurrence of any of the following events:

- 1) A party informs the other in writing, or creditors generally, that the party is insolvent or is financially unable to proceed with the Contract;
- 2) A writ of execution, instalment order, garnishee order, mareva injunction or similar order or process is made, levied or issued against the party or in relation to any assets of the party;
- 3) A party or its creditors seek relief against any insolvency law including the Bankruptcy Act 1966 (Cth) or the Corporations Act 2001 (Cth).

17. DISPUTE RESOLUTION AND CONSTRUCTION CONTRACTS ACT 2004 (WA)

- 1) If a dispute or difference arises between Georgiou and the Consultant in connection with the Contract, then either party may give the other party a written notice of dispute identifying the dispute or difference.
- 2) Within 14 days, Georgiou's Representative and the Consultant's Representative and/or their delegates must meet and attempt to resolve the dispute in good faith
- 3) If the dispute is not resolved at the meeting convened in subclause 2), the parties may agree to resolve the dispute through any form of alternative dispute resolution. If the parties cannot agree on alternative dispute resolution within 14 days of the meeting, either party may proceed to litigation.
- 4) For the purposes of section 26(1)(c)(ii) of the Construction Contracts Act 2004 (WA) the parties appoint as prescribed appointer the Institute of Arbitrators and Mediators Australia (WA Chapter).

18. CONFIDENTIALITY

- 1) The Consultant:
 - I. may use Confidential Information only for the purposes of this Contract; and
 - II. must keep confidential, all Confidential Information, except where required by law to disclose any Confidential Information.
- 2) If Georgiou considers that the Consultant is disclosing, or has disclosed, Confidential Information in breach of this clause, Georgiou may, by written notice to the Consultant, require the Consultant to return all Services Materials and other documents and materials containing or based upon the Confidential Information.
- 3) Upon receipt of such a notice, the Consultant must immediately return to Georgiou, all such Services Materials and other documents and materials, including any provided to third parties.

19. INTELLECTUAL PROPERTY RIGHTS

[Georgiou needs to choose either Alternative 1, in which Georgiou owns all IP rights arising from the Services or Alternative 2, in which the Consultant owns the IP rights but licences them to Georgiou. Delete this note]

Alternative 1

19.1 Ownership of Intellectual Property

- 1) Except as is set out in this clause, ownership of Intellectual Property (other than third party Intellectual Property) associated with the Services or this Contract:
 - I. provided or created by the Consultant, vests in Georgiou from the date of its creation; and
 - II. provided or created by Georgiou is vested and shall vest in Georgiou.

- 2) The Consultant hereby assigns to Georgiou all of its Intellectual Property Rights (other than third party Intellectual Property Rights) associated with the Services under the Contract.
- 3) The Consultant must at the cost of the Consultant, do all things and execute all documents necessary to assign those Intellectual Property Rights, if required, to Georgiou.
- 4) For the avoidance of doubt, any discovery, design, invention or secret process or improvement in procedure ('Invention') made or discovered by the Consultant or Key Personnel during the course, in connection with or in any way affecting or relating to the Services or this Contract, or capable of being used or adapted for use in relation to the Services or this Contract, must:
 - I. immediately be disclosed by the Consultant to Georgiou in detail in writing; and
 - II. be assigned by the Consultant to and be the absolute property of Georgiou, with no further compensation, reward or financial entitlement being due to the Consultant or Key Personnel.

Alternative 2

Ownership of Intellectual Property (other than third party Intellectual Property) associated with the Services or this Contract:

- 1) provided or created by the Consultant vests in the Consultant; and
- 2) provided or created by Georgiou vests in Georgiou.

19.2 Licences

[Delete whichever does not apply. Delete this note.]

Alternative 1

Georgiou hereby grants to the Consultant, a perpetual, non-exclusive, non-transferable licence to use and exercise the Intellectual Property Rights reasonably required by the Consultant for the purposes of performing the Services under the Contract.

Alternative 2

The Consultant hereby grants to Georgiou a perpetual, exclusive licence to:

- 1) use and exercise any Intellectual Property Rights (including the Pre-existing Intellectual Property) reasonably required by Georgiou for the purposes of performing the Services under the Contract, including but not limited to repairing, modifying and maintaining the any parts of the Project related to the Services;
- 2) use and reproduce the Intellectual Property (including the Pre-existing Intellectual Property) for its own purposes; and
- 3) to manufacture, sell, hire or otherwise exploit a product or process, or to provide a service, or to license any third party to do any of those things in respect of the Intellectual Property (including the Pre-existing Intellectual Property).

19.3 Pre-existing Intellectual Property

[Delete whichever does not apply. Delete this note.]

Alternative 1

- 1) Nothing in this Contract transfers or affects any Intellectual Property Rights in either party's Pre-existing Intellectual Property.
- 2) Notwithstanding clause 19.1, the Consultant hereby grants and must ensure that relevant third parties grant, to Georgiou, a perpetual, non-exclusive, non-transferable, irrevocable licence:
 - I. to use and exercise the Pre-existing Intellectual Property required by Georgiou for the purposes of performing the Services under the Contract;
 - II. to use and reproduce the Pre-existing Intellectual Property for its own purposes; and
 - III. to perform any other act with respect to the Pre-existing Intellectual Property and to manufacture, sell, hire or otherwise exploit a product or process, or to provide a service, or to license any third party to do any of those things in respect of the Pre-existing Intellectual Property.

Alternative 2

Nothing in this Contract transfers or affects any Intellectual Property Rights in Georgiou's Pre-existing Intellectual Property.

19.4 Warranty and indemnity

- 1) The Consultant warrants and hereby indemnifies that:
 - I. it has the right to grant the licences granted by it; and
 - II. the Services it supplies or the Intellectual Property items it provides to Georgiou pursuant to the Contract will not infringe the Intellectual Property rights of a third party.
- 2) The Consultant hereby indemnifies Georgiou against any loss or damage that Georgiou may directly or indirectly sustain or incur because of a claim by a third party that Georgiou has infringed its Intellectual Property Rights.

20. NOTICES

- 1) A notice, demand, consent, approval or communication under this Contract (Notice) must be:
 - I. in writing; and
 - II. hand delivered, sent by prepaid post, by facsimile or email to the recipient's address for Notices set out in Item 12 of Schedule 1 - Contract Particulars.
- 2) If sent by facsimile transmission, the Notice is deemed to be received when the sender's facsimile system generates a message confirming successful transmission of the entire Notice.
- 3) If sent by electronic mail, the Notice is deemed to be received when the sender receives a read receipt.
- 4) If hand delivered, the Notice is deemed to be received upon delivery to the recipient's address for Notices.
- 5) If sent by prepaid post, the Notice is deemed to be received 3 Business Days after the date of posting the Notice.

21. MISCELLANEOUS

21.1 Civil Liability Act

Part 1F (Proportionate Liability) of the *Civil Liability Act 2002 (WA)* is excluded from operation under or in connection with this Contract.

21.2 Liability for Indirect or Consequential Losses

Despite any other provision of this Contract, neither Georgiou nor the Consultant has any liability to each other, nor will they be entitled to make any Claim, in respect of any Indirect or Consequential Loss sustained as a result of any act or omission of any of them (whether negligent or otherwise) or as a result of a breach of the Contract by any of them.

21.3 Entire Agreement

This Contract constitutes the entire agreement between the parties and supersedes all previous negotiations and communications.

21.4 Amendment

An amendment of this Contract must be in writing and signed by the parties.

21.5 Waiver

No party to this Contract may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

21.6 Governing Law

This Contract is subject to and is to be construed in accordance with, the laws of Western Australia and the parties submit to the non-exclusive jurisdiction of the Courts of that State.

21.7 Assignment

The Consultant must not without the written consent of Georgiou's Representative:

- 1) assign this Contract or any interest in the Contract; or
- 2) materially change the shareholding or beneficial ownership of the Consultant.

21.8 Severability

The parties agree that if part or all of any provision of this Contract is illegal or unenforceable it may be severed from this Contract and the remaining provisions of this Contract will continue in force.

21.9 Indemnities

All obligations to indemnify under this Contract survive termination of the Contract.

21.10 Goods and Services Tax

- 1) In this clause, the expressions 'adjustment note', 'consideration', 'GST', 'input tax credit', 'supply', 'tax invoice', 'recipient' and 'taxable supply' have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- 2) Unless otherwise expressly stated in the Contract, all prices or other sums payable under this Contract are exclusive of GST.
- 3) Despite any other provision in this Contract, if GST is payable by a Consultant under this Contract, the recipient must pay to the Consultant an amount equal to the GST payable on the supply by the Consultant. Subject to receipt of a valid tax invoice, that amount must be paid at the same time that the consideration for the supply is to be provided under this Contract and will be provided in addition to the consideration expressed elsewhere in this Contract.
- 4) If this Contract requires a party to reimburse any other party for any expense, loss or outgoing (reimbursable expense) incurred by another party, the amount required to be reimbursed by the first party will be the sum of:
 - I. the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and
 - II. if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply and for the avoidance of doubt, if the supply is a taxable supply, subclause 3) will apply.
- 5) If a GST inclusive price is changed or varied under this Contract, the Consultant must provide the recipient of the supply a valid tax invoice or adjustment note at or before the time of payment or variation.
- 6) If the amount of GST paid or payable by the Consultant on any supply made under this Contract differs from the amount of GST paid by the recipient, because the Commissioner of Taxation lawfully adjusts the value of the taxable supply for the purpose of calculating GST or for any other reason, then the amount of GST paid by the recipient will be adjusted accordingly by a further payment by the recipient to the Consultant or the Consultant to the recipient as the case requires.
- 7) The Consultant must provide notice to Georgiou of its entitlement (or not) to claim input tax credits in respect of premiums paid for relevant insurances under this Contract as soon as practicable after the date of this Contract.

22. INTERPRETATION

22.1 Dictionary

In this document and this Contract, unless the context otherwise requires:

Approvals means any necessary approvals, authorisations, consents, permissions, permits, determinations, certificates, notices, licences or waivers under any Legislative Requirements or by any Authority, including any condition attached to the approval, authorisation, consent, permission, permit, determination, certificate, notice, licence or waiver and under any renewal, amendment or variation thereof for the performance of the Services under the Contract.

Authority means any court or tribunal within the relevant jurisdiction, or any public or statutory or government (whether federal, state or local) body, authority, council, inspectorate, department, ministry, official or agency which in any way governs or affects any aspect of the Services under the Contract.

Business Day or working day means any day other than:

- 1) a Saturday, Sunday or a public holiday (in the location where the Services are being performed); and
- 2) 27, 28, 29, 30 or 31 December.

Certificate of Services Completion means the certificate issued by Georgiou's Representative under clause 13.4.

Claim means any claim for:

- 1) an extension of time within which the Consultant must complete the work under the Contract, or perform any obligation under or in connection with the Contract;
- 2) a declaration or order to the effect that the prevention principle applies or that time is at large under the Contract;
- 3) adjustment to the Contract Price or any other consideration payable by Georgiou for work under the Contract;
- 4) recovery of any costs, loss, damages, liabilities, expenses or other amounts of any kind arising:
 - I. under the Contract;
 - II. out of or in connection with the work under the Contract;
 - III. to the extent permitted by law, under any Legislative Requirement; or
- 5) relief from any of the Consultant's obligations or liabilities under the Contract,

whether under the Contract or otherwise at law or in equity (including under statute, in tort (including negligence), quantum meruit, unjust enrichment or restitution).

Commencement Date means the date specified in Item 1 of Schedule 1 - Contract Particulars or if no date is specified in the Schedule, the first date set out in the Consultant's Program.

Compensable Delay Event means:

- 1) any act or omission by Georgiou's Representative, Georgiou or its consultants, agents or other Consultants (not being employed by the Consultant); or
- 2) any breach of the Contract by Georgiou.

Confidential Information means:

- 1) the following information, regardless of its form and whether the Consultant becomes aware of it before or after the Commencement Date:
 - I. all information relating to the Services under the Contract that concerns the technical or commercial know-how or systems, procedures, business, finances, plans, pricing, trade suppliers, construction methodology, construction techniques, construction planning, design, personnel, products, services, quotations, commercial feasibility, time, cost, demand projections, sizing, marketing, finance, income, public relations, client user group information, customer details, legal aspects or leasing arrangements; and
 - II. all other information treated by Georgiou as confidential;
- 2) all notes and other records prepared by the Consultant based on or incorporating information referred to in subclause 1), I above; and
- 3) all copies of the information, notes and other records referred to in subclauses 1), I or II. above, except information:
 - I. the Consultant creates (whether alone or jointly with any third person) independently of Georgiou which is not related in any way to this Contract;
 - II. that is public knowledge (otherwise than as a result of a breach of confidentiality by the Consultant or any of its permitted discloses).

Contract means the contract between Georgiou and the Consultant of which these general conditions form part. The documents comprising the Contract are set out in the Formal Instrument of Agreement.

Contract Documents means the following documents:

- 1) This Form of Agreement;
- 2) Special Conditions;
- 3) General Conditions;
- 4) Schedules 1-5; excluding and Special Conditions
- 5) [Insert other documents e.g the Preliminaries, Specifications, Drawings and other documents]

Consultant means the person bound to carry out and complete the Services under the Contract specified in the Formal Instrument of Agreement and includes its successors and assigns as permitted under the Contract.

Consultant's Materials means any items, parts, components, consumables or other tangible or intangible goods, materials or other items provided by the Consultant for the performance of the Services.

Consultant's Program means the program approved by Georgiou's Representative pursuant to clause 2 for performing the Services under the Contract.

Consultant's Representative means the person appointed by the Consultant pursuant to clause 8.2 of the Contract or a person appointed to replace that person.

Date for Services Completion means the date specified in Item 2 of Schedule 1 - Contract Particulars as the date by which the Consultant is required to complete the Services. If the date is amended pursuant to the terms of the Contract or allowed in any arbitration or litigation, it means the resulting date.

Date of Services Completion means the date specified in the Certificate of Services Completion as the date on which the Consultant has achieved Services Completion in relation to the Services under the Contract.

Default means a breach by a party of any of its obligations under the Contract.

Defect means:

- 1) any defect, fault, deficiency or omission in respect of the Services under the Contract;
- 2) any non-compliance of the Services under the Contract, or part thereof, with this Contract; or
- 3) any Services under the Contract which are not executed or performed in accordance with this Contract (including Services Materials provided or to be provided).

Delay Event means

- 1) any act or omission by Georgiou's Representative, Georgiou or its consultants, agents or other consultants (not being employed by the Consultant); or
- 2) any breach of the Contract by Georgiou or Georgiou's Representative;
- 3) any variations to the Services directed by Georgiou's Representative pursuant to clause 9 of the Contract.

Direct costs means direct, demonstrable and actual costs, but excludes margins or profit.

Extension of Time means an extension of the Date for Services Completion granted by Georgiou's Representative in accordance with clause 10 of this Contract.

Final Payment Claim means a payment claim issued by the Consultant in accordance with clause 13.4 of this Contract.

Final Certificate means a certificate issued by Georgiou's Representative in accordance with clause 13.4 of this Contract.

Georgiou means the specific legal entity expressly identified as "Georgiou" in the Form of Agreement and its successors and assigns.

Georgiou's Representative means the person appointed by Georgiou to be its representative pursuant to clause 8.1 of the Contract or a person appointed to replace that person.

Georgiou-Supplied Information means any information (whether written or otherwise) supplied or made available to the Consultant:

- 1) by or on behalf of Georgiou; or
- 2) by or on behalf of Georgiou's Representative.

before or after the Commencement Date of the Contract in connection with the Services under the Contract or anything in connection with the Contract, other than the Contract Documents.

Head Contract means the contract between Georgiou and the Principal in relation to the Project of which the Services under the Contract form a part.

Indirect and Consequential Loss means any loss in the nature of loss of profit, loss of revenue, loss of equity, loss of use, loss of business, business interruption or any consequential loss (being loss or damage which is not directly or naturally occurring according to the usual course of things from a breach of the Contract and such loss or damage which may reasonably be supposed to have been in the parties' contemplation at the time they made the contract as the probable result of any breach).

Intellectual Property/ Intellectual Property Right means all intellectual and industrial property rights including patents, designs, trademarks, circuit layouts, copyright and moral rights whether registered or not registered, including any application or pending registration of these rights.

Legislative Requirement includes:

- 1) Acts, ordinances, regulations, by-laws, orders, awards and proclamations of the jurisdiction where the Services under the Contract or the particular part thereof are being carried out;

- 2) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of the Services under the Contract;
- 3) fees and charges payable in connection with the foregoing.

Negative Certificate means a certificate issued by Georgiou's Representative under clause 13.2 evidencing Georgiou's Representative's assessment of moneys due from the Consultant to the Georgiou pursuant to the *Contract*.

Non Delay Event means any delays caused by an act or omission of the Consultant or any breach of the Contract by the Consultant.

Notice has the meaning set out in clause 20.

Party or **parties** means Georgiou and/or the Consultant.

Pre-existing Intellectual Property means Intellectual Property Rights in items that existed prior to the date of the engagement of the Consultant.

Principal means the Principal under the Head Contract.

Principal's Representative means the person so described or similarly described in the Head Contract.

Progress Certificate means a progress certificate issued by Georgiou's Representative under clause 13.2 evidencing his or her assessment of the moneys due from Georgiou to the *Consultant* pursuant to a Progress Claim and the reasons for any difference.

Progress Claim means a progress claim made by the Consultant under clause 13.1 of the Contract.

Project means the project described in Item 3 of Schedule 1 - Contract Particulars.

Contract Program means the program for the whole of the Project, of which the Services form a part, set out in Schedule [insert] and as amended from time to time.

Reimbursable Expenses means the expenses set out in item 13 Schedule 1 - Contract Particulars.

Schedule means the Addenda to the General Conditions.

Security means approved unconditional undertaking(s) given by a reputable Australian financial institution or insurance company and approved by Georgiou in accordance with clause 2 of the Contract.

Services means all of the services described in Schedule [insert] - Scope of Work and the associated and included obligations established by this Contract.

Services Completion means that the Services have been completed in accordance with the Consultant's obligations under the Contract.

Services Fee means the amount contained in Item 14 of Schedule 1 - Contract Particulars or the amount calculated in accordance with the rates set out in Schedule [insert] - Schedule of Rates.

Services Material means those documents and materials created or required to be created by the Consultant as part of the Services under the Contract and to be handed over to Georgiou.

Suspension means a suspension of the Services by Georgiou under clause 15 of the Contract.

Services under the Contract means all of the services to be provided by the Consultant under this Contract.

22.2 Interpretation

In this Contract, unless the context otherwise requires:

- 1) References to:
 - I. a party includes the party's successors and assigns;
 - II. anything includes part of that thing;
 - III. persons include companies, associations, firms, authorities and bodies corporate;
 - IV. gender includes all other genders;
 - V. a document includes the document as changed or replaced from time to time;
 - VI. currencies mean Australian currencies;
 - VII. party, where the party is more than one person, means all of them together and each of them separately;
 - VIII. a clause or schedule or recital refers to a clause or schedule or recital in this Subcontract;

- IX. statute, regulation, code or standard includes a reference to it as amended from time to time; and
 - X. a day refers to the period commencing at midnight and ending twenty four (24) hours later.
 - XI. an Interpretation shall not be affected by the fact that one party put forward any part of the Contract.
- 2) Invalidity of any provision of the Subcontract shall not affect the validity of any other provision except to the extent made necessary by the invalidity.
 - 3) The singular includes the plural and the other way around.
 - 4) Headings do not affect the meaning of this Contract.
 - 5) If a word or phrase is defined, any variation of that word or phrase has the same meaning to the extent possible.
 - 6) A reference to 'a party' or 'parties' is a reference to a party or the parties to this Contract.
 - 7) A reference to 'indemnify' means that the person giving the indemnity will indemnify and keep indemnified the person given the indemnity against any loss, damage, claims, actions, demands, costs or expenses suffered or sustained because of the event indemnified against. This means that if the person indemnified suffers any loss or must pay any money (whether or not it is actually paid) because of an indemnified event the party giving that indemnity must pay the amount of loss or the amount of liability to the indemnified party. If it does not, the indemnified party can recover the amount as a debt due.
 - 8) A debt due becomes due and payable at the time specified in the Contract, or if no time is specified, it is payable on demand.
 - 9) If there is any inconsistency between a clause of this Contract and a provision of a Schedule, the clause of this Contract will prevail.
 - 10) If anything to be done under the Contract falls on a day which is not a working day, then it must be done on the next working day.
 - 11) Where examples of a general term are given (whether or not using words such as 'includes' or 'including'), the use of the examples is without limitation to the general term and otherwise 'includes' or 'including' means includes or including without limitation.
 - 12) Where a plan or drawing is a reference to the plan or drawing in its proper scale.

22.3 Rights and Remedies Not Affected

The rights, powers and remedies provided in this Contract are cumulative with and not exclusive of the rights, powers and remedies provided by law independently of this Contract, unless otherwise stated.

END OF GENERAL CONDITIONS

Schedule 1 - Contract Particulars

<p>Item 1: Commencement Date (Clause 22.1)</p>	
<p>Item 2: Date for Services Completion (Clause 22.1)</p>	
<p>Item 3: Project (Clause 22.1)</p>	
<p>Item 4: Security (Clause 22.1)</p>	<p>a)</p>
<p>Item 5: Approvals (Clause 3)</p>	
<p>Item 6: Insurances required to be taken out and maintained by the Consultant (Clause 7)</p> <p>Workers Compensation Insurance</p> <p>Professional Indemnity Insurance</p> <p>Other insurances</p>	<p>Amount: Minimum \$[insert]</p> <p>Period: From the date of this Contract to the Date of Services Completion or the date of termination of the Contract, whichever is earlier.</p> <p>Amount: Minimum \$[insert]for any one claim and in the annual aggregate (or such other amount as Georgiou agrees in writing)</p> <p>Period: From the date of this Contract to a date not less than seven (7) years after the Date of Services Completion or the termination of the Contract, whichever is earlier.</p> <p>[insert any other insurances required]</p> <p>The Consultant must also take out and maintain all other insurances required by Legislative Requirements (including the <i>Workers' Compensation and Injury Management Act 1981 (WA)</i> and the <i>Motor Vehicle (Third Party</i></p>

	<i>Insurance) Act 1943 (WA)).</i>
Item 7: Georgiou's Representative (Clause 8.1)	
Item 8: Consultant's Representative (Clause 8.2)	
Item 9: Consultant's Key Personnel (Clause 8.3)	
Item 10: Liquidated Damages (Clause 12)	
Item 11: Prescribed date for making Progress Claims (Clause 13.1)	
Item 12: Address for Notices (Clause 20)	Georgiou: Consultant:
Item 13: Reimbursable Expenses (Clause 22.1)	
Item 14: Services Fee (Clause 22.1)	

Schedule 2 - Special Conditions

1. CODE OF COMPLIANCE

- 1) The Consultant must comply with the National Code of Practice for the Construction Industry (Code) and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, August 2009 (Guidelines). Copies of the Code and Guidelines are available at deewr.gov.au/building.
- 2) Compliance with the Code and Guidelines shall not relieve the Consultant from responsibility to perform the Contract, or from liability for any defect in the Works arising from compliance with the Code and Guidelines.
- 3) Where a change in the Contract is proposed and that change would affect compliance with the Code and Guidelines, the Consultant must submit a report to Georgiou and the Commonwealth specifying the extent to which the Consultant's compliance with the Code and Guidelines will be affected.
- 4) The Consultant must maintain adequate records of the compliance with the Code and Guidelines by:
 - I. the Consultant;
 - II. its subcontractors;
 - III. consultants; and
 - IV. its Related Entities.
- 5) If the Consultant does not comply with the requirements of the Code or the Guidelines in the performance of this Contract such that a sanction is applied by the Minister for Employment and Workplace Relations, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Consultant or a Related Entity in respect of work funded by the Commonwealth or its agencies.
- 6) While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, the Consultant may give preference to subcontractors and consultants that have a demonstrated commitment to:
 - I. adding and/or retaining trainees and apprentices;
 - II. increasing the participation of women in all aspects of the industry; or
 - III. promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- 7) The Consultant must not appoint a subcontractor or consultant in relation to the Project where:
 - I. the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or
 - II. The Subcontractor or consultant has had a judicial decision against them relating to employee entitlements, not including decisions under appeal, and has not paid the claim.
- 8) The Consultant must, and must ensure its subcontractors, consultants, employees and its Related Entities undertaking work on the Project, provide the Australian Government or any person authorised by the Australian Government, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, with access to:
 - I. inspect any work, material, machinery, appliance, article or facility;
 - II. inspect and copy any record relevant to the Project and Works subject of this Contract;
 - III. interview any person; and
 - IV. request a party to this Contract to produce a specified document within a specified period in person, by fax or by post,as necessary to allow validation of its progress in complying with the Code and Guidelines.
- 9) Additionally, the Consultant agrees that the Consultant and its Related Entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Office of the Australian Building and Construction Commissioner, to produce a specified document within a specified period, in person, by fax or by post.
- 10) The Consultant must ensure that all contracts impose obligations on subcontractors and consultants equivalent to the obligations under this clause.

- 11) The Consultant shall when raising purchase orders or minor contracts of \$25,000 or less must include the following clause within any purchase orders:
"The National Code of Practice for the Construction Industry (the Code) and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, reissued August 2009 (or if a later version applies, then refer to the later version) (the Guidelines), apply to this project. By agreeing to undertake the works, you will be taken to have read and to agree to comply with the Code and Guidelines."
- 12) The Consultant must, and must ensure that its subcontractors, consultants and employees undertaking work on the Project, notify the Code Monitoring Group Secretariat of any alleged breaches, voluntary remedial action taken or other Code related matters within 21 days of becoming aware of the alleged breach.

2. HSEQ REQUIREMENTS

While working on or in connection with a Georgiou worksite the Consultant is required to work in accordance with Georgiou systems and processes. The Consultant is responsible for ensuring any other party engaged to supply or perform works on behalf of the Consultant for this contract are made aware of and work in accordance with the Georgiou systems and processes.

1) Personal Protective Equipment (PPE)

The minimum personal protective equipment on a Georgiou construction site shall be:

- Hard hat
- Safety boots with non slip soles and toe protection; persons working on uneven and soft surfaces, e.g. civil construction sites, shall be required to wear lace-up safety boots
- High visibility vest (if shirt /jacket is not high visibility)
- Safety glasses
- Site personnel shall be expected to carry in their possession, at all times, suitable protective gloves for the job they are performing
- Long sleeve shirts
- Trousers
- UV protected eyewear
- Sunscreen lotion

2) Induction

Where work is of a continuous nature then the Consultant Representative may be required to undertake the Project/Facility site specific HSEQ induction prior to accessing the site at their cost. It is recommended that persons requiring induction contact the site to make arrangement prior to attending site.

3) Training and Competency

The Consultant is responsible for providing suitably competent persons to perform their contracted tasks. If the Consultant has attended the site induction and will access the site unsupervised they shall be required to hold a Construction Safety Awareness card and carry it on their person at all times.

4) Consultant Plant & Equipment Requirements

All plant and equipment brought to site by the Consultant shall:

- Be fit for purpose
- Undergo a compliance inspection prior to commencement. Georgiou's GC-HSE-FRM016 Site Plant/Equipment Compliance Checklist may be completed and submitted as evidence of this requirement
- Provide evidence of current insurances including and not limited to motor vehicle, workers compensation and public liability insurance
- Have an operator's manual relevant to the item of plant and which is to be kept with the plant

- Undergo and record daily maintenance inspections
- Be serviced as per the manufacturer's specification. Georgiou's GC-HSE-FRM057 Subcontractor Service Report may be completed and submitted as evidence of this requirement
- Have any defects identified promptly repaired. Non compliant Plant/Equipment that poses a risk to Health or Safety will be tagged with an Out of Service tag or removed from site
- In regard to electrical equipment, be tagged by a licensed person using the National colour coding system
- In regard to lifting equipment, be tagged with a current Safe Working Load

The Consultant shall be able to provide Georgiou upon request documented evidence that the above requirements have been met.

5) Pre-starts Meetings

Where work is of a continuous nature then the Consultant Representatives must attend the morning pre-start at the designated site start time. If unable to attend at the designated time the Consultant Representative is to read the pre-start meeting minutes and sign on to the attendance sheet as evidence that these have been read and understood.

In all other instances the Consultant Representatives will be required to report to the Georgiou site office and contact the site supervisor.

6) Toolbox Meetings

Consultant Representatives shall attend the Project's/Facility toolbox meetings as requested by Georgiou.

7) HSEQ Management Meetings

The Consultant shall provide a representative to attend the Project's/Facility Monthly HSEQ Management Meeting as requested by Georgiou.

8) Risk/ Hazard Management

The Consultant Representative shall be required to complete Take 5 as directed by site management in accordance with GC-HSE-ST016 Risk and Operational Control Standard and report hazards when identified.

9) Incident Reporting & Investigation Procedures

The Consultant Representative shall report all incidents and injuries immediately to Georgiou Management and shall be required to participate in incident investigations where that incident occurs in their area of work.

10) Hazardous and Dangerous Substances

Consultant owned or controlled hazardous and dangerous substances shall be registered on site. The Consultant shall only bring hazardous or dangerous substances onto site if they have:

- Been authorised by the site's management to do so
- Provided the Georgiou site a copy of a Material Safety Data Sheet (MSDS) for the substance
- Provided the Georgiou site with the volume/ quantity of the substance
- An appropriate storage facility available for the storage of the substance
- Completed a risk assessment on the use of the substance, which may be done as part of the JHA

11) Emergency Response

Consultant Representative's will be required to participate, on the day, in any on site emergency response drills. The site management shall inform them of any drills to be conducted and their required participation.

12) Fitness for Work

- The Consultant shall ensure their personnel present themselves in a fit and healthy state at all times for the duties they are required to perform
- The Consultant shall provide any medical information to Georgiou in regard to their personnel entering a Georgiou site that may impede their ability to perform their work, or place themselves or others at risk or should be known in the event of an emergency
- The Consultant Representative shall abide by Georgiou's 0% Breath Alcohol limit when on site and shall consent to testing to verify compliance as required. Personnel recording a positive result to testing shall be removed from site at the Consultants expense. Personnel who return a positive test shall not be allowed to return to site without the Project/Facility Manager's consent.
- The Consultants personnel shall not enter a Georgiou site under the influence of illegal drugs or substances and shall consent to testing to verify compliance as required. Personnel recording a positive result to testing shall be removed from site at the Consultants expense. Personnel who return a positive test shall not be allowed to return to site without the Project/Facility Manager's consent.
- No Consultant personnel shall possess, use, consume, distribute or sell alcohol, illicit or non-prescribed drugs or misuse prescribed medication while on a Georgiou site.

13) Workplace Inspections and Audits

The Consultant shall be required to participate in workplace inspections and audits as requested by Georgiou. The Consultant also agrees that they may be subject to a Georgiou Audit conducted on their business as requested by Georgiou.

[Insert other Special Conditions. Delete this note.]

Schedule 3- Scope of Work

[Insert Schedule or remove reference as applicable. Delete this note]

Schedule 4 - Contract Program

[Insert Schedule or remove reference as applicable. Delete this note]

Schedule 5 - Schedule of Rates

[Insert Schedule or remove reference as applicable. Delete this note]

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