

Design and Construct - Minor Works Contract (Short Form)

Contract 1B in the Commonwealth
Model Contract Series



The Commonwealth

Model Contracts for Infrastructure, Extractives and Energy Industries in Commonwealth Countries

The Commonwealth Secretariat recognises the need for standardised contracts within the infrastructure, extractives and energy industries across its member countries.

The lack of uniformity in these contracts has led to inefficiencies, imbalances and loopholes that do not serve the best interests of the member countries. To address this issue, the Secretariat is developing model contracts that foster fairness, balance and sustainability in investment relationships, while protecting the interests of governments and citizens.

The core purpose of this standardisation is to consolidate a comprehensive array of infrastructure contracts, facilitating easy access for relevant stakeholders. By providing a singular point of access, it eliminates redundancy and ambiguity, allowing government officials and authorised parties to efficiently source and acquire requisite contracts. This strategic initiative is poised to revolutionise and improve the procurement process within Commonwealth member countries.

This series of model contracts will serve as valuable resources for government lawyers, aiding them in drafting and reviewing foreign investment projects and related contracts. By promoting fairness, balance and sustainability, these model contracts will contribute to the overall development and economic wellbeing of Commonwealth member countries.

Moreover, the establishment of this central repository underlines the commitment of Commonwealth member countries to fostering a conducive environment for sustainable investments.

To deliver this suite of model contracts, the Commonwealth Secretariat has constituted a working group comprising of officials nominated by 19 member countries who are leveraging their expertise, and working with a designated expert, to conclude the project.

**Design and Construct - Minor Works Contract
(Short Form)**

Contract 1B in the Commonwealth Model Contract Series



The Commonwealth

This work is adapted, under a Creative Commons Attribution 4.0 licence, from:

State of Victoria (Department of Treasury and Finance) (2024, September) 'Medium Works Contract (Short Form)', 2nd revision. <https://www.buyingfor.vic.gov.au/construction-standard-form-contracts>

© Commonwealth Secretariat 2025

This work is licensed under Creative Commons Attribution 4.0 International.

This publication is not intended to be, and should not be used as, a substitute for taking legal advice in any specific situation, and does not create a contractual or other legal relationship between the authors, or their affiliations, or the Commonwealth Secretariat, and any other parties.

Views and opinions expressed in this publication should in no way be attributed to the institutions to which they are affiliated or to the Commonwealth Secretariat.

Wherever possible, the Commonwealth Secretariat uses paper sourced from responsible forests or from sources that minimise a destructive impact on the environment.

Published by the Commonwealth Secretariat.

Design and Construct Minor Works Contract (Short Form)

This agreement sets out contractual terms on which a Principal engages a Contractor to perform minor construction works (valued at less than US\$200,000), which may include both design and construction elements. The contract establishes the parties' primary obligations, with the Contractor required to perform activities and construct works in accordance with contract documents, directions from the Principal, and statutory requirements while using proper workmanship and appropriate materials. This model has been adapted from content licensed freely under the Creative Commons Attribution 4.0 license by the State of Victoria, Australia.

Design and Construct - Minor Works Contract (Short Form)

Project Title: [## INSERT]

[## INSERT]
(Principal)

[## INSERT]
(Contractor)

[Guidance note: This Minor Works Contract is intended for use in procurements valued at less than \$200,000 (excl. GST.) that involve construction or design and construction. It does not include:

- *provisions appropriate for more significant projects; or*
- *procurement policies that only apply where the contract value exceeds \$200,000 (excl. GST).*

Users should consider and determine which Government procurement policies apply to their project before using this contract.

Guidance Notes are included in this document and need to be completed and/or removed as indicated. Agencies should complete items highlighted.]

Contents

- 1. CONTRACTOR’S PRIMARY OBLIGATIONS 10
- 2. PRINCIPAL’S PRIMARY OBLIGATIONS..... 10
- 3. REPRESENTATIVES..... 10
- 4. SUBCONTRACTORS..... 10
- 5. VARIATIONS..... 11
- 6. INSURANCE..... 11
- 7. RISK 11
- 8. OHS 11
- 9. PRACTICAL COMPLETION AND DEFECTS..... 11
- 10. CONTRACT SUM AND PAYMENT 12
- 11. GST 13
- 12. DEFAULT AND TERMINATION..... 14
- 13. INTELLECTUAL PROPERTY 15
- 14. CONFIDENTIALITY 16
- 15. GOVERNMENT REQUIREMENTS AND COLLATERAL DOCUMENTS..... 16
- 16. DISPUTES..... 16
- 17. GOVERNING LAW..... 16
- 18. SEVERANCE..... 17
- 19. COUNTERPARTS..... 17
- 20. ELECTRONIC SIGNATURE..... 17
- 21. ELECTRONIC EXCHANGE 17
- 22. INTERPRETATION..... 17
- 23. PRINCIPAL'S DISCRETIONS..... 17
- 24. DEFINITIONS..... 17
- SCHEDULE 1 PROJECT SPECIFIC ADDITIONAL CONDITIONS..... 21
- SCHEDULE 2 SCOPE OF WORKS..... 22
- SCHEDULE 3 SITE 23
- SCHEDULE 4 LOCAL INDUSTRY DEVELOPMENT PLAN 24

Contract Details

Contract Date	[## insert]	
Project Details	Project Title: [## insert]	Project ID: [## insert]
	File No: [## insert]	
Principal	Name: [## insert name] Position: [## insert] Address: [## insert address (not a PO box)] Email: [## insert] Telephone: [## insert]	
Contractor	Name: [## insert name and ACN] Position: [## insert] Address: [## insert address (not a PO box)] Email: [## insert] Telephone: [## insert]	
Authorised Representatives:	Principal's Representative: Name: [##insert name] Position: [## insert] Address: [##insert address (not PO box)] Email: [##insert] Telephone: [## insert]	Contractor's Representative: Name: [##insert name] Position: [## insert] Address: [##insert address (not PO box)] Email: [##insert] Telephone: [## insert]
Contract Documents	The Contract is constituted by the following documents (in descending order of precedence): (a) these Contract Details; (b) the Contract Conditions, including those of the Project Specific Government Policy Requirements incorporated in the Contract in accordance with clause 15(b), but excluding the Schedules; (c) the Project Specific Additional Conditions (if any) set out in Schedule 1; (d) the Scope of Works set out in Schedule 2; (e) the documents in the Schedule of Collateral Documents that are incorporated in the Contract in accordance with clause 15(b); and (f) all other Schedules.	
Description of the Works	[## insert description]	
Contract Sum	A lump sum of \$[## insert] (excl. GST), as adjusted (if at all) under the Contract	
Site	As set out in Schedule 3	
Access Date	The later of: (a) the date on which the Contractor has provided evidence of the required insurances in accordance with clause 6; and (b) [## insert date]	

Date for Practical Completion	[## insert date or period of time after the Contract Date for Practical Completion.]				
Defects Liability Period (DLP)	[## insert weeks/ months] following Practical Completion				
Insurances	Policy	Persons covered	Amount of cover	Deductible must not exceed	Period to be maintained
	[## insert e.g. Public liability, Works insurance, workers compensation, motor vehicle and, if design is required, Professional Indemnity Insurance]	[## insert]	[## insert]	[## insert]	[## insert]
Payment	<p>(a) Time for submitting payment claims (Clause 10(a)(i)): [## insert] day of each month <i>(If nothing is stated, the 5th Business Day of each month for Contractor's Activities performed to the end of the preceding month)</i></p> <p>(b) Period for payment: [## insert] Business Days after the issue of a payment certificate <i>(If nothing is stated, the period for payment is 10 Business Days after the issue of a payment certificate)</i></p> <p>(c) Interest rate where interest is payable under clause 10(k): simple interest calculated on a daily basis at the rate for the time being</p>				
Contractor's Margin	<p>(a) Contractor's Margin (clause 5(a)(i)): [## insert percentage]% <i>(if nothing stated 10%)</i></p> <p>(b) Percentage of Contractor's Margin to be applied where there is a reduction to the Contract Sum (clause 5(a)(ii)): [## insert percentage]% <i>(if nothing stated 50%)</i></p>				
Authorised nominating authority					

Project Specific Government Policy Requirements - provisions incorporated in the Contract:	[## insert list]
---	-------------------------

Executed as an agreement

[## insert appropriate execution block for the Principal]

[## insert appropriate execution block for the Contractor]

General Conditions of Contract

1. **Contractor's primary obligations:** The Contractor must:
 - (a) perform the Contractor's Activities and construct the Works:
 - (i) in accordance with the Contract Documents, directions of the Principal and all Statutory Requirements;
 - (ii) in a proper and workmanlike manner and exercising the due skill, care and diligence that would be expected of a prudent, qualified, competent and professional contractor; and
 - (iii) using quality materials that are new (unless otherwise specified) and fit for their intended purpose as set out in, or reasonably inferred from, the Contract; and
 - (b) use its best endeavours to reach Practical Completion by the Date for Practical Completion.
2. **Principal's primary obligations:** The Principal must:
 - (a) on and from the Access Date, give the Contractor non-exclusive access to the Site sufficient to perform the Contractor's Activities and construct the Works; and
 - (b) pay the Contractor the Contract Sum and any other amounts payable in accordance with the Contract.
3. **Representatives:**
 - (a) The Principal must ensure that at all times there is a natural person appointed by it as the Principal's Representative who, as at the Contract Date, is the person specified in the Contract Details.
 - (b) The Principal's Representative can give all directions, exercise all rights and perform all functions of the Principal under the Contract as agent for the Principal (and not as an independent certifier or valuer).
 - (c) The Contractor must ensure that at all times there is a natural person appointed by it as the Contractor's Representative who, as at the Contract Date, is the person specified in the Contract Details.
 - (d) A direction is deemed to be given to the Contractor if it is given to the Contractor's Representative.
4. **Subcontractors:** The Contractor:
 - (a) must not, without the Principal's prior written approval, subcontract any of the Contractor's Activities;
 - (b) must ensure that all Subcontracts entered into in connection with the Contract:
 - (i) give effect to clauses 13 to 15 (both inclusive);
 - (ii) include provisions which may be reasonably necessary to enable the Contractor to fulfil its obligations to the Principal and are otherwise compatible and consistent with the Contract;
 - (iii) require the Subcontractor to comply with Industrial Relations Laws;
 - (iv) are consistent with the SOP Act; and
 - (v) comply with the unfair contract terms law set out under the [Commonwealth State] Consumer Law; and

(c) is not relieved of any of its obligations or liabilities (whether under the Contract or otherwise at Law) because of any subcontracting and remains responsible (and vicariously liable to the Principal) for acts, defaults and omissions of Subcontractors.

5. **Variations:** At any time before Practical Completion the Principal may direct the Contractor to perform a Variation, in which event:

(a) the Contract Sum will be adjusted by an amount agreed by the parties or, failing agreement, determined by the Principal (acting reasonably and using any applicable fees or rates included in the Contract, but not including anything included in the definition of Contractor's Margin), plus:

(i) if there is an increase to the Contract Sum, a further amount calculated by applying the Contractor's Margin to the amount agreed or determined under this clause 5(a); or

(ii) if there is a reduction to the Contract Sum, a further amount calculated by applying the percentage of the Contractor's Margin specified in the Contract Details to the amount agreed or determined under this clause 5(a); and

(b) the Date for Practical Completion will be extended by a period agreed by the parties or, failing agreement, determined by the Principal (acting reasonably).

(c) The Contractor shall not perform any variation without the written approval of the Principal.

No Variation will invalidate or constitute a repudiation of the Contract. The Principal may itself (or engage others to) carry out any work omitted from, or the subject of any reduction in, the Contractor's Activities or the Works.

6. **Insurance:** Before commencing the Contractor's Activities or accessing the Site the Contractor must have in place and then maintain the insurances in the amounts specified in the Contract Details, that comply with the other requirements specified in the Contract Details, and that are with insurers and on terms acceptable to the Principal.

7. **Risk:** The Contractor bears the risk of any loss of or damage to the Works occurring:

(a) before Practical Completion; and

(b) thereafter, during the DLP if the loss or damage arises from a Defect or any act, default or omission of the Contractor,

except to the extent caused by a negligent act or omission of the Principal or a breach of the Contract by the Principal.

The Contractor indemnifies the Principal from and against any liability, loss, claim or proceedings in respect of injury or death or loss of or damage to property which arises out of or in connection with the Contractor's Activities, except to the extent caused by a negligent act or omission of the Principal or a breach of the Contract by the Principal.

8. **OHS:** The Contractor must:

(a) ensure, so far as is reasonably practicable, the health and safety of workers and any other persons impacted by the Contractor's Activities; and

(b) comply with the requirements of all OH&S Laws and not do or fail to do anything which may result in the Principal being in breach of any OH&S Law.

9. **Practical Completion and Defects:**

- (a) The Contractor must give the Principal written notice when it considers Practical Completion has been reached. The Principal will inspect the Works promptly after receipt of a notice under this clause 9(a).
- (b) The Principal will give the Contractor written notice when it is satisfied Practical Completion has been reached (even if a notice under clause 9(a) has not been given), but a notice under this clause 9(b) will not:
 - (i) constitute any approval or agreement by the Principal that the Works meet the requirements of the Contract; or
 - (ii) limit or otherwise affect the Principal's rights against the Contractor, whether under the Contract or otherwise at Law.
- (c) If a Defect is identified before the end of the DLP, the Principal may by written notice direct the Contractor to rectify the Defect (within a specified time), or, accept the work despite the Defect. If the Contractor does not comply with a direction to rectify a Defect the Principal may rectify (or engage another contractor to rectify) the Defect. If the Principal:
 - (i) rectifies (itself or by engaging another contractor) a Defect, then the cost incurred by the Principal in doing so; or
 - (ii) accepts a Defect, then the amount determined by the Principal (acting reasonably) which represents the cost of rectifying the Defect,
 will be a debt due and payable by the Contractor to the Principal.
- (d) Neither the Principal's rights nor the Contractor's liability (whether under the Contract or otherwise at Law and whether before or after the end of the DLP) will be affected or limited by the Principal's rights under this clause 9, by any failure of the Principal to exercise such rights, or by any direction of the Principal.

10. Contract Sum and payment:

- (a) The Contractor must submit payment claims to the Principal for payment of the part of the Contract Sum that equates to the part of the Contractor's Activities performed as at the date of the payment claim, and any other amounts payable under the Contract:
 - (i) until Practical Completion or termination of the Contract (whichever is earlier), at the times specified in the Contract Details; and
 - (ii) unless terminated earlier, within 20 Business Days after:
 - A. the date on which the Principal gives notice under clause 9(b); and
 - B. the expiry of the DLP (**Final Payment Claim**).
- (b) Payment claims must include details of amounts claimed, supporting documents and a statutory declaration regarding payment to employees and Subcontractors engaged by the Contractor in the form set out in the Schedule of Collateral Documents (or as otherwise reasonably required by the Principal) and signed by a person authorised to do so on behalf of the Contractor.
- (c) The Final Payment Claim must comply with clause 10(b) and must include all amounts claimed by the Contractor on account of the Contract Sum and all other amounts payable under the Contract in respect of any fact, matter or thing arising out of or in connection with the Contractor's Activities, the Works or the Contract.
- (d) After the time for submitting a Final Payment Claim has passed, the Contractor releases the Principal from any Claim in respect of any fact, matter or thing arising out of or in connection with the Contractor's Activities, the Works or the Contract,

except for any Claim included in a Final Payment Claim which is given to the Principal within the time required by, and in accordance with, clause 10(c).

- (e) Within 10 Business Days of receiving a payment claim, the Principal must issue a Payment Certificate setting out:
 - (i) the amount due and payable to, and which the Principal proposes paying, the Contractor (or the amount due and payable to the Principal); and
 - (ii) if an amount payable to the Contractor is less than that claimed, reasons for the difference.

If the Contractor does not submit a payment claim, the Principal may nevertheless issue a Payment Certificate.

- (f) The Contractor must give the Principal a tax invoice for the amount payable under a Payment Certificate within 3 Business Days of receipt of the Payment Certificate.
- (g) Subject to clause 10(i), within the time stated in the Contract Details, the Principal must pay the Contractor (or the Contractor must pay the Principal) the amount specified in the Payment Certificate.
- (h) For the purposes of the SOP Act:
 - (i) each date for submitting a payment claim is a 'reference date' and each Payment Certificate is a 'payment schedule' (as defined in the SOP Act);
 - (ii) each amount stated as payable in a Payment Certificate is the amount of the 'progress payment' (as defined in the SOP Act) calculated in accordance with the Contract; and
 - (iii) the parties agree that the authorised nominating authority is as specified in the Contract Details.
- (i) The Principal may at any time and from time to time deduct from monies otherwise due to the Contractor:
 - (i) any debt or other money due from the Contractor to the Principal; or
 - (ii) any claim to money that the Principal asserts in good faith against the Contractor (for damages or otherwise),whether under the Contract or otherwise at Law.
- (j) Any payment under the Contract to the Contractor is:
 - (i) made on account only; and
 - (ii) not an admission or evidence that the subject Contractor's Activities have been carried out in accordance with the Contract.
- (k) If an amount is owing by the Principal under clause 10(g), is not in dispute and has been outstanding for more than 10 Business Days after the due date for payment, the Principal will, on demand by the Contractor, pay interest on that amount at the rate set out in the Contract Details.

11. **GST:**

- (a) Subject to clause 11(b), if any supply arises out of or in connection with the Contract for which GST is not otherwise provided, the party making the supply (**Supplier**) is entitled to increase the amount payable for the supply by the amount of any applicable GST.
- (b) If an amount is payable to the Supplier arising out of or in connection with the Contract which is based on the actual or reasonable costs incurred by the Supplier,

the amount payable for the supply is to be reduced by any input tax credits available to the Supplier (or a representative member on its behalf) in respect of such costs before being increased for any applicable GST under clause 11(a).

- (c) As a condition precedent to any amount on account of GST being due from the recipient to the Supplier in respect of a taxable supply, the Supplier must give the recipient a tax invoice in respect of that supply.
- (d) If the amount paid to the Supplier in respect of the GST (because of an adjustment or otherwise) is:
 - (i) more than the GST on the supply, the Supplier must refund the excess to the recipient; or
 - (ii) less than the GST on the supply, the recipient must pay the deficiency to the Supplier.

12. Default and termination:

- (a) If the Contractor fails to comply with an obligation under the Contract, the Principal may give written notice requiring the Contractor to remedy the breach, or otherwise overcome the effects of the breach to the satisfaction of the Principal (acting reasonably), within 10 Business Days (or any longer period specified by the Principal) of receiving the notice.
- (b) If the Contractor:
 - (i) does not remedy or otherwise overcome the effects of the breach to the satisfaction of the Principal (acting reasonably) within the time required under clause 12(a) (or such longer period agreed by the parties); or
 - (ii) is unable to pay its debts as and when they fall due, is wound up or declared insolvent or if a receiver, receiver and manager, controller, administrator, liquidator, provisional liquidator, trustee in bankruptcy or similar officer is appointed in respect of the Contractor or any asset of the Contractor,the Principal may immediately terminate the Contract by written notice to the Contractor. In that event:
 - (iii) the Contractor will have no further right to payment under the Contract; and
 - (iv) the Principal will be entitled to recover from the Contractor any costs, losses and damages the Principal suffers or incurs arising out of or in connection with the termination.
- (c) The Principal may at any time for its sole convenience and for any reason, terminate the Contract by giving the Contractor not less than 10 Business Days' prior notice and the termination will take effect on the date specified in the notice. In that event the Contractor will be entitled to be paid:
 - (i) in accordance with the Contract, for Contractor's Activities performed up to the date of termination;
 - (ii) the cost of goods and materials ordered by the Contractor if it was reasonable to have done so and the Contractor is legally bound to pay for them (provided title in those goods and materials vests in the Principal on payment); and
 - (iii) the reasonable cost of removing from the Site all labour, plant, equipment and other things used in the Contractor's Activities.

The Contractor must take all steps possible to mitigate the costs referred to in clauses 12(c)(ii) and 12(c)(iii). In no case will the total amount payable to the Contractor under clause 12(c), when added to other amounts already paid or

payable to the Contractor under the Contract, be more than the Contract Sum. The amount payable under this clause 12(c) will be a limitation on the Principal's liability to the Contractor arising out of or in connection with a termination under clause 12(c). Following termination, the Principal may complete the Works itself or by engaging another contractor.

- (d) If the Contract is terminated, for any reason, the Contractor must:
 - (i) cease work within the time directed by the Principal;
 - (ii) hand over all documents relevant to the Contractor's Activities or the Works and any other documents prepared by the Contractor;
 - (iii) take such action as is necessary to make the Site safe, and secure the Works, prior to de-mobilisation from Site; and
 - (iv) demobilise and remove from the Site all labour, plant, equipment and other things used in the Contractor's Activities.
- (e) If the Principal fails to pay the Contractor an amount that is due and payable under the Contract, the Contractor may give the Principal written notice requiring it to remedy the breach within 10 Business Days (or any longer period specified by the Contractor) of receiving the notice.
- (f) If, by the time specified in a notice under clause 12(e) (or such longer period agreed by the parties), the Principal fails to remedy the breach the subject of that notice, the Contractor may by written notice to the Principal suspend all or part of the Contractor's Activities.
- (g) If the Principal:
 - (i) remedies a breach the subject of a notice under clause 12(e), the Contractor must promptly recommence performance of the Contractor's Activities suspended under clause 12(f); or
 - (ii) fails to remedy the breach the subject of a notice under clause 12(e) within 20 Business Days from the notice of suspension under clause 12(f) (or such longer period agreed by the parties),, the Contractor may, by written notice to the Principal, terminate the Contract.
- (h) If the Contract is terminated under clause 12(g), the Contractor will be entitled to claim damages but will not be entitled to a quantum meruit.
- (i) In the event that this contract was procured, facilitated, awarded and/or otherwise generated through corrupt or other improper practices, in whole or in part, it will be deemed to be void ab initio.

13. Intellectual property:

- (a) The Contractor grants to the Principal an irrevocable, non-exclusive, perpetual, transferrable, royalty-free licence to:
 - (i) exercise all rights of the owner of the IP Rights in any design provided by the Contractor; and
 - (ii) use the Contractor's Background IP to obtain the benefit of any design and the Works,
including to use, re-use, reproduce, communicate to the public, modify, adapt and update the design and the Works.
- (b) The licence under clause 13(a) includes an unlimited right to sublicense and survives the expiry or termination of the Contract.

14. Confidentiality:

- (a) Subject to clauses 14(b) and 14(c), unless otherwise required by Law, the Principal and the Contractor must keep confidential, and not disclose, any confidential information of the other party without the other party's prior written consent.
- (b) Each party may disclose Confidential Information if it is necessary to perform the relevant party's obligations under the Contract or obtain legal or other advice from its advisers (provided the person to whom the information is disclosed agrees to maintain the confidentiality of that information).
- (c) Without limiting clause 14(b), the Principal (and its representatives) may:
 - (i) disclose any information (including Confidential Information) if it is required by or is consistent with the Public Disclosure Requirements; and
 - (ii) publish (on the Internet or otherwise) the name of the Contractor and the Contract Sum together with the terms of the Contract.
- (d) This clause 14 survives the expiry or termination of the Contract.

15. Government requirements and collateral documents: The Contractor:

- (a) warrants that before the Contract Date it accessed, carefully considered and satisfied itself in relation to the Mandatory Government Policy Requirements and those of the Project Specific Government Policy Requirements incorporated in the Contract in accordance with clause 15(b); and
- (b) agrees that:
 - (i) the Mandatory Government Policy Requirements;
 - (ii) those of the Project Specific Government Policy Requirements identified in the Contract Details; and
 - (iii) the documents set out in the Schedule of Collateral Documents that are referred to in the Contract,are incorporated in and form part of the Contract and that the Contractor must comply with those requirements or documents (as applicable).

16. Disputes:

- (a) If a dispute arises at any time and a party wishes to pursue its resolution, then that party must, and prior to the commencement of any proceedings in any court, give written notice to the other party of the existence and nature of the dispute.
- (b) Within 14 days after a notice under clause 16(a) is given, the parties must meet and use their best endeavours to resolve the dispute using Alternative Dispute Resolution approaches. If the dispute is not resolved within 20 Business Days after the notice under clause 16(a) is given, either party may refer the dispute to litigation in a court of competent jurisdiction.
- (c) Despite the existence of a Dispute, each party must continue to comply with, and perform its obligations under, the Contract.
- (d) Despite clause 16(a), this clause 16 does not prejudice any right a party may have to seek urgent interlocutory relief from a court of competent jurisdiction where, in that party's reasonable opinion, that action is necessary to protect its rights or property.

17. Governing law: The Contract is subject to and is to be construed in accordance with the Laws of [## Insert Commonwealth State]. The parties submit to the exclusive

jurisdiction of the courts of [## Insert Commonwealth State]. and to courts with jurisdiction to hear appeals from those courts.

18. **Severance:** Any provision of the Contract which is illegal, void or unenforceable will be ineffective to the extent only of such illegality, voidness or unenforceability, and such illegality, voidness or unenforceability will not invalidate any of the other provisions of the Contract.
19. **Counterparts:** The Contract may be executed in any number of counterparts by or on behalf of a party and by the parties in separate counterparts. Each counterpart constitutes an original of the Contract, and all together constitute one Contract.
20. **Electronic signature:** Each party warrants that immediately prior to entering into the Contract, it has unconditionally consented to:
 - (a) the requirement for a signature under any Law being met; and
 - (b) any other party to the Contract executing it,by any method of electronic signature that other party uses (at that other party's discretion), including signing on an electronic device or by digital signature.
21. **Electronic exchange:** Without limitation, the parties agree that their communication of an offer or acceptance of the Contract, including exchanging counterparts, may be by any electronic method that evidences that party's execution of the Contract.
22. **Interpretation:** In the Contract, unless the context indicates a contrary intention:
 - (a) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
 - (b) "includes" in any form is not a word of limitation;
 - (c) a reference to "\$" or "dollar" is to [Commonwealth State] currency;
 - (d) if the day on or by which anything is to be done under the Contract is not a Business Day, that thing must be done no later than the next Business Day;
 - (e) each provision will be interpreted without disadvantage to the party who (or whose representative) drafted or proposed that provision; and
 - (f) a reference to time is a reference to time in [Commonwealth State]..
23. **Principal's discretions**
 - (a) Unless the Principal is expressly required under the Contract to act reasonably, the Principal can exercise any right, power or remedy in its absolute and unfettered discretion.
 - (b) Without limiting clause 23(a) the term "may", if used in the context of a right exercisable by the Principal, means the Principal has no obligation to do so.
24. **Definitions:** In the Contract:

Approval means any licence, permit, registration, consent, assessment, approval, authorisation, determination, certificate, accreditation, clearance, permission or the like which is required by an authority or under any Law to be issued, obtained, held or satisfied to perform the Contractor's Activities or occupy or use the Works.

Background IP means any IP Rights developed by a party independent of the Contract, or before the Contract Date, and that are used in the performance of the Contractor's Activities.

Business Day means a day that is not a Saturday or Sunday, or a day that is wholly or partly observed as a public holiday throughout [Commonwealth State].

Contract means the contract between the Principal and the Contractor constituted by the Contract Documents.

Contract Conditions means clauses 0 to 24 (both inclusive), the Mandatory Government Policy Requirements and those of the Project Specific Government Policy Requirements identified in the Contract Details.

Contract Date has the meaning given in the Contract Details.

Contract Details means the Contract Details set out at the commencement of the Contract.

Contract Documents means the documents so described in the Contract Details.

Contractor's Activities means all things and tasks which the Contractor is or may be required to do to comply with its obligations under the Contract, including constructing the Works and rectifying Defects.

Contractor's Margin means the percentage specified in the Contract Details for preliminaries, overhead costs and profit.

Defect means any:

defect, deficiency, error, fault or omission in materials, workmanship or the Contractor's Activities (including in any rectification work performed under clause 9); and

other aspect of the Works which is not in accordance with the requirements of the Contract.

DLP has the meaning given in the Contract Details.

Final Payment Claim has the meaning given in clause 10(a)(ii)B.

Industrial Relations Law means all workplace, employment or industrial relations related Laws.

IP Right means any patent, registered design, trademark or name, copyright or other analogous protected right.

Law means Statutory Requirements, principles of common law and equity established by decisions of courts, approvals and the requirements of any authority.

Mandatory Government Policy Requirements means the requirements set out in Part A of the Schedule of Government Policy Requirements.

OH&S Law means all Laws in connection with occupational health and safety and all other applicable occupational health and safety Laws, codes of practice, guidelines and advisory standards applicable to the Contractor's Activities as amended from time to time.

Practical Completion means that stage when the Principal is satisfied (acting reasonably) that:

- (a) the Works are complete (except for minor Defects which do not prevent the Works from being reasonably capable of use, and can be rectified without affecting the convenient use of the Works) and are

capable of use for their intended purpose as specified in, or able to be ascertained from, the Contract Documents;

- (b) all documents and information required by the Contract to be provided to the Principal have been so provided, including all Approvals necessary for the use and occupation of the Works; and

the Contractor has done everything which it is required to do in accordance with the Contract.

Project Specific Government Policy Requirements means the requirements set out in Part B of the Schedule of Government Policy Requirements.

Public Disclosure Requirements means the disclosure of any information (including Confidential Information) where the disclosure is:

- (a) in accordance with Laws or any policy of the Principal, the State or any authority;
- (b) to comply with the disclosure requirements of the Auditor-General, the Ombudsman, the Independent Broad-based Anti-corruption Commission or the Information Commissioner;
- (c) to satisfy the requirements of Parliamentary accountability or to satisfy any other recognised public requirement;
- (d) in the course of the official duties of the responsible Minister, the Treasurer or the Attorney General;
- (e) required for the Principal's or the State's reporting requirements; or
- (f) to any agent or representative of the Principal, any authority or any person authorised or nominated by the Principal to the extent necessary in relation to the Principal's rights and obligations under the Contract, provided they agree to maintain the confidentiality of any such information.

Schedule means a Schedule to this Contract.

Schedule of Collateral Documents means the schedule of that name available at [\[insert link\]](#) (or such other location notified by the Principal), as at the Contract Date.

Schedule of Government Policy Requirements means the schedule of that name available at [\[insert link\]](#) (or any alternative location notified by the Principal), as at the Contract Date.

Statutory Requirements means:

- (a) all Acts, ordinances, regulations, by-laws, orders, awards and proclamations of the [Commonwealth State]; Approvals; and
- (b) fees and charges payable in connection with the foregoing.

Subcontract means an agreement between the Contractor and a Subcontractor (or between a Subcontractor and a secondary subcontractor) in connection with the Contractor's Activities.

Subcontractor means a person engaged by the Contractor or under a contract in connection with the Contractor's Activities (including a secondary subcontractor) which is in a chain of contracts where the Contractor is the ultimate principal, including any consultants.

Variation means any change to the Works including any addition, increase, decrease, omission, deletion, demolition or removal.

Works means the physical works which the Contractor must construct and complete in accordance with the requirements of the Contract.

Schedule 1 - Project Specific Additional Conditions

[##insert, if any.]

[##Guidance Note: Project Specific Additional Conditions must not operate as special conditions that amend the Contract Conditions. Only include conditions here if necessary to address additional, specific project needs or agency requirements that are not met by the Contract Conditions.

Consider the appropriate order of precedence of any Project Specific Additional Conditions in the Contract Details.]

Schedule 2 - Scope of Works

[## Insert]

[## Guidance Note: Clearly identify or attach such drawings, specifications and other documents that explain and/or specify the Contractor's scope of works, including, if the Contractor is required to perform design work, the Contractor's design obligations and any outcome specifications.]

Schedule 3 - Site

[## Insert]

Schedule 4 - Local Industry Development Plan

[## Insert, if any.]

Commonwealth Secretariat
Marlborough House, Pall Mall
London SW1Y 5HX
United Kingdom

thecommonwealth.org

