

TRADE WORKS CONTRACT TERMS AND CONDITIONS

1. TRADE WORKS

- (a) The Sub Contractor must carry out and complete the trade works:
 - to the reasonable satisfaction of the Principal Contractor
 - in accordance with the plans, the specifications, and the law: and
 - at the reasonable times directed by the Principal Contractor.
- (b) If the Sub Contractor discovers any inconsistency, ambiguity, or discrepancy in or between the plans and the specifications, the Sub Contractor must immediately seek the Principal Contractor's direction as to the interpretation to be followed.
- (c) The Sub Contractor must supply everything necessary to carry out the trade works.
- (d) The Sub Contractor may employ or engage others to carry out some or all of the trade works. Use of Sub Contractors does not relieve the Sub Contractor from liability for the trade works.

2. VARIATIONS

- (a) The Sub Contractor must not:
 - make any changes to the trade works.
 - carry out any extra work: or
 - leave any detail of the trade works unfinished, unless directed in writing by the Principal Contractor.
- (b) The Principal Contractor may, by giving a written direction, require the Sub Contractor to carry out the variation.
- (c) The price of a variation:
 - that agreed by the party: or
 - failing agreement, an amount reasonably decided by the Principal Contractor.
- (d) The contract price is to be adjusted by the price of a variation at the next payment.

3. ACCEPTANCE OF BASE WORK

On commencing to carry out the trade works the Sub Contractor is:

- deemed to have accepted the base work as satisfactory: and
- not entitled to payment or recompense for other additional work carried out as a result of unsatisfactory base work, unless a competent contractor who had examined, inspected and tested the base work would not have detected or anticipated the unsatisfactory base work.

3. WARRANTIES

The Sub Contractor warrants that:

- the trade works will be carried out in a proper and skilful manner;
- materials supplied by it will be suitable, new and free of defects; and
- it holds all licenses required to carry out the trade works.

5 DEFECTS LIABILITY PERIOD

- (a) The Sub Contractor must, at its own cost, make good any work that does not conform with the requirements of this trade works before the end of the defects liability period.
- (b) The Principal Contractor may direct the trade contractor to correct, remove or replace any non conforming work before or during the defects liability period.
- (c) If the Sub Contractor does not comply with such a direction, the Principal Contractor may have that work carried out by others, and the cost is a debt due and payable by the Sub Contractor to the Principal Contractor.
- (d) In addition to exercising both rights and remedies, the Principal Contractor may set off such debt against a retention held and any amount due or which becomes payable to the Sub Contractor in connection with this trade works.

6 .INDEMNITY

The Sub Contractor indemnifies the Principal Contractor against:

- loss or damage to property (including the trade works);
- claims in respect of personal injury or death, arising out of, connected to or as a consequence of the Sub Contractor
 - (a) carrying out or failing to carry out the trade works; or
 - (b) breaching this trade works; and
 any liability that the Principal Contractor may suffer or incur under a statutory warranty in connection with the trade works.

7. INSURANCE

- (a) The Sub Contractor must take out prior to commencing, and maintain until completion of the trade works, the following:
 - workers compensation or any like insurance as required by law;
 - public liability insurance to an amount not less than \$5,000,000; and
 - except as set out below, personal accident and disability insurance providing cover at least equivalent to that provided to an employee under insurance referred to in sub-clause 7(a)1

- (b) Sub-clause 7(a)(111) does not apply where the Sub Contractor:
 - does not personally carry out any part of the trade works on the site; or
 - establishes, to the Principal Contractor's satisfaction, that it is covered by the Principal Contractor's workers compensation insurance
- (c) The Sub Contractor must, when asked by the Principal Contractor produce evidence of the existence and currency of any insurances.

8. HEALTH AND SAFETY

- (a) In carrying out the trade works, the Sub Contractor and its agents and employees must observe all relevant occupational health and safety laws.
- (b) The Sub Contractor must, whenever carrying out the trade works, ensure that
 - no person (whether employed or not) is exposed to risk to their health and safety; and
 - the trade works are carried out using a safety management system.

9. DAMAGE AND SITE CLEANING

- (a) The Sub Contractor is responsible;
 - any damage caused by the Sub Contractor and its agents and employees;
 - keeping the Sub Contractors areas clean at all times; and
 - the removal of its tools, plant and equipment and if required the removal of debris and refuse, arising out of the trade works.
- (b) If the Sub Contractor fails to comply with sub-clause 9(a), the Principal Contractor may rectify the breach and the cost is a debt due and payable by the Sub Contractor to the Principal Contractor.

10 PAYMENT

- (a) If required, the Sub Contractor must give the Principal Contractor as a precondition to payment, a signed statutory declaration that all its Sub Contractors and employees have been paid all amounts then due for work under this trade works.
- (b) The Principal Contractor may withhold payment until the Sub Contractor gives the Principal Contractor an appropriate statutory declaration regarding payment of all workers compensation premiums and payroll tax in connection with the trade works

- (c) Any payment, other than a final payment, by the Principal Contractor to the Sub Contractor is payment on account only.

11. EXTENSION OF TIME

The Sub Contractor is entitled to an extension of time to complete the trade works as reasonably decided by the Principal Contractor if:

- The trade works are delayed by an act, default or omission of the Principal Contractor beyond the control of the Sub Contractor; and
- The Sub Contractor gives the Principal Contractor written notice claiming the extension of time within 2 days of the cause occurring.

12. FREEDOM OF ASSOCIATION AND COMPLIANCE WITH INDUSTRIAL LAWS

A party or its agent must not support an industrial organization to:

- participate in any form of unauthorized industrial action or secondary boycott that affects the trade works; or
- except as required by law, demand or force any other person carrying out work on the site to:
 - a) join a union;
 - b) make contributions to a specified superannuation fund; or
 - c) make payments for redundancy or long service leave into a specified fund.

13. DEFAULT

A party is in default of this trade works if it:

- is in substantial breach of this trade works;
- becomes insolvent, bankrupt or makes an assignment of that party's estate for the benefit of creditors.
- makes an arrangement of composition with creditors; or
- being a company, goes into liquidation.

14. SUSPENSION

If work under the head contract has been suspended, the Principal Contractor may, by giving written notice to the Sub Contractor immediately suspend the trade works.

15. ENDING THE TRADE CONTRACT

If a party remains in default 3 working days after the other party has given it a written notice without prejudice to any other rights or remedies, the other party may, by giving a further written notice, end this trade work.

16. HEAD CONTRACT ENDED

If the head contract is ended for any reason, the Principal Contractor may, by giving written notice to the Sub Contractor, end this trade work and the Sub Contractor is

- entitled to be paid for work carried out; and
- not entitled to make any claim for loss or profit.

17. ADMINISTRATION

The Sub Contractor or its representative must:

- attend site meetings if called on to do so;
- observe all directions given by the Principal Contractor under this trade work; and
- co-operate with all workers and other contractors on the site.

18. COPYRIGHT

- (a) Copyright in any plans or designs supplied by the Principal Contractor to the Sub Contractor remains with the Principal Contractor
- (b) The Sub Contractor must not reproduce or use any plans or designs, in whole or in part, other than for the purpose other than completing the trade works.

19. DEFINITIONS

In this trade works:

"base work" means the site conditions including work carried out by others in, on or over which the Sub Contractor is to carry out the trade works.

"head contract" means the contract between the Principal Contractor and its client which includes the trade works as part of its scope of work.

"site" means where the works under the head contract is carried out;

"trade works order" means a contract to carry out the trade works between the Principal Contractor and the Sub Contractor evidenced by the documents referred to in clause 3 of the schedule (overleaf);

"trade works" means the work to be carried out under the trade contract including variations;

"variation" means to vary the trade works by:

- carrying out additional work;
- omitting any part of the trade works; or
- changing the scope of the trade works.