

**Privacy Laws** means the *Privacy and Personal Information Protection Act 1998* (NSW), the *Health Records and Information Privacy Act 2002* (NSW) and the *Privacy Act 1988* (Cth).

**Programmed Maintenance Works** has the meaning given to it in Schedule 2 (Maintenance Works).

**Programmed Work Orders** means a Work Order which the Principal designates as a Work Order for Programmed Maintenance Works.

**Programmed Works Plan or PWP** means a plan prepared by the Contractor in the Approved Form which:

- (a) describes each fire safety measure and the quantity installed;
- (b) sets out the Maintenance Works including the frequency of all inspections, testing and assessments (with reference to AS1851 and the Maintenance Work Specifications); and
- (c) whether the AFSS Due Date corresponds with the period for the submission of any Fire Safety Statement to the relevant Responsible Authority,

each for the relevant Property for the relevant Contract Year.

**Project IP** means all Intellectual Property arising out of, created or developed by the Contractor, a Subcontractor or any of the Contractor's Personnel in performing the Maintenance Works and its other obligations under or in connection with this Contract, including all software, documents, drawings, designs and other materials created or arising in the performance of the Maintenance Works, but does not include Contractor IP or Principal IP.

**Property** means any land, building or asset owned, maintained or managed by the Principal and includes:

- (a) any and all fixtures and fittings; and
- (b) any individual areas within that land, building or asset including Common Areas and any one or more SOUs (as relevant).

**Qualifying Change in Law** means a Change in Law which:

- (a) necessitates a change to the Maintenance Works Specification; or
- (b) makes completion of the Maintenance Works or the Contractor's activities to be performed under this Contract more burdensome than the requirements specified in this Contract prior to the Change in Law,

but for the avoidance of doubt excludes:

- (c) *Environmental Planning and Assessment (Development Certification and Fire Safety) Amendment (Fire Safety) Regulation 2022* (NSW); and
- (d) any changes associated with or arising from that regulation.

**Quarter** means each of the following periods:

- (a) the period 1 July to 30 September (inclusive) in any year;
- (b) the period 1 October to 31 December (inclusive) in any year;
- (c) the period 1 January to 31 March (inclusive) in any year;

- (d) the period 1 April to 30 June (inclusive) in any year.

**RAPM Contract** means a contract between the Principal and a third party contractor for the provision of responsive and programmed maintenance works at Properties in the Portfolio.

**RAPM Contractor** means a third party contractor engaged by the Principal under an RAPM Contract.

**RCTI or Recipient Created Tax Invoice** means a recipient created tax invoice issued in respect of a supply made by the Contractor under or in connection with this document and has the meaning given to that term in the GST Law.

**Relevant Time** means within 28 days of the relevant Taxable Supply being made, or the Principal determining the value of the relevant Taxable Supply, whichever is later.

**Relief Event** means:

- (a) a Tenant:
  - (i) failing or refusing to make an appointment, attend an appointment or allow the Contractor to access the Site to enable the Contractor to carry out the Maintenance Works;
  - (ii) physically preventing or hindering the Maintenance Works;
- (b) an industry-wide and market-wide unavailability of Equipment (not limited to the Contractor's Subcontractors or broader supply chain);
- (c) a breach of the Contract by the Principal;
- (d) Type 2 Supplementary Works directed by the Principal;
- (e) an Event of Force Majeure;
- (f) unforeseeable physical conditions of the Site, or the presence of a dangerous animal on the Site, which:
  - (i) renders it unsafe to perform the Maintenance Works in accordance with applicable Work Health and Safety Requirements;
  - (ii) physically prevents the Contractor from carrying out Maintenance Works; or
  - (iii) necessarily prevents the Contractor from completing the Maintenance Works by the Date for Works Completion;
- (g) inclement weather (and the effects thereof), but only to the extent that the inclement weather or effects thereof occur at the relevant Site the subject of the relevant Work Order; or
- (h) a delay by a Responsible Authority in providing an Approval (other than a Permit), which is required for the performance of the relevant Work Order, other than a delay which is attributable to the Contractor or its Personnel.

**Replacement Security** means any guarantee or other security procured or provided by the Contractor in favour of the Principal in accordance with clause 12.

**Reporting Templates** means each of the templates included in Schedule 10 (Reporting Templates) and any other report template provided by the Principal to the Contractor (whether before or after the Date of Contract).

**Residential Tenancies Act or RTA** means the *Residential Tenancies Act 2010* (NSW).

**Responsible Authority** means any national, local, regional, territorial or municipal government, ministry, governmental department, commission, board, bureau, agency, instrumentality, executive, legislative, judicial or administrative body, having jurisdiction over the Maintenance Works, the Properties, the Contractor or the Principal.

**Responsive Maintenance Works** has the meaning given to it in Schedule 2 (Maintenance Works).

**Responsive Work Order** means a Work Order which the Principal designates as a Work Order for Responsive Maintenance Works.

**RTA** means the *Residential Tenancies Act 2010* (NSW).

**Ruling** means Goods and Services Tax Ruling 2000/10, or any replacement ruling from time to time.

**Second Extended Term** has the meaning given in clause 5.3(b).

**Security Interest** means any mortgage, pledge, encumbrance, Lien or charge or any security or preferential interest or arrangement of any kind, including:

- (a) anything which gives a creditor priority to other creditors with respect to any asset;
- (b) any assignment by way of security, hypothecation, option, lease, trust or assignment;
- (c) retention of title;
- (d) a "security interest" as defined in sections 12(1) or 12(2) of the PPSA; or
- (e) any agreement to create or give an arrangement to effect any of the above.

**Security of Payment Act** means the *Building and Construction Industry Security of Payment Act 1999* (NSW).

**SFSS Contract** means a contract between the Principal and a third party contractor for the provision of maintenance works of the same or similar nature to the Maintenance Works at Properties in the Portfolio.

**SFSS Contractor** means a third party contractor engaged by the Principal under an SFSS Contract.

**Site** means that part of a Property where the Contractor carries out, or is required to carry out, Maintenance Works (including any part used as access or egress).

**Site Conditions** means the conditions of the Site and its surrounds including:

- (a) the general and local conditions for environment, meteorological, seismic activity, climatic conditions and solar and wind conditions;
- (b) transportation, access, waste disposal, handling and storage of materials;
- (c) the physical condition of any buildings and assets, including any and all fixtures, fittings and building materials;
- (d) availability and quality of all necessary utilities and availability and condition of roads;

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- (e) topography and ground surface conditions, subsurface geology and conditions, nature and quantity of surface and subsurface materials to be encountered, location of underground utilities and the condition of existing structures; and
- (f) any other site conditions set out in the Contract Documents or the Principal Supplied Information.

**SoR** means each of the schedules included in Schedule 7 (SoR).

**SoR Code** means the unique identifier for each SoR Item in column B of the SoR (except in relation to 'IT Admin Codes' where the reference is in column A).

**SoR Item** means each item of work with a designated number included in the SoR.

**SoR Prices** means the lump sum price for each SoR Item, as adjusted in accordance with Schedule 8 (Fee and Payment).

**SOU or Sole Occupancy Unit or Unit** means an individual dwelling within a Property, where the Property comprises multiple dwellings.

**Specified Steps** means each of the steps and activities set out in section 1.1 of Schedule 3 (Operational Requirements).

**Subcontract** means any agreement under which the Contractor subcontracts any part of the Maintenance Works to a Subcontractor.

**Subcontractor** means any person to whom performance of any part of the Maintenance Works is subcontracted by the Contractor.

**SUI or Single User Interface** means the Principal's IT system as described in Schedule 12 (IT Requirements).

**SUI Interim Side Agreement** (if applicable) means the agreement signed by the parties on or around the Date of Contract as an interim side agreement to this Contract, and which governs the parties' respective obligations in relation to the SUI integration and corresponding interim arrangements for the duration of that side agreement.

**Supplementary Fire Safety Statement** has the meaning given in *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).

**Supplementary Works** means Type 1 Supplementary Works and Type 2 Supplementary Works.

**Supply** has the meaning given in the GST Law.

**Tax** means all taxes pursuant to any Law (whether currently in force or coming into force on or after the Date of Contract), including, all sales, excise and storage taxes, licence and permit fees, income, profit, fringe benefit, franchise, personal property taxes, payroll and employment taxes, levies, imposts, deductions, charges, withholdings and duties (including, stamp and transaction duties), together with any related interest, penalties, additional tax, fines and other statutory charges and whether imposed by Responsible Authority.

**Tax Invoice** has the meaning given to that term in the GST Law.

**Taxable Supply** has the meaning given in the GST Law.

**Tenant** means any person occupying a Property.

**Term** means the Initial Term, as may be extended under clause 5.3 (including the First Extended Term, Second Extended Term and Third Extended Term) and any period of holding over.

**Third Extended Term** has the meaning given in clause 5.3(c).

**Transition Activities** means all of the works and activities as specified in the Transition In Plan, which will cover:

- (a) the Contractor's obligations under clause 3;
- (b) communication;
- (c) information technology (including the SUI);
- (d) risk management;
- (e) resourcing (including Key Personnel);
- (f) quality systems;
- (g) Contractor Plans, Policies and Procedures; and
- (h) any other matters or items directed by the Principal.

**Transition Completion** has the meaning given in clause 3.5(f).

**Transition In Payment** means the amount determined under section 6 of Schedule 8 (Fee and Payment).

**Transition In Period** means the period commencing on the Date of Contract and ending one day prior to the Maintenance Works Commencement Date.

**Transition In Plan** means the Contractor's written plan for the performance of the Transition Activities approved by the Principal.

**Type 1 Supplementary Works** means, in respect of a Work Order, Responsive Maintenance Works that:

- (a) are not expressly included in a Work Order issued by the Principal;
- (b) relate to Responsive Maintenance Works that are included in a Work Order issued by the Principal in relation to a 4H or 24H Work Priority Code and are required to adequately address the need for Maintenance Works;
- (c) either:
  - (i) are required to be carried out (or, for practical reasons, should be carried out) before the Maintenance Works included in the Work Order are carried out; or
  - (ii) are (or will be) required as a direct result of carrying out the Maintenance Works included in the Work Order; and
- (d) have a total value equal to or less than the Type 1 Supplementary Works Threshold.

**Type 1 Supplementary Works Threshold** means:

- (a) in respect of a Work Order with a Work Priority Code of 4H or 24H the sum of \$650 (including any GST); and

- (b) in respect of a Work Order with a Work priority Code which is not 4H or 24H the sum of \$450 (including any GST),

each as may be amended at any time and from time to time by the Principal in its sole discretion.

**Type 2 Supplementary Works** means, in respect of a Work Order, Responsive Maintenance Works that:

- (a) are not expressly included in a Work Order issued by the Principal;
- (b) relate to Responsive Maintenance Works that are included in a Work Order issued by the Principal in relation to a 4H, 24H, 5D, 10D or 18D Work Priority Code and are required to adequately address the need for Maintenance Works;
- (c) either:
  - (i) are required to be carried out (or, for practical reasons, should be carried out) before the Maintenance Works included in the Work Order are carried out;
  - (ii) are (or will be) required as a direct result of carrying out the Maintenance Works included in the Work Order; or
  - (iii) are required to adequately address the need for Maintenance Works; and
- (d) where the Work Order that has been issued by the Principal relates to a 24H or 5D Work Priority Code, have a total value that exceeds the Type 1 Supplementary Works Threshold.

**Vacant** means not tenanted under a tenancy arrangement.

**Warranty** includes:

- (a) an installation or workmanship warranty;
- (a) a manufacturers' warranty;
- (b) certification by, for, or as the result of a requirement of a Responsible Authority; or
- (c) self-certification by the persons completing the performance of the relevant SoR Item.

**Wilful Misconduct** means, regarding a party:

- (a) any fraud, fraudulent concealment or dishonesty;
- (b) any conduct, act or omission having substantially harmful consequences, done or omitted to be done intentionally and with conscious or indifference to, or disregard for, the rights or welfare of those who are or may be thereby affected; or
- (c) any criminal or malicious act or omission of the party or any of its Personnel.

**Work Classification** means each of the classifications identified in section 2.3 of Schedule 2 (Maintenance Works).

**Work Health and Safety Requirements** means the following requirements related to work health and safety, dangerous goods or electricity safety:

- (a) the *Work Health and Safety Act 2011* (NSW) and the *Work Health and Safety Regulations 2017* (NSW) and lawful directions and notices issued thereunder;

- (b) the 'SafeWork NSW Construction Work Code of Practice'; and
- (c) all other relevant health and safety regulations, codes of practice or safety standards as applicable (where such standard and codes have the force of law) or any other Law dealing with work health and safety that may apply from time to time.

**Work Order** means a work order issued by the Principal under this Contract for Maintenance Works.

**Work Priority Code** means a work priority code identified in Attachment A of Schedule 3 (Operational Requirements).

**Works Completion** means, in respect of a Work Order, the stage in the performance of the Work Order where the Contractor has:

- (a) completed the performance of every SoR Item in that Work Order (if any) in accordance with this Contract (and all such Maintenance Works are free of Defects);
- (b) completed the performance of all Additional Maintenance Works (if any) in accordance with this Contract (and all such Maintenance Works are free of Defects);
- (c) completed the performance of any Type 1 Supplementary Works (if any) in accordance with this Contract (and all such Maintenance Works are free of Defects);
- (d) completed and submitted to the Principal any reports and certifications required by the Maintenance Works Specification, in the form of the Reporting Templates (where applicable);
- (e) tidied the Site and secured the Property (where appropriate); and
- (f) notified the Principal that it has completed all of the Maintenance Works for the relevant Work Order in accordance with section 1.1(h)(iii) of Schedule 3 (Operational Requirements).

## **1.2 General**

In this Contract, unless the contrary intention appears:

- (a) a term that is defined in these General Terms, Schedule 2 (Maintenance Works), Schedule 3 (Operational Requirements), Schedule 8 (Fee and Payment) or Schedule 9 (Key Performance Indicators) shall have that defined meaning in all Contract Documents;
- (b) a reference to a document is to the document as varied, amended, supplemented, novated or replaced from time to time;
- (c) a reference to a standard, statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) the singular includes the plural and vice versa;
- (e) if a period of time is specified and dates from a given day or the day of an actual event, it is to be calculated exclusive of that day;
- (f) a reference to time is to local time in Sydney;
- (g) a reference to a party, clause, paragraph, Annexure or Schedule is a reference to a party, clause, paragraph, Annexure or Schedule to this Contract;

- (h) headings and the table of contents are for reference only and do not form part of this Contract;
- (i) references to the word "include" and "including" are not words of limitation and any time such term is used in this Contract it is to be construed as if the words "without limitation" are included immediately after such term;
- (j) an example or a list of examples is not limited to those items or to items of a similar kind;
- (k) a word that is derived from a defined word has a corresponding meaning;
- (l) words denoting any gender include all genders;
- (m) where an obligation or liability is imposed on a party under this Contract, that obligation or liability is not to be limited or affected by an obligation or liability imposed in another provision of this Contract unless expressly stated;
- (n) the Principal does need not to have made any payments in respect of any cost or expense before enforcing any indemnity contained in this Contract;
- (o) where a right or remedy is conferred on a party under this Contract, that right or remedy is in addition to, and not in substitution of, any other right or remedy conferred on the Principal under this Contract or otherwise according to Law;
- (p) the term 'may' when used in the context of a power or right exercisable by a party means that that party can exercise that right or power in its absolute and unfettered discretion and that party has no obligation to the other party to do so;
- (q) subject to the terms of this Contract, where under this Contract the Principal may (or it is otherwise contemplated that the Principal can) give or withhold its consent or approval, the Principal has an absolute and unfettered discretion as to whether it gives, conditionally or unconditionally, or withholds that consent or approval;
- (r) references to '\$' or 'AUD' is to Australian currency; and
- (s) references to the word 'person' includes an individual, corporation, partnership, joint venture, association, trust, unincorporated organisation or Responsible Authority or any other entity, and includes executors their successors, personal representatives, permitted substitutes (including persons taking by novation) and permitted assigns.

### **1.3 Codes and standards**

Wherever references are made in this Contract to codes and standards under which the Maintenance Works are to be performed, the most recent edition or the revised version of such codes and standards applies, unless otherwise specified.

### **1.4 Construction**

Neither this Contract nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

## **2 Contract Objectives**

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### **2.1 Contract Objectives**

- (a) The Contractor acknowledges that the high-level objectives of this Contract are as follows:



- (i) maintaining the fire safety systems within each relevant Property in compliance with Law, all applicable standards and the Maintenance Works Requirements; and
- (ii) minimising risk to persons and property through the delivery of high quality and timely Maintenance Works,

(each a **Contract Objective**).

- (b) The Contract Objectives are flexible and are intended to generally describe the outcomes sought by the Principal under this Contract.
- (c) The parties acknowledge and agree that the Contract Objectives are not a comprehensive statement of outcomes and that the provisions of this Contract will not be construed in a manner which alleviates the Contractor of or derogates in any way from any obligation under this Contract.

## **2.2 Continuous Improvement**

The Contractor must:

- (a) continuously review its activities, systems, ways of working and performance with a view to identifying ways in which the Contractor can improve the efficiency, quality and timeliness of delivery of the Maintenance Works, having regard to the Contract Objectives and the requirements of this Contract;
- (b) continuously identify, consider and develop strategies to:
  - (i) improve the efficiency and effectiveness of the Maintenance Works (including cost savings to the Principal);
  - (ii) improve processes and procedures for achieving the Contract Objectives;
  - (iii) utilise capacity;
  - (iv) improve Tenant satisfaction;
  - (v) manage Tenant interference with fire safety measures within Properties in a manner which reduces the need for Maintenance Works; and
  - (vi) manage and implement changes in Good Industry Practice including by identifying to the Principal emerging trends in relation to the Maintenance Works; and
- (c) when reasonably requested by the Principal, provide a written report to the Principal identifying the matters referred to in clauses 2.2(a) and 2.2(b) above, together with details of the steps taken by the Contractor to realise any opportunities identified by the Contractor.

## **3 Transition In**

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### **3.1 Transition In Period**

Subject to clause 35, this Contract commences on the Date of Contract and will be in the Transition In Period until the Maintenance Works Commencement Date.

### 3.2 Access Keys

- (a) The Principal may, during the Transition In Period, provide to the Contractor a set of keys for each Property and a key register of keys provided for that Property.
- (b) Upon receipt of the keys and key register for a Property, the Contractor is responsible for the management, maintenance and safe keeping of those keys and key register.
- (c) If, in the course of performing the Transition In Activities the Contractor identifies missing keys for any Property:
  - (i) the Contractor must identify the location of the relevant lock to the Principal;
  - (ii) the Principal may procure a key and provide it to the Contractor; and
  - (iii) upon receipt of a key from the Principal, the Contractor must update the relevant key register and maintain safe custody of that key.
- (d) If at any time following the Maintenance Works Commencement Date:
  - (i) a key which is held by the Contractor is lost, stolen, broken or otherwise becomes unavailable for use, the Contractor must:
    - (A) procure such replacement at its cost;
    - (B) provide a copy of the replacement key to the Principal; and
    - (C) update the relevant key register;
  - (ii) another contractor of the Principal, including a RAPM Contractor or an SFSS Contractor replaces a lock, the Principal may:
    - (A) provide a copy of the replacement key to the Contractor; and
    - (B) the Contractor must update the relevant key register.

### 3.3 Building Inspections

- (a) Promptly after the Date of Contract (and at times and within sufficient time periods to ensure that the Contractor complies with its obligations under clause 3.4(a)), the Contractor must inspect in person each Property in the Allocated Contract Areas for the purposes of the Contractor:
  - (i) auditing and verifying the number of SOUs in each Property; and
  - (ii) preparing each of the documents required under clause 3.4.
- (b) Within 15 days after the Date of Contract (or such other time period as directed by the Principal in its sole discretion) the Contractor must provide to the Principal a schedule in an Approved Form setting out the dates and times upon which the Contractor will inspect each Property in the Allocated Contract Areas.
- (c) The Principal may, acting reasonably, provide comments upon or require that the Contractor make changes to the inspection schedule, in which case the Contractor must make any changes to the inspection schedule and resubmit it to the Principal.
- (d) Where the Contractor requires access to an SOU within a Property in order to inspect a Property or prepare the documents required under clause 3.4, it must promptly notify the

Principal. Following receipt of a notice from the Contractor, the Principal may take one or more of the following steps:

- (i) procure access to the relevant SOU, in which case the Contractor must attend the SOU at the time organised by the Principal;
  - (ii) notify the Contractor of the services, systems and components located in the relevant SOU (in which case the Contractor will prepare the documents under clause 3.4 on the basis of that notification);
  - (iii) direct the Contractor to note the absence of an inspection of those SOUs in its draft documents submitted under clause 3.4; and
  - (iv) direct the Contractor to arrange and attend an inspection after the Maintenance Works Commencement Date (in which case the Contractor must update the relevant documents following completion of such inspection).
- (e) The Contractor must not attend any Property (including for an inspection) unless and until it has provided to the Principal evidence that the Contractor has complied with its obligations under clause 24 (including providing copies of certificates of currency for all required insurance policies).

### **3.4 Component Register, Fire Safety Schedules and Programmed Works Plan**

- (a) For each Property in an Allocated Contract Area, the Contractor must:
- (i) inspect the Property in accordance with the inspection schedule under clause 3.3(a);
  - (ii) check whether the number and location of SOUs within the Property matches the SOUs set out in the Contract Area Property List and if the Contractor discovers any discrepancy, it must immediately provide the details of the discrepancy to the Principal;
  - (iii) prepare and provide to the Principal a draft:
    - (A) Component Register; and
    - (B) Programmed Works Plan for Contract Year One,progressively as each document is completed for each Property following the Contractor's inspection and in any event, ensure that each such document is prepared and provided to the Principal for every Property in the Contract Area Property List on or before the earlier of:
    - (C) the date which is 90 days after the Date of Contract; and
    - (D) 1 May 2024,or a later date notified to the Contractor by the Principal in its sole discretion.
- (b) Subject to clause 3.3(d)(iii), any Component Register or Programmed Works Plan prepared by the Contractor must meet or exceed the requirements of clause 6.1.
- (c) If the Principal, acting reasonably, has comments in relation to a Component Register or Programmed Works Plan (as applicable), the Principal will provide notice to the Contractor and the Contractor must, within 10 Business Days after receiving the Principal's comments, address any such comments and amend the Component Register or Programmed Works Plan (as applicable) so that it:

- (i) addresses the Principal's comments; and
  - (ii) complies with the requirements of this Contract,
- in which case clause 3.4(a) will apply to the amended document.
- (d) Where the Contractor identifies and notifies a discrepancy under clause 3.4(a)(ii), the Principal will confirm the number of SOUs in each Property by updating the relevant Contract Area Property List within 20 days of the Maintenance Works Commencement Date (such update will also constitute a notice from the Principal for the purposes of section 4.2(a) of Schedule 8 (Fee and Payment)).
- (e) If the Principal provides to the Contractor an existing Fire Safety Schedule for a Property, the Contractor must review the Fire Safety Schedule and must identify and notify the Principal of any material errors or omissions in the Fire Safety Schedule, when it submits the Programmed Works Plan under clause 3.4(a)(iii) for the Property to which the Fire Safety Schedule relates.
- (f) The Contractor acknowledges and agrees that any existing component registers, Fire Safety Schedules and annual fire safety statements provided by the Principal to the Contractor is Principal Supplied Information.

### **3.5 Transition In Plan**

- (a) Within 15 days after the Date of Contract (or such later time period as directed by the Principal in its sole discretion):
  - (i) the Contractor must attend a 'start up' workshop with the Principal (on a date and at a time and location as reasonably notified by the Principal); and
  - (ii) the Contractor must provide to the Principal a Transition In Plan.
- (b) If, following receipt of the Transition In Plan, the Principal requires, acting reasonably, any amendments to the Transition In Plan, the Principal may notify the Contractor, in which case the Contractor must promptly issue a revised Transition In Plan addressing all such matters raised in the Principal's notice.
- (c) After the Principal receives a revised Transition In Plan, the Principal must either:
  - (i) notify the Contractor that the revised Transition In Plan requires further amendments, in which case clause 3.5(b) applies; or
  - (ii) approve the revised Transition In Plan.
- (d) Notwithstanding that the Principal has required amendment to the Transition In Plan, the Contractor must continue to perform the Transition In Activities such that it will achieve Transition Completion on or before the Maintenance Works Commencement Date, including complying with any reasonable directions from the Principal directing the Contractor to carry out and progress the Transition In Activities.
- (e) During the Transition In Period, the Contractor must comply with the Transition In Plan in accordance with the specified requirements and timelines, including completion of milestones by the relevant milestone date. Without limiting the foregoing, the Contractor must achieve Transition Completion by the Maintenance Works Commencement Date.
- (f) The parties acknowledge and agree that Transition Completion will occur on successful completion of all Transition Activities (and associated milestones) in accordance with the Transition In Plan and satisfaction of all criteria or requirements for the performance or completion of the Transition Activities as are specified in the Transition In Plan.

- (g) The Contractor must perform all Transition Activities in a way that causes no disruption to the existing maintenance works on the Properties in the Portfolio undertaken by existing contractors.
- (h) The Contractor must provide the Principal with weekly progress reports (or as otherwise required by the Principal) that describe in reasonable detail the current status of the Transition Activities, identify any actual or potential issues, delays and anticipated risks and proposed solutions for them that enables Transition Completion to be achieved by the Maintenance Works Commencement Date.
- (i) The Contractor must implement all agreed solutions referred to in clause 3.5(h) and promptly take all reasonable actions necessary to resolve issues with transition.

### **3.6 Failure to comply with the Transition In Plan**

- (a) If:
  - (i) there is no Transition In Plan approved by the Principal by the date which is 30 days after the Date of Contract;
  - (ii) the Contractor fails to comply with the Transition In Plan in accordance with clause 3.1; or
  - (iii) the Principal reasonably considers that the Contractor will not achieve Transition Completion by the Maintenance Works Commencement Date,the Principal may terminate this Contract by notice in writing to the Contractor with immediate effect and this Contract will be of no further effect.
- (b) If the Principal terminates this Contract during the Transition In Period in accordance with this clause 3.6 due to a failure by the Contractor, the Principal has no liability to the Contractor and the Contractor will not be entitled to Claim any amount, including for set-up costs or any other costs incurred during or before the Transition In Period (including for the Transition In Payment).

## **4 SUI Interim Side Agreement**

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### **4.1 SUI Interim Side Agreement**

- (a) In circumstances where an SUI Interim Side Agreement applies, the parties agree to fully comply with the terms of this Contract as amended by the SUI Interim Side Agreement, until such time as the SUI Interim Side Agreement expires or is terminated in accordance with the provisions of that SUI Interim Side Agreement.
- (b) For the avoidance of doubt, an SUI Interim Side Agreement will only apply where it has been executed by both the Principal and the Contractor in accordance with the provisions of that SUI Interim Side Agreement.

## **5 Term**

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### **5.1 Commencement of the Maintenance Works**

- (a) From the Maintenance Works Commencement Date to the Expiry Date, the Contractor will diligently and expeditiously perform the Maintenance Works in accordance with Work Orders for the Fee.
- (b) Other than payment of the Transition In Payment calculated strictly in accordance with Schedule 8 (Fee and Payment), and notwithstanding anything to the contrary contained

in this Contract, the Principal will not be liable under this Contract or otherwise for any payment to the Contractor, prior to the Maintenance Works Commencement Date or for any activities carried out prior to the Maintenance Works Commencement Date.

## **5.2 Initial Term**

Subject to the terms of this Contract, the Principal engages the Contractor to perform the Maintenance Works for the Initial Term.

## **5.3 Extension to Term**

- (a) The Principal may in its absolute discretion extend the Initial Term for a period of, or up to, 2 years (**First Extended Term**) by giving the Contractor written notice no later than 3 months prior to the expiry of the Initial Term.
- (b) The Principal may in its absolute discretion extend the First Extended Term for a period of, or up to, 2 years (**Second Extended Term**) by giving the Contractor written notice no later than 3 months prior to the expiry of the First Extended Term.
- (c) The Principal may in its absolute discretion extend the Second Extended Term for a period of, or up to, 1 year (**Third Extended Term**) by giving the Contractor written notice no later than 3 months prior to the expiry of the Second Extended Term.
- (d) If the Principal exercises its option to extend the Initial Term, the First Extended Term or the Second Extended Term (as applicable):
  - (i) this Contract will be extended for the relevant period as contemplated by clauses 5.3(a), 5.3(b) or 5.3(c) (as applicable); and
  - (ii) the parties will continue to be bound by the terms of this Contract and the First Extended Term, the Second Extended Term and the Third Extended Term will be governed by the same terms and conditions that apply to the Initial Term.

# **6 SFSS Document Deliverables**

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## **6.1 Requirements**

- (a) The Contractor must (and warrants that it will) prepare and maintain throughout the Term, each Component Register, Fire Safety Statement and Programmed Works Plan so that each document (as applicable):
  - (i) is at all times complete, comprehensive and accurate;
  - (ii) complies with and satisfies the requirements of any applicable Law and any Responsible Authority;
  - (iii) complies with the requirements of AS1851:2012;
  - (iv) complies with and satisfies the requirements of the Maintenance Works Specification; and
  - (v) is fit for the Intended Purpose.
- (b) The Contractor must (and warrants that it will) prepare and maintain throughout the Term, each Programmed Works Plan so as to ensure that each and every service, system and component identified in each Component Register and Fire Safety Statement will, if maintained in accordance with the Programmed Works Plan:

- (i) complies with and satisfies the requirements of any applicable Law and any Responsible Authorities;
  - (ii) complies with and satisfies the requirements of AS1851:2012;
  - (iii) complies with and satisfies the requirements of the Maintenance Works Specification;
  - (iv) complies with and satisfies the Principal's Plans, Policies and Procedures; and
  - (v) is fit for the Intended Purpose.
- (c) Clauses 6.1(a) and 6.1(b) apply to all Component Registers, Fire Safety Statements and Programmed Works Plan prepared by the Contractor during the Term.

## **6.2 Monthly Walkthrough**

- (a) The Contractor must, at least once each month from the Maintenance Works Commencement Date, complete a walkthrough and inspection of Common Areas in each Property in the Contract Area Property List to:
- (i) identify any changes to the Component Register;
  - (ii) identify any aspect of the Property which may require Maintenance Works not already included in the relevant Programmed Works Plan (in which case the Contractor must identify such Maintenance Works to the Principal upon completion of the inspection); and
  - (iii) satisfy any other requirement of the Maintenance Works Specification.
- (b) The Contractor must, promptly following completion of each walkthrough and inspection, submit a report to the Principal in the Approved Form.

## **6.3 Updates to Component Register**

The Contractor must regularly (and at least once per month) throughout the Term update and maintain the Component Register for each relevant Property in the Contract Area Property List.

## **6.4 Initial Programmed Works Plan**

For each Property in the Contract Area Property List, the Programmed Works Plan for Contract Year 1 is the document prepared by the Contractor under clause 3.4.

## **6.5 Annual Update to Programmed Works Plan**

- (a) After 30 April but no later than 1 June in each Contract Year commencing in Contract Year 1, the Contractor must prepare and issue to the Principal an updated Programmed Works Plan for each Property in the Contract Area Property List.
- (b) The Principal may (but is not required to) review any Programmed Works Plan prepared by the Contractor and may provide comments in relation to the relevant Programmed Works Plan.
- (c) If the Principal, acting reasonably, provides comments in relation to any Programmed Works Plan, the Contractor must, within 10 Business Days after receiving the Principal's comments, update the Programmed Works Plan such that it:
- (i) addresses the Principal's comments; and

- (ii) complies with the requirements of this Contract,  
in which case clause 6.5(b) will apply to the amended Programmed Works Plan.
- (d) A Programmed Works Plan prepared for a Property which is classified as a Crown Development must comply with the requirements of clause 6 as if the Property were not a Crown Development.

#### **6.6 Update to Fire Safety Schedule**

- (a) Where requested by the Principal, the Contractor must prepare and issue to the Principal:
  - (i) a new Fire Safety Schedule (where an existing Fire Safety Schedule is not available); or
  - (ii) an updated Fire Safety Schedule (including where the fire safety measures within the Property have changed),  
for the relevant Property within 15 days of a request by the Principal to do so.
- (b) The Principal may (but is not required to) review any Fire Safety Schedule prepared by the Contractor and may provide comments in relation to the relevant Fire Safety Schedule.
- (c) If the Principal, acting reasonably, provides comments in relation to any Fire Safety Schedule, the Contractor must, within 5 Business Days after receiving the Principal's comments, update the Fire Safety Schedule such that it:
  - (i) addresses the Principal's comments; and
  - (ii) complies with the requirements of this Contract,  
in which case clause 6.6(b) will apply to the amended Fire Safety Schedule.
- (d) A Fire Safety Schedule prepared for a Property which is classified as a Crown Development must comply with the requirements of clause 6 as if the Property were not a Crown Development.

#### **6.7 Fire Safety Statement**

- (a) The Contractor must:
  - (i) ensure that an Accredited Practitioner (Fire Safety) completes the Fire Safety Statement including:
    - (A) any applicable assessment required by AS1851:2012 and Schedule 4 (Servicing Requirements);
    - (B) any inspection or assessment of fire safety measures, exits and paths of travel; and
    - (C) fitness for purpose verification of each fire safety measure;
  - (ii) coordinate the preparation of each Fire Safety Statement with any other party which may also be required to execute the relevant Fire Safety Statement, such that the Fire Safety Statement is complete before the AFSS Due Date; and
  - (iii) prepare and submit to the Principal a Fire Safety Statement for each relevant Property in the Contract Area Property List on or before the AFSS Due Date and



in accordance with the relevant Work Order issued by the Principal for that Property.

- (b) Any Fire Safety Statement prepared for a Property which is classified as a Crown Development must comply with the requirements of clause 6 as if the Property were not a Crown Development.

#### **6.8 Fire Safety Statement Work Orders**

If the Contractor does not receive a Work Order for the preparation of a Fire Safety Statement for one or more relevant Properties in the Contract Area Property List, then the Contractor must, not earlier than 90 days prior to the AFSS Due Date for the relevant Property (but not later than 60 days prior to the AFSS Due Date for the relevant Property), notify the Principal in writing that it has not received a Work Order for that Property.

#### **6.9 Interactions with Responsible Authority**

- (a) If the Contractor becomes aware of anything which may delay the finalisation of a Fire Safety Statement for any Property, the Contractor must immediately notify the Principal and comply with any reasonable directions from the Principal, including a direction to submit a 'stay of penalty infringement notice' to the relevant Responsible Authority in connection with the delayed submission of a Fire Safety Statement.
- (b) Following receipt of a Fire Safety Statement from the Contractor, the Principal may require the Contractor to:
  - (i) address any error in the Fire Safety Statement (such that it complies with all of the requirements of the Contract and applicable Laws); or
  - (ii) submit the Fire Safety Statement to the relevant Responsible Authority, in which case the Contractor must submit the Fire Safety Statement to the Responsible Authority within 2 days.
- (c) The Principal may:
  - (i) sign the relevant Fire Safety Statement as the owner of the relevant Property; or
  - (ii) may require the Contractor to sign Fire Safety Statement as 'owner's agent'.

#### **6.10 Recovery of cost**

If the Principal incurs any cost (including fines, penalties and fees) in connection with a Fire Safety Statement as a result of the Contractor failing to comply with its obligations under this Contract, the Principal may issue a notice in writing to the Contractor, providing details of the amount incurred. The Principal may recover such amount as a debt due and payable 10 Business Days after the Contractor receives the Principal's notice.

#### **6.11 Changes to the Contract Area Property List**

- (a) Where:
  - (i) the Principal adds a Property to any Allocated Contract Area or Alternative Contract Area under clause 7; or
  - (ii) the Principal issues a notice under clause 7.7(b) in respect of an Alternative Contract Area,

the Principal may direct the Contractor to:

- (iii) promptly inspect the Property; and
- (iv) prepare and provide to the Principal drafts of any one or more of the following in respect of the relevant Property (including, where directed by the Principal, by reviewing and providing comments upon any such documents prepared by another SFSS Contractor):
  - (A) the Component Register; and
  - (B) the Programmed Works Plan for the current Contract Year,

within:

- (v) 20 Business Days of the date on which the Contractor is notified by the Principal that the Property will be added to the relevant Contract Area; or
  - (vi) four months of the date on which the Principal issues a notice under clause 7.7(b).
- (b) Any Component Register or Programmed Works Plan prepared by the Contractor must meet or exceed the requirements of clause 6.1.
  - (c) If the Principal provides to the Contractor an existing Fire Safety Schedule, the Contractor must identify and notify the Principal of any material errors or omissions in the Fire Safety Schedule, when it submits the Programmed Works Plan under clause 6.11(a) for that Property.
  - (d) If the Principal, acting reasonably, has comments in relation to a Component Register or Programmed Works Plan (as applicable), the Principal will provide notice to the Contractor and the Contractor must, within 10 Business Days after receiving the Principal's comments, address any such comments and amend the Component Register or Programmed Works Plan (as applicable) so that it:
    - (i) addresses the Principal's comments; and
    - (ii) complies with the requirements of this Contract,in which the process in this clause 6.11(d) will apply to the amended document.

## **6.12 Display**

The Contractor must ensure that the relevant Fire Safety Statement is displayed as a hard copy at the entrance to the relevant Property.

## **6.13 Reliance**

- (a) The Contractor acknowledges and agrees that:
  - (i) the Principal is and will be relying upon the skill, care, experience and diligence of the Contractor in relation to each Component Register, Fire Safety Schedule, Fire Safety Statement and Programmed Works Plan.
  - (ii) the Principal is and will be relying on each Component Register, Fire Safety Schedule, Fire Safety Statement and Programmed Works Plan to inform the nature and extent of any Programmed Work Orders to be issued for the relevant Property in the relevant Contract Year;

- (iii) the Principal has no obligation to issue any Programmed Work Orders contemplated by any Component Register, Fire Safety Schedule, Fire Safety Statement and Programmed Works Plan;
- (iv) it is not entitled to receive Work Orders or otherwise perform any Maintenance Works contemplated in the relevant Component Register, Fire Safety Schedule, Fire Safety Statement and Programmed Works Plan at any time during the Term; and
- (v) the Principal may (in its sole discretion) issue Programmed Work Orders for a Property which were not contemplated by the Component Register, Fire Safety Schedule, Fire Safety Statement and Programmed Works Plan for that Property.

#### **6.14 No Effect**

The Contractor's obligations, warranties and liabilities under or in connection with this Contract are not reduced, limited or otherwise affected by any review of, comment on, or acceptance of by the Principal of any Component Register, Fire Safety Schedule, Fire Safety Statement and Programmed Works Plan (including drafts of such documents).

## **7 Contract Areas**

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### **7.1 Allocated and Alternative Contract Areas**

- (a) Subject to clauses 7.2, 7.4, 7.5, 7.6, 7.7, 21.2(b) and 35, the Contractor will, during the Term, carry out the Responsive Maintenance Works and Programmed Maintenance Works at the Properties in the Contract Area Property List for each Allocated Contract Area and Alternative Contract Area in accordance with Work Orders issued by the Principal.
- (b) The Contractor:
  - (i) has been appointed by the Principal as an 'alternative contractor' to each of the Alternative Contract Areas;
  - (ii) acknowledges that the Principal has also appointed other contractors as 'Alternative Contractors' to each of the Alternative Contract Areas and Allocated Contract Areas; and
  - (iii) must carry out and complete Maintenance Works in accordance with Work Orders issued by the Principal under clause 7.5.

### **7.2 Maintenance Works performed by others**

Without limiting any other provision of this Contract, or the Principal's rights under this Contract or otherwise at law, the Contractor acknowledges and agrees that:

- (a) the Principal has no obligation to issue any Work Orders to the Contractor under this Contract; and
- (b) the Principal may at any time, and from time to time, in its absolute discretion engage third parties to carry out any Maintenance Works (or any part of the Maintenance Works) in the Allocated Contract Areas, the Alternative Contract Areas or any other Contract Area.

### **7.3 No representation or warranty**

- (a) The Principal makes no representation or warranty as to:

- (i) the value of Maintenance Works that may be required to be performed under this Contract;
- (ii) the number of Work Orders that will or may be issued under this Contract (if any);
- (iii) the proportion of Responsive Maintenance Works to Programmed Maintenance Works (and of Programmed Maintenance Works to Responsive Maintenance Works);
- (iv) the nature, composition and type of SoR Items or Additional Maintenance Works that may be carried out under this Contract; and
- (v) the specific locations of the Maintenance Works that may be carried out in the relevant Contract Areas;
- (vi) whether and the extent to which it will add Properties to or remove Properties from the Contract Area Property List under clause 7.6.

#### **7.4 Composition of Contract Areas**

- (a) The Contractor acknowledges and agrees that at any time and from time to time during the Term, the Principal may make changes to the composition of the Portfolio, including by buying, selling or otherwise transferring responsibility for the management of any Property to or from a third party (including a Responsible Authority).
- (b) Notwithstanding clause 7.6, where the Principal purchases, sells or otherwise transfers responsibility for the management of any Property to or from a third party, the Principal may update the Contract Area Property List to add that Property to, or omit that Property from, the relevant Contract Area on not less than 15 days notice.

#### **7.5 Rectification of defective or incomplete work**

At any time and from time to time during the Term, the Principal may direct the Contractor to rectify any defective or incomplete works of another contractor in any Allocated Contract Area or Alternative Contract Area, by issuing a Work Order identifying the rectification works. The Contractor must carry out such rectification works in accordance with the Work Order and this Contract.

#### **7.6 Removal or Addition of Properties**

- (a) The Principal may from time to time and in its absolute discretion provide written notice to the Contractor:
  - (i) directing that any Property is removed from any Allocated Contract Area or Alternative Contract Area, in which case the Principal may add such Property to an 'alternative Contract Area' or an 'allocated Contract Area' under another SFSS Contract; and/or
  - (ii) directing that any Property is added to any Allocated Contract Area or Alternative Contract Area, including where:
    - (A) the Principal removes that Property from an 'alternative Contract Area' or an 'allocated Contract Area' under another SFSS Contract; and/or
    - (B) the Principal has previously removed that Property from any Allocated Contract Area or Alternative Contract Area under clause 7.6(a)(i).

- (b) A notice from the Principal under clause 7.6(a) may be given in relation to any number of Properties in any Allocated Contract Area or Alternative Contract Area (including all Properties in any Allocated Contract Area or Alternative Contract Area).
- (c) Any notice under clause 7.6(a) will take effect on the first day of the month which is three months after the month in which the notice is given. For example, if the notice is given any time in January, the notice will take effect on 1 April.
- (d) For each month in which a notice under clause 7.6(a) takes effect the Principal will, on or before the last Business Day of the prior month issue to the Contractor an updated Contract Area Property List. For example, if the notice takes effect on 1 April, the Principal will issue an updated Contract Area Property List on or before the last Business Day of March.
- (e) This clause 7.6 does not in any way limit any other provision of this Contract or any of the Principal's rights under or connection with this Contract or otherwise at law.

## **7.7 Step-in to Alternative Contract Areas**

- (a) The Contractor acknowledges that the Principal may have or accrue a right under an SFSS Contract to omit from that SFSS Contract any one or more of the Alternative Contract Areas (noting that such Alternative Contract Areas are 'allocated Contract Areas' under that SFSS Contract).
- (b) If the Principal has exercised a right to omit an Alternative Contract Area from an SFSS Contract, the Principal may in its absolute discretion direct the Contractor to step-in to that Alternative Contract Area on 6 months' prior written notice.
- (c) If the Principal issues a notice under clause 7.7(b) in respect of an Alternative Contract Area, then on and from the date that is 6 months after the date on which the Contractor receives the notice:
  - (i) the Alternative Contract Area will be (and will for all purposes be treated as) an Allocated Contract Area under this Contract;
  - (ii) any clause or requirement of this Contract that applies to an Allocated Contract Area will apply to the relevant Alternative Contract Area (as if the Alternative Contract Area is an Allocated Contract Area under this Contract);
  - (iii) all of the pricing applicable to the relevant Alternative Contract Areas (comprising the Alternative Contract Area) as set out in Schedule 8 (Fee and Payment) will continue to apply to that Contract Area and there will be no adjustment to any of the rates or prices as a consequence of the Principal issuing a notice under clause 7.7(b); and
  - (iv) the Contractor will be entitled to claim the Management Fee in respect of those Contract Areas, in accordance with clauses 10 and 11.3(a) and Schedule 8 (Fee and Payment).

## **8 Work Orders**

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### **8.1 Contractor's readiness**

The Contractor warrants that:

- (a) it is (and will remain at all times during the Term) ready, willing and able to undertake the Maintenance Works; and

- (b) it will, for the duration of the Term, maintain a level of committed resources and personnel to enable the Contractor to undertake the Maintenance Works and fulfil all other obligations under the Contract,

in response to Work Orders issued by the Principal in accordance with this Contract.

## **8.2 Issuing Work Orders**

- (a) The Principal may, from time to time and at any time during the Term, issue a Work Order to the Contractor for the carrying out of Maintenance Works:
  - (i) at any of the Properties in each of the Contract Area Property Lists (as amended and updated from time to time in accordance with this Contract); and
  - (ii) in accordance with clause 7.5.
- (b) The Contractor acknowledges and agrees that:
  - (i) the Principal will issue Work Orders via the SUI (subject to the provisions of this clause 8.2);
  - (ii) all communication between the Contractor and the Principal in relation to the Maintenance Works will be governed by clause 9 and the Operational Requirements;
  - (iii) if the SUI becomes unavailable for any reason:
    - (A) the Principal may direct that communication in relation to all or part of the Maintenance Works will occur by email, in which case:
      - (1) the Principal will issue Work Orders by email to the email address set out in Item 19 of Schedule 1 (Contract Details);
      - (2) the Principal will issue communications to the email address set out in Item 19 of Schedule 1 (Contract Details); and
      - (3) the Contractor must send all communications to the Principal to any email addresses(s) notified by the Principal; and
    - (B) the Contractor must otherwise comply with all directions from the Principal regarding communication and the giving of notices under or in connection with the Contract.
- (c) The Principal will include in each Work Order:
  - (i) the address of the Property (as applicable), where the Maintenance Works are to be carried out;
  - (ii) (if applicable) the identity and contact details of the relevant Tenant;
  - (iii) a Date for Work Order Commencement;
  - (iv) a Date for Works Completion;
  - (v) (if applicable) the specific SoR Items comprising the scope of the Maintenance Works covered by the Work Order;
  - (vi) (if applicable) a description of the Additional Maintenance Works comprising the scope of the Maintenance Works covered by the Work Order; and

- (vii) a designation of whether the Work Order is a Programmed Work Order or a Responsive Work Order.
- (d) The Principal may (but is not obliged to) include additional information in a Work Order which the Principal considers is relevant to the Maintenance Works the subject of the Work Order. Any such inclusion will not invalidate a Work Order or derogate from the Contractor's obligations.
- (e) If the Contractor receives a Work Order, the Contractor must:
  - (i) carry out and complete the Maintenance Works the subject of the Work Order in accordance with the Contract (including the Operational Requirements and Maintenance Works Specification); and
  - (ii) without limiting any other provision of the Contract, comply with the processes and requirements set out in the Operational Requirements.
- (f) The Principal may at any time and from time to time:
  - (i) cancel a Work Order; and
  - (ii) vary any aspect of a Work Order in accordance with the Operational Requirements.
- (g) If the Principal cancels or varies any aspect of a Work Order under clause 8.2(f), then:
  - (i) the Contractor will be entitled to recover from the Principal the direct, reasonable and substantiated costs (excluding any profit, profit component or overheads) necessarily incurred by the Contractor as a result of the cancellation or variation, provided such costs:
    - (A) could not have been reasonably mitigated or avoided; and
    - (B) do not exceed the Fee payable in respect of the relevant Work Order (calculated strictly in accordance with Schedule 8 (Fee and Payment)); and
  - (ii) the Contractor must take all reasonable steps to mitigate those costs incurred by it as a result of such cancellation or variation.

### **8.3 No works without Work Order**

- (a) The Contractor must not, and warrants that it will not:
  - (i) carry out any Maintenance Works on Site unless it has received a Work Order from the Principal under this clause 8 (and then only to the extent that such Maintenance Works are expressly specified in the Work Order);
  - (ii) carry out any SoR Items unless those SoR Items:
    - (A) are expressly set out in a Work Order issued by the Principal under this clause 8 (including where the Work Order includes Type 2 Supplementary Works); or
    - (B) form part of Type 1 Supplementary Works which the Contractor is permitted to carry out under this Contract in accordance with Schedule 3 (Operational Requirements); and

- (iii) carry out any Additional Maintenance Works unless those Additional Maintenance Works are expressly set out in a Work Order issued by the Principal under this clause 8.
- (b) If the Contractor carries out:
  - (i) any Maintenance Works on Site in breach of clause 8.3(a)(i);
  - (ii) any SoR Items in breach of clause 8.3(a)(ii);
  - (iii) any Additional Maintenance Works in breach of clause 8.3(a)(iii),the Contractor has no entitlement to payment for those Maintenance Works.

#### **8.4 Work Order Extension**

- (a) If, in relation to a Work Order, the Contractor:
  - (i) is or will be prevented by a Relief Event from achieving Works Completion of the Work Order by the Date for Works Completion;
  - (ii) takes all reasonable steps to avoid, mitigate and overcome the Relief Event and the effects of the Relief Event;
  - (iii) has, in relation to the Work Order, satisfied each of the applicable Specified Steps by the dates and times required in the Operational Requirements; and
  - (iv) as soon as practicable after becoming aware that the Contractor is or will be prevented by a Relief Event from achieving Works Completion by the Date for Works Completion (and in any event, no later than the Date for Works Completion), provides to the Principal a written Claim for an extension of the Date for Works Completion, including all appropriate written substantiation and evidence of each of the matters set out in clause 8.4(a)(i) to 8.4(a)(iii) (inclusive),then the Principal will determine, acting reasonably, whether (and the extent to which) the time for Works Completion of the Work Order will be extended.
- (b) The Contractor acknowledges and agrees that the matters set out in clause 8.4(a) are a mandatory precondition to any extension of the time for Works Completion of a Work Order. If the Contractor does not satisfy each of the matters set out in clause 8.4(a), the Principal is under no obligation to make any determination under clause 8.4(a) (or to extend the time for Works Completion of a Work Order).
- (c) If the Principal determines to extend the time for Works Completion of a Work Order, the Principal will provide written notification to the Contractor and will extend the date and time for Works Completion of the Work Order by the period so determined, in the SUI as soon as practicable.
- (d) The Principal may at any time in its discretion, extend the time for Works Completion of any Work Order.

#### **8.5 Late completion of Work Order or rectification work**

- (a) Without limiting any other provision of this Contract, if the Contractor:
  - (i) does not achieve Works Completion of a Work Order by the Date for Works Completion; or



- (ii) does not rectify a Defect by the date specified in a Defect Notice,  
and such failure is not due to a Relief Event, then the Principal may recover from the Contractor as a debt due and payable:
- (iii) a liquidated sum determined under Item 10 of Schedule 1 (Contract Details) for each and every occasion that the Principal (or a third party engaged by the Principal) attends the Site for an inspection (including the first inspection) in connection with the Work Order or Defect (as applicable);
- (iv) where the Property the subject of the Work Order is Vacant, liquidated damages at the applicable daily rate (determined by reference to the relevant Contract Year and 'property type') set out in Item 11 of Schedule 1 (Contract Details):
  - (A) for each day after the Date for Works Completion until Works Completion is achieved (either by the Contractor or a third party); or
  - (B) for each day after the date for Defect rectification specified in a notice from the Principal directing the Contractor to rectify the Defect until the Defect is rectified (either by the Contractor or a third party),  
  
(as applicable); and
  - (C) any other Loss incurred by the Principal as a result of the Contractor's failure(s) referred to in clause 8.5(a)(i) or 8.5(a)(ii) (as applicable).
- (b) The parties acknowledge and agree that:
  - (i) the liquidated sum referred to in clause 8.5(a)(iii) is genuine pre-estimate of the cost that the Principal will incur in the event of an inspection (including the first inspection); and
  - (ii) each of the rates of liquidated damages set out in Item 10 and Item 11 of Schedule 1 (Contract Details) are a genuine pre-estimate of Loss that the Principal will incur by way of loss of rent.
- (c) The Principal may give a demand (or demands) for liquidated damages and other Losses payable to the Principal in accordance with clause 8.5(a), up to the date of the demand at any time after:
  - (i) the Date for Works Completion; or
  - (ii) the date for Defect rectification specified in the relevant notice from the Principal,  
  
(as applicable).
- (d) Liquidated damages and Losses payable under clause 8.5(a) become a debt due and payable 5 Business Days after demanded under clause 8.5(c).
- (e) Nothing in this clause limits or otherwise affects the operation of the Key Performance Indicators, including any Abatements under Schedule 9 (Key Performance Indicators).

## **8.6 Type 1 Supplementary Works Threshold**

The Contractor acknowledges and agrees that the Principal may by notice in writing, at its absolute discretion and from time to time and at any time, amend the Type 1 Supplementary Works Threshold (including to \$nil).

**8.7 No Separate Agreement**

- (a) Work Orders are not and do not form separate or independent contracts between the Principal and the Contractor.
- (b) Each Work Order forms an independent scope of works for the Maintenance Works carried out under this Contract.

**8.8 Amendment of SoR**

- (a) Without in any way limiting or affecting clause 20.1, if the Contractor considers that it has been directed by the Principal to carry out Maintenance Works that are not included in any of the SoR Items (or any combination of SoR Items), the Contractor will provide written notice to the Principal no later than 3 days after receiving the direction, setting out details of the relevant Maintenance Works and why the Contractor considers that such Maintenance Works are not included in the any of the SoR Items (or any combination of SoR Items).
- (b) If the Principal requires Maintenance Works to be carried out that are not included in the SoR, the Principal may add additional SoR Items, provided that such additional SoR Items relate to the Properties and are required for the maintenance, repair, operation or management of a Property or the Portfolio.
- (c) If the Principal wishes to add an additional SoR item, the Principal:
  - (i) will engage a quantity surveyor to prepare an SoR price for that SoR Item using:
    - (A) the same methodology which was used to determine the SoR Prices for other SoR Items in the SoR; and
    - (B) current market pricing for New South Wales; and
  - (ii) will provide written notice to the Contractor, setting out the additional SoR item including the SoR price; and
  - (iii) may issue the same notice to one or more SFSS Contractors.
- (d) The additional SoR Item together with the SoR Price will be added to the SoR on or after the date of the Principal's notice under clause 8.8(c)(ii).
- (e) The Principal may, at any time and from time to time, update the short or long description of any SoR item in the SoR to clarify the scope of the Maintenance Works required to be performed by that SoR Item.
- (f) For the avoidance of doubt, but subject to the Contractor's obligation to perform any Supplementary Works or Additional Maintenance Works in accordance with the terms of this Contract, the Contractor will not otherwise be liable to perform any Maintenance Works that are not included in the SoR Items until such time as they are included in the SoR Items.

**8.9 Additional Maintenance Works**

- (a) The Principal may at any time request in writing the Contractor to provide a quotation to perform Additional Maintenance Works.
- (b) The Contractor must, within a reasonable time period stated in the Principal's notice, provide a written quotation for the Additional Maintenance Works the subject of the Principal's notice.

- (c) The Principal is under no obligation to accept the Contractor's quotation.
- (d) The Contractor must, if requested by the Principal:
  - (i) provide a breakdown of its quotation; and/or
  - (ii) provide, where practicable, 3 quotations from Subcontractors for the performance of the Additional Maintenance Works; and/or
  - (iii) consider any pricing provided by the Principal and identify any aspects of the Contractor's quotation which differs from that pricing provided by the Principal; and
  - (iv) submit a revised written quotation to carry out the Additional Maintenance Works, which must take into account anything identified under 8.9(d)(i) to 8.9(d)(iii).
- (e) If the Principal wishes to accept the Contractor's quotation, the Principal may issue a Work Order for the Additional Maintenance Works, in which case the Contractor will perform the Additional Maintenance Works in accordance with the Contract and will be paid the amount included in the Work Order in accordance with clause 11.
- (f) The Contractor acknowledges and agrees that the Fee includes adequate compensation for the preparation of quotations for Additional Maintenance Works.

#### **8.10 Amendment of Principal Plans, Policies and Procedures**

- (a) The Principal may, acting reasonably, amend the Principal Plans, Policies and Procedures by notice to the Contractor.
- (b) If the Contractor considers, acting reasonably, that the amended Principal Plans, Policies and Procedures:
  - (i) require it to carry out Maintenance Works that are not included in the SoR Items, the Contractor may invoke the procedure set out in clause 8.8; or
  - (ii) will materially increase the Contractor's cost for performing an existing SoR Item beyond the stipulated SoR Prices, the Contractor must, within 3 days of the Principal's notification to the Contractor of the amended Principal Plans, Policies and Procedures:
    - (A) notify the Principal of its concern; and
    - (B) provide the Principal with details as to why it considers that the amended Principal Plans, Policies and Procedures will materially increase the Contractor's cost for performing an existing SoR Item beyond the stipulated SoR Price,

in which case, the parties must, promptly and in good faith, agree to an adjustment to the SoR Price for that SoR Item in accordance with Schedule 8 (Fee and Payment) to take account of any material increase in the Contractor's cost for performing that SoR Item.

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## **9 Communication and Information Technology Requirements**

### **9.1 Single User Interface (SUI) and IT Requirements**

- (a) If: