

Design and Construct Contract – C7834.DC

**Annexure D (Special Conditions) to the General
Conditions of Contract**

March 2018

Copyright



<http://creativecommons.org/licenses/by/3.0/au/>

© State of Queensland (Department of Transport and Main Roads) 2018

Feedback: Please send your feedback regarding this document to: tmr.techdocs@tmr.qld.gov.au

Contents

1 Defined terms (Clause 2.1).....1

2 Contract documents (Clause 8).....1

3 Design obligations and warranties (Clauses 8.6, 8.7).....2

4 Assignment and subcontracting (Clause 9)8

5 Patents, copyright and other intellectual property rights (Clause 13).....9

6 New Clause 18A: Professional indemnity insurance9

7 Inspection and provisions of insurance policies (Clause 21).....9

8 Materials and work (Clause 30) 10

9 Suspension of the Works..... 12

10 Certificates and payments (Clause 42)..... 12

11 Default or insolvency (Clause 44) 12

1 Defined terms (Clause 2.1)

1.1 The following definitions shall be added to Clause 2.1 of the General Conditions of Contract:

Designers means the Designers stated in the Contractor's Tender, the Designers of any Preliminary Design, any replacement Designers approved by the Administrator under Clause 8.6.4 of this Annexure, being the consultants engaged or to be engaged by the Contractor as a Subcontractor to assist the Contractor in respect of the Contractor's Design obligations under this Contract.

Designer's Certificate means a certificate in the form of Form C7859.

Designer's Deed of Covenant means a deed between the Principal, Contractor and Designer(s) referred to in Clause 8.6.4 of this Annexure, in the form of Form C7854.

Preliminary Design means any preliminary design of the Works included (or incorporated by reference or implication) in the Scope of Work and Technical Criteria.

Scope of Works and Technical Criteria (SWTC) means the Scope of Works and Technical Criteria document, Exhibit A and its appendices including Appendix 5 Primary Items of Infrastructure to be Constructed.

1.2 The definitions of 'Drawings' in Clause 2.1 of the General Conditions of Contract shall be deleted and replaced by the following:

Drawings means the drawings which have become Drawings in accordance with Clause 8.6.10 of this Annexure.

2 Contract documents (Clause 8)

2.1 Clauses 8.1(b)(i) to (xii) shall be deleted and replaced by the following:

8.1 (b) Order of precedence of documents

- (a) Formal Instrument of Agreement
- (b) Letter of Acceptance, including any post-Tender correspondence listed or referred to in the Letter of Acceptance
- (c) Notices to Tenderers
- (d) Special Conditions of Contract (Annexure D to the General Conditions of Contract)
- (e) General Conditions of Contract including:
 - Annexure A (Contract Details)
 - Annexure B (Commercial Framework)
 - Annexure C (Certification functions of the Administrator)
 - Clause Bank.
- (f) Scope of Works and Technical Criteria
- (g) Project Specific Specifications
- (h) Project Specific Drawings
- (i) Standard Specifications

- (j) *Standard Drawings*
- (k) *Conditions of Tendering*
- (l) *Conditions of Tendering Annexure to Design and Construct*
- (m) *Completed Tender Forms and Tender Schedules modified as necessary by post-Tender correspondence, and*
- (n) *Other Contract Documents.*

2.2 Clause 8.2b) of the General Conditions of Contract shall be deleted and replaced by the following Clause:

8.2 Discrepancies

8.2 b) *If the direction causes the Contractor to incur more or less cost than the Contractor could reasonably have anticipated at the time of tendering, then to the extent that such ambiguity or discrepancy is:*

- (i) *in the Scope of Works and Technical Criteria, the difference shall be valued under Clause 40.5, and*
- (ii) *in the Drawings or other documents produced by the Contractor or between those documents (including the Drawings) and the Scope of Works and Technical Criteria, the ambiguity or discrepancy shall be at the Contractor's risk and the direction shall not entitle the Contractor to any extra payment or an extension of time.*

2.3 Clause 8.4 b) i. of the General Conditions of Contract shall be deleted and replaced by the following Clause:

8.4 Supply of documents and information by Principal

8.4b) *I examined carefully and to have acquired actual knowledge of the contents of the Contract documents, the Scope of Works and Technical Criteria, the Tender Documents and any other information made available in writing by the Principal or any other person on the Principal's behalf to the Contractor for the purpose of preparing and submitting the Contractor's Tender.*

3 Design obligations and warranties (Clauses 8.6, 8.7)

3.1 Clauses 8.6.1 to 8.6.17 shall be deleted and replaced by the following Clauses:

8.6.1 Contractor's primary obligation

- (a) *The Contractor:*
 - (i) *shall be solely responsible for the design and the construction of the Works in accordance with the provisions of this Contract, and*
 - (ii) *acknowledges that the Principal is relying upon the advice, skill and judgement of the Contractor in carrying out work under the Contract and the facilities to be provided including the choice of materials.*

- (b) *The parties agree that the Principal and the Administrator (as the case may be) may act in its absolute discretion when exercising any of its rights under Clause 3 of this Annexure.*
- (c) *The Contractor shall ensure all engineering design disciplines involved meet regularly and design assumptions and decisions from each discipline to be clearly communicated. Each discipline shall not work in isolation.*

8.6.2 Contractor's warranties

Without limiting the above Clause 8.6.1, the Contractor warrants that:

- (a) *It shall at all times be suitably qualified and experienced, and shall exercise due skill, care and diligence in the execution and completion of the work under the Contract.*
- (b) *It has checked and carefully considered the Preliminary Design and the Preliminary Design is proper, adequate, accurate, in accordance with the minimum design and construction standards nominated in the Scope of Works and Technical Criteria and reflects the purposes for which the Works are intended.*
- (c) *The detailed design of the Works will be carried out and completed in accordance with the requirements of the Contract, and*
 - (i) *such design will satisfy the Scope of Works and Technical Criteria and be fit and adequate for the purposes stated in, or that can be reasonably implied from the Contract, and suitable and adequate for the Site, and*
 - (ii) *construction in accordance with such design will comply with the standards and other requirements specified by this Contract.*
- (d) *It will construct the Works in accordance with the Drawings and Specifications:*
 - (i) *in a proper and workmanlike manner, and*
 - (ii) *using material of the nature described in the Contract which is of merchantable quality and fit and adequate or its intended purpose, or failing any specific description, then using material of the best quality available which is of merchantable quality and fit and adequate for its intended purpose.*
- (e) *The Works will when constructed:*
 - (i) *satisfy the Scope of Works and Technical Criteria and be fit and adequate for the purposes stated in, or that can be reasonably implied from, the Contract and be suitable and adequate for the Site, and*
 - (ii) *comply with all the requirements of the Contract, including all legislative requirements and the requirements of all Authorities.*
- (f) *It will apply for and obtain (or cause to be applied for and obtained) and will maintain, all certificates, licenses, consents, permits and other approvals of any Authority necessary for:*
 - (i) *the execution of the Works, and*
 - (ii) *the occupation and use of the Works.*

8.6.3 Contractor's liabilities, obligations and warranties unaffected

The warranties in Clause 8.6.2 shall remain unaffected, notwithstanding:

- (a) any design work may have been carried out by or on behalf of the Principal*
- (b) any comment upon, response to, review or acceptance of, giving or withholding of permission to use, approval to proceed with, direction or query in relation to or request to vary any Drawing or Specification or any part of the quality assurance system, by the Principal, the Administrator or any agent, employee or consultant of the Principal*
- (c) any acceptance of a Drawing or Specification pursuant to the Scope of Works and Technical Criteria or deemed acceptance pursuant to Clause 8.6.9 of this Annexure*
- (d) the Contractor has entered into a novation of any prior Contract between the Principal and a Principal's Designer and thereafter has retained that consultant in connection with the work under the Contract*
- (e) any variation directed or approved by the Principal in accordance with Clause 40, or*
- (f) the provision of any warranty under Clause 30.10.*

8.6.4 The Designers and the Designer's Deed of Covenant

- (a) The Contractor shall engage the Designers to assist the Contractor to carry out and complete the design of the Works and to assist the Contractor to discharge its other obligations under the Contract by:
 - (i) preparing the Drawings and Specifications required under Clause 8.6.5 of this Annexure*
 - (ii) preparing the 'as constructed' Drawings and Specifications required under Clause 42.5(d), and*
 - (iii) providing the certificates and reports required in relation to the design of the Works.**
- (b) The Contractor shall not terminate the engagement of a Designer without the prior written consent of the Administrator.*
- (c) The Contractor shall, if requested by the Principal within five Business Days of the later of:
 - (i) the Date of Acceptance of Tender, and*
 - (ii) the date the relevant Designer is engaged by the Contractor*complete and execute, and procure each Designer to complete and execute, a Designer's Deed of Covenant and deliver it to the Administrator.*
- (d) If having been requested by the Contractor to execute a Designer's Deed of Covenant, a Designer fails to do so in the required Form and within the time period prescribed by this Clause 8.6.4, the Contractor shall, provided it has obtained the prior written approval of the Administrator, terminate the engagement of the relevant Designer and the Contractor shall nominate a further Designer for the*

approval of the Administrator. If the Administrator approves the replacement Designer the provisions of this Clause 8.6.4 shall apply with respect to that Designer.

8.6.5 The design

The Contractor shall ensure the design of the Works is carried out and completed in accordance with this Contract and such that the Drawings, Specifications and the Works:

- (a) are in accordance with the Scope of Works and Technical Criteria*
- (b) are consistent with the Contractor's Tender (except to the extent that the Contractor's Tender is inconsistent with the Scope of Works and Technical Criteria or provides for standards of finish, workmanship or materials of a lesser standard than that required by the Scope of Works and Technical Criteria, in which case the Drawings and Specifications shall be in accordance with the Scope of Works and Technical Criteria)*
- (c) are sufficient to enable the Contractor to construct and complete the Works*
- (d) where the Scope of Works and Technical Criteria does not specify the standard of finish which is to be achieved for any part of the Works, provide for the standard of finish prescribed in the Tender, and*
- (e) where the standard of finish for any part of the Works cannot be determined by reference to the standard prescribed in the Scope of Works and Technical Criteria, provide for the standard of finish specified elsewhere in the Tender Documents for similar work.*

8.6.6 Submission of Drawings, Specifications and certificates

The Contractor shall, in accordance with the documentation program required under Clause 8.6.11 of this Annexure, submit to the Administrator:

- (a) the number of Drawings and Specifications specified in Item 13C, Annexure A, and*
- (b) with each lot of Drawings and Specifications submitted under this Clause (a), as specified in Item 13C, Annexure A, the number of Designer's Certificates from each Designer who prepared any of those Drawings or Specifications or whose work is included in the Drawings or Specifications.*

8.6.7 No obligation to review or check Drawings and Specifications

- (a) Neither the Principal nor the Administrator is required to review or check any Drawings or Specifications submitted by the Contractor under Clause 8.6.6 of this Annexure, resubmitted pursuant to the requirements of the Scope of Works and Technical Criteria or any accompanying reasons or supporting information:
 - (i) for errors, omissions or compliance with the Contract (including the Scope of Works and Technical Criteria), or*
 - (ii) for any other purpose whatsoever.**
- (b) The Contractor acknowledges that in considering and responding to any Drawings or Specifications submitted by the Contractor (if any such consideration occurs or response is given), the Principal and the Administrator will be relying upon:*

- (i) *the advice, skill and judgement of the Contractor and the Designers*
 - (ii) *the Designer's Certificates provided with any Drawings and Specifications resubmitted pursuant to the Scope of Works and Technical Criteria*
 - (iii) *any reasons and supporting information which accompany any Drawings and Specifications resubmitted by the Contractor, and*
 - (iv) *the warranties given by the Contractor under the Contract.*
- (c) *No review of, comments upon, rejection of, or failure to review or comment upon or reject, any Drawings or Specifications submitted by the Contractor or any other direction by the Principal or Administrator about such Drawings or Specifications will:*
- (i) *relieve the Contractor from, or alter or affect, the Contractor's liabilities or responsibilities whether under the Contract or otherwise according to law, or*
 - (ii) *prejudice the Principal's rights against the Contractor whether under the Contract or otherwise according to law.*

8.6.8 Permission to use required before construction

The Contractor shall not commence construction of any part of the Works unless and until Drawings and Specifications for that part of the Works have been submitted under Clause 8.6.6 of this Annexure or resubmitted pursuant to the Scope of Works and Technical Criteria and either:

- (a) *the Administrator has accepted the Contractor may use those Drawings and Specifications for the construction of the Works pursuant to process set out in the Scope of Works and Technical Criteria, or*
- (b) *the Administrator is deemed to have accepted those Drawings and Specifications may be used by the Contractor for the construction of the Works as provided in Clause 8.6.9 of this Annexure.*

8.6.9 Deemed permission to use

If the Administrator has not responded to a submission or resubmission of a Drawing or Specification by the Contractor within the timeframes required by the Scope of Works and Technical Criteria, then upon the expiration of the relevant period the Administrator shall be deemed to have accepted the relevant Drawing or Specification may be used by the Contractor for the construction of the Works to the extent that the document complying with the requirements of the Contract.

8.6.10 Documents become part of the Drawings and Specifications

A Drawing or Specification submitted under Clause 8.6.6 of this Annexure or resubmitted in accordance with the Scope of Works and Technical Criteria shall become part of the Drawings and Specifications:

- (a) *when the Administrator has accepted that Drawing or Specification may be used by the Contractor for the construction of the Works pursuant to the Scope of Works and Technical Criteria, or*
- (b) *when such acceptance is deemed to have occurred pursuant to Clause 8.6.9 of this Annexure.*

8.6.11 Document program

- (a) *The Contractor shall as part of the program which it is obliged to provide pursuant to Clause 33 submit a documentation program to the Administrator setting out the order in which and times by which Drawings and Specifications are to be completed and submitted to the Administrator.*
- (b) *The Contractor shall ensure that the documentation program provides for and makes due allowance for:*
 - (i) *the requirements and timeframes set out in the Scope of Works and Technical Criteria, Exhibit A, and*
 - (ii) *the progressive preparation and submission to the Administrator of the Drawings and Specifications within the times required by and at a rate consistent with maintaining progress in accordance with Clause 33.1 (provided that no more than a reasonable number of Drawings or Specifications are to be submitted to the Administrator on any one day).*

8.6.12 No departure from design

- (a) *The Contractor shall carry out and complete the Works strictly in accordance with the Drawings and Specifications.*
- (b) *The Contractor shall not depart from or change the Drawings or Specifications unless the departure or change (including a departure or change required by a variation directed by the Administrator under Clause 40.1):*
 - (i) *is not inconsistent with the Scope of Works and Technical Criteria or any of the other Contract requirements, and*
 - (ii) *will not materially affect the design and construction of the Works.*
- (c) *Where there is any departure or change to the Drawings or Specifications pursuant to Clause 8.6.12(b) the Contractor shall prepare Drawings and Specifications in relation to the departure or change in accordance with Clause 8.6.5 of this Annexure and submit them, together with relevant Designer's Certificates, in accordance with Clause 8.6.6 of this Annexure and the Administrator shall be deemed to have accepted those Drawings and Specifications in accordance with Clause 8.6.9 of this Annexure.*
- (d) *If any departure or change is inconsistent with the Scope of Works and Technical Criteria or any other Contract requirements or will materially affect the Works, the Contractor must resubmit the Drawings and Specifications in accordance with Clause 8.6.6 and Clauses 8.6.6 to 8.6.10 of this Annexure apply in respect of those resubmitted Drawings and Specifications.*
- (e) *No acceptance or deemed acceptance by the Administrator in connection with a departure from or change to a Drawing or Specification as contemplated by this Clause 8.6.12 of this Annexure shall:*
 - (i) *constitute or be treated as a variation direction by the Administrator under Clause 40.1*

- (ii) *entitle the Contractor to any additional payment or any extension of the Date for Practical Completion, or*
- (iii) *affect the warranties or obligations of the Contractor under Clause 8.6.2 of this Annexure.*

8.6.13 Copyright in design

- (a) *The Contractor warrants that:*
 - (i) *it and/or the Designers own the copyright in all of the drawings and specifications prepared by them for the purposes of the Contract (including the Drawings and Specifications), and*
 - (ii) *it has the right and the Authority to grant the licence mentioned in Clause 8.6.13(b).*
- (b) *The Contractor hereby grants to the Principal an irrevocable royalty free licence to use the documents mentioned in Clause 8.6.13(a)(i) for the work under the Contract, for any subsequent operation, maintenance, repairs, additions or alterations of or to the Works and for any other purpose including other non-related projects. This licence will survive the breach, repudiation, rescission, frustration, cancellation, termination, completion or any other discharge of the Contract and any takeover of the whole or any part of the work under the Contract.*
- (c) *Where the Principal uses any of the documents mentioned in Clause 3.13(a) (i) other than for the purposes of this Contract or in connection with the work under the Contract, it does so at its own risk.*

3.2 Clause 8.7 of the General Conditions of Contract shall be deleted and replaced by the following:

8.7 Preliminary Design

The Contractor shall have no Claim against the Principal, the Principal's Representative, the Administrator or their agents or employees for any loss, expense, damages, delay or liability arising out of or in any way connected with the Preliminary Design or the Contractor's use of the Preliminary Design.

4 Assignment and subcontracting (Clause 9)

4.1 The following new Clause 9.2.2 d) iii shall be added to the Clause 9.2.2 d) of the General Conditions of Contract:

9.2.2 d) Details of proposed Subcontractors

The Administrator's approval to subcontract under Clause 9.2.2 may be conditional upon the subcontract, including:

- (iii) *where the Subcontractor is a consultant, provision that the Subcontractor shall effect and maintain professional indemnity insurance on the same terms as are required of the Contractor under Clause 18A of this Annexure.*

4.2 The following new Clause 9.5 shall be added to Clause 9 of the General Conditions of Contract:

9.5 Novation

- (a) *This Clause applies only where the Scope of Works and Technical Criteria includes a Preliminary Design.*
- (b) *When directed by the Principal, the Contractor shall promptly execute a deed of novation in Form C7849.DC between the Principal, the Contractor and the Designers of the Preliminary Design. The Contractor is not entitled to make any Claim in connection with its compliance with this Clause 9.5.*

5 Patents, copyright and other intellectual property rights (Clause 13)

5.1 The following new Clause 13 (d) shall be added to Clause 13 of the General Conditions of Contract:

- (d) *Nothing in this Contract shall have the effect of vesting in or transferring to the Contractor or any Designer any patent, registered or unregistered design, trademark or name, copyright or other protected right or intellectual property owned by the Principal.*

6 New Clause 18A: Professional indemnity insurance

6.1 The following new Clause 18A shall be inserted in the General Conditions of Contract:

18A. Professional indemnity insurance

Before commencing work under the Contract, the Contractor shall take out, and ensure any Designers take out, a 'Claims made' based annual professional indemnity insurance policy for a total aggregate not less than that stated in Item 14B of the Annexure covering, among other things, Claims by the Principal, its employees and agents and third parties against the Contractor or Designer or by any other person arising out of or incidental to any negligent act, error or omission by the Contractor or Designer in connection with the professional activities and duties of the Contractor or Designer.

Such professional indemnity insurances shall be maintained by the Contractor and Designer until the Final Certificate is issued under Clause 42.8 of the General Conditions of Contract and after that time for the period stated in Item 14C of the Annexure.

7 Inspection and provisions of insurance policies (Clause 21)

7.1 Clause 21.2 of the General Conditions of Contract shall be deleted and replaced by the following:

21.2 Failure to produce proof of insurance

If, after being requested in writing by the other party so to do, a party fails to produce evidence of compliance with insurance obligations under Clauses 18, 18A, 19 or 20 to the satisfaction and approval of the other party, the other party may effect and maintain the insurance and pay the premiums. The amount paid shall be a debt due from the party in default to the other party. Where the defaulting party is the

Contractor, the Principal may refuse payment until evidence of compliance with insurance obligations under Clauses 18, 18A, 19 or 20 produced by the Contractor to the satisfaction and approval of the Principal. The rights given by Clause 21.2 are in addition to any other right.

7.2 Clause 21.7 of the General Conditions of Contract shall be deleted and replaced by the following:

21.7 Excess/deductible

The Contractor shall bear or pay any excess or deductible which is applicable to any Claim made under any of the policies of insurance effected under Clauses 18, 18A, 19 or 20 except to the extent the Claim is with respect to loss or damage which is the direct consequence, without fault or omission on the part of the Contractor, of an Excepted Risk defined in Clause 16.4.

8 Materials and work (Clause 30)

8.1 Clause 30.6 of the General Conditions of Contract shall be deleted and replaced by the following:

30.6 Defective materials or work

- (a) *If the Administrator discovers material or work provided by the Contractor which is not in accordance with the Contract, the Administrator may direct the Contractor to:*
 - (i) *remove the material from the Site*
 - (ii) *demolish the work*
 - (iii) *redesign, reconstruct, replace or correct the material or work, or*
 - (iv) *not to deliver the material or work to the Site.*
- (b) *The Administrator may direct the times within which the Contractor shall commence and complete the redesign, removal, demolition, reconstruction, replacement or correction.*
- (c) *If the Contractor fails to comply with a direction issued by the Administrator pursuant to Clause 30.6 within the time specified by the Administrator in the direction and provided the Administrator has given the Contractor notice in writing that after the expiry of five Business Days from the date on which the Contractor receives the notice the Principal intends to have the work carried out by other persons, the Principal may have the work of redesign, removal, demolition, replacement or correction carried out by other persons and the cost incurred by the Principal in having the work so carried out shall be a debt due from the Contractor to the Principal.*

8.2 Clause 30.9 b) of the General Conditions of Contract shall be deleted and replaced by the following:

30.9 Generally

- (b) *Except to the extent that to do so would be inconsistent with a direction under Clause 30.7 or a notice under Clause 30.8, and notwithstanding that the Administrator has not given a direction under Clause 30.6 the Contractor shall*

promptly redesign, remove, demolish, reconstruct, replace or correct material or work that is not in accordance with the Contract.

8.3 The following new Clause 30.11 shall be added to Clause 30 of the General Conditions of Contract:

30.11 Prior work

- (a) *Where the proper execution of the work under the Contract is dependent upon or appreciably affected by the quality or completeness of any work to be carried out or that has been carried out by any other person (the prior work), the Contractor shall:*
- (i) *inspect the prior work as soon as is practicable after the Principal gives the Contractor possession of the Site pursuant to Clause 27.1*
 - (ii) *if it discovers any defects or matters in or connected with the prior work which in its opinion renders or is likely to render the prior work unsuitable, unsatisfactory or detrimental in any way to the proper execution of the work under the Contract, forthwith notify the Administrator in writing providing:*
 - A. *full particulars of the defects or matters identified, and*
 - B. *the reasons for the opinion formed by it with respect to the defects or matters identified, and*
 - (iii) *not commence or continue with the execution of any part of the work under the Contract dependent upon or appreciably affected by the prior work the subject of the notice referred to in Clause 30.11(a)(ii).*
- (b) *On receipt of the Contractor's notice, the Administrator shall investigate the prior work the subject of the notice and:*
- (i) *if the Administrator agrees that there are defects or matters in or connected with the prior work which render or are likely to render the prior work unsuitable, unsatisfactory or detrimental in any way to the proper execution of the work under the Contract and that they are defects or matters which the Contractor is not obliged to rectify, overcome or accommodate as part of the work under the Contract, the Administrator shall issue a direction to the Contractor and value any work carried out by the Contractor by reason of that direction as a variation under Clause 40.5, or*
 - (ii) *if the Administrator disagrees with the Contractor, issue an instruction to the Contractor to commence or continue with the work under the Contract.*
- (c) *If the Contractor fails to:*
- (i) *inspect the prior work as required by this Clause, or*
 - (ii) *notify the Administrator of any defects or matters which should have been detected at the time of such inspection by a competent and experienced Contractor and which may render the prior work unsuitable, unsatisfactory or detrimental in any way for the proper execution of the work under the Contract*
- and the prior work subsequently proves to be unsatisfactory for the proper execution of the work under the Contract, then any work which is required to be executed in*

order to render the prior work suitable, satisfactory and non-detrimental for the proper execution of the work under the Contract shall be performed by the Contractor at its own expense and the Contractor shall have no Claim in respect of such prior work.

9 Suspension of the Works

9.1 Clause 35.5 d) i. b) shall be deleted and replaced by the following:

35.5d) Extension of time for Practical Completion

(b) Inclement weather to the extent that delays exceed in aggregate the number of days specified in Item 38B of Annexure A during which the Contractor is actually delayed in reaching Practical Completion as a result of inclement weather.

10 Certificates and payments (Clause 42)

10.1 Clause 42.5 d) of the General Conditions of Contract shall be deleted and replaced by the following:

42.5 d) Certificate of Practical Completion

(d) Within two months of Date of Practical Completion, the Contractor shall hand over to the Administrator:

- (i) copies of all investigation reports undertaken by the Contractor or its agents, in connection with the Contract*
- (ii) number of copies as stated in Item 45A, 'As Constructed' Drawings and other handover deliverables required by the Scope of Works and Technical Criteria, and*
- (iii) with each 'As Constructed' Drawing or Specification, a Designer's Certificate (signed by a Principal of each Designer).*

11 Default or insolvency (Clause 44)

11.1 The following Clause 44.2 b) xix shall be added to Clause 44.2 b) of the General Conditions of Contract.

44.2 b) Default by the Contractor

(xix) failing to comply with the requirements in the Scope of Works and Technical Criteria

11.2 Clause 44.5 a) of the General Conditions of Contract shall be deleted and replaced by the following Clause:

44.5 a) Termination by frustration

(a) If the Principal takes work out of the hands of the Contractor under Clause 44.4(a)(i), the Principal shall complete that work and the Principal, may without payment of compensation, take possession of:

- (i) such of the Constructional Plant and other things on or in the vicinity of the Site as are owned by the Contractor, and*

- (ii) *the Drawings and Specifications required under Clause 8.6 and other documents, information, materials and the like produced by the Contractor which are reasonably required by the Principal to facilitate completion of the work.*

