

Terms and Conditions

1 DEFINITIONS:

In the Contract, the following definitions apply, except where the context otherwise requires:

- (a) "Completion Date" means the date specified in the SAP Form for completion of the Services, if any;
- (b) "Contract" means these Terms and Conditions, together with the SAP Form and any appendices, schedules and/or amendments agreed in writing;
- (c) "Delivery Date" means the date specified in the SAP Form for delivery of the Goods, if any and as applicable;
- (d) "Delivery Point" means the location to which the Contractor must deliver the Goods, if any, as specified in the SAP Form;
- (e) "GST" has the meaning used in the *A New Tax System (Goods and Services Tax) Act 1999 (Cwth)* as amended, or any replacement or other relevant legislation and regulations. Terms defined by that Act and used (without separate definition) in this SAP Form, shall have the meaning given to them by that Act;
- (f) "Goods/Services", "Goods" or "Services" means the goods and/or services (as appropriate) specified in the SAP Form to be supplied or performed by the Contractor;
- (g) "Legislation" means all:
 - (i) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the State or Territory in which the Site or Delivery Point is located;
 - (ii) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the supply or performance of the Goods/Services;
 - (iii) the requirements of any authority with jurisdiction in respect of the Goods/Services and/or the Site, as applicable; and
 - (iv) fees and charges payable in connection with the foregoing;
- (h) "Party" or "Parties" means the Company and the Contractor together or individually as the context requires;
- (i) "SAP Form" means the SAP Form incorporating the terms and conditions hereof;
- (j) "Price" means the price for the Goods/Services specified in or determined in accordance with the SAP Form;
- (k) "Site" means the place or facility at which the Delivery Point is located or where the Services are to be performed.

2 COMPANY CONTRACTS AS AGENT

Queensland Motorways Pty Limited enters into this Contract on its own behalf and as the disclosed agent of:

- (a) The Gateway Bridge Company Pty Limited ACN 010 127 303; and
- (b) Logan Motorway Company Pty Limited ACN 010 704 300.

(collectively, the **Participants**).

The liability and entitlements of each Participant under and in connection with this Contract will be joint and several.

3 APPLICATION OF TERMS

The Contract constitutes the entire agreement between the Parties to the exclusion of all other terms and conditions. If there is conflict between the terms of the SAP Form and these Terms and Conditions, the terms of the SAP Form prevail. Any amendment to these Terms and Conditions has no effect unless expressly agreed in writing.

4 VARIATIONS

The Company reserves the right to vary the Goods/Services. Variations will be in writing and may include an increase or decrease in the quantity, character, quality, kind or execution of the Goods/Services, and changes to delivery and the work programme, as applicable. Variations will be valued at the rates set out in the Contract, failing which the Contractor will without undue delay, submit a written estimate of proposed change to compensation which must be agreed prior to variations being undertaken.

5 CONTRACTOR'S GENERAL OBLIGATIONS

- 5.1 The Contractor must deliver the Goods and/or perform the Services in accordance with the requirements of this Contract and all Legislation and Australian standards.
- 5.2 The Contractor warrants that the Goods shall, as at the date of delivery, be of good and sound design, materials and workmanship, new, of merchantable quality and fit for the purpose for which they are intended to be used, be free from defects (including defects in design, materials, performance, operation and workmanship), deficiency or omissions of any kind, conform as to quantity, quality, description, drawings, plans, performance criteria, sample and specification, if applicable, with the particulars stated in this Contract and any Company requirements and be free from any encumbrances defect in title.
- 5.3 Where the Contractor accesses the Site the Contractor must comply with all of the rules, policies and procedures of the Company and comply with all directions given by or on behalf of the Company.
- 5.4 The Contractor is responsible at its own risk and expense, for all permits, licences, registrations, certificates or other administrative authorisations required by any Legislation in order to comply with its obligations under the Contract.
- 5.5 The Contractor acts as an independent contractor and neither the Contractor or its personnel are deemed to be either expressly or impliedly employees of the Company.

6 DELIVERY/COMMENCEMENT/ COMPLETION

- 6.1 The Contractor must commence performance of the Services by the Commencement Date.
- 6.2 The Contractor must delivery the Goods to the Delivery Point on the Delivery Date and/or complete the Services by the Completion Date. In respect of these obligations, time shall be of the essence of this Contract. If the Contractor is unable to meet the Delivery Date and/or the Completion Date (as applicable), the Contractor must notify the Company at the earliest possible opportunity.
- 6.3 The Goods must be unloaded at the Delivery Point by the Contractor in accordance with all Legislation and all requirements of this Contract and the Contract Price includes all costs of Delivery of the Goods.
- 6.4 The Goods will be deemed to be accepted by the Company when the Company notifies the Contractor in writing that the Goods have been accepted ("Acceptance"). Acceptance of the Goods by the Company does not relieve the Contractor of any of its obligations under the Contract. The Company may at any time up to 12 months after delivery of the Goods and/or Completion of the Services, reject any Goods or Services that do not comply with the Contract and such Goods or Services must be replaced or re-performed by the Contractor at its cost.

Terms and Conditions

7 TITLE AND RISK

Title in the Goods or any part thereof shall pass to the Company on delivery of the Goods to the Delivery Point or on payment by the Company (whichever is earlier). The Goods remain at the risk of Contractor until Acceptance by the Company.

8 INFORMATION

Any information provided by the Company to the Contractor is only to assist the Contractor in the performance of its obligations under the Contract and the Contractor must not rely on that information for any purpose and the Contractor releases the Company from any liability in relation to any error or omission or inaccuracy in such information.

9 PRICE AND PAYMENT

- 9.1 Unless otherwise specified in the SAP Form, the Price is fixed, exclusive of GST and not subject to escalation or variation.
- 9.2 The Contractor shall submit to the Company a claim for payment in the form of a valid tax invoice upon Delivery of the Goods or Completion of the Services, as applicable. The Company is not obliged to pay for any Goods until they are accepted.
- 9.3 The Company may withhold all or part of any payment to the Contractor without payment of interest if the Company rejects the Goods or Services or if the Contractor breaches the Contract.
- 9.4 The Company shall pay to the Contractor the amount of any undisputed invoice within 30 days after it is validly delivered to the Company.

10 GST AND TAXES

- 10.1 Unless an amount payable under this Contract is in respect of a taxable supply unless such amount is expressed to include GST, the party paying that amount shall also pay any GST payable on the taxable supply.
- 10.2 The Contractor shall be liable for all taxes arising in connection with this Contract or any payment under this Contract.

11 INDEMNITIES

The Contractor indemnifies, defends and holds harmless the Company from and against, all liability or loss of the Company in respect of loss of or damage to any property or personal injury, death or illness of any person, arising out of the performance of the Contractor's obligations under this Contract.

12 INSURANCE

- 12.1 The Contractor shall effect and maintain throughout the continuance of this Contract, the following insurance policies:
- (a) where any Goods are to be supplied as part of the Contract, product liability insurance for an amount in respect of any one occurrence not less than the amount stated in the SAP Form; and
 - (b) general third party insurance with a combined bodily injury and property damage limit of not less than the amount stated in the SAP Form per occurrence or series of occurrences arising from the one event which shall also cover the Company.
- 12.2 The Contractor shall provide the Company with a certificate of insurance endorsed by the Contractor's insurers or brokers for each policy of required insurance within 5 days of issue of the SAP Form. The Contractor shall bear any and all excesses or deductibles in relation to any claim on a policy.

13 TERMINATION

- 13.1 The Company may terminate all or part of the Contract for its convenience by written notice whereupon the Contractor will be entitled to payment pro-rata for satisfactory performance prior to termination plus any reasonable and documented expenses directly incurred by Contractor in cancelling orders and work in progress.
- 13.2 The Company may, in addition to its other rights or remedies, terminate all or part of the Contract by immediate written notice for:
- (a) the Contractor's actual or anticipated breach of any Contract provision and failure to correct such actual or anticipated breach within a time period agreed by the Company; or
 - (b) any act related to bankruptcy, reorganisation, receivership or insolvency,
- whereupon the Contractor will indemnify the Company against all costs (including legal costs) or expenses incurred by the Company in obtaining the Goods/Services elsewhere and/or arranging for a third party to supply or complete the Goods/Services.

14 ASSIGNMENT

The Contractor must not assign, transfer or sub-contract the Contract in whole or in part or any legal or equitable interest without the prior written consent of the Company.

15 ROAD FRANCHISE AGREEMENT

The Company operates the Gateway Motorway and Logan Motorway (the "Tollroad") under a Road Franchise Agreement entered into with the State of Queensland (the "RFA"). The Contractor acknowledges and agrees that:

- (a) under the RFA, the Contractor will give the State all information that it requests in relation to the operation, maintenance, repair and other activities in respect of the Tollroad; and
- (b) if the State terminates the RFA, or steps in to perform any of the Company's obligations under the RFA, the Contractor consents to the Company transferring its rights and obligations under this Contract to the State, or to anyone appointed by the State to operate the Tollroad.

16 HEALTH, SAFETY, SECURITY & THE ENVIRONMENT

- 16.1 All Contractor personnel must comply with all Legislation affecting health, safety, security and the environment ("HSSE") in respect of the provision of the Goods or the performance of the Services. The Contractor must also comply with and ensure all Contractor personnel are aware of and comply with any HSSE policy of the Company provided to the Contractor.
- 16.2 Where physical entry on any Site is required under the Contract the following additional requirements shall be fulfilled:
- (a) Safety. The Contractor and any employees or agents shall:
 - (i) take reasonable care at all times for his or her own safety and the safety of others;
 - (ii) comply with all reasonable directions and procedures of the Company or any contractor of the Company who has been appointed as 'principal contractor' under the WH&S Act, including those relating to security, the environment and workplace health and safety;
 - (iii) immediately report all incidents prior to leaving site; and
 - (iv) so far as is reasonably practical, coordinate its performance of the Services with that of all Authorised Persons or Authorities on the Site.
 - (b) Site Induction:

Terms and Conditions

- (i) Construction Induction Card - All Contractor personnel will be required to produce evidence of current construction industry induction prior to entry onto the Site. The induction card must state who received the training and when such training was conducted.
 - (ii) Site Induction – Prior to any Contractor employees or delivery drivers entering onto the Site, they must attend a compulsory site specific safety induction.
 - (c) Site Access. The Contractor shall have submitted and had approved an Authority To Work Application Form.
 - (d) Environment - The Contractor shall comply with any environmental procedure brought to its attention prior to entry onto the Site.
- 16.3 The Contractor shall provide all personnel who enter the Site with personal protective equipment (“PPE”) being hard hats, high-visibility vests (orange only in colour), safety boots - steel toe capped, safety glasses (where required), gloves (where required); and hearing protection (where required). The wearing of PPE on Site is mandatory.
- 16.4 All plant and equipment used by the Contractor on Site shall comply with all Legislation. If requested by the Company, the Contractor shall provide certificates confirming such compliance before such plant and equipment is brought on Site. The Company may inspect the plant prior to mobilisation to Site and Completion. Daily checklists for plant shall be carried out, duly signed by the operator and presented to the Company for inspection. Servicing, maintenance, refuelling and wash down of the plant and equipment shall only take place at designated locations.
- 16.5 The Contractor and the Company must in accordance with the Legislation so far as is reasonably practicable, consult, cooperate and coordinate activities with each other in relation to any matter where the Contractor and the Company both have a duty in relation to work health and safety.

17 Acknowledgement of Contract

- 17.1 The Contractor is to sign an acknowledgement as below and return a copy of the SAP Form and acknowledgement to the Company.

Ibeing the authorised representative of the Contractor,
acknowledge receipt of the Contract and accept the terms and conditions of the Contract.

.....(Signature)

.....(Title)

.....(Date)
