



SAHT: <PROGRAM> Copy: / 2
Tender: SAHA 1###-#: <Location>
Contract Date: / / 2023

Part C

CONTRACT AGREEMENT (proposed)

DESIGN AND CONSTRUCTION <with / without Planning Consent achieved>

Tender: SAHA-####-#

-BETWEEN-

SOUTH AUSTRALIAN HOUSING TRUST

ABN: 17 545 435 789

("Trust")

-AND-

<BUILDER REGISTERED NAME>

(trading as **<Builder Name if applicable>**)

A B N: **## ### ### ##**

("Contractor")

-FOR-

Documentation and Construction of # houses at <Location>

This template is subject to change prior the release of a tender.

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NOTE 1 (for this template):

Contents of this proposed Part C Contract agreement as highlighted in Green are completed by the Authority with specific details prior being issued with the tender.

NOTE 2:

Contents of the proposed Part C Contract agreement as highlighted in Yellow are for completion once the contract is awarded and prior execution

AGREEMENT Dated Day of 2023

PARTIES:

SOUTH AUSTRALIAN HOUSING TRUST (ABN: 17 545 435 789) of Level 5, Riverside Centre, North Terrace, Adelaide SA 5000 (“Trust”)

AND

REGISTERED AND TRADING NAME OF BUILDER (ACN ### ## #) and (ABN ## ## ## ## #) of Address in Full SA 5### (“Builder”)

BACKGROUND:

- A. The Trust issued an Invitation to Supply (ITS) as part of the ‘Program’ as Tender SAHA-1###-#. The project involves the design, documentation and building of twelve (##) dwellings, at <Location>; and includes all costs for associated siteworks and the total services required for the completion of the dwellings and developments, located at existing <Full Address of Houses>, as set out in the Part B Specification documents for the contract price (inclusive of GST) of PRICE IN FULL WORDS (\$#,###,###.00); and individual dwelling sums as set out in the Contract Schedule.
- B. The Builder lodged a tender in response to the Invitation to Supply.
- C. The parties agree that the Builder will perform the Works on the terms and conditions as set out in this Contract.

IT IS AGREED:

1. DEFINITIONS

- 1.1 “Bank Guarantee” means the security to be provided by the Builder as specified in clause 9;
- 1.2 “Builder” means the builder specified in the Schedule;
- 1.3 “Builder Financial Information” means annual financial accounts for the previous three years, management accounts for the previous three years, and one comprehensive credit reference agency report issued within the previous 60 days;
- 1.4 “Building Rules Consent” has the meaning given to that term in the Development Act);
- 1.5 “Certificate of Practical Completion” has the meaning given to it clause 30;
- 1.6 “Certifier” means a professionally qualified building works certifier (for building rules consent), engineer, architect or other suitably qualified person, named in the Schedule, with professional indemnity insurance of at least \$1 million approved by the

Trust prior to the commencement of Works and engaged by the Builder at its own cost;

- 1.7 “**CITB**” means Construction Industry Training Board;
- 1.8 “**Code of Conduct**” means the Code of Conduct for all Contractors, a copy of which is annexed at Appendix 3;
- 1.9 “**Construction Representative**” means the person appointed to act on behalf of the Trust in relation to the Contract;
- 1.10 “**Construction Program**” means a statement in writing showing the dates by which, or the times within which, the various stages or parts of the Work under the Contract are to be executed or completed which must be consistent with the time for doing Works set out in the Schedule;
- 1.11 “**Contract**” means this agreement between the Trust and the Builder;
- 1.12 “**Contract Documents**” means the documents listed in the Schedule and Appendices;
- 1.13 “**Contract Price**” means the total price payable under this Contract as set out in the Schedule;
- 1.14 “**Date for Practical Completion**” means the date specified in the Schedule;
- 1.15 “**Date of Practical Completion**” means the date the Trust under clause 30 certifies as being the date when Practical Completion was reached;
- 1.16 “**Defects Liability Period**” is the period commencing upon the Date of Practical Completion of the Work and as stated in the Schedule;
- 1.17 “**Designer**” means the person either employed or contracted by the Builder to design the Houses comprising the Works;
- 1.18 “**Development Act**” means the *Development Act 1993* (SA);
- 1.19 “**Development Approval**” has the meaning given to that term in the Development Act and in particular refers to the requirements set out in section 33(4) of the Development Act;
- 1.20 “**Development Plan Consent**” has the meaning given to that term in the Development Act;
- 1.21 “**Finish Date**” means with respect to each Torrens title House, the date for completion of each House as specified in the Schedule;
- 1.22 “**Government requirements**” means any lawful order or requirement of any government department, Local Authority, statutory authority, or other authority with power to affect the Works or over the Sites.
- 1.23 “**Handover Documents**” means the following documents (unless they were already included in the Contract Documents):
 - 1.23.1 Development Plan Consent;
 - 1.23.2 Building Rules Consent;
 - 1.23.3 Development Approval;
 - 1.23.4 Certificates of approval under the *Real Property Act 1886* as appropriate;
 - 1.23.5 Engineer’s footing inspection certificates;
 - 1.23.6 Architects and/or engineers Practical Completion certificates;
 - 1.23.7 A licensed surveyor’s “as constructed” Identification Survey for each allotment showing such matters required by the Trust;

- 1.23.8 “As Constructed” Site services layout drawings for all allotments with multiple dwellings (Group Sites). Such drawings must show the installed locations for storm water systems, water supply pipes and valves, gas pipes, electrical reticulation, sewers, and fire mains. “As Constructed” services drawings are not required for Houses on individual Torrens Title allotments;
 - 1.23.9 S.A. Water compliance certificate;
 - 1.23.10 E.T.S.A. compliance certificate;
 - 1.23.11 Gas compliance certificate;
 - 1.23.12 Manufacturers’ and/or suppliers’ warranties in respect of termite treatment, hot water units, cooking appliances, roofs, thermal insulation and other materials;
 - 1.23.13 The original of the Builder’s prescribed payments deductions forms;
 - 1.23.14 A schedule of finishes; and
 - 1.23.15 Building Indemnity Insurance policy and certificates, if applicable.
- 1.24 **“Houses”** means the houses forming part of the Works and **“House”** means any one of them;
- 1.25 **“Insolvency Event”** means:
- 1.1.1 an administrator is appointed to the Builder or action is taken to make that appointment;
 - 1.1.2 the Builder resolves to be wound up;
 - 1.1.3 an application is made to a court for an order or an order is made that the Builder be wound up (whether on grounds of insolvency or otherwise)
 - 1.1.4 the Builder ceases to carry on business;
 - 1.1.5 a receiver or a receiver and manager of property of the Builder is appointed whether by a court or otherwise;
 - 1.1.6 an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of the Builder or one of them is appointed, whether or not under an order;
 - 1.1.7 the Builder enters into a compromise or arrangement with its creditors or a class of them;
 - 1.1.8 the Builder is, or states that it is, unable to pay its debts when they fall due;
 - 1.1.9 the Builder fails to provide Builder Financial Information in accordance with a request pursuant to clause 6.7;
 - 1.1.10 the Builder fails to provide to the Trust or an independent credit assessment provider acting on behalf of the Trust, requested information and documentation required for the completion of a credit assessment report; or
 - 1.1.11 the Builder’s Financial Information indicates, in the Trust’s opinion, that the Builder is in financial distress.
- 1.26 **“Laws”** means all Acts of Parliament of the Commonwealth of Australia and of the State of South Australia and the requirements of all ordinances, regulations, by-laws, orders, and proclamations;

- 1.27 **“Local Authority”** means the local council/council within the meaning of the *Local Government Act 1999* (SA) and/or other State agencies with power to affect the Works;
- 1.28 **“Payment Schedule”** is a reference to Appendix 1;
- 1.29 **“Payment Statutory Declaration”** means a statutory declaration (as attached as Appendix 5 Payment Statutory Declaration template), signed by a director of the Builder declaring that at the time of the payment claim all workers and/or sub-contractors have at the date of the declaration been paid all moneys due and payable to them in respect of Works under the Contract; and / or include in the declaration the status of sub-contractor payments with a schedule of sub-contractors for which an amount is in dispute and/or has not been paid;
- 1.30 **“Planning Approval”** means Development Plan consent;
- 1.31 **“Possession Date”** means the date the Trust gives to the Builder possession of the Site being the date specified in the Schedule;
- 1.32 **“Practical Completion”** means the completion of the Works in accordance with the Contract Documents and the Work is fully equipped with all fixtures and fittings to be supplied by the Builder and the Work is fit for occupation except for any documented minor defects which are not required to be rectified immediately and do not prevent the Work from being reasonably capable of being used for their stated purpose as assessed by the Construction Representative;
- 1.33 **“Relevant Authority”** means a body determined to be the relevant authority in accordance with the Development Act;
- 1.34 **“Representatives”** means the Site Supervisor and the *Construction Representative and/or Contract Manager* as named in the Schedule;
- 1.35 **“Retention monies”** has the meaning given to it in clause 9.29;
- 1.36 **“Satisfaction Date”** has the meaning given to it in clause 4.1;
- 1.37 **“Schedule”** means a Schedule to this Contract;
- 1.38 **“Site Supervisor”** means the person with the required Building License and appointed to act with the full authority of the Builder in all matters relating to the Contract;
- 1.39 **“Sites”** means the allotments for the Houses as specified in the Schedule;
- 1.40 **“Solvency Statutory Declaration”** means a statutory declaration (as attached as Appendix 4 Solvency Statutory Declaration template) signed by a director of the Builder declaring that the Builder:
- (a) is solvent;
 - (b) has no overdue taxation debts (both Federal and State);
 - (c) has no overdue Return to Work SA payments;
 - (d) has met all of its obligations to make superannuation guarantee payments and other superannuation payments;
 - (e) has no outstanding legal disputes over payments, including winding up proceedings;
- 1.41 **“Stages”** means the stages of the Works set out in Appendix 1;
- 1.42 **“Trust”** means South Australian Housing Trust (“**SAHT**”) trading as the South Australian Housing Authority (“**SA Housing Authority**”);
- 1.43 **“Variation”** means a change in the Works or extra work; and
- 1.44 **“WHS Act”** means the *Work Health and Safety Act 2012* (SA);

- 1.45 “**WHS Regulations**” means the *Work Health and Safety Regulations 2012 (SA)*;
- 1.46 “**Works**” means the whole of the work to be executed in accordance with the Contract, including all Variations (if any) provided for by the Contract.

2. INTERPRETATION

- 2.1 In this Contract, unless the context requires otherwise:
- 2.1.1 A reference to any legislation or to any provision of any legislation includes:
- (a) all legislation, regulations, proclamations, ordinances, by-laws and instruments issued under that legislation or provision; and
 - (b) any modification, consolidation, amendment, re-enactment or substitution of that legislation or provision;
- 2.1.2 references to a party includes its heirs, administrators, successors and transferees;
- 2.1.3 references to a party includes its employees, contractors and agents;
- 2.1.4 any word indicating the singular includes the plural and vice versa;
- 2.1.5 any word indicating any gender includes all genders;
- 2.1.6 reference to persons includes corporations and vice versa;
- 2.1.7 if the Builder consists of two or more persons, the Builder’s rights and obligations under this Contract bind them jointly and severally;
- 2.1.8 unless otherwise provided, prices are in Australian currency and payments shall be made in Australian currency;
- 2.1.9 a reference to “include” or “including” means includes, without limitation or including, without limitation, respectively.
- 2.2 In resolving inconsistencies in this Contract the following documents have priority in this order:
- 2.2.1 this Contract (excluding the Schedule and the Appendices)
 - 2.2.2 the Schedule; and
 - 2.2.3 the Appendices

3. REPRESENTATIVES

- 3.1 The Builder must ensure that at all times there is a Site Supervisor for the Works and must keep the Trust informed in writing of the name of that person, and of any change. If the Trust (acting reasonably) objects to the person appointed from time to time, the Builder must replace that person.
- 3.2 The Trust must ensure that there is a Construction Representative for the Works and will advise the Builder in writing of any limitations or qualifications to the powers of the Construction Representative. The Trust must keep the Builder informed in writing of the name of that person and of any change. The person does not act as independent certifier, assessor or valuer. The person acts only as an agent of the Trust.
- 3.3 The Trust will advise the Builder in writing if the Construction Representative delegates any of its powers to others.

4. CONDITIONS PRECEDENT

- 4.1 The parties agree that neither party will be bound by the terms of this Contract (except this clause 4.1) unless the following conditions precedent are satisfied in full

by the dates specified in the Schedule, or such other date as extended by the Trust by notice in writing to the Builder ("**Satisfaction Date**"), at the cost and expense of the Builder:

- 4.1.1 the Builder must provide to the Trust a Solvency Statutory Declaration;
 - 4.1.2 if applicable (where concept plans are not included in the tender), final plans, schedules, details and other relevant information required to be lodged for Development Plan Consent must be submitted by the Builder to the Trust, for endorsement prior to lodgement with the relevant authority by the Builder;
 - 4.1.3 the Builder must obtain Building Rules Consent after being notified that Development Plan Consent has been issued;
 - 4.1.4 the Builder must obtain Development Approval for each of the Houses after being notified that Building Rules Consent has been issued;
 - 4.1.5 after the issue of Development Approval in accordance with clause 4.1.4, copies of final plans stamped by the authority, schedules, details and other relevant information must be submitted by the *Builder to the Trust*;
 - 4.1.6 the documents submitted to the Trust pursuant to clause 4.1.5, in addition to the Construction Program, must be appended to this Contract in Appendix 1A, and will form part of this Contract; and
 - 4.1.7 where applicable, the Registrar-General deposits any plan of division to create separate allotments for each of the Houses.
- 4.2 Where the Builder is of the opinion that all conditions precedent have been satisfied, it must give written notice of that opinion to the Trust. If the conditions precedent have in fact been satisfied, the Contract will come into full force and effect.
- 4.3 The Trust and the Builder acknowledge and agree that the conditions precedent specified in clause 4.1 have been inserted for the benefit of the Trust and may be waived by the Trust at any time prior to the Satisfaction Date by giving written notice to the Builder.
- 4.4 Subject to any waiver under clause 4.3, if the conditions precedent specified in clause 4.1 are not satisfied in full by the Satisfaction Date, this Contract may be terminated by the Trust by giving not less than fourteen (14) days written notice in writing to the Builder.
- 4.5 Upon termination in accordance with clause 4.4:
- 4.5.1 neither party will be bound by the terms of the Contract;
 - 4.5.2 the Trust will return any security, including the Bank Guarantee, lodged under this Contract, subject to any right contained in this Contract to call on any such security; and
 - 4.5.3 neither party shall have any claim, including for any costs incurred up to the Satisfaction Date, against the other arising from or connected to this Contract except for any previous unremedied breach or default.

5. PERFORMANCE OF THE WORKS

- 5.1 The Builder will complete the whole of the Works in accordance with the Contract Documents.

- 5.2 The Builder's performance in carrying out the Works under this Contract will be evaluated by the Trust following Practical Completion. The Trust will provide the Builder with the performance report as soon as possible after Practical Completion. If the Builder wishes to make any response to the evaluation contained in the performance report then it must do so within fourteen (14) days of its receipt by the Builder. The evaluations contained in the performance report may be taken into account by the Trust when selecting builders for future contracts.

6. GENERAL OBLIGATIONS OF THE BUILDER

- 6.1 The Builder must carry out and complete the Work in accordance with this Contract and within the time required by this Contract.
- 6.2 The Builder remains responsible for the Work regardless of whether the Builder has sub-contracted any part of the Work.
- 6.3 The Builder must perform its obligations under this Contract carefully, skilfully and competently, in a workmanlike manner.
- 6.4 The Builder must use new materials unless otherwise specified.
- 6.5 To the extent the Trust obtains or has obtained any Development Plan Consent for the Works (per clause 4.1 and the Schedule), and the Builder amends the design of the same in any way which necessitates re-application for Development Plan Consent, the Builder is responsible for any costs of reapplication and any consequent delay costs.
- 6.6 The Builder must comply with the Code of Conduct in carrying out the Works and ensure that any sub-contractors also comply with the Code of Conduct.
- 6.7 The Builder must provide up-dated Builder Financial Information to the Trust within 5 Business Days of a request by the Trust.

7. PAYMENT OF THE CONTRACT PRICE

- 7.1 Subject to this Contract and in particular clause 8, the Trust will pay the Builder the percentages of the Contract Price on certified completion of the Stages.
- 7.2 The Contract Price is payable by the Trust in instalments as set out in the Payment Schedule, subject to:
- 7.2.1 completion of the Stage indicated for the relevant instalment;
 - 7.2.2 the Trust's right to retain retention moneys in accordance with clause 9.2 (if any);
 - 7.2.3 the presentation by the Builder of a Payment Statutory Declaration; and
 - 7.2.4 the presentation by the Builder of a payment claim and tax invoice in accordance with the ()GST law and clause 7.6, and for an amount not exceeding the sum as set out in the Payment Schedule.
- 7.3 Payment of each instalment will be made within thirty (30) days from the receipt of the certification referred to in clause 8.1, and subject to the terms of clauses 7.2 and 7.6.
- 7.4 The Trust is not liable to pay government rates, duties, taxes and charges payable in respect of the Work.
- 7.5 The parties acknowledge and agree that the Work constitutes a taxable supply.
- 7.6 The Builder must provide the following information on each payment claim (tax invoice):
- 7.6.1 invoice number;
 - 7.6.2 description of the Works for which the payment relates;
 - 7.6.3 the amount claimed;

- 7.6.4 issue date; and
- 7.6.5 Trust's project number.

7.7 Payment claims must be submitted in accordance with the requirements (if any) set out in the Schedule.

8. CERTIFICATION

- 8.1 If the Trust requires that a Stage of the Works is certified by the Certifier as completed to the standard specified in the Contract Document then the Trust does not incur an obligation to pay the relevant instalment of the Contract Price until certification of that Stage of the Works has occurred.
- 8.2 If the Stage is completed to the standard specified in the Contract Documents the Certifier must issue a written certificate.
- 8.3 The cost of certification is to be borne by the Builder.
- 8.4 The Trust may, at its absolute discretion, by notice to the Builder, withdraw any approval it may have previously given to a Certifier. Such notification will take effect immediately and no further certification by that person will be recognised by the Trust.

9. SECURITY

- 9.1 The Builder will provide security for the performance of the Builder's obligations under this Contract in the form of an unconditional and irrevocable Bank Guarantee for 5% of the Contract Price. The Bank Guarantee shall not be limited in terms of time (i.e. it shall not contain a sunset clause or expiry date). The Bank Guarantee must be delivered to the Trust before the Possession Date. Where a Bank Guarantee is not provided by the Date of Site Possession, the Trust may withhold payment of the first Construction Progress Claim until received, or deduct the full 5% of the Contract Price from the first Construction Progress Claim invoice/s.
- 9.2 As an alternative to a Bank Guarantee and at its complete discretion, the Trust may permit the Builder to provide security for the performance of the Builder's obligations under this Contract in the form of the percentage deduction from either the first instalment or each instalment of the Contract Price specified in the Schedule (**retention moneys**).

The Trust may have recourse to the security under this clause 9 where a debt due and payable to it under this Contract remains unpaid. The Trust is not obliged to give notice of its intention to have recourse to the security held and is not obliged to issue a demand upon the Builder before having recourse to the security referred to in this clause.
- 9.3 If a Bank Guarantee is allowed with ~~has~~ an expiry date, the Builder must procure the issue of a replacement Bank Guarantee at least 20 Business Days prior to the expiry date for the same value and in terms no less favourable to the Trust, in exchange for the Bank Guarantee which will expire.
- 9.4 If a replacement Bank Guarantee is not provided in accordance with clause 9.4, the Trust may (notwithstanding the provisions of clause 9.3) make a demand under the Bank Guarantee due to expire held by it for the full face value of that Bank Guarantee at that time and hold and apply the proceeds as cash security on such terms as the Trust determines are consistent with its rights in respect of the Bank Guarantee. The Trust must release the Bank Guarantee or proceeds held by it when it receives the replacement Bank Guarantee or as otherwise required by this Contract or at law.
- 9.5 The Trust must return the Bank Guarantee, or the amount not drawn upon, on the release date specified in the Schedule.

10. CONTRACT DOCUMENTS

- 10.1 Save and except to the extent that the design of the Houses has been approved under the Development Approval for the Works, the Builder is fully responsible for the adequacy and appropriateness of the design of the Houses.
- 10.2 The Builder carries the risk of any error or inconsistency in the Contract Documents, or any error in description or in quantity in the Contract Documents, or if any work is omitted from the Contract Documents. If applicable, this clause also applies in respect of any preliminary design drawings supplied by the Trust, or any floor plans, elevations and/or Site layouts, or any other documents or information, supplied by the Trust.

11. STATUTORY OBLIGATIONS, NOTICES AND CHARGES

- 11.1 The Builder must carry out the Works in accordance with all Laws and Government Requirements, including but not limited to, any Local Authority rules in regards to working hours on the Site.
- 11.2 The Builder must comply with all notices given under, and give all notices required by, any Laws or Government Requirements.
- 11.3 The Builder must pay all fees or charges payable under any Laws or Government Requirements, including (without limitation) Council application fees, planning, building and development approvals and CITB levy.
- 11.4 The Builder is authorised to act as the Trust's agent for the purpose of payment of fees and lodgement of relevant development consents and approvals, service connection, and other applications.
- 11.5 To the extent the Trust obtains or has obtained any Planning Approval for the Works, and the Builder amends the design of the same in any way which necessitates re-application for Planning Approval, the Builder is responsible for any costs of re-application and consequent delay and any consequent delay costs.
- 11.6 At final completion of the Works, the Builder is authorised by the Trust to complete and sign the Statement of Compliance required under Regulation 83AB, Clause (8)(b) of the *Development Regulations 2008* (SA).
- 11.7 The Builder must issue any required Fencing Notices at the time of Site possession and provide copies of the notices to the Trust with the first construction payment claim.

12. POSSESSION OF AND ACCESS TO THE SITE(S)

- 12.1 Subject to clause 12.2, the Trust will give the Builder possession of the Site(s) by the Possession Date.
- 12.2 Possession of the Site(s) will not be given until all provisions relating to insurances as set out in clauses 22 to 26 (inclusive), the Bank Guarantee referred to in clause 9.1, and clause 4 of Appendix 7 relating to the Employment Pathways Apprenticeship Program, are fully satisfied.
- 12.3 Possession of the Site(s) confers on the Builder a right only to use and control the Site(s) for the purpose of carrying out the Works.
- 12.4 Possession of the Site(s) by the Builder is by way of non-exclusive licence only. The Trust may licence other parties in similar terms.
- 12.5 The Trust, and any person designated by the Trust, can visit the Site(s) at all reasonable times.
- 12.6 The Builder may otherwise exclude or remove unauthorised persons from the Site(s).

13. SETTING OUT AND SITE CONDITIONS

- 13.1 The Builder is responsible for accurate setting out of the Works.
- 13.2 The Builder must allow for its surveyor to peg each Site and maintain the pegs, and for a Site survey at Practical Completion, and the provision of "as constructed" Site services layout drawings for all allotments, including those with multiple dwellings.
- 13.3 The Builder warrants that the Site will satisfactorily support the Works.
- 13.4 The Builder must obtain full soil reports and footing designs from qualified engineers in respect to the Site, and each House to be positioned on each Site.
- 13.5 To the extent that any additional or amended design is necessary, the Builder must design each of the Houses in accordance with the soil reports so obtained.

14. INSPECTION OF THE WORKS

Notwithstanding the issue of a certificate by the Certifier, the Trust may, at its own cost and at any time, inspect the Works for compliance with the requirements of the Contract Documents. In the event the Works do not comply, the Trust will issue a notice to the Builder who must rectify the non-compliance, at the Builder's own cost.

15. CARE OF THE WORK AND REINSTATEMENT OF DAMAGE

- 15.1 The Builder is liable for and indemnifies the Trust against loss or damage to:
 - 15.1.1 the Works, from the date the Builder begins carrying out the Works; and
 - 15.1.2 the Site and anything brought onto the Site for the purposes of the Contract, from the Possession Date.
- 15.2 After the Date of Practical Completion, the Builder remains liable for and indemnifies the Trust against loss or damage arising out of making good defects and removing any materials from the Site.
- 15.3 The Builder is liable for and indemnifies the Trust against all claims, actions and loss or damage and all other liability arising out of carrying out the Works:
 - 15.3.1 to or in connection with any property (other than property covered under clause 15.1); and
 - 15.3.2 arising out of personal injury or death.
- 15.4 Except to the extent such loss or damage is caused by the Trust, the Builder is responsible for all of the following:
 - 15.4.1 preventing loss or damage to adjoining and other properties and the environment arising out of carrying out the Works;
 - 15.4.2 the location and care of existing services;
 - 15.4.3 repairing or making good loss or damage to the Works, the environment and the Site arising out of carrying out the Works;
 - 15.4.4 any illegal dumping by third parties onto the Site from the Possession Date and prior to the Date of Practical Completion; and
 - 15.4.5 bearing the cost of repairing, or making good, loss or damage to adjoining or other properties and the environment arising out of carrying out the Works.
- 15.5 This clause survives any expiry or earlier termination of this Contract.

16. CLEANING UP BY BUILDER

- 16.1 The Builder must keep the Works clean and tidy, including the provision of rubbish bins and the minimisation of dust, as they proceed and regularly remove from the Site rubbish and surplus material arising from the execution of the Works.
- 16.2 On Date of Practical Completion, the Builder must clear away and remove from the Site all constructional plant, surplus materials, rubbish and temporary works of every kind and must leave the Site and existing structures and areas adjacent to the Site, in a state of repair to the satisfaction of the Trust.

17. WORK HEALTH AND SAFETY

- 17.1 For the purposes of this clause 17, the following terms have the same meaning as in either the WHS Act or the WHS Regulations (together the "WHS legislation"):
- 17.1.1 cease work;
 - 17.1.2 notifiable incidents;
 - 17.1.3 provisional improvement notice;
 - 17.1.4 safe work method statement; and
 - 17.1.5 WHS management plan.
- 17.2 The Builder must comply with all of its work health and safety obligations arising under the WHS legislation.
- 17.3 The Builder must notify the Trust if:
- 17.3.1 any notifiable incidents occur at the Site;
 - 17.3.2 it is issued with any statutory notices under the WHS legislation;
 - 17.3.3 the Union(s) exercises a 'right of entry' to investigate suspected contraventions of the WHS legislation;
 - 17.3.4 a 'cease work' has been issued under the WHS legislation; and
 - 17.3.5 the health and safety representative for the Works issues a provisional improvement notice that requires SafeWork SA to attend the Site;
- 17.4 The Builder must demonstrate to the Trust, whenever requested, that it has met and is meeting at all times its obligations under this clause, and must provide to the Trust prior to Site Possession and otherwise when requested by the Trust, such information or records of compliance as may be reasonably required including but not limited to:
- 17.4.1 a copy of the WHS management plan for the Works; and
 - 17.4.2 a copy of any safe work method statement issued for the Works
- 17.5 The Builder must ensure that all workers engaged in the Works are aware of safe work practices.

18. INDUSTRY PARTICIPATION POLICY

- 18.1 Agencies and private parties contracting to the Government of South Australia are required to comply with the South Australian Industry Participation Policy (SAIPP) and the supporting procedural and reporting requirements.
- 18.2 The Builder must implement the Builder's Industry Participation Plan ("IPP") approved by the Industry Advocate ("IA").
- 18.3 The Builder must provide an Industry Participation Report ("IPP Report") in respect of each Industry Participation Reporting Period to the Trust within two weeks of the end of each period.

- 18.4 An Industry Participation Reporting Period is:
- 18.4.1 the period between the date of this Contract and 6 months after the date of this Contract;
 - 18.4.2 each subsequent 6 month period between the date of this Contract and the date of termination or expiry of the Contract;
 - 18.4.3 if the Contract ends on a date other than an anniversary of the date of this Contract, the period from the conclusion of the preceding Industry Participation Reporting Period until the date of termination or expiry of the Contract;
 - 18.4.4 for short-term projects or of strategic importance to the State, the period notified by the IA to the Builder in writing; and
 - 18.4.5 where the period between the date of this Contract and the date of its termination or expiry is less than 6 months, that period;
 - 18.4.6 as otherwise stipulated by the IA.
- 18.5 The Builder must attend any meeting scheduled by the IA prior to the date of termination or expiry of the Contract to review how the IPP is being implemented and advanced, and for this purpose, the Builder must provide all information reasonably requested by the IA. The IA must give the Builder not less than ten (10) Business Days' notice of any such meeting.
- 18.6 The IA may, by written notice require that the Builder within a reasonable time specified in the notice, provide information or documents to enable the IA to assess the Builder's compliance with this special condition.
- 18.7 If the IA reasonably believes that the Builder is not complying with the requirements of this special condition, the IA may by notice in writing direct that the supply comply with those requirements.
- 18.8 Upon receipt of the notice, if the Builder is of the opinion that its non-compliance is reasonable and justified, the Builder may provide a response to the IA outlining that opinion and the reasons for it.
- 18.9 The Builder's failure to comply, in whole or in part, with the commitments contained within the IPP will be a factor taken into account in the award of future contracts for the Government of South Australia.
- 18.10 In this clause, "Industry Advocate" or "IA" means the person from time to time appointed to the position of Industry Advocate under the *Industry Advocate Act 2017 (SA)*. "IPP" means the Industry Participation Plan submitted by the Builder in their tender response documents and approved by the IA.

19. PROVISIONAL SUMS

- 19.1 A provisional sum included in the Contract shall not in itself be payable by the Trust but where pursuant to an approved Variation the Works or item to which the provisional sum relates, is carried out or supplied by the Builder the work or item shall be priced by the Trust and paid out of the Provisional Sum.
- 19.2 Where any part of such Work or item is carried out or supplied by a sub-contractor, the Trust shall pay the Builder the amount payable by the Builder to the sub-contractor for the Work or item, disregarding:
- 19.2.1 any damages payable by the Builder to the sub-contractor or vice versa; and
 - 19.2.2 any deduction of cash discount for prompt payment.
- 19.3 A list of all provisional sum items is listed in the Schedule.

20. GST

20.1 The Builder acknowledges and represents that:

20.1.1 it is registered under the *A New Tax System (Australian Business Number) Act 1999 (Cth)*, and the ABN shown in the Schedule is the Builder's ABN;

20.1.2 it is registered under the *A New Tax System Goods and Services Tax Act 1999*; and

20.1.3 the supply of the Work under this Contract is a Taxable Supply.

20.2 The Trust is not obliged to make any payment under this Contract unless the Builder has provided a tax invoice in respect of that payment.

21. VARIATIONS

21.1 The Construction Representative may direct a Variation to the Works that must be in writing to the Builder and such direction shall not invalidate the Contract.

21.2 Within 3 Business Days of receipt of a Variation direction pursuant to clauses 21.1 the Builder must provide a response in writing to the Construction Representative that includes a breakdown of types of Work required and proposed costs for each Work item.

21.3 A Variation shall be valued by mutual agreement between the Builder and the Construction Representative or failing such agreement, by the Construction Representative who shall determine the Variation using reasonable rates and prices. Unless the Construction Representative considers that urgent or special circumstances exist and instructs the Builder to proceed, the Builder must not begin to carry out a Variation until the parties have committed to writing the scope and cost of the Variation.

21.4 The Trust will also pay in relation to each Variation (other than for a provisional sum) an allowance of 15% in total:

21.4.1 of which 10% is for the Builder's profit and overhead costs; and

21.4.2 of which 5% is for the Builder's administration, inclusive of all supervision and attendance:

21.5 Other than the allowances referred to in clause 21.4, the Builder will have no entitlement to prolongation costs in respect of any Variation to the Works.

21.6 Subject to certification by the Trust that an agreed Variation has been completed, the Trust will pay for such Variation within thirty (30) days of receipt of a tax invoice for the same or on issue of the Final Certificate (see clause 32) (whichever is sooner).

22. INSURANCE OF THE WORKS

22.1 Before the Builder commences the Works, the Builder must, subject to any conditions in the Schedule, take out an insurance policy covering the Works against loss or damage resulting from any cause whatsoever under a contract works policy until such time as the Builder ceases to be responsible for the care of anything.

22.2 Without limiting the generality of the obligation to insure as set out in clause 22.1, the policy must include:

22.2.1 things in storage off Site and in transit to the Site;

22.2.2 cost of demolition and removal of debris;

22.2.3 fees of architects, engineers, quantity surveyors and consultants.

- 22.3 Such policy must be extended to include the interest of the Trust, and must provide that all its terms and endorsements (except limits of liability) operate in the same manner as if there was a separate policy for each named insured.
- 22.4 The Trust shall be entitled to any insurance proceed payable under the policy to the extent of any outstanding obligations owed to it by the Builder under clause 15, and the rights of the Trust to be paid such amounts as aforesaid shall be paid to the Trust prior to the payment of any monies to the Builder which may arise pursuant to the terms of the policy.

23. BUILDING INDEMNITY INSURANCE

- 23.1 If the Works are “domestic building work” and are built for sale for the purposes of the *Building Work Contractors Act 1995* (SA) then before the Builder commences work, the Builder shall, where the Schedule indicates that this clause 23 is applicable, take out a policy of insurance that complies with Division 3 of Part 5 of the *Building Work Contractors Act 1995* (SA) in relation to the Work.
- 23.2 This clause applies regardless of whether the Builder would otherwise be exempt from the requirement to take out building indemnity insurance because the Work is being performed as a contractor for the Trust.

24. PUBLIC LIABILITY INSURANCE

Before the Builder commences the Works, the Builder must take out Public Liability Insurance of at least the amount specified in the Schedule, per occurrence and unlimited in aggregate. Such policy must extend to cover the Trust, the Builder’s employees, contractors and agents employed or engaged in relation to the Works for their respective rights and interests and cover their liabilities to third parties.

25. PROFESSIONAL INDEMNITY INSURANCE

- 25.1 If the Designer of the Houses is an employee of the Builder then the Builder must effect and maintain professional indemnity insurance in the name of the Builder.
- 25.2 If the Designer of the Houses is contracted by the Builder then the Builder must ensure that the Designer effects and maintains professional indemnity insurance in the name of the Designer.
- 25.3 The insurance referred to in clauses 25.1 and 25.2 shall be for an amount not less than the amount specified in the Schedule, for any one event and in the aggregate in any one policy period or such other amount as the Trust may require.
- 25.4 The Builder must ensure that the insurance referred to in clauses 25.1 and 25.2 is maintained from the date of this Contract and for the period specified in the Schedule.

26. INSURANCE OF EMPLOYEES AND OTHER PERSONS

- 26.1 The Builder must comply with all of its obligations under the *Return to Work Act 2014* (“the Act”) in relation to all employees of the Builder, and in particular without limiting the generality of this obligation must:
- 26.1.1 be registered by the Return to Work SA as required under the Act;
 - 26.1.2 pay any levy required to be paid to Return to Work SA under the Act;
 - 26.1.3 furnish monthly returns to Return to Work SA as required under the Act; and
 - 26.1.4 pay compensation to any injured worker in accordance with the Act.

- 26.2 The Builder must ensure that any sub-contractor complies with its obligations under the Act and any corresponding law in relation to all employees of the sub-contractor employed in undertaking the Works under the Contract.
- 26.3 If the Builder permits any person to perform Works under the Contract for the purposes of obtaining work experience or in any other voluntary capacity, the Builder shall obtain insurance against liability for death of or injury to those person(s). The Builder shall ensure that every subcontractor is similarly insured.

27. INSURANCE - GENERAL OBLIGATIONS

- 27.1 All of the insurances under clauses 22 to 26 must:
- 27.1.1 subject to clause 25.4, be maintained effective until the Builder ceases to be responsible for the care of anything;
 - 27.1.2 be with insurers who have a Standard and Poors rating of at least A- (or equivalent with another recognised ratings agency).
- 27.2 Whenever the Trust requires it, the Builder must produce to the Trust all policies, certificates of currency, or other documents relating to the insurances referred to in clause 27.1.
- 27.3 If the Builder fails to insure as required in this Contract, the Trust can take out the insurance in question, and recover what it costs to do so from the Builder including by recourse to the Bank Guarantee or retention monies.
- 27.4 The Builder must not do anything which could prejudice any insurance referred to in clause 27.1.
- 27.5 The Builder must tell the Trust immediately (and confirm it by written notice, which must also give full details), whenever there is a possible claim under any insurance required under this Contract.
- 27.6 Any insurance money payable is, if required by either party, to be applied to repair, replace or reinstate the Works.

28. TIME FOR DOING THE WORKS

- 28.1 The Builder must commence the siteworks in preparation for the footings, immediately upon being given possession of the Site or on such other date as may be agreed by the parties in writing.
- 28.2 The Builder must perform the Works in accordance with the timeframes in the Construction Program.
- 28.3 The Builder must complete the Works by the Date for Practical Completion, subject to any extension of time that may be granted pursuant to this Contract.
- 28.4 If the Builder fails to achieve Practical Completion by the Date for Practical Completion the Builder will be liable to pay the Trust liquidated damages as a debt due and owing at the rate specified in the Schedule for every day (including Public Holidays and weekends) after the Date for Practical Completion and including the actual Date of Practical Completion.
- 28.5 If the Works comprise the construction of Torrens title Houses, the Builder will also be liable to pay the Trust liquidated damages as a debt due and owing at the rate specified in the Schedule for every day (including Public Holidays and weekends) after the Finish Date for each House until the date that the House is actually finished.
- 28.6 The Trust, in its absolute discretion, may demand payment of the liquidated damages amount from the Builder or may deduct, withhold or set-off the liquidated damages amount from any amount otherwise payable to, or security provided by the Builder under this Contract or any other contract between the Trust and the Builder. A failure

by the Trust at any time to demand payment or to deduct, withhold or set-off the liquidated damages will not amount to a waiver of or otherwise affect the Trust's rights and entitlements.

- 28.7 The Builder acknowledges that the rate for liquidated damages set out in clause 28.4 represents a genuine pre-estimate of the amount of loss or damages, as calculated at the date of this Contract, which the Trust is likely to suffer if the Builder fails to reach Practical Completion by the Date for Practical Completion. The Builder warrants that it will not challenge the rate for liquidated damages as being in the nature of a penalty.
- 28.8 The Trust may deduct any liquidated damages from money otherwise payable to the Builder under this Contract or any other contract the Trust has with the Builder.
- 28.9 Under no circumstances whatsoever shall the Builder be entitled to any payment or damages whatsoever for any delay (howsoever caused) in carrying out the Works.

29. DELAY

- 29.1 The Builder must immediately notify the Construction Representative if it becomes evident that completion of the Works is likely to be delayed.
- 29.2 Within a reasonable time thereafter, and in any event within one month, the Builder must detail the cause of delay in a written notice to the Trust; and if the Builder fails to do so, an extension of time claim submitted at a date/time later than one month will not be considered.
- 29.3 In the same notice, the Builder may claim a fair and reasonable extension of time, but only if the cause of delay is:
- 29.3.1 the Trust's failure to give the Builder possession of the Sites as required by this Contract;
 - 29.3.2 a dispute with neighbours not caused by the Builder;
 - 29.3.3 civil unrest or industrial dispute;
 - 29.3.4 any delay of a Local Authority not caused by the Builder;
 - 29.3.5 unworkable Site conditions due to weather and not contributed to by the Builder and further provided that the cause of delay occurs before Date for Practical Completion (as extended under this clause);
 - 29.3.6 and any extension of time that may be agreed between the parties as a result of a Variation pursuant to clause 21.
- 29.4 If the Trust does not, within a reasonable time after receiving such a claim, advise the Builder by written notice that it disagrees with the claim, or the period claimed, the Date for Practical Completion will be extended by the period claimed.
- 29.5 If the Trust disagrees with the claim, or the period claimed, it must specify its view of a fair and reasonable period (if any), and the Date for Practical Completion will be extended by that period.
- 29.6 The Trust may also at any time grant an extension of time for a delay resulting on any cause not listed above, but beyond the reasonable control of the Builder. However, the Trust is under no obligation to do so.
- 29.7 The Builder must constantly use its best endeavours to avoid delay in the progress of the Works and must when requested provide to the Construction Representative an explanation of how the Builder has complied with this obligation.
- 29.8 The Builder must also do all that it is reasonably required by the Trust to track progress of the Work, notify any potential concerns to the Construction Representative and expedite completion of the Works, including initiating regular discussions and meetings between the Representatives.

30. PRACTICAL COMPLETION

- 30.1 The Builder must give the Construction Representative notice 14 days prior to the date upon which it reasonably expects to achieve Practical Completion.
- 30.2 The Builder must notify the Trust when it has completed the Works in accordance with the Contract Documents, the Works are fully equipped with all fixtures and fittings to be supplied by the Builder, and the Works are fit for occupation except for minor defects which are not required to be rectified immediately.
- 30.3 If notice is given under clause 30.2, and if:
- 30.3.1 the Builder and its Certifier inspects the Works together with the Construction Representative (who must get at least one week's prior notice of such inspection);
 - 30.3.2 such architect or engineer (acting as Certifier) certifies to the Trust that the Works have been completed in accordance with the Contract Documents;
 - 30.3.3 such an engineer certifies (acting as Certifier) to the Trust that each of the Houses are built in accordance with the design recommendations contained in soil reports;
 - 30.3.4 such an engineer certifies (acting as Certifier) to the Trust that each House and Site has adequate provision for the disposal of roof, surface and sub-surface water;
 - 30.3.5 such an engineer (acting as Certifier) certifies to the Trust the adequacy of the design of any paving on any Site;
 - 30.3.6 the Builder provides the Trust with such evidence as the Trust requires to show that materials comply with the Contract Documents;
 - 30.3.7 the Trust has inspected the Works and is satisfied that they comply with the Contract Documents;
 - 30.3.8 the Builder gives the Trust all Handover Documents (per clause 1.23), duly completed, and all keys (including copies of keys) in relation to all of the Houses,

then the Works have reached Practical Completion, and the Trust will issue to the Builder a Certificate of Practical Completion, and the Builder will hand over the Works, and return possession of the Site(s), to the Trust.

- 30.4 Such a certificate does not release the Builder from any claim the Trust may have against it whether for faulty workmanship, breach of contract or otherwise.

31. DEFECTS LIABILITY PERIOD

- 31.1 The Builder must rectify any defect that becomes apparent in the Works during the Defects Liability Period, as stipulated in the Schedule, from the date of Practical Completion of the final House completed in the Contract.
- 31.2 For the purposes of this clause, a "defect" means any failure of the Work to meet the specification, or to be fit for its intended purpose, and "rectify" means to repair or replace the defective part of the Work so that it complies with the Contract Documents and is fit for its intended purpose
- 31.3 The Trust must notify the Builder of any defect that becomes apparent in the Work during the Defects Liability Period.
- 31.4 If the Builder fails to rectify a defect in accordance with this clause, the Trust may (without being obliged to):
- 31.4.1 rectify the defect or engage another builder to rectify the defect,

- 31.4.2 claim from the Builder as a debt the cost of rectifying the defect,
- 31.4.3 claim from the Builder as a debt an amount that reflects the diminution in value or usefulness of the Work as a result of the defect.

None of the above options are to be taken to be mutually exclusive.

- 31.5 If the Builder does not rectify a defect within 14 days of the Trust providing notice under clause 31.3, the Trust may rectify the defect itself, and deduct the cost to do so from the Bank Guarantee and/or retention monies held.
- 31.6 The Trust may rectify any defect which requires urgent rectification without giving the notice at clause 31.3, and deduct the cost to do so from the Bank Guarantee and/or retention monies held.
- 31.7 In rectifying any defects, the Builder must take into account whether the Property is tenanted and liaise with the tenant to arrange a mutually convenient time for the defect to be rectified, and comply with the Code of Conduct.

32. FINAL CERTIFICATE

- 32.1 At the expiration of the Defects Liability Period, the Builder may request the Trust to release the security (provided it has not by then already been presented for payment).
- 32.2 Within seven days of a request pursuant to clause 32.1, the Builder must inspect the Works together with an officer nominated by the Trust.
- 32.3 The Trust will issue a final completion certificate and return any retention monies and/or the Bank Guarantee (to the extent that the Trust has not called on the security under clause 9 of this Contract or in respect of a debt due from the Builder to the Trust under this or any other contract between the Builder and the Trust) to the Builder within fourteen (14) days provided upon such inspection:
 - 32.3.1 the Trust is satisfied with the Works;
 - 32.3.2 the Builder has made good any defects, shrinkages or other faults under clause 31 to the satisfaction of the Trust;
 - 32.3.3 the Trust has received all warranties, certificates, records, drawings and other documents as required by this Contract; and
 - 32.3.4 the Certifier has certified the matters in clauses 30.3.1 to 30.3.8 and that final completion has been achieved, and that the Works have been performed in accordance with the Contract Documents.
- 32.4 Such a certificate does not release the Builder from any claim the Trust may have against it whether for faulty workmanship, breach of contract or otherwise or for the warranties provided by the Builder to the Trust as set out in clause 33.

33. WARRANTIES

- 33.1 The Builder warrants to the Trust that:
 - 33.1.1 the Builder has designed the Works in accordance with sound engineering and construction principles and techniques;
 - 33.1.2 the Works will be carried out in a proper and skilful manner;
 - 33.1.3 good and proper materials will be used in the Works;
 - 33.1.4 materials will be suitable for the purposes for which they are used in the Works;

- 33.1.5 when each House forming part of the Works is completed, it will be reasonably fit for human habitation; and
 - 33.1.6 the Works will be fit for the particular purpose they are required namely as family housing.
- 33.2 The above warranties continue notwithstanding Practical Completion, or the expiration of the Defects Liability Period.
- 33.3 However, the Builder is not liable for:
- 33.3.1 fair wear and tear during the usual life of any materials used in the Works;
 - 33.3.2 deterioration caused by work carried out by third parties after the expiration of the Defects Liability Period;
 - 33.3.3 abuse and misuse of the Works by a third party after the expiration of the Defects Liability Period;
 - 33.3.4 any consequences of such abuse or misuse;
 - 33.3.5 lack of reasonable building maintenance and protection after the expiration of the Defects Liability Period.

34. QUALITY MANAGEMENT

- 34.1 The Builder must systematically manage its processes in accordance with the quality management systems, plans, standards and codes specified in the Contract.
- 34.2 The Builder must:
- 34.2.1 submit any documentation required by the Contract by the time or times specified in the Contract;
 - 34.2.2 review and update the Builder's quality management procedures and documentation so they remain adequate at all times to manage and ensure the quality of the Works complies with the requirements of the Contract;
 - 34.2.3 control non-conforming services and/or products and undertake corrective and preventative action as and when necessary;
 - 34.2.4 establish, maintain and keep records of all activities related to the management of quality; and
 - 34.2.5 provide sufficient access to the workplace, and to information, records and other relevant documentation, resources (including personnel), and all other things necessary to allow the Trust to carry out reviews, surveillance and audit of the Builder's procedures and conformance with the contractual quality management requirements.
- 34.3 The Builder must demonstrate to the Trust, whenever requested, that it has met and is meeting at all times its obligations under clauses 34.1 and 34.2.

35. PAYMENT OF WORKERS AND SUB-CONTRACTORS

- 35.1 The Builder must ensure that all workers engaged in the Works are paid in accordance with applicable awards.
- 35.2 The Builder warrants that all remuneration payable to any of the Builder's relevant employees for Work under the Contract has been paid and the Builder has made provision for all other benefits accrued in respect of employees.

- 35.3 The Builder warrants that it has paid each and every contractor, sub-contractor, supplier and consultant to the Builder all amounts payable to each of them by the Builder in relation to the Works.
- 35.4 The Builder must provide to the Trust with each construction progress payment claim as specified in the Payment Schedule, a Payment Statutory Declaration.
- 35.5 If the Builder fails within five (5) days after a request by the Trust under clause 35.4 to provide the statutory declaration then the Trust may withhold payment of moneys due to the Builder until the statutory declaration is received.
- 35.6 At the written request of the Builder and out of moneys payable to the Builder, the Trust may on behalf of the Builder make payments directly to any worker or sub-contractor.
- 35.7 If any worker or sub-contractor obtains a court order in respect of moneys referred to in clauses 35.2 or 35.3 and produces to the Trust the court order, the Trust may pay the amount of the order, and costs included in the order, to the worker or sub-contractor and the amount paid shall be a debt due from the Builder to the Trust

36. INDEMNITY OF THE TRUST

- 36.1 The Builder indemnifies the Trust against any liabilities, claims or costs arising wholly or partly from any of the following:
- 36.1.1 the carrying out of the Works;
 - 36.1.2 the negligence or default or other act (or failure to act) of the Builder or its employees, agents or contractors (or its contractors' employees, agents or contractors);
 - 36.1.3 any misuse of any scaffolding or other plant by the Builder or its employees, agents or contractors (or its contractors' employees, agents or contractors).
- 36.2 Clause 36.1 extends to liabilities, claims or costs relating to loss of or damage to any property, or relating to any personal injury to or death of any person.
- 36.3 This clause survives any expiry or earlier termination of this Contract.

37. ASSIGNMENT AND SUB-CONTRACTING

- 37.1 The Builder may not assign any right or obligation under this Contract without the Trust's prior written consent
- 37.2 The Builder must not subcontract the whole of the Works, but may subcontract parts of the Works in accordance with this clause 37.
- 37.3 The Builder shall be permitted to sub-contract a portion of the Works provided that the Builder shall at all times remain responsible for the performance of the Works including any sub-contracted part of the Works.
- 37.4 The Builder must ensure that its sub-contractors accept the decisions of the Trust concerning their works.
- 37.5 Any default by a sub-contractor under its sub-contract with the Builder is deemed to be a default of the Builder under this Contract for the purposes this Contract.
- 37.6 If requested by the Trust, the Builder must within 7 days of the request provide details in writing of the Work to be sub-contracted and the name and address of each sub-contractor.

38. RESOLUTION OF DISPUTES

- 38.1 Except in a case of genuine urgency where a party seeks immediate interlocutory relief or an interim remedy, neither party may take legal proceedings in respect of any dispute in relation to this Contract without first attempting resolution in accordance with this clause.
- 38.2 In the event of a dispute, a party may issue to the other party a written notice of dispute (“**dispute notice**”), describing the issue in dispute and requiring that the process in this clause be followed
- 38.3 The parties’ Representatives must attempt to resolve any dispute by negotiating in good faith, commencing not later than fourteen days after the dispute notice.
- 38.4 A party may nominate an additional or alternative representative for the purposes of negotiating a resolution of the dispute.
- 38.5 If the parties’ representatives cannot resolve the dispute within fourteen days of commencing negotiations, either party may require that the representatives meet to consider adopting any alternative dispute resolution process, which may include (without limitation) conciliation, mediation, binding or non-binding expert determination, or arbitration.
- 38.6 The parties must consider in good faith, but are not bound to adopt any form of alternative dispute resolution.
- 38.7 Notwithstanding the existence of a dispute each party must continue to perform its obligations under this Contract.
- 38.8 This clause survives any expiry or earlier termination of this Contract.

39. TERMINATION OF CONTRACT

- 39.1 The Trust may give a written notice of default if:
- 39.1.1 the Builder suspends the Works without reasonable cause;
 - 39.1.2 the Builder fails to proceed with due expedition and without delay;
 - 39.1.3 the Builder fails to lodge security in breach of clause 9;
 - 39.1.4 the Builder fails to use the materials or standards of workmanship required by this Contract;
 - 39.1.5 the Builder fails to comply with its obligations under the WHS Act and WHS Regulations;
 - 39.1.6 the Builder does not complete the Works by the Date for Practical Completion (subject to any extension that may be provided under this Contract);
 - 39.1.7 the Builder is not the holder of an appropriate licence under the *Building Works Contractors Act 1995*;
 - 39.1.8 any person engaged by the Builder in carrying out the Works is not the holder of such an appropriate licence; and/or
 - 39.1.9 the Builder fails to achieve the percentage of the amounts specified in the Milestone Value column of the table entitled “Program and Cash Flow Summary” attached in Appendix 1A, and the amount and date as specified in Appendix 1A, as determined by payments made by the Trust to the Builder in accordance with Clauses 7 and 8 of this Contract.
- 39.2 If the Builder fails to remedy a default under clause 39.1 within 14 days of receiving that notice, the Trust may:

- 39.2.1 suspend the Works;
- 39.2.2 take out of the hands of the Builder the whole or part of the Works remaining to be completed; or
- 39.2.3 terminate this Contract, by written notice to the Builder,
- and in that event the Trust shall not be liable to pay to the Builder any further payment in respect of the Works.
- 39.3 The Trust may immediately terminate this Contract by written notice if an Insolvency Event Occurs.
- 39.4 Without derogating from any other rights of the Trust under this Contract, if:
- 39.4.1 the Builder fails to remedy a default under clause 39.1 within 14 days of receiving that notice; or
- 39.4.2 an Insolvency Event Occurs,
- the Trust may terminate any other contract between the Builder and the Trust by written notice to the Builder.
- 39.5 Termination of this Contract does not affect any accrued right or liability of the parties nor will it affect the coming into force or the continuation in force of any provision of this Contract that is expressly or by implication intended to come into or continue in force on or after termination.
- 39.6 If the Trust terminates this Contract under this clause 39, the Builder must immediately deliver up to the Trust all Handover Documents.
- 39.7 If the Trust terminates this Contract, the Trust may:
- 39.7.1 exclude the Builder from the Sites;
- 39.7.2 cause the Works to be completed by itself or others;
- 39.7.3 take possession of any of the Builder's property on the Sites and use it, or allow it to be used, in the completion of the Works
- 39.7.4 use or reproduce, or allow others to use or reproduce, any design drawings or documentation tendered or prepared by the Builder or prepared by others for the Builder for the purposes of completing the Works.
- 39.8 In the event of termination pursuant to this clause 39 all moneys that would otherwise be payable or refundable to the Builder may be used by the Trust for the purpose of completing the Works.
- 39.9 If the cost incurred by the Trust in completing the Works is greater than the amount which would have been paid to the Builder if the Works had been completed by the Builder, the difference shall be a debt due from the Builder to the Trust. The Builder must pay any such difference within 14 days of receiving notice from the Trust of the amount owing.
- 39.10 As set out in clause 9.2 and for the avoidance of doubt, the Trust may have recourse to the security where a debt due and payable to it under this Contract remains unpaid after the time for payment and the Trust is not obliged to give notice of its intention to have recourse to the security.
- 39.11 Where the security provided under clause 9 of this Contract is insufficient to meet a debt due and payable by the Builder to the Trust, the Builder consents to the Trust having recourse to any other security provided by the Builder in respect of unrelated projects.
- 39.12 This clause survives any expiry or earlier termination of this Contract

40. REMEDIES

- 40.1 The Builder acknowledges that any claim the Trust may have against the Builder may be set off against the Trust's liability to pay the Builder under this Contract or any other contract between the Trust and the Builder. If those moneys are insufficient, the Trust may have recourse to any security held by the Trust under clause 9.
- 40.2 The rights and remedies provided under this Contract are cumulative and not exclusive of any remedies provided by law or under this Contract.

41. INTELLECTUAL PROPERTY

- 41.1 The Builder indemnifies the Trust against any liability, costs or expenses incurred by it because a design, plan or document produced or used by the Builder in connection with this Contract infringes copyright, or any other intellectual property right.
- 41.2 The Builder grants the Trust and its transferees, and also any owners or occupiers of the Sites, an irrevocable licence to use the copyright in any design, plan or document produced or used by the Builder in connection with this Contract for the purposes of completing the Works, and in connection with any repairs, alterations or rebuilding of the Works.

42. NOTICES

- 42.1 A notice or other communication is properly given or served if the party delivers it by hand, posts it or transmits it by electronic mail or facsimile, to the Representative of the other party.
- 42.2 Each party must advise the other of any change in the address or the identity of the Representative.
- 42.3 A notice or other communication is taken to be received if:
- 42.3.1 sent by post, at the time it would have been delivered in the ordinary course of the post to the address to which it was sent;
 - 42.3.2 sent by facsimile or electronic mail or other electronic means, only in the event that the other party acknowledges receipt by any means; or
 - 42.3.3 delivered by hand, the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service.

43. AUDITOR GENERAL

Nothing in this Contract derogates from the powers of the Auditor-General under the *Public Finance and Audit Act 1987*.

44. CONTRACT DISCLOSURE

The Trust may disclose this Contract and/or information in relation to this Contract in either printed or electronic form and either generally to the public or to a particular person as a result of a specific request. Nothing in this clause derogates from the Builder's obligations under any provision of this Contract or from the provisions of the *Freedom of Information Act, 1991*.

45. ENTIRE AGREEMENT

- 45.1 This Contract incorporates the attached schedules and annexures and appendices (and any documents attached as part of an annexure).

- 45.2 This Contract contains the entire agreement between the parties with respect to its subject matter.
- 45.3 This Contract supersedes any prior agreement, understanding or representation of the parties on the subject matter,

46. PROPER LAW

The laws in force in South Australia, including laws with respect to capacity to contract and the manner of performance, apply to this Contract.

47. JURISDICTION OF THE COURTS

- 47.1 The courts of South Australia will have non-exclusive jurisdiction to determine any proceeding in relation to this Contract.
- 47.2 Any proceeding brought in a Federal Court must be instituted in the Adelaide Registry of that Federal Court.

48. COMPLIANCE WITH LAWS

The Builder must comply with the laws in force in South Australia in the course of performing this Contract.

49. WAIVER

- 49.1 Any waiver of any provision of this Contract is ineffective unless it is in writing and signed by the party waiving its rights.
- 49.2 A waiver by either party in respect of a breach of a provision of this Contract by the other party is not a waiver in respect of any other breach of that or any other provision.
- 49.3 The failure of either party to enforce at any time any of the provisions of this Contract must not be interpreted as a waiver of that provision.

50. MODIFICATION

Any modification of this Contract must be in writing and signed by each party.

51. SEVERANCE

- 51.1 Each word, phrase, sentence, paragraph and clause of this Contract is severable.
- 51.2 If a court determines that a part of this Contract is unenforceable, invalid, illegal, void or voidable that court may sever that part.
- 51.3 Severance of a part of this Contract will not affect any other part of this Contract.

52. EMPLOYMENT PATHWAYS APPRENTICESHIP PROGRAM

The Builder must comply with the Employment Pathways Apprenticeship Program as set out in Appendix 7.

EXECUTED AS AN AGREEMENT

DATED DAY OF 2023

Signed for and on behalf of the SOUTH AUSTRALIAN HOUSING TRUST (“Trust”) (ABN: 17 545 435 789) by a person duly authorised in that regard in the presence of:

By (signature).....

Position.....

Witnessed By (signature).....

Name (print name).....

Signed for and on behalf of **BUILDER REGISTERED NAME, trading as NAME (“Builder”)** (ACN: ### ## / ABN: ## ### ##) by a duly authorised officer in accordance to **section 126 of the Corporations Act 2001 (Cth)** in that regard in the presence of:

By (signature).....

Position.....

Witnessed By (signature).....

Name (print name).....

DATED day of 2023

EXECUTED AS AN AGREEMENT

DATED DAY OF 2023

Signed for and on behalf of the SOUTH AUSTRALIAN HOUSING TRUST (“Trust”) (ABN: 17 545 435 789) by a person duly authorised in that regard in the presence of:

By (signature).....

Position.....

Witnessed By (signature).....

Name (print name).....

Signed for and on behalf of **BUILDER REGISTERED NAME, trading as NAME (“Builder”)** (ACN: ### ### ### / ABN: ## ### ###) by a duly authorised officer in accordance to **section 126 of the Corporations Act 2001 (Cth)** in that regard in the presence of:

By (signature).....

Position.....

Witnessed By (signature).....

Name (print name).....

DATED day of 2023

SCHEDULE

CONTRACT DETAILS

- ITEM 1** **Builder**
BUILDER REGISTERED NAME, trading as Name
- ITEM 2** **Address**
Builder Address in Full, SA 5xxx
- ITEM 3** **Builder's Licence Number and Category Description**
BLD: ##### Expiry: ##/##/20##
CONDITIONS:
<List Conditions as per License record on OCBA>

A copy of the Builder's license is included in the Appendix 9 documents.
Supervisor: Refer to Item 12.
- ITEM 4** **Australian Business Number**
REGISTERED NAME OF BUILDER
##
- ITEM 5** **Contract Execution**
The agreement between the South Australian Housing Trust and the Builder must be executed within 3 calendar weeks of the date of the Trust's letter of award of the tender to the Builder.
- ITEM 6** **Satisfaction Date**
The date that is **up to 11 weeks** maximum after the date of the letter of award from the Trust of this Contract in accordance with the Builder's submitted and approved contract and construction schedule.
- ITEM 7** **Possession of and Access to the Site Date**
Is the date specified in a notice issued in writing by the Trust to the Builder following satisfaction of the conditions precedent in **Clause 4** of this Contract.

Possession Date in accordance with **Clause 12.1** is to be a date on the first working day of a week in accordance with the Builder's submitted program construction schedule and shall be a **maximum of 20 calendar days** of Development Approval Date as notified from the Trust or other Relevant Authority, when Builder must take possession of the site/s for the commencement of Works (unless otherwise agreed between the Builder and the Trust).

The Builder must have submitted certificates of currency of all insurance and the Bank Guarantee prior Possession of Site date. The Builder may be in default per **Clause 39** where this is not achieved.

ITEM 8

Conditions Precedent Timeframes

- Re Clause 4.1.1 Completed Solvency Statutory Declaration provided to the **Trust** before the **Builder** signs copies of the contract; and for appending to the contract as Appendix 4.
- Re Clause 4.1.2 Concept plans and Development Plan Consent has been sought by the Trust.
- As necessary, any proposed revised design details by the Builder to be submitted to the **Trust within 2 weeks of award of the tender** for consideration and approval.
- Any necessary revisions to DPC concept drawings as approved and requested by the **Trust**, must be completed **within an additional one week** to the above.
- As necessary, the Trust will seek revised Development Plan Consent (DPC) approval from Planning SA or other Relevant Authority immediately on receipt from the Builder; and pay any associated costs.
- Whilst any revised DPC is being sought, the **Builder** must commence preparation of working drawings **immediately** following the **Trust's** approval of the final design drawings.
- Re Clause 4.1.3 The **Builder** to achieve **Building Rules Consent (BRC) within # weeks** of the Trust approving the final design drawings.
- The **# weeks** is inclusive of completing all working drawings and specifications, review of documents by the Trust prior BRC sought from the Certifier, make necessary amendments to documents, Certifier review and consent.
- Re Clause 4.1.4 The **Trust** is to achieve Development Approval from Planning SA or other Relevant Authority approximately **2 weeks** from receipt of BRC consent; and incur the associated costs.
- Re Clauses 4.1.5 / 4.1.6 Copies of the final plans stamped by Planning SA or other Relevant Authority, schedules, details and other relevant information shall be submitted by the **Trust** to the Builder.
- The **Builder** is to submit a final (with revised dates) construction program schedule including dates and milestone stages of work and completion pursuant to the Payment Schedule (Appendix 1) and for appending in Appendix 1A in the fully bound Contract.
- Re Clause 4.2 Satisfaction Date is achieved in **## weeks maximum** from Award of Tender Notification date.

ITEM 9 Schedule of Dwellings and Sites and Prices

Job No. Ref:	Street No.	Address	Dwelling Area m ²	*Living Area m ²	No. Bedrooms	\$ Contract Price (GST inclusive)
PUBLIC HOUSING IMPROVEMENT PROGRAM						
1	#	Street Address	##.##m ²	##.##m ²	#	\$
2	#	Street Address	##.##m ²	##.##m ²	#	\$
3	#	Street Address	##.##m ²	##.##m ²	#	\$
4	#	Street Address	##.##m ²	##.##m ²	#	\$
etc						
		Common area	##.##m ²			\$
Total 'Tender' Price:						\$
TOTALTENDER / CONTRACT PRICE (GST inclusive):						\$

Prices for each dwelling and the total price are inclusive of costs detailed in the contract terms and this includes, but not limited to:

- GST
- Concept design and tender preparation costs associated with the tender submission
- Further design costs necessary for the Trust's approval
- Documentation to the full specification requirements
- Building Rules Certification
- Costs (where the responsibility of the Builder) for approvals, statutory and legislative requirements as set out in the contract terms
- Site mobilisation and set-up
- Employment of EPAP placements
- Construction of dwellings and associated perimeter and siteworks
- Common area services and siteworks (if applicable)
- Any additional costs for SA Supply Chain manufactured products as the Builder has included in the Part D Supply Chain Response document.

ITEM 10**Contract Documents**

Comprises the following:

1. The Design and Construction Contract Agreement as executed by both parties to be the contract date.
2. The completed Contract Schedule and Appendices at the time of contract execution.
3. The completed Appendices collated once Date of Possession of Site notice is issued by the Trust.
4. The completed contract bound in full and electronically by the Trust and issued to the Builder.

TEMPLATE ONLY

ITEM 11

Time for Doing Works

Per **clause 28**, for the purpose of this Contract, working days shall be calculated in accordance with the Trust's Building Calendar (for both the condition precedent works (**clause 4**) and construction works (**clause 28**) time frames). A copy of the Trust's Building **Calendar for 2023** is attached at Appendix 2.

Schedule of Houses and Calculations – for construction of **<number> (##) <type> dwellings at <number of> location/s** (as per Item 9), and from Possession of Site:

*House	**Construction Period	***Public Holiday Allowance	****Extra House Allowance	Finish Date
1 st	2# weeks from DPS	1 week	-	2# weeks from DPS
2 nd	2# weeks from DPS	-	# weeks	2# weeks from DPS
3 rd	2# weeks from DPS	-	# weeks	2# weeks from DPS
4 th	2# weeks from DPS	-	# weeks	2# weeks from DPS
etc	## weeks from DPS	-	# weeks	4# weeks from DPS
Common Area Services and Siteworks (allowance is for both sites in the contract)			# weeks	## weeks from DPS
Additional Time Allowance for Builder submitted program			# weeks	## weeks from DPS
Date for Practical Completion – All Dwellings and Siteworks				## weeks from DPS

* The Builder must designate a priority to each House for the purpose of calculating Liquidated Damages under **clause 28**. Use CT reference or other unique identifier.

** In the table “DPS” means “Date of Possession of Site”

*** The Trust is allowing 1 week in the construction period for public holidays that occur in the period (other than the industry shutdown period in December and January that is not counted).

**** Builder’s allowance for the number of weeks to complete the 2-storey townhouses / apartments, is 23 weeks for the dwelling, then two weeks for each additional townhouse or apartment dwelling; an additional two weeks for common area siteworks and services; and an overall additional # weeks per the submitted and Trust approved program.

Possession Date is the Builder's commencement of works on-site in accordance with the Date of Site Possession Notice (DPS) and Payment Schedule Stages (refer Appendix 1).

Practical Completion and handover of all the dwelling/s and siteworks (based on ## x single-storey/two-storey and common areas) is to occur in ## weeks from the Possession Date (not accounting for any approved Extensions of Time should they occur during construction).

Where any dwellings constructed will be on torrens titles, those individual houses can be handed over separately once completed, however any houses on the one common title must be handed over at the same time and in consultation with and agreement of the Trust’s representative (Construction Representative).

ITEM 12 Representatives

Per **clause 3.1**, the Builder's Site Supervisor (as at the commencement of construction works) and their License Number:

nominated as, License Number:

OR

to be confirmed by the Builder in writing prior the date of site possession.

A copy of the Supervisor’s license is included in the Appendix 9 documents.

As per **clause 3.2**, the Trust's representative, as at the commencement of construction works, is nominated as **(NAME TO BE ADVISED PRIOR SITE POSSESSION)**, Construction Representative.

ITEM 13 Payment of the Contract Price

Per **clause 7.3**, payment of each instalment as set out in the Payment Schedule issued to the Builder, will be made within and up to **thirty (30) days** from the receipt of any required certification referred to in **clause 8.1**; and the completion date of the total work as claimed and as deemed as complete by the Trust's representative.

ITEM 14 Certification by Builder

Per **clause 8**, the Builder is to issue with each progress claim instalment invoice, the required written certification by a Certifier of the stage of Works being claimed for payment; and as set out in the Appendix 1 Payment Stages Schedule.

As per the requirements in **clause 8**; and defined in **1. Definitions - 1.8 Certifier**, the Builder’s **Certifiers** are suitably qualified, insured and nominated as:

Certifier (BRC):

OR

to be confirmed by the Builder in writing.

Engineering (PP1):

OR

to be confirmed by the Builder in writing prior the date of site possession.

Building (Stages as specified in Appendix 1):

OR

to be confirmed by the Builder in writing prior the date of site possession.

ITEM 15 Security

As per **Clause 9.1**, a **Bank Guarantee** applies as 5% of the Contract Sum (GST inclusive) and is mandatory and to be provided to the Trust by the Date of Site Possession (DPS).

Where a Bank Guarantee is not provided to the Trust by the Date of Site Possession, the Trust will exercise the right to either

- not issue DPS and commence the construction timeframe from the agreed DPS date; OR
- issue the DPS notice and withhold payment of the first Construction Progress Claim until received, OR at its absolute discretion only, deduct the full 5% of the contract sum from the first Construction Progress Claim invoice/s OR
- terminate the agreement.

ITEM 16 Statutory Obligations, Notices And Charges

Per **clause 11.3**, the cost of Council application fees, building costs and including CITB levy and any other associated levies and are the responsibility of the Builder and subject to a variation of the contract sum (per **Clause 21**) at quoted prices plus builder administration costs.

With reference to **clauses 11.3 and 11.4 and 4**, the Trust is responsible for the cost of submission of documents for Development Plan Consent (planning approval) and Development Approval.

With reference to **Clause 42**, the Builder is to provide a copy of the order for the Electrical Meter application to the Trust's representative.

ITEM 17 Setting Out and Site Conditions

Per **clause 13.4**, the Builder will obtain full soil reports and footing designs subject to the provision of preliminary soil reports from the Trust for all sites in the contract.

The Builder will inspect the site/s prior DPS and notify the Trust of any issues or rectifications required prior to accepting the DPS date.

ITEM 18 Work, Health and Safety

Per **clause 17**, Builder to provide a copy of the WHS management plan for the Works to the Trust's representative at the time of Site Possession.

ITEM 19 Industry Participation Policy and Plan

The Builder's final (as submitted and assessed) Standard Industry Participation Plan (SIPP) is attached as Appendix 6.

Reporting requirements will be established by the Office for Industry Advocate in direct consultation with the Builder.

Meeting the requirements of the Trust's Employment Pathways Apprenticeship Program, as Appendix 7, as part of the SIPP will be by direct consultation between the Builder and the Authority's EPAP Coordinator.

- ITEM 20** **Provisional Sum Items**
Per **clause 19** is **Applicable / Not Applicable (N/A)** to this contract.
- ITEM 21** **Insurance of the Works**
Per **clause 22**, an Insurance Certificate of Currency for the sum of the Contract Price plus a 5% contingency at minimum to be supplied by the Builder to the Trust's representative and prior to Possession of Site being granted; and as appended to the final agreement.
- ITEM 22** **Builder's Indemnity Insurance**
Per **clause 23** of this Contract, Building Indemnity Insurance is **APPLICABLE / NOT APPLICABLE** to this Contract
- ITEM 23** **Public Liability Insurance**
Per **clause 24**, an Insurance Certificate of Currency for **\$20 million** to be supplied by the Builder to the Trust's representative and prior to Possession of Site being granted.
- ITEM 24** **Professional Indemnity Insurance**
Per **clause 25**, an Insurance Certificate of Currency for **\$1 million** to be supplied by the Builder to the Trust's representative as requested.

The Period of Professional Indemnity Insurance shall be Three (3) years after the expiration or termination of this Contract.
- ITEM 25** **Liquidated Damages**
Per **clause 28**, the Daily Rate per House is **\$37.00** (including weekends).
- ITEM 26** **Defects Liability Period**
Per **clause 31**, is **three (3) months** from the Date of Practical Completion (per **clause 30**).
- ITEM 27** **Payment of Workers and Sub-Contractors**
Per **clause 35.4**, the Builder **must provide a Statutory Declaration** with the submission at the time of the **final Stage Progress Contract Payment** (per Appendix 1 - Payment Stages Schedule); **AND at the time of any other stage claim** at the request of the Trust per **clause 35.4**.

With reference to **clause 1.29**, the Builder's representative to sign the payments statutory declaration, can either be a director **or manager** in a position of authority for the administration of this contract.

The **Payments Statutory Declaration template** as the example, is to be used by the Builder and included as Appendix 4.

ITEM 28 Solvency Statutory Declaration

With reference to **clause 1.40**, the Builder's representative to sign the solvency statutory declaration, can either be a director **or other person** in a position of authority representing the Builder for the administration of this contract.

The **Solvency Statutory Declaration** is appended as Appendix 4.

ITEM 29 Statutory Obligations, Notices And Charges - Fencing

With reference to **Clause 11** and **Clause 42**, notices and communications with stakeholders regarding specified boundary fencing works must be issued **at the commencement of works on site**.

The Builder is to provide copies of all written correspondence with owner/s of adjoining properties to the Trust's representative and/or provide a copy of the correspondence along with any of the Progress Payment Claims.

ITEM 30 Termination of Contract – Written Notice of Default

With reference to **Clause 39.1.9**; and **Appendix 1** (Payment Stages Schedule for **Single Storey / Townhouses**); and **Appendix 1A** (Construction Program Schedule – Gantt Chart), the Builder must have achieved the percentage amount of **##%** of construction works within **##** calendar weeks from the date of site possession.

APPENDIX 1 – PAYMENT STAGES SCHEDULE

SINGLE-STOREY PROGRESS PAYMENT SCHEDULE: with BANK GUARANTEE

Note: A Payment Schedule of Actual Sums for each dwelling will be issued with the Possession of Site Notice *(the following is an indicative schedule for this template and subject to change)*.

CONSTRUCTION TIMEFRAME: **## Weeks** from DPS to Practical Completion for all houses

TABLE 1: Bank Guarantee Schedule

STAGE PAYMENT 1 - 15% <i>ENGINEER Certification (mandatory)</i>	1	Site Set Up – Temporary Fencing, Signs, Scrape site etc
	2	Siteworks – Benching, Cut, Under-Slab Fill
	3	Pre Footings and Slabs – Excavation, Membrane, Reinforcement White Ant Treatment
	4	Plumber 1st Fix – Under-Slab Sewer
	5	Plumber 2nd Fix – Sewer, External Runs and Connection
	6	Footings and Slabs – including Carport
STAGE PAYMENT 2 - 15% <i>BUILDING Certification (mandatory)</i>	7	Wall frames
	8	Roof frames
	9	Windows
STAGE PAYMENT 3 - 25% <i>BUILDING Certification (mandatory)</i> <i>Pursuant to Clause 44.1 Stage 3 works (total ##%) must be completed by ## working weeks from DPS date.</i>	10	Roofing – Covering, Gutters and Downpipes
	11	Brickwork and Render
	12	Plumber Fit Out 3rd Fix – Hot and Cold Water
	13	Electrical 1st Fix
	14	Insulation – Walls
	15	Insulation – Ceilings
	16	Plasterboard – Wall Linings
	17	Plasterboard – Ceiling Linings
	18	Carpenter 2nd Fix
STAGE PAYMENT 4 - 15% <i>BUILDING Certification (mandatory)</i>	19	Tiling and Bath installation
	20	Painting
	21	Fitments – Kitchen Cupboards, Vanity, Linen and Broom cupboard
	22	Plumber Fit Out 4th Fix – Sanitaryware and Tapware
	23	Electrical 2nd Fix – Switches, Board, Connection and Test
	24	Carport – Roller / Lift-up Door
STAGE PAYMENT 5 - 15% <i>Principal Representative Inspection (mandatory)</i>	25	Retaining – Walls / Plinths
	26	Fencing – Front, Boundary, Wing Fence and Gates
	27	Perimeter Paving / Driveway
	28	Plumbing - Stormwater
	29	Rainwater Tank
	30	Clothesline, footpaths, kerbs and loam (to Rear Yard)
STAGE PAYMENT 6 - 15% <i>Principal Representative Inspection (mandatory)</i>	31	Front Yard - preparation for Landscaping (by Others)
	32	Letterbox
	33	Screen Doors
	34	Floor Coverings
	35	Window Blinds (if applicable)
	36	Supply and Install Stove and Hot Water Service
	37	Handover – Cleaning, Keys and Handover of Documents incl Council issued postal addresses if not previously provided
BANK GUARANTEE RELEASE (5% of Contract Sum) SAHT Rep. Assessment of Defects	38	Bank Guarantee Release – following the end of the Defects Liability Period and subject to compliance with contract terms)

* **##%** of the works must be complete within **##weeks** of the total construction timeframe (from DPS)– refer **clause 39.1.9**, Item 30 & Appendix 1A.

TOWNHOUSES and APARTMENTS : with BANK GUARANTEE

Note: A **Payment Schedule of Actual Sums** for each dwelling will be issued with the Possession of Site Notice *(the following is an indicative schedule for this template and subject to change)*.

CONSTRUCTION TIMEFRAME: ## Weeks from DPS to Practical Completion for all houses

CONTRACT PAYMENT 1 - 3%	1	Preliminary –Documentation, Certification, up to Development Approval
CONTRACT PAYMENT 2 - 17% <i>With Engineering Certification</i>	2	Set-Up and Pre-Siteworks – Temp. Fencing, Benching, cut, under-slab fill
	3	Footings and Slab– Excavation, membrane, reinforcement, concrete,
	4	Plumber 1 st Fix – Under-slab sewer
	5	Plumber – Sewer, external runs and connection
	6	Garage / Carport Slab
CONTRACT PAYMENT 3 15% <i>With Building Certification</i>	7	Gnd Floor – Structural Framing
	8	Gnd Floor – Wall Framing
	9	Gnd Floor – Windows & External door frames
	10	Gnd Floor – Brickwork
STAGE PAYMENT 4 - 25% <i>BUILDING Certification (mandatory);</i> <i>* ## Weeks Maximum to complete up to commencement of Stage 5: (refer clause 39.1.9 and Item 30 and Appendix 1A)</i>	11	1 st Floor – Suspended Floor Framing
	12	1 st Floor – Wall Framing
	13	Roof Framing
	14	1 st Floor - Windows
	15	1 st Floor – Brickwork and Render
	16	Gnd Floor – Render
	17	Roofing – Covering, gutters & downpipes
CONTRACT PAYMENT 5 20% <i>With Building Certification</i>	18	Plumber 1 st Fix – Hot & Cold Water
	19	Electrical 1 st Fix - Wiring
	20	Insulation – Walls & Ceilings
	21	Plasterboard – Walls & Ceilings
	22	Staircase
	23	Carpenter 2 nd Fix – Doors, hardware, architraves, skirtings & mouldings
	24	Painting
	25	Fitments – Kitchen cupboards, vanity, linen and broom cupboard
	26	Tiling and Bath installation
	27	Retaining Walls
CONTRACT PAYMENT 6 20% <i>With Trust Representative Inspection and Acceptance</i>	28	Garage – Roller / lift-up door
	29	Services installation
	30	Stormwater
	31	Perimeter paving / driveway
	32	Fencing – Front, boundary, wing fence and gates
	33	Clothes line, footpaths, kerbs and loam
	34	Plumber 2 nd Fix – Sanitaryware and tapware
	35	Electrical 2 nd Fix – Switches, board, connection and test
	36	Rainwater Tank
	37	Floor Coverings
	38	Window Blinds
	39	Supply & Install Appliances (Stove & Hot Water Service)
	40	Handover – Cleaning, keys and handover
	BANK GUARANTEE RELEASE <i>with Assessment of Defects</i>	

* ##% of the works must be complete within ## weeks maximum of the total construction timeframe (from DPS) or the Builder is in default – refer clause 39.1.9, Item 30 & Appendix 1A.

APPENDIX 1A – CONSTRUCTION PROGRAM SCHEDULE

Builder's construction program schedule is attached.

Per **Clause 39.1.9** and **Item 30** and **Appendix 1** (Progress Payment Stages Schedules) the construction program schedule is attached and identifies the **## weeks** (from DPS) date point on the schedule and that **##%** of the construction works will be completed by that date

<To be Attached prior execution>

TEMPLATE ONLY

<To be Attached prior execution>

Final agreed Gantt Chart to be included here.

TEMPLATE ONLY

APPENDIX 1B - BUILDER SUBMITTED PROGRAM

Builder's as tender submitted program is attached.

Builder's final Construction Program Schedule with actual dates, refer **Appendix 1**

<To be Attached prior execution>

TEMPLATE ONLY

APPENDIX 2

THE TRUST'S BUILDING CALENDAR – 2023

OFFICIAL

<u>S.A.H.T. BUILDING CALENDAR</u>															
Only Working Days Indicated															
2023															
16 JANUARY				20 FEBRUARY				22 MARCH							
S				S				S							
M	9	16	23	30	M	6	13	20	27	M	6	13	20	27	
T	10	17	24	31	T	7	14	21	28	T	7	14	21	28	
W	11	18	25		W	1	8	15	22	W	1	8	15	22	29
TH	12	19	26		TH	2	9	16	23	TH	2	9	16	23	30
F	13	20	27		F	3	10	17	24	F	3	10	17	24	31
S					S					S					
17 APRIL				23 MAY				21 JUNE							
S				S				S							
M	3	10	17	24	M	1	8	15	22	29	M	5	12	19	26
T	4	11	18	25	T	2	9	16	23	30	T	6	13	20	27
W	5	12	19	26	W	3	10	17	24	31	W	7	14	21	28
TH	6	13	20	27	TH	4	11	18	25	TH	1	8	15	22	29
F	7	14	21	28	F	5	12	19	26	F	2	9	16	23	30
S					S					S					
21 JULY				23 AUGUST				21 SEPTEMBER							
S				S				S							
M	3	10	17	24	31	M	7	14	21	28	M	4	11	18	25
T	4	11	18	25	T	1	8	15	22	29	T	5	12	19	26
W	5	12	19	26	W	2	9	16	23	30	W	6	13	20	27
TH	6	13	20	27	TH	3	10	17	24	31	TH	7	14	21	28
F	7	14	21	28	F	4	11	18	25	F	1	8	15	22	29
S					S					S					
21 OCTOBER				22 NOVEMBER				11 DECEMBER							
S				S				S							
M	2	9	16	23	30	M	6	13	20	27	M	4	11		
T	3	10	17	24	31	T	7	14	21	28	T	5	12		
W	4	11	18	25	W	1	8	15	22	29	W	6	13		
TH	5	12	19	26	TH	2	9	16	23	30	TH	7	14		
F	6	13	20	27	F	3	10	17	24	F	1	8	15		
S					S					S					

NOTE: * Calendar is exclusive of - Weekends
 Public Holidays
 Christmas closedown 2022/2023 of 3 weeks
 19th December 2022 -6th January 2023 inclusive.
 The Trust will not accept Handovers on these days
 * Rostered days off are counted as working days

APPENDIX 3

SOUTH AUSTRALIAN HOUSING TRUST (trading as SA Housing Authority)

CODE OF CONDUCT FOR ALL CONTRACTORS

Note: For this Contract, being new construction on SA Housing Authority land, any references in this Code of Conduct to '**Occupants**' (ie Tenants) ONLY APPLIES WHERE:

A) a CONTRACTOR HAS CAUSE TO ENGAGE WITH NEIGHBOURS AND RESIDENTS OF THE SITES UNDER CONSTRUCTION and

B) A CONTRACTOR IS ATTENDING TO DEFECTS at a dwelling following handover of the dwelling.

Introduction

This Code is in line with the SA Housing Authority's requirements for quality service and good tenancy and adjacent residents' relations covering matters such as:

- Effective and productive communication
- Courtesy, propriety and privacy
- Punctuality and confidentiality
- Orderly sequence and successful completion of the Work

The Code applies at all times to people working or visiting SA Housing Authority's properties involving tenants, Occupants and adjacent owners and including:

- Works and Project Managers and their staff
- Contractors and trade contractors
- Suppliers and manufacturers
- SA Housing Authority personnel.

Occupants include families and individuals renting SA Housing Authority's properties and their visitors and friends; and occupants of neighbouring properties to the sites on which construction work is being undertaken.

Principles of Good Conduct

1. Conduct Yourself with the Highest Standard of Honesty and Integrity

Avoid any conduct, which may cause a loss of respect for the worker involved, their employer, the Occupant or the SA Housing Authority.

Be courteous and maintain an objective and fair approach to our activities.

Do not be judgmental or belittle an Occupant for any reason by your attitude, tone of voice or actions.

Honour agreements and undertakings and communicate with the Occupant should you be unable to meet those undertakings.

2. Ensure your Appearance and Dress are Appropriate and meet Community Standards

Comply with Occupational Health Safety and Welfare requirements.

Dressing in a manner that would not be likely to offend Occupants such as wearing casual shorts, tank tops and singlets.

Park your vehicle in the street or other designated parking areas.

Seek the Occupant's permission to enter the property before commencing Work.

Treat the Occupant's premises and personal property with due care and respect at all times.

3. Personal Identification and Notice Cards

Ensure that your contractor identification is clearly displayed on your person at all times.

If an Occupant is absent, leave a notice of your visit and request advice from the occupier for a time to re-visit.

Any notice of your visit should be printed and show your name, company, telephone and E-mail address, and state the time date and reason for calling.

4. Privacy, Needs and Expressed Wishes

Give proper notice when work is to be done (eg what day and time, etc).

Do not smoke or consume alcohol and other prohibited substances on the premises.

Comply with reasonable requests of the Occupant in relation to the activities being undertaken (eg staged occupation and access).

Respond to any special needs, advising Occupant of probable outcomes (eg use of temporary amenities, etc).

5. Ensure that SA Housing Authority's Properties and Possessions of Occupants are Treated with Due Care

Lock up occupied or unoccupied premises when leaving the site.

Provide similar security should the Occupant leave the site and not return prior to completion of the Work.

Clean up and remove maintenance debris daily, and on completion of the Work (ie do not use Occupant's rubbish bin).

Ensure the Works do not cause any damage to the premises and Occupant's possessions.

Avoid working on the premises in the absence of the Occupant unless you have obtained written permission by the Occupant or the SA Housing Authority.

6. Confidentiality and Public Comment on SA Housing Authority Policies and Practices

Refrain from making personal comments to the Occupant such as their conduct, appearance, ethnic origin or appearance of their home or standard of housekeeping.

Do not disclose any information provided by the SA Housing Authority in relation to the proposed activities, the premises, its Occupants and any special circumstances particularly access to any other party.

All enquiries on maintenance, tendering or general policy or practice must be referred to the local SA Housing Authority office for information and any unnecessary or derogatory comments should be avoided.

Do not pass on hearsay or gossip between residences and adjoining owners.

7. State and Commonwealth Government Legislation

Comply with all Occupational Health, Safety and Welfare, anti-discrimination standards of assistance requirements, and all relevant acts, regulations and guidelines governing work and material standards.

8. On-Site Access and Difficulties between Members of the Public and Contractors / Trade Contractors / Suppliers

Where a builder representative and / or trade contractor is approached by a member / members of the public to access the site, ***the person/s are to be denied access to the site or dwellings under construction for any reason, irrespective of any reason given by the person/s.***

Where a person identifies themselves as a tenant, potential tenant or customer of the SA Housing Authority, refer the persons to make contact with the SA Housing Authority.

In instances of any cause for concern about those person/s details, any form of identity can be noted down as a record.

The builder / contractor must immediately inform the Builder's Site Supervisor of the incident and in turn the Builder's Site Supervisor is to inform the Construction Representative and pass on any necessary / relevant details about the persons or incident.

9. On-Site Difficulties between Occupants and Trade Contractors

Where a Housing Manager's office phone number is shown on a works order and the notation HSS appears, telephone the Housing Manager for further information.

If you consider that your workers or your equipment are at risk, stop work, do not argue, leave the property, inform the Housing Manager.

If the Occupant requires you to leave the property, even without any valid reason, do so.

10. On-Site Issues or Difficulties between Neighbours and Contractors

Where a neighbouring resident to the site raises any concerns with you, a contractor or worker, that issue, its details, the resident's details (if received) and actions taken must be reported immediately to the Builder's Site Supervisor.

The Builder's Site Supervisor, as the Builder's representative under the terms of this Contract, must notify the Construction Representative of the issue, action taken to date and details that do or may require a resolution.

- If you consider your workers or your equipment are at risk, stop work, do not argue, leave the property, inform the Construction Representative.

Do not pass on hearsay or gossip between residences and adjoining owners.

11. Occupant's Services and Facilities

Do not use the Occupant's power, gas or water without permission.

Where permission is given, reimburse the Occupant for costs incurred as agreed with them.

Do not use or seek permission to use the Occupant's telephone, except in case of emergency.

Diversion of calls to the Occupant's telephone service will not be permitted.

Do not use the Occupant's toilet, wash basin, stove, hot water or eat food in the premises without permission.

12. Animals and Pets

Animals and other pets owned by the Occupant and neighbouring residents shall not be antagonised or mistreated by any contractor, employee or trade contractor.

Contractors and sub-contractors shall at all times keep their animals and pets under strict control off site.

13. Conflict of Interest Relevant to any SA Housing Authority Related Issues

Ensure that your personal interests or privileged information are not used when assessing work priorities or standards and that all your decisions are based on fair and reasonable practices.

14. Passive Smoking

In the event of Occupants smoking on the premises, you may ask them to refrain from doing so while you are performing the Work. Should the Occupant ignore or object to your request, you may inform them of your intention to leave the premises and report the matter to the SA Housing Authority. On leaving, you must ensure that the premises and any unfinished work is left in a safe and secure condition.

The provisions of this code of conduct must be brought to the attention and continually reinforced with your staff and trade contractors.

TEMPLATE ONLY

APPENDIX 4

SOLVENCY STATUTORY DECLARATION

Builder's submitted Declaration following award of contract
(Refer Clause 4.1 and Schedule – Item 5)

<To be Attached prior execution>

TEMPLATE ONLY

APPENDIX 5

PAYMENT STATUTORY DECLARATION TEMPLATE

As attached – provided editable version to be submitted* with Final Payment Progress Claim and as Requested (Refer **Clause 35.4**)

TEMPLATE ONLY

Statutory Declaration

DEFINITIONS

The Principal is: **SOUTH AUSTRALIAN HOUSING TRUST**

The Builder is: »

The Contract: The contract between the Principal and the Builder

Contract Title: »

Project/Contract Number (reference):»

Dated: ».....(Date of Contract) between the party identified as the Principal and the party identified as the Builder.

Builder / Supplier / Consultant / Employee means any entity engaged by the Builder to carry out part of the work under the Contract including a subcontractor, supplier, worker or consultant.

Declaration

Full Name: | »

of»

»

do hereby truly and solemnly declare the following and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1936 (SA):

1. I am a <director, senior executive or project manager> of the Builder and authorised by the Builder to make this statutory declaration on its behalf;
2. I am in a position to make this statutory declaration about the facts attested to.

Remuneration of Builder's employees engaged to carry out work in connection with the Contract

3. All remuneration payable to the Builder's relevant employees for work done in connection with the Contract has been paid and the Builder has made provision for all other benefits accrued in respect of the employees. Relevant employees are those engaged in carrying out the work done in connection with the Contract. Remuneration means remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees and subcontractors.

Workers Compensation Insurance of the Builder's workers

4. All workers compensation insurance premiums payable by the Builder in respect of the work done in connection with the Contract have been paid and the insurance policy is current.

Workers Compensation insurance for workers of Subcontractors

5. The Builder has been given a written statement that all workers compensation insurance premiums payable by each Subcontractor in respect of that work done have been paid and the insurance policy is current.

Payments to Builders

6. Except for amounts identified in the table below, the Builder has paid every Subcontractor all amounts due and payable to each of them as at the date of this statutory declaration with respect to the work or the supply of materials for or in connection with the Contract.
7. The Builder has entered into contracts with Subcontractors in accordance with the prescribed requirements of the Contract and otherwise complied with the provisions relating to Subcontractors.

Subcontract Cash Security

8. All subcontract security held in the form of cash and all cash retentions from Subcontractor payments are held in trust by the Builder. The cash security and retentions are held in trust for whichever party is entitled to them, until payment is made to that party.
9. The Builder is maintaining complete records to account for the cash. The records are available to the relevant Subcontractors and the Principal on request.

Workforce Participation and Skills Development *(cross or delete if not applicable)*

10. The Builder has complied with the requirements under the Contract of the Workforce Participation and Industry Participation policies including all reporting requirements.

Status of Subcontractor Payments

Schedule of subcontractors for which <u>an amount is in dispute and/or has not been paid</u>				
Subcontractor	ABN	Contract number/identifier	Date of works (period)	Payment claim dated (head contractor claim)

I acknowledge that this declaration is true and correct and I make it with the understanding and believe that a person who makes a false declaration may be guilty of an offence.

Signature of Declarant:

declared at:

Place: »

on»

before me:

Signature of legally authorised person* before whom the declaration is made:

Name and title of person* before whom the declaration is made:

** "The declaration must be made before one of the following persons:*

1. where the declaration is sworn within the State of South Australia:

- (i) a justice of the peace of the State of South Australia;*
- (ii) a solicitor of the Supreme Court of South Australia with a current practising certificate;*
- (iii) a notary public; or*
- (iv) another prescribed person legally authorised to administer an oath under the Oaths Act 1936, or.*

2 where the declaration is sworn in a place outside the State of South Australia:

- (i) a notary public; or*
- (ii) any person having authority to administer an oath in that place*

Statutory Declaration

DEFINITIONS

The Principal is:	SOUTH AUSTRALIAN HOUSING TRUST
The Builder is:	»
The Contract:	The contract between the Principal and the Builder
Contract Title:	»
Project/Contract Number (reference):	»
Dated:	»(Date of Contract) between the party identified as the Principal and the party identified as the Builder.
Builder / Supplier / Consultant / Employee	means any entity engaged by the Builder to carry out part of the work under the Contract including a subcontractor, supplier, worker or consultant.

Declaration

Full Name: I »

of »

»

do hereby truly and solemnly declare the following and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1936 (SA):

1. I am a **director, senior executive or project manager** of the Builder and authorised by the Builder to make this statutory declaration on its behalf;
2. I am in a position to make this statutory declaration about the facts attested to.

Remuneration of Builder's employees engaged to carry out work in connection with the Contract

3. All remuneration payable to the Builder's relevant employees for work done in connection with the Contract has been paid and the Builder has made provision for all other benefits accrued in respect of the employees. Relevant employees are those engaged in carrying out the work done in connection with the Contract. Remuneration means remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees and subcontractors.

Workers Compensation Insurance of the Builder's workers

4. All workers compensation insurance premiums payable by the Builder in respect of the work done in connection with the Contract have been paid and the insurance policy is current.

Workers Compensation insurance for workers of Subcontractors

5. The Builder has been given a written statement that all workers compensation insurance premiums payable by each Subcontractor in respect of that work done have been paid and the insurance policy is current.

Payments to Builders

6. Except for amounts identified in the table below, the Builder has paid every Subcontractor all amounts due and payable to each of them as at the date of this statutory declaration with respect to the work or the supply of materials for or in connection with the Contract.
7. The Builder has entered into contracts with Subcontractors in accordance with the prescribed requirements of the Contract and otherwise complied with the provisions relating to Subcontractors.

Subcontract Cash Security

8. All subcontract security held in the form of cash and all cash retentions from Subcontractor payments are held in trust by the Builder. The cash security and retentions are held in trust for whichever party is entitled to them, until payment is made to that party.
9. The Builder is maintaining complete records to account for the cash. The records are available to the relevant Subcontractors and the Principal on request.

Workforce Participation and Skills Development *(cross or delete if not applicable)*

10. The Builder has complied with the requirements under the Contract of the Workforce Participation and Industry Participation policies including all reporting requirements.

Status of Subcontractor Payments

Schedule of subcontractors for which <u>an amount is in dispute and/or has not been paid</u>				
Subcontractor	ABN	Contract number/identifier	Date of works (period)	Payment claim dated (head contractor claim)

Ref. No: >>

2

Declaration Date >>

I acknowledge that this declaration is true and correct and I make it with the understanding and believe that a person who makes a false declaration may be guilty of an offence.

Signature of Declarant:

declared at:

Place: »

on»

before me:

Signature of legally authorised person* before whom the declaration is made:

.....

Name and title of person* before whom the declaration is made

.....

* "The declaration must be made before one of the following persons:

1. where the declaration is sworn within the State of South Australia:

- (i) a justice of the peace of the State of South Australia;
- (ii) a solicitor of the Supreme Court of South Australia with a current practising certificate;
- (iii) a notary public; or
- (iv) another prescribed person legally authorised to administer an oath under the Oaths Act 1936, or.

2 where the declaration is sworn in a place outside the State of South Australia:

- (iii) a notary public; or
- (iv) any person having authority to administer an oath in that place

APPENDIX 6

STANDARD INDUSTRY PARTICIPATION PLAN (SIPP)

Builder's SIPP with Tender Response – Final as Assessed
and recorded in Office for Industry Advocate's system for reporting

As attached (Refer **Clause 18**)

<To be Attached prior execution>

TEMPLATE ONLY

APPENDIX 7**EMPLOYMENT PATHWAYS APPRENTICESHIP PROGRAM**

The Contractor is to comply with Option: A B C

1. For the purposes of this Contract:

- 1.1. **“Agreed Number of Apprentices/Trainees”** means, where the Builder has selected Option C in Part D Supplier Response Form – Employment Pathways Apprenticeship Program, the number of new apprentices or trainees that the Contractor has agreed to employ and that number has been approved by the Trust;
- 1.2. **“Contract of Training”** means the training contract between the Builder and the apprentice or trainee;
- 1.3. **“Host Period Duration”** means the applicable host period duration based on the number of dwellings that would be built under the Contract and is specified in the Program Schedule;
- 1.4. **“Minimum Number of Apprentices/Trainees”** means the applicable minimum number of apprentices or trainees based on the number of dwellings that would be built under the Contract and is specified in the Program Schedule;
- 1.5. **“Program Schedule”** means the following schedule that is only applicable where the Builder has selected either Option A or Option B in Part D Supplier Response Form – Employment Pathways Apprenticeship Program:

Number of Dwellings	Minimum Number of Apprentices/Trainees	Host Period Duration (Applies to Option A only)
1 – 5 Dwellings	2 Apprentices	22 weeks
6 - 10 Dwellings	4 Apprentices	27 weeks
11 – 15 Dwellings	6 Apprentices	32 weeks
16 - 20 Dwellings	8 Apprentices	37 weeks
21 - 25 Dwellings	10 Apprentices	42 weeks
26 - 30 Dwellings	12 Apprentices	47 weeks
31 - 35 Dwellings	14 Apprentices	52 weeks

2. Where, in Part D Supplier Response Form – Employment Pathways Apprenticeship Program, the Contractor has selected:

2.1. Option A – the Builder must:

- 2.1.1. host each of the Minimum Number of Apprentices/Trainees for the Host Period Duration as per the Program Schedule. The Minimum Number of Apprentices/Trainees must be sourced through the Employment Pathways Apprenticeship Program and appointed Group Training Organisation list (“GTO”); and

- 2.1.2. hold a current general public liability insurance policy for not less than \$20 million per occurrence and unlimited in the aggregate and have advised their insurer they are providing work experience to the Minimum Number of Apprentices/Trainees; or
 - 2.1.3. be self-insured against their risks, as a large corporation, statutory authority, government department, or government instrumentality on terms equivalent to or not less than the insurance requirement in clause 2.1.2;
- 2.2. Option B - the Contractor has employed and will continue to employ each of the Minimum Number of Apprentices/Trainees at least until the Trust has issued a Certificate of Practical Completion in accordance with Clause 30 of the Contract. Each of the Minimum Number of Apprentices/Trainees must be in their first or second year of their Contract of Training; or
- 2.3. Option C - the Contractor must employ the Agreed Number of Apprentices/Trainees for their respective training period as specified in their Contracts of Training.

The Contractor must provide evidence that it is complying with this clause 2 whenever requested by the Principal.

3. The Contractor allows the Principal to undertake, and agrees to cooperate with, any audit or investigation which the Trust deems necessary to verify that the Contractor is complying with this Appendix.
4. Within 10 Business Days of the Builder commencing work and taking possession of the Site under Clause 12, the Contractor must provide evidence to the satisfaction of the Trust that:
 - 4.1. where Option A has been selected – the Contractor has a host agreement in place for each of the Minimum Number of Apprentices/Trainees with a GTO;
 - 4.2. where Option B has been selected – the Contractor has employed the Minimum Number of Apprentices/Trainees; or
 - 4.3. where Option C has been selected – the Contractor has begun recruiting the Agreed Number of Apprentices/Trainees.
5. Where Option B or Option C has been selected, the Contractor agrees that all the apprentices or trainees taken on in respect of the created employment positions must be treated as the Contractor's employee in all respects (i.e. salary, insurance, taxes, occupational health and safety, etc.) and will be the responsibility of the Contractor as an employer.
6. The Contractor acknowledges that its failure to comply, in whole or in part, with the commitments contained within this clause may be a factor taken into account in the award of future contracts from the Principal

APPENDIX 8

**BUILDER PERFORMANCE REPORT (TEMPLATE)
Attached**

(for completion at the expiry of the contract)

TEMPLATE ONLY

PERFORMANCE REPORT FORM

SAHA-081 - Prequalification

Contractor Details

Trading name of the Contractor

Contact person

Contact telephone number

Contract Details

Project name / location

Contract description

If sub-contractor work – name of main contractor

Client name

Tender price (value of tender \$000)

Final contract sum (\$000)

Date of acceptance of tender

 / /

Date of practical completion (or equivalent)

 / /

Performance reports must have been prepared at least three (3) months after project practical completion (or equivalent).

Referee details *(To be completed by the referee ONLY)*

Referee name	
Referee's phone number	
Organisation	
Referee's role in project	

Rating Scale

- E** Outstanding standard of performance
(Significantly and consistently above service expectations – best practice)
- G** More than meets the required standard of performance
(Consistently above specified requirements / service expectations)
- S** Meets the required standard of performance
(Achieved specified requirements / service expectations)
- U** At times did not meet the required standard of performance
(Did not consistently achieve specified requirements / service expectations)
- P** Does not meet the minimum standard of performance
(Failed to achieve specified requirements / service expectations)
-
- +** Plus For **E, G** or **S** ratings assessed at **high** end of the descriptor
- Minus For **U** or **P** ratings assessed at **low** end of the descriptor
- Inclusion of +/- with descriptors is **optional**

Please Note: Sections A through to G are to be completed by the referee ONLY, according to the 'Rating Scale' above.

If completing this form online, please select rating from the dropdown menu on the left. If completing manually, please write the letter that corresponds to the applicable rating in the left column.

Section A	Rate the performance of the Contractor on the contract
	Timeliness in dealing with contractual matters including variations
	Accuracy and detailing of claims for contractual variations including extensions of time
	Level of good faith and fair dealing
	Level of cooperation with client and end user
	Responsiveness to communication and requests for information
	Ability to manage unexpected issues or challenges
	Awareness of statutory obligations, including trade practices, consumer affairs and legislation
	Level of compliance in meeting statutory requirements, including trade practices, consumer affairs and training legislations
Section B	Rate the performance of the Contractor on the contract in relation to the contractor's Technical Capability
	Quality of work and compliance with specifications
	Supervision / control of sub-contractors
	Rate of progress (in relation to contract program)
	Sufficient resources (labour)
	Effectiveness of project personnel
	Relevant experience of the site project personnel
Section C	Rate the performance of the Contractor on the contract in relation to the contractor's Financial Capability
	Sufficient resources (materials)
	Payment of accounts – subcontractors and suppliers
Section D	Rate the performance of the Contractor on the contract in relation to the contractor's WH&S on site management
	Safe work practices in evidence
	Effectiveness of site management
	Site initiation process in place

Section E	Did the Contractor implement a Quality Assurance system on the contract works? (Please indicate Yes or No)
Section F	Rate the performance of the Contractor on the contract in relation to implementation of the contractor's Quality Assurance system or Quality Management processes
	Level of implementation and effectiveness of Quality Assurance system or Quality Management processes
	Standard of quality achieved
Section G	Rate the Contractor's use of Best Practice procedures on the contract in relation to the criteria detailed in the Code of Practice
	Effectiveness of practices in achieving a high level of customer service leading to client satisfaction with project outcomes
	Level of implementation of best practice procedures/systems

Declaration
 I hereby declare the above to be my assessment of the performance of the contractor

Signature of referee _____ Date _____

For use on SAHA projects only
 Performance report has been forwarded to the contractor and opportunity provided for the contractor to note any process issues.

Signed _____ Date _____

APPENDIX 9

CONTRACT DOCUMENTS OTHER

* Indicates the documents appended following execution and prior the completion of date of site possession that will complete the fully bound agreement between the parties

Indicates document attached in this version

Includes:

- The documentation as referred to in Background, clauses A and B.
- Builder's Part D Tender Response document (submission including completed schedules and any clarifications during the evaluation, following award and prior contract execution)
- Part B Specification documents (including an Addenda issued)
- All other documentation as referred to in Part B Specification
- All documentation as referred to in this 'Design and Construction' Agreement Schedule – Contract Details
- Letter of Award of Tender
- Bank Guarantee (scanned copy)
- Copy of Builder Licence
- Builder's Supervisor(s) Licence details
- All Insurances below and Return to Work SA Certificates OR
 - Professional Indemnity
 - Public Liability
 - Works Insurance Cover
 - Building Indemnity
 - Workcover
- Copy of Builder's registered ACN and ABN details
- Possession of Site (DPS) notification and Trust's Stages Payment Schedule breakdown of stages and sums, as issued with DPS, pursuant to Appendix