



## SUBCONTRACTOR WORKS ORDER TERMS AND CONDITIONS

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### 1. Documents included in this Works Order are as follows:

- (a) This Agreement, Subcontractor Works Order Terms & Conditions.
- (b) Specification
- (c) Drawings
- (d) Scope of Works
- (e) AF-Q-PRO-851 Subcontractor Start Up Pack
- (f) AF-Q-TMP-866 Minutes of Subcontractor Interview
- (g) *General Preliminaries (clause 26)*
- (h) Including any other documents referred to in those documents

### TERMS AND CONDITIONS

("the Works Order")

#### Interpretation

- (i) words in the singular include the plural and words in the plural include the singular, according to the requirements of the context;
- (ii) words importing gender include every gender;
- (iii) a provision of the Works Order must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Works Order or the inclusion of the provision in the Works Order;
- (iv) the law governing the Works Order, its interpretation and construction is the law of the State or Territory in which the project is located.
- (v) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;

a reference to any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced.

### 2. Subcontractors Obligations

The Subcontractor shall complete the Works in a workmanlike manner in accordance with relevant Drawings and Specification and any direction of Freyssinet's Project Manager and by the Completion Date with expediency and without delay. The Subcontractor shall comply with all necessary legislation and statutory requirements and produce evidence of current licenses and/or registration where required. The Subcontractor price includes all allowances and requirements that exist or may be imposed on the site. The Subcontractor will be responsible for the protection of all finished floor and other surfaces, daily clean up and removal of rubbish from site. The Subcontractor shall comply with all directions of Freyssinet in relation to the Works.

The Subcontractor shall be deemed to have made allowance for all the provisions and expenses in the Works Order Price including:-

- (a) co-operation with all others on site and integration of all his work with all other work carried out on site by other subcontractors, Freyssinet, the Principal or the tenant;
- (b) forming all penetrations, chasing, trenching and making good all finishes;
- (c) compliance with any requirements of any statutory or government authority and all legislation in connection with the Works;
- (d) the risks and contingencies associated with the Works and the Site and its surroundings.

The Subcontractor shall upon commencement of work on site thoroughly inspect the site and report in writing all defects (if any) which render unsuitable the Site for the proper execution of the Works. If the Subcontractor fails to report such defects to Freyssinet, the Subcontractor shall be deemed to have accepted the Site as suitable to carry out the Works and shall not be entitled to make any claim in relation thereto.

The Subcontractor must ensure that in carrying out the Works:

- (a) it complies with all laws (including Acts, ordinances, regulations, by-laws and other subordinate legislation) and other requirements of the Subcontract for the protection of the Environment;
- (b) it complies with all directions of Freyssinet in relation to the Environment; and
- (c) it immediately notifies Freyssinet of:
  - (i) any non-compliance with the requirements of this clause 2;
  - (ii) any breach of any law for the protection of the Environment; or
  - (iii) the receipt of any notice, order or communication from any relevant authority for the protection of the Environment.

Environment means: (without limitation):

- (a) ecosystems and their constituent parts, including people and communities;
- (b) natural and physical resources;
- (c) the qualities and characteristics of locations, places and areas; and

the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs (a)-(c) above.

### 3. Construction Programme and Completion Date

The Works are to be carried out by the Completion Date or in accordance with Freyssinet's construction programme both of which may be altered by Freyssinet if necessary to suit the construction progress. If the Subcontractor fails to complete the Works or any stage by the Completion Date or within any adjusted time approved in writing by Freyssinet then if required by Freyssinet the Subcontractor shall pay or allow by way of liquidated damages the sum stated in the Works Order for each week or part of a week during which the Works or the relevant stage shall remain incomplete. If requested by the Subcontractor in writing Freyssinet shall make a fair adjustment to the Completion Date or construction programme in respect of any change or delay not caused or contributed to by an act, omission or default of the Subcontractor provided always:

- (a) such adjustment of time has been granted to Freyssinet under the terms of the Head Contract;
- (b) the Subcontractor will actually be delayed in completing the Works and has notified Freyssinet of the delay no later than 14 days of the delay event occurring.

For the avoidance of doubt Freyssinet may extend the Completion Date for any reason, including any delay caused by Freyssinet, its subcontractors or others and by reason of delay under the Head Contract.

### 4. Subcontractor's Warranty

The Subcontractor warrants that the Works when completed and all materials, used therein whether purchased under any patent or trade name or otherwise, shall comply with quality, number, nature, description and condition as required by the Works Order and all the relevant codes and regulations and will be fit in all respects for its intended purpose and be free of any lien or other encumbrance. The Subcontractor shall be liable for breach of this warranty notwithstanding that Freyssinet may have previously accepted the Works or any part thereof as having been satisfactorily executed or completed.

### 5. Design

If the Subcontractor's design or its design consultant's design causes or contributes to Freyssinet incurring or suffering cost, loss, expense or damage resulting from any, error or omission in his design or because of non-compliance of the design with the requirements of the Works Order then the Subcontractor indemnifies and will keep Freyssinet indemnified against all such costs, losses, expenses and damages. The Subcontractor shall ensure that Freyssinet is vested with an irrevocable transferable license to utilise any intellectual property rights in the design or the Works. Alternatively, if the Head Contract requires it, the Subcontractor shall ensure that Freyssinet is vested with ownership of any such intellectual property rights.

### 6. Payments

- (a) The Subcontractor shall submit to Freyssinet a progress claim on or before the day stated in the Works Order and provide with each claim a Statutory Declaration in the form of Annexure A to this Works Order. Progress claims shall include the value of work carried out by the Subcontractor in the performance of the Works Order to that time, together with all amounts then otherwise due to the Subcontractor under the Works Order. Progress payments shall be made within 35 days after the end of the month of invoice. Payment of moneys shall not be evidence of the value of work or an admission of liability or that the work has been carried out satisfactorily but shall be a payment on account only. Freyssinet may retain the amount stated in the Works Order as security or if nothing is stated shall retain five (5) per cent of the amount payable in each progress payment. Security is for the purpose of the Subcontractor's due and faithful performance of the Works Order. Subject to clause 11, the security will be released as follows:
  - (i) as to one half of the amount retained upon the Subcontractor completing the Works in accordance with the Works Order;
  - (ii) as to the remaining 50% upon the expiry of the defects liability period under the Head Contract.



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- (b) The Subcontractor must be GST registered. The Subcontractor is advised that Freyssinet will issue a Recipient Created Tax Invoice (RCTI) for each payment made to the Subcontractor, as valued by Freyssinet. The Subcontractor must ensure that payment claims submitted by the Subcontractor, are not submitted as a 'Tax Invoice'. Should the Subcontractor submit a payment claim as a 'Tax Invoice', the claim may not be accepted as a payment claim under the Works Order. The Subcontractor is required to complete an RCTI Agreement and return to Freyssinet.
- (f) The Subcontractor must notify Freyssinet immediately if it ceases to be registered for GST at any time during the currency of the Works Order.
- (a) The Works Order Price includes all applicable GST under the GST law as at the date of the Works Order.
- (b) All adjustments to the Works Order Price are to include for all applicable GST law at the time of the adjustment.
- (c) Freyssinet will include the GST component of any progress payment to the Subcontractor in any progress payment issued to the Subcontractor.
- (g) Within 28 days of the expiry of the defect liability period, or such other time as shall be determined by Freyssinet, the Subcontractor shall submit a Final Claim. The Final Claim shall be for all amounts claimed to be outstanding by the Subcontractor, including for retention and/or security. Upon Freyssinet receiving the Final Claim, any claim which the Subcontractor has or may have which is not included in the Final Claim, whether in Works Order, tort, equity, under statute or otherwise, shall be absolutely barred and forever released and discharged.
- (h) Within 21 days of receipt of the Final Claim and an executed Deed of Release in the form of Annexure B, Freyssinet shall assess the Final Claim and make payment to the Subcontractor of the assessed amount. For the avoidance of doubt, Freyssinet shall not be obliged to make any payment or release any security unless and until an executed Deed of Release in the form of Annexure C is received by it.

### 7. Variations

Freyssinet may vary the Works and the Subcontractor shall carry out any variations so directed. The Subcontractor shall not be entitled to claim payment for any variation not authorised in writing by Freyssinet's Project Manager. Where the Subcontractor considers particular work he has to execute will constitute or involve a variation yet Freyssinet has not issued a variation direction, the Subcontractor shall make a formal request in writing to Freyssinet for a variation direction. Unless such claim is made by the Subcontractor within ten (10) working days of the Subcontractor being aware of the likelihood of a variation and in any event prior to the commencement by him of the execution of that particular work, then the Subcontractor shall not be entitled to any adjustment to the Works Order Price or extension of time to the Date for Completion. The price of any variation shall be added to or deducted from the Works Order Price. If the parties have not agreed on a price prior to the commencement of any work comprising a variation then Freyssinet may require the Subcontractor to execute the variation and thereafter assess the variation and inform the Subcontractor of the amount so assessed as payable by Freyssinet. Freyssinet may by variation omit any part of the Works for any purpose including for the purpose of having the omitted work performed by another contractor. Unless the parties agree on the price of the variation, the deduction to be made to the Works Order Price as a result of the variation will be the amount as reasonably determined by Freyssinet.

### 8. Insurance

- (a) Motor Vehicle Insurance  
Before the Subcontractor commences its obligations under the Subcontract, the Subcontractor shall insure its motor vehicles and equipment used in connection with the Subcontract or carrying out of its obligations under the Subcontract for an amount not less than \$20 million.
- (b) Professional Indemnity Insurance  
The Subcontractor shall maintain professional indemnity insurance for an amount not less than \$5 million. The insurance cover shall be maintained for a period of 6 years after the Date of Completion. The professional indemnity insurance shall be upon terms and with an insurer approved by the Freyssinet.
- (c) Public Liability Insurance

- (d) Before commencing the Works, the Subcontractor shall effect and maintain for the duration of the Subcontract, a public and products liability policy for an amount not less than \$10 million.
- Workers Compensation  
Before commencing the Works, the Subcontractor shall insure against statutory and common liability for death of or injury to persons employed by the Subcontractor. The insurance cover shall be maintained until Completion of the Subcontract's obligations under the Subcontract including the Defects Liability provisions of the Works Order Works. Where permitted by law, the insurance policy or policies shall be extended to provide indemnity for the Freyssinet's statutory liability to the Subcontractor's employees. The Subcontractor shall ensure that its own subcontractors have similarly insured their employees.
- (e) Evidence of Insurance  
The Subcontractor must provide Freyssinet with satisfactory evidence of its required insurances before commencement of its obligations under the Subcontract. On request from time to time by Freyssinet, the Subcontractor must provide proof of the currency of the required insurances. Freyssinet may withhold any money then otherwise due for payment to the Subcontractor (free of interest) until production of the relevant insurance.
- Where permitted by law, the certificate of currency should evidence that the policy has been endorsed to note the interests of Freyssinet Australia Pty. Ltd. as an interested party. If after being so requested, should the Subcontractor fail to provide satisfactory evidence of compliance with this clause 8 then without prejudice to other rights or remedies, Freyssinet may:
- (A) terminate the Subcontract;
- (B) obtain the required insurance and the cost thereof shall become monies due from the Subcontractor to Freyssinet; or
- (C) refused payment until such evidence is produced by the Subcontractor.
- (f) Without limiting the generality of this clause 8, the Subcontractor agrees to indemnify and hold Freyssinet harmless against all claims and risks required to be insured under the Works Order.

### 9. Default

If the Subcontractor:

- (a) being a natural person becomes bankrupt or enters into or attempts to enter into any composition or arrangement with its creditors or has either a debtors petition or a creditors petition presented; or
- (b) has execution levied against it by a creditor; or
- (c) being a company has a liquidator, provisional liquidator, receiver, official manager or mortgagee in possession appointed to it or becomes a party to or attempts to enter into any composition or informal or unofficial receivership or management or control by its creditors or enters into a Scheme of Arrangements: or shall make default in any of the following respects:
- (i) by wholly suspending the work before completion,
- (ii) by failing to proceed with the Works with reasonable diligence or in a competent manner
- (iii) by failing to comply with a notice from Freyssinet requiring it to remove and replace defective work or improper materials, or
- (iv) by committing any breach of the terms of this Subcontract;
- then Freyssinet may, by notice in writing, terminate the Works Order. Such determination shall not prejudice any right of Freyssinet to recover from the Subcontractor damages for any breach. Freyssinet may suspend all payments until the Works are complete.

### 10. Notices

Any notice to be given shall be deemed to be sufficiently given if served personally on the Subcontractor or on its Representative on the Site or on Freyssinet as the case may be or sent prepaid post to the address appearing herein or at his last known place of abode or business.

### 11. Freyssinet's Right to Deduct Money

Without limiting Freyssinet's right under any other provision of this Works Order, or Freyssinet's rights at common law or in equity:

- (a) Freyssinet may set-off against payments due to the Subcontractor, all monies due to Freyssinet or claimed to be due



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to Freyssinet under the Works Order or any other Works Order between the parties;

- (b) If such monies are insufficient, Freyssinet may have recourse to any security held pursuant to the Works Order to satisfy or partially satisfy any monies due or claimed by Freyssinet to be due.

### 12. Subletting

The Subcontractor shall not assign the Works Order or sublet any portion of the same without the written consent of Freyssinet.

### 13. Management and Supervision

The Subcontractor shall appoint a person acceptable to Freyssinet to manage and supervise the Works, who shall be the Subcontractor's Representative.

### 14. Damages

The Subcontractor shall pay to Freyssinet the cost of making good any damage done by him or his employees to the Site and to adjoining properties including the Works and services below ground, fencing, footways, roads, services drains, existing finishes and other services on or adjacent to the Site. Freyssinet shall also be entitled to add on to the cost of the damages an administration charge of 15 per cent.

### 15. Defects

The Subcontractor shall maintain the Works until completion and thereafter make good all defects that may appear in the Works prior to the expiration of Freyssinet Defects Liability Period as stated in the Works Order and if nothing stated for the same period as the defects liability period under the Head Contract at the cost of the Subcontractor. If Freyssinet has incurred any associated costs regarding the Subcontractors defects such as providing material, labour, supervision, tools, equipment, access and the like, then the subcontractor shall pay Freyssinet for those associated costs. If the Subcontractor fails to rectify any defects within a reasonable time notified by Freyssinet, Freyssinet may deduct the cost of making good the defect from any amounts owing to the Subcontractor or held by way of retention.

### 16. Notification of Claims

Notwithstanding any other provision of the Works Order, Freyssinet will not be liable upon any claim by the Subcontractor in respect of any matter arising out of the Works Order and the Subcontractor shall be absolutely barred in respect of any such claims unless the claim, together with full particulars of the claim, is lodged in writing with Freyssinet within 14 days after the event or circumstance on which the claim is based first occurring. To the extent permitted by law, the Subcontractor and Freyssinet agree that Freyssinet may not by conduct, representations (whether written or oral or implied) or otherwise, be estopped or waive its rights under this clause.

This clause does not apply to claims for which express provision regarding notification is made elsewhere in this Works Order.

### 17. Dispute

If a dispute arises between Freyssinet and the Subcontractor concerning any matter in connection with the Works Order, either party may give to the other a notice of dispute identifying the nature of the dispute and providing details of the dispute.

Within 7 days of a party issuing a notice of dispute, representatives of the Subcontractor and Freyssinet who have knowledge of the matters the subject of the dispute must meet and attempt to resolve the dispute. If within 14 days of such a meeting a resolution is not reached, then senior representatives of each party shall meet within 7 days to attempt to resolve the dispute. If the dispute is unable to be resolved by senior representatives of the parties, Freyssinet and the Subcontractor may, by agreement, refer the matter to mediation or expert determination, on terms which are agreed.

If there is a dispute the Subcontractor shall continue with the Works unless instructed by Freyssinet otherwise.

### 18. Workplace Agreement and Codes of Practice and Tendering.

The Subcontractor may have a Workplace Agreement or other industrial instrument with its employees to cover the terms and conditions of their employment. Subject to any enterprise or productivity agreement, the Subcontractor shall pay the rates of wages and observe and perform the conditions that are required in any relevant statute or industrial instrument. The Subcontractor shall comply with any applicable codes of practice.

### 19. Work Health and Safety

The Subcontractor shall work in accordance with the provisions of the Work Health and Safety Act 2011 and associated Work Health and Safety Regulation 2011. The Subcontractor must provide a Safety Plan and Work Method Statement before commencing works on site and comply

with any other direction or request of Freyssinet with respect to safety. The Subcontractor shall comply with Freyssinet's Work Health and Safety requirements for the Project.

### 20. Termination for Convenience

- (a) Without prejudice to any of Freyssinet's other rights or entitlements under the Works Order, Freyssinet may, at any time, for its sole convenience, determine the engagement of the Subcontractor under the Works Order, by written notice to the Subcontractor;
- (b) If Freyssinet determines the engagement of the Subcontractor under Clause 20(a), then the Subcontractor shall be entitled to payment of the following amounts as reasonably determined by Freyssinet:
- the value of all work carried out valued in accordance with the Works Order, to the date of determination (less any amounts already paid to the Subcontractor in respect of that work); and
  - the cost of materials reasonably ordered by the Subcontractor for incorporation in the Works, which the Subcontractor is legally liable to accept, but only if the materials become the property of Freyssinet upon payment; and
  - all reasonable direct costs incurred by the Subcontractor as a result of the determination (subject to the Subcontractor's obligation to mitigate such costs).

The Subcontractor's entitlement to payment under this Clause 20 will be full payment for the determination, and the Subcontractor will not be entitled to make any claim, counter claim, or initiate any proceedings, under or in connection with the Works Order, whether at law, under statute or otherwise, other than in respect of the amount to which the Subcontractor is entitled to under Clause 20.

### 21. Indemnity

The Subcontractor shall indemnify Freyssinet for any cost, loss, expense or damage which is caused by or contributed to by the Subcontractor or which is a result of the Subcontractor's breach of the Works Order. The Subcontractor's liability pursuant to this indemnity shall be reduced to extent to which the Freyssinet's act or omission contributed to such loss, cost, damage or expense.

### 22. Severability

If any provisions of the Works Order shall at any time be found to be or become illegal, invalid or unenforceable that clause or part is to be treated as removed from the Works Order and the remaining clauses are not effected.

### 23. Exclusion of Civil Liability Act (NSW) 2002

The parties agree that all rights, obligations and liabilities under or in connection with the Works Order are to apply unaffected by anything that, but for this clause, may by virtue of the provisions of the Civil Liability Act 2002 (NSW) have otherwise effected those rights, obligations and liabilities. If the project is located in another State or Territory, then if there are similar laws already in existence in that State or Territory, then these State or territory laws shall apply. In addition, if there are similar exclusions in those States or territories, then they will apply.

### 24. Building Code 2013

The Building Code 2013 (*Building Code*), applies to this project. By agreeing to undertake the Works, you will be taken to have read and to agree to comply with the Building Code.

- (a) The Subcontractor must comply with the *Building Code 2013* (Building Code). Copies of the Building Code are available at [www.deewr.gov.au/BuildingCode](http://www.deewr.gov.au/BuildingCode).
- (b) Compliance with the Building Code shall not relieve the Subcontractor from responsibility to perform the Works Order, or from liability for any defect in the works arising from compliance with the Building Code.
- (c) Where a change in the Works Order is proposed and that change would affect compliance with the Building Code, the Subcontractor must submit a report to the Commonwealth specifying the extent to which the Subcontractor's compliance with the Building Code will be affected.
- (e) The Subcontractor must maintain adequate records of the compliance with the Building Code by:
- the Subcontractor;
  - its Subcontractors;
  - consultants; and
- its Related Entities (refer Section 8 of the Building Code).

- (f) If the Subcontractor does not comply with the requirements of the Building Code in the performance of this Works Order such that a sanction is applied by the Minister for Employment and Workplace Relations, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Subcontractor or a Related Entity in respect of the work funded by the Commonwealth or its agencies.
- (g) While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, the Subcontractor may give preference to subcontractors and consultants that have demonstrated commitment to:
- (i) adding and/or retaining trainees and apprentices;
  - (ii) increasing the participation of women in all aspects of the industry; or
  - (iii) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- (h) The Subcontractor must not appoint a subcontractor or consultant in relation to the Project where:
- (i) the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or
  - (ii) the Subcontractor or consultant has had an adverse Court or Tribunal decision (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law and the tenderer has not fully complied, or is not fully complying, with the order.
- (j) The Subcontractor agrees to require that it and its subcontractors or consultants and its related entities provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
- (i) inspect any work, material, machinery, appliance, article or facility;
  - (ii) inspect and copy any record relevant to the Project the subject of this Works Order; and
  - (iii) interview any person.
- as is necessary to demonstrate its compliance with the Building Code.
- (k) Additionally, the Subcontractor agrees that it and its Related Entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
- (l) The Subcontractor must ensure that all subcontracts impose obligations on sub contractors equivalent to the obligations under these Works Order Clauses.

**25. WHS REPORTING**

- (1) Subcontractors are to complete AF-S-FOR-575 Monthly OHS for Subcontractors attached each month and return it with their progress claim. This will be a condition precedent to payment of the Subcontractor's progress claim. Refer to Annexure B for the form

**26. GENERAL PRELIMINARIES**

The Subcontractor shall provide all works and/or materials necessary in relation to its activities and in a manner which a competent and experienced Subcontractor should have realised would have been required whether or not hereinafter expressly mentioned and of a standard consistent with best industry standards for this project. The 'Works' shall comprise the provision of all labour, materials, design if applicable, plant and equipment necessary to complete the Subcontract Works in accordance with the Subcontract documents as listed in the Subcontract and relevant Australian Standards, Building Code of Australia, and all Regulations and Laws/Statutory requirements and

requirements of Authorities applicable to the trade, and completed to the satisfaction of Freyssinet and Proprietor.

The Subcontractor's price has been submitted on the basis that the Subcontractor bears all the risks and costs involved in the design development (if applicable), delivery and selection of work methods for the Project.

If the Subcontract has a design requirement, then the Subcontractor shall provide all required design components as noted in the Subcontract documents and obtain approval of design. The Subcontractor shall provide a shop drawing program for Freyssinet's review and approval, allowing sufficient time for approval of shop drawings and procurement of materials to avoid any delays to the Project.

There shall be no limitation as to the safety measures the Subcontractor must have in place prior to the commencement of any works.

- (1) The following general preliminaries shall be provided by Freyssinet if so indicated in the 'Minutes of Subcontractor Interview' with the Subcontractor:
- (i) Electricity, to the extent available to Freyssinet, as connections for lighting and power to within 30 metres of the place of use. The Subcontractor will provide his own leads, lead hooks and stands, to enable a safe and satisfactory distribution of power.
  - (ii) If available, facilities for the housing of workers and space for the storage of materials but the responsibility for loss or damage of or to possessions, property and/or materials will be borne by the Subcontractor and provided that Freyssinet shall not be responsible for the erection of any sheds or structures the Subcontractor may be under an obligation to erect or construct by virtue of the provisions of any relevant law, by law, regulation, award or industrial Agreement or otherwise.
  - (iii) Plant and equipment for use in common with other Subcontractors to the extent competing requirements, as decided by Freyssinet, permit. The cost of cleaning the same after use and of repair other than that due to normal wear and tear will be charged to the Subcontractor. The Subcontractor must provide and pay for requirements outside the limits so decided.
  - (iv) Toilet accommodation and washing facilities provided on Site by Freyssinet shall be available for use by employees of the Subcontractor.
  - (v) Water is available from mains supply.
  - (vi) If at any time the facilities described in items (i) to (v) of this Clause are unavailable for any reason the Subcontractor shall make its own arrangements for these services at its own cost.
- (2) While Freyssinet's hoisting facilities are in position on the Site they may be used, if available and if not required for other hoisting purposes, including the services of driver and/or dogman within reason by the Subcontractor at market rates or as determined by Freyssinet where no market rate is applicable.
- (3) Where it is agreed in writing that Freyssinet shall provide labour and facilities for hoisting materials his liability shall only be to hoist materials to the level specified. The Subcontractor shall be responsible for all horizontal movement of materials. This vertical lifting by Freyssinet will operate on the Site on a shared basis and has limited duration and frequency. Freyssinet does not guarantee continuity of use. Use of Freyssinet's facilities is to be coordinated with Freyssinet's Site representative. Any additional vertical handling and lifting required by the Subcontractor over and above Freyssinet's on Site facilities is to be provided by the Subcontractor at its own cost. The Subcontractor is to provide all labour to arrange material for vertical lifting and to take delivery and store material after having been lifted to any location either internally or externally. No material is permitted to remain on the loading platform/area. The Subcontractor shall ensure that a competent full time representative is on site for receiving deliveries. The Subcontractor shall provide transportation methods for delivery of all materials, including delivery in suitably designed and approved lifting cage if required, and be responsible for any damage during transport.
- (4) Where Freyssinet provides labour and/or materials to or for the Subcontractor at its request then they will be charged to the Subcontractor at rates as determined by Freyssinet.



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- (5) Unless it is agreed in writing the Subcontractor shall supply all scaffolding and any other access requirements to carry out the Subcontract Works.
- (6) Should the Subcontractor use any scaffolding, hoists or other services provided by Freyssinet then such use shall be on the express condition that no warranty or other liability on the part of Freyssinet arises or is implied as to their fitness condition or suitability and the Subcontractor indemnifies Freyssinet against any loss or damage or penalty incurred arising out of the use by the Subcontractor or his employees of them.
- (7) The Subcontractor shall ensure that all services and facilities provided or used by the Subcontractor comply with the requirements of all authorities and any relevant law, by law, regulation, award or industrial Agreement or other industry standards. All use shall be subject to the ongoing approval of Freyssinet.
- (8) All debris and rubbish from the Subcontractor's work shall be removed by the Subcontractor in accordance with Freyssinet's instruction and to the satisfaction of Freyssinet within 24 hours of its creation, failing which Freyssinet may cause it to be removed at the cost of the Subcontractor.
- (9) Before arranging deliveries of materials to Site the Subcontractor must advise Freyssinet sufficient time in advance so that delivery time can be allocated.
- (10) Unless expressly agreed otherwise in writing the Subcontractor shall not be entitled to park vehicles on Site.
- (11) The Subcontractor shall pay all fees, permits, and the like in relation to the Subcontract as required by the relevant Authorities.
- (12) The Subcontractor shall provide all adequate communication facilities including site telephones, mobile phones, and facsimile facilities to carry out the Subcontract Works.
- (13) The Subcontractor shall provide a 'working' first aid representative for all works performed after normal working hours.
- (14) The Subcontractor shall provide all necessary temporary barricading and signage, as required by Freyssinet and relevant Authorities.
- (15) The Subcontractor shall work a minimum six day week and any necessary overtime required to achieve and or complete Freyssinet's milestone dates within the working hours determined by Freyssinet.
- (16) The Subcontractor shall set out the Subcontract Works from major grid data and benchmarks provided by Freyssinet.
- (17) The Subcontractors employees shall have current general and specific health and safety induction training (green card) before commencing works on Site.
- (18) The Subcontractors employees shall attend a site specific induction before commencing works on Site.
- (19) The Subcontractor's electrical equipment shall be tested and tagged periodically.
- (20) The Subcontractor shall provide all concrete saw cutting and/or coring, including water control as necessary for his Subcontract Works. The Subcontractor shall obtain Freyssinet's written approval prior to commencing these works.
- (21) The Subcontractor has allowed for all necessary out of hours works to complete his Subcontract Works (where authorised by Freyssinet).
- (22) No high velocity power tools to be used on site except where authorised by Freyssinet.
- (23) If required, the Subcontractor shall provide traffic management, traffic control, road closure permits, fees, notifications as necessary to carry out the Subcontract Works. The Subcontractor is required to submit traffic management plans to Freyssinet for comment prior to commencement of works.
- (24) The Subcontractor has allowed for the Subcontract Works to be carried out in accordance with Freyssinet's construction program and/or directions received from site personnel.
- (25) The Subcontractor shall undertake a survey of the works area to check the accuracy, or otherwise, of the base structure to receive his Subcontract Works. If the Subcontractor commences his works on the base structure he is deemed to have accepted the suitability of the base structure for his Subcontract Works. If the Subcontractor deems that the base structure is unacceptable to him then he is to inform Freyssinet immediately and prior to commencing any Subcontract Works.
- (26) The Subcontractor shall provide all the necessary certifications, as built drawings, warranties as required by the Subcontract documentation upon completion of the Subcontract Works.
- (27) Quality Assurance System if required by the Subcontract Documents and/or Freyssinet. The Subcontractor shall prepare and submit a Quality Plan specific to the Subcontractor's obligations under this Subcontract and which describes the Subcontract quality assurance system for review by Freyssinet. If not stated within the Subcontract Documents, as a minimum outline, the Quality Plan should include the following:
- (i) A copy of the Quality Plan is to be issued to Freyssinet within two weeks of the execution of the Subcontract or prior to commencing work under the Subcontract whichever is earlier.
  - (ii) The Quality Plan is to be promptly updated as necessary during the currency of the Subcontract and a copy of any updates provided promptly to Freyssinet.
  - (iii) If the Subcontract includes design, a design plan must be submitted to Freyssinet for review prior to commencing the detailed design. The design plan must identify design standards, design responsibilities, extent of verification. The design plan must also identify design review stages. A copy of all design computations is to be submitted to Freyssinet as part of conformance records. The provision of any such consent shall not relieve the Subcontractor from responsibility for such design or from any of its liabilities under the Subcontract.
  - (iv) Before commencing particular work, the Subcontractor is to submit for Freyssinet's review a copy of the applicable Inspection and Test Plan including relevant field checklists. Any such review by Freyssinet shall not relieve the Subcontractor from any of its liabilities under the Subcontract. Checklists used to control and document the works must be customised to the project to reflect particular requirements of the Subcontract including Hold and Witness Points. The Inspection and Test Plan is to identify all of the criteria necessary to certify conformance of a portion of work.
  - (v) The Subcontractor is to incorporate and comply with any additional Hold and Witness Points directed by the Contractor.
  - (vi) The Subcontractor is to submit to Freyssinet conformance reports including certification that all applicable requirements of the ITPs have been met.
  - (vii) The Subcontractor must notify Freyssinet in writing of any non conformances in the Subcontract Works and course of follow up action.
  - (viii) If required by the Subcontract Documents, the Subcontractor is to provide an updated conformance summary every month to Freyssinet for review in conjunction with submission of the Subcontractor's work progress claim. Portions of work for which records of full conformance are not provided may be subject to reduced valuation by Freyssinet.
  - (ix) Freyssinet may use the Subcontract Works and, provided Freyssinet uses the Subcontract Works in a proper manner, the Subcontract Works shall remain at the Subcontractor's risk until the expiration of the Defects Liability Period referred to in the Subcontract.
  - (x) The Subcontractor is responsible for carrying out all testing which is necessary to demonstrate compliance with the Subcontract requirements. At any time prior to the issue of the Final Payment Certificate under the Head Contract Freyssinet is entitled to conduct audits, surveillance and testing as Freyssinet considers appropriate to verify that the Subcontractor has complied with the Subcontract and is implementing and maintaining an effective Quality Assurance System to deliver the Subcontract Works in accordance with the Subcontract. Before conducting a test at a Witness Point or Hold Point, the Subcontractor shall give reasonable notice in writing of the time, date and place of the test.
  - (xi) Tests shall be conducted as required in the Subcontract and in accordance with submitted Inspection and Test Plans. Additional or special tests may be conducted by Freyssinet.
  - (xii) Results of tests for product verification shall be made available in accordance with the provisions of the Subcontract. If no such specific provisions exist, results of



## SUBCONTRACTOR WORKS ORDER TERMS AND CONDITIONS

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- tests for product verification must be made available by each party to the other.
- (xiii) If the Subcontractor fails to comply with any or all of the Quality Assurance requirements of this Clause, Freyssinet may implement such inspections and tests and undertake any work Freyssinet deems necessary to obtain verification required by Freyssinet. The resulting cost incurred by Freyssinet as a result of any action taken under this Clause shall be a debt due from the Subcontractor.
- (28) Defects that become apparent after Practical Completion must be rectified by the Subcontractor without delay and can not be allowed to accumulate. The Subcontractor shall arrange if necessary cleaning and associated costs upon completion of the rectification of the defects. Freyssinet may notify a further defects liability period for work which has been the subject of defect rectification. The further period shall not be longer than the primary Defects Liability Period.
- (29) The Subcontractor has allowed for the fast track completion of any required sample panels and/or prototypes etc required by the Subcontract documents to be carried out expeditiously for review and approval.
- (30) It is acknowledged by the Subcontractor that a personal copy of all head contract documents have not been issued to the Subcontractor. The Subcontractor acknowledges that such documents will form part of the Subcontract and are available to the Subcontractor for viewing at Freyssinet's Head Office prior to signing the Subcontract Agreement.
- (31) The Subcontractor must carry out the Subcontract Works in accordance with any instructions given by Freyssinet from time to time. If the Subcontractor wishes to claim that an instruction, although not stated to be a variation, involves a variation, it must lodge written notice with Freyssinet to that effect, and in any case, the Subcontractor must execute the variation even if the price is not agreed and notwithstanding any dispute.
- (32) The Subcontractor is responsible to coordinate all consultant drawings, relevant shop drawings, and all details. Furthermore, the Subcontractor has allowed for coordination and interface with all trades and services.
- (33) All Subcontract works shall allow for settlement and/or movement of the building structure and finishes.
- (34) The Subcontractor has allowed for all conditions as encountered on site, including but not limited to, latent conditions, such as existing in ground conditions, services, etc.
- (35) The Subcontractor is responsible for all rectification costs to following trades. For example, due to out of plumb, out of square, out of position or irregular walls, columns, or other Subcontract Works.
- (36) The Subcontractor shall protect drains from contamination and blockage from debris, rubbish and the like from the Subcontract Works.
- (37) The Subcontractor has allowed for complete dust control, erosion control, noise control, vibration control and associated monitoring if required
- (38) The Subcontractor is responsible for any damage caused by any fixing and/or installation of the Subcontract Works for any reason whatsoever.
- (39) Should Freyssinet, at Freyssinet's discretion require the Subcontractor to demolish, remove and/or replace any of the works due to the quality of the work being unacceptable, the Subcontractor shall rectify the works all at the Subcontractor's cost.
- (40) It is the responsibility of the Subcontractor to ensure that they are working off the current drawings and specifications, and to ensure that they highlight any discrepancies or missing information that may exist. No delay claim, extension of time, or additional costs will be considered as a result of the Subcontractors oversight in drawing amendment or planning.
- (41) If the Subcontract is a Design and Construct contract, the Subcontractor then acknowledges that all drawings and specification available at the time of Subcontract award is preliminary in nature and has allowed for design development works and associated costs (if such development or refinement does not alter or vary the nature or intent of the works).
- (42) In the event that this General Preliminaries, or any other section of this Subcontract documents conflicts with any items and/or condition noted, it shall be deemed that the Subcontractor has allowed for the higher specification, higher costs and more onerous condition/requirement in the Subcontract Price.
- (43) The Subcontract Price shall not be subject to any fluctuations and/or escalation's as a consequence of any increase in the cost of wages, materials or plant or any other alteration whatsoever and includes levies and allowances whatsoever for the duration of the construction of the works and thereafter for the fulfilment of the Subcontractors obligations during the defects liability period.
- (44) The Subcontractor shall be deemed to have inspected the site and to have fully informed himself of the nature of the work under the Head Contract and Subcontract.
- (45) The Subcontractor has allowed provision for the payment of any site allowances. A requirement for or adjustment to site allowances during the term of the Subcontract shall not constitute a variation under this Subcontract.
- (46) The Subcontractor acknowledges that access to and possession of the work areas shall not be exclusive to the Subcontractor, but only enable him to carry out the Subcontract Works concurrently with the execution of the works of others.
- (47) The Subcontractor has included for supplying their own bins as well as collecting and delivering those bins to the ground floor, or as nominated by Freyssinet, and emptying them into the rubbish skips provided by Freyssinet. Recyclable materials may be placed in appropriate bins if there is an site waste management system in the Project.
- (48) The Subcontractor has allowed to supply and install all items required for a safe working system.
- (49) The Subcontractor has allowed to provide all personal protective equipment and clothing required to undertake the Subcontract Works for their employees.
- (50) The Subcontractor shall ensure that during Subcontract Work the public ways, ie, public roads and footpaths, are not obstructed by building materials or vehicles, or in any way whatsoever. The Subcontractor shall avoid unnecessary interference with the passage of people and vehicles and shall prevent nuisance and unreasonable noise and disturbance.
- (51) The Subcontractor shall clean roads and footpaths and wash down vehicles and the like before exiting the Site in accordance with Freyssinet and Authorities requirements.
- (52) The Subcontractor shall be responsible for all traffic management, associated with the Subcontract Works, to enable the Works to proceed safely and in accordance with Authorities requirements. If required by Freyssinet and the relevant authorities, the Subcontractor shall prepare and submit a Traffic Control Plan of any part of the Subcontract Works to Freyssinet prior to submission to the relevant authorities. The Subcontractor shall implement the approved Traffic Control Plan for the Subcontract Works, as approved to meet the relevant authorities requirements.
- (53) The Subcontractor has allowed to protect, maintain and keep clean, including providing mechanical sweeping/cleaning the roads, crossovers, footpaths, as required.
- (54) The Subcontractor shall attend regular and special project meetings as required by Freyssinet, including but not limited to Safety meetings, co-ordination meetings, subcontractor meetings which may be held at either the Site or at Freyssinet's head office.
- (55) The Subcontractor has allowed for all out of sequence work.
- (56) The Subcontractor has allowed for removing all packaging materials of his works from site, particularly polystyrene packaging.
- (57) The Subcontractor shall cover, protect and maintain all materials as delivered and installed. The Subcontractor is fully responsible for the care and protection of his work, both during and until Practical Completion, including all materials destined for the works, to the completion and carrying out repairs and making good any damage to the works.
- (58) The Subcontractor has allowed to supply ladders, temporary ramps, temporary handrails, and the like, to complete the Subcontract Works as required.
- (59) The Subcontractor has allowed to provide all equipment, power and hand tools, materials and labour necessary to complete the works, including forklift hire and compressor if required.



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- (60) The Subcontractor shall not use permanent sanitary fixtures and fittings, kitchens and sinks and the like will not be used to wash tools or equipment.
- (61) Storage and security of all materials on and off site is the responsibility of the Subcontractor. The Subcontractor is aware and accepts that there will be site storage constraints on site.
- (62) The Subcontractor is responsible for a final trade clean, and defect repair of all works included in this Subcontract to Freyssinet's satisfaction, and in accordance with the construction program.
- (63) The Subcontractor has allowed for a representative to attend all site safety walks and safety committee meetings as required by Freyssinet.
- (64) The Subcontractor agrees should any untagged electrical plant/equipment be discovered, or the failure to produce testing and maintenance records by the Subcontractor, the Subcontractor shall immediately remove it from the workface and rectify immediately. Failure to rectify, Freyssinet may carry out the tagging or testing on behalf of the Subcontractor at the Subcontractor's cost.
- (65) Work Health and Safety Requirements. The Subcontractor agrees to promptly comply with all requirements under the WHS Regulation, including but not limited to:
- (i) Any directions of Freyssinet in accordance with submission of a Project Specific Safety Plan;
  - (ii) The Subcontractor must provide Freyssinet, monthly or more frequently on request from Freyssinet, with a copy of all registers, records and documents that Freyssinet is required to prepare or maintain as a Principal Contractor under the WHS Regulation. That is objective evidence of Safety Plan Maintenance being, updated employee induction, plant servicing, toolbox talk minutes of meetings.
  - (i) Submit safe work method statements and hazardous substance registers.
- (ii) All employees comply with all statutory obligations of Freyssinet
  - (iii) All employees comply with the Subcontractor's Project Specific Safety Plan
  - (iv) All employees comply with any direction of Freyssinet concerning a perceived breach of the WHS Regulation or any matter related to Work Health and Safety.
  - (v) Maintain appropriate safety precautions and programs, so as to prevent injury to persons or damage to property.
  - (vi) Implement and comply with all necessary security requirements of Freyssinet for the Site.
  - (vii) Ensure that all Subcontract Works are carried out in a safe manner including erecting and maintaining all safeguards necessary for safety and protection, ie, barriers, fences, railings. In addition, posting danger signs and other warnings against hazards and notifying Freyssinet and other users of any dangerous or hazardous conditions arising out of the performance of the Subcontract Works.
  - (viii) The Subcontractor must ensure that all constructional plant is maintained in a safe working order.
  - (ix) If Freyssinet considers that any constructional plant is unsafe, Freyssinet may direct the Subcontractor to stop using the plant, until it has been brought into a safe working order.
- (66) After wet weather, Subcontractor to assist in dewatering the Site, including but not limited to, allowance to setup, install, and remove equipment, etc, to return the Site to a dry condition during the Subcontract Works on site.
- (67) The Subcontractor warrants that they have the expertise and ability to execute the Subcontract Works to a successful completion in accordance with the attached documentation to the satisfaction of Freyssinet inclusive if applicable of any design development work.

**ANNEXURE "A"**  
**STATUTORY DECLARATION**  
**(Oaths Act 1990 (NSW))**

**[Name of Subcontractor]**

**[Name of Project]**

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

**between**

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736) ("Freyssinet")

**and**

[ ] (ABN) ("Subcontractor")

I, of in the state of NSW, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
6. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
7. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
8. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
9. Attached to and forming part of this declaration is a Subcontractor's Statement given by the Subcontractor's contractors in its capacity as "Subcontractor" (as that term is defined in the *Workers Compensation Act 1987*, *Pay-roll Tax Act 1971* and *Industrial Relations Act 1996*) which is a written statement;
  - a. under the *Workers Compensation Act 1987*, section 175B, in the form and providing the detail required by that legislation;
  - b. under the *Pay-roll Tax Act 1972*, section 32H, in the form and providing the detail required by that legislation; and
  - c. under the *Industrial Relations Act 1996*, section 127, in the form and providing the details required by that legislation.
10. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
11. The obligations of the Subcontractor under the Subcontract relating to the *Building and Construction Industry Security of Payment Act 1999* (NSW), if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
12. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Subcontractor by its subcontractors, as referred to in this declaration.

**AND I MAKE** this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1900* (NSW).

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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:« .....

DECLARED at )

\* [delete appropriate text]

1. \*I saw the face of the declarant/deponent *OR*  
\*I did not see the face of the declarant/deponent because he/she was wearing a face covering, but I am satisfied that he/she had a special justification for not removing it, and
2. \*I have known the person for at least 12 months *OR*  
\*I confirmed the person's identity with .....  
[describe identification document relied on]



# SUBCONTRACTOR'S STATEMENT

## REGARDING WORKER'S COMPENSATION, PAYROLL TAX AND REMUNERATION (Note1 – see back of form)

For the purposes of this Statement a "subcontractor" is a person (or other legal entity) that has entered into a contract with a "principal contractor" to carry out work.

This Statement must be signed by a "subcontractor" (or by a person who is authorised, or held out as being authorised, to sign the statement by the subcontractor) referred to in any of s175B *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007*, and s127 *Industrial Relations Act 1996* where the "subcontractor" has employed or engaged workers or subcontractors during the period of the contract to which the form applies under the relevant Act(s). The signed Statement is to be submitted to the relevant principal contractor.

**SUBCONTRACTOR'S STATEMENT (Refer to the back of this form for Notes, period of Statement retention, and Offences under various Acts.**

Subcontractor: ..... ABN: .....  
*(Business name)*

of .....  
*(Address of subcontractor)*

has entered into a contract with ..... ABN:.....  
*(Business name of principal contractor)* **(Note 2)**

Contract number/identifier ..... **(Note 3)**

This Statement applies for work between: ...../...../..... and ...../...../..... inclusive, **(Note 4)**

subject of the payment claim dated: ...../...../..... **(Note 5)**

I, ..... a Director or a person authorised by the Subcontractor on whose behalf this declaration is made, hereby declare that I am in a position to know the truth of the matters which are contained in this Subcontractor's Statement and declare the following to the best of my knowledge and belief:

- (a)** The abovementioned Subcontractor has either employed or engaged workers or subcontractors during the above period of this contract. Tick [ ] if true and comply with **(b)** to **(g)** below, as applicable. If it is not the case that workers or subcontractors are involved or you are an exempt employer for workers compensation purposes tick [ ] and only complete **(f)** and **(g)** below. You must tick one box. **(Note 6)**
- (b)** All workers compensation insurance premiums payable by the Subcontractor in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated ...../...../..... **(Note 7)**
- (c)** All remuneration payable to relevant employees for work under the contract for the above period has been paid. **(Note 8)**
- (d)** Where the Subcontractor is required to be registered as an employer under the *Payroll Tax Act 2007*, the Subcontractor has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this Subcontractor's Statement. **(Note 9)**
- (e)** Where the Subcontractor is also a principal contractor in connection with the work, the Subcontractor has in its capacity of principal contractor been given a written Subcontractor's Statement by its subcontractor(s) in connection with that work for the period stated above. **(Note 10)**

**(f)** Signature ..... Full name.....

**(g)** Position/Title ..... Date ...../...../.....

**NOTE:** Where required above, this Statement must be accompanied by the relevant Certificate of Currency to comply with section 175B of the *Workers Compensation Act 1987*.

## Notes

1. This form is prepared for the purpose of section 175B of the *Workers Compensation Act 1987*, Schedule 2 Part 5 *Payroll Tax Act 2007* and section 127 of the *Industrial Relations Act 1996*. If this form is completed in accordance with these provisions, a principal contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor.

A principal contractor can be generally defined to include any person who has entered into a contract for the carrying out of work by another person (or other legal entity called **the subcontractor**) and where employees of the subcontractor are engaged in carrying out the work which is in connection with the principal contractor's business.

2. For the purpose of this Subcontractor's Statement, a principal contractor is a person (or other legal entity), who has entered into a contract with another person (or other legal entity) referred to as the subcontractor, and employees/workers of that subcontractor will perform the work under contract. The work must be connected to the business undertaking of the principal contractor.
3. Provide the unique contract number, title, or other information that identifies the contract.
4. In order to meet the requirements of s127 *Industrial Relations Act 1996*, a statement in relation to remuneration must state the period to which the statement relates. For sequential Statements ensure that the dates provide continuous coverage.

Section 127(6) of the *Industrial Relations Act 1996* defines remuneration '*as remuneration or other amounts payable to relevant employees by legislation, or under an industrial instrument, in connection with work done by the employees.*'

Section 127(11) of the *Industrial Relations Act 1996* states '*to avoid doubt, this section extends to a principal contractor who is the owner or occupier of a building for the carrying out of work in connection with the building so long as the building is owned or occupied by the principal contractor in connection with a business undertaking of the principal contractor.*'

5. Provide the date of the most recent payment claim.
6. For Workers Compensation purposes an exempt employer is an employer who pays less than \$7500 annually, who does not employ an apprentice or trainee and is not a member of a group.
7. In completing the Subcontractor's Statement, a subcontractor declares that workers compensation insurance premiums payable up to and including the date(s) on the Statement have been paid, and all premiums owing during the term of the contract will be paid.
8. In completing the Subcontractor's Statement, a subcontractor declares that all remuneration payable to relevant employees for work under the contract has been paid.
9. In completing the Subcontractor's Statement, a subcontractor declares that all payroll tax payable relating to the work undertaken has been paid.
10. It is important to note that a business could be both a subcontractor and a principal contractor, if a business 'in turn' engages subcontractors to carry out the work. If your business engages a subcontractor you are to also obtain Subcontractor's Statements from your subcontractors.

## Statement Retention

The principal contractor receiving a Subcontractor's Statement must keep a copy of the Statement for the periods stated in the respective legislation. This is currently up to seven years.

### Offences in respect of a false Statement

In terms of s127(8) of the *Industrial Relations Act 1996*, a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence if:

- (a) the person is the subcontractor;
- (b) the person is authorised by the subcontractor to give the statement on behalf of the subcontractor; or
- (c) the person holds out or represents that the person is authorised by the subcontractor to give the statement on behalf of the subcontractor.

In terms of s175B of the *Workers Compensation Act* and clause 18 of Schedule 2 of the *Payroll Tax Act 2007* a person who gives the principal contractor a written statement knowing it to be false is guilty of an offence.

## Further Information

For more information, visit the WorkCover website [www.workcover.nsw.gov.au](http://www.workcover.nsw.gov.au), Office of State Revenue website [www.osr.nsw.gov.au](http://www.osr.nsw.gov.au), or Office of Industrial Relations, Department of Commerce website [www.commerce.nsw.gov.au](http://www.commerce.nsw.gov.au). Copies of the *Workers Compensation Act 1987*, the *Payroll Tax Act 2007* and the *Industrial Relations Act 1996* can be found at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

ANNEXURE "A"

STATUTORY DECLARATION (VICTORIA)

[Name of Subcontractor]

[Name of Project]

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

between

Freyssinet Australia Pty Ltd (ABN 15 002 617 736) ("Freyssinet")

and

[ ] (ABN) ("Subcontractor")

I, of in the state of VIC, do hereby solemnly declare and affirm that:

- 1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of a certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixated materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement: ["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the Building and Construction Industry Security of Payment Act 2002 (VIC), if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Subcontractor by its subcontractors, as referred to in this declaration.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Evidence (Miscellaneous Provisions) Act 1958 (Vic).

Signature of Declarant: « .....

declared at:

Place: « .....

Date: 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 authorised witness must print or stamp his or her name, address and title under section 107A of the Evidence (Miscellaneous Provisions) Act 1958 (as of 1 January 2010), (previously Evidence Act 1958), (eg. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist)

ANNEXURE "A"

STATUTORY DECLARATION  
(QUEENSLAND)

[Name of Subcontractor]

[Name of Project]

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

between

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736) ("Freyssinet")

and

[ ] (ABN) ("Subcontractor")

I, of in the state of QLD, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of a certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the *Building and Construction Industry Payments Act 2004* (QLD), if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Subcontractor by its subcontractors, as referred to in this declaration.

**AND I MAKE** this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867* (QLD).

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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:« .....

ANNEXURE "A"

STATUTORY DECLARATION  
(WESTERN AUSTRALIA)

[Name of Subcontractor]

[Name of Project]

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

between

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736) ("Freyssinet")

and

[ ] (ABN) ("Subcontractor")

I, of in the state of WA, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of a certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the *Construction Contracts Act 2004 (WA)*, if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Subcontractor by its subcontractors, as referred to in this declaration.

**AND I MAKE** this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths, Affidavits and Statutory Declarations Act 2005 (WA)*.

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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:« .....

ANNEXURE "A"

STATUTORY DECLARATION  
(SOUTH AUSTRALIA)

[Name of Subcontractor]

[Name of Project]

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

between

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736) ("Freyssinet")

and

[ ] (ABN) ("Subcontractor")

I, of in the state of SA, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of a certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the *Building and Construction Industry Security of Payment Act 2009* (SA), if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Contractor by its subcontractors, as referred to in this declaration.

**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).

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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:« .....

**ANNEXURE "A"**  
**STATUTORY DECLARATION**  
**(TASMANIA)**

**[Name of Subcontractor]**

**[Name of Project]**

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

**between**

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736) ("Freyssinet")

**and**

[ ] (ABN) ("Subcontractor")

I, \_\_\_\_\_ of \_\_\_\_\_ in the state of TAS, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of a certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the *Building and Construction Industry Security of Payment Act 2009* (TAS) if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Contractor by its subcontractors, as referred to in this declaration.

**AND I MAKE** this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 2001* (TAS).

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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: < .....

ANNEXURE "A"

STATUTORY DECLARATION  
(AUSTRALIAN CAPITAL TERRITORY)

[Name of Subcontractor]

[Name of Project]

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

between

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736) ("Freyssinet")

and

[ ] (ABN) ("Subcontractor")

I, of in the territory of ACT, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of a certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of a certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the *Building and Construction Industry (Security of Payment) Act 2009* (ACT) if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Contractor by its subcontractors, as referred to in this declaration.

**AND I MAKE** this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Statutory Declarations Act 1936* (Cth).

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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:« .....

ANNEXURE "A"

STATUTORY DECLARATION  
(NORTHERN TERRITORY)

[Name of Subcontractor]

[Name of Project]

Statutory declaration in the matter of building contract dated [ ] ("Subcontract")

between

**Freyssinet Australia Pty Ltd**  
(ABN 15 002 617 736)

and

[ ] (ABN) ("Subcontractor")

I, of in the territory of NT, do hereby solemnly declare and affirm that:

1. I am the representative of the Subcontractor.
2. I am in a position to make this statutory declaration about the facts attested to.
3. No monies are due and owing by the Subcontractor in respect of the Subcontract Works as at the date of this declaration.
4. All remuneration and any other amounts payable to the Subcontractor's employees for work done in connection with the Subcontract to the date of this statutory declaration have been paid and the Subcontractor has made provision for all other benefits accrued in respect of the employees.
5. All workers compensation insurance premiums payable by the Subcontractor to the date of this statutory declaration in respect of the work done in connection with the Subcontract have been paid. This statutory declaration is accompanied by a copy of any relevant certificate of currency in respect of that insurance.
6. The Subcontractor has paid every subcontractor, supplier and consultant all amounts payable to each of them by the Subcontractor as at the date of statutory declaration with respect to engagement of each of them for the performance of work or the supply of materials for or in connection with the subcontract.
7. The Subcontract has paid payroll tax in respect of wages paid or payable to the relevant employees for work done in connection with the Contract to the date of this Statutory Declaration.
8. All insurances required to be maintained by the Subcontractor are in force. This statutory declaration is accompanied by a copy of any relevant certificate of currency in respect of those insurances.
9. I am aware that the Subcontractor is required to keep copies of this statement and any related certificates of currency of insurance for at least 7 years and declare that the Subcontractor has accordingly made arrangements for the secure retention of all written statements.
10. All title to any unfixed materials on or adjacent to the Subcontract Works shall be passed to Freyssinet immediately upon presentation of the progress claim and that no other lien or encumbrance exists over the title to those materials.
11. The following subcontractors and suppliers of the Subcontractor have invoked the dispute resolution procedure under their subcontract or supply agreement:  
["insert list of sub-subcontractors and suppliers that have invoked the dispute resolution procedure under their subcontract or supply agreement" or "none"]
12. The obligations of the Subcontractor under the Subcontract relating to the *Construction Contracts (Security of Payments) Act 2004* (NT), if any, including payment of employees, workers and subcontractors of the Subcontractor have been complied with by the Subcontractor.
13. I am not aware of anything which would contradict the statements made in the statutory declarations and written statements provided to the Contractor by its subcontractors, as referred to in this declaration.

**AND I MAKE** this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths, Affidavits and Declarations Act 2010* (NT).

Signature of Declarant: " .....

**declared at:**

Place: " .....

Date: 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:« .....

**ANNEXURE B**

	<b>MONTHLY OHS SUBMISSION FOR SUBCONTRACTORS</b>	Code: <b>AF-S-FOR-575</b>
		Revision: <b>A</b>
		Page: <b>1/1</b>

This document is to be forwarded as part of your Companies progress claim each month. Please ensure that all areas are complete and where required relevant forms are attached.

Date \_\_\_\_\_ Reporting Month \_\_\_\_\_

Project Name \_\_\_\_\_

Subcontractor Name \_\_\_\_\_

Element	Monthly Total
Average number of personnel	
Hours Worked	
Number of Lost Time Injuries (LTI <sup>1</sup> )	
Number of Work Days Lost due to LTI	
Number of Medical Treatment Injuries (MTI <sup>2</sup> )	
Number of hours lost due to MTI	
Number of non injury incidents <sup>3</sup>	
Number of SWMS produced	
Number of toolbox meetings conducted	

Name \_\_\_\_\_

Signature \_\_\_\_\_

1. LTI: Lost Time Injury. This is recorded when an employee is absent from work for a full shift as the result of a work related injury.
2. MTI: Medical Treatment Injury. This is when an employee has received first aid or Doctors treatment resulting from a work related injury
3. Non Injury Incident: Near Miss etc

ANNEXURE C

# Deed of Release

## Details

---

### Parties

Name .....;  
ABN/ACN.....  
**(“the Subcontractor”)**

Name **Freyssinet Australia Pty Limited;**  
ABN/ACN.....  
**(“Freyssinet”)**

THIS DEED OF RELEASE is made on ..... day of ..... 20.....  
by the Subcontractor in the favour of Freyssinet.

### Introduction

A Whereas the Subcontractor has performed works and submitted a Final Claim for payment and return of security in relation to any entitlement that the Subcontractor has now or may have in the future and Freyssinet has reached an agreement with the Subcontractor as to the Final Payment to be made to the Subcontractor.

B Pursuant to the contract between Freyssinet and the Subcontractor dated .....(“**the Contract**”), the Subcontractor is entitled to receive:

- the amount of \$..... comprised of:
  - (i) the retention due to the Subcontractor in a sum of \$.....and
  - (ii) final payment payable by Freyssinet to the Subcontractor in a sum of \$.....

**or**

- (i) return of bank guarantee no .....and
- (ii) final payment payable by Freyssinet to the Subcontractor in a sum of \$.....

# Terms

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## 1. Release

The Subcontractor hereby unconditionally waives, releases and forever discharges Freyssinet, to the extent permitted by law, from all claims of any and every kind (including based on statute, common law including negligence and equity), name, nature and description, which the Subcontractor may now have or assert against Freyssinet or might subsequently accrue to the Subcontractor, arising out of or in connection with, directly or indirectly, the Contract or the works, including for any outstanding payment under the Contract.

## 2. Indemnity

The Subcontractor indemnifies and keeps indemnifying Freyssinet and its officers, servants and agents, from and against all claims of any and every kind, name, nature and description, by any person, corporation or firm arising from or in any way in connection with, or incidental to, or by virtue of the Contract or out of its performance.

## 3. Confirmation

The Subcontractor confirms that this Deed does not relieve the Subcontractor of any of its obligations under the Contract, nor does it restrict any of the rights of Freyssinet.

The Subcontractor confirms that the provision of warranties and guarantees of or by the Subcontractor, whether pursuant to the Contract or otherwise and any payment made in accordance with this Deed, will not in any manner effect the obligations of the Subcontractor pursuant to the Contract or otherwise, or constitute an acceptance of defective or improper materials or workmanship.

The Subcontractor acknowledges that variations instructed after the date of this Deed will not alter the Deed or restrict any claims enforceable by this Deed.

The Subcontractor agrees that if the Subcontractor makes any claim or claim under the *Building and Construction Industry Security of Payment Act, 1999* (“**the Act**”) to Freyssinet after the date of this Deed, then any releases or waivers provided by Freyssinet in relation to any kind of liquidated damages or other claims Freyssinet may have against the Contractor (including compromises resulting from negotiation or agreement) or any obligations on Freyssinet to pay any monies pursuant to this Deed or the Contract shall be of no force or effect and all claims asserted by Freyssinet against the Subcontractor shall be immediately due and payable by the Subcontractor to Freyssinet, together with interest calculated at the Supreme Court rate from the Completion Date until the claims are paid in full.

## 4. Declaration

The Subcontractor declares and confirms that all entitlements and wages due and/or owing to employees, contractors, consultants and others employed or engaged by it in connection with the Contract have been paid in full.

The Subcontractor declares that all statutory requirements, including but not limited to public liability, workers' compensation insurance premiums and all taxation requirements have been paid.

## 5. Waiver

Any entitlement or claimed entitlement of the Subcontractor to the Contract Price or any other payment or claim in relation to or in connection with carrying out the works not claimed prior to the date of this Deed, is hereby waived by the Subcontractor and is not recoverable.

**ANNEXURE C**

**6. Interpretation**

Words not defined in this Deed have the same meaning as in the Contract.

'claims' means all manner of actions, suits, causes of action, proceedings, arbitrations, debts, costs (including legal costs), claims, demands, damages, expenses, liens, losses, interest, verdicts, judgment or other liability whatsoever, whether under contract, at law and/or in equity, or arising under the provisions of statute, whether known or unknown.

**Execution**

---

**EXECUTED as a Deed** this ..... day of ..... 20

**Executed by Freyssinet Australia Pty Limited** (ABN ..... ) in accordance with Section 127 of the *Corporations Act 2001* in the presence of

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Signature of witness ←

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name of witness (print)

**Executed by** \_\_\_\_\_ (ABN ..... ) in accordance with Section 127 of the *Corporations Act 2001* in the presence of

\_\_\_\_\_  
Signature ←

\_\_\_\_\_  
Signature of witness ←

\_\_\_\_\_  
Name.

\_\_\_\_\_  
Name of witness.