QUEENSLAND RAIL LIMITED
MAJOR BUILDING AND CONSTRUCTION
SPECIAL CONDITIONS OF CONTRACT
FOR USE WITH AS2124

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APPENDIX A

SC1. PRIORITY OF DOCUMENTS

Should there be any ambiguity, discrepancy or inconsistency in the interpretation of or between one or more of the documents forming part of this Contract, the priority of documents shall be as stated in the Instrument of Agreement or where there is no Instrument of Agreement in descending order as follows:

1) The Special Conditions of Contract

2) The General Conditions of Contract (as amended)

3) The Specification

4) The Drawings

SC2. CONTRACTOR'S ACKNOWLEDGMENT

The Contractor warrants that the Contractor has entered into this Contract based on the Contractor's own investigations, interpretations, deductions, information and determinations and acknowledges that the Principal has entered into this Contract relying upon this warranty.

SC3. ACCESS TO CONTRACTOR'S PREMISES

If required by the Principal or the Superintendent, the Contractor shall give the Principal or the Superintendent access to the Contractor's premises and/or the premises of the Contractor's subcontractors, suppliers and others at which any work is being undertaken under this Contract and the Principal and the Superintendent shall be entitled to inspect, examine and test the materials, goods, workmanship and work methodology employed at those locations.

The Contractor shall further ensure that the Contractor's subcontractors, suppliers and installers give the Principal or the Superintendent access to those premises not being the Site of the Works, for the purposes described above.

SC4. INDUSTRIAL RELATIONS

1) The Contractor shall establish, maintain and administer an industrial relations policy for the Site so as to ensure timely and economical completion of the Works. The Contractor shall comply with and ensure that all persons employed or engaged in the Works by the Contractor or by any of the Contractor's subcontractors or suppliers are paid all amounts, receive such benefits and allowances and are employed subject to such conditions to which they may be entitled to as a result of any appropriate statute, ordinance, subordinate legislation, award, building industry agreement, contract of employment, determination, judgment, order of any competent Court, board, commission or other industrial tribunal in force in relation to the Works.

2) The Contractor shall take all necessary steps to prevent any industrial dispute arising which may affect the carrying out of the Works. The Contractor shall forthwith advise the Superintendent of details of any industrial relations issue or dispute which may adversely affect the Works.

3) The Contractor shall not engage and shall ensure that the Contractor's subcontractors do not engage in what is referred to in the building industry as "pyramid subcontracting", "all in payments", or "cash in hand payments".

4) Should there be any breach by the Contractor of this clause which either directly or indirectly causes industrial action, the Contractor shall not be entitled to an extension of time or to make any other claim against the Principal in relation thereto.

5) Should a dispute occur as a result of any such breach which causes the Principal to incur loss or cost, the Contractor shall be responsible for such loss or cost including interest charges. Such loss or cost may be recovered from the Contractor as a debt due by the Contractor to the Principal.

SC5. TAXATION

1) The Contractor shall comply, and shall ensure that the Contractor's subcontractors comply, with the provisions of the Income Tax Assessment Act 1997 (Cwth) (as amended) and all and any other applicable acts and regulations with respect to the deduction and payment of tax instalment deductions from salaries and wages paid to employees and PPS deductions from subcontractors and sub-subcontractors.

SC5.1 GST on Supplies by Contractor

If GST is payable on any supply made under this Contract then:

1) The consideration to be paid or provided under this Contract will increase to include GST.

2) The Contractor will provide a GST Tax Invoice stating the amount of GST payable by the Contractor for that supply and evidence it is a registered supplier for the purposes of GST.

3) The Principal must pay the GST to the Contractor for the supply together with and at the same time as the consideration payable for the supply is paid.

4) The Contractor shall ensure any tax savings, at the time of rendering the GST Tax Invoice, are passed on to the Principal.

5) The Contractor shall do all things necessary to enable the Principal to claim an input tax credit under GST law for any cost or outgoing under the Contract.

SC5.2 GST on Principal's Supplies

1) If the Principal makes a supply under this Contract upon which GST is imposed then the consideration payable or to be provided by the Contractor under this Contract is increased by and the Contractor must pay to the Principal in addition to that consideration an amount equal to the GST payable by the Principal in respect of that supply so the Principal retains after payment of the GST in respect of that supply the amount in respect of that supply the amount which it would have retained but for the imposition of GST.

2) The Contractor must pay any amount payable under Special Condition SC5 on the earlier of the day on which any monetary consideration is payable or the day upon which the Principal is obliged to pay GST in respect of the supply upon which GST is imposed.

3) In respect of any supply to be made under Special Condition SC5 after 30 June 2000 after receiving a payment under this Contract from the Contractor the Principal must give to the Contractor a tax invoice for that payment.

SC6. ROYALTIES AND CUSTOMS DUTIES

The Contractor shall as part of the Contract Sum:

1) pay any royalties in respect of material supplied by any authority, company, corporation or other entity from whom the Contractor obtains materials for use in the Works;

2) make any application to any appropriate authority, agent or entity for permission to obtain such material or materials;

3) be responsible for lodging any claim for exemption from payment by the Contractor of any royalty with any appropriate authority, body or entity;

4) pay all customs and other duties payable in respect of goods, materials, equipment and labour used in respect of the Works; and

5) unless provided elsewhere in this Contract, pay any increase in customs or other duties in respect of any goods, materials, equipment or labour used in respect of the Works.

SC7. ENVIRONMENTAL REQUIREMENTS

The Contractor shall, as part of the Contract Sum comply with the following terms and conditions relating to the environment:

SC7.1 Preservation and Rehabilitation of the Environment

1) The Contractor shall, at all times during the Works, take all measures to preserve and protect the natural environment in the general area of the Works and the Site. In particular, the Contractor shall not indiscriminately clear land, fell trees or interfere with natural waterways.

2) The Contractor shall rehabilitate any area that has been disturbed or cleared by the Contractor for the purpose of gaining temporary access to the Site.

3) The Contractor shall ensure that all trees and other plants which do not need to be removed, destroyed or damaged, or which are specified to be retained, or which are beyond the limits allowed to the Contractor, shall be adequately protected from damage.

SC7.2 Noise and Vibration

1) The Contractor shall comply with any Statutory Regulations of Local, State and Federal Governments relating to noise control during construction, and shall take all necessary steps to minimise vibration, shock and noise arising from construction activities in respect of the Works.

2) All blasting works carried out by the Contractor shall be carried out in accordance with the requirements of the Specification and in accordance with the following Australian Standards:

AS2187 -

Part 1 - 1984 SAA Explosives Code

Part 2 - 1983

AS2188 - 1988

Explosives - Relocatable magazines for storage and the statutory regulations concerning magazines of explosive of the Local, State and Federal Governments.

SC7.3 Air Pollution

1) The Contractor shall comply with any Statutory Regulations of Local, State and Federal Governments relating to air pollution.

2) The Contractor shall ensure that all Works undertaken on Site by the Contractor or any subcontractors of the Contractor are designed to prevent or minimise emission of any objectionable matter into the atmosphere.

3) The Contractor shall take all proper precautions to prevent or minimise any nuisance arising from emissions caused by construction activity. The Contractor shall obtain the approval of the Superintendent and any Statutory or Local Authorities prior to burning off any materials.

SC7.4 Marine Pollution and Soil Conservation

1) The Contractor shall comply with any Statutory Regulations of Local, State and Federal Governments relating to marine pollution and soil conservation.

2) The Contractor shall take all proper precautions to prevent the erosion of soil from any lands used or occupied by the Contractor for the purpose of carrying out the Works.

3) Soil conservation measures on excavated surfaces or surfaces of filled material which form part of the Works shall be promptly undertaken by the Contractor in accordance with the Specification and/or as shown on the Drawings, or as directed by the Superintendent. If the Contractor's operations in other areas cause other erosion hazards, the Contractor shall promptly undertake soil conservation measures.

4) The Contractor shall take all precautions to prevent or minimise the discharge of water containing pollutants. The Contractor shall construct, maintain and operate suitable settling ponds, or other effective means that may be necessary to prevent such discharge.

SC7.5 Preservation of Flora and Fauna

Not Used.

SC7.6 Waste Disposal

Not Used.

SC7.7 Contaminated Land

1) In the event the Contractor discovers contaminated soil or material at the Site, the Contractor shall:

   a) promptly advise the Superintendent of the existence of the contaminated soil or material;

   b) in conjunction with the Principal establish what levels of soil or material contamination exist at the Site;

   c) unless otherwise approved by the Superintendent remove from the Site and dispose of all contaminated soil or material as required by the Contaminated Land Act 1991 (as amended) and any regulation thereto; and

   d) indemnify the Principal in respect of any claims which may arise or be brought by any person in relation to the removal or disposal of contaminated soil or material.

2) The Principal shall pay the Contractor the reasonable cost of compliance with this clause as a variation to the Contract.

SC7.8 Imported Soil and Material

Unless approved in writing by the Superintendent, the Contractor shall not bring onto Site soil or material which is contaminated or which originates from a Site or land which appears on the list “Environmental Schedule of Activities and Prescribed Purposes” or on the Queensland Contaminated Land Register.

SC7.9 Recycling Policy

The Contractor must comply with and carry out the Works in accordance with the Recycling Policy for Buildings and Civil Infrastructure (Recycling Policy) including compliance with directions issued to the Contractor by the Superintendent to facilitate compliance with the Recycling Policy.

SC8. ENTRY ONTO PRIVATE LAND

1) It shall be the responsibility of the Contractor, at the Contractor’s cost, to obtain any necessary permits or approvals to enter onto private land not owned or controlled by the Principal for the purpose of undertaking the Works.

2) The Contractor shall, if allowed entry onto private land, observe all requirements relating to the entry onto private land and as part of the Contract Sum pay any compensation payable to any parties which may be or become payable in respect of such entry onto private land.

3) Upon ceasing access to private land and before issue of final certificate, the Contractor shall unless otherwise directed by the Superintendent, provide to the Superintendent evidence in writing that the owner or occupier of that private land has no claims upon the Contractor with respect to or arising out of the Contractor’s access to such private land.

SC9. ADJACENT PROPERTIES

1) During the period of the Works, the Contractor shall be responsible for and shall indemnify the Principal against any loss, damage or claim caused by or arising out of any act or omission of the Contractor or the Contractor's servants, agents or subcontractors in respect of any property adjacent to or adjoining the Site.

2) The Principal shall be entitled to recover as a debt due from the Contractor any costs or loss incurred by the Principal due to any costs or loss suffered by an owner or occupier of an adjacent or adjoining property as a result of the Contractor undertaking the Works.

SC10. FENCES

Not Used.

SC11. STORAGE OF MATERIALS

Subject to the Superintendent's ultimate discretion, the Superintendent may approve or deny any request to place or store any goods, materials, plant or equipment on premises under the control or occupancy of the Principal. Should the Superintendent approve a request from the Contractor to place or store any goods, materials, plant or equipment on premises under the control or occupancy of the Principal, then the Contractor shall:-

1) abide by any conditions imposed upon such storage by the Superintendent;

2) at the Contractor's cost place or store those materials at locations directed by the Superintendent;

3) be responsible for and indemnify the Principal against any damage to or loss or deterioration of the goods, materials, plant and equipment so placed or stored; and

4) indemnify the Principal in respect of any costs, loss or damage incurred by the Principal as a result of those goods, materials, plant and equipment being stored on the Principal's premises.

SC12. MATERIALS SUPPLIED BY THE PRINCIPAL

Not Used.

SC13. DESIGN OBLIGATIONS

Not Used.

SC14. PRIOR WORKS

1) Where the proper execution of the work under the Contract is dependent on or affected by the quality or completeness of any work carried out by any other entity (Prior Work), the Contractor shall be deemed to have inspected the Prior Work and shall be deemed to be satisfied with the quality and completeness of the Prior Work.

2) If after commencement of the Works, the Prior Work subsequently proves to be unsatisfactory for the proper execution of the Works, then any work which is required to be executed by the Contractor in order to render the Prior Work suitable, satisfactory and non-detrimental for the proper execution of the Works shall be deemed to be included in the Contract Sum.

SC15. DELAYS TO TRAINS

Should the operations of Queensland Rail Limited trains be delayed by the Contractor, or the servants, agents or subcontractors of the Contractor during the Works, the Principal shall be entitled to recover and deduct from moneys owing to the Contractor Liquidated Damages in the sum or sums stated in the Appendix to these Special Conditions.

SC16. WORK ADJACENT TO OPERATING RAILWAY

Not Used.

SC17. WORK ADJACENT TO OVERHEAD LINE EQUIPMENT

Not Used.

SC18. REMOVAL OF OBSTACLES

Not Used

SC19. HAULAGE OVER PUBLIC ROADS OR RAILWAY FORMATIONS

Not Used.

SC20. OWNERSHIP AND PROTECTION OF COMPUTER SOFTWARE

1) In this clause:-

   "Computer Software" means the computer programs to be developed by the Contractor pursuant to this Contract comprising among other things a set of instructions or statements in both machine readable and human readable medium, operating manuals and other printed material, flow charts, drawings and software listings designed to assist or supplement the understanding of the computer programs.

   "Computer Software Development" means the development of computer software in accordance with the Principal's specifications, including programming, systems analysis, conversion, implementation and installation.

2) All intellectual or other rights, including copyright which may arise in respect of the Computer Software during the Computer Software Development shall vest in the Principal.

3) The Contractor shall ensure that all information, data and materials the property of the Principal, in the possession of the Contractor for the purposes of this Contract shall be protected by the Contractor at all times from unauthorised access, use or misuse by third parties, damage or destruction by any person. The Contractor shall comply with

all or any directions given by the Principal from time to time relating to security of the Computer Software or access to the Contractor's premises used for this Contract.

4) The Contractor shall:-

   a) treat as confidential any information or data obtained from the Principal pursuant to or as a result of or in the performance of this Contract or otherwise;

   a) not without the prior written consent of the Principal disclose such confidential information to a third party.

5) The Contractor warrants the Computer Software developed pursuant to this Contract does not infringe the intellectual property or any other rights of any party. The Contractor hereby indemnifies Principal against any loss, cost, expenses, demands or liability whether direct or indirect arising out of a claim by any party that the Computer Software infringes any intellectual property or other rights of that party.

6) The Principal shall promptly notify the Contractor of any infringement, suspected infringement or alleged infringement of the intellectual property or other rights of any party which relates to the Computer Software developed by the Contractor.

7) The Contractor shall if requested by the Principal at the Contractor's expense conduct the defence of any claim referred to in Clause SC20 6) hereof and shall if requested by the Contractor provide reasonable assistance in conducting such defence.

8) If it is determined by any court or tribunal that an infringement related to the Computer Software has occurred, the Contractor shall as part of the Contract Sum modify or replace the Computer Software so that such infringement is removed or procure for the Principal the right to enjoy the benefits stated in Clause SC20 2) hereof.

SC21. RISE AND FALL

Not Used.

SC22. EMISSIONS AND ENERGY DATA

SC22.1 If requested by the Principal the Contractor must provide, to the extent and in a manner and at times that will enable the Principal to comply with the National Greenhouse and Energy Reporting Act 2007 (Cwth), whatever data, information, records and/or reports of a type that a registered corporation or any other person may be required or entitled to provide under that Act (Greenhouse Data) including:

a) greenhouse gas emissions, energy production or energy consumption; and

b) reduction of greenhouse gas emissions, removal of greenhouse gases or offsets of greenhouse gas emissions from any greenhouse gas project,

relating to any aspect of the Contractor's activities and those of its subcontractors or suppliers in connection with the Works and/or Services on the Principal's sites or premises.

SC22.2 The Contractor must:

a) collect and keep all Greenhouse Data as may be required (including Greenhouse Data from its subcontractors or suppliers) to enable the Contractor to discharge its obligation under clause SC22.1 for a period of not less than seven (7) years from the end of the year in which the relevant activities take place; and

b) permit any persons appointed or approved by the Principal to examine, monitor, measure, copy, audit and/or verify the Greenhouse Data (including co-operating with and providing all reasonable assistance to any such persons, by doing such things as giving access to premises, plant and equipment, producing and giving access to documents and answering any relevant questions).

SC22.3 The Contractor acknowledges and agrees that the Principal may provide or otherwise disclose the Greenhouse Data to any applicable authority.

SC23. QLD CODE AND QLD GUIDELINES

Not Used.

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APPENDIX A

CLAUSE SC15 – DELAYS TO TRAINS

Liquidated Damages for delays to Trains (Clause SC15)	Per service cancelled:	
	Tourist trains on Kuranda Range	$6,000.00
	Per hour of delay or part thereof:	
	Coal trains, minerals and other bulk haulage trains	$1,200.00
	Container and livestock trains	$1,000.00
	General Goods trains	$550.00
	Suburban passenger trains:	
	• Per train per delay for periods up to 3 minutes 59 seconds *	$4,400.00
	• Per train per delay over 4 minutes *	$5,000.00
	Long distance passenger trains (per train)*	$1,700.00
	All other trains	$250.00

* In addition to the above figure, liquidated damages payable to the Principal shall include the invoice cost of transporting passengers by bus in accordance with the Principal's Service Requirements.

CLAUSE SC16 – WORK ADJACENT TO OPERATING RAILWAY

Not Used

CANCELLATION OF TRACK POSSESSIONS (Clause SC16.19)

Not Used

CANCELLATION OF ISOLATION (Clause SC17.18)

Not Used

CLAUSE SC19 - HAULAGE OVER PUBLIC ROADS OR RAILWAY FORMATIONS

Not Used