

Australian Standard<sup>®</sup>

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**Subcontract conditions**

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The following interests are represented on Committee OB/3:

Australian Chamber of Commerce and Industry  
Australian Electrical and Electronic Manufacturers Association  
Australian Institute of Project Management  
Australian Institute of Purchasing and Supply Management  
Australian Institute of Quantity Surveyors  
Australian Mining Industry Council  
AUSTROADS  
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**AS 2545—1993**  
(Incorporating Amendment No. 1)

**Australian Standard<sup>®</sup>**

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## **Subcontract conditions**

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## PREFACE

This Standard was prepared by the Standards Australia Committee on General Conditions of Contract to supersede AS 2545—1987, *Subcontract conditions* to provide a set of compatible subcontract conditions involving site work on projects where AS 2124—1992, *General conditions of contract*, is in use as the head contract between the Main Contractor and the Principal.

This edition of the Standard has been revised to be compatible with AS 2124—1992, AS 2125—1992 and AS 2127—1992, and is therefore recommended for use in conjunction with them. As far as possible, Clause numbers in this Standard are parallel with the corresponding provisions in AS 2124.

*This Standard incorporates Amendment No. 1 (October 2000). The changes required by the Amendment are indicated in the text by a marginal bar and amendment number against the clause, note, table, figure or part thereof affected.*

A form of formal instrument of agreement, and general conditions of tendering and form of tender are also included as an annexure at the end of AS 2545. Attention is drawn to the desirability for the parties to this contract to execute the formal instrument of agreement at the earliest opportunity, immediately after the necessary documents to form part of the subcontract are prepared. (See Clause 6.2 in this Standard in relation to the procedure for execution of the formal instrument of agreement.)

To be compatible with AS 2124—1992, this document mirrors it, on a clause by clause basis, unless the subject matter makes it inappropriate to do so. However, the difference between this edition of AS 2545 and the 1987 edition, is, with a number of appropriate exceptions, the same as the difference between AS 2124—1986 and AS 2124—1992. The latter differences are summarized in Doc 2124N Notes on Changes in the General Conditions of Contract, 4th edition (AS 2124—1992), as compared with the 3rd edition (AS 2124—1986).

Attention is invited to the provisions of Clause 49 in which the details of services and facilities to be provided are to be agreed between the parties, and indicated in the Annexure.

**WARNING: Users of this Australian Standard are warned that Clause 17 (damage to persons and property) does not limit the liability of parties for special, indirect or consequential losses.**

**This unlimited liability overrides any limitations or exclusions permitted under Insurance Clauses 18 (Insurance of the Works) and 19 (Public Liability Insurance).**

**Parties wishing to limit their liability should seek insurance and legal advice before entering a contract under this Standard.**

A1

**Legislation has come into force in some jurisdictions dealing with security of payments. Parties intending to use this Standard should seek expert advice as to their rights and obligations under such legislation.**

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## CONTENTS

	<i>Page</i>
1 CONSTRUCTION OF SUBCONTRACT .....	5
2 INTERPRETATION .....	5
3 NATURE OF SUBCONTRACT .....	7
4 BILL OF QUANTITIES .....	8
5 SECURITY, RETENTION MONEYS AND PERFORMANCE UNDERTAKINGS	9
6 EVIDENCE OF SUBCONTRACT .....	11
7 SERVICE OF NOTICES .....	12
8 SUBCONTRACT DOCUMENTS .....	12
9 ASSIGNMENT AND SECONDARY SUBCONTRACTING .....	14
10 SELECTED AND NOMINATED SECONDARY SUBCONTRACTORS .....	14
11 PROVISIONAL SUMS .....	17
12 LATENT CONDITIONS .....	18
13 PATENTS, COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS	19
14 STATUTORY REQUIREMENTS .....	19
15 PROTECTION OF PEOPLE AND PROPERTY .....	20
16 CARE OF THE WORK AND REINSTATEMENT OF DAMAGE .....	20
17 DAMAGE TO PERSONS AND PROPERTY OTHER THAN THE WORKS ...	21
18 INSURANCE OF THE WORKS .....	22
19 PUBLIC LIABILITY INSURANCE .....	22
20 INSURANCE OF EMPLOYEES .....	23
21 INSPECTION AND PROVISIONS OF INSURANCE POLICIES .....	23
22 CLERK OF WORKS AND INSPECTORS .....	24
23 MAIN CONTRACTOR'S REPRESENTATIVE .....	24
24 DIRECTIONS BY OTHERS .....	25
25 SUBCONTRACTOR'S REPRESENTATIVE .....	25
26 CONTROL OF SUBCONTRACTOR'S EMPLOYEES AND SECONDARY SUBCONTRACTORS .....	25
27 SITE .....	26
28 SETTING OUT THE WORKS .....	27
29 MATERIALS, LABOUR AND CONSTRUCTIONAL PLANT .....	27
30 MATERIALS AND WORK .....	28
31 EXAMINATION AND TESTING .....	29
32 WORKING HOURS .....	30
33 PROGRESS AND PROGRAMMING OF THE WORKS .....	31
34 SUSPENSION OF THE WORKS .....	32
35 TIMES FOR COMMENCEMENT AND SUBSTANTIAL COMPLETION .....	33
36 DELAY OR DISRUPTION COSTS .....	36
37 DEFECTS LIABILITY .....	36
38 CLEANING UP .....	37
39 URGENT PROTECTION .....	37
40 VARIATIONS .....	37
41 DAYWORK .....	39
42 CERTIFICATES AND PAYMENTS .....	40
43 PAYMENT OF WORKERS AND SECONDARY SUBCONTRACTORS .....	43
44 DEFAULT OR INSOLVENCY .....	44

	<i>Page</i>
45 TERMINATION BY FRUSTRATION .....	47
46 TIME FOR NOTIFICATION OF CLAIMS .....	48
47 DISPUTE RESOLUTION .....	48
48 WAIVER OF CONDITIONS .....	50
49 SERVICES AND FACILITIES .....	50
 ANNEXURE PART A .....	 51
APPROVED FORM OF UNCONDITIONAL UNDERTAKING .....	59
ANNEXURE PART B .....	60
CERTIFICATE OF SUBSTANTIAL COMPLETION .....	61
GENERAL CONDITIONS OF TENDERING AND FORM OF TENDER .....	62
FORM OF FORMAL INSTRUMENT OF AGREEMENT FOR SUBCONTRACT ...	64
 INDEX .....	 65

# STANDARDS AUSTRALIA

## Australian Standard Subcontract conditions

NOTE: Clauses prefixed by an asterisk can be omitted without making consequential amendments.

### 1 CONSTRUCTION OF SUBCONTRACT

The law governing the Subcontract, its interpretation, any agreement to arbitrate and the conduct of any arbitration or litigation is the law of the State or Territory stated in the Annexure.

Unless otherwise provided, prices are in Australian currency and payments shall be made in Australian currency at the place stated in the Annexure.

Communications between the Main Contractor, the Main Contractor's Representative and the Subcontractor shall be in the English language.

Measurements of physical quantities shall be in Australian legal units of measurement within the meaning of the National Measurement Act 1960 as amended from time to time.

Where provisions in the Subcontract Conditions are expressed to be alternatives and the Subcontract fails to state which alternative applies, the first alternative shall apply.

### 2 INTERPRETATION

In the Subcontract, except where the context otherwise requires—

'Bill of Quantities' means a document named therein as a Bill of Quantities issued to tenderers by or on behalf of the Main Contractor, stating estimated quantities of work to be carried out;

'Constructional Plant' means appliances and things used in the execution of the work under the Subcontract but not forming part of the Works;

'Date of Acceptance of Tender' means the date which appears on the notice in writing of acceptance of the tender;

'Date for Substantial Completion' means—

- (a) where the Annexure provides a date for Substantial Completion, the date;
- (b) where the Annexure provides a period of time for Substantial Completion, the last day of the period,

but if any extension of time for Substantial Completion is granted by the Main Contractor's Representative or allowed in any arbitration or litigation, it means the date resulting therefrom;

'Date of Substantial Completion' means—

- (a) the date certified by the Main Contractor's Representative in a Certificate of Substantial Completion issued pursuant to Clause 42.5, to be the date upon which Substantial Completion was reached; or
- (b) where another date is determined in any arbitration or litigation as the date upon which Substantial Completion was reached, that other date;

'day' means calendar day;

‘Drawings’ means the drawings referred to in the Subcontract and any modification of such drawings notified to the Subcontractor by the Main Contractor’s Representative and includes such other drawings as may from time to time be supplied to the Subcontractor by the Main Contractor’s Representative, or the use of which has been permitted by the Main Contractor’s Representative, for the purposes of the Subcontract;

‘Main Contract’ means the agreement between the Principal and the Main Contractor;

‘Main Contractor’ means the Main Contractor stated in the Annexure;

‘Main Contractor’s Representative’ means the person stated in the Annexure as the Main Contractor’s Representative or other person from time to time appointed in writing by the Main Contractor to be the Main Contractor’s Representative for the purposes of the Subcontract, and notified as such in writing to the Subcontractor by the Main Contractor;

‘Main Contract Works’ means the whole of the work to be executed under the Main Contract;

‘month’ means calendar month;

‘person’ includes a firm or body corporate or unincorporate or an individual;

‘Priced Bill of Quantities’ means the Bill of Quantities priced and lodged by the Subcontractor with the Main Contractor’s Representative and corrected where necessary from time to time under Clause 4.3;

‘Principal’ means the Principal stated in the Annexure;

‘provisional sum’ includes monetary sum, contingency sum and prime cost item;

‘Schedule of Rates’ means any schedule included in the Subcontract which, in respect of any section or item of work to be carried out, shows the rate or respective rates of payment for the execution of that work and which may also include lump sums, provisional sums, other sums, quantities and prices;

‘secondary subcontract’ means a subcontract between the Subcontractor and a secondary subcontractor;

‘secondary subcontractor’ means a subcontractor to the Subcontractor;

‘Separable Portion’ means a portion of the work under the Subcontract described in the Subcontract as a Separable Portion or which the Main Contractor’s Representative has determined pursuant to Clause 35.4 shall be a Separable Portion;

‘Site’ means the lands and other places to be made available and any other lands and places made available to the Subcontractor by the Main Contractor for the purpose of the Subcontract;

‘Specification’ means the specification referred to in the Subcontract and any modification of such specification thereafter directed or the use of which has been permitted by the Main Contractor’s Representative pursuant to powers contained in the Subcontract;

‘Subcontract’ means the agreement between the Main Contractor and the Subcontractor;

‘Subcontractor’ means the person bound to execute the work under the Subcontract;

‘Subcontract Sum’ means—

(a) where the Main Contractor accepted a lump sum, the lump sum;

(b) where the Main Contractor accepted rates, the sum ascertained by calculating the products of the rates and the corresponding quantities in the Bill of Quantities or Schedule of Rates;

(c) where the Main Contractor accepted a lump sum and rates, the aggregate of the sums referred to in paragraphs (a) and (b),

including provisional sums but excluding any additions or deductions which may be required to be made under the Subcontract;