

Australian Standard[®]

**General conditions of contract
for design and construct**

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The following interests are represented on Committee OB/3:

Australian Chamber of Commerce and Industry
AUSTROADS
Construction Industry Engineering Services Group
Construction Policy Steering Committee
Electricity Supply Association of Australia
Institution of Professional Engineers New Zealand
Law Council of Australia
Master Builders Australia
National Construction Council/MTIA
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AS 4300—1995
(Incorporating Amendment No. 1)

Australian Standard®

**General conditions of contract
for design and construct**

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PREFACE

This Standard was prepared by the Joint Standards Australia/Standards New Zealand Committee on General Conditions of Contract, and issued as an Australian Standard.

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.

This Standard covers the following types of project procurement methods—

- (a) Design and Construct Contract.
- (b) Design Development and Construct Contract.
- (c) Design, Novate and Construct Contract.

If the project procurement method chosen by the Principal is:

- (i) *Design and construct*—the Principal would provide the Principal's Project Requirements, would not normally provide a detailed Preliminary Design and would not require Novation of any subcontractors (including consultants).
- (ii) *Design development and construct*—the Principal would provide the Principal's Project Requirements, would always provide a Preliminary Design and accordingly would complete Annexure Part A Items 10 and 11.
- (iii) *Design, novate and construct*—the Principal would provide the Principal's Project Requirements, would always provide a Preliminary Design, would complete Annexure Part A Items 10 and 11 and would complete Annexure Part A Item 24 stating which subcontractors (including consultants) or Selected Subcontractors are to be novated to the Contractor.

This Standard is part of the suite of contracts based on AS 2124—1992 *General conditions of contract*.

AS 4301—1995 *General conditions of tendering and tender form for design and construct contract* and AS 4302—1995 *Form of formal instrument of agreement for design and construct contract* should be used with this Contract.

WARNINGS:

- 1 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 work under the Contract) and 19 (Public liability insurance).

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

- 2 Where the Principal effects insurance policies under Clause 18 or 19, copies of such policies should be made available to tenderers at the time of tender.
- 3 For the purposes of Clause 30.2, the inclusion of Quality Assurance requirements in a Contract will require detailed clauses in the Contract which have regard to the Quality Standard selected for the work.

- 4 Principals should ensure that their specific requirements are fully and completely incorporated in the ‘Principal’s Project Requirements’ obtaining specialist advice if necessary. Where a Contractor provides a proposed design as part of its tender the parties should give consideration to whether that design should form part of the Preliminary Design.**
- 5 Clauses which are prefixed by a dagger symbol (†) require the parties to indicate in the Annexure whether the particular Clause is applicable or not applicable. If words in an Annexure item are prefixed with a dagger symbol (†), the parties are required to delete the words which do not apply, as appropriate. Note Clause 1 which provides that if no deletion is made, the particular Clause applies.**
- 6 Items in Annexure Part A which are marked with a hash symbol (#) indicate that these items are to be deleted where the Contract provides for Separable Portions. If so, the items marked with a hash symbol (#) are to be deleted in Annexure Part A and that part of Annexure Part A entitled Separable Portion is to be completed for each Separable Portion.**
- 7 Clauses which are prefixed by an asterisk symbol (*) may be omitted without making consequential amendments to these General Conditions of Contract.**

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WARNING

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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STANDARDS AUSTRALIA

Australian Standard
General conditions of contract for
design and construct**1 CONSTRUCTION OF CONTRACT**

The law governing the Contract, its interpretation and any agreement to arbitrate is the law of the State or Territory stated in Annexure Part A item applicable to Clause 1, or if the State or Territory is not stated, the law of the State or Territory where the Site is located.

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

Communications between the Principal, the Superintendent and the Contractor 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 these General Conditions of Contract are expressed to be alternatives and the Contract fails to state which alternative applies, the first alternative shall apply.

If in the Annexure item relevant to a Clause prefixed with a dagger symbol (†), neither of the expressions † Applicable, † Not Applicable are deleted, the Clause shall apply.

If pursuant to Annexure Part B to these General Conditions of Contract, Clauses or parts of Clauses in these General Conditions are deleted from the Contract, this Contract shall be read and construed as though the Clause or part of the Clause has been deleted whether or not that particular Clause or part of the Clause has been struck from these General Conditions.

2 INTERPRETATION

In the Contract, except where the context otherwise requires—

‘Certificate of Practical Completion’ means the certificate referred to in Clause 42.3;

‘Constructional Plant’ means appliances and things used in the execution of the work under the Contract but not forming part of the Works;

‘Consultant’ means any person engaged by the Contractor to perform consultancy services in connection with the work under the Contract and includes any consultant of the Principal whose prior contract is novated to the Contractor under Clause 10;

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

‘Contract Sum’ means—

- (a) where the Principal accepted a lump sum, the lump sum;
- (b) where the Principal accepted rates, the sum ascertained by calculating the products of the rates and the corresponding quantities in the Schedule of Rates; or
- (c) where the Principal 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 Contract;

‘Contractor’ means the person bound to execute the work under the Contract;	
‘Contractor’s Design Obligations’ means all tasks necessary to design and specify the Works required by the Contract, including preparation of the Design Documents and, if the documents stated in Annexure Part A as describing the Principal’s Project Requirements include a Preliminary Design, developing the Preliminary Design;	5
‘Contractor’s Program’ is referred to in Clause 33.2;	
‘Date for Practical Completion’ means—	10
(a) where Annexure Part A provides a date for Practical Completion, the date; or	
(b) where Annexure Part A provides a period of time for Practical Completion, the last day of the period,	15
but if any extension of time for Practical Completion is granted by the Superintendent or allowed in any arbitration or litigation, it means the date resulting therefrom;	
‘Date of Acceptance of Tender’ means the date which appears on the notice in writing of acceptance of the tender;	20
‘Date of Practical Completion’ means—	
(a) the date certified by the Superintendent in a Certificate of Practical Completion to be the date upon which Practical Completion was reached; or	25
(b) where another date is determined in any arbitration or litigation as the date upon which Practical Completion was reached, that other date;	30
‘day’ means calendar day;	
‘Daywork’ means work referred to in Clause 41;	
‘Defects Liability Period’ means the period or periods referred to in Clause 37;	35
‘Design Documents’ means the drawings, specifications and other information, samples, models, patterns and the like required by the Contract and created (and including, where the context so requires, those to be created by the Contractor) for the construction of the Works;	40
‘direction’ includes agreement, approval, authorization, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement;	45
‘Excepted Risk’ means any of the risks referred to in Clause 16.3;	
‘Final Certificate’ means a certificate issued by the Superintendent to the Principal and to the Contractor pursuant to Clause 42.6;	50
‘Final Payment Claim’ means the final payment claim referred to in Clause 42;	
‘Latent Condition’ means any of the conditions referred to in Clause 12.1;	
‘Legislative Requirements’ includes—	55
(a) Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth and the State or Territory in which the work under the Contract or any part thereof is being carried out;	60
(b) certificates, licences, consents, permits, approvals and requirements of organisations having jurisdiction in connection with the carrying out of the work under the Contract; and	
(c) fees and charges payable in connection with the foregoing;	65
‘month’ means calendar month;	
‘person’ includes a firm or body corporate or unincorporate or an individual;	70