**PAYMENT CLAIM**

**[CLAUSE 9****]**

[FOR USE WITH DEFENCE INFRASTRUCTURE PANEL - ENVIRONMENT, HERITAGE AND ESTATE ENGINEERING 2020-2027 - SECTION 4A TERMS OF ENGAGEMENT ONLY]

**To: Commonwealth's Representative**

Payment claim number: ***[INSERT]***

This is a payment claim under clause 9.2 of the Contract.

|  |  |
| --- | --- |
| Name (including ABN) of Consultant: | ***[INSERT]*** |
| Consultant's phone number: | ***[INSERT]*** |
| Consultant's email address: | ***[INSERT]*** |
| Project: | ***[INSERT]*** |
| Payment claim period: | ***[INSERT]*** |

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. General description of the Services to which the payment claim relates:

***[INSERT]***

1. This payment claim is for the following amounts (if any) claimed on account of:

|  |  |  |
| --- | --- | --- |
| (a) | the Fee | $***[INSERT]*** |
| (b) | all other amounts then payable by the Commonwealth to the Consultant under the Contract | $***[INSERT]*** |
| (c) | GST | $***[INSERT]*** |
|  | **Total Amount Claimed (including GST)** | $***[INSERT]*** |

The Services to which this payment claim relates, together with all other details, calculations, supporting documentation and other information in respect of the Total Amount Claimed (including details of any GST) is/are set out in the Particulars to this payment claim.

***[NOTE: THE CONSULTANT SHOULD NOTE THE CONDITIONS PRECEDENT TO THE CONSULTANT'S ENTITLEMENT TO SUBMIT A PAYMENT CLAIM IN CLAUSE 9.3 OF THE CONTRACT]***

Signed: ........................................................... Date:   
 **Consultant**

**PARTICULARS**

|  |  |
| --- | --- |
| **Project:** | ***[INSERT]*** |
| **Payment claim number:** | ***[INSERT]*** |

The Services to which this payment claim relates, together with all other details, calculations, supporting documentation and other information in respect of the amounts claimed (including details of any GST) is/are set out below or attached as follows:

***[INSERT]***

**SCHEDULE 1 - PAYMENT OF WORKERS AND SUBCONSULTANTS - DECLARATION**

1. The Consultant must complete this Schedule 1 for payment claims submitted in connection with the Services performed in the Australian Capital Territory, Northern Territory, South Australia, Tasmania, Victoria or Western Australia.
2. In this Schedule 1, the Consultant must provide:
   * 1. a statutory declaration in the format of the jurisdiction where the Services were performed, (see guidance formats below) together with any supporting evidence which may be reasonably required by the Commonwealth's Representative, duly signed by the Consultant or, where the Consultant is a corporation, by a representative of the Consultant who is in a position to know the facts declared, that, except to the extent disclosed in the statutory declaration (such disclosure to specify all relevant amounts, workers and subconsultants):
        1. all workers who have at any time been employed by the Consultant in connection with the Services have at the date of the payment claim been paid all moneys due and payable to them in respect of their employment in connection with the Services; and
        2. all subconsultants have been paid all moneys due and payable to them in respect of the Services; and
     2. documentary evidence that, except to the extent otherwise disclosed (such disclosure to specify all relevant amounts and workers), as at the date of the payment claim, all workers who have been employed by a subconsultant have been paid all moneys due and payable to them in respect of their employment in connection with the Services.

[CONSULTANT TO DELETE JURISDICTIONS THAT ARE INAPPLICABLE]

AUSTRALIAN CAPITAL TERRITORY

STATUTORY DECLARATION

*Statutory Declarations Act 1959*

I, ***[INSERT NAME]***, ***[INSERT ADDRESS]***, ***[INSERT OCCUPATION]***, make the following declaration under the *Statutory Declarations Act* *1959* (ACT):

1. ***[INSERT MATTER TO BE DECLARED IN NUMBERED PARAGRAPHS]***

I understand that a person who intentionally makes a false statement in a statutory declaration is guilty of an offence under section 11 of the *Statutory Declarations Act* *1959* (Cth), and I believe that the statements in this declaration are true in every particular.

|  |  |
| --- | --- |
| Signature of declarant |  |
| Declared at on the day of 20  Before me: | |
|  |  |
| Signature of person before whom the declaration is made |  |
|  |  |
| Full name, qualification and address of person before whom the declaration is made |  |

NORTHERN TERRITORY OF AUSTRALIA

STATUTORY DECLARATION

*Oaths Affidavits and Declarations Act 2010*

I, ***[INSERT NAME]***, solemnly and sincerely declare:

1. ***[INSERT MATTER TO BE DECLARED IN NUMBERED PARAGRAPHS]***

I make this solemn declaration by virtue of the *Oaths, Affidavits and Declarations Act 2010* (NT) and conscientiously believing the statements contained in this declaration to be true in every particular and knowing that it is an offence to make a statutory declaration that is false in any material particular.

|  |  |  |  |
| --- | --- | --- | --- |
| Declared at  this                             day of                             20  Before me: |  |  |  |
|  |  |  |  |
| Signature of person before whom the declaration is made |  |  | Signature of declarant |
|  |  |  |  |
| Full name and contact address or telephone number of person before whom the declaration is made |  |  |  |

NOTE: This declaration may be witnessed by any person who is at least 18 (eighteen) years of age.

NOTE: This written statutory declaration must comply with Part 4 of the *Oaths Affidavits and Declarations Act 2010*.

NOTE: A person wilfully doing anything to a statutory declaration that results in it becoming false or misleading is liable to a penalty of up to $53,200 or imprisonment for 4 years.

SOUTH AUSTRALIA

STATUTORY DECLARATION

*Oaths Act 1936*

I, ***[INSERT NAME]*** of ***[INSERT ADDRESS]***, do solemnly and sincerely declare that:

1. ***[INSERT MATTER TO BE DECLARED IN NUMBERED PARAGRAPHS]***

And I makethis solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1936* (SA).

|  |  |  |  |
| --- | --- | --- | --- |
| Declared at  this                             day of                             20  Before me: |  |  |  |
|  |  |  |  |
| Signature of person before whom the declaration is made |  |  | Signature of declarant |
|  |  |  |  |
| Full name and qualification of person before whom the declaration is made |  |  |  |

TASMANIA

STATUTORY DECLARATION

*Oaths Act 2001*

I, ***[INSERT NAME]*,*****[INSERT ADDRESS]***, ***[INSERT OCCUPATION]***, do solemnly and sincerely declare that:

1. ***[INSERT MATTER TO BE DECLARED IN NUMBERED PARAGRAPHS]***

I makethis solemn declaration under the *Oaths Act* *2001* (Tas).

|  |  |  |  |
| --- | --- | --- | --- |
| Declared at  on  Before me: |  |  |  |
|  |  |  |  |
| Signature of person before whom the declaration is made |  |  | Signature of declarant |
|  |  |  |  |
| Full name and qualification of person before whom declaration is made |  |  |  |

VICTORIA

STATUTORY DECLARATION

*Oaths and Affirmations Act 2018*

I, ***[INSERT NAME]***, ***[INSERT ADDRESS]***, ***[INSERT OCCUPATION]***, make the following statutory declaration under the *Oaths and Affirmations Act 2018* (Vic):

1. ***[INSERT MATTER TO BE DECLARED IN NUMBERED PARAGRAPHS]***

I declare that the contents of this statutory declaration are true and correct and I make it knowing that making a statutory declaration that I know to be untrue is an offence.

|  |  |  |  |
| --- | --- | --- | --- |
| Declared at                                      in the State of Victoria on |  |  |  |
| I am an authorised statutory declaration witness and I sign this document in the presence of the person making the declaration: |  |  |  |
|  |  |  |  |
| Signature of person before whom the declaration is made |  |  | Signature of declarant |
| Name  Address  Capacity |  |  |  |
| A person authorised under section 30(2) of the *Oaths and Affirmations Act 2018* (Vic) to witness the signing of a statutory declaration. |  |  |  |

WESTERN AUSTRALIA

STATUTORY DECLARATION

*Oaths, Affidavits and Statutory Declarations Act 2005*

I, ***[INSERT NAME]***, ***[INSERT ADDRESS]***, ***[INSERT OCCUPATION]***, sincerely declare as follows:

1. ***[INSERT MATTER TO BE DECLARED IN NUMBERED PARAGRAPHS]***

This declarationis true and I know that it is an offence to make a declaration knowing that it is false in a material particular.

This declaration is madeunder the *Oaths, Affidavits and Statutory Declarations Act* *2005* (WA) at ***[INSERT PLACE]*** on ***[INSERT DATE]*** by:

|  |  |  |  |
| --- | --- | --- | --- |
| Signature of person making declaration |  |  |  |
| In the presence of: |  |  |  |
|  |  |  |  |
| Signature of person before whom the declaration is made |  |  |  |
|  |  |  |  |
| Full name and qualification of person before whom the declaration is made |  |  |  |

**SCHEDULE 2 - PAYMENT OF WORKERS AND SUBCONSULTANTS - STATUTORY DECLARATION COMBINED SUBCONSULTANT'S STATEMENT AND SUPPORTING STATEMENT - NSW ONLY**

1. The Consultant must complete this Schedule 2 for payment claims submitted in connection with the Services performed in New South Wales.
2. In this Schedule 2, the Consultant must provide a completed and true Combined Subconsultant's Statement and Supporting Statement, executed on the date of the payment claim, in the form of the statutory declaration set out below.[[1]](#footnote-1)
3. For the purposes of this Statement, the terms "principal", "head contractor", "subcontractor", and "construction contract" have the meanings given in section 4 of the *Building and Construction Industry Security of Payment* *Act 1999* (NSW).
4. The Consultant is both a "head contractor" for the purposes of the *Building and Construction Industry Security of Payment Act* *1999* (NSW) and a “subcontractor” for the *Workers Compensation Act 1987* (NSW), *Payroll Tax Act 2007* (NSW) and *Industrial Relations Act 1996* (NSW), and makes relevant statements below accordingly.
5. This Statement must be signed by the Consultant (or by a person who is authorised, or held out as being authorised, by the Consultant to sign the statement).
6. Relevant legislation includes the *Workers Compensation Act 1987* (NSW), s175B; *Payroll Tax Act* *2007* (NSW), Schedule 2 Part 5; *Industrial Relations Act 1996* (NSW), s127; and *Building and Construction Industry Security of Payment Regulation 2020* (NSW) s18.

COMBINED SUBCONSULTANT'S STATEMENT AND SUPPORTING STATEMENT

STATUTORY DECLARATION

*OATHS ACT 1900* (NSW), EIGHTH SCHEDULE

**CONTRACT**

The Consultant is ***[INSERT NAME] [INSERT ABN]*** of ***[INSERT ADDRESS OF CONSULTANT]*** and has entered into a contract with ***[INSERT NAME] [INSERT ABN]***.

Contract number/identifier ***[INSERT CONTRACT NUMBER OR UNIQUE IDENTIFIER]***.

**SUBCONTRACT/S**

The Consultant has entered into ***[A SUBCONTRACT/SUBCONTRACTS]*** with the [***SUBCONSULTANT/ SUBCONSULTANTS]*** described below.

**PERIOD OF STATEMENT & DECLARATION**

This statement and declaration applies for Services between ***[INSERT DATE]*** and ***[INSERT DATE]*** inclusive (the Services and related goods and services concerned), the subject of payment claim number***[INSERT].***

I, ***[INSERT NAME OF DIRECTOR OR A PERSON AUTHORISED BY THE CONSULTANT ON WHOSE BEHALF THE DECLARATION IS MADE]*** of ***[INSERT ADDRESS - INCLUDE STATE/ TERRITORY], [INSERT OCCUPATION]***, do solemnly and sincerely declare that:

* + 1. The abovementioned Consultant has ***[DELETE OPTION THAT IS NOT APPLICABLE]***:
       1. ***[employed or engaged workers or subconsultants during the above period of this contract (in which case the Consultant is to comply with paragraphs (b) to (g) below, as applicable); [OR]***
       2. ***[not employed engaged workers or subconsultants during the above period of this contact or is an exempt employer for workers compensation purposes (in which case the Consultant is to comply with paragraphs (e) to (g) below)***;
    2. all workers compensation insurance premiums payable by the Consultant in respect of the work done under the contract have been paid. The Certificate of Currency for that insurance is attached and is dated ***[INSERT DATE]***;
    3. all remuneration payable to relevant employees for work under the contract for the above period has been paid;
    4. where the Consultant is required to be registered as an employer under the *Payroll Tax Act 2007* (NSW), the Consultant has paid all payroll tax due in respect of employees who performed work under the contract, as required at the date of this statement;
    5. where the Consultant is also a principal contractor to subcontracts in connection with the work, the Consultant has in its capacity of principal contractor been given a written Subconsultant’s Statement by its subcontractor(s) in connection with that work for the period stated above;
    6. all amounts due and payable to subcontractors have been paid (including any retention amounts) in relation to the Services that are the subject of this payment claim; and
    7. the subcontractors and the amounts paid to them are identified in Table 1 but the amounts do not include any amounts in dispute between the head contractor and any subcontractors. Any subcontractors with whom an amount is in dispute with the head contractor are identified in Table 2,

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).

Declared at: ***[INSERT PLACE]*** on ***[INSERT DATE]***

|  |
| --- |
|  |
| Signature of declarant |

in the presence of an authorised witness, who states:

I, ***[INSERT NAME OF AUTHORISED WITNESS]***, a ***[INSERT QUALIFICATION OF AUTHORISED WITNESS],*** certify the following matters concerning the making of this statutory declaration by the person who made it: [\* delete any text that does not apply]

1. \*I saw the face of the person OR \*I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. \*I have known the person for at least 12 months OR \*I have confirmed the person’s identity using an identification document and the document I relied on was ***[INSERT DESCRIPTION OF IDENTIFICATION DOCUMENTS RELIED ON]***.

|  |  |  |  |
| --- | --- | --- | --- |
|  |  |  |  |
| Signature of authorised witness |  |  | Date |

**NOTE:** It is an offence under section 13(7) of the *Building and Construction Security of Payment Act 1999* (NSW) for a head contractor to serve a payment claim on the principal, if it is not accompanied by a supporting statement that indicates that it relates to that payment claim. The maximum penalty is $110,000 for corporations, and $22,000 for an individual.

It is also an offence under section 13(8) of the *Building and Construction Security of Payment Act 1999* (NSW), for a head contractor to knowingly make a statement that is false or misleading in a material particular in the particular circumstances. The maximum penalty is $110,000 for corporations, and $22,000 or 3 months imprisonment (or both) for individuals.

**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* (NSW).

**Table** **1 - Subcontractors paid all amounts due and payable in relation to the Services that are the subject of the payment claim which this supporting statement accompanies.**

**NOTE:** Amounts due and payment includes retention money that is due and payable.

***Retention money*** is defined by the *Building and Construction Security of Payment Act 1999* (NSW) to mean money retained by a head contractor out of money payable by the head contractor to a subcontractor under a construction contract, as security for the performance of obligations of the subcontractor under the contract.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUBCONTRACTORS PAID ALL AMOUNTS DUE AND PAYABLE** | | | | |
| **NAME OF SUBCONTRACTOR** | **ABN** | **SUBCONTRACT NUMBER OR OTHER IDENTIFIER EG DATE** | **DATE OF SERVICES (PERIOD)** | **DATE OF CONSULTANT PAYMENT CLAIM** |
| ***[INSERT]*** | ***[INSERT]*** | ***[INSERT]*** | ***[INSERT]*** | ***[INSERT]*** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **SUBCONTRACTORS FOR WHICH AN AMOUNT IS IN DISPUTE AND HAS NOT BEEN PAID** | | | | |
| **NAME OF SUBCONTRACTOR** | **ABN** | **SUBCONTRACT NUMBER OR OTHER IDENTIFIER EG DATE** | **DATE OF SERVICES (PERIOD)** | **DATE OF CONSULTANT PAYMENT CLAIM** |
| ***[INSERT]*** | ***[INSERT]*** | ***[INSERT]*** | ***[INSERT]*** | ***[INSERT]*** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**Table 2 - Subcontractors with whom an amount is in dispute and have not been paid in relation to the Services that are the subject of the payment claim which this supporting statement accompanies.**

**SCHEDULE 3 - PAYMENT OF WORKERS AND SUBCONSULTANTS - STATUTORY DECLARATION AND SUPPORTING STATEMENT - QUEENSLAND ONLY**

1. The Consultant is to complete this Schedule 3 for payment claims submitted in connection with the Services performed in Queensland.
2. In this Schedule 3, the Consultant must provide a completed supporting statement in accordance with section 75(7) of the *Building Industry Fairness (Security of Payment) Act* 2017 (Qld).

STATUTORY DECLARATION

*Oaths Act 1867* (Qld)

**SUPPORTING STATEMENT**

I, ***[INSERT FULL NAME OF DECLARANT]*** of ***[INSERT DECLARANT'S QUEENSLAND ADDRESS],*** being the head contractor (the Consultant), a director of the head contractor or a person authorised by the head contractor on whose behalf this declaration is made, in relation to the contract between:

* + 1. the Commonwealth;
    2. ***[INSERT CONSULTANT'S NAME]*** ("**the Consultant**"); for
    3. ***[INSERT CONTRACT NUMBER]*** ("**the Contract**"),

do solemnly and sincerely declare that:

* + 1. unless stated in subparagraph (e), all subcontractor(s) for the Consultant engaged under the head contract for which this claim has been made, have been paid all amounts owed to them by the Consultant at the date of giving this payment claim ***[INSERT NUMBER]***.
    2. the following subcontractor(s) have not been paid the full amount that is owed to them by the Consultant at the date of giving this payment claim ***[INSERT NUMBER]*** for the reasons set out below.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Details of unpaid subcontractors** | | | | | |
| Subcontractor full name | Payment claim details (e.g. invoice number) | Date(s) of Services or supply of related goods and services by subcontractor | Amount owed[[2]](#footnote-2) to the subcontractor ($) | Amount unpaid | Reason for not paying amount owed to the subcontractor in full |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

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 |

Taken and declared before me at ***[INSERT PLACE]*** this ***[INSERT DATE]*** day of ***[INSERT MONTH]*** ***[INSERT YEAR]***

Before me:

|  |
| --- |
|  |
| Signature of person before whom the declaration is made |

|  |
| --- |
|  |
| Full name and qualification of person before whom the declaration is made |

1. This Schedule 2 is prepared for the purpose of section 175B of the *Workers Compensation Act* *1987* (NSW), Schedule 2 Part 5 of the *Payroll Tax Act* *2007* (NSW), section 127 of the *Industrial Relations Act* *1996* (NSW) and sections 13(7) and 13(9) of the *Building and Construction Industry Security of Payment Act* *1999* (NSW). If this Schedule 2 is completed in accordance with these provisions, a contractor is relieved of liability for workers compensation premiums, payroll tax and remuneration payable by the subcontractor. [↑](#footnote-ref-1)
2. Amount owed is either the amount stated in a payment schedule, or if no payment schedule is given, the full amount claimed under the payment claim. This amount only needs to be detailed on the supporting statement if the due date for payment has passed (i.e. the amount is unpaid). [↑](#footnote-ref-2)