

Project: Latitude 25

Address: 174-206 Chapel Road, Nikenbah QLD 4655

Contract For:

BDG Electrical Contracting Services

By

**The Trustee for Nikenbah
Constructions Unit Trust**

Documents Comprising the Sub-Contract

1. Sub-Contract Agreement SC2 July 1966 (revised October 1993)
2. Documents as listed and/or included in Annexure A

SC₂ – July, 1966 (REVISED - OCTOBER, 1993)

SUB-CONTRACT dated 23rd July 2018.....

DUTY
STAMP

PARTIES

The Trustee for Nikenbah Constructions Unit Trust (ABN: 69 483 764 648) ("Builder")

45 Spring Way, Nikenbah QLD 4655 (Address)

AND

BDG Electrical Contracting Services (ABN: 79 100 475 349) ("Sub-Contractor")

PO Box 1518, Hervey Bay QLD 4655 (Address)

Whereas the Builder desires to have executed and completed certain sub-contract building work, a description of which is set forth hereunder:

DESCRIPTION OF WORKS: ~~Design & Construct~~ **Communications package for the Development (As listed in Appendix A)**

Now it is hereby agreed for the consideration mentioned in the Conditions of Contract annexed hereto the Sub-Contractor will upon and subject to the Conditions execute and complete the Works described above.

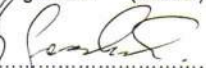
In witness whereof the parties hereto have hereunder set their hands the day and year above written

Ryan Williams

signature (Builder)

print name

(Witness)



Bruce Goodluck

signature (Sub-Contractor)

print name

(Witness)

SCHEDULE

Completion Date:
Possession of Site:

~~Mon 3rd Sept 2018~~
~~Mon 30th July 2018~~

**Nikenbah Constructions
(TBC) Building Services / completion dates.**

LIQUIDATED DAMAGES: \$ 200.00 per/ day

PROGRESS PAYMENTS: Claims by 28th Day of Month.

Payment within 30 days of the end of the month in which the claim was received

Or

In accordance with payment schedule in Annexure A (Other documents)

A - The Sub-Contractor will complete the Works described above ("the Works") in a workmanlike manner in accordance with relevant Plans and Specifications and in the time specified. If so indicated the Sub-Contractor will complete the Works in stages by the dates respectively stated for each stage in the Schedule. All Work will comply at least with relevant Australian Standards.

B - This is a "Lump Sum" the Contract Price shall be ~~\$211,000.00~~ excluding GST

\$176,540.00

CONDITIONS OF CONTRACT

1. (a) Definitions

"the Code" means the National Code of Conduct for the Construction Industry.

'Code Monitoring Group' has the same meaning as is given to that term in the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, revised September 2005, Reissued June 2006].

"the Guidelines" means the Australian Government Implementation Guidelines for the National Code of Conduct for the Construction Industry.

"Practical Completion" means that stage in the carrying out and completion of the Sub-Contract Works when –

- (a) all work is complete except for minor defects:
 - (i) which do not prevent the works from being reasonably capable of being used for their stated purpose.
 - (ii) which PBS Building determines the Sub-Contractor has reasonable grounds for not promptly rectifying, and
 - (iii) the rectification of which will not prejudice the convenient use of works
- (b) those tests which are required in the Sub-Contract to be carried out and passed have been carried out; and
- (c) documents and other information required under the Sub-Contract which are listed in the Sub-Contract as being essential for the use, operation and maintenance of the works have been supplied.

"Main Contract" means the contract entered into between the Builder and the Principal for the execution of certain work of which the Sub-Contract Works form part.

"Main Contract Works" means the work to be performed by the Builder under the Main Contract.

"Related Entity": has the same meaning as given to that term in the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, revised September 2005, Reissued June 2006.

"Principal" means the Principal with whom the Builder has entered into the Main Contract.

"Works" and/or "Sub-Contract Works" shall mean the work to be performed by the Sub-Contractor under this Sub-Contract Agreement.

"Scope of Works" means the works described in Scope of Works in Annexure A to the extent to which that Scope of Works is directed to be performed by this Sub-Contract.

"Defects Liability Period" means Twelve months after Practical Completion of the Main Contract Works is achieved.

COMPLETION

- 2 (a) If the Sub-Contractor fails to complete the Works or any stage by the date specified in the Schedule or within any extended time approved in writing by the Builder the Sub-Contractor shall pay or allow to the Builder:
 - (i) by way of liquidated damages the sum stated in the Schedule for each day during which the Works or the relevant stage shall remain incomplete; and
 - (ii) if the failure by the Sub-Contractor causes the Builder to be in breach of the Main Contract, damages whether liquidated or otherwise which the Builder thereby becomes liable to pay to the Principal under the Main Contract.

The Sub-Contractor's liability under clause 2(a)(ii) is not included in the liquidated damages applicable to clause 2(a)(i).

- (b) The Sub-Contractor is only entitled to extensions of time for completion if the requirements of clause 57 are satisfied.

PAYMENTS

- 3. (a) Progress Claims made for completed works in accordance with the Sub-contract shall be paid as provided in the Schedule.
- ~~(b) The Builder may retain ten per cent of moneys becoming due hereunder until the sum retained is equal to 5% of the amount payable hereunder. In lieu of cash retention and at any time prior to the first payment by the Builder to the Sub-Contractor, the Sub-Contractor may provide to the Builder two (2) unconditional bankers guarantees (each in the form described in Annexure) and each being for an amount of equal to 2.5% of the amount payable hereunder.~~
- ~~(c) Subject to clause 36, one bankers guarantee / 50% Retention shall be returned to the Sub-Contractor after satisfactory completion of all Works (Practical Completion) and the second bankers guarantee / 50% Retention after the completion of the Defects Liability Period.~~
- ~~(d) Before becoming entitled to any payment the Sub-Contractor shall deliver to the Builder a Sub-Contractor Statement signed by him that no wages are due and owing by him in respect of the Works at the date of payment.~~
- ~~(e) The Builder may deduct from moneys due or claimed to be due to the Sub-Contractor any money due or claimed to be due from the Sub-Contractor to the Builder and if those moneys are insufficient, the Builder may at its election have recourse to the cash retention or bankers guarantees referred to in clause 3(b).~~

VARIATIONS

- 4. (a) The Sub-Contractor shall vary the Works as required by the Builder but shall not be entitled to claim payment for any variation not authorised in writing.
- (b) If the Sub-Contractor considers that a communication from Builder is a variation to the Works, it must notify the Builder of this in writing within 4 business days of receiving the communication stating the grounds on which the Sub-Contractor believes the communication is such a variation. To the extent that any such communication involves or constitutes a variation to the Works, the communication shall

be deemed to have been a variation directed in accordance with clause 4 (c). If the Sub-Contractor does not so notify, the Builder, it shall lose any entitlement it may have to be paid additional costs, expenses, damages or to reimbursement for the variation or be granted an extension of time in respect of the claimed variation.

- (c) The price of any variation shall be added to or deducted from the Contract Price and should the parties not agree upon a price the Builder may require the Sub-Contractor to execute the variation and the matter of price may be referred to Expert Determination in accordance with the provisions hereof or at his option the Builder may have the variation carried out by another person, in which case the Sub-Contractor will allow free access to such person and his employees as required.
- (d) The Builder may at any time and from time to time for any reason in its absolute and unfettered discretion vary the Works by deleting from the Works any work that the Builder may by notice in writing to the Sub-Contractor specify and the Builder may arrange for the work that has been deleted from the Works to be carried out by others as the Builder may in its absolute discretion determine and in that event the Sub-Contractor shall have no claim against the Builder as a result of such deletion notwithstanding that the omitted work may be carried out by others.

HOURS OF WORK

- 5. No part of the Works shall be executed outside the ordinary working hours of the Builder without his consent which shall not be unreasonably withheld.

REGULATIONS, ETC.

- 6. The Sub-Contractor will give all necessary Notices and pay all necessary fees and will comply with all revisions and requirements Statutory or otherwise relevant to the Works.

INSURANCE

- 7. The Sub-Contractor shall insure against liability at common law and under the Workers' Compensation Act in respect of any person employed by him in or about the execution of the Works or in respect of whom he may be or become liable whether employed by him or not. The Sub-Contractor also shall insure against liability to third persons or in respect of the property of third persons in an amount satisfactory to the Builder and shall lodge with the Builder evidence that all insurances herein specified have been effected and that they are current from time to time.

DEFAULT

- 8. If the Sub-Contractor shall become bankrupt or go into liquidation or have an administrator or receiver appointed or if he shall make default in any of the following respects viz: (a) if he wholly suspends the work before completion, or (b) if he fails to proceed with the Works with reasonable diligence or in a competent manner, or (c) if he fails to comply with a notice from the Builder requiring him to remove and replace defective work or improper materials, or (d) if he commits any breach hereof THEN the Builder may by notice in writing determine this Contract. Such determination shall not prejudice any right of the Builder to recover from the Sub-Contractor damages for any breach by arbitration hereunder or otherwise.

SCAFFOLDING

- 9. Should the Sub-Contractor or his Employees or any Sub-Contractor from him be permitted to use any scaffolding or equipment belonging to or provided by the builder THEN such use shall be on the express condition that no warranty or other liability on the part of the Builder will be created or implied as to the condition or suitability of the said scaffolding or equipment or otherwise.

NOTICES

- 10. Any notice to be given hereunder shall be deemed to be sufficiently given if served personally on the Sub-Contractor or on his Representative on the job or on the Builder as the case may be or sent by prepaid post addressed to the person to whom it is necessary or required to be given at the address appearing herein or at his last known place of abode or business.

SUB-LETTING

- 11. The Sub-Contractor will not assign this Agreement or sub-let any portion of the same without the written consent of the Builder which shall not be unreasonably withheld.

REMOVAL OF WORKMEN

- 12. The Builder may require removal from the Works of any person employed by the Sub-Contractor who in the opinion of the Builder is incompetent or misconducts himself.

WAGES AND CONDITIONS

- 13. The Sub-Contractor shall pay the rates of wages and observe and perform the conditions that are provided for in any relevant award or industrial agreement.

CLEANING UP

- 14. The Sub-Contractor shall keep the Works clean and tidy as they proceed and on completion will remove all his plant and equipment and leave the Works clean and tidy ready for immediate use or occupation. If he shall fail to do so then the Builder may carry out whatever may be required and the cost thereof may be deducted from any moneys due or becoming due to the Sub-Contractor.

DAMAGE

- 15. The Sub-Contractor will pay to the Builder the cost of making good any damage done by him or his Employees or Sub-Contractors to the Work of the Builder or of any other Sub-Contractor.

DEFECTS

- 16. The Sub-Contractor will maintain the Works until completion and thereafter make good all defects that may appear in the Works prior to the expiration of the Builder's Defects Liability Period under the Main Contract.

DETERMINATION OF MAIN CONTRACT

- 17. Should the Main Contract be determined for any reason the Builder may determine this Contract and shall be liable to re-imburse the Sub-Contractor in respect of work already carried out and any other loss incurred in connection with the Works but the Sub-Contractor shall not be entitled to recover loss of profit on the part of the Works not executed at the date of determination hereof.

INSPECTIONS

- 18. The Sub-Contractor will comply with the Builder's directions with regard to inspections by a Lending Authority.

SUB-CONTRACTORS RIGHT TO EMPLOY OTHERS TO ASSIST IN EXECUTION OF THE WORKS

- 19. However, nothing in this Sub-Contract prevents the Sub-Contractor from employing, directly, other persons to assist him in the execution of the works.

LICENCE DETAILS FOR RESIDENTIAL SUB-CONTRACTING

20. The Sub-Contractor warrants to the Builder that the Sub-Contractor is the holder of all current and valid licences that may be required by any Authorities or under any laws or legislation for the Sub-contractor to carry out the Works under the Sub-Contract. The Sub-Contractor undertakes to ensure that all such licences remain valid throughout the period of the Sub-Contract and the Sub-Contractor acknowledges that the validity of such licences is a fundamental condition of this Sub-Contract.

DEFINITIONS

21. Words herein denoting persons shall also denote Limited Companies and words denoting the singular shall include the plural and vice versa.

EXPERT DETERMINATION

22.

- (a) If a dispute between the Sub-Contractor and the Builder arises out of or in connection with the Sub-Contract, including a dispute concerning a direction given by the Builder, then either party shall deliver by hand or send by certified mail to the other party a notice of dispute in writing adequately identifying and providing details of the dispute.
- (b) Notwithstanding the existence of a dispute, the Sub-Contractor shall continue to perform the Works.
- (c) Within seven (7) days after service of a notice of dispute, the parties shall confer at least once to attempt to resolve the dispute, and failing resolution of the dispute, to explore and if possible agree on methods of resolving the dispute by other means. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute.
- (d) In the event that the dispute cannot be so resolved or if at any time either party considers that the other party is not making reasonable efforts to resolve the dispute, either party may by notice in writing delivered by hand or sent by certified mail to the other party, refer such dispute to be determined by expert determination in accordance with this clause.
- (e) The party requiring a dispute to be determined under this clause must give written notice to the other party of the requirement which notice must adequately identify and provide details of the dispute.
- (f) The dispute will be determined by an appropriately experienced expert agreed upon and appointed jointly by the parties or, failing agreement, appointed by the President for the time being of the Institute of Arbitrators and Mediators Australia.
- (g) The Expert must determine the dispute and the parties must act in accordance with the process defined in Schedule of Expert Determination.
- (h) The decision of the Expert will be made as an expert and not as arbitrator and, subject to Clause 22(g), will be final and binding on the parties.
- (i) The appointment of an Expert under this clause will be conclusive evidence that the Expert is appropriately experienced.
- (j) The parties must do all things and execute all documents necessary for the appointment of the Expert including, without limitation, executing any agreement reasonably required by the Expert relating to this appointment, provided it is not inconsistent with the terms of this Sub-Contract.
- (k) A determination by the Expert will not be final and binding if:
 - (i) the amount of the determination is in excess of \$500,000; and
 - (ii) either party serves a notice on the other party, within 14 days of the determination, stating that it is dissatisfied with the determination, in which case either party may commence litigation in respect of the dispute.
- (l) If:
 - (i) the Sub-Contractor gives notice of a dispute under this clause; and
 - (ii) in the opinion of the Builder, the circumstances outlined in the information contained in the notice will give rise to a claim by Builder against the Principal under the Main Contract or otherwise, the Builder may within seven (7) days or receipt of the Notice of Dispute from the Sub-Contractor give written notice to the Sub-Contractor informing of its opinion and stating that clause 22 (m) will apply.
- (m) If a notice is given under clause 22(l) noting that clause 22(m) applies;
 - (i) Builder must take such steps as are reasonably necessary to proceed in accordance with the Main Contract with the Sub-Contractors Claim or dispute and the Sub-Contractor must comply with the Builder's requirements in respect to providing details of the claim or dispute; and
 - (ii) the Sub-Contractor must
 - (A) indemnify the Builder, to the extent of the Sub-Contractor's interest in respect of the Claim or dispute, against all costs and expenses incurred by the Builder by reason of taking the steps referred to in Clause 22(m)(ii); and
 - (B) lodge with the Builder reasonable cash or other security such costs and expenses and any monies the Builder may recover will be for the benefit of the Sub-Contractor to the extent of the Sub-Contractor's interest in the Claim or dispute.
- (n) whether under the terms of the Main Contract or otherwise (including through litigation) and a manner which is or will be binding upon the Builder, then whether or not the procedure for dispute for resolution have commenced the Builder or the Sub-Contractor, any expert appointed under this clause and any court will be bound by and give effect to the determination as between the Builder and the Principal, including any finding as to law or fact.

FINISH

23. The Sub-Contractor must satisfy himself that it is practicable to complete the works in a workmanlike manner and warrants a satisfactory result.

SPECIAL CONDITIONS TO THE SC₂ JULY 1966 (REVISED OCTOBER 1993)

DETERMINATION WITHOUT FAULT

24. The Builder may in addition to any other power or right conferred upon it, for any or no reason, in its absolute discretion, forthwith determine the employment of the Sub-Contractor at any time prior to the date specified in the Schedule or within any extended time approved in writing by the Builder. Such determination may be effected by notice in writing given by the Builder to the Sub-Contractor and such notice shall provide that it is given pursuant to the terms of this clause. In the event of such determination the respective rights and obligations of the Builder and Sub-Contractor shall be as follows:
- (a) the Sub-Contractor shall with all reasonable dispatch and in such manner and with such precautions to avoid injury, death or damage of the classes in respect of which before the date of termination he was liable to indemnify the Builder under Clause 7 of the Conditions of Contract and remove from the Works all his temporary buildings, equipment and plant, tools, goods and materials;
 - (b) after taking into account amounts previously paid under this Sub-Contract the Sub-Contractor shall be paid by the Builder.
 - (i) the contract value of work executed at the date of determination;
 - (ii) the reasonable cost to the Sub-Contractor of demobilisation.

25. NOTICE OF CLAIMS

- 25.1 All money claims, other than claims for progress payments made in accordance with this Sub-Contract and submitted in the ordinary course, whether for damages, compensation, unjust enrichment, restitution, or adjustment to the Contract Price, all matters of interpretation and clarification of this Sub-Contract and all claims whether in contract, tort (including negligence), unjust enrichment or otherwise (hereinafter collectively referred to as a "claim") shall be dealt with in accordance with this clause.
- 25.2 Each claim in respect of which there is a separate legal entitlement shall be in writing and shall specify:
- (a) the perceived legal basis for the claim, including where appropriate a reference to the clause of this Sub-Contract under which the claim is made;
 - (b) the facts relied upon in support of the claim in sufficient detail to permit verification; and
 - (c) details of the quantification of the sums claimed then known to the Sub-Contractor and the manner in which such sums have been calculated.
- 25.3 Subject to any other provisions of this Sub-Contract which provides a time limit in which to bring a claim, in which case the specific time limit in that clause shall prevail, the Sub-Contractor shall not have any right to submit any claim, initiate any action or proceedings against the Builder, and shall have no claim in respect of any matter, fact or thing whatsoever arising out of or in connection with or under the Sub-Contract or the Works unless the Sub-Contractor not later than twenty one (21) days after the Sub-Contractor first became aware or ought reasonably to have first become aware of the occurrence of the events or circumstances on which the claim is based, lodges the claim in writing with the Builder in accordance with the requirements of Clause 25.2.

QUALITY ASSURANCE

27. The Sub-Contractor shall plan, establish, implement and maintain a quality system in accordance with ISO9002 or ISO9001 as applicable or such other standard as may be approved by the Builder. Where, in the opinion of the Builder the Sub-Contractor has not developed a quality system to the required Standard, the Sub-Contractor shall perform the work under the Sub-Contract in accordance with the requirements of the Builder's quality system and shall be deemed to have examined carefully and to have acquired actual knowledge of the contents of the Builder's quality system sufficient to allow the Sub-Contractor to perform the Sub-Contract Works to the same requirements as are specified for like work under the Main Contract.

The Sub-Contractor shall provide the Builder and the Architect with access to the Sub-Contractor's or their sublettees' and suppliers' quality systems, premises, or work areas for the purpose of monitoring the quality auditing.

The Sub-Contractor shall provide the Builder with copies of all necessary quality records to verify that all material and work performed are in accordance with the requirements of the Sub-Contract. Quality records, including product quality and quality system records, shall be retained by the Sub-Contractor for the minimum period indicated by the Builder. The Sub-Contractor shall store and maintain such records both during the performance of that work under the Sub-Contract and during the retention period, such that they are readily retrievable and in facilities that provide a suitable environment to minimise deterioration or damage, and to prevent loss. The Sub-Contractor shall make quality records available to the Builder at all reasonable times and where requested by the Builder, the Sub-Contractor shall permit the Builder to copy quality records.

Where the Sub-Contractor proposes a disposition of any non-conforming materials or work which varies the requirements of the Sub-Contract, such a proposal shall be submitted in writing to the Contractor whose decision on the proposed disposition shall be obtained in writing before the non-conforming material or work is covered up or incorporated into the Sub-Contract Works, or is the subject of any other disposition.

EXAMINATION AND TESTING OF MATERIALS AND WORK

28. Where the Sub-Contractor has planned, established and implemented a quality system in accordance with Clause 27, the Sub-Contractor shall carry out and bear the cost of all examination and testing required by the Specification for the Sub-Contract Works. Testing shall be carried out by a testing authority approved by the Builder.

Where the Sub-Contractor is required to perform the Sub-Contract Works operating under the Builder's quality system, the Builder shall carry out all examination and testing required by the Specification for the Sub-Contract Works. The Sub-Contractor shall provide such assistance and samples and make accessible such parts of the work so that it fully complies with the Sub-Contract. Costs of examination and testing shall be borne by the Sub-Contractor.

RECORDS - AS BUILT DRAWINGS, MANUALS, WARRANTIES, GUARANTEES

29. The Sub-Contractor shall keep and maintain proper and adequate records of all activities relating to the Sub-Contract as may be required by this agreement including "As Built" Drawings and Guarantees and Warranties in favour of the Builder or any other person nominated by the Builder that are specified in the Sub-Contract in respect of the Works and shall ensure that the Builder or its nominee will have the benefit of any Warranties that are specified to be obtained or are obtained by the Sub-Contractor from any supplier. All such Warranties shall be submitted to PBS Building Pty Limited as a precondition of Completion and final monies payable to the Sub-Contractor excluding Retention monies and securities.

OCCUPATIONAL HEALTH & SAFETY

30. The Sub-Contractor shall adhere to all the current legislative and authorities requirements relating to occupational health and safety, including without limitation, all the requirements of the current applicable Occupational Health & Safety legislation which applies to the work under the legislation.

The Subcontractor's responsibility under this Clause shall include, but not limited to:

- providing a work method statement prior to commencement on site;
- providing a work method statement for specific works identified as a potential risk to persons, property, and the environment;
- providing risk analysis reports as deemed necessary;
- providing material safety data sheets for materials deemed hazardous to persons, property, and the environment;
- maintaining electrical equipment in accordance with the relevant Code of Practice;
- keeping work areas clean and tidy on a daily basis; and
- compliance with the project site induction conditions in regard to safety, materials handling, waste management, environmental, hazardous substances, etc.

The Subcontractor acknowledges that prior to entering into this Subcontract, the Subcontractor has read, and fully understands, the Main Contractor's safety policy. The Subcontractor agrees to abide by the policy and to ensure that the Subcontractor's personnel comply with the policy, and all the statutory regulations, requirements and instructions given by an authorised representative.

The Subcontractor must fully indemnify the Main Contractor against any loss or cost resulting from any acts or omissions associated with any occupational health or safety matters caused by the Subcontractor or the Subcontractor's employees, contractors, suppliers or agents.

The Subcontractor must also comply with the requirements of the Local Authority's Building Approval Conditions, and the requirements of any applicable Authority in relation to environmental protection or occupational health and safety matters.

ENVIRONMENTAL OBLIGATIONS

31. The Sub-Contractor is to exercise high standards of environmental control throughout the term of the Sub-Contract, with particular attention being paid to :

- The control of pollution, contamination or salination of any stream or water course.
- The limitation of damage to trees or other vegetation, and the indiscriminate provision and the use of access to tracks.
- The Sub-Contractor will utilise and ensure its personnel employed in the Works utilise the most practical methods available of noise suppression on all compressors, jack-hammers and other machinery of whatsoever description to ensure that the noise level emanating from the site during the execution of the Works is kept to a minimum.
- The maintenance of workshops, amenities, facilities, machinery parts, fuel stores, etc., in a tidy condition at all times.
- The maintenance of adequate hygiene and control of sanitary arrangements.
- The Sub-Contractor will avoid nuisance and trespass to adjacent and adjoining properties and the owners or occupiers thereof and the public from dust, debris, noise, obstruction, vibration or from any other cause and however caused.
- The Sub-Contractor will execute the Works in a manner that avoids the risk or threat of injunctions from adjacent or adjoining owners or occupiers requiring that the execution of the Works cease or be restricted and agrees to indemnify and keep indemnified the Proprietor and the Builder from and against any claim or proceeding made against them in respect of or arising out of any breach of this clause.

The Sub-Contractor shall plan and carry out the whole of the works in such a manner as to avoid any adverse environmental impact on the natural ecology of the site.

Any environmental requirements contained in any of the Sub-Contract documents:

- (a) may be in addition to, but are not in substitution for, any other requirements of any legislation or any conditions in these general Conditions of Contract; and
- (b) shall not be taken to limit the powers of the Builder or the liabilities and responsibilities of the Sub-Contractor under the Sub-Contract.

COST OF LABOUR

- 32. The Subcontractor acknowledges that in determining the Subcontract Sum the Subcontractor is responsible for assessing its own cost of labour and that the Subcontractor is not entitled to any adjustment to the Subcontract Sum by reason of any changes in the Subcontractor's cost of labour, including any changes in wage rates, site or other allowances etc which may become payable by reason of any award determination or other agreement or which may be agreed to by the Subcontractor in the process of entering into its own Collective Agreements or individual employment contracts.

TOOLS & EQUIPMENT

- 33. The Sub-Contractor shall be responsible for the safekeeping of all the Sub-Contractors tools, plant and equipment and any losses due to fire, flood, theft, etc., which may not be covered by the Sub-Contractor's insurances are the Sub-Contractor's responsibility and in no case shall be the responsibility of the Builder.

ACCEPTANCE OF SURFACES

- 34. Commencement of work by the Sub-Contractor upon any surface constitutes acceptance by the Sub-Contractor of the suitability of that surface and the Sub-Contractor will be liable for the costs of making good should the necessity arise, whether due to that surface being unsuitable or not.

STATUTORY DECLARATION PRIOR TO PROGRESS PAYMENTS

- 35. The statutory declaration to be delivered by the Subcontractor in accordance with Clause 3(d) prior to receipt of each progress payment:
 - (a) shall be in the form set out Annexure A of this agreement; and
 - (b) shall be accompanied by a subcontractor's statement in relation to workers compensation, pay-roll tax and remuneration in the form set out in Annexure A or in such other form as may be required by any applicable legislation of the State where the work under the Subcontract is being carried out, or in such other form as may be acceptable to the Builder.

DEED OF RELEASE PRIOR TO FINAL PAYMENT/RELEASE OF RETENTION

- 36. Prior to becoming entitled to receive the final payment of retention money or the release of bank guarantees held by the Builder, the Subcontractor must execute and deliver to the Builder a Deed of Release in the form set out on Annexure A, or in such other form as may be acceptable to the Main Contractor.

ENTIRE AGREEMENT

- 37. This Sub-Contract constitutes the entire agreement between the parties and shall take effect according to its tenor notwithstanding any prior agreement in conflict or variance with it or any correspondence or documents relating to the subject matter hereof which may have passed between the parties before its execution.

AUSTRALIAN STANDARDS

- 38. The Sub-Contractor shall do all acts, matters and things necessary on its part to be done to ensure that the Works are executed in accordance with the appropriate Australian Standards current at the time when the Works are being executed.

SERVICES AND FACILITIES

39 LIGHTING

- (a) Lighting in areas to be used in common with others for the purpose of access will be provided by the Builder.
- (b) Task lighting will be provided by the Sub-contractor.

40. ELECTRICITY

- (a) Installation of power to the Site will be provided by the Builder, via power boards located in the general work area. It will be provided in locations determined by the Builder generally within 30 metres of the work and accommodation areas.
- (b) Installation of 415 volt power to the Site will be provided by the Builder. Installation of 3 phase (415 volt power outlets at locations agreed between the Builder and the Sub-Contractor in the general work area will be provided by the Builder if the service can be used by others in that area.
- (c) Cost of electricity will only be borne by the Builder when used for the execution of Sub-Contract work including commissioning, provided the commissioning of services is carried out in a timely manner. Should excess power provisions be required due to negligent and protracted acceptance testing then costs may be charged to the Sub-Contractor for the extended period.
- (d) The Sub-Contractor must supply leads, plug tops, safety lead stands and lead hooks for his work.
- (e) Cost of all leads and equipment testing will be borne by the Sub-Contractor.

- (f) The Builder may impose reasonable restrictions on the use of electricity supply where others require the use of the electricity supply.

41. **ACCOMMODATION**

- (a) The Builder will provide lunch, change and ablution facilities as per regulations only.
- (b) The Sub-Contractor must provide accommodation other than the accommodation to be provided by in Clause 41(a) of this Schedule to a standard and in a location acceptable to the Builder's Representative.
- (c) The Sub-Contractor must maintain all sheds, including lunch and change facilities provided by the Builder.

42. **COLD WATER**

- (a) The Builder will provide cold water facilities as per regulations.
- (b) The Builder will determine the location of the water supply. The Builder may change the location of the water supply as construction proceeds.

43. **FIRST AID**

- (a) First Aid facilities will be provided by the Builder.

44. **PERSONNEL MOVEMENT AND MATERIALS HANDLING**

- (a) The Builder will not provide personnel for movement facilities.
- (b) The Builder will not provide hoisting facilities.
- (c) The Builder will not provide vertical or horizontal materials handling facilities unless specifically agreed otherwise.
- (d) Where facilities are to be provided by the Builder under this clause, they will only be provided while they are required for the Main Contract works and the Sub-Contractor will be allowed reasonable use of the facilities, subject to the needs of the Builder or others engaged on the project: and
- (e) Where the builder is required to provide a crane, the Sub-Contractor must provide the Builder with details of materials to be hoisted and the proposed date and time and the number of crane hours required a minimum of 2 working days prior to the Sub-Contractor requiring the facility. The Builder does not guarantee that the crane will be available when requested by the Sub-Contractor and it is the Sub-Contractor's responsibility to reschedule deliveries to suit the Builder. The notice period herein may be varied as instructed by the Builder.
- (f) The Sub-Contractor will be charged for the facilities provided by the Builder under this clause if provided outside the site hours referred to in the Sub-Contract documents.

45. **SCAFFOLDING**

- (a) The Sub-Contractor shall supply all necessary minor scaffolds, mobile scaffold, scissor lifts, etc., for his works in accordance with Authority regulations

46. **TELEPHONES**

- (a) The Builder will not provide either a telephone or facsimile facility.

47. **SAFETY EQUIPMENT**

- (a) The Sub-Contractor must provide all handrails, safety screens, coverings to floor openings provided for his services, safety harnesses and the like which are:
- (b) necessary to comply with the Sub-Contractor's OHS&R Management Plan and legislation, awards, industrial agreements, or Builder's requirements; or
- (c) required for the safe and proper execution of the Sub-Contract Works and the protection of persons and property.

48. **OTHER SERVICES**

The Builder will only provide the items listed above. The Subcontractor is responsible for all other equipment, including, but not limited to, mobile scaffolds, elevated work platforms, knuckle booms, forklifts and the like; including any required appropriately ticketed operators.

INFORMATION TO BE PROVIDED WITH PAYMENT CLAIMS

49. Claims for Payment made in accordance with this Agreement must be accompanied by:

- (a) Certificates of Currency for Workers' Compensation insurance. These certificates are to be provided no less frequently than every 3 calendar months and are to include details of the number of employees covered by the policy and the estimate of wages billed upon which the premium for the policy was based;
- (b) Certificates of Currency for Public Liability Insurance within one week of the date of expiry of the policy;
- (c) Duly executed Statutory Declaration and Sub-Contractor Statement. Refer Annexure A; and
- (d) Copies of contribution returns and receipts relating to the month prior to the month of the Claim for Payment for employer contributions for Superannuation..

Failure by the Sub-Contractor to provide any or all of the above documents may constitute substantial breach as contemplated by Clause 8.

50.

EXPRESSED WARRANTY ON COMPLIANCE

The Sub-Contractor warrants to the Builder that what the Sub-Contractor supplies or constructs will meet requirements of the Main Contract Specification and Drawings, unless the Sub-Contractor has expressly warned the Builder in its Tender that what the Sub-Contractor offers will not meet some or any of these requirements.

51.

NOVATION OR ASSIGNMENT OF SUB-CONTRACT

If the Main Contract is for any reason whatsoever terminated or if the Main Contract Works are taken out of the hands of the Main Contractor, the Sub-Contractor hereby consents to the novation or assignment of the Sub-Contract and the Sub-Contractor must, on receipt of a notice from the Builder, immediately do all things necessary or convenient in order to permit the Builder to novate or assign the Sub-Contract to the Principal, the Principal's financier or such other person as the Builder may nominate and the Sub-Contractor must do or cause to be done whatever the Builder reasonably requires in order to give effect to the novation or assignment.

CODES OF PRACTICE FOR THE CONSTRUCTION INDUSTRY

52.

The parties acknowledge that the Code and the Guidelines apply to the work, and accordingly agree that notwithstanding any other term of this Agreement, the terms of this clause 52 will apply to the work.

The provisions of this clause 52 shall not limit the obligations of the Subcontractor except as necessary to comply with this clause 52. Compliance with the Code shall not relieve the subcontractor from responsibility to perform the contract, or from liability for any defects in the Works arising from compliance with the Code or the Guidelines.

Terms in this clause 52 given meaning by the Code shall be afforded that meaning in this clause 52.

52.1 SUBCONTRACTOR OBLIGATIONS AND UNDERTAKINGS

The Subcontractor must comply, in the performance of this contract, with the requirements of the Code and the Guidelines, and with the industrial relations and occupational health and safety components of the State Code of Practice for the Construction Industry (the State Code)(together the Codes).

The Subcontractor must and undertakes that it will:

- (a) comply with the Code, the Guidelines and the industrial relations and occupational health and safety components of the State Code in performing the work;
- (b) require compliance from the Subcontractor or any other subcontractor, employee or consultant that it engages to provide the work;
- (c) apply the Code and the Guidelines to privately funded projects it commences to work on after the date of this Agreement;
- (d) maintain adequate records of the compliance with the Codes and the Guidelines by itself and its subcontractors and its Related entities;
- (e) permit the Main Contractor or any person authorised by the Main Contractor to have access to these records and to its premises, as is necessary to allow validation of its progress in complying with the Codes and the Guidelines;
- (f) permit the Commonwealth, including a person holding a position with the Australian Building and Construction Commissioner full access to construction sites or places covered by the Code, including privately funded construction sites:
 - i. inspect any work, material, machinery, appliance, article or facility;
 - ii. inspect and copy any record relevant to the Project and Works the subject of this Contract
 - iii. interview any person
 - iv. request a party to this Contract to produce a specified document within a specified period, being not less than 14 days, in person, by fax or by postas is necessary to allow validation of its progress in complying with the Code and Implementation Guidelines.
- (g) in all subcontracts, require subcontractors to maintain and provide for the Main Contractor or any person authorised by the Main Contractor, or a person holding a position with the Australian Building and Construction Commissioner access to the subcontractor's records and premises to the same extent as required from the Subcontractor by this clause;
- (h) comply with any policy established by the Main Contractor to ensure freedom of association and right of entry in accordance with the Code;
- (i) comply with any occupational health safety and rehabilitation plan established by the Main Contractor to comply with the Code;
- (j) report any threatened or actual industrial action on the works to the Main Contractor immediately it becomes aware of any such industrial action;
- (k) initiate action to remedy any breach of the Code of as soon as practical after it becomes aware of the breach;
- (l) report any breach of which it becomes aware, together with any remedial action taken in response, to the Main Contractor within 14 days of becoming aware of the breach;
- (m) ensure that the Code Monitoring Group of Department of Education, Employment & Workplace Relations (DEEWR) (CMG) and the Office of the Australian Building and Construction Commissioner are notified of the non-compliance and any remediation;
- (n) submit a report to the Main Contractor where a change to the contract is proposed and that change would affect compliance with the codes, specifying the extent to which the Subcontractor's compliance with the code or the industry guidelines will be affected;

- (o) not appoint a subcontractor, consultant or supplier in relation to the Project where the appointment would breach a sanction imposed by the Code Monitoring Group;
- (p) comply with any direction of the Main Contractor if that direction is necessary to ensure that the Main Contractor, the Subcontractor or any other person concerned with the works comply with the Code.

If the Subcontractor does not comply with the requirements of the code or the industry guidelines in the performance of this contract such that a sanction is applied by the Commonwealth, the Subcontractor, without prejudice to any rights that would otherwise accrue, shall be entitled to record that non-compliance and take into account in the evaluation of any future tenders that may be lodged by the Subcontractor or related corporation in respect of work for any part of the Commonwealth or its agencies.

52.2 SUBCONTRACTOR WARRANTIES

The Subcontractor warrants that:

- (a) it complies with the Codes in respect of the works; and
- (b) it complies with the Codes on any privately funded project commenced after the first occasion it lodged any expression of interest or tender for Australian Government directly or indirectly funded work, if that expression of interest or tender was on or after 1 November 2005.

52.3 BUILDER OBLIGATIONS

The Builder agrees it will take all reasonable steps to comply with the Code and to ensure that it does not do anything that would place the Subcontractor in breach of the Code, and in particular, subject only to the Code and legal obligations, it will:

- (a) respect the right of the Subcontractor to agree terms with its employees and contractors without imposition or interference from the Main Contractor;
- (b) involve the Subcontractor in any process to develop a project agreement for the works; and
- (c) respect the rights of the Subcontractor, its employees and contractors to freedom of association and freedom of choice in industrial representation.

52.4 VARIATION TO ENSURE CODE COMPLIANCE

- 1) The parties agree that if:
 - (a) Department of Education, Employment and Workplace Relations or the CMG conclude that this Agreement is not compliant with the Code; or
 - (b) the Code is altered such that this Agreement is no longer compliant with the Code;
 - (c) they will confer urgently and in good faith to agree such amendments to this Agreement as are necessary to make this Agreement compliant with the Code.
- 2) If after a reasonable period the parties cannot agree on amendments which would make this Agreement Code compliant, either party may terminate this Agreement immediately on written notice to the other.

RECIPIENT CREATED TAX INVOICES

53. (a) The Builder is registered for GST as at the date of the Sub-Contract and the Builder will notify the Sub-Contractor if the Builder ceases to be so registered or if the Builder ceases to satisfy any of the requirements of any relevant tax ruling relating to the issue of recipient created tax invoices.
- (b) The Sub-Contractor warrants to the Builder that the Sub-Contractor is registered for GST as at the date of the Sub-Contract and the Sub-Contractor must notify the Builder if the Sub-Contractor at any time ceases to be so registered.
- (c) The Builder may issue tax invoices in respect of goods or services supplied under or in connection with the Sub-Contract by the Sub-Contractor. Subject to the terms of the Sub-Contract, the Sub-Contractor must not issue tax invoices in respect of goods and services supplied by the Sub-Contractor under or in connection with the Sub-Contract.
- (d) A progress claim under the Sub-Contract is not a tax invoice.
- (e) If for any reason one or more of the criteria which must be satisfied to allow the Builder to issue recipient created tax invoices is not satisfied such that the Builder cannot issue a tax invoice in respect of the supply made under or in connection with the Sub-Contract, then the Sub-Contractor must, when requested by the Builder issue a tax invoice (being an invoice which complies with the GST Law and contains both the Sub-Contractor's and the Builder's Australian Business Number) to the Builder for the amount specified by the Builder and if the Builder has made such a request the Builder is not required to make a payment under the Sub-Contract to which the request relates until the Sub-Contractor has provided a tax invoice in relation to that payment in the form and the amount required by the Builder.

FUTURE CHANGES TO THE GST

54. If there is any abolition or reduction of any tax, duty, excise or statutory change associated with the GST, or any change in the GST, the consideration payable for the supply must be varied so that the Sub-Contractor's net dollar margin in respect of the supply remains the same.
- Any contract entered into by a third party which involves supplies being made, the cost of which will affect the cost of any supplies made under or in connection with this agreement, must include a clause in equivalent terms to the immediately preceding paragraph.

INDEMNITY

- 55.
- (a) The Sub-Contractor is liable for and indemnifies the Builder against any liability, loss, claim, expenses, damages, workers compensation, costs (including all legal costs regardless of the outcome of any legal proceeding) in respect of any injury, death, loss, illness, breach of IP Rights of a third party or damage to property or person to the extent caused or contributed to by the Sub-Contractor, any of its employees, Sub-Contractors or agents or other person for whom the Sub-Contractor is responsible through:
 - i any breach of this agreement;
 - ii negligent act or omission;
 - iii any failure to comply with any Legislative Requirements.
 - (b) It is not necessary for the Builder to incur expense or make payment before enforcing any right of indemnity under this clause.

SUBCONTRACT WORKS

- 56.
- (a) The Builder may issue Sub-Contract amendment to the Sub-Contractor from time to time.
 - (b) The Sub-Contractor must perform the Works detailed in the amendment under the same terms and conditions as the original Sub-Contract agreement.
 - (c) The Sub-Contract amendment will specify any combination of the following:
 - i a description of the site and a detailed description of the Works to be executed and completed by the Sub-Contractor.
 - ii the documents upon which the amendment is based;
 - iii the fixed lump sum and or quantities and or rates for the works payable by The Main Contractor;
 - iv the date for commencement of the Works;
 - v the date for completion of the Works; and
 - vi the amount of liquidated damages for delay in completing the Works.

57. TIME FOR COMMENCEMENT AND COMPLETION OF WORKS

- (a) The Sub-Contractor must commence Works at the time stipulated in the Sub-Contract
- (b) The Sub-Contractor must report to the Builder on the progress of all Works in accordance with the reporting procedures in the Sub-Contract.
- (c) The Sub-Contractor must complete the Works on or before the time stipulated in the Sub-Contract amendment.
- (d) If the Sub-Contractor fails to complete the Works by such time, the Sub-Contractor, at the absolute discretion of the Builder, may be liable for liquidated damages calculated in the manner specified in the Sub-Contract. If no liquidated damages are specified in the Sub-Contract or notified by the Builder to the Sub-Contractor, the Builder will nonetheless be entitled to claim general damages from the Sub-Contractor which are sustainable by reason of the Sub-Contractor's failure to complete the Works by the stipulated time. This clause does not limit any other rights or remedies of the Builder.
- (e) Where the progress of the Works is delayed by any cause the Sub-Contractor must, as soon as practical and in any event not later than 2 business days after it becomes aware or ought reasonably to have become aware, of the cause of the delay, give a notice in writing to the Builder.
 - i stating with as much detail as is possible, the nature of the cause of the delay and, where possible, the extent of the delay; and
 - ii stating the steps being taken to alleviate and otherwise deal with the delay and its cause.
- (f) The Sub-Contractor is only entitled to an extension of time for the performance of the Works if:
 - i the sole cause of the delay is beyond the reasonable control of the Sub-Contractor and is:
 - a. a delay in giving the Sub-Contractor sufficient access to the site;
 - b. suspension or variation of the Main Contract Works;
 - c. compliance with any governmental or semi-governmental enactment;
 - d. compliance with the order of a court of competent jurisdiction, to the extent that the Sub-Contractor is not responsible for the order being made by the court; or
 - e. flood, hurricane, fire, earthquake or explosion, and
 - ii the Sub-Contractor has complied with all reasonable instructions of the Builder with respect to the cause of delay and taken all reasonable steps to avoid the cause of the delay and to reduce or mitigate the delay, and
 - iii The Builder receives an extension of time for the performance of the Works under the Main Contract.

SETTING OUT / SURVEY

58. The Sub-Contractor is fully responsible for setting out Works accurately, at its own cost.

59.

NON COMPLIANCE WITH INSTRUCTIONS

If the Sub-Contractor does not comply with an instruction given by the Builder under or in connection with this Sub-Contract then:

- (a) the Builders Representative may issue a notice to the Sub-Contractor requiring compliance within a reasonable time to be stated in the notice;
- (b) if the Sub-Contractor does not comply therewith the Builder may employ and pay others to execute any work whatsoever which may be necessary to give effect to such instructions of the Main Contractor's Representative;
- (c) subject to paragraph (d) below, all costs properly incurred or to be incurred by the Main Contractor in so doing may be recovered by the Main Contractor as a debt due to the Main Contractor by the Sub-Contractor or may be deducted by the Main Contractor from any monies which may then be or thereafter become payable to the Sub-Contractor by the Main Contractor (including any retention monies then held by the Main Contractor) or from any security furnished by the Sub-Contractor pursuant to this Sub-Contract; and
- (d) where the Main Contractor has pursuant to paragraph (b) above employed others to execute variations, then the determination of the amount of the costs properly incurred or to be incurred by the Main Contractor may be the subject of dispute in accordance with the terms of this Sub-Contract.

MAIN CONTRACT OBLIGATIONS

60 The Sub-Contractor warrants to the Builder that the Sub-Contractor will carry out the Works and its obligations under the Sub-Contract in such a way as to ensure that:

- (a) the Builder is able to fully meet its obligations under the Main Contract or otherwise at law insofar as they relate to the Works, including but not limited to the Builder being able to give in a timely manner all notices which are required to be given under the Main Contract;
- (b) no act or omission of the Sub-Contractor constitutes, causes or contributes to any breach by the Builder of its obligations under the Main Contract or otherwise at law;
- (c) the Sub-Contractor otherwise acts consistently with all the terms of the Main Contract.

MBA CHECKS

61 The Main Contractor may engage the Master Builder's Association (MBA) to check Subcontractors' documentation for compliance with Statutory and Industrial requirements.

The Subcontractor shall, at the request of the Main Contractor, make available to the MBA any and all documents and personnel necessary for this process.

If the MBA checks do not find any non-compliances by the Subcontractor, the cost of the MBA check will be borne by the Main Contractor. If non-compliances are found, the cost of the MBA checks will be borne by the Subcontractor and the Subcontractor indemnifies the Main Contractor in respect of all such costs.

62

SUSPENSION UNDER SECURITY OF PAYMENT LEGISLATION

To the extent permitted by law, if the Subcontractor suspends the whole or any part of the work under the Subcontract pursuant to an express right or entitlement under any applicable law or legislation of a State or Territory:

- (a) the suspension shall not of itself affect the Date for Substantial Completion, but may be a ground for an extension of time under Clause 57; and
- (b) the Main Contractor shall not be liable for any costs, expenses, damages, losses or other liability, including delay or disruption costs whatsoever suffered or incurred by the Subcontractor as a result of, by reason of or connection with the suspension.

63

PROPORTIONATE LIABILITY

The parties agree that to the extent permitted by law, the operation of the application of any proportionate liability law or legislation is excluded in relation to all and any rights, obligations and liabilities under this Subcontract, whether such rights, obligations and liabilities are sought to be enforced as a breach of contract, claim in tort or otherwise at law or in equity.

The Subcontractor must (unless the Main Contractor otherwise directs) include an identical provision to this Clause 63 in all material subcontracts, supply agreements and consultant agreements it enters into in connection with the performance of the work under the Subcontract.

64.1 Definition

Latent Conditions means physical conditions on the Site or its surrounds, including artificial things but excluding weather conditions or the effect of weather conditions, which differ materially from the physical conditions which should reasonably have been anticipated at the date of the Final Offer by an experienced and competent contractor who had acted reasonably and competently and who had carefully examined, investigated and satisfied itself in all respects as to:

- (a) all information relevant to the work under the Contract or other obligations of the Contractor under the Contract (including the Contract and any information provided by or on behalf of the Principal, written or otherwise);
- (b) all information relevant to the risk, contingencies and other circumstances having an effect of the Contractor's tender and known to the Contractor or obtainable by the making of reasonable enquiries; and
- (c) the Site, its surrounds and all improvements and fixtures on the Site and its surrounds.

64.2 Notification

If during the execution of the work under the Contract, the Contractor becomes aware of a Latent Condition, the Contractor shall within 14 days and where possible before the Latent Condition is disturbed, give written notice thereof to the Project Manager. If required by the Project Manager, the Contractor shall, as soon as practicable, provide to the Project Manager a statement in writing specifying:

- (a) the Latent Condition encountered and in what respects it differs materially;
- (b) the additional work and additional resources which the Contractor estimates to be necessary to deal with the Latent Condition;
- (c) the time the Contractor anticipates will be required to deal with the Latent Condition and the expected delay in achieving Practical Completion; and
- (d) other details reasonably required by the Superintendent.

64.3 Extension of Time and Cost

Delay caused by a Latent Condition may justify an extension of time under Clause 57.

The Contractor is not entitled to and may not make any Claim or claim for an increase in the Guaranteed Maximum Price or for payment of money (including damages) in connection with the effect of the Latent Condition or any direction of the Project Manager arising from the Latent Condition.

64.4 Time Bar

Not used.

64.5 Site

The Contractor acknowledges that it has had access to the Site and has carried out its own inspections of the Site and the improvements on the Site and conducted its own enquiries in order to establish, understand and satisfy itself as to the nature and status of the Site and the improvements on the Site and all risks and contingencies associated with the Site and the improvements on the Site.

Except as provided for in Clause 57 of the Contract, the Contractor accepts sole responsibility for, and assumes the risk of, all increased costs, losses and expenses and delays arising out of the physical conditions on, above, below or about the Site and its surroundings and the characteristics of the Site and its surroundings (and any indirect or consequential costs, losses, expenses and delays) and including without limiting the generality of the foregoing, inclement weather, wind, water, atmospheric, geotechnical and subsurface conditions, obstacles, structures, and characteristics encountered in the execution of the Works.

64.6 Risks

Without limiting the generality of Clause 64.5.5, the Contractor's risks and responsibilities referred to in Clause 64.5 include all costs associated with:

- (a) the remediation of any contamination and the removal of any hazardous materials or conditions from the Site, including the removal of asbestos from existing improvements forming part of the work under the Contract; and
- (b) all other physical conditions and characteristics of the Site above, on or below the surface which may affect the performance by the Contractor of its obligations under the Contract, and the Contractor acknowledges that:
 - (i) the Guaranteed Maximum Price includes an allowance for all costs associated with the Contractor's risk and responsibilities under Clause 64 ; and
 - (ii) it is not entitled to and shall have no Claim in relation to any adjustment to the Guaranteed Maximum Price for any of the Contractor's risk and responsibilities under Clause 64.

DOCUMENTATION OBLIGATIONS

A.1 DOCUMENTATION AND BUILDER OBLIGATIONS

The Subcontractor hereby warrants, and it is a condition of this Subcontract, that it has:

- (a) Examined carefully and acquired actual knowledge of the contents of all of the Contract Documents and any other information made available by or on behalf of the Builder to the Subcontractor for the purpose of tendering;
- (b) Examined all information obtainable by the making of reasonable enquiries and relevant to the risks, contingencies and other circumstances having an effect on its tender and to the risks and contingencies inherent in its Subcontract obligations;
- (c) Satisfied itself as to the correctness and sufficiency of its tender for the work and that the Subcontract Sum covers the cost of complying with all its obligations under the Subcontract Documents and of all matters and things necessary for the due and proper performance and completion of its obligations.

The Subcontractor hereby further warrants that the Subcontractor will carry out the work under the Subcontract in such a way as to ensure that:

- (d) The Builder is able to fully meet its obligations under the Main Contract or otherwise at law insofar as they relate to the Works (including but not limited to the Builder being able to give in a timely manner all notices which are required to be given under the Main Contract;
- (e) No act or omission of the Subcontractor constitutes, causes or contributes to any breach by the Builder of its obligations under the Main Contract, or otherwise at law;
- (f) The Subcontractor otherwise acts consistently with all the terms of the Main Contract.

The Subcontractor hereby agrees that, notwithstanding any insufficiency or incompleteness in the Subcontract and notwithstanding anything in the Subcontract to the contrary.

- (g) the Subcontract Sum, as adjusted by any additions or deductions expressly authorised by the terms of the Subcontract, represents the guaranteed maximum price payable by the Builder to the Subcontractor in connection with the design (if applicable) and execution of the Works;
- (h) The Subcontractor shall not make any claim or demand, or commence or maintain any suit, cause of action or proceeding, for or in connection with any adjustment to the Subcontract Sum not contemplated by the terms of paragraph (a) above, or for the payment of any other amount arising out of or in connection with the execution of the Works on any basis whatsoever;
- (i) The Subcontractor hereby releases the Builder from any claim, demand, suit, cause of action or proceeding in connection with any adjustment or amount of the type referred to in paragraph (b) above and these terms may be pleaded to bar any such claim, demand, suit, cause of action or proceeding;
- (j) The Subcontractor hereby indemnifies, and agrees to keep indemnified, the Builder from and against any such claim, demand, suit, cause of action or proceeding, or any costs, expense, loss or damage, arising out of or in connection with any adjustment or amount of the type referred to in paragraph (b) above.

DESIGN OBLIGATIONS

~~A.3 DESIGN OBLIGATION (Delete if Not Applicable)~~

The Subcontractor acknowledges that under the Subcontract it has design obligations in relation to parts of the Works. Such obligations are hereinafter called "the Design Work" and comprise all those services necessary to comply with the Subcontractor's obligations under the Subcontract and the warranties and representations in clause A.5 and include, without limitation:

- (a) The examination, including the preparation of suitable reports, of design alternatives and requirements deemed necessary by the Builder or the Principal;
- (b) The provision of all necessary certificates and engineering certifications necessary to certify compliance with the relevant parts of the Building Code of Australia and all relevant Australian Standards.

The Subcontractor shall carry out the Design Work in accordance with the Subcontract and shall provide, or ensure the provision of, all resources of whatever nature necessary to manage and achieve, in a proper, careful, skilful and professional manner, the execution, co-ordination and completion of the Design Work. In carrying out the Design Work the Subcontractor shall take full account of the design (if any) prepared by the Principal and/or the Builder and shall provide the Design Work consistently with it.

~~A.4 TIME (Delete if Not Applicable)~~

The Subcontractor shall complete the Design Work in an orderly manner having regard to the requirements of the Builder's Contract Work Programme, to the intent that such designs shall be completed in a timely manner having regard to its obligations under the Subcontract.

~~A.5 WARRANTIES AND REPRESENTATIONS (DESIGN) (Delete if Not Applicable)~~

The Subcontractor hereby warrants and represents to the Builder that:

- (a) It has the necessary experience, skill, knowledge and resources in order to execute the Design Work in the manner, at the times and for the purposes referred to in or contemplated by the Subcontract;

- (b) It shall do all acts, matters and things necessary on its part to be done to ensure that all personnel involved in the Design Work are experienced and qualified for the task and will ensure that such personnel have past experience in connection with the design of projects of a similar nature to the Works;
- (c) The physical work the subject of the Design Work shall be designed and engineered with high standards of care, skill, competence and diligence and shall be suitable for its intended purpose and so as to meet the requirements of the Builder in all respects;
- (d)
 - (i) its design shall comply with the requirements of all relevant Authorities and with the requirements of all relevant legislation, Australian standards, ordinances, regulations, by-laws, orders and all lawful requirements of any relevant Authority having jurisdiction in relation to the Works;
 - (ii) it shall obtain all necessary consents and approvals from all relevant Authorities in connection with the design of the Design Work; and
 - (iii) it shall ensure that the requirements of all Authorities' approvals are incorporated into its designs;
- (e) The physical work the subject of the Design Work shall be designed in all respects so as not to infringe any patent, registered design, copyright or other protected right;
- (f) It shall inform itself of all acts, matters and things necessary and appropriate to be done, acquired or known for it to produce the Design Work in the manner, at the times and for the purposes referred to in or contemplated by the Subcontract;
- (g) It shall prepare, co-ordinate and make available to the Builder's Representative, all necessary detailed drawings, specifications, calculations and all other necessary documents in connection with the Design Work and that it shall, at all times, have full and proper regard to all comments, suggestions and requirements of the Builder's Representative in connection with the Design Work;
- (h) It shall liaise with, and provide all necessary information to, relevant Authorities for the purpose of assisting the issue of all necessary approvals for the physical work the subject of the Design Work;
- (i) It shall attend all design, and any other, meetings as may be required by the Builder's Representative in relation to its design;
- (j) It shall provide such certifications in relation to its design as may be required for the purpose of obtaining any approvals of relevant Authorities at any stage of the Works'
- (k) It shall, within 5 days, provide to the Builder's Representative a design development programme (which shall regularly be up-dated and so as to include any requirements of the Builder's Representative);
- (l) It shall keep the Builder's Representative regularly and fully informed of the progress of its design and shall make the same available for inspection by the Builder's Representative and any authorised representatives of the Builder at all reasonable times;
- (m) With each claim for payment the Subcontractor shall provide to the Builder a certificate addressed to the *Principal* expressly certifying that the design, workmanship & materials complies with the requirements of the *Main Contract*.
- (n) It shall promptly produce to the Builder from time to time and on written request any Design Work, and all ancillary or related documents, including:
 - (i) draft working drawings, shop drawings and specifications;
 - (ii) manufacturers technical data;
 - (iii) design calculations;
 - (iv) any other documents which may assist the Builder or the Principal in any way (including gaining an initial understanding of design concepts).

~~**A.6 BUILDERS REPRESENTATIVE'S APPROVAL (Delete if Not Applicable)**~~

The Subcontractor shall submit its Design Work and/or shop drawings to the Builder's Representative for review. The Subcontractor shall promptly address in its design any matters raised by the Builder's Representative in relation to the designs. After receipt of the Builder's Representative's acknowledgment of review the Subcontractor shall promptly proceed to execute the physical work the subject of the Design Work in accordance with the terms of the Subcontract.

Notwithstanding any review by the Builder's Representative, the Subcontractor shall remain fully, entirely and exclusively responsible for the Design Work and/or shop drawings and hereby assumes the entire risk arising out of or in connection with the Design Work.

~~**A.7 COPYRIGHT (Delete if Not Applicable)**~~

The Builder and the Principal shall have an irrevocable licence, which is hereby granted, to use without cost (other than the Subcontract Sum) the Subcontractor's design and any design documents by the Subcontractor or its consultants for the purposes of completing the Works (if necessary) and for any purposes connected with the management, maintenance or operation of the Works and the licence hereby granted extends beyond the termination of the Subcontract.

~~**A.8 PROFESSIONAL INDEMNITY INSURANCE (Delete if Not Applicable)**~~

The Subcontractor shall, forthwith upon the execution of this Subcontract (if it has not already done so), effect professional indemnity insurance, for an amount of not less than five million dollars (\$5,000,000). The Builder may, within its absolute sole discretion, reasonably object to the insurer proposed or used by the Subcontractor, in which case, the Subcontractor shall propose or use another insurer. Such policy shall:

- (a) extend to claims against the Subcontractor arising out of or in connection with any negligent act, error or omission by the Subcontractor in connection with the design of the Design Work;
- (b) be maintained effective for a continuous period expiring not earlier than six (6) years after the issue of the Final Certificate.

~~A.9 CONTRACT DRAWINGS (Delete if Not Applicable)~~

The Subcontractor may, in fulfilling its obligations in relation to the Design Work undertake such detailing, refinement and amendment of, and other changes to, the drawings referred to in sub-clause A.6.1 hereof as may reasonably be necessary or appropriate (but so as not to infringe any Authorities' approval).

~~A.10 RESPONSIBILITY FOR PRELIMINARY DESIGN (Delete if Not Applicable)~~

The Subcontractor:

- (a) Acknowledges and agrees that prior to the date of the Subcontract the Principal and/or the Builder has caused to be prepared a preliminary design in respect of the Design Work;
- (b) Accepts full responsibility for the preliminary design and warrants to the Builder the correctness of the preliminary design and that the preliminary design is fit for its purpose and intended use.

ANNEXURE A

DOCUMENT SCHEDULE

DRAWINGS & SPECIFICATIONS:

- As per attached document transmittal titled Contract Issued on Red Hub
REFERENCE: document transmittal NSD-TRANS-00014-(12thOCT)

OTHER DOCUMENTS:

- | | |
|--|---------|
| - Trade Specific Scope of Works | 1 page |
| - Construction Program dated 12/10/17 | 3 pages |
| - Statutory Declaration – | 1 page |
| - Sub-Contractors Statement | 3 pages |
| - Deed of release – | 1 page |
| - Form of Unconditional Undertaking (Bank Guarantee Pro forma) | 1 page |
| - Check list to be submitted with all payment claims | 1 page |

Transmittal: [\[NSD-TRANS-000050\]](#) - (24 Jul 2018)

Project: Latitude 25 - Nikenbah RV

From: Kylie Waldock

Company: Nikenbah Constructions

Subject: BDG Electrical - Contract Drawings

Reason for Transmittal:

Contract Drawings for your reference.

Recipients:

Bruce Goodluck - BDG Contracting Services

Ryan Williams - Nikenbah Constructions

Transmittal Files:

Architectural

File DWG	Revision	File Name	Status	Revision Date	Type
☐ AR 0-1-1-01	P7	OVERALL SITE PLAN - COMPLETED DEVELOPMENT	Preliminary	16/05/2018	Drawing
☐ AR 0-1-1-03	P3	AR 0-1-1-03 - PART SITE PLAN - COMMUNITY SETOUT	Preliminary	23/01/2018	Drawing
☐ AR 0-1-2-01	C	STAGE RELEASE SITE PLAN - STAGE 1 - PART 1	Preliminary	05/04/2018	Drawing

Civil

File DWG	Revision	File Name	Status	Revision Date	Type
☐ 16421 Stage 1 Civil	0 and 1	Full Set of Civil Stage 1 Drawings For Construction	For Construction	13/10/2017	Drawing

Communications

File DWG	Revision	File Name	Status	Revision Date	Type
☐ B2170651cdcRevA-mrs	0	Communication Services D&C Specification	For Tender	14/06/2018	Specification

Electrical

File DWG	Revision	File Name	Status	Revision Date	Type
☐ 01038-E001	2	SINGLE LINE DIAGRAM	For Information	11/10/2017	Drawing
☐ 01038-E002	1	DB'S SINGLE LINE DIAGRAM	For Information	11/10/2017	Drawing
☐ 01038-E003	1	PV LAYOUTS	For Information	11/10/2017	Drawing
☐ 1	B	MATV layout	For Approval	12/10/2017	Drawing
☐ 2	E	Electrical layout 1	Works As Executed	23/02/2018	Drawing
☐ 3	B	Electrical layout 2	For Approval	12/10/2017	Drawing
☐ 5228	B	Typical Ergon Trench profile	Approved	03/07/2011	Drawing
☐ BMCS-SPEC	1	BMCS SPECIFICATION	For Information	11/10/2017	Drawing
☐ D100	E	Telecommunications Partial As Constructed	Works As Executed	23/02/2018	Drawing

☐ File DWG	Revision	File Name	Status	Revision Date	Revision	Drawing Type
☐ DHW HP-SPEC	1	DOMESTIC HOT WATER HEAT PUMP SPECIFICATION	For Information	22/12/2017	2017	Drawing
☐ E01	B	Title Page, Drawing Schedule and Legend	For Information	22/12/2017		Drawing
☐ E02	C	SITE PLAN - PART 1	For Information	14/06/2018		Drawing
☐ E10	1	WATSON AND WALTON ELECTRICAL LAYOUT	For Construction	28/02/2018		Drawing
☐ E100	E	HV Schematic	Works As Executed	23/02/2018		Drawing
☐ E101	D	HV LV and Conduit Schematic	For Construction	03/10/2017		Drawing
☐ E11	1	TAYLOR AND MORRISON ELECTRICAL LAYOUT	For Construction	28/02/2018		Drawing
☐ E12	1	KENNARD AND DAVIDSON ELECTRICAL LAYOUT	For Construction	28/02/2018		Drawing
☐ E13	1	COTTEE ELECTRICAL LAYOUT	For Construction	28/02/2018		Drawing
☐ E14	1	FRANKLIN ELECTRICAL LAYOUT	For Construction	09/05/2018		Drawing
☐ E19	0	CLUBHOUSE TITLE, LEGEND AND DRAWING SCHEDULE	For Tender	02/07/2018		Drawing
☐ E20	0	CLUBHOUSE POWER LAYOUT	For Tender	29/06/2018		Drawing
☐ E21	1	CLUBHOUSE LIGHTING LAYOUT	For Tender	03/07/2018		Drawing
☐ E22	1	CLUBHOUSE KITCHEN/SERVERY POWER LAYOUT	For Tender	03/07/2018		Drawing
☐ E23	0	CLUBHOUSE SWITCHBOARD SCHEMATIC	For Tender	02/07/2018		Drawing
☐ E30	0	WELLNESS CENTRE POWER LAYOUT	For Tender	03/07/2018		Drawing
☐ E31	0	WELLNESS CENTRE LIGHTING LAYOUT	For Tender	03/07/2018		Drawing
☐ E40	1	RV WASH AREA POWER AND LIGHTING LAYOUTS	For Construction	18/06/2018		Drawing
☐ E40	1	RV WASH AREA POWER AND LIGHTING LAYOUTS	For Construction	18/06/2018		Drawing
☐ E50	2	MAINTENANCE SHED POWER AND LIGHTING LAYOUTS	For Construction	14/06/2018		Drawing
☐ E60	1	EXTERNAL FEATURE LIGHTING LAYOUT - ENTRY ZONE	For Construction	15/06/2018		Drawing
☐ EL-SPEC-001	A	ELECTRICAL SPECIFICATION	For Review	04/07/2018		Specification
☐ Form15-Elec	*	Form 15	For Information	09/05/2018		Other
☐ PV-SPEC	1	PV SPECIFICATION	For Information	11/10/2017		Drawing
☐ RVR16260-D100	G	Telecommunications Partial As Built	Works As Executed	25/06/2018		Drawing
☐ RVR16260-E100	G	Electrical Partial As Built	Works As Executed	25/06/2018		Drawing
☐ RVR16260-N001	B	NBN As Constructed Plan RVR16260-N001B	Works As Executed	12/07/2018		Drawing

Landscape

File DWG	Revision	File Name	Status	Revision Date	Type
☐ LA1704-1201	C	Entry_Landscape Detail	For Approval	11/10/2017	Drawing

Files attached to Contract email dated 24th July 2018 –

Name	Date modified	Type	Size
 EDFA - MT96123 Datasheet	22/06/2018 12:23	PDF Document	107 KB
 GPON Generic - Single Line Diagram_V1.0	22/06/2018 12:23	PDF Document	334 KB
 Latitude25-GPON Solution_Equipment Schedule_Madison Tech_V1	22/06/2018 12:23	Microsoft Excel W...	20 KB
 Madison Partner Support Program	22/06/2018 12:23	PDF Document	1,051 KB
 OLT - MA5608T Datasheet	22/06/2018 12:23	PDF Document	359 KB
 OLT Line Card - H807GPBH Datasheet	22/06/2018 12:23	PDF Document	153 KB
 OLT Power - MPWD Datasheet	22/06/2018 12:23	PDF Document	257 KB
 ONT - EG8242H Datasheet	22/06/2018 12:23	PDF Document	294 KB
 Optical Transmitter - MT9621210 Datasheet	22/06/2018 12:23	PDF Document	87 KB
 Patch Cords - GPC series Datasheet	22/06/2018 12:23	PDF Document	223 KB
 RVR16260-D100G	22/06/2018 12:37	PDF Document	193 KB
 Wall Outlet - NR-F-50-2-015 Datasheet	22/06/2018 12:23	PDF Document	430 KB
 Communications Specification 140618	22/06/2018 12:21	PDF Document	654 KB
 GPON - CLIENT INTENT 220618	23/07/2018 5:30 PM	PDF Document	944 KB
 Lat 25 - Line Diagram rev1.0	25/06/2018 3:59 PM	PDF Document	420 KB
 LAT25 - Principles Project Requirements (Communications)	22/06/2018 12:40	PDF Document	268 KB

SCOPE OF WORKS

The scope of works includes for all supervision, labour, materials, plant and equipment to carry out the works, all in accordance with the sub-contract documentation, including everything necessary for the proper and timely completion of the works in a properly coordinated and safe manner, including but not limited to the following items:-

1. To inspect site as necessary.
2. A fixed lump sum contract for the duration of the project.
3. The provision of a safe work method statement for approval 7 days before the commencement of the Works.
4. The provision to supply all plant and equipment directly associated with the works
5. The provision of all Labour directly associated with the works
6. The provision to move spoil to stock pile as directed
7. Preparations and lodgement of Certification as required through local government
8. Preparations and lodgement of Engineers documentation as required thorough local government to include form 15 for design & form 16 for certification
9. The provision for monthly electrical safety checks and tagging of all power tools and leads.
10. The provision of an appropriately trained Safety Representative, if required.
11. The provision of all necessary personal safety equipment required for the sub-contractors employees and / or representatives to complete the Works.
12. The provision of an on site First Aid Officer during working hours, when the Builder's First Aid Officer is unavailable.
13. The provision to comply with the requirements of Nikenbah Constructions's Site Safety Plan.
14. The provision of all associated temporary safety / warning signs during construction.
15. The provision of Material Safety Data Sheets for materials and solvents bought to site.
16. The Sub-Contractor shall ensure all people under his employ have undertaken the 'Construction Industry General Induction' course and are holders of the 'General Induction Card'. The Contractor shall provide the Builder with details and copies of the same.
17. The Sub-Contractor shall conduct their works duly in accordance with relevant safe work practices whilst complying with all requirements of the OH&S Act and the Work Cover Authority.
18. All necessary fencing / bunting, signage, warning lights, barricades and any additional requirements raised by Work Cover or other statutory authority.
19. The provision of all necessary labour and equipment for vertical and horizontal movement, to install and complete the Works, including a forklift or pallet trolley as required.
20. The Sub-Contractor shall handle all materials and completed units. Any disassembly or reassembly of units to fit through openings, is the responsibility of the Sub-Contractor
21. The provision of a competent foreman / supervisor on the project at all times. All site personnel must be appropriately qualified / trained and competent in their specific trade with all relevant qualifications, certificates, and the like issued to the Builder.

22. The Sub-Contractor shall be responsible for the cleaning of their own work area upon the completion of each **days** activity and placing all their rubbish into a centrally located bin provided by the Builder at ground level, on a daily basis. The bin will be removed from site by the Builder, as required.
23. Provision for co-ordination with other trades, and provision to permit access into work areas.
24. Attending all meetings as instructed. Typically coordination site meetings shall be held weekly however it may be necessary to hold the meeting more or less frequently. The Sub-Contractor shall attend other meetings as directed by the Builder.
25. The Sub-Contractor shall carry out all the necessary **set out and levelling** for their works from the face & end of wall's and datum's provided by the principle.
26. The Sub-Contractor has allowed for staged construction of the works, Builder.
27. All return visits to site as necessary to complete the Works.
28. Provide a Quantity Assurance Program if applicable.
29. Nomination and company details of all Sub-Contractors scheduled to be commissioned for carrying out portions of the works covered in the contract. Permission must be attained from the contractor prior to any work being commissioned to another Sub-Contractor.
30. Authority requirements and permits and all necessary costs associated with these.
31. Comply with **FCRC** Municipal Council noise and hours of work restraints and environmental guidelines.

Monday – Friday **6.30am – 6.30pm**

Saturday **6.30am – 6,30pm**
32. Out of hours where required to maintain programme.
33. The dewatering of the Sub-Contractors work areas after inclement weather.
34. Provision for protection to all materials and finished work during transportation, handling and installation. Maintain protection until Practical Completion Date of Project or until otherwise requested by the Builder.
35. Provision for all applicable site allowances.
36. Provide regular evidence of compliance with Superannuation and Redundancy and/or industry approved equivalent.
37. Provide regular evidence of compliance with Workers Compensation.

Communications - Stage 1

Project Objectives

The key project objectives are to provide a full turn key design and construct communications package for the development with the highest priority on a long term investment. Nikenbar Constructions has every intention to retain ownership of the lifestyle village for a long period of time.

Nikenbar Constructions is committed to the delivery of a quality focused development. All facets of the communication package should consider this specific objective.

Nikenbar Constructions is focused on future proofing this development and growth of its assets. The communications system should consider objective.

General Scope of Work: Stage 1 a

The scope of the works includes the design & construction of the work prescribed in the contract schedules including but not limited to;

- GPON Head end equipment
- Site fibre reticulation
- CCTV System
- Free to Air & MATV
- Access Control

Existing Site

Communication Pathways

- Site communication pathways have installed as per the As-Built documents provided. It is the contractor responsibility to satisfy themselves that the existing conduit and pit layout will be suitable for the work. The communications package is let on the understanding that the contractor has inspected the site and has fully accepted the pathways provided
- The homes have been prewired by others. All reticulation terminates in the communication board(s) provided in the garages. The communications package is let on the understanding that the contractor has inspected the homes and has fully accepted the pathways provided
- Completion of Wellness Centre is forecasted July 2019
- Completion of Clubhouse is Forecasted March 2019

Design and Construction

- The complete design and construction of the communication package in accordance with project documents
- Provide design, shop drawings and final line diagrams of the works.
- Where there is a conflict in this schedule and other technical documents the superior requirement (as determined by the superintendent) shall apply
- Provide a commissioning report on completion
- Provide onsite training to Park Management

Tender Notes-

- *Tender submission, in accordance with EMF Griffiths / Specification B2170651 – (Issue 0 & equipment schedule).*
- *EMF Griffith specification, indicated Design & Construct specification. Communication Services design provided by & accordance with – MADISON TECHNOLOGIES / GPOND SOLUTION.*
- *BDG Contracting Services has allowed only for Communication Services – Construction , based on received documentation.*
- *No provision for CCTV, Access Control, Security Services & Intercom System – assumed provided by (Latitude 25/ nominated contractor).*

1) GPOND Solution – Head End Equipment

- Supply & installation GPOND/ Madison Technologies – Network Solution.
- Design capacity & distribution expansion for 8 stages/ 281 residences.
- Commissioning / staff training & 12 month advantage support.

Price - \$ 95,260.00 (GST Exclusive)

2) MATV – Head End Equipment

- SMATV system – Stage 1A & 1B (Residential houses – 31 only)
- FTA & Foxtel stacker service / provision

Price - \$ 14,600.00 (GST Exclusive)

3) GPOND Solution/ MATV– Head End Equipment (Relocation)

- Re locate GPOND solution network (complete)
- Re locate SMATV network (complete).
- Alterations to Optic fibre underground network, provision for alternative head end location.
- Relocate from Hobby Shed to Community Centre / communication room (pending building completion).

Price - \$ 9,150.00 (GST Exclusive)

4) Fibre Optic reticulation – Stage 1A & 1B (Residential)

- Installation & commission fibre optic network underground infrastructure (Stage 1A/B – 31 houses)

Price - \$ 31,830.00 (GST Exclusive)

5) GPOND/ ONT – House/ Residence (Stage 1A & 1B)

- Installation & commission (Optic Network Terminal/ ONT).
- ONT License & interface connections.

Price - \$ 25,700.00 (GST Exclusive)

STATUTORY DECLARATION

I, of

.....

in the State of Queensland , do solemnly and sincerely declare as follows:

1. I represent the Sub-Contractor mentioned in the Sub-Contract No.
dated, 2004 ,
between.....

and

The Trustee for Nikenbah Constructions Unit Trust for the project described as

.....

2. All workers who have at any time been employed on the work under the Sub-Contract have been paid all wages, allowances and other money payable to them by the Sub-Contractor pursuant to all relevant legislation, awards, determinations, judgements and agreements in respect of their employment on the work under the Sub-Contract.
3. All Sub-Contractors and Suppliers have been paid all monies payable to them by the Sub-Contractor before the date of this declaration in accordance with the terms of their respective Subcontracts or Supply Agreements in relation to the work under the Sub-Contract.
4. The Sub-Contractor has done all things within the Sub-Contractor's powers to ensure compliance with the *National Code of Practice for the Construction Industry* and the *Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, revised September 2005, reissued June 2006*, in relation to the work under the Sub-Contract.

AND I made this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Subscribed and declared at

this day of 2004

before me:.....

Justice of the Peace / Solicitor

Sub-Contractor

**SUBCONTRACTOR'S STATEMENT
REGARDING WORKERS COMPENSATION, PAY-ROLL TAX
AND REMUNERATION (Note 1)**

☐ Workers Compensation
s175B Workers Compensation Act 1987

☐ Pay-roll tax
Part 5B s31G-31J Pay-roll Tax Act 1971

☐ Remuneration
ss127, 127A Industrial Relations Act 1996

Sub Contractor: _____ ABN: _____
(Business name)

of _____
(Address of subcontractor)

has entered into a contract with _____ (Note 2)
(Business name of principal contractor)

ABN: _____ For work between: ____/____/____ and ____/____/____ (Note 3)
Date Date

and/or Payment Claim Details: _____ (Note 4)

Nature of contract work: _____ (Note 5)

DECLARATION

I, _____ a Director of / a person authorised by the subcontractor on whose behalf this
(delete as appropriate)
declaration is made, hereby state that the abovementioned subcontractor:

Is either

☐ A sole trader or partnership without workers or subcontractors (Note 6).
OR

☐ Has and will maintain in force valid workers compensation insurance, policy _____ (Policy Number)
held with _____ as indicated on the attached Certificate of
(Insurance Company)
Currency dated _____, in respect of work done in connection with the contract, during
any period of the contract and has paid all workers compensation insurance premiums payable in
connection with the contract (Note 7).

☐ Is ☐ Is not also a principal contractor in connection with the work under contract (Note 8).

☐ Has ☐ Has not been given a written statement by subcontractors in connection with the work.

☐ Is ☐ Is not required to be registered as an employer under the *Pay-roll Tax Act 1971* _____.
(Pay-roll tax client No.)

☐ Has paid all pay-roll tax due in respect of employees who performed the work for the principal contractor, as
required at the date of this statement (Note 9).

☐ Has paid all remuneration payable to relevant employees, for work done under the contract during the period
outlined above (Note 10).

Signature _____ Full Name _____
(please print)

Position/Title _____ Dated _____

WARNING

- Any subcontractor, who knowingly provides a principal contractor with a written statement that is false, is guilty of an offence (Maximum penalty 100 units or \$11,000).
- Any written statement will not relieve the principal contractor of liability if, at the time the written statement was provided, the principal contractor believed the written statement to be false.
- The principal contractor must retain a copy of any written statement for a period of not less than five years (Pay-roll tax), six years (Remuneration) or seven years (Workers compensation).
- **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*, Part 5B section 31G-31J of the *Pay-roll Tax Act 1971* 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, pay-roll tax and remuneration payable by the subcontractor.
2. For the purpose of this 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.
3. 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.

Section 127(6) *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.*'

4. Payment claim details – Where a subcontractor has entered into a payment schedule with a principal contractor they must identify the period or payment to which the statement applies.
5. An accurate description of the work covered by the contract must be included.
6. In completing the statement, a subcontractor declares that they are a sole trader or partnership without workers or subcontractors and is not required to hold workers compensation insurance.
7. In completing the statement, a subcontractor declares that workers compensation 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. 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 work. If your business falls within this category you should also obtain statements from your subcontractors.
9. In completing the statement, a subcontractor declares that all pay-roll tax payable relating to work undertaken as part of the contract has been paid.
10. In completing the statement, a subcontractor declares that all remuneration payable has been paid.

It is noted that definitions of employer, employee, remuneration, and specific provisions for employers of outworkers in the clothing trades are as defined in s127A of the *Industrial Relations Act 1996*.

11. Failure to complete this statement may result in the principal contractor withholding any payment due to the subcontractor. Any penalty for late payment under the contract does not apply to any payment withheld under this subsection. Subcontractors may wish to keep a copy of the statement for their own records.

For more information, please visit the WorkCover website **www.workcover.nsw.gov.au**, Office of State Revenue website **www.osr.nsw.gov.au**, or Office of Industrial Relations, Department of Commerce website **www.commerce.nsw.gov.au**. Copies of the *Workers Compensation Act 1987*, the *Pay-roll Tax Act 1971* and the *Industrial Relations Act 1996* can be found at **www.legislation.nsw.gov.au**.

DEED OF RELEASE

This DEED is executed the day of,200_,

by.....

of

(hereinafter called "The Sub-Contractor"), in favour of The Trustee for Nikenbah Constructions Unit Trust,
45 Spring Way Nikenbah QLD 4655 (hereinafter called "The Contractor").

SCHEDULE:

- 1A: The Sub-Contract Number
1B: Other Form of Agreement
2: For the Project Described As:

WHEREAS the Sub-Contractor has agreed:

- A. That the Final Sub-Contract Sum payable in terms of the Sub-Contract described in the Schedule hereto is \$.....
- B. That on payment of the sum of \$..... the Contractor would have paid to the Sub-Contractor the whole of the said sum of \$..... other than the sum of \$..... being the amounts noted below in accordance with the provisions of the Sub-Contract; and
- C. To execute a Release in favour of the Contractor.

NOW THESE PRESENT WITNESS that in consideration of the said payment by the Contractor.

Witness, the Sub-Contractor HEREBY WAIVES, RELEASES AND FOREVER DISCHARGES AND HEREBY INDEMNIFIES AND HOLDS HARMLESS the Contractor, its officers, servants and agents from and against all claims, demands, debts, accounts, expenses, costs, liens, actions and proceedings of any and every kind whatsoever whether known or unknown which the Sub-Contractor has or might have or might assert against the Contractor or by any person, corporation or firm arising from, incidental to or by virtue of the Sub-Contract or out of its performance SAVE AND EXCEPT any such monies, if any, that may, with the consent of the Contractor, not be required to be paid at the date of this Release stated as follows:

1. The sum of \$..... being payment due.
2. The sum of \$..... being retention in the form of: Cash / Bank Guarantee.
3. Other matters:
The Sub-Contractor warrants that he has paid all wages, holiday pay and allowances, etc., in connection with the performance of the work under this Contract, as prescribed by law and in accordance with the applicable industrial awards, agreements and orders in force from time to time.
The Sub-Contractor also warrants that he has paid all monies due and payable to all companies in connection with the performance of the work under this Contract.

IN WITNESS WHEREOF the Sub-Contractor has executed this Deed on the day and year first hereinbefore written.

THE COMMON SEAL of)

.....)
was hereunto affixed by the authority)
of a resolution of the Board of)
Directors in the presence of:)

.....)

Witness)

(If the Sub-Contractor were a person and not a Company the following form of execution)

SIGNED SEALED AND DELIVERED BY)

.....)
in the presence of:)

Witness

APPROVED FORM OF UNCONDITIONAL UNDERTAKING

At the request of ("the Subcontractor) and in
consideration of ("the Builder")

accepting this undertaking in respect of the contract for

.....(Identification of Work)

.....

("the Financial Institution") unconditionally undertakes to pay on demand any sum or sums which may from time to time be
demanded by the Builder to a maximum aggregate sum of \$.....

(.....)

The undertaking is to continue until notification has been received from the Builder that the sum is no longer required by the
Builder or until this undertaking is returned to the Financial Institution or until payment to the Builder by the Financial Institution
of the whole of the sum or such part as the Builder may require.

Should the Financial Institution be notified in writing, purporting to be signed by for and on
behalf of the Builder that the Builder desires payment to be made of the whole or any part or parts of that sum, it is
unconditionally agreed that the Financial Institution will make the payment or payments to the Builder forthwith without reference
to the Subcontractor and notwithstanding any notice given by the Subcontractor not to pay same.

Provided always that the Financial Institution may at any time without being required so to do pay to the Builder the sum of
\$.....

less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and
specified by the Builder and thereupon the liability of the Financial Institution hereunder shall immediately cease.

DATED at..... this day of2004

PROJECT :
PROGRESS CLAIM SUMMARY & CHECKLIST
PERIOD ENDING :

Tick ☒

PART A PROGRESS CLAIM SUBSTANTIATION (INVOICE) []

PART B STATUTORY DECLARATION & S/C STATEMENT []

PART C SUBMITTALS

- | | | |
|----|--|-----|
| 1) | Superannuation contribution returns (names employees not required) | [] |
| 2) | Superannuation proof of payment (receipt) | [] |

PART D INSURANCES

- | | | |
|----|--|-----|
| 1) | Workers Compensation Certificate of Currency | [] |
| 2) | Public Liability Certificate of Currency | [] |
| 3) | Professional Indemnity Certificate of Currency | [] |

PART E OTHER (To be provided prior to 1st Claim)

1. Signed Subcontract Agreement returned []
2. Fully completed Safety Management Plan. (S-Pack or equiv) []
3. Work Method Statement & Risk Analysis []

NOTES:

- 1) THE CONTRACTUAL PAYMENT TERMS WILL NOT COMMENCE UNLESS THE PROGRESS CLAIM IS SUBMITTED IN FULL.
I.E WITH ALL PARTS A TO E (INCLUSIVE) SUPPLIED.
- 2) NOTE IF ANY OF THE ABOVE INFORMATION IS MISSING OR INCOMPLETE, PROGRESS CLAIMS WILL BE RETURNED TO THE SUBCONTRACTOR UNPROCESSED, THUS RESULTING IN DELAYS TO PAYMENTS AS PER NOTE 1).