

SUBCONTRACT AGREEMENT

BETWEEN

CONTRACTOR: Nileport Projects Pty Ltd
ADDRESS: 24 Macquarie St, Teneriffe Qld 4005
ABN: 40 143 299 923
QBCC LICENCE NO.: 1189579

AND

SUBCONTRACTOR: York Tiling Pty Ltd
ADDRESS: 15 Bowood Place, Parkinson Qld 4115
ABN: 51 629 558 827
QBSA LICENCE NO.: 15183840

SCHEDULE

CLAUSE 1(a) **Brief description of the Subcontract Works** – (refer to Annexure “A” for further details or more detailed particulars)

SITE ADDRESS 27 Quentin St Capalaba Qld 4157

CLAUSE 1(b) –	Subcontract Sum (Excluding GST)	\$23,000.00
SUBCONTRACT SUM	GST	\$2,300.00
	Total Subcontract Sum	\$25,300.00
CLAUSE 5(a)	Date for Commencement of the Subcontract Works	1/07/2022
CLAUSE 7(c)	Latent Condition Margin (if nothing stated 10%)	5%
CLAUSE 8(a)	Party responsible for insuring the Subcontract Works (if nothing stated, the Subcontractor)	
CLAUSE 12(b)	Time for Payment (if nothing stated, 25 business days)	30 days
CLAUSE 13(a)	Amount to be retained by Contractor (if nothing stated, 5%)	5%
CLAUSE 13(e)(i)	Amount to be retained by Contractor once Practical Completion is achieved by the Contractor (maximum 2.5%)	2.5%
CLAUSE 15(c)	Provisional Sum and Prime Cost Item Margin (if nothing stated, 10%)	NA
CLAUSE 16(c)	Variation Margin (if nothing stated, 7.5%)	7.5%
CLAUSE 23(a)	Date for Completion	20/07/2022
CLAUSE 24(a)	Defects Liability Period (if nothing stated, 12 Months)	12 months
CLAUSE 26(a)	Rate of Liquidated Damages (per day)	\$887.50

LIST OF DOCUMENTS FORMING THE SUBCONTRACT (LISTED IN THEIR ORDER OF PRECEDENCE FOR INTERPRETATIVE PURPOSES)

- Annexure A – Scope of Works
- Annexure B – Program
- Annexure C – SC Statutory Declaration
- Annexure D – Apprentice Compliance Record
- Annexure E – Notice of Project Bank Account

SPECIAL NOTATION

These Special Conditions of Subcontract may contain amendments, deletions and additions to General Conditions of the Subcontract Agreement.

If the terms of these Special Conditions or any one of them are inconsistent with any one or more of the General Conditions of the Subcontract Agreement, then to the extent of any such inconsistency these Special Conditions will prevail.

SPECIAL CONDITIONS OF SUBCONTRACT (SPECIAL CONDITIONS MAY BE ATTACHED BY REFERENCE IN APPENDIX)

NO.	Description

Signed by the Contractor:



Date: 20 / 04 / 2022

Contractor Name:

Tom Ropelin

Signed by the Subcontractor:

Date: __ / __ / __

Subcontractor Name:

1. SUBCONTRACT WORKS AND SUBCONTRACT SUM

- (a) The Subcontractor must carry out and complete the Subcontract Works:
 - (i) in an appropriate and skilful way;
 - (ii) with the level of care and skill expected of a competent and experienced Subcontractor;
 - (iii) in accordance with the Subcontract;
 - (iv) so that they are fit for the purpose identified in the Subcontract; and
 - (v) using materials that are suitable, fit for purpose, new and free of defects.
- (b) In consideration for performance of its obligations under this Subcontract, the Contractor will pay the Subcontractor the Subcontract Sum in the manner and at the times stated in the Subcontract.
- (c) Where goods or materials delivered to Site for the Subcontract Works are subject to 'retention of title', the Subcontractor's retention of title only has effect up to the time the good or materials are installed or when the Contractor makes a payment (in whole or in part) in respect of the goods or materials, whichever occurs first.

2. ASSIGNMENT & SUBCONTRACTING

- (a) The Subcontractor may not novate or assign the Subcontract or any right, benefit or interest under the Subcontract without the Contractor's prior written consent.
- (b) The Contractor may, acting reasonably, novate or assign the Subcontract or any right, benefit or interest under the Subcontract to a third party using a deed of novation on terms nominated by the Contractor, acting reasonably.
- (c) The Subcontractor may, with the prior written consent of the Contractor, engage other Subcontractors to carry out any part of the Subcontract Works but is not relieved from the Subcontractor's obligations under the Subcontract.

3. SUBCONTRACT DOCUMENTS

- (a) The Subcontractor warrants that it will:
 - (i) thoroughly review all documents, information or data ('Documents') provided by the Contractor in connection with the Subcontract Works (including the Subcontract Documents) within 14 days of receiving them.
 - (ii) advise the Contractor in writing by the end of the 14 day period set out in clause 3(i), if any of the Documents are:
 - (A) ambiguous, contradictory or contain any discrepancies or breaches of any Statutory Requirement.
 - (B) inconsistent in terms of scope, specification or similar.
- (b) Should any ambiguity, contradiction, discrepancy, breach of Statutory Requirement or inconsistency be identified outside the 14 day period set out in clause 3(a)(i), the Subcontractor agrees that the Contractor may (at its absolute and sole discretion) determine the interpretation to be applied in performance of the Subcontract Works.
- (c) The Subcontractor agrees that should any ambiguity, contradiction, discrepancy, breach of Statutory Requirement or inconsistency be identified outside the 14 day period set out in clause 3(a)(i), it will be liable for any rectification costs or delays arising from the determination of the Contractor in clause 3(b).
- (d) The Subcontractor agrees that should any ambiguity, contradiction, discrepancy, breach of Statutory Requirement or inconsistency be identified within the 14 day period set out in clause 3(a)(i), the Subcontractor is assumed to have allowed for the most expensive of the options. The Contractor is entitled to adjust the Subcontract Sum in accordance with the provisions of Clause 16 if the Subcontract Works are directed to proceed with any option that is a lesser cost to the most expensive option. The Contractor is not liable for (and the Subcontractor releases and discharges the Contractor from) any claim (whether at law or under the Subcontract), proceeding, suit, action, adjudication application, or demand in connection with any failure to review the Documents (including the Subcontract Documents) thoroughly or failure to identify and advise the Contractor of any ambiguity, contradiction, discrepancy, breach of Statutory Requirement or inconsistency within the 14 day period set out in clause 3(a)(i).

4. COMPLIANCE WITH STATUTES

- (a) The Subcontractor must:
 - (i) comply with all Statutory Requirements in connection with the Subcontract Works.
 - (ii) unless otherwise agreed in writing, obtain all consents, approvals and permits necessary, including QBCC licensing, for the performance of the Subcontract Works.
- (b) The Subcontractor must give any notice or report and pay any fee in order to comply with clause 4(a).
- (c) If the cost to the Subcontractor:
 - (i) in complying with any Statutory Requirement increases after the entering into of the Subcontract by the parties; or
 - (ii) in carrying out the Subcontract Works, increases after the entering into of the Subcontract by the parties as a result of the introduction or increase of any tax, charge, levy or regulationand the increase was not reasonably foreseeable by a competent and experienced subcontractor, the amount of the increase will be added to the Subcontract Sum.
- (d) If the Subcontractor's compliance with a Statutory Requirement requires a Variation to the Subcontract Works, the Subcontractor must give the Contractor a written notice setting out the reason for, and the details of, the Variation.
- (e) On the condition precedent that the Contractor agrees with that the Variation under clause 4(d) is necessary, the Subcontract Works are deemed to be varied to that extent necessary to permit the Subcontractor to comply with the Statutory Requirement. The cost to the Subcontractor of the Variation under this clause 4(e), together with the Subcontractor's Margin on that cost, will be added to the Subcontract Sum.

5. COMMENCEMENT / SUBCONTRACT PERIOD

- (a) Subject to the other sub clauses of this clause 5, the Subcontractor must commence carrying out the Subcontract Works on the Date for Commencement.
- (b) The Contractor may, at its discretion, provide the Subcontractor with a revised Date for Commencement prior to commencement of the Subcontract Works.
- (c) The Subcontractor is required to contact the Contractor on regular intervals after the signing of the Subcontract to confirm that the Date for Commencement has not been revised.
- (d) Subject to the other sub clauses of this clause 5, the Contractor will give the Subcontractor reasonable access to the Site on the Date for Commencement for the Subcontractor to carry out the Subcontract Works.
- (e) If the Contractor does not give the Subcontractor reasonable access to the Site on the Date for Commencement (causing delay to the Subcontract Works) the Subcontractor may make a written claim for an extension of time.
- (f) If prior to the Date for Completion the Subcontract Works are delayed for reasons outside the reasonable control of the Subcontractor, the Subcontractor must:
 - (i) take all reasonable steps to mitigate such delays to reduce the delay to the Subcontract Works.
 - (ii) notify the Contractor immediately in writing (no more than 24 hours) after commencement of the delay (including details of the reasons for the delay and steps taken by the Subcontractor to mitigate the effects of the delay).
- (g) Upon cessation of the delay the Subcontractor must provide written details to the Contractor of the delay including duration, confirmation that the Subcontract Works subject of the delay were on the critical path and the Subcontract Work affected.
- (h) The Subcontractor must submit a claim for an Extension of Time within 30 days of the commencement of the delay or 14 days of the cessation (whichever is the later date). The Subcontractor agrees that any claim submitted after this time will be barred and the Subcontractor releases and discharges the Contractor from any liability (under this Subcontract or at law generally) in connection with any claim for Extension of Time that is barred under this clause 5(h).

6. ACCESS

- (a) The Subcontractor is entitled to reasonable access to the Site and the Subcontract Works from the Date for Commencement until:
 - (i) the Subcontractor reaches Completion under the Subcontract;
 - (ii) the Subcontract is terminated; or
 - (iii) the Head Contract is terminated.
- (b) Further to clause 6(a) and subject to making mutually convenient arrangements with the Contractor and any applicable third parties, the Subcontractor will be granted non-exclusive access to the Site to undertake and complete the Subcontract Works.
- (c) The Subcontractor acknowledges that it will not have exclusive possession or use of the Site and must provide reasonable access to third parties and the Contractor. The Subcontractor must do all reasonable things to cooperate and coordinate the Subcontract Works with the Contractor and any third parties as necessary.

7. LATENT CONDITIONS

- (a) On becoming aware of the existence of a Latent Condition, the Subcontractor must, within 2 days, give the Contractor a written notice setting out details of the Latent Condition and its likely effect on the Subcontract Works (in terms of time and cost).
- (b) On the giving of a notice under Clause 7(a), the Contractor will give the Subcontractor a written Direction setting out full details of the work that the Subcontractor is required to carry out to remedy or otherwise overcome the Latent Condition, together with all necessary specifications, drawings and other design documents for that work.
- (c) On the giving of a Direction under Clause 7(b):
 - (i) the Subcontract Works are deemed to be varied to include the work that the Subcontractor is required to carry out under the Direction; and
 - (ii) the cost to the Subcontractor in carrying out the Variation required under the Direction, together with the Latent Condition Margin stated in the Schedule (on the cost), will be added to the Subcontract Sum.

8. INSURANCE

Subcontract / Construction Works Insurance

- (a) The party named in the Schedule must effect and maintain a policy of contract works or construction works insurance over the Subcontract Works that insures all of the Subcontract Works against loss or damage from any cause. The policy must be:
 - (i) maintained from the Date for Commencement or the Start Date, whichever is the earlier, until Completion;
 - (ii) in the joint names of the Contractor, the Subcontractor and the Subcontractor's subcontractors for the carrying out of the Subcontract Works;
 - (iii) for an amount not less than the Subcontract Sum (inclusive of GST) stated in the Schedule; and
 - (iv) provide the Contractor, the Subcontractor and the Subcontractor's Subcontractor with insurance cover on terms no less advantageous than the insurance cover specified in the most recent version of the document, published by Master Builders Queensland, entitled "Minimum Construction Works Insurance Cover for Master Builders Queensland's contracts" at the Date for Commencement or the Start Date, whichever is the earlier.

Public Liability Insurance

- (b) The Subcontractor must effect and maintain a policy of public liability insurance in respect of third party personal injury or third party property damage, from the Date for Commencement or the Start Date, whichever is the earlier, until the expiration of the Defects Liability Period, that:
 - (i) is in the joint names of the Contractor and the Subcontractor;
 - (ii) is for an amount not less than \$10,000,000.00 per occurrence;
 - (iii) provides the Contractor and the Subcontractor with insurance cover which must be no less advantageous than the insurance cover specified in the most recent version of the document, published by Master Builders Queensland, entitled "Minimum Public Liability Insurance Cover for Master Builders Queensland's Contracts" at the Date for Commencement or the Start Date, whichever is the earlier; and
 - (iv) operates as though a separate policy of public liability insurance is held by each of the co-insured (provided that the overall amount insured will apply as though there are not separate policies held by each of the co-insured).

WorkCover and Other Statutory Insurances

- (c) The Subcontractor must effect and maintain the following insurance policies:
 - (i) WorkCover or any other workers' compensation insurance required by a Statutory Requirement relating to the Subcontract Works; and
 - (ii) any other insurance required by a Statutory Requirement relating to the Subcontract Works.
- (d) The policies of insurance required to be effected by the Subcontractor under clause 8 must:
 - (i) be effected and maintained with an insurer acceptable to the Contractor;
 - (ii) include a requirement that, if one party gives a written notice requiring a copy of the policy of insurance, the other must be given a copy of the current policy of insurance at the same time as the first.

9. INDEMNITY

- (a) The Subcontractor must indemnify and keep indemnified, the Contractor against any claim, loss, expense, cost, damage or liability in connection with:
 - (i) loss of or damage to the Contractor's property including existing property in or upon which the Works are carried out or any plant or equipment;
 - (ii) claims in respect of personal injury or death or loss of, or damage to, any other property, in connection with the Subcontract Works;
 - (iii) liability incurred by the Contractor in connection with any act, omission or default of the Subcontractor, the Subcontractor's consultants, agents, subcontractors or employees;
 - (iv) any breach of contract or statutory duty by the Subcontractor, the Subcontractor's consultants, agents, employees or other Subcontractors;
 - (v) damage caused in connection with the Subcontract Works (including damage to the Project or the works under the Head Contract); and
 - (vi) any defect of the Subcontract Works.
- (b) To the extent not prohibited by law and in circumstances where the Subcontractor is determined to be partially liable, the Subcontractor agrees to indemnify the Contractor against any loss, damage, expense, cost, injury, death or liability for which a third party is determined to be liable in accordance with the *Civil Liability Act 2003* (Qld).

10. DAMAGE AND SITE CLEANING

- (a) The Subcontractor must:
 - (i) keep the Subcontractor's part of the Site clean and tidy; and
 - (ii) so far as is reasonably possible, leave the Subcontract Works in a state fit for immediate use or occupation before vacating the Site.

- (b) If the Subcontractor fails to comply with clause 10(a), the Contractor may by written notice require the Subcontractor to take steps to comply. Should the Subcontractor fail to do so within the time given in the notice, the Contractor may have the rectification or cleaning carried out by others and the cost will be a debt due and payable by the Subcontractor to the Contractor, and without limiting clause 14, one which the Contractor may apply in set-off against any amount owed to the Subcontractor.

11. WORKPLACE HEALTH, SAFETY & ENVIRONMENT PROTECTION

- (a) The Contractor may exclude or remove any person from the Site who in the Contractor's opinion fails to comply with this Clause or otherwise conducts themselves in a reckless, dangerous, negligent or inappropriate manner.
- (b) The Subcontractor must ensure, to the satisfaction of the Contractor, that each person employed by or otherwise under the control of the Subcontractor required to perform the Subcontract Works:
 - (i) is experienced, competent and fit to perform the work and/or service he/she is required to undertake;
 - (ii) holds appropriate licences and certificates;
 - (iii) complies with legislative site specific safety and environmental requirements;
 - (iv) complies with legislative industrial relations and work health and safety requirements;
 - (v) complies with relevant Australian Standards; and
 - (vi) is paid in accordance with relevant payment conditions and otherwise receives all relevant employee entitlements.
- (c) The Subcontractor:
 - (i) acknowledges that the Contractor has developed an on-line induction program;
 - (ii) agrees that the provisions, processes and procedures outlined in the on-line induction program do not diminish in any way Contractor's obligations under this Contract, and may impose further obligations on the Subcontractor;
- (d) The Subcontractor must:
 - (i) prepare a Workplace Health and Safety Work Method Statement in respect of high risk construction activities forming part of the Subcontract Works;
 - (ii) ensure that it and its employees complete the online induction program to the satisfaction of the Contractor prior to the date on which the Contractor is required on site;
 - (iii) ensure that all of the Subcontractor's subcontractors or consultants undertaking or conducting a high risk construction activity provide the Subcontractor with a copy of their Work Method Statements prior to commencing work; and
 - (iv) report all injuries, illnesses and dangerous events to the Contractor immediately or as soon as possible on the same day and give all possible assistance to the Contractor to record and investigate the incident.
- (e) The requirements of clause 11 includes (without limitation) completion of the on-line and attendance at any relevant on-site safety induction course, supply and use of appropriate personal protective equipment and working in accordance with safe working procedures.

12. PAYMENT

- (a) On the condition precedent that the Subcontractor complies with (without limitation) its obligations under the Subcontract and in consideration for the performance of the Subcontract Works, the Contractor will pay the Subcontractor in accordance with this clause 12.
- (b) The Subcontractor may submit payment claims to the Contractor
 - (i) Monthly on the last Business Day of a named month for work performed during that named month;
 - (ii) Once upon Completion, subject to clause 12(i); and
 - (iii) Once in accordance with clause 25.
- (c) Payment claims must only be submitted to the Contractor using the methods set out in and otherwise in accordance with clauses 29(a)(i), 29(a)(iii) and 29(a)(iv).

- (d) Any payment claim submitted prior to the date identified in clause 12(b)(i), that is:
 - (i) submitted prior to the date identified in clause 12 (b)(i) will be deemed to have been received on the last Business Day of the named month; and
 - (ii) received after the date or time identified in accordance with clause 12(b)(i) will be deemed to have been received on the last Business Day of the following named month.
- (e) Each payment claim must, as a condition precedent to a reference date arising, set out details of:
 - (i) the work carried out by the Subcontractor to which the payment claim relates;
 - (ii) the amount that the Subcontractor claims for payment by the Contractor for that work and the manner in which it has been calculated;
 - (iii) any other amount claimed in connection with the Subcontract; and
 - (iv) the total amount that the Subcontractor claims for payment by the Contractor.
- (f) The Subcontractor agrees that, where relevant, all quantities used to calculate part or all of a payment claim must be agreed by the parties (acting in good faith) prior to submission of a payment claim.
- (g) The Contractor will assess the Subcontractor's payment claim and issue a payment schedule to the Subcontractor setting out the payment due to the Subcontractor within 15 Business Days of receipt of the payment claim.
- (h) For each payment claim the Subcontractor must, as a condition precedent to a reference date arising, give to the Contractor a tax invoice for the amount set out in the payment schedule within five Business Days of receipt of the payment schedule.
- (i) In relation to a payment claim submitted in accordance with clause 12(b)(ii), the Subcontractor must, as a condition precedent to a reference date arising (further to clause 12(h)), give the Contractor a correct, signed and properly completed copy of the Subcontractor's Deed of Release in the form set out in Appendix 1. The Subcontractor's Deed of Release must set out the amount identified to be paid in the applicable payment schedule issued under clause 12(g) and be received by the Contractor within five Business Days of receipt of the payment schedule.
- (j) The Contractor will pay the amount shown on the payment schedule within 25 business days of receipt of the Subcontractor's payment claim.

13. SECURITY/RETENTION

- (a) Subject to the terms of this Subcontract, the Contractor may deduct and retain 10 % of any amount due to the Subcontractor, up to a maximum of 5% of the Subcontract Sum ('Security').
- (b) Subject to sub clause 13(c), the Contractor may draw on the Security if:
 - (i) it is entitled to be indemnified under this Subcontract by the Subcontractor;
 - (ii) it is entitled to payment under this Subcontract by the Subcontractor;
 - (iii) the Subcontractor breaches the Subcontract and the Contractor has suffered or incurred a liquidated loss; or
 - (iv) the Subcontractor has, due to an act, omission or default, caused the Contractor to incur any costs, damage, expense, liability or loss in connection with the Subcontract Works;
 - (v) the Contractor is otherwise entitled to apply any amount in set-off against any amounts owing to the Subcontractor.
- (c) The Contractor may draw on the Security or any bank guarantee, bond or other valuable security given by the Subcontractor to the Contractor in connection with this Subcontract only if the Contractor gives the Subcontractor a written notice within 28 days after the Contractor becomes aware, or ought reasonably to have become aware, of the Contractor's right to obtain the amount due, setting out:
 - (i) the Contractor's proposal to draw on the Security; and
 - (ii) the amount on which the Contractor proposes to draw.
- (d) Unless agreed in writing prior to entering the Subcontract, the Contractor will not accept bank guarantees, bonds or other valuable securities in lieu of the Security.
- (e) The Contractor will release to the Subcontractor, following receipt of a written request from the Subcontractor:

- (i) 50% of the Security in accordance with the Contractor's normal payment cycle upon the Contractor achieving Practical Completion of their Head Contract.
- (ii) the balance of the Security upon expiry of the Defects Liability Period.

14. SET OFF

- (a) Without prejudice to any other rights of the Contractor, whether under this Subcontract or otherwise, the Contractor may set-off or deduct from:
 - (i) any amounts due to the Subcontractor under the Subcontract (including any amounts otherwise certified by the Contractor for payment by the Contractor to the Subcontractor under clause 12(g); or
 - (ii) any Security, any amount due or which the Contractor reasonably asserts is or will be due (including, without limitation, under clauses 17, 21 and 24(c) from the Subcontractor to the Contractor in connection with the Subcontract or the Subcontract Works. Nothing in this clause will affect the right of the Contractor to recover from the Subcontractor the whole of the debt or any claim or the balance that remains owing.

15. PROVISIONAL SUMS & PRIME COSTS ITEMS

- (a) Where a Provisional Sum or Prime Cost Item is included in the Subcontract, the Contractor will give the Subcontractor all necessary Directions regarding the selection and supply of materials, goods or work comprising the Provisional Sum or Prime Cost item in sufficient time to ensure that the progress of the Subcontract Works is not delayed.
- (b) If the actual cost to the Subcontractor in carrying out the work or supplying the item comprising the Provisional Sum or Prime Cost Item is less than that estimated and included in the Subcontract Sum, the difference will be deducted from the Subcontract Sum.
- (c) If the actual cost to the Subcontractor in carrying out the work or supplying the item comprising the Provisional Sum or Prime Cost Item is greater than that estimated and included in the Subcontract Sum, the difference, together with the Provisional Sum and Prime Cost Item Margin stated in the Schedule on the difference, will be added to the Subcontract Sum.
- (d) It is assumed that the provisional rates or Prime Cost have an allowance for profit, administration and overheads included in the rate.

16. VARIATIONS

- (a) The Contractor may direct the Subcontractor, in writing, to undertake any Variation to the Subcontract Works. Any such direction must include, if applicable, the date by which the works subject of the Variation must be completed.
- (b) The Contractor may direct the Subcontractor, in writing, to provide the information set out in clause 16(c) as to a prospective Variation to the Subcontract Works (which the Subcontractor must do without addition to the Subcontract Sum).
- (c) Where the Contractor directs a Variation to the Subcontract Works or directs that the Subcontractor provide information in regard to a prospective Variation to the Subcontract Works, the Subcontractor must submit to the Contractor in writing as early as possible:
 - (i) pricing of, or methodology for calculating the price of, the Variation;
 - (ii) full supporting details for the pricing of the Variation;
 - (iii) site records signed by an authorised representative of the Contractor confirming hours and materials used in carrying out the Variation. If the Subcontractor is unable to have the site representative sign off on any Subcontract Works performed as a Variation they are required to send through the Subcontractors signed time sheets on not less than a weekly cycle and within 5 days of the claimed variation occurring;
 - (iv) the Subcontractor's assessment of the delay to the completion of the Subcontract Works that will be caused by the Variation; and
 - (v) a copy of the written direction given by the Contractor under either clause 16(a) or 16(b) of this Subcontract.

- (d) If at any time the Subcontractor believes it has been directed to carry out a Variation to the Subcontract Works, a written instruction and confirmation of the Variation must be obtained from the Contractor prior to the works subject of the Variation commencing.
- (e) On the giving of a notice under clause 16(c), the Subcontract Sum and the Date for Completion will be adjusted by:
 - (i) if the parties agree to a price for, or methodology for calculating the price of, the Variation, the agreed price; and
 - (ii) if the parties agree on an extension of time to the Date for Completion, the agreed extension of time; or
 - (iii) in the absence of any agreement on, or on calculating, the price of the Variation and extension of time to the Date for Completion:
 - (A) the reasonable valuation of the Variation as determined by the Contractor using standard industry rates;
 - (B) if the Variation increases, or will increase, the cost to the Subcontractor in carrying out the Subcontract Works, the Variation Margin stated in the Schedule on that reasonable valuation; and
 - (C) the Contractor's reasonable assessment of the extension of time necessary to the Date for Completion resulting from the Variation.
- (f) The Subcontractor must submit all costs and supporting evidence in regard to the matters set out under clause 16(c) to the Contractor within 5 Business Days of receipt of the notice under clause 16(a) or 16(b). If the Subcontractor fails to provide the information required under clause 16(c) within 5 Business Days, the Subcontractor's entitlement in connection with the Variation is limited to the Contractor's assessment of the price of the Variation, calculated in accordance with clause 16(e)(iii).
- (g) The Subcontractor cannot delay the works by virtue of not having agreed costs for any variation works and must proceed on the basis that they will be valued in accordance with clause 16(e)(iii).

17. TERMINATION BY CONTRACTOR

- (a) A substantial default by the Subcontractor includes, but is not limited to:
 - (i) suspension of the Subcontract Works by the Subcontractor otherwise than in accordance with Clause 20 or clause 23(e);
 - (ii) a failure by the Subcontractor to carry out the Subcontract Works with reasonable diligence or in a competent manner to in accordance with Statutory Requirements and Australian Building Standards;
 - (iii) substantial delays to the critical path of the Project or the Subcontract Works by failing to carrying out the Subcontract Works in accordance with the Contractor's program; and
 - (iv) any other substantial omission or default in performance by the Subcontractor
- (b) If the Subcontractor is in substantial default, the Contractor may give the Subcontractor a written notice to the Subcontractor:
 - (i) that notes it is given under this clause 17;
 - (ii) identifying the substantial breach;
 - (iii) requiring that the Subcontractor remedy the substantial breach within a reasonable period given the nature of the substantial breach; and
 - (iv) stating the Contractor's intention to terminate the Subcontract if the Subcontractor fails to substantially remedy the substantial breach with 3 Days after the giving on the notice.
- (c) If the Subcontractor fails to remedy the substantial breach set out in the notice given by the Contractor under Clause 17(b) within the time required by the notice, the Contractor may without prejudice to any other right or remedy, terminate the Subcontract. If terminating the Subcontract under this clause 17(c), the Contractor must give a written notice of termination to the Subcontractor.
- (d) All costs incurred by the Contractor in connection with terminating this Subcontract may be recovered by the Contractor from the Subcontractor as a debt due and owing including (without limitation) pursuant to clause 14. The costs that may be recovered include (without limitation): administration costs, liquidated damages, management fees, legal fees, etc, in delaying the works and costs associated with contracting with a third party to perform the Subcontract Works.

18. TERMINATION FOR FRUSTRATION

- (a) Should the Head Contract be terminated by any reason, the Contractor may terminate this Subcontract and will only be liable to reimburse the Subcontractor in respect of Subcontract Work performed to the date of termination and any other loss properly and necessarily incurred in connection with the Subcontractor Works and in respect of which the Subcontractor is unable to mitigate.
- (b) The Subcontractor is not entitled to recover loss of profit on the part of the Subcontract Works not performed at the date of termination and immediately on termination of the Subcontract under this Clause 18 releases and discharges the Contractor from all other costs, expenses, losses, liabilities and damage incurred or suffered in connection with the termination of the Subcontract under this clause 18.

19. TERMINATION FOR CONVENIENCE

- (a) The Contractor may terminate this Subcontract for any reason at its absolute and sole discretion (without giving reasons) at any time on 14 days written notice.
- (b) Should the Subcontract be terminated under this clause 19:
 - (i) the Contractor will only be liable to reimburse the Subcontractor in respect to Subcontract Work properly performed to the date of termination and any other loss properly and necessarily incurred in connection with the Subcontractor Works and in respect of which the Subcontractor is unable to mitigate; and
 - (ii) the Subcontractor agrees that it is not entitled to recover loss of profit on the part of the Subcontract Works not performed at the date of termination and immediately on termination of the Subcontract under this clause 19 to releases and discharges the Contractor from any claim in this regard, as well as all other costs, expenses, losses, liabilities and damage incurred or suffered in connection with the termination of the Subcontract under this clause 19.

20. SUSPENSION

- (a) The Contractor may elect to suspend the performance of all or any part if the Subcontract Works due to:
 - i. The subcontractor failing to remedy an default, omission or failure to comply with the Subcontract
 - ii. For any natural disaster, act of God, pandemic, large scale disease etc.
- (b) Should the Head Contract be suspended for any reason the contractor may suspend this Subcontract and will be only liable to reimburse the Subcontractor in respect of Subcontract Works already carried out, fitted on Site and incorporated into the works.
- (c) The Subcontractor is not entitled to recover loss of profit on the part of the Subcontract Works not performed at the date of suspension and agrees to release and discharge the Contractor from all other costs, expenses, losses, liabilities and damages incurred or suffered in connection with the suspension of the Subcontract under this clause 20.

21. INSOLVENCY

- (a) If either party becomes Insolvent, the other party may terminate the Subcontract by giving a written notice of termination to the first party.
- (b) All costs incurred by the Contractor in connection with terminating this Subcontract under clause 21(a) may be recovered by the Contractor from the Subcontractor as a debt due and payable, including (without limitation), under clause 14. The costs that may be recovered include (without limitation): administration costs, liquidated damages, costs associated with contracting with a third party to perform the Subcontract Works.

22. EXTENSION OF TIME

- (a) The Subcontractor is entitled to an extension of the Date for Completion if the progress of the Subcontract Works is delayed as a result of any of the following causes:
 - (i) a Variation to the Subcontract Works;

- (ii) a Latent Condition;
 - (iii) a suspension of the Subcontract Works in accordance with clause 22(b);
 - (iv) inclement weather or conditions resulting from inclement weather preventing the Subcontractor from performing the Subcontract Works; and
 - (v) a strike, lockout, civil commotion or industrial action.
- (b) If, at any time prior to the Date for Completion the Subcontractor believes that the progress of the Subcontract Works was delayed as a result of a cause set out in clause 22(a), the Subcontractor may give the Contractor a written notice within 5 days of the delay commencing. The notice under this sub clause 22(b) must set out:
 - (i) the cause of the delay;
 - (ii) the time during which the carrying out of the Subcontract Works was delayed; and
 - (iii) the extension of the Date for Completing that the Subcontractor claims as a result of the delay (or, if the delay is ongoing, the Subcontractor's projected claim).
- (c) On receipt of a notice under clause 22(b) from the Subcontractor, the Contractor will, within 7 days of receipt of the notice:
 - (i) give the Subcontractor a written notice granting the extension of the Date for Completion that the Subcontractor claims in the notice; or
 - (ii) if the Contractor disputes the Subcontractor's entitlement to all or any part of the extension of the Date for Completion that the Subcontractor claims in the notice, give the Subcontractor a written notice:
 - (A) stating that the Contractor disputes the Subcontractor's claim for an extension of the Date for Completion;
 - (B) setting out full details of the dispute; and
 - (C) granting any part of the Subcontractor's claim for an extension of the Date for Completion that is not disputed by the Contractor.

23. COMPLETION

- (a) The Subcontractor must ensure that the Subcontract Works reach Completion by the Date for Completion.
- (b) On Completion of the Subcontract Works, the Subcontractor must give the Contractor a written notice stating that the Subcontract Works have reached Completion.
- (c) If the Contractor disputes that the Subcontract Works have reached Completion, the Contractor will give the Subcontractor a written notice stating that the Contractor disputes that the Subcontract Works have reached Completion within 5 Business Days of receipt of the notice under clause 22(b). The notice will set out details of the further work that the Contractor believes is required to be carried out for the Subcontract Works to reach Completion.
- (d) If the Contractor gives a notice under clause 23(c), the Subcontractor must:
 - (i) if the Subcontractor disputes that any further work is necessary for the Subcontract Works to reach Completion, give the Contractor a written notice of dispute under clause 28(b) within 3 business days of receiving the Contractor's notice; or
 - (ii) if the Subcontractor does not dispute that further work is necessary for the Subcontract Works to reach Completion, carry out the further work necessary for the Subcontract Works to reach Completion and then give the Contractor a further written notice stating that the Subcontract Works have reached Completion under clause 23(b).
- (e) if the Subcontractor gives the Contractor a written notice of dispute under clause 28(b) in accordance with clause 23(d)(i), the Subcontract Works are deemed to be suspended from the date of the giving of the notice until the date 7 Days after the date on which the dispute is resolved or decided.

24. DEFECT LIABILITY PERIOD

- (a) If prior to the expiration of the Defects Liability Period, the Contractor becomes aware of any defective, non compliant or incomplete work, the Contractor may give the Subcontractor a written Direction:
 - (i) setting out details of the defective, non compliant or incomplete work; and
 - (ii) requiring the Subcontractor to rectify the defective work or non compliant work or complete the incomplete work.
- (b) On the giving of a Direction under clause 24(a), the Subcontractor must, within the time stated by the Contractor and at the Subcontractor's own cost (as applicable):
 - (i) rectify any part of the Subcontract Works that is defective or non compliant; or
 - (ii) complete any part of the Subcontract Works that is incomplete.
- (c) If the Subcontractor fails to comply with a Direction given by the Contractor under clause 24(a) then the Contractor may have the work rectified or made compliant or the materials removed and replaced by others and the cost is a debt due and payable by the Subcontractor to the Contractor.

25. FINAL CLAIM

- (a) The Subcontractor may, within 7 Days of the expiration of the Defects Liability Period (but not after the expiration of that time), submit a final payment claim to the Contractor ('Final Claim'). The Final Claim must, as a condition precedent to that reference date arising:
 - (i) set out the total amount of the payment claims submitted by the Subcontractor to the Contractor under clause 12;
 - (ii) the total amount of the payments made by the Contractor to the Subcontractor under the Subcontract up to the and including the date on which the Subcontractor submits the Final Claim;
 - (iii) include a copy of the Subcontractor's Deed of Release that has duly executed and in accordance with clause 12(i).
 - (iv) be for either:
 - (A) a nil amount subject to payment of the Balance (as defined in the Subcontractor's Deed of Release); or
 - (B) an amount calculated in accordance with this Subcontract for any Variation performed by the Subcontract under clause 16 during the Defects Liability Period. Any claim for payment by the Subcontractor under this clause 25(a)(iv)(B) must:
 - i. identify the relevant Variation directed by the Contractor after the date of Completion;
 - ii. identify the Subcontract Works actually performed by the Subcontractor as a result of the Variation identified in accordance with clause 25(a)(iv)(B)i; and
 - iii. set out the amount that the Subcontractor claims for payment from the Contractor for the Subcontract Works identified in accordance with clause 25(a)(iv)(B)i; and
 - iv. any other amounts in connection with the Subcontract that the Subcontractor claims for payment by the Contractor; and
 - v. the total amount that the Subcontractor claims for payment by the Contractor.
- (b) The Contractor will assess the Subcontractor's Final Claim and issue a payment schedule ('Final Certificate') to the Subcontractor setting out the payment due to the Subcontractor within 10 Business Days of receipt of the Final Claim.
- (c) Where an amount is due from the Subcontractor to the Contractor pursuant to the Final Certificate, the Subcontractor must pay the Contractor the amount determined by the Contractor in the Final Certificate no later than 15 Business Days after the Subcontractor received the Final Certificate.
- (d) Where an amount is due from the Contractor to the Subcontractor pursuant to the Final Certificate:
 - (i) the Subcontractor must, as a condition precedent to that reference date arising, give to the Contractor a tax invoice for the amount set out in the Final Certificate within five Business Days of receipt of the Final Certificate;
 - (ii) the Contractor will pay the amount shown on the Final Certificate within 25 Business Days of receipt of the Subcontractor's Final Claim.
- (e) The Subcontractor agrees that payment of the amount set out in the Final Certificate by the Contractor is consideration for the Subcontractor releasing and discharging (on and from the date of the payment of the amount set out in the Final Certificate) the Contractor from any claim (including claim for payment under

this Subcontract), action, demand, adjudication application, suit or liability in connection with the Subcontract Works.

26. LIQUIDATED DAMAGES

- (a) If the Subcontractor fails to ensure that the Subcontract Works reach Completion by the Date for Completion, the Contractor may recover liquidated damages from the Subcontractor at the rate set out in the Schedule.
- (b) If, subsequent to the Contractor recovering liquidated damages from the Subcontractor the Date for Completion is adjusted under this Subcontract, the Contractor must pay back an amount of liquidated damages commensurate with the extension of time to the Date for Completion.

27. INDUSTRIAL RELATIONS

- (a) The Subcontractor is responsible for employee relations with its workforce and the workforce of any of its subcontractors or other parties engaged by the Subcontractor.
- (b) The Subcontractor must immediately notify the Contractor of any industrial dispute or potential industrial dispute that may affect the Subcontract Works.
- (c) The Subcontractor must immediately notify the Contractor of any request for entry onto the Site (or any place where the Subcontract Works are being performed) by an employee or official of an employee organisation (union).

28. DISPUTE RESOLUTION

- (a) Except to the extent that any litigation that may be commenced is for the recovery of an amount due under Clauses 10(b), 12(i), 21(b), 24(c), 25(d)(ii) or for injunctive or declaratory relief in relation to any matter arising out of, or in connection with, the Subcontract, the requirements of this Clause are a condition precedent to either party commencing (or, if wrongly commenced continuing) litigation.
- (b) If a dispute or difference arises out of, or in connection with, the Subcontract, either party may give the other party a written notice of dispute setting out the details of the dispute including any amount in dispute.
- (c) Any notice that:
 - (i) the Contractor may give under clause 12(i)(ii) or clause 22(c)(ii); or
 - (ii) The Subcontractor may give under clause 26(b), is deemed to be a notice of dispute under clause 28(b).

‘Without Prejudice’ Conference

- (d) The parties will arrange, and participate in, a ‘without prejudice’ conference between them, or their authorised representatives, in an attempt to resolve the dispute or difference set out in the notice of dispute within 7 Days after the giving of the notice of dispute.
- (e) Subject to one of the parties being a member of the Master Builders Queensland:
 - (i) if either party gives a written notice to the Master Builders Queensland and the other party requesting that the Master Builders Queensland appoint a person to facilitate discussion in the ‘without prejudice’ conference, the Master Builders Queensland may appoint such a person; and
 - (ii) on any appointment of a person by the Master Builders Queensland under clause 28(e)(i), the parties will permit that person to make suitable arrangements for, and to facilitate discussion in, with ‘without prejudice’ conference.

Mediation or Arbitration

- (f) If the parties fail to resolve all of the dispute or difference set out in the notice of dispute during the ‘without prejudice’ conference, or if the party giving the notice of dispute fails to participate in a ‘without prejudice’ conference within 14 Days after the giving of the notice of dispute, then either party may give the other party a written notice of dispute setting out the details of the dispute including any amount in dispute and may refer all or any part of the dispute or difference to mediation or arbitration.
- (g) If the parties refer all or any part of the dispute or difference set out in the notice of dispute to mediation or arbitration but fail to agree on the person to be appointed as the mediator or the arbitrator, then either

party may give a written notice to the President of the Queensland Law Society and the other party requesting that the President appoint (as the case may be):

- (i) a mediator to facilitate the mediation; or
 - (ii) an arbitrator to decide all or that part of the dispute or difference referred to arbitration.
- (h) If either party gives a notice under clause 28(g), the President will give to the Parties a written notice setting out the name and contract details (as the case may be);
- (i) the mediator appointed by the President to facilitate the mediation; or
 - (ii) the arbitrator appointed by the President to decide all or that part of the dispute or difference referred to arbitration.
- (i) On the giving of a notice under Clause 28(h) the parties will:
- (i) request the mediator or the arbitrator named in the notice to make suitable arrangement for (as the case may be) the mediation or the arbitration; and
 - (ii) participate in (as the case may be) the mediation or the arbitration and pay the cost of the mediation (including the costs of the mediator) or the cost of the arbitration (including the costs of the arbitrator) in equal shares unless otherwise agreed by the parties or decided by the arbitrator.
- (j) If the parties fail to:
- (i) agree to refer any part of the dispute or difference set out in the notice of dispute or mediation or arbitration within:
 - (A) 7 Days after the 'without prejudice' conference; or
 - (B) if the party given the notice of dispute fails to participate in a 'without prejudice' conference, 14 Days after the giving of the notice of dispute, or
 - (ii) resolve all of the dispute or difference set out in the notice of dispute during any mediation, then either party may commence litigation in relation to any part of the dispute or difference set out in the notice of dispute that is not:
 - (A) agreed to be referred to mediation or arbitration under Clause 28(f); or
 - (B) resolved during any mediation.
- (k) Notwithstanding the giving of a notice of dispute, the parties must, subject to the Subcontract, continue to perform the Subcontract.

29. NOTICES

- (a) Subject to the Subcontract (and, in particular, Clause 28(b)), the giving of any notice by a party under the Subcontract is deemed to have occurred:
 - (i) if delivered personally to the other party, at the time of delivery;
 - (ii) if the other party is a company and the notice is left at its registered office or principal place of business, at the time that the notice is left at the registered office or principal place of business;
 - (iii) if sent by pre-paid registered post to the other party at the address of the other party stated in the Subcontract, or another address notified by the other party in writing as the address to which pre-paid registered post should be sent, at 9:00 am on the date 2 Business Days after the date of posting; and
- (b) Despite clause 2(a), notices must be given between 8:00am and 5:00pm. Any notice given before 8:00am is deemed to have been given at 8:00am. If the giving of any notice occurs at a time after 5:00 pm on a Business Day or during a Day that is not a Business Day, the giving of the notice is deemed to have occurred at 8:00am on the next Business Day.

30. GOODS AND SERVICES TAX

- (a) For the purpose of the Subcontract, the terms "ABN", "GST", "GST law", "registered", "tax invoice" and "taxable supply" have the meanings given to them in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- (b) The Subcontractor warrants that the Subcontractor is:

- (i) the holder of any ABN stated in the Schedule; and
- (ii) registered and will continue to be registered until the expiration of the Defects Liability Period.
- (c) The total Subcontract Sum includes GST.
- (d) Where the Subcontract Works, or any part of the Works, constitute a taxable supply, the Subcontractor must comply in every respect with GST law.
- (e) The payment claims that the Subcontractor submits under Clause 12(a), and the final claim that the Subcontract submits under Clause 24(a), must be in the form of a tax invoice.

31. SPECIAL CONDITIONS

If applicable, the special conditions set out in Annexure "B" will take effect as express terms of the Subcontract. The special conditions will prevail over these general conditions of contract to the extent of any inconsistency.

32. DEFINITIONS

In the Subcontract, unless the context otherwise requires:

"BUSINESS DAY" has the meaning given in section 36 of the Acts Interpretation Act 1954 (Qld), but does not include 27, 28, 29, 30 or 31 December of a Year;

"COMPLETION" means when the Subcontract Works are substantially completed except for minor defects or omissions which do not prevent the Subcontract Works from being reasonably capable of being used for their intended purpose;

"DATE FOR COMMENCEMENT" means the time stated in the schedule;

"DATE FOR COMPLETION" means the time stated in the Schedule as extended from time to time in accordance with the Subcontract, or any such other date as may be determined in any arbitration or litigation;

"DAY" means calendar Day;

"DEFECTS LIABILITY PERIOD" means the time stated in the Schedule, which commences on the date that the Works reach Practical Completion under the Head Contract;

"DIRECTION" includes, but is not limited to, any agreement, approval, authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement;

"FORTNIGHT" means a time of 2 weeks;

"GST EXCLUSIVE SUBCONTRACT SUM" means the GST Exclusive Subcontract Sum stated in the Schedule as adjusted from time to time in accordance with the Subcontract or, if no amount is stated in the Schedule, that amount of the Subcontract Sum that does not relate to the GST;

"HEAD CONTRACT" means the contract between the Proprietor and the Contractor.

"INSOLVENT" means if:

- (a) the Subcontractor informs the Contractor that it is insolvent or is financially unable to proceed with the Subcontract Works;
- (b) execution is levied against the Subcontractor by a creditor;
- (c) the Subcontractor is a natural person or a partnership including and if that person:
 - (i) commits an act of bankruptcy;
 - (ii) is made bankrupt;
 - (iii) has a bankruptcy petition presented against him or her or presents his or her own petition;
 - (iv) makes a proposal for a scheme of arrangement or a composition; or
 - (v) is required to present a debtor's petition or has a sequestration order made under Part X of the Bankruptcy Act 1966 (Cth);
- (d) in relation to a party being a corporation:
 - (i) notice is given of a meeting of creditors with a view to the corporation entering a deed of company arrangement;
 - (ii) it enters a deed of company arrangement with creditors;
 - (iii) a controller or administrator is appointed;

- (iv) an application is made to a court for its winding up and not stayed within 14 days;
- (v) a winding up order is made in respect of the corporation; or
- (vi) it resolves by special resolution that it be wound up voluntarily.

"LATENT CONDITION" means any physical condition above, on or below the Site, or the areas surrounding the Site, which differs substantially from the physical conditions which could reasonably have been expected by the Subcontractor after inspection at the time of the entering into of the Subcontract by the parties;

"LATENT CONDITION MARGIN" means the percentage stated in the schedule in coverage of the Subcontractor's administration, management and supervisory cost, overheads and profit;

"MASTER BUILDERS QUEENSLAND" means Queensland Master Builders Association Industrial or any successor;

"MONTH" means a calendar month;

"PRESIDENT" means the President from time to time of the Queensland Law Society;

"PROJECT" means the project being undertaken on the Site;

"PROPRIETOR" means the party with whom the Contractor has contracted under the Head Contract;

"PROVISIONAL SUM AND PRIME COST ITEM MARGIN" means the percentage stated in the Schedule in coverage of the Subcontractor's administration, management and supervisory costs, overheads and profit;

"QBCC" means the Queensland Building and Construction Commission

"SITE" means the land located at the Site Address stated in the Schedule, any areas surrounding or near that land which are to be made available by the Contractor to the Subcontractor under the Subcontract and any buildings or other structure on the land and any such surrounding areas;

"SITE INFORMATION" means all information, documents and data about or describing the Site, or the siting of the Subcontract Works, and includes, but is not limited to, the results of soil tests, survey drawings and details of easements, building covenants and planning restrictions;

"SUBCONTRACT" means the agreement between the Subcontractor and the Contractor recorded in the Subcontract Documents;

"SUBCONTRACT DOCUMENTS" means the special conditions under Clause 29, these general conditions of Subcontract, including the Schedule and Annexures to them, and the specification, the drawings, and any other documents set out in Annexure A;

"SUBCONTRACT SUM" means the Subcontract Sum (exclusive of GST) stated in the Schedule as adjusted from time to time in accordance with the Subcontract;

"SUBCONTRACT WORKS" means the whole of the work that the Subcontractor is required under the Subcontract to carry out in accordance with the Clause 1(a), a brief description of which is set out in the Schedule, and includes Variations and the rectification of any part of the Subcontract Works that is defective;

"SUBCONTRACTOR'S MARGIN" means the percentage on an amount in coverage of the Subcontractor's administration, management and supervisory costs, overheads and profit, being 10% unless otherwise agreed by the parties;

"START DATE" means the date on which the Subcontractor physically commences the carrying out of the Subcontract Works on the Site;

"STATUTORY REQUIREMENT" includes, but is not limited to, any act, code (including, without limitation, the Building Code of Australia), regulation, by-law, permit, approval and any Direction from, or requirement of, a local government or other entity having jurisdiction over the carrying out of the Subcontract Works;

"SUBMISSION DATE" means the date on which the Subcontractor submits (as the case may be) the payment claim, or the final claim, to the Contractor.

"TOTAL CONTRACT SUM" means the total Subcontract Sum (inclusive of GST) stated in the Schedule as adjusted from time to time in accordance with the Subcontract;

"VARIATION", whether agreed by the parties, deemed under the Subcontract or otherwise, means to vary the Subcontract Works by:

- (a) changing the nature or scope of the work that the Subcontractor is required to carry out under the Subcontract, including the omission of work from the Subcontract Works; or documents provided to the Subcontractor by the Contractor; or
- (b) The Contractor changes the manner or sequencing in which the Subcontractor is required to carry out the work under the Subcontract;

"VARIATION MARGIN" means the percentage stated in the Schedule in coverage of the Subcontractor's administration, management and supervisory costs, overheads and profit;

"WEEK" means calendar week;

"YEAR" means calendar year.

Appendix 1 – Form of Deed of Release

This Appendix is part of the Subcontract in accordance with clause (i) of the Subcontract.

SUB-CONTRACT FINAL ACCOUNT

Date

.....Pty Ltd

.....

.....Drive/Street/Road/Lane

.....QLD 4000

Attention Subcontractor,

RE: PROJECT

We attach hereto a copy of the Deed of Release in relation to your works for your review and signature.

Should you be in agreement, please sign and return the original for our execution. A copy of the completed Deed of Release shall be forwarded to you for your records. However, should you not agree with the amounts within the Deed of Release, please advise our office accordingly.

Final payment amounting to the Final Adjusted Subcontract Sum (less appropriate retention) will be made as per the Sub-Contract Agreement terms.

Yours faithfully,

.....

Name

Contracts Administrator

.....PTY LTD

ABN:.....

DEED OF RELEASE

BETWEEN:PTY LTD (ABN.....)
of ADDRESS, QLD 4000 (Contractor)

AND:PTY LTD (ABN.....)
of ADDRESS, QLD 4000 (Subcontractor)

Background

- A** "CONTRACTOR" and the "Subcontractor" entered into the subcontract agreement described in the schedule.
- B** The Subcontractor has requested "CONTRACTOR NAME" to make the final subcontract payment on the basis that the Subcontractor gives to "CONTRACTOR NAME" the warranties and release contained in this Deed.

Operative Part

Warranties

1. The Subcontractor warrants each of the following:
 - i. The Subcontractor has paid all wages and salaries due and owing to any employee of the Subcontractor engaged in the performance of the subcontract works.
 - ii. The Subcontractor has complied all the statutory obligations in relation to all employees of the Subcontractor engaged in the performance of the subcontract work, including, but not limited to, all obligations to remit tax payments to the Australian Tax Office.
 - iii. The Subcontractor has paid all employee entitlements including superannuation and redundancy trust payments which are due for payment.
 - iv. The Subcontractor has paid all amounts due and owing to any third party in respect of the supply of goods, materials and services to the subcontractor for the performance of the subcontract works.
 - v. At the date of this declaration, the Subcontractor has made claim for all entitlements relating to the performance of the subcontract, whether due under the subcontract as money or extensions of time, or as damages, for any matter which has arisen prior to the date of the progress claim to which this deed relates.
 - vi. The final adjusted subcontract sum is set out in the schedule to this deed.

Release

2. The Subcontractor releases "CONTRACTOR NAME" from any claim, action or demand arising from or in anyway connected with the subcontract and the performance of the subcontract works.

Bar to Proceedings

3. The Subcontractor acknowledges that "CONTRACTOR NAME" may plead this Deed as a bar to any claim, proceedings, action or application commenced or continued by the Subcontractor in relation to the subcontract or the subcontract works.

Acknowledgement

4. The Subcontractor acknowledges that it has entered into this Deed in accordance with its obligations under the subcontract.
5. The Subcontractor further acknowledges that it has not entered into this Deed as a result of any representation or inducement made to it by "CONTRACTORS NAME", its servants or agents, nor under any duress.

Schedule to Deed of Release – Subcontract Particulars

Project	:	PROJECT
Subcontract No	:	JOB NUMBER
Date of Subcontract	:	00/00/00
The Site	:	
Subcontract Works	:	TRADE PACKAGE
Final Adjusted Subcontract Sum	:	

Executed as a Deed

SIGNED, SEALED and DELIVERED for and on behalf of
"CONTRACTOR NAME" PTY LTD (ANB.....)

In the presence of

.....
Witness

.....
Signatory

.....
Print Name

.....
Print Name

Dated by "CONTRACTOR NAME" this day of 2014

SIGNED, SEALED and DELIVERED for and on behalf of
"SUBCONTRACTOR" PTY LTD (ABN.....)

In the presence of

.....
Witness

.....
Signatory

.....
Print Name

.....
Print Name

Dated by "SUBCONTRACTOR NAME" this day of 2014

ANNEXURE A
SCOPE OF WORKS FOR TILE LABOUR

23.01 – TILE LABOUR

The scope of works includes for all plant, labour, materials and equipment to carry out the Tile labour works all in accordance with the project documentation, including everything necessary for the proper and timely completion of the works in a co-ordinated and safe manner.

Site Location

27 Quentin St Capalaba Qld 4157

WH&S, Environmental & Quality

- a. Comply with all requirements of the Workplace Health & Safety Act and regulations as applicable and site safety plan.
- b. The Subcontractor shall provide their own Site-Specific Safety Plan, Risk Assessments and Work Method Statement to the Building Contractor before their works commence.
- c. The Subcontractor shall ensure that all employees wear, as required, visually evident ear protection to prevent hearing loss from industrial noise.
- d. Hardhats, safety boots and protective attire to be supplied by the Subcontractor and worn at all times; supervisors and management as well as labour.
- e. The subcontractor shall allow to comply with all OHS (AS4801:2001), Environmental (ISO 14001:2015) and Quality Assurance (ISO9001:2015).

Insurance

- a. Subcontractor shall be responsible for and provide evidence of:
 - Workers Compensation Insurance.
 - Personal Injury Policy (C.A.P.P or equivalent).
 - Construction Plant.
 - Motor Vehicle Insurance.
 - Public Liability.

Site Conditions

Inspect site conditions before delivery of materials. Ensure all conditions are satisfactory for installation. Arrange for any rectification required. Start of any work means total acceptance of all relevant Conditions. No claim will be accepted where work is applied "over a sub-standard base" if the matter has not been brought to the attention of the Construction Manager prior to work commencing. In the event of a "defect notice" being issued where work has been executed "over a sub-standard base", the cost of rectification will be apportioned equally between all trades involved.

Site Specific

- All works to be installed/performed as to the relevant standards and codes
- All works are to be performed in line with the builder's program. Liaise with builder to ensure all works are installed in accordance with their works.
- Co-ordinate and ensure preparatory work by other trades is done prior to commencement of works.
- Take care and protect surrounding work, including other finishes, equipment and components, during installation.
- Ensure all electrical equipment is tested and tagged and logged in site register.

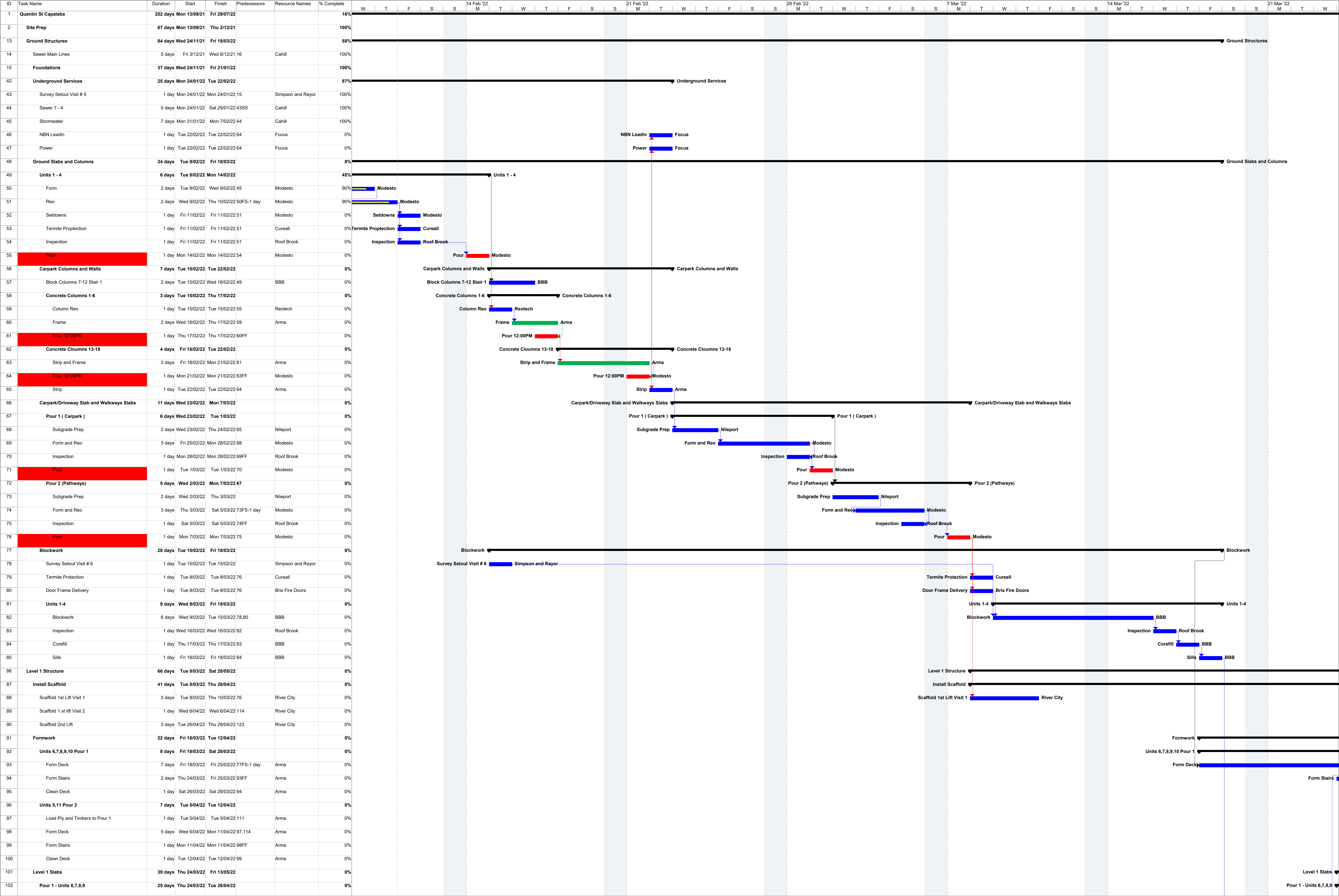
ANNEXURE A

Scope of Works – including but not limited to the following:

Tile Labour	NPP Signature	SC Signature
- Installation of ceramic tiles to the following areas: - All apartment bathrooms (floors & wall & splashbacks – refer drawings for extent) - All apartment laundries (floor, skirting & vanity splashback) - All apartments kitchen splashbacks - All apartment patio glazed sliding door threshold - All apartment front door threshold		
All for all tiling works as per the drawings. All tiling works are to be undertaken at the fixed contract lump sum.		
Note: Where drawings show wall tiling, tiling is to be taken all the way to the ceiling.		
Tiler to provide all aluminium angles where tile abuts another surface material. Eg door thresholds etc.		
Tiler to provide DTA aluminum trims to all front doors thresholds.		
The supply and installation of a puddle flange (Wondercap assembly) to provide protection from construction waste entering the drainage during screeding is <u>by others</u>. Ensure that Wondercap is maintained to ensure waste pipes are kept clean throughout the works.		
Tiler to use Acoustibond tile adhesive (Construction Chemicals) for the fixing of all floor tiles in accordance with the Acoustic Engineers detail (refer attached). Acoustibond to be used with required primer as per manufacturers specifications. Acoustibond only to be used for Units 6,7,8,9&10.		
Tiler to undertake all tile silicone sealant works to provide a watertight wet area covering all gaps, holes, penetrations in the tiling.		
Note: tiles in the bathroom must be laid to floor gradients between 1:60 and 1:80. Further details as per the drawings.		
Tiles in the bathroom, kitchens and laundries are to continue into the window reveals, where applicable.		
Provision of samples of grout, sealants, trims etc for the Main Contractors approval prior to ordering and installation		
Allow for the supply and installation of all bedding/screeding to wet areas (bathrooms and laundries) as per the drawings.		
Allow to form and fill (with sealant) all construction/expansion joints needed to complete the work in a tradesman like manner to prevent lifting or cracking		
It is the Subcontractors responsibility to prevent tile spacers, glues and grouts from blocking waste pipes. All are to be cleaned daily and on completion of grouting.		
The subcontractor must ensure that tile adhesives used on waterproofing membranes are compatible.		
Co-ordinate with other trades for installation of screed and tiling works		
All tiles to be laid as per the patterns documented on the project drawings		
Inspect all substrate surfaces to receive tiled finishes. All substrates shall be finished in a state which give a finish acceptable by the Main Contractor. Commencement of works shall be deemed to be acceptance of the substrate.		
Cover and protect surfaces from weather and from building operations where required and/or instructed		
At completion of the works and/or progressively as instructed by the Main Contractor, conduct a water test on all wet area floor tiling to ensure that correct falls are obtained and that water does not pond in any location.		
Ensure falls are adequate to the floor wastes and in accordance with our requirements of between 1:60 and 1:80.		

ANNEXURE A

The subcontractor to supply & install floor wastes in laundry & bathrooms.		
Inspect all walls before commencing work for plumb and straightness and notify the Main Contractor immediately if walls are found to be out of tolerance. Once tiling works commence the tiling subcontractor will be deemed to have accepted the substrates.		
Setting out of tiles and obtaining Main Contractors approval of setout prior to commencing any tiling		
Allow for barrier/protection to floors and adjacent work during tiling works.		
Allow for as many visits as required to each floor to complete the works and return to complete works around completed penetrations and services work		
Clean down all tiled surfaces progressively and on completion to the Main Contractors satisfaction		
Clean up tile glue and grout splashes, drops, runs and the like		
Vanity basins are not to be used to wash down tools, the subcontractor will ensure that the area they are working in is fully protected including the protection of other elements in close proximity (e.g. vanity units etc)		
Place all spare tiles to an area nominated by the Main Contractor, ground floor location to be utilised.		
All works are to be completed as per Australian Standards, contract documents, QBCC guidelines and product manufactures requirements		
Allow for a final trade clean once works are completely finished		
The subcontractor shall provide all caulking works as required.		
Allow for all horizontal and vertical movement of materials required to complete the supply and installation works.		
General		
Allow for all miscellaneous items including tile spacers, adhesives, grouts, silicon, angles, cutting, coves and nosing's to complete the full tiling installation.		
Allow to liaise with our Main Contractors Site Manager on the programming of all site works.		
Allow for all lifting / movement of tiles, bedding sand, glues, grouts and all associated accessories to all units, all levels as materials are delivered to site.		
Allow to co-ordinate all works with other trades.		
Your attention is drawn to Annexure D of this Agreement that details the Apprentice/Training Policy Requirements for Department of Housing projects.		
Allow for all employees working on the site to undertake the Main Contractors Induction. This induction is available on the Main Contractors web site www.nileportprojects.com.au . Note this induction must be completed prior to arriving on site to commence works		
Payment terms – invoices to be submitted 1st and 15th of the month with payment to be made on the 15th and 30th of the month.		
Final payment will not be released until all defects have been rectified. In addition, works are to pass a QLD Govt OT client inspection to confirm works meet the falls required prior to final payments being made.		



Project: Quentin Street Capalaba Site
Date: Fri 11/02/22

Task Split

Milestone Summary

Project Summary

External Milestone

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Progress

Deadline

Page 1

Task Name	Duration	Start	Finish	Predecessors	Resource Names	% 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[illegible]

SCHEDULE 10 – STATUTORY DECLARATION BY SUBCONTRACTOR**Clause 43.1***Oaths Act 1867*

Queensland

To Wit

I, of

in the State of Queensland, do solemnly and sincerely declare that, in relation to the Contract between the State of Queensland through

..... (“the Principal”) and

..... (“the Contractor”) for

..... (“the Contract”),

..... (“the Subcontractor”) is
 a Subcontractor to the Contractor for part of the work under the Contract, namely:

- (1) I hold the position of I am in a position to know the facts contained herein and to bind the Subcontractor by the terms of this declaration, and I am duly authorised by the Subcontractor to make this declaration on its/their behalf;
- (2) all the Subcontractor’s workers who at any time have been engaged on work under the Contract by the Subcontractor have been paid in accordance with the relevant award or industrial instrument, all moneys due and payable to them up to the date of submission by the Contractor of Payment Claim No;
- (3) all subcontractors of the Subcontractor have been paid all that is due and payable to them up to the date of submission by the Contractor of Payment Claim No in respect of their part of the work under the Contract; and
- (4) the Subcontractor has fulfilled or complied with any commitments made in its tender for the subcontract works relating to:
 - (a) the local benefits test contained in the Queensland Government’s Queensland Procurement Policy; or
 - (b) the best practice principles contained in the Queensland Government guidelines document titled “Best practice principles; Quality, safe workplaces” (Version 1.0 August 2018).

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the ***Oaths Act 1867***.

Signed and declared by the abovenamed declarant at
 in the State of Queensland this day of 20

Before me:

.....
Signature of person before whom the declaration is made

.....
Signature of declarant

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

APPRENTICE AND TRAINEE POLICY
COMPLIANCE RECORD

CONTRACTOR NILEPORT PROJECTS

CONTRACT 27 Quentin St, Capalaba Qld 4157

CLAIM PERIOD

SUBCONTRACTOR

Legal Name:

Trading Name:

Address:

Phone:

Email:

Contact:

Employed Apprentices/Trainees/Cadets

<i>Name</i>	<i>Registration Number</i>	<i>Total Hours</i>
		-
		-
		-
		-
		-
TOTAL HOURS		

Group Training Scheme Apprentices/Trainees/Cadets

<i>Name</i>	<i>Registration Number</i>	<i>Total Hours</i>
TOTAL HOURS		-

TOTAL HOURS OF COMPLIANCE	
---------------------------	--

Signature of Subcontractor / Authorised Person

Notification of project trust account opening: Subcontractors

A project trust account will be used for all payments relating to the project trust contract.
Details of the project trust account are:

Is this a transition from a project bank account? No

Trustee Name

NILEPORT PROJECTS PTY LTD

Account Name

Nileport Projects Pty Ltd - 87902 - General Trust Account

Financial Institution

Commonwealth Bank of Australia

BSB

064-000

Account Number

16018291

Date Account Opened

2/07/2021

Details of the project trust contract:

Contracting Party

Q Build Department of Energy and Public Works

Contracted Party

NILEPORT PROJECTS PTY LTD

Date of Contract

30/06/2021

First Subcontract Date

14/07/2021

Contract Practical Completion Date

30/06/2022

Project Description

Document & Construction 11x units

Contract Site

Property Address: 25-27 Quentin Capalaba 4157 QLD

Lot on Plan: 21 & 22/RP/123702