

CPCCBC4003A SELECT AND PREPARE A CONSTRUCTION CONTRACT, CPCCBC4016A ADMINISTER A CONSTRUCTION CONTRACT & CPCCBC4032A APPLY CONTRACT LAW TO SALES PROCESSES

The assessment activities for *CPCCBC4003A Select and prepare a construction contract*, *CPCCBC4016A Administer a construction contract* & *CPCCBC4032A Apply contract law to sales processes* cover all aspects of the unit of competency required. To demonstrate competence in this unit, a participant must undertake all tasks and complete them satisfactorily and consistently. For Apprentices and Trainees, this includes employer completion of the Employer Record Book (ERB).

Participants must read all the information given before starting any assessment task. The assessment tasks are intended to be equitable, fair and flexible. If a participant has any questions or requires alternative arrangements to be made such requests should be directed to their Trainer/Assessor, who should note such arrangements in the 'Assessor Comments' on the affected assessment. If a participant feels they are not yet ready to be assessed, they should discuss their options with their Trainer/Assessor.

To satisfactorily complete the assessment, the participant is required to answer all questions correctly and demonstrate their skills to industry standards. If a participant does not answer some questions or perform some tasks, they will be deemed 'Not Satisfactory' for the task and 'Not Yet Competent' for the unit of competency. The Trainer/Assessor is able to provide the participant with additional information on interpreting the assessment outcomes and provide guidance on the participant's options. Should a participant still be deemed 'Not Satisfactory' they will have the opportunity to undertake a supplementary assessment or appeal the result.

By signing the cover page for each assessment item, the participant acknowledges they understand the assessment instructions and requirements and consent to being assessed. The participant also verifies and assures the RTO that the work submitted is their own work.

Participant Name	Pippa Turner
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Task	Assessment Results	
Theory Exam	☐ Satisfactory	☐ Not Yet Satisfactory
Practical Assessment	☐ Satisfactory	☐ Not Yet Satisfactory
Outcome for CPCCBC4003A	☐ Competent	☐ Not Yet Competent
Outcome for CPCCBC4016A	☐ Competent	☐ Not Yet Competent
Outcome for CPCCBC4032A	☐ Competent	☐ Not Yet Competent

Assessor Name	
Assessor Signature	
Unit Competence Determination Date	Click here to enter a date.

CPCCBC4003A SELECT AND PREPARE A CONSTRUCTION CONTRACT, CPCCBC4016A ADMINISTER A CONSTRUCTION CONTRACT & CPCCBC4032A APPLY CONTRACT LAW TO SALES PROCESSES

THEORY EXAM INSTRUCTIONS

- This exam will occur under standard assessment conditions.
 - An oral examination may be allowed under certain circumstances, whereby the Participant's answers will be documented by a party other than the Participant. This must be acknowledged in writing (e.g. FT001 and Assessor Comments)
- Participants must provide enough detail in their responses to demonstrate their knowledge and skills.
- Please fill in the details below, providing your name, signature and date of assessment.
 - Your signature acknowledges that this is your own work.
- Assessors are to complete marking in pen of a different colour to the Participant.
- If a Participant initially answers a question incorrectly but modifies their response, they must follow the instructions below:
 - If a Participant changes their response in writing, they must put their initials next to the written change.
 - If a Participant changes their response verbally, this must be noted on the exam paper by the assessor.

Participant name Pippa Turner

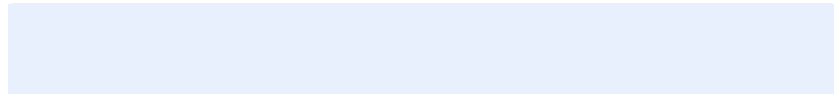
Participant signature



Date 19/03/2017

Assessor name

Assessor signature



Date [Click here to enter a date.](#)

Number of questions	Number of questions answered correctly	Task outcome (Tick)	
		Satisfactory	Not Yet Satisfactory
51		☐	☐

ASSESSOR COMMENTS

Q1. Order the following elements of an agreement from 1 to 4.

Answer

Element Number	Element
2	Acceptance
4	Consideration
3	Intention of legal consequences
1	Offer

☐

Q2. When would an offer be considered to have lapsed?

Answer

An offer will lapse when the time for acceptance expires, if the offer is withdrawn before it is accepted or after a reasonable time in the circumstances (generally the greater the value of the contract, the longer the life of the offer)

☐

Q3. What happens to the offer if new terms are suggested?

Answer

New terms that are suggested are regarded as a counter offer which can either be accepted or rejected

☐

Q4. What does it mean when a contract is supported by 'valuable consideration'?

Answer

Valuable consideration means one party promises to do something in return for a promise from another party, consideration is what each party gives to the other as the agreed price for the other's promises, usually the consideration is the payment of money.

☐

Q5. Identify two (2) parties who may be deemed to not have the capacity to enter into a contract.

Answer Persons suffering from a mental disability, intoxicated individuals

☐

Q6. Outline your understanding of 'consent' as it applies to contractual agreements. Identify when 'apparent consent' might not actually exist.

Answer A party's genuine consent is an essential element of a legally binding contract, consent to agree to the works being done, what is covered in the contract, what is an additional extra, apparent consent may not exist when a house for example is being built and the building assumes the client would want 4.8m wide garage opening, the builder should not assume apparent consent to this aspect and should run this by the client for consent.

☐

Q7. Identify the building industry regulator in your state and describe its role, particularly with regards to providing advice about contracts.

Answer QBCC regulates QLD's building industry, the QBCC provides information, advice and regulation to ensure the maintenance of proper building standards and remedies for defective building work, QBCC offers advice around what sort of contract will be required for the works that are taking place.

☐

Q8. Under what laws are domestic building contracts regulated?

Answer Schedule 1B of the Queensland Building & Construction Commission Act 1991

☐

Q9. Domestic building contracts must be put in writing once the work exceeds what value?

Answer Once any Domestic building works are priced over \$3,300 a written contract must be put in place

☐

Q10. A commercial building contract must be put in writing before the building work is started if the reasonable cost of the work is more than what amount? Identify the relevant law that imposes this requirement.

Answer If the work is valued at over \$10,000, the Queensland Building & Construction Commission Act 1991

☐

Q11. Contractors must give the owner a signed copy of the entire contract (including any plans and specifications) within how many days after entering the contract?

Answer Within 5 business days after you enter the contract

☐

Q12. What are the benefits of having a written contract in place between parties?

Answer A written contract provides proof of what was agreed between the party's, it helps prevent any misunderstandings, it gives you security.

☐

Q13. Match the common building contract clauses and definitions below by writing the appropriate letter next to each number in the centre column.

Answer	Clauses	Answers	Definition	
1	Acceptances	1 - F	A Provide specific reasons that allow the contract period to be adjusted	
2	Cost adjustments	2 - E	B A provision for which remedies can be sought if breached	
3	Extensions of time	3 - A	C Specifically outlines the tasks to be completed as part of the construction work	
4	Payments	4 - D	D Outlines the requirements for deposits	
5	Scope of work	5 - C	E Address the risk of rise/fall of expenses	
6	Term	6 - B	F Require that the contract be accepted or rejected by a certain date, otherwise the contract will not be binding	

Q14. Which of the following are preliminary contracts that a builder could ask a client to sign prior to signing the main contract? Tick all that apply.

Answer	Choice	Possible Answers	
	☒	Contract estimate	
	☒	Contract request	
	☒	Preliminary agreement	

Q15. True or False (Tick your response): Clauses within pre-contract agreements may carry over into the contract, so it is important to discuss these with the client and come to an agreement.

Answer	☒	True	
	☐	False	

Q16. Identify and explain the purpose of four (4) standardised building construction contracts – two (2) residential and two (2) commercial.

Answer

Contract name	Description
Level 1 – Renovation, Extension and Repair Contract	For renovations, extensions & repairs on existing homes for work valued between \$3,301 - \$19,999
Level 2 - Renovation, Extension and Repair Contract	For renovations, extensions & repairs on existing homes for work valued between \$20,000 and over
Commercial Cost Plus Contract	A cost plus contract for use on commercial building projects, where a lump sum price cannot be established, however a fair and reasonable estimate is given
Commercial Minor Works Contract	A lump sum contract for minor commercial work up to the value of \$,100,000

☐

Q17. Identify an appropriate standardised contract that would be suitable for a commercial works job up to \$100,000.

Answer Commercial Minor Works Contract

☐

Q18. Identify one (1) standardised residential building contract and explain the maximum value of the work it may be used for.

Answer Basic Works Contract – works up to \$80,000 inc GST

☐

Q19. Describe the requirements for each of the topics listed below, with regards to residential contracts priced at \$20,000.

In Queensland, these are outlined in the QBCC Consumer Building Guide, which the consumer must sign before work is undertaken.

Answer

Topics	Definition
Builder's Licence	You should only deal with a QBCC licensed contractor, if you engage an unlicensed contractor, your building work may not be covered under the QLD home warranty scheme
Contract price	For contracts priced at \$20,000 or more, the contract price, if fixed, must be shown prominently on the first page of the contract schedule. If the contract price is not fixed, the method for calculating it, including any allowances, must be stated in the contract schedule. Allowances (items or services for which the price is not fixed when the contract is signed) should be kept to a minimum as the final cost often exceeds the estimate in the contract. The contract must also contain a warning about any provisions that may alter the contract price
Building approvals and inspections	Building approvals and inspections are the responsibility of a building certifier who may be engaged by you or, more commonly, your builder. Mandatory building inspections may be required at certain stages of construction. If your contractor has engaged a building certifier for certain certification functions, you can ask the certifier (via a notice given to your contractor) to perform additional certifying functions which will be at your expense and must be carried out by the certifier within agreed timeframes. The contractor must give you copies of any certificates of inspection as soon as practicable after they receive them from the certifier. You can also ask the certifier, by written notice, for copies of any inspection documentation and the certifier must provide the documents within 5 business days. You can check a certifier's licence via QBCC's OnLine Licence Search.



Practical completion and handover	You are not required to pay the final contract payment until all of the contracted work has been completed in accordance with the contract including any plans and specifications, all legal requirements, and either without any defects or omissions, or with only minor defects or minor omissions that will not unreasonably affect occupation. If you believe there are any minor defects or minor omissions, the contractor must give you a 'defects document' (listing agreed and non-agreed matters). This document should be compiled by you and the contractor during a handover inspection. Check your contract to see if it imposes any extra requirements on the contractor for practical completion.
Implied warranties	Schedule 1B of the Act sets out statutory warranties which are deemed to be part of all regulated domestic building contracts, even if not stated in the contract. The warranty period is 6 years from completion, termination or cessation of the work for breaches resulting in structural defects; 1 year for all other breaches. Legal proceedings for any breach must be started within the warranty period or a further 6 months if the breach becomes apparent within the last 6 months of the warranty period.

Q20. Which of the following documents can be referred to as collectively making up a contract? Tick all that apply.

Answer

Choice	Possible Answers
☒	Engineer specifications
☒	Plans, drawings and specifications
☒	Prime Cost Items Schedule
☒	Processes for applying for extensions of time
☐	Product catalogues
☒	Project timelines and schedules
☒	Provisional Sums Schedule
☒	Rise and fall calculations
☒	Site conditions report
☒	Soil and sedimentation report

☐

Q21. What is the difference between the Prime Cost Item Schedule and the Provisional Sum Schedule in a contract? Provide an example of each type to help explain your response.

Answer ☐

A prime cost item is an allowance in the contract for the supply of items not yet finally selected

A provisional sum are elements of the project that cannot be precisely costed in advance

Prime Cost Item Schedule example – Sanitary hardware/ Sundry hardware, door hardware

Provision Sum example – earthworks on site where the soil conditions are uncertain

Q22. Cost adjustment provisions under a contract address risk by providing mechanisms for adjusting contract payment to reflect changes in costs. What can cost adjustment apply to?

Answer ☐

Cost adjustments can apply to the price increase of materials

Q23. True or False (Tick your response): Variations can be requested by both the client and the builder.

Answer ☐

☒	True
☐	False

Q24. How should you deal with a client variation request that consequently requires a time extension? How are time extensions addressed within the contract?

Answer

A formal letter is address to the client requesting the time extension and the reason why those days should be added to the construction schedule, in that reasoning it should state that the EOT is due to the clients variation request



Q25. Name the Fair Trade legislation that applies in your state and identify which persons/bodies it applies to.

Answer Fair Trading Act 1989 – Queensland Legislation
This applies to all business

☐

Q26. Under the National Consumer Credit Code, before entering into a credit contract, what must the credit provider do?

Answer Make reasonable inquiries about the consumer's financial situation, requirements and objectives, take reasonable steps to verify the consumers financial situation, make a preliminary assessment of whether the credit contract is "not unsuitable" for the consumer

☐

Q27. What does the 'cooling off' period refer to when undertaking domestic building work with a total contract price of \$20,000 or more?

Answer The cooling off period refers to the 5 clear business days following when the owner has been provided with a signed copy of the contract.

☐

Q28. What are the maximum deposits recommended for a residential building project?

Answer 5% of total contract price

☐

Q29. Throughout the building schedule, progress payments are made when each new stage is ready to commence.

Identify the recommended stages and percentages for these progress payments on a typical new residential housing building project.

Answer Deposit – 5%
Base Stage – 15%
Frame Stage – 20%
Enclosed Stage – 25%
Fixing Stage – 20%
Practical Completion – 15%
The above % are of the total contract price

☐

Q30. You have been engaged by a client to construct their residential dwelling for \$550,000. Your client is pressuring you to accept a \$70,000 deposit to get priority on their construction. Should you accept the deposit? Explain your response.

Answer No you should not accept this offer as the QBCC Act makes it illegal to accept deposits higher than 5% on domestic building work valued at \$20,000 and over.

☐

Q31. Explain the following types of contractual breach and identify the consequences for the contractual arrangement due to each type of breach.

Answer	Breach	Explanation	☐
	Breach of condition under contract	These are essential terms, if a condition is not fulfilled, the nature of the contract is drastically changed	
	Breach of warranty under contract	If a warranty is not fulfilled, the nature of the contract is not drastically changed	

Q32. What does repudiation of a contract mean?

Answer	This occurs when a party to a contract is unwilling to perform their contractual obligations – through acknowledgement or their actions are totally inconsistent with their obligations under the contract	☐
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Q33. True or False (Tick your response): In the event of repudiation, the injured party has two options:

- Continue with the contract
- Accept the repudiation and move to terminate the contract

Answer	☒	True	☐
	☐	False	

Q34. Why should you exercise caution, even if you are sure that the other party has repudiated the contract?

Answer	Because if the situation is not deemed to be a repudiation, by acting to terminate the contract the “injured” party may themselves be repudiating themselves and could be liable to pay damages	☐
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Q35. What does 'abandonment of contract' mean?

Answer Abandonment of contract means both parties have conducted themselves in such a way that the original contract is no longer valid

☐

Q36. A contract can be terminated for 'cause' or for 'convenience'. Explain these two terms.

Answer Termination for cause occurs when one party cannot totally complete the contractual obligations,
Termination for convenience occurs when neither party breaches the contractual obligations but the relationship is terminated

☐

Q37. Yes or No (Tick your response): Referring to Section 25 of Schedule 2 of the *Competition and Consumer Act 2010* (Cth), would a contract be unfair if it contains a term that permits the builder, but not the client, to terminate the contract?

Answer

☒	Yes
☐	No

☐

Q38. If time is not of the essence for contract completion and one party fails to perform on time, the other party may terminate the contract after serving notice – specifying a time for performance on the first party. What are the requirements of a valid notice to complete?

Answer ☐ The termination must occur within 2 years of the date of entering into the contract (where no work commenced) or within 2 years from the day work commenced

Q39. True or False (Tick your response): Where the notice given (as per Q38.) is deemed invalid, the innocent party must either serve another notice or prove repudiation by the defaulting party, in order to terminate the contract.

Answer ☐

☒	True
☐	False

Q40. When is the client owner required to pay the final contract payment? How might this be affected by defects and omissions?

Answer ☐ Final contract payment is to be made at practical completion, Defects & Omissions can affect this by holding up the PC date

Q41. Explain the concept 'conditions for completion at the cost of the contractor'.

Answer ☐ Conditions for completion at the cost of the contractor means everything to do with the items supplied need to be covered. For example if blinds are required and it is an electric blind, there will be a power point will be required.

Q42. Describe what must be stated in a 'warranty against defects' about the person who gives the warranty [as per Section 90 of the *Competition and Consumer Regulations 2010* (Cth)].

Answer ☐ The person & Contact details of who is giving the warranty

Q43. Name one (1) person you should consult if you are considering ousting a contractor from a building site.

Answer ☐ The QBCC should be one person you should consult

Q44. What document should you refer to if you are considering ousting a contractor from a building site?

Answer ☐ You should follow the procedure outlined in the contract, it will most likely refer to the QLD Building & Construction Commission Act 1991

Q45. How should you handle a customer complaint?

Answer Business.gov.au states the following points should be followed when handling a customer complaint

- Talk & listen to your customer
- Make records
- Ask for documentation
- Understand your legal obligations
- Follow up with your customer
- Know your state or territory consumer complaint handling office

☐

Q46. How do you reduce the risk of dispute?

Answer Tips to avoid contractual disputes include

- Record all complaints
- Act promptly
- Do what you say you're going to do
- Do not make unrealistic promises

☐

Q47. What is the process for dispute resolution?

Answer QBCC or other Building Associations can assist you in reaching an amicable solution with your building contract break down.

Please note you should seek legal advice to investigate your options before taking any of these steps

☐

Q48. During your build the client has emailed you at 7:00pm to say they have been to the premises and noticed the installed bath in the bathroom is the wrong style.

You check the contract and the white goods and chattels list selected by the client. You cross check this with the specifications and your materials order and the receivable order sheets. You establish that the bath, as per these details, is correct and there has been no mistake on your part.

Draft a detailed response email to your client alerting them to the pertinent parts of the contract and specification, cross-referencing the details in regard to this item and its installation.

Answer Good Morning 'Client'...



After receipt of your email last night suggesting that the installed bath in the bathroom is incorrect, I have reviewed the contract and documents to check this.

Upon review I can confirm that the bath installed is as per the contract and finishes schedule (white goods/chattels list), please refer to appendix 1 of the contract 'Finishes Schedule' to confirm this.

Further to this, please see attached Materials Order & Receivable order sheets to confirm that the correct bath has been delivered to site.

Please confirm with how you would like to proceed.

If you have any queries please do not hesitate to contact me on the below details.

Kind Regards,

Pippa Turner
Contracts Administrator

1300 WOOLLAM (1300 966 52) | 1300 966 552 | +61 429 529 970

pturner@woollam.com.au

woollamconstructions.com.au | woollamservices.com.au

36 East Gordon St Mackay QLD 4740 | PO Box 1618 Mackay QLD 4740

Woollam acknowledge the First Nations people as the original inhabitants of Australia.

We pay our respects to the Traditional Custodians of this land and acknowledge all Elders past, present and future.



Q49. Where would you find any possible penalties associated with a build?

Answer QBCC has options to pay the penalty now or set up a payment plan,
Online License Search will show details of offences and demerit points



**Q50. Explain the process for obtaining the final inspection certificate.
Explain how such documentation is to be stored/lodged.**

Answer Building Approval will list the certificated that you are required to present,
Obtaining all relevant certificates from trades, store in the job folder, lodge
to certifier as part of the BA for approval, once all works are completed,
certifier comes in for inspection and checks that all works are completed,
certifier then gives final inspection certificate



Q51. Select and prepare an appropriate standardised contract for the client in the scenario below.

Mr. and Mrs. Cousins intend to engage your company Resilient Homes Pty Ltd (License 141526) in order to build a new low-rise residential dwelling as their future retirement property. Mid-term of this build the clients intend putting their current home on the real estate market for sale.

Additional details:

- The land has been secured and paid for by the Clients.
- Proposed contract amount is \$580,000.00 plus \$85,000 for a kidney shaped 9m x 6m in-ground swimming pool, landscaping, gardens and lawns.
- Mr. and Mrs. Cousins have finance approval from the Commonwealth Bank for \$390,000.00 and the balance in cash. You have received written assurance from the Clients finance company and bank that their finances for the build are fully secured.
- Mr. and Mrs. Cousins want to pay you \$75,000.00 upon signing of the contract to get their build at the top of your priority list.
- The residential dwelling will be a low set single skin masonry structure with hip and valley roof using glazed clay tiles, contrast metal fascia and gutters and colour/rendered finish on a 1000m² level block upon which there are three large standing hardwood trees which will need to be fully removed.
- The Clients want the largest tree wood chipped and the chipped bark retained on site for the future gardens and landscaping.
- Mr. and Mrs. Cousins operate an aluminium window supply company and have advised they will supply all the windows and shower glass for the build.
- The dwelling has four bedrooms with built-ins. The master bedroom has ensuite with toilet, spa bath and double shower and walk-in robe and dressing area. There is an office, gourmet kitchen with stone bench tops and butler's pantry, media room, separate open plan dining adjacent to the kitchen plus slate tiled outdoor entertaining area adjacent to the pool, two living areas (formal and informal), two bedrooms share a bathroom with bath, shower, double vanity and toilet and the guest bedroom is ensuited with shower only, toilet and single vanity, there is a powder room (toilet and vanity only), three car garage (one double and one single) and a store/workshop room at the rear of the double bay garage. A slab is to be put down in the back corner of the allotment for a 5m x 3m garden shed.
- The council approved building plans have been provided by Mr. and Mrs. Cousins these do not include the garden shed slab.
- The construction period excluding inclement weather and possible delays is 23 weeks
- Provisional sums are required for the wet areas, alfresco area and living area tiling. (Only the bedrooms are carpeted).
- Prime costs are required for the solar hot water system and ducted air conditioning
- Provide fictitious details for all other sections of the contract.
- 18 solar panels are to be installed on the roof

Answer



QBCC NEW HOME CONSTRUCTION CONTRACT

THIS CONTRACT IS RECOMMENDED FOR THE CONSTRUCTION OF A SINGLE HOME OR DUPLEX.

- For the renovation, extension, improvement and routine repair of a home, it is recommended that you use the **QBCC Level 1 Renovation, Extension and Repair Contract** (where the contract price is \$3,301 - \$19,999), or the **QBCC Level 2 Renovation, Extension and Repair Contract** (where the contract price is \$20,000 or more).
- For repairs of any value arising from natural disasters, the **QBCC Natural Disaster Repairs Contract** is recommended.

THIS PACK CONTAINS:

- **Consumer Building Guide** [Builder must give to Owner before Owner signs the Contract]
- **General Conditions of QBCC New Home Construction Contract**
(2 copies: 1 for Contractor and 1 for Owner – includes *Timeframes for Key Obligations*)
- **Schedules and Forms**
 - **Schedule for QBCC New Home Construction Contract**
 - **Prime Cost Items Schedule**
 - **Provisional Sums Schedule**
 - **Form 1 – Commencement Notice**
 - **Form 2 – Extension of Time Claim and Owner's Response to Claim**
 - **Form 3 – Progress Claim**
 - **Form 4 – Notice of Dispute of Progress Claim**
 - **Form 5 – Variation Document**
 - **Form 6 – Defects Document**
 - **Form 7 – Certificate of Practical Completion**

DO NOT ACCEPT THIS PACK IF CONTENTS ARE INCOMPLETE

WARNING FOR CONTRACTOR

Under Queensland law **you must give the Owner a signed copy of the entire contract**, including any plans and specifications, **within 5 Business Days** after you enter the contract. You are also required to give the enclosed **Consumer Building Guide** to the Owner **before they sign the contract**. (Failure to do so may result in the Owner withdrawing from the contract or Compliance action by the QBCC).

DECEMBER 2020

CONSUMER BUILDING GUIDE

YOUR CONTRACTOR MUST GIVE YOU THIS GUIDE BEFORE YOU SIGN A CONTRACT PRICED AT OR OVER \$20,000

This guide has been developed by the QBCC in accordance with Schedule 1B of the *Queensland Building and Construction Commission Act 1991* ('the Act') to assist home owners undertaking domestic building work with a contract price of \$20,000 or more. **NOTE:** Unless otherwise stated, section references in this guide (e.g. s33) refer to provisions in Schedule 1B of the Act.

QBCC LICENCE

You should **only deal with a QBCC-licensed contractor**. If you engage an unlicensed contractor, your building work may not be covered under the Queensland Home Warranty Scheme. **Before committing, check the contractor's licence and history via the QBCC Online Licence Search or by calling the QBCC.**

WARNING – COST PLUS AND CONSTRUCTION MANAGEMENT CONTRACTS

QBCC strongly recommends home owners obtain formal legal advice before signing either of these types of contracts which increase your legal risk, reduce your Home Warranty Scheme protection and often result in disputes and cost overruns.

CONTRACT PRICE (s2)

For contracts priced at \$20,000 or more, the contract price, if fixed, must be shown prominently on the first page of the contract schedule. If the contract price is not fixed, the method for calculating it, including any allowances, must be stated in the contract schedule. Allowances (items or services for which the price is not fixed when the contract is signed) should be kept to a minimum as the final cost often exceeds the estimate in the contract. The contract must also contain a warning about any provisions that may alter the contract price.

COOLING-OFF PERIOD (ss35-39)

You may withdraw from the contract within 5 business days after the day you receive copies of both the signed contract (including any plans and specifications) and this guide. However, there are costs for home owners in withdrawing (generally \$100 plus any out-of-pocket expenses reasonably incurred by the contractor up to the time of withdrawal). You must advise the contractor in writing that you are withdrawing under the cooling-off provisions in section 35 of Schedule 1B of the QBCC Act.

QLD HOME WARRANTY SCHEME

Residential construction work valued at more than \$3,300 is covered by the Qld Home Warranty Scheme. The Scheme provides protection for home owners against non-completion, defective work and subsidence for up to 6 years from completion, provided a licensed contractor performs the work. The building contractor must collect the premium from the owner and pay it to the QBCC within 10 business days after the date the contract was entered into or before the contracted work is started (whichever is earlier). You should receive an email with a Notice of Cover and links to important information within 2 weeks of signing the contract.

DEPOSITS AND PROGRESS PAYMENTS (ss33,34)

The maximum deposit allowed (before work starts on site) is:

- 10% where the total contract price is less than \$20,000
- 5% where the price is \$20,000 or more
- 20% for a contract of any price where the value of the work to be performed off-site is more than 50% of the contract price.

After the deposit is paid, owners and contractors are free to choose the number and timing of progress payments (if any) for their project, provided the amount claimed is directly related to work progress on site and proportionate to (or less than) the value of the work that relates to the claim (e.g. You should not pay 50% until at least half of the work is completed on site).

COMMENCEMENT NOTICE (s16)

For contracts priced at \$20,000 or more, the contractor must give the owner a signed Commencement Notice within 10 business days of work commencing on site. The Notice must state the date work started on site and the Date for Practical Completion.

BUILDING APPROVALS AND INSPECTIONS (ss124A, 143A, 143B of the *Building Act 1975*)

Building approvals and inspections are the responsibility of a building certifier who may be engaged by you or, more commonly, your builder. Mandatory building inspections may be required at certain stages of construction. If your contractor has engaged a building certifier for certain certification functions, you can ask the certifier (via a notice given to your contractor) to perform additional certifying functions which will be at your expense and must be carried out by the certifier within agreed timeframes.

The contractor must give you copies of any certificates of inspection as soon as practicable after they receive them from the certifier. You can also ask the certifier, by written notice, for copies of any inspection documentation and the certifier must provide the documents within 5 business days. You can check a certifier's licence via QBCC's OnLine Licence Search.

For more information on additional inspections, go to www.business.qld.gov.au search 'Form 18 Notice to owner' and read the Appendix to this form. .

VARIATIONS (ss40,41)

Any change to the materials used or work to be performed under the contract is known as a 'variation'. Variations are frequently the cause of cost overruns and building disputes. **All variations must be agreed in writing by the home owner before the variation work commences** and any price increase due to the variation can not be required to be paid until the variation work is started.

DISPUTE PREVENTION

To reduce the risk of a dispute, carefully check and be sure you understand the contract, including any plans and specifications, before signing. Discuss any questions with your contractor and seek independent legal advice if you still have concerns. Once construction starts, maintain regular communication and, where possible, site inspections with your contractor and pay promptly when required under the contract.

DISPUTE RESOLUTION

If a dispute with your contractor occurs, firstly advise them in writing giving them a reasonable time to respond. If this doesn't resolve the problem, explore QBCC's free Early Dispute Resolution (EDR) service and your legal options. A QBCC letter advising the outcome of the QBCC dispute resolution process is required before you can commence a QCAT application. **QBCC recommends you obtain independent legal advice before terminating the contract.** **WARNING: Incorrect termination may have serious legal and financial consequences and reduce your protection under the Qld Home Warranty Scheme.**

EXTENSIONS OF TIME (EOTs) (s42)

The contract must state the Date for Practical Completion for your project, or how the date is to be determined (e.g. 180 days from commencement). The Act sets out circumstances in which a contractor may seek to extend this date (e.g. if you cause a delay, approve a variation to the contract which involves extra work, or the work is interrupted by more rain than could reasonably have been anticipated). The contractor must give you a written EOT claim which you should carefully consider (not unreasonably reject) and respond to promptly in writing. If you approve the claim, the Date for Practical Completion will be extended by the period claimed. If you do not approve the claim, the extension is deemed 'disputed'.

LIQUIDATED DAMAGES (LDs)

LDs are contractual payments to compensate a home owner for extra costs/losses they are likely to incur (e.g. extra rental costs) if the contractor fails to complete the work within the time allowed for in the contract (after allowing for legitimate extensions of time). Carefully consider what, if any, LD amount is appropriate for your project and ensure it is recorded in the contract.

PRACTICAL COMPLETION (PC) AND HANDOVER (See definitions of 'PC' & 'defects documents' - s1)

You are not required to pay the final contract payment until all of the contracted work has been completed in accordance with the contract including any plans and specifications, all legal requirements, and either without any defects or omissions, or with only minor defects or minor omissions that will not unreasonably affect occupation. If you believe there are any minor defects or minor omissions, the contractor must give you a 'defects document' (listing agreed and non-agreed matters). This document should be compiled by you and the contractor during a handover inspection. Check your contract to see if it imposes any extra requirements on the contractor for practical completion.

WARNING: Strict timeframes apply for notifying QBCC about defects. For more information please refer to the Regulatory Guide on the following QBCC website address qbcc.build/rectify-building-work

IMPLIED WARRANTIES (ss19-29)

Schedule 1B of the Act sets out statutory warranties which are deemed to be part of all regulated domestic building contracts, even if not stated in the contract. The warranty period is 6 years from completion, termination or cessation of the work for breaches resulting in structural defects; 1 year for all other breaches. Legal proceedings for any breach must be started within the warranty period or a further 6 months if the breach becomes apparent within the last 6 months of the warranty period.

FOR FURTHER INFORMATION

- Read the booklet, 'Domestic Building Contracts – General Information for owners and contractors' on the QBCC website.
- Refer to the relevant legislation: Schedule 1B of the QBCC Act and ss124A, 143A and 143B of the *Building Act 1975*.

QUICK CHECKLIST (Ensure you are able to tick all relevant boxes below before signing the contract)

- ☐ I have read and **checked all contract documents**, including the contract schedule, general conditions and special conditions (if any) and any plans and specifications. **(DO NOT SIGN THE CONTRACT before receiving these documents)**
- ☐ I have **checked the building contractor's licence** and licence history on the QBCC Online Licence Search
- ☐ I note and **understand my cooling-off rights** (including how and when I may withdraw from the contract if I choose to)
- ☐ I have **checked the total contract price** (including what proportion is comprised of allowances) and I **understand the deposit and progress payments** set out in the contract schedule and when they must be paid
- ☐ I have **checked the start and finish dates and practical completion requirements** in the contract
- ☐ (If applicable) I have **discussed my questions/concerns about the contract with a practising solicitor**

OWNER'S ACKNOWLEDGEMENT

Complete and sign the section below to acknowledge that you have received this guide from your building contractor. Once signed, the building contractor will return a copy of this guide to you. You should refer to it from time to time.

NAME(S): **Mr. and Mrs. Cousins**

SIGNATURE(S):

DATE:

24.03.22

For further building information visit qbcc.qld.gov.au or call QBCC on 139 333.

GENERAL CONDITIONS

OF QBCC NEW HOME CONSTRUCTION CONTRACT

These General Conditions should be read in conjunction with the other contract documents, especially the Contract Schedule, and the Consumer Building Guide.

IMPORTANT NOTE FOR CONTRACTOR AND HOMEOWNER

In addition to the General Conditions, **this booklet now includes a one-page document** titled ‘**Timeframes for Key Obligations Under this Contract**’ which summarises when you need to meet important requirements under the contract and the legislation.

You should regularly check the timeframes in this document.

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TIMEFRAMES FOR KEY OBLIGATIONS UNDER THIS CONTRACT

(**NOTE:** The list below is not exhaustive. 'GC' numbers refer to relevant clauses in the General Conditions; unless otherwise stated, 's' numbers refer to section numbers in the Queensland domestic building legislation, Schedule 1B of the QBCC Act).

HOMEOWNER

WHEN CONTRACT SIGNED
• DEPOSIT: On signing, pay deposit stated in the Contract Schedule (GC 19.1) – maximum 5% [s33(1)(c)] • COOLING-OFF PERIOD: Expires 5 Business Days after the day the Owner receives both a signed copy of the full contract (including any plans and specifications) and the QBCC Consumer Building Guide (ss 35-38)
BEFORE WORK COMMENCES ON SITE
• FINANCE: By Finance Date (or if no date stated, within 10 Business Days from contract date) - give Contractor written evidence of capacity to pay the Contract Price (GC 5.1) • ACCESS: Ensure Contractor has clear access to Site (GC 13) • INSURANCE: Arrange Public Liability insurance for the Site until work starts; check Contractor has Public Liability & Contract Works insurance, and paid Home Warranty premium to QBCC, before work starts (GC 12)
AFTER WORK COMMENCES ON SITE
• PROGRESS CLAIMS: Within 5 Business Days of receipt of progress claim - check the timing and amount of claim agrees with Item 8 of the Contract Schedule and pay valid claim (GC 19.1) • VARIATIONS: Respond ASAP to all Variation Documents presented by Contractor (GC 21) • EXTENSIONS OF TIME (EOT): Within 10 Business Days of receiving EOT claim from Contractor – assess, complete and return signed EOT Claim Form 2 (GC 23.4) • AS PRACTICAL COMPLETION APPROACHES: (a) Liaise with lender to ensure final contract payment will be ready as required at Practical Completion (GC 28.5) (b) Arrange Home and Contents insurance effective from Date of Practical Completion (don't wait until handover!)
AT PRACTICAL COMPLETION (PC)
• CHECK CONTRACT (incl. plans & specs) AND INSPECT WORK with Contractor to ensure PC Stage has been reached (Note: Definition of PC allows for minor defects and minor omissions) (GC 28.2 & s1) • DEFECTS DOCUMENT: Compile with Contractor at final inspection, sign and retain a copy (GC 28.2 & s1) • PC PAYMENT: Pay Contractor immediately all PC requirements in Form 7 are satisfied (GC 28.5)

BUILDING CONTRACTOR

WHEN CONTRACT SIGNED
• CONSUMER BUILDING GUIDE: Ensure Owner given Guide before they sign contract (s18) • COPY OF CONTRACT (incl. plans & specs): Give to Owner within 5 Business Days after signing (GC 2) (s15) • HOME WARRANTY INSURANCE: Collect premium from Owner and pay to QBCC within 10 Business Days of entering the contract and before starting work (GC 12 & s68B(2) of the QBCC Act)
BEFORE WORK COMMENCES ON SITE
• FINANCIAL CAPACITY: Within 5 Business Days after Finance Date - Contractor may terminate contract if not satisfied with Owner's capacity to pay Contract Price (GC 5.2) • INSURANCE: Ensure all insurances (incl. QBCC Home Warranty Scheme) are in place before work starts (GC 12) • LODGE PLANS: Within 10 Business Days of Owner providing satisfactory evidence of financial capacity, Contractor must lodge plans (unless Owner responsible for lodgment, or later lodgment is agreed) (GC 9.1)
AFTER WORK COMMENCES ON SITE
• COMMENCE WORK: On/before Start Date (GC 17.1) • COMMENCEMENT NOTICE: Within 10 Business Days after starting on Site – give notice to Owner (GC 17.2 & s16) • VARIATIONS: Give Variation Document (Form 5) to Owner and get agreement in writing before starting variation work and before asking for payment [s40(5)] – give Owner a fully signed copy within 5 Business Days of agreement on variation (GC 21.5 & s40) • EOT: Within 10 Business Days of becoming aware of (or when you reasonably ought to have become aware of) the cause and extent of the delay – give EOT claim to Owner on Form 2. Give Owner a copy of the fully signed form within 5 Business Days of their approval (GC 23 & s42) • AS PRACTICAL COMPLETION APPROACHES: Give Owner 5 Business Days prior written notice of PC (GC 28.1)
AT PRACTICAL COMPLETION (PC)
• Before presenting claim for PC Stage (GC 28): (a) Inspect contracted work, compile Defects Document with Owner, sign and copy to Owner (s1) (b) Give copies of any remaining Certificates of Inspection (incl. 'Final' where applicable) to Owner (s17) (c) Give Owner a completed and signed PC Certificate (Form 7) • Present claim for PC Stage to Owner (GC 28.5) and, when paid, hand over the property and keys

GENERAL CONDITIONS

1. Definitions

- 1.1 In this Contract, unless the context otherwise requires, words and expressions used have the meaning defined or explained below:
- (a) **“Assessing Certifier”** means the private certifier, building certifier or Local Government Authority responsible for granting the relevant building approvals and authorisations for the Works.
 - (b) **“Base Stage”** means that stage when footings, base brickwork, base walls, stumps, piers, columns, formwork and reinforcing for a suspended slab, concrete slab, bearers, joists or flooring (as the case requires) have been completed ready for erection of the walls.
 - (c) **“Business Day”** means a day that is not:
 - (i) a Saturday or Sunday; or
 - (ii) a public holiday, special holiday, or bank holiday in Queensland.
 - (d) **“Completion Period”** means the Completion Period stated in Schedule Item 6.
 - (e) **“Contract Price”** means the total price of the Works stated in Schedule Item 1, including the Fixed Price Component and any allowances for Prime Cost Items and Provisional Sums, inclusive of GST, as adjusted under this Contract.
 - (f) **“Contractor’s Authorised Representative”** means the person identified on the first page of the Contract Schedule (or other person notified in writing to the Owner) as the person empowered by the Contractor to communicate with the Owner, including giving or receiving instructions as to variations.
 - (g) **“Date for Practical Completion”** means the date stated in or calculated by reference to Schedule Item 7 or any extended date pursuant to this Contract.
 - (h) **“Date of Commencement of Works on Site”** means the date the Works commenced on Site as stated in the Commencement Notice issued by the Contractor.
 - (i) **“Date of Practical Completion”** means the date certified in the QBCC Form 7 - *Certificate of Practical Completion* in accordance with Condition 28.
 - (j) **“Enclosed Stage”** means that stage of the Works when: external wall cladding is fixed; the roof is fixed but without soffit linings necessarily having been fixed or for a tile roof, pointing necessarily having been done or, for a metal roof, scribing and final screwing off necessarily having been done; and the structural flooring is laid; and the external doors are fixed (even if only temporarily), but if a lockable door separating the garage from the rest of the building has been fixed, without the garage doors necessarily having been fixed, and the external windows are fixed (even if only temporarily).
 - (k) **“Finance Date”** means the date stated in Schedule Item 12 or, in the event no date is stated, the date 10 Business Days from the date of this Contract.
 - (l) **“Fixed Price Component”** means the sum stated in Schedule Item 1 (a) of the Contract Price being the sum for which the Contractor must supply, in accordance with this Contract, everything necessary for the proper completion of the Works, other than the allowances (if any) for Prime Cost Items or Provisional Sums.
 - (m) **“Fixing Stage”** means that stage when all internal linings, architraves, cornices, skirting, doors to rooms, baths, shower trays, wet area tiling, built-in shelves and built-in cabinets and built-in cupboards are fitted and fixed in position.
 - (n) **“Foundations Data”** means information about the building Site required to prepare footings design and, if required, concrete slab design for the Site.
 - (o) **“Frame Stage”** means that stage when the building frame is completed and ready for inspection by the Assessing Certifier.
 - (p) **“GST”** means any tax imposed by or through the GST Legislation on supply (without regard to any input tax credit).
 - (q) **“GST Legislation”** means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act.
 - (r) **“Owner’s Authorised Representative”** means the person identified on the first page of the Contract Schedule (or other person notified in writing to the Contractor) as the person empowered by the Owner to communicate with the Contractor, including giving instructions as to variations.
 - (s) **“Practical Completion”** means the date upon which the Works are completed in accordance with the requirements of this Contract, including Condition 3 and Condition 28, apart from minor omissions or minor defects that will not unreasonably affect occupation.
 - (t) **“Practical Completion Stage”** means that stage of the Works in which Practical Completion will be attained in accordance with this Contract.
 - (u) **“Prime Cost Item”** means any item noted in the *Prime Cost Items Schedule* to this Contract and as contemplated by Conditions 4 and 19.
 - (v) **“Provisional Sum”** means any item noted in the *Provisional Sums Schedule* to this Contract and as contemplated by Conditions 4 and 19.
 - (w) **“Relevant Criteria”** for materials means:
 - (i) generally accepted practices or standards applied in the building industry for the materials; or
 - (ii) specifications, instructions or recommendations of manufacturers or suppliers of the materials.
 - (x) **“Site”** means the Site described in Schedule Item 4 of this Contract.
 - (y) **“Starting Date”** means whichever of the following dates occurs the latest:
 - (i) the Starting Date stated in Schedule Item 5; or
 - (ii) the day which is 10 Business Days after the issue of the plans duly approved by the **Assessing Certifier**; or

- (iii) the day which is 10 Business Days after the Owner has satisfied its obligations under Condition 5.1.

(z) **“Substantial breach by the Contractor”** has the meaning given in Condition 26.4.

(aa) **“Substantial breach by the Owner”** has the meaning given in Condition 26.3.

(bb) **“work under this Contract”** means all that work necessary to build the Works in accordance with the plans and specifications and this Contract, and, unless expressly excluded, includes:

- (i) work to make the Site accessible to the Contractor;
- (ii) provision of any special equipment;
- (iii) work to clear the Site for building;
- (iv) set out of the Works and survey if necessary;
- (v) necessary structural retaining walls;
- (vi) sewerage, draining and electrical connections;
- (vii) provision of temporary water and power during construction; and
- (viii) provision of clean up and disposal of waste material from the Site.

(cc) **“Works”** means the work described in Schedule Item 3 to be built in accordance with this Contract, including variations authorised under the Contract, and which by the Contract is to be handed over to the Owner.

2. Withdrawal during ‘cooling-off’ period

- 2.1 Subject to Condition 2.5, the Owner may withdraw from the Contract within the times noted below:
- (a) within 5 **Business Days** after the day on which the Owner receives from the Contractor a copy of both the signed Contract, including any plans and specifications, and the QBCC Consumer Building Guide; or
 - (b) if the Contract is given to the Owner separately from the Consumer Building Guide, then within 5 **Business Days** after the day on which the Owner receives the second document.
- 2.2 Further, if the Contractor fails to give both the above documents to the Owner within 5 **Business Days** of the parties entering the Contract then, in addition, the Owner may withdraw at any time up until 5 **Business Days** after the day on which the Owner receives those documents in accordance with Condition 2.1 (a) or (b) above.
- 2.3 If the Owner wishes to withdraw relying on any of these circumstances, the Owner must give the Contractor a written notice stating that the Owner withdraws from the Contract under section 35 of Schedule 1B of the *Queensland Building and Construction Commission Act 1991* (‘the QBCC Act’).
- 2.4 If the Owner withdraws from the Contract pursuant to this Condition, the Owner must pay to the Contractor an amount equal to any out-of-pocket expenses reasonably incurred by the Contractor before the Owner withdrew from the Contract, plus an additional \$100 if the Contractor has provided the Owner with the documents required in accordance with Condition 2.1. If the Owner has already paid more than this amount at the time they withdraw, the Contractor must promptly refund the excess.

2.5 The Owner may not withdraw from the Contract under section 35 of Schedule 1B of the QBCC Act if:

- (a) the Owner and the Contractor had entered a previous Contract in substantially the same terms and relating to the same home or land; or
- (b) the Owner received formal legal advice about the Contract before entering into the Contract; or
- (c) the Owner, at the time of entering into the Contract or after entering into the Contract, tells the Contractor that the Owner had received formal legal advice about the Contract before entering into the Contract.

3. Warranties under Schedule 1B of QBCC Act

3.1 To the extent required by Schedule 1B of the QBCC Act, the Contractor warrants that:

- (a) the **work under this Contract** will be carried out in an appropriate and skilful way and with reasonable care and skill and reasonable diligence;
- (b) all materials supplied will be good and suitable for the purpose for which they are used having regard to the **Relevant Criteria**, and that all materials used will be new unless this Contract expressly provides otherwise;
- (c) the **work under this Contract** will be carried out in accordance with all relevant laws and legal requirements including, for example, the *Building Act 1975*;
- (d) the **work under this Contract** will be carried out in accordance with the plans and specifications and any other Contract documents described in Schedule Item 15;
- (e) if the **work under this Contract** consists of the erection or construction of a detached dwelling to a stage suitable for occupation or is intended to renovate, alter, extend, improve or repair a home to a stage reasonably suitable for occupation, that the detached dwelling or home will be suitable for occupation when the **Works** are finished; and
- (f) any estimate of **Provisional Sums** or **Prime Cost Items** included in the Contract has been calculated with reasonable care and skill, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the building **site**).

3.2 Without limiting any warranty under this Contract, the Contractor must, so far as *reasonably practicable*, ensure that:

- (a) if the Contractor supplies a *building product*, the *building product* associated with the work under this Contract is not a *non-conforming building product* for an *intended use*; and
- (b) if the Contractor installs a *building product*, the Owner is given information about the *building product* required by section 74AG(4) of the QBCC Act;

The terms ‘building product’, ‘non-conforming building product’, ‘intended use’ and ‘reasonably practicable’ used in Condition 3.2 have the same meaning as those terms in Part 6AA of the QBCC Act.

- 3.3 The Contractor must, unless the Contract expressly provides otherwise, supply at the Contractor's cost and expense, everything necessary for the proper completion of the **Works** and for the performance of the **work under this Contract**.
- 3.4 The Owner must pay the Contractor the **Contract Price** for the **Works** in accordance with this Contract.
- 3.5 Condition 3.1(b) only applies if the materials are supplied by the Contractor.
- 3.6 Despite Condition 3.5:
- (a) if this Contract is being administered by an architect engaged by the Owner, Condition 3.1(b) does not apply if the Contractor is subject to the direction of the architect for supplying the materials; and
 - (b) Condition 3.1(b) does not apply for materials if –
 - (i) the Owner is responsible for nominating the materials for use in the **work under this Contract**; and
 - (ii) either:
 - (A) there are no reasonable grounds for not using the materials; or
 - (B) if there are reasonable grounds for not using the materials, the Owner insists on the materials despite written advice to the contrary given to the Owner by the Contractor.
- 3.7 In Condition 3.6(b)(i), the Owner is responsible for nominating materials for use in the subject work only in the circumstances set out in section 20(5) of Schedule 1B of the QBCC Act.
- ## 4. Price
- 4.1 The parties agree that the **Contract Price** stated in Schedule Item 1 comprises the following:
- (a) **Fixed Price Component**;
 - (b) **Prime Cost Items** Component (if any); and
 - (c) **Provisional Sum** Component (if any).
- 4.2 If the total sum allowed for **Prime Cost Items** (including the Contractor's margin) and **Provisional Sums** (including the Contractor's margin) exceeds 20% as a proportion of the **Contract Price** as stated in Schedule Item 1, the Contractor must prior to the commencement of the **Works** give to the Owner a written statement setting out the reasons for the inclusion of each item as a **Prime Cost Item** or a **Provisional Sum**. In any such case, the Contractor is not entitled to any payment under this Contract until such statement is given.
- 4.3 If allowances for **Prime Cost Items** and **Provisional Sums** are included in the **Contract Price**, the total amount for each type of allowance must be shown adjacent to the words '**Prime Cost Items**' and '**Provisional Sums**' in Schedule Item 1 and the Contractor must give the Owner a separate schedule which states, for each **Prime Cost Item** or **Provisional Sum**, the following details:
- (a) a detailed description of the **Prime Cost Item**, or of the contracted services to which the **Provisional Sum** relates;
 - (b) a breakdown of the cost estimates provided for by the Contractor in the allowance for the **Prime Cost Item** or **Provisional Sum**, including any margin the Contractor proposes to charge for providing the items or services covered by the allowances (the 'Contractor's margin'); and
 - (c) the total price payable, inclusive of **GST**, for each **Prime Cost Item** or **Provisional Sum**.
- 4.4 The *Prime Cost Items Schedule* must set out items which the Owner has not finally selected, or for which the Contractor is not reasonably able to determine the cost at the date of this Contract and which the Contractor cannot therefore price accurately as at that date.
- 4.5 For **Prime Cost Items** which the Owner has not finally selected when the Contract is signed, the Owner must select each such item and notify the Contractor in writing of that selection in sufficient time to ensure that the performance of the **work under this Contract** is not thereby delayed. The Contractor, when so notified, must obtain and supply the relevant item.
- 4.6 The *Provisional Sums Schedule* must set out items of **work under this Contract** the extent of which is not known at the date of this Contract and which the Contractor, despite making all reasonable enquiries, cannot therefore price accurately as at that date.
- 4.7 The Contractor warrants that each estimate in the *Prime Cost Items Schedule* or the *Provisional Sums Schedule*:
- (a) has been calculated with reasonable care and skill, having regard to all the information reasonably available when the Contract is entered into (including information about the nature and location of the **Site**); and
 - (b) represents the reasonable cost of supplying and delivering each **Prime Cost Item**, or providing the contracted service covered by the **Provisional Sum**, including the Contractor's margin.
- 4.8 If the actual cost of providing a **Prime Cost Item**, or the contract services covered by a **Provisional Sum**, is more than the Contractor's estimate, the Owner must pay the Contractor the increase, plus the Contractor's margin (as stated in the *Prime Cost Items Schedule* or *Provisional Sums Schedule*).
- 4.9 If the actual cost of providing a **Prime Cost Item**, or the contract services covered by a **Provisional Sum**, is less than the Contractor's estimate, the Contractor must deduct the difference, plus the Contractor's margin, from the **Contract Price**.
- 4.10 Prior to or when presenting a progress claim relating to the cost to the Contractor of supplying a **Prime Cost Item**, or providing the contracted services covered by a **Provisional Sum**, the Contractor must provide the Owner with a copy of any invoice, receipt or other document showing the cost to the Contractor of supplying the item or providing the contracted services under the Contract. The Contractor cannot seek payment for the **Prime Cost Item**, or the contracted service covered by the **Provisional Sum**, until the progress claim following the incorporation of the item in the **Works** or following the completion of the said contracted services.

4.11 As soon as practicable after the Contractor becomes aware that the actual cost of any **Prime Cost Item** or **Provisional Sum** will be more than 20% above the Contractor's estimate for that item in the *Prime Cost Items Schedule* or the contracted service in the *Provisional Sums Schedule*, and where practicable before the relevant work commences, the Contractor must provide the Owner with a written notice which:

- (a) describes the **Prime Cost Item** or **Provisional Sum**;
- (b) states the cost to the Contractor of the **Prime Cost Item** or **Provisional Sum**, together with the Contractor's margin, and the amount by which this total amount exceeds the total allowance for that item in the *Prime Cost Items Schedule* or the *Provisional Sums Schedule*; and
- (c) identifies the Progress Payment stage under this Contract at which payment for the **Prime Cost Item** or **Provisional Sum** will be required.

GOODS AND SERVICES TAX

4.12 The parties agree and acknowledge that all pricing, consideration and amounts otherwise payable under this Contract (including under any variation pursuant to Condition 21) have been or will be calculated on a **GST** inclusive basis.

5. Evidence of capacity to pay the Contract Price

- 5.1 This Contract is subject to the Owner providing the Contractor by the **Finance Date** with written evidence, satisfactory to the Contractor, of the Owner's capacity to pay the **Contract Price**.
- 5.2 If by the **Finance Date** the Contractor is not satisfied as to the Owner's capacity to pay the **Contract Price**, the Contractor may, no later than 5 **Business Days** after the **Finance Date**, give written notice to the Owner that the Contract is at an end.
- 5.3 If the Owner provides no written evidence as to its financial capacity by the **Finance Date**, or advises the Contractor in writing by the **Finance Date** that it does not have the capacity to pay the **Contract Price**, this Contract is at an end.
- 5.4 If this Contract is ended under this Condition, the Contractor must, subject to Condition 5.5, immediately refund to the Owner any deposit or other money paid by the Owner to the Contractor and comply with Condition 5.6.
- 5.5 The Contractor may deduct from the refund only those costs incurred or paid with the Owner's previous authorisation as follows:
 - (a) fees paid by the Contractor to another person for the **Foundations Data**;
 - (b) fees paid by the Contractor to another person for the provision of plans, drawings or engineering design for the **Works**;
 - (c) fees paid to an **Assessing Certifier** for development and/or building approval; and
 - (d) fees previously agreed with the Contractor for the provision of plans for the **Works**.

5.6 The Contractor must hand over to the Owner all documents relevant to such deductions excluding plans for which the Contractor holds the copyright. Each party is otherwise under no further liability to the other.

5.7 After commencement of **work under this Contract**, the Owner must, upon reasonable written request from the Contractor, provide the Contractor with current evidence satisfactory to the Contractor of the Owner's continued capacity to pay the **Contract Price**.

6. Security account money

- 6.1 If Schedule Item 9 is completed, the Owner must, within 5 **Business Days** of the date of this Contract, deposit in an interest bearing account in a bank or other appropriate financial institution nominated by the Owner, the amount stipulated in Schedule Item 9 as Security Account Money.
- 6.2 The account must be in the joint names of the Owner and the Contractor and the authority of each of the Owner and the Contractor must be required to effect any withdrawal. Security Account Money must be held until the Contractor or the Owner becomes entitled to it.
- 6.3 The Owner and the Contractor may agree at any time that Security Account Money is to be paid to the Contractor in whole or part satisfaction of any payment due to the Contractor under this Contract.
- 6.4 If the Owner fails to pay any money due and owing to the Contractor within 5 **Business Days**, or if the Contractor terminates the Contract pursuant to Condition 26 or Condition 27, the Contractor is entitled to Security Account Money to the extent of any payment then due to the Contractor and the value of **work under this Contract** then performed and any other entitlement of the Contractor under or in connection with this Contract.
- 6.5 Upon payment of the last Progress Payment due to the Contractor as provided by Condition 19, the Owner is entitled to any remaining Security Account Money (including interest).
- 6.6 Any dispute between the parties as to the entitlement to Security Account Money shall be dealt with in accordance with Condition 25.

7. Evidence of title to, and boundaries of, the Site

- 7.1 Prior to the date of this Contract, the Contractor has satisfied itself as to the Owner's title to the **Site** and, where relevant to the **Works**, of the boundaries of the **Site** and the relevant Local Government setback requirements.
- 7.2 The Contractor will check the relevant Local Government setback requirements applicable to the **Works** and the **Site** and notify the Owner in writing, within 10 **Business Days** of the date of the Contract, if the Owner's design for the **Works** does those comply with those requirements.

8. Copyright

- 8.1 A party supplying plans for use in the performance of this Contract warrants that those plans may be so used and indemnifies the other party against any action by any person claiming ownership or copyright in respect of these plans.

- 8.2 Where plans are drawn by the Contractor, the Owner agrees that, as between the Owner and the Contractor, the Contractor has copyright in those plans but the Owner has the right to cause the completion of the **Works** by the Contractor in accordance with those plans.

9. Building approval and certification

- 9.1 Within 10 **Business Days** from the date on which the Owner has satisfied its obligation under Condition 5.1, the party named in Schedule Item 13 (or if no party is named, then the Contractor) must lodge all plans and other documents necessary for permission, consent or approval required for the commencement of building work with the relevant **Assessing Certifier** and any other body having relevant jurisdiction.
- 9.2 All parties must do all such things as may be reasonably necessary to obtain all permissions, consents or approvals required for the commencement of building.
- 9.3 The Contractor and the Owner agree that the Contractor must comply with section 143A of the *Building Act 1975* in relation to providing the Owner's name and contact details to a Private Certifier.

OWNER'S REQUEST FOR ADDITIONAL INSPECTIONS

- 9.4 The Contractor and the Owner acknowledge that:
- (a) under section 143A of the *Building Act 1975*, a Private Certifier is required to give the Owner a notice of the Private Certifier's name and the details, in an approved form, of the responsibilities of the Private Certifier;
 - (b) under section 143B of the *Building Act 1975*, if a building certifier is, or was, engaged by the Contractor, the Owner may, by an additional certification notice which is given to the Contractor within 10 **Business Days** of the Owner receiving the notice from the Private Certifier referred to in condition 9.3(b), direct the Contractor to ask the building certifier to perform one or more additional certifying functions; and
 - (c) under section 143B of the *Building Act 1975*, the Contractor must give a copy of the additional certification notice to the building certifier within 5 **Business Days** after receiving the additional certification notice from the Owner.
- 9.5 Examples of the notices referred to in Condition 9.4, and other relevant information, are available on the Department of Public Works and Housing website.
- 9.6 The Owner and the Contractor agree that a direction by the Owner under Condition 9.4(b) is not a variation but that the Owner is liable to the building certifier for the Building Certifier's Reasonable Costs. The Owner must pay the Building Certifier's Reasonable Costs to the building certifier within 5 **Business Days** of receiving a copy of a tax invoice of the building certifier.
- 9.7 In this Condition:
- (a) each of the terms "building", "building assessment work", "building certifier", "private certifier" and "private certifying functions" has the same meaning as that same term has in the *Building Act 1975*;
 - (b) each of the terms "additional certification notice" and "certifying functions" has the same meaning as that same term has in section 143B of the *Building Act 1975*;

- (c) "Building Certifier's Reasonable Costs" means the reasonable costs of the performance of any additional certifying functions by the building certifier under the additional certification notice; and
- (d) "Private Certifier" means a private certifier engaged by the Contractor to perform private certifying functions for a building or building assessment work in relation to the **work under this Contract**.

10. Termination for lack of building approval

- 10.1 Either party may give to the other party a written notice which terminates this Contract if, without fault on the part of the party giving the notice, any permission, consent or approval necessary for the commencement of building has not issued within 3 months of the date of this Contract or such further period extended by the parties' agreement in writing.
- 10.2 If the Contract is terminated pursuant to this Condition the parties' entitlements and obligations shall be the same as if the Contract were brought to an end under Condition 5.3 and Conditions 5.4, 5.5 and 5.6 shall apply.

11. Contractor's indemnity in favour of the Owner

The Contractor indemnifies the Owner against any legal liability to pay damages or compensation for damage to property or personal injury or death arising out of the **work under this Contract** except to the extent that such damage, injury or death results from or is contributed to by an act or omission of the Owner.

12. Contractor's insurance obligations

- 12.1 The Contractor must, at its cost, effect and maintain during the course of this Contract the following insurances:
- (a) all insurance required to comply with the *Workers' Compensation and Rehabilitation Act 2003*;
 - (b) Queensland Home Warranty Scheme cover, the premium for which must be collected from the Owner and paid to QBCC within 10 **Business Days** after the date the Contract was entered into and before the **work under this Contract** starts (whichever is earlier); and
 - (c) Contract **Works** insurance for an amount not less than the **Contract Price** until 4pm on the **Date of Practical Completion** and Public Liability insurance for not less than 10 million dollars, until 4pm on the day of which the contractor has complied with its obligations under Condition 29, with a reputable and financially sound insurer upon usual and reasonable terms which name or include as an insured the Owner and the Contractor for their respective rights and interests.
- 12.2 The insurances required under Condition 12.1(c) will include cross-liability provisions by which the insurer waives all rights of subrogation or action which the insurer may have against any of the persons comprising the insured and by which each person comprising the insured is deemed to be the subject of a separate policy of insurance.
- 12.3 Prior to commencement of the **work under this Contract**, or upon request by the Owner, the Contractor must provide to the Owner written evidence that the Contract **Works** and Public Liability Insurances required under this Condition are current.

13. Access to the Site

- 13.1 The Owner gives the Contractor a licence to access the **Site** sufficient to enable the Contractor to commence and carry out the **work under this Contract** from the **Starting Date** until the Contractor hands over the **Works** to the Owner on the Date of Practical Completion.
- 13.2 The rights granted by the Owner to the Contractor under Condition 13.1 do not convey to the Contractor an interest in the land comprising the **Site**.
- 13.3 The Contractor must permit the Owner or any person authorised by the Owner to, under the Contractor's supervision and subject to the Owner or any person authorised by the Owner complying with all workplace health and safety requirements as identified by the Contractor:
- (a) have reasonable access to the **Site**; and
 - (b) view any part of the **work under this Contract**.
- 13.4 The Owner or any person authorised by the Owner must not unreasonably interfere with the performance of the **work under this Contract** when at the **Site**.

14. Care of the work under this Contract

- 14.1 The Contractor is responsible for the care of the **work under this Contract** from the date on which **work under this Contract** commences on **Site** until the Contractor hands over the **Works** to the Owner on the **Date of Practical Completion**.
- 14.2 The Contractor must promptly make good any loss or damage to the **work under this Contract**, or to the Owner's property, occasioned by any act, neglect or default of the Contractor or the Contractor's employees, agents or subcontractors and must also make good any such loss or damage which is or which ought to have been the subject of any insurance required by this Contract.

15. Workplace health and safety

- 15.1 For the purposes of this Condition:
- 'Act' means the *Work Health and Safety Act 2011 (Qld)* as amended from time to time; 'Regulation' means the *Work Health and Safety Regulation 2011 (Qld)*, as amended from time to time; and 'workplace', 'inspector', 'notifiable incident', 'principal contractor', 'structure', 'dangerous goods' and 'regulator' have the same meaning as in the Act.
- 15.2 In relation to the **work under this Contract**, the Contractor will:
- (a) comply with and discharge all obligations and duties imposed on a person by the Act, the Regulation and any other regulation in connection with health and safety including without limitation obligations imposed on a person who conducts a business or undertaking; and
 - (b) accept that it is the principal contractor and the person having management and control of the workplace at which the **work under this Contract** is being undertaken.

- 15.3 The Contractor will indemnify the Owner against any claim, action, demand, loss, damage, cost or expense which may be brought against, or suffered or incurred by the Owner as a result of or in connection with:
- (a) any breach of this clause by the Contractor;
 - (b) any breach by the Contractor of its obligations under the Act, the Regulation or any other regulation in connection with health and safety; and
 - (c) any enforcement of obligations imposed on the Contractor under the Act, the Regulation or any other regulation in connection with health and safety,
- except to the extent that such claim, action, demand, loss, damage, cost or expense results from or is contributed to by any act or omission of the Owner.

16. Communication between Owner and Contractor

The Owner or the **Owner's Authorised Representative** must communicate and deal with the Contractor personally or with the **Contractor's Authorised Representative**. The Owner must not give directions to the Contractor's employees or subcontractors or rely on information provided by them.

17. Commencement and performance of the Works

- 17.1 The Contractor must commence **work under this Contract** at the **Site** on or before the **Starting Date**.
- 17.2 Within 10 **Business Days** after the date on which **work under this Contract** commences on **Site**, the Contractor must give a written notice to the Owner (such as QBCC Form 1 - *Commencement Notice*) stating:
- (a) the date on which **work under this Contract** commenced on **Site**; and
 - (b) the **Date for Practical Completion**.
- 17.3 The Contractor must diligently carry out the **work under this Contract** and must not, except as permitted by this Contract, suspend, or fail to maintain reasonable progress in the performance of that work.

18. Assignment and subcontracting

- 18.1 The Contractor must not assign this Contract or the **work under this Contract** without the prior written consent of the Owner.
- 18.2 The Contractor may subcontract parts of the **work under this Contract** to appropriately licensed tradespersons, but the Contractor remains liable to the Owner for the **work under this Contract**.

19. Payment

- 19.1 The Owner must pay the Contractor the **Contract Price** for the **Works** calculated and adjusted as provided by this Contract in accordance with the following provisions:
- (a) The Owner must pay the Contractor the deposit (if any) stated in Schedule Item 2 upon the signing of this Contract.

- (b) The Contractor is entitled to claim a Progress Payment when the Contractor has achieved completion of each of the stages set out in Schedule Item 8A or 8B which claim shall consist of the percentage of the **Contract Price** applicable to that stage as set out in Schedule Item 8A or 8B, subject to the following adjustments:
- (i) an adjustment for any **Prime Cost Item** incorporated in the **Works** to that stage, and not included in a previous Progress Payment, such adjustment being an increase or decrease to the relevant stage payment as set out in Schedule Item 8A or 8B depending on whether the final cost of the **Prime Cost Item** is more or less than the amount allowed and stated in the *Prime Cost Items Schedule*; and
 - (ii) an adjustment for the value of any **Provisional Sum** Item completed to that stage and not included in a previous Progress Payment, such adjustment being an increase or decrease to the relevant stage payment as set out in Schedule Item 8A or 8B depending on whether the final cost of the **Provisional Sum** Item is more or less than the amount allowed and stated in the *Provisional Sums Schedule*; and
 - (iii) an increase to the relevant stage payment in respect to an amount payable under a Variation Document where the work the subject of the variation has been completed and for which payment has not previously been made; and
 - (iv) a decrease in the relevant stage payment in respect to a variation which reduces the **Contract Price**.
- (c) Such adjustments referred to in Condition 19.1(b) shall be recorded by the Contractor on the QBCC Form 3 - *Progress Claim* or similar appropriate document and the relevant progress claim shall be adjusted accordingly.
- (d) The QBCC Form 3 - *Progress Claim* or similar appropriate document must be accompanied by a QBCC Form 4 - *Notice of Dispute of Progress Claim* or similar appropriate written notice and any certificates of inspection relevant to the payment stage.
- (e) The progress claim for the **Practical Completion Stage** must, in addition to the requirements specified for any other progress claim, be accompanied by a completed and signed QBCC Form 6 - *Defects Document* and QBCC Form 7 - *Certificate of Practical Completion*, or similar appropriate documents.
- (f) The Contractor must make all reasonable efforts to have the Owner sign the QBCC Form 6 - *Defects Document* or similar appropriate document used to record the minor defects and minor omissions.
- (g) Except in regard to the Progress Payment for the **Practical Completion Stage** payable in accordance with Condition 28.6, the Owner must pay the Contractor the Progress Payment, or so much of the relevant claim for Progress Payment as is not disputed by the Owner, within 5 **Business Days** of receipt of the relevant claim.
- (h) If the Owner disputes the relevant claim for Progress Payment or any part of it, the Owner must, within 5 **Business Days** of receipt of the relevant claim, give to the Contractor a completed and signed QBCC Form 4 - *Notice of Dispute of Progress Claim* or similar

appropriate written notice stating the reasons for so disputing the claim or part of it.

- (i) If the dispute is not resolved by the parties within 5 **Business Days** of the receipt by the Contractor of the notice of the dispute, the dispute must be referred for resolution in accordance with Condition 25.

20. Interest on overdue payments

The Owner must pay the Contractor interest on overdue payments at the rate of six percent above the cash rate target as published by the Reserve Bank of Australia (<https://www.rba.gov.au/statistics/cash-rate/>) at the date on which the payment is due.

21. Variations

- 21.1 The **work under this Contract** may be varied by way of an increase, decrease or substitution of **work under this Contract** agreed between the Contractor and the Owner provided that, before work commences and before any additional payment is required, the details of the variation are put in writing in a Variation Document agreed in writing by both parties.
- 21.2 The Variation Document may be a QBCC Form 5 - *Variation Document*, or other similar appropriate document, with the particulars completed in accordance with the requirements of Schedule 1B of the QBCC Act, agreed in writing by both parties.
- 21.3 The Variation Document complies with the requirements of Schedule 1B of the QBCC Act if it:
 - (a) is readily legible; and
 - (b) describes the variation; and
 - (c) states the date of the request for the variation; and
 - (d) if the variation will result in a delay affecting the subject work - states the Contractor's reasonable estimate for the period of delay; and
 - (e) states the change to the **Contract Price** because of the variation, or the method for calculating the change to the **Contract Price** because of the variation; and
 - (f) if the variation results in an increase in the **Contract Price** - states when the increase is to be paid; and
 - (g) if the variation results in a decrease in the **Contract Price** - states when the decrease is to be accounted for.
- 21.4 Any increase in the **Contract Price** as a result of the variation cannot be required to be paid before work the subject of the variation has been completed.
- 21.5 The Contractor must give the Owner a readily legible signed copy of the Variation Document as soon as practicable (but within 5 **Business Days**) after the variation is agreed and before the variation work is commenced.
- 21.6 The Contractor may present the Variation Document to the Owner, and the Owner may respond to it in writing, by any of the communication methods detailed in the Notice provisions in Condition 30.
- 21.7 If the Contractor has requested the variation, the Contractor is only entitled to additional payment:
 - (a) if the variation is necessary because it could not have been reasonably foreseen by the Contractor when the Contract was entered into; or,

- (b) if the variation could have been reasonably foreseen by the Contractor when the Contract was entered into, if the variation was necessary because of circumstances beyond the reasonable control of the Contractor when the Contract was entered into.

VARIATIONS REQUIRED BY LAW

- 21.8 If a variation is required by reason of the lawful requirements of the **Assessing Certifier**, Local Authority or other body having relevant jurisdiction, the Contractor shall, with the prior written consent of the Owner (who must act reasonably in deciding whether to consent), vary the **work under this Contract** accordingly. If the necessity for the relevant variation has been occasioned by the neglect or default of the Contractor, the Contractor shall not be entitled to payment in that respect and must carry out the variation at the Contractor's expense. In any other case, the Contractor shall give to the Owner the Contractor's calculation of the change to the **Contract Price**, if any, consequent upon the proposed variation and the **work under this Contract** shall be varied when the Owner agrees with the Contractor as to the relevant variation in the Variation Document signed by the parties.

VARIATIONS FOR EXTRA EXCAVATIONS AND FOUNDATIONS

- 21.9 If the Owner is named in Schedule Item 14 as the party responsible for extra excavations and foundations, and if it becomes apparent that extra work or materials are required in respect of excavations or foundations beyond what could reasonably be established by the required **Foundations Data**, then the Contractor may, with the prior written consent of the Owner (who must act reasonably in deciding whether to consent), vary the **work under this Contract** to include the provision of such extra work or materials.
- 21.10 In any such case, the Contractor shall give to the Owner written notice of the necessity for such variation within 5 **Business Days** of the Contractor becoming aware of that necessity, together with the Contractor's calculation of the change to the **Contract Price**, if any, consequent upon the proposed variation, and the **work under this Contract** shall be varied when the Owner (who must act reasonably in deciding whether to agree) agrees with the Contractor as to the relevant variation in the Variation Document signed by the parties.
- 21.11 The Contractor cannot seek additional payment from the Owner for a variation in respect of extra excavations and foundations where the need for the variation has arisen because:
- (a) the Contractor failed to obtain the appropriate **Foundations Data** before entering the Contract and, had the Contractor obtained the appropriate **Foundations Data**, the need for the additional amount could reasonably have been established; or
 - (b) the Contractor obtained the appropriate **Foundations Data**, and the need for the extra work or materials could reasonably have been established from the **Foundations Data**.

22. Time for Practical Completion

The Contractor must achieve **Practical Completion** of the **Works** by the **Date for Practical Completion** stated in or calculated in accordance with Schedule Item 7 or any extended date under Condition 23.

23. Extension of time

- 23.1 Subject to complying with Condition 23.2, the Contractor may only claim and is entitled to a reasonable extension of the **Date for Practical Completion** if:
- (a) the need for the extension of time arises because one or more of the following causes of delay prevents the Contractor from achieving **Practical Completion** by the **Date for Practical Completion**:
 - (i) a variation complying with Condition 21; or
 - (ii) a delay caused by the Owner or the **Owner's Authorised Representative**; or
 - (iii) a delay event stated in Schedule Item 6B which exceeds the stated allowance; or
 - (iv) another cause of delay which is not reasonably foreseeable and beyond the reasonable control of the Contractor; and
 - (b) the claim is made to the Owner in writing using a QBCC Form 2 - *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document with the particulars, including the cause of the delay and the extension of the **Date for Practical Completion** claimed, completed; and
 - (c) the claim is given to the Owner within 10 **Business Days** of the earlier of the Contractor becoming aware of the cause and extent of the delay and when the Contractor reasonably ought to have become aware of the cause and extent of the delay; and
 - (d) the Owner approves the claim in writing using the QBCC Form 2 - *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document.
- 23.2 The Contractor must take all reasonable steps to lessen the effect and duration of any delay.
- 23.3 The Contractor must give the Owner a signed copy of the claim for an extension of time within 5 **Business Days** of the Owner approving the claim.
- 23.4 The Owner must, within 10 **Business Days** of receiving the Contractor's claim, reasonably assess and return to the Contractor the said QBCC Form 2 - *Extension of Time Claim and Owner's Response to Claim* or similar appropriate document either agreeing to the extension of time claimed or giving reasons for the rejection of the whole or part of the said claim, failing which the said extension of time claim will be deemed to be disputed by the Owner.
- 23.5 Delay or failure by the Owner to agree to an extension of time does not cause the **Date for Practical Completion** to be set at large, but the Contractor shall be entitled to damages arising from the unreasonable rejection of all or part of a claim for an extension of the **Date for Practical Completion**.

24. Liquidated damages

- 24.1 If the Contractor fails to achieve Practical Completion of the **Works** by the **Date for Practical Completion**, then the Contractor must pay to the Owner liquidated damages calculated at the rate provided in Schedule Item 10.
- 24.2 If Schedule Item 10 is left blank, a default amount of \$50 per day shall be deemed to apply.
- 24.3 Liquidated damages may only be deducted by the Owner from the amount payable to the Contractor in respect of the **Practical Completion Stage**. If the Owner's entitlement to liquidated damages exceeds the amount payable to the Contractor for the **Practical Completion Stage**, the excess may be recovered by the Owner as a debt due to the Owner by the Contractor.

WARNING TO OWNER

The entitlement to claim, and the amount to be deducted, for liquidated damages must be assessed carefully and in accordance with the Contract.

Any valid extensions of time must be taken into consideration when calculating the number of days of liquidated damages which can be claimed.

25. Dispute resolution

- 25.1 If a dispute under the Contract arises between the parties, either party may give the other party a written notice of dispute adequately identifying and providing details of the dispute.
- 25.2 If the dispute is not resolved within 10 **Business Days** of the receipt of the notice of dispute, either party may refer the matter to a dispute resolution process administered by the Queensland Building and Construction Commission.
- 25.3 A party will not commence any proceedings in respect of the dispute in any court or tribunal of competent jurisdiction until the dispute resolution process referred to in Condition 25.2 is at an end.
- 25.4 Where a dispute has arisen under or in connection with this Contract, including Condition 23.4, the Contractor must proceed diligently with the **work under this Contract** notwithstanding the existence of the dispute.

26. Termination after notice of default

- 26.1 If:
- (a) a party is in substantial breach of this Contract; and
 - (b) the other party gives a notice to the party in breach identifying and describing the breach and stating the intention of the party giving notice to terminate the Contract if the breach is not remedied within 10 **Business Days** from the giving of the notice; and
 - (c) the breach is not so remedied, then the party giving that notice may terminate this Contract by a further written notice given to the party in breach and may recover from the party in breach all damages, loss, cost or expense occasioned to the party so terminating by or in connection with the breach or that termination and may set off such claim against payment otherwise due by the party so terminating.

- 26.2 The right to terminate under this Condition is in addition to any other powers, rights or remedies the terminating party may have.
- 26.3 **Substantial breach by the Owner** includes, but is not limited to:
- (a) failing to produce evidence satisfactory to the Contractor of the Owner's capacity to pay the **Contract Price** in compliance with Condition 5.7 of this Contract;
 - (b) failing to pay any money due and owing to the Contractor within 5 **Business Days** after the due date for payment; and
 - (c) substantially or persistently obstructing the Contractor in the performance of the **work under this Contract**.
- 26.4 **Substantial breach by the Contractor** includes, but is not limited to:
- (a) failing to comply with any necessary approvals associated with the **work under this Contract**;
 - (b) failing to provide materials which comply with this Contract;
 - (c) unreasonably failing to replace or remedy defective work or materials;
 - (d) unreasonably failing to perform the work diligently or unreasonably delaying, suspending or failing to maintain reasonable progress;
 - (e) failing to effect or maintain any insurance required by this Contract;
 - (f) failing to hold the current, active and appropriate licence required to perform the **Works**, including, without limitation, a licence required under the QBCC Act; and
 - (g) the Contractor failing to pay a judgement debt.

27. Termination for bankruptcy or liquidation

- 27.1 Notwithstanding Condition 26, if a party to this Contract:
- (a) is made bankrupt; or
 - (b) being a company, goes into liquidation,
- then the other party may forthwith by written notice terminate this Contract.
- 27.2 If the Contractor terminates the Contract under this Condition, the Contractor may, in any such case, remove from the **Site** and retain all unfixed materials, goods, plant and equipment previously provided at the **Site** by the Contractor and is entitled to recover all damages, loss, cost or expense occasioned to the Contractor by such termination or to set off such claim against any payment otherwise due by the Contractor to the Owner.
- 27.3 If the Owner terminates the Contract under this Condition, the Owner may, in any such case, complete or employ any other person to complete the **Works** and may take possession of all unfixed materials and goods previously provided at the **Site** by the Contractor and may use the same in the completion of the **Works**. Until completion of the **Works** the Contractor is not entitled to any further payment under this Contract.

- 27.4 Upon completion the Owner must calculate the total cost to complete the **Works** including amounts previously paid to the Contractor. If the total cost to complete together with all damages, loss, cost or expense occasioned to the Owner by such termination exceeds the Price which would have been payable under this Contract the difference is payable by the Contractor to the Owner and if the total cost to complete is less than such Price, the difference is payable by the Owner to the Contractor.

WARNING TO OWNER AND CONTRACTOR

New legislation effective from 1 July 2018 makes it illegal to terminate a contract with a contractor solely because they have encountered financial difficulties short of bankruptcy or, being a company, liquidation. For this reason (and the probable loss for Owners of non-completion protection under the Qld Home Warranty Scheme if you terminate your Contract incorrectly), **it is very important that you obtain formal legal advice before terminating the Contract for any reason.**

28. Practical Completion

- 28.1 The Contractor must give to the Owner 5 **Business Days** prior written notice of the date upon which the Contractor anticipates that the **Works** will reach the **Practical Completion stage**.
- 28.2 The Contractor will give the Owner written notice when it considers that the **Works** have reached the **Practical Completion stage**.
- 28.3 On the date specified in the notice under Condition 28.2 or within 2 **Business Days** after that date and at a time agreed by the parties (or if no time is agreed, at a time nominated by the Owner), the Owner or the Owner's Representative will inspect the **Works** with the Contractor and if satisfied that the **Works** have reached the **Practical Completion stage**, and if the Contractor produces to the Owner satisfactory written evidence that all relevant inspections and approvals required by the *Planning Act 2016* and the *Building Act 1975* and by any body having the relevant jurisdiction have been satisfactorily completed, the Contractor must:
- (a) complete and sign the QBCC Form 6 - *Defects Document* or similar appropriate document identifying agreed and non-agreed minor defects and minor omissions that will not unreasonably affect occupation, and when the Contractor will remedy the agreed matters, and give a copy to the Owner; and
 - (b) give the Owner a completed and signed QBCC Form 7 - *Certificate of Practical Completion* stating that date as the **Date of Practical Completion**; and
 - (c) hand over the **Works** to the Owner in exchange for payment in accordance with Condition 28.6.
- 28.4 If the Owner, acting reasonably, considers that the **Works** have not reached the **Practical Completion stage** the Owner must give the Contractor written notice of those matters which are required to be done for the **Works** to reach **Practical Completion**. The Contractor must carry out such matters as may be necessary for the **Works** to reach **Practical Completion** and must otherwise proceed in accordance with Condition 28.3.
- 28.5 The issue of a *Certificate of Practical Completion* does not constitute approval of any **work under this Contract** nor does it prejudice any claim by the Owner in respect of the **work under this Contract**.
- 28.6 When the Contractor has satisfied all of its obligations under Condition 28.3 the Owner must immediately pay the Contractor the progress claim for the **Practical Completion Stage** (as adjusted under Condition 24, if applicable).
- 28.7 The Contractor must rectify the agreed minor defects and minor omissions by the time stated in the document referred to in Condition 28.3(a) subject to the Owner giving the Contractor reasonable access to the **Site** for that purpose.

29. Defects after completion

- 29.1 The Contractor must make good defects or omissions in the **work under this Contract** which become apparent to the Owner within 12 months of the **Date of Practical Completion**.
- 29.2 If there are any such defects or omissions, the Owner must, as soon as practicable after becoming aware of the defects or omissions, give the Contractor written notice to make good such defects or omissions and give the Contractor reasonable access to the **Site** for that purpose.
- 29.3 Subject to reasonable access being provided, the Contractor must within 20 **Business Days** of the notice being given rectify any defects or omissions notified to the Contractor under Condition 29.2 during usual business hours unless there are reasonable reasons why the defects cannot be rectified within that period in which case the Contractor will rectify those defects or omissions within an agreed time or, in the absence of an agreement, within a reasonable time.

30. Notices

- 30.1 Any notice under this Contract must, unless otherwise stated, be given in writing.
- 30.2 Any notice may be given to the party to whom the notice is to be given by delivering the notice to:
- (a) the party's Last Address by hand; or
 - (b) the party's Last Address by prepaid post; or
 - (c) the party's Last Number by facsimile; or
 - (d) the party's Last Email Address by email.
- 30.3 The time when the notice to a party is given to the party is the time at the **Site** when the party receives the notice.
- 30.4 If a notice to a party is delivered by hand or by prepaid post to the party's Last Address, the notice shall be deemed to have been received by the party at the time when the notice is so delivered.
- 30.5 If a notice is given by delivering the notice to the party's Last Number, the notice shall be deemed to have been received by the party at the time set out in the sender's written confirmation of the completed transmission of the facsimile.

30.6 If a notice is given by delivering the notice by email to the party's Last Email Address, the notice shall be deemed to have been received by the party at the time when the email reaches the party's system for generating, sending, receiving, storing or otherwise processing emails.

30.7 A party's Last Address means the postal address of a party stated in the Schedule or, if the party has subsequently advised to the other party another address, then the last address advised in writing to the other party.

A party's Last Number means the facsimile number of the party stated in the Schedule or, if the party has subsequently advised to the other party another facsimile number, then the last facsimile number advised in writing to the other party. A party's Last Email Address means the email address of the party stated in the Schedule or, if the party has subsequently advised to the other party another email address, then the last email address advised in writing to the other party.

31. Entire agreement

The Contract constitutes the entire agreement between the parties in relation to the **Works** and also supersedes any representations made by either party.

CONTACT LIST

The contact list below is provided to enable you to conveniently record the names and contact details of people and organisations important to your project. Keep copies of all important papers regarding your project in a safe place.

YOUR PERSONAL CONTACTS RELEVANT TO YOUR BUILDING PROJECT

PERSON	NAME & EMAIL	OTHER CONTACT DETAILS
Solicitor	Name: Tahni Cross	Phone: (07) 4973 6812
	Email: t.cross@gmail.com	
Finance Provider	Name: Commonwealth Bank	Phone: (07) 4958 8725
	Email: info@combank.com.au	
Building Designer or Architect	Name: Kimo Vijolen	Phone: (07) 4972 8465
	Email: kvilojen@gmail.com	
Building Contractor	Name: Resilient Homes PTY LTD	Phone: (07) 4982 7139
	Email: pippa@resilienthomes.com.au	
Site Supervisor	Name: Dean Cole	Phone: 0487 956 712
	Email: dcole@resilienthomes.com.au	
Building Certifier	Name: Josh Percival	Phone: (07) 4958 7411
	Email: jpercival@gmail.com	
Local Government	Name: Mackay Regional Council	Phone: (07) 4961 9444
	Email: info@mackayregionalcouncil.gov.au	
Insurance Company	Name:	Phone:
	Email:	
Building Consultant	Name:	Phone:
	Email:	
Neighbours (if relevant)	Name:	Phone:
	Email:	
	Name:	Phone:
	Email:	

SCHEDULE FOR QBCC NEW HOME CONSTRUCTION CONTRACT

This Contract is intended to be used for the construction of a single home or duplex.

NOTE TO OWNER: To better understand your contractual rights and obligations, **BEFORE SIGNING** carefully read this Schedule, the Consumer Building Guide and the General Conditions dated December 2020.

NOTE TO CONTRACTOR: When completed, retain original and give 2 signed copies of this Schedule to the Owner.

The Owner

Owner's name/s: Mr. and Mrs. Cousins Email: Cousins@gmail.com
Postal address: 21 Smith Street Postcode: 4740
Mobile phone: 0467 359 865 Home phone: 4954 3664
The Owner ☒ IS ☐ IS NOT a Resident Owner. (Tick the appropriate box)

Owner has checked the Contractor's licence and history via QBCC's Online Licence Search:

☒ Yes ☐ No

NOTE: An Owner is a Resident Owner if he/she intends to reside in the building where the Works are to be performed on, or within 6 months of, completion of the contracted work.

Owner's Authorised Representative (if any):

Postal address: Postcode:
Mobile phone: 0467 359 865 Email:

The Contractor

Contractor's name/s (must be as shown on licence): Resilient Homes Pty Ltd

Contractor confirms: My licence is current, active and appropriate for this work:

☒ Yes ☐ No

QBCC Licence Number: 141526 ABN Number: 59 266 548 039
Business address: 89 Johnson Street Postcode: 4740
Mobile phone: 0426 152 562 Email: Resilient.homes@gmail.com

Contractor's Authorised Representative (if any):

QBCC Licence Number (if supervising): 141526
Mobile phone: Email:

ITEM	SUBJECT	NOTES	PARTICULARS
1	CONTRACT PRICE Condition 4. WARNING: The Contract Price may increase due to Condition 20, decrease due to Condition 24, and increase or decrease due to Conditions 19 & 21.	For information about Prime Cost (PC) Items and Provisional Sums (PS) see Condition 4 of the General Conditions. If the Contract includes such allowances, a PC/PS Schedule must be completed by the Contractor, signed by both parties and attached.	a. Fixed Price Component: \$ <u>621,517.00</u> (incl. GST) <i>(includes deposit in Item 2)</i> b. Prime Cost Items (if any): \$ <u>14,883</u> (incl. GST) c. Provisional Sums (if any): \$ <u>28,600</u> (incl. GST) CONTRACT PRICE a + b + c = \$ <u>665,000.00</u> (incl. GST)

ITEM	SUBJECT	NOTES	PARTICULARS
2	DEPOSIT Condition 19	The deposit must not exceed 5% of the Contract Price if Contract Price is \$20,000 or more.	Amount of deposit: \$ <u>33,250</u> (incl. GST) NOTE: The deposit <u>includes</u> the payment to QBCC for the Qld Home Warranty Scheme.
3	BRIEF DESCRIPTION OF THE WORKS	Insert a brief description of the contracted work and attach and refer to plans and specifications <i>e.g. construction of new home as per attached plans dated 24/02/22 22 & specifications dated 24/02/22</i>	The dwelling has four bedrooms with built-ins. The master bedroom has ensuite. There is an office, kitchen butler's pantry, media room, separate open plan dining plus outdoor entertaining area adjacent to the pool, two living areas, two bedrooms share a bathroom and the guest bedroom is ensuited, , there is a powder room, three car garage and a store/workshop room at the rear of the double bay garage. A slab is to be put down in the back corner of the allotment for a 5m x 3m garden shed.
4	SITE Condition 13		Site Address: _____ <u>67 Home Street</u> Real Property Description: _____ Lot No: <u>758</u> Plan Type (e.g. RP/SP/BUP): <u>SP</u> Plan No: <u>356987</u> Local Authority: <u>Mackay Regional Council</u>
5	STARTING DATE Conditions 1, 10 & 17	NOTE: The Contractor must ensure that the work under this Contract starts by the Starting Date. The Starting Date is the latest of: • the following agreed date <u>4 / 04 / 2022</u> ; or • 10 Business Days after the issue of approved plans by the Assessing Certifier; or • 10 Business Days after the Owner has satisfied its financial obligations under Condition 5.1.	
6	COMPLETION PERIOD (including Construction Days, allowances for likely delays and non-working days) Conditions 22, 23 & 28	NOTE TO CONTRACTOR: You must state here any allowances (in days) you have made for delay factors which are reasonably likely to affect the time required to carry out the work. NOTE TO OWNER: The Contractor is not entitled to claim an extension of the Date for Practical Completion (Schedule Item 7) for a delay stated here (e.g. inclement weather) unless the number of days the Contractor is actually delayed is greater than the allowance stated here in Schedule Item 6B.	A. Construction Days The working days needed to construct the Works = <u>138</u> PLUS B. Allowances for likely delays: (i) Inclement weather allowance (Business Days) = <u>0</u> (ii) Other likely delays, if any (Business Days) = <u>0</u> Details of delay _____ PLUS C. Allowance for non-working days (incl. weekends, public holidays, Christmas shutdown, etc.) = <u>23</u> COMPLETION PERIOD (A+B+C): <u>161</u> Calendar days <i>(This total is the number of calendar days between the Starting Date and the Date for Practical Completion)</i>
7	DATE FOR PRACTICAL COMPLETION Conditions 22, 23 & 28	NOTE TO CONTRACTOR: Complete only one of the options in the 'Particulars' column (i.e. date or number of days) and delete the other.	Date: _____/_____/_____ OR Completion Period of <u>161</u> calendar days (see Schedule Item 6) from the Starting Date or the date on which the work under this Contract is commenced, whichever is the earlier .

ITEM	SUBJECT	NOTES	PARTICULARS
PROGRESS PAYMENTS (Choose Option A or Option B below)			
8A	OPTION A: Conditions 19 & 28 NOTE: <i>This Option may be used where you believe the contracted work involves typical house construction and the progress payment Stages set out in the 'Particulars' column are appropriate.</i>	NOTE TO CONTRACTOR: If the contracted house construction work does not involve the Stages set out in the 'Particulars' column in Option A, or the payment percentages are not appropriate (e.g. if the payments in Option A would amount to payment in advance of work progress on Site), you should use Option B below.	WARNING FOR CONTRACTOR: The QBCC Act requires that all progress payments must be directly related to the progress of the work at the Site and proportionate to the value of the work that relates to the claim (e.g. the total value of the progress claims plus the 5% deposit cannot exceed 50% of the Contract Price until more than 50% of the work on Site has been performed). Breaches of this requirement attract heavy penalties. In presenting each progress claim under Option A or Option B you are warranting that the work on Site has reached the relevant Stage set out below, and that the total amount claimed to date (including the deposit) is proportionate to the progress of the contracted work at the Site. PROGRESS PAYMENT STAGES (all prices incl. GST): Base Stage (excl. 5% deposit) – 15% \$ <u>99,750</u> Frame Stage – 20% \$ <u>133,000</u> Enclosed Stage – 25% \$ <u>166,250</u> Fixing Stage – 20% \$ <u>133,000</u> Practical Completion Stage – 15% \$ <u>99,750</u> NOTE: The total of Stage payments in Option A or B plus the deposit must equal Contract Price in Schedule Item 1.
8B	OPTION B: Conditions 19 & 28	NOTE TO CONTRACTOR: Option B should be used where the contracted house construction work does not involve the Stages set out in Option A above, or the payment percentages are not appropriate for the work.	ALTERNATIVE PROGRESS PAYMENT STAGES (incl. GST) *Stage 1: _____ - ____ % \$ _____ Stage 2: _____ - ____ % \$ _____ Stage 3: _____ - ____ % \$ _____ Stage 4: _____ - ____ % \$ _____ Stage 5: _____ - ____ % \$ _____ Stage 6: _____ - ____ % \$ _____ Stage 7: _____ - ____ % \$ _____ Practical Completion Stage - _____ % \$ _____ *Stage 1 excludes the deposit in Item 2. <i>If extra space is required, attach a more detailed description of the Payment Stages to this Contract schedule.</i>
WARNING TO OWNER		Your cover under the Queensland Home Warranty Scheme may be reduced if you make payments greater than, or prior to, what the Contract requires.	
9	AMOUNT TO BE DEPOSITED IN SECURITY ACCOUNT (if relevant) Condition 6	NOTE: This Item is optional – it may be relevant where a loan is not required to finance the project.	\$ _____
10	LIQUIDATED DAMAGES Condition 24	NOTE TO OWNER AND CONTRACTOR: You must discuss whether, or what, liquidated damages (LDs) apply to this project and insert either an amount per day or 'NIL' if LDs do not apply. If this space is left blank, a default amount of \$50/day shall apply.	\$ <u>500</u> per day for each calendar day of delay in achieving Practical Completion. NOTE TO OWNER REGARDING LIQUIDATED DAMAGES (if applicable): It is very important that you carefully consider and complete this section. The liquidated damages amount should be a genuine pre-estimate of the costs/ losses the Owner will incur (if any) in the event the work under this Contract is not completed by the Date for Practical Completion (including any extra rental and storage costs, lost rent for rental properties, finance costs, etc. directly related to the delay in reaching Practical Completion).

ITEM	SUBJECT	NOTES	PARTICULARS
11	INTEREST RATE ON OVERDUE PAYMENTS Condition 20		Six (6)% per annum above the cash rate target, as published by the Reserve Bank of Australia (https://www.rba.gov.au/statistics/cash-rate/), at the date on which the payment is due.
12	FINANCE Conditions 1 & 5	WARNING TO OWNER: The Finance Date is the date by which the Owner must provide the Contractor with written evidence, satisfactory to the Contractor, of their capacity to pay the Contract Price (even if no loan is required). Consult your Lender before inserting a date. Delays in providing this evidence may delay the start of your project or lead to termination of the Contract.	The Contract IS/IS NOT subject to Loan Approval. (Cross out whichever does not apply) Lender: <u>Commonwealth Bank</u> Amount of Loan: \$ <u>390,000</u> Finance Date: <u>24</u> / <u>02</u> / <u>2022</u> (day) (month) (year) NOTE: If no date stated, Finance Date is 10 Business Days from date of this Contract.
13	PARTY RESPONSIBLE FOR OBTAINING BUILDING APPROVAL Conditions 9 & 10		<i>(State whether the responsible party is Owner or Contractor - if nothing stated, the Contractor shall be responsible)</i>
14	PARTY RESPONSIBLE FOR COST OF EXTRA EXCAVATIONS AND FOUNDATIONS (if relevant) Condition 21	This item relates to responsibility for any extra excavations and foundations beyond what could reasonably be established from the Foundations Data.	<i>(State whether the responsible party is Owner or Contractor)</i>
15	CONTRACT DOCUMENTS Conditions 4, 8 & 30	Any amendments or 'variations' to this Contract must be recorded in a Variation Document (such as QBCC Form 5) which then forms part of the Contract. Order of precedence for Contract documents (To be used to resolve any ambiguity or discrepancy in or between the documents): 1. Contract schedule 2. Special conditions (if any) 3. General conditions 4. Specifications 5. Plans (where required) 6. Other contract documents	PLANS (dated and attached) supplied by: Contractor/Owner on ____/____/____ N/A SPECIFICATIONS (dated and attached) supplied by: Contractor/Owner on ____/____/____ N/A PRIME COST ITEMS / PROVISIONAL SUMS Are Prime Cost Items included? ☒ Yes ☐ No Are Provisional Sums included? ☒ Yes ☐ No If YES to either question, the Contractor must complete and sign the Prime Cost Items and/or Provisional Sums Schedule/s and copy to Owner. SPECIAL CONDITIONS Are there any Special Conditions? ☐ Yes ☒ No If YES, ensure they are dated, signed by both parties and attached. Contractor/Owner on ____/____/____ N/A NOTE: Foundations Data must be obtained if the contracted work requires the construction or alteration of, or may adversely affect, footings or a concrete slab for a building. Unless appropriate and reliable Foundation Data already exists, the Contractor is required to obtain appropriate Foundations Data before the Contract is signed and provide a copy to the Owner upon payment of the costs incurred in obtaining the data.

ITEM	SUBJECT	NOTES	PARTICULARS
16	SIGNATURES	NOTE: The Contractor must give the Owner: a. the QBCC Consumer Building Guide before the Owner signs the Contract; and b. a signed copy of the entire Contract, including plans and specifications, within 5 Business Days after the Contractor signs the Contract.	Signed by the Owner/s: Owner 1: _____ Owner 2 (if any): _____ In the presence of: _____ (signature of witness) *Do not sign until you have received the Consumer Building Guide, General Conditions, and plans and specifications, and foundations data has been obtained (by you or your contractor). Signed by the Contractor: <u>p.turner</u> In the presence of: <u>t.cross</u> (signature of witness) Dated this: <u>23</u> day of <u>03</u> 20<u>22</u>

IMPORTANT NOTICE TO OWNER: 'COOLING-OFF' PERIOD

Under Schedule 1B of the QBCC Act **you may have the right to withdraw from this Contract during the cooling-off period of 5 Business Days commencing the day after you receive both a signed copy of this Contract and the QBCC Consumer Building Guide. If you wish to withdraw under the 'cooling-off' provisions you must give the Contractor a signed written notice stating that you withdraw from the Contract under section 35 of Schedule 1B of the QBCC Act (see Condition 2 of the General Conditions for more details).**

The Owner and the Contractor agree that the Contractor shall carry out the work described in this Contract for the Contract Price it provides and upon its terms.

This Contract includes:

- This Schedule for New Home Construction Contract, PC and PS Schedules (if relevant) and Forms 1 - 7 (if used), all dated December 2020;
- General Conditions of New Home Construction Contract dated December 2020, and Special Conditions (if any); and
- Plans, specifications and any other contract documents described in Item 15 of this Contract Schedule.

PRIME COST ITEMS SCHEDULE

(Conditions 4 & 19 of the General Conditions of QBCC New Home Construction Contract)

Description of Item to be supplied under the PC Item allowance.	Contractor's best estimate of price, and breakdown of estimate.		PLUS Contractor's margin (<i>state \$ amount or % to be added</i>)	Total for Prime Cost Item (<i>incl. margin & GST</i>)
	No. of items or quantity of materials	Cost per unit and Item total (<i>excl. GST</i>)		
Example: Floor tiles for kitchen	50m ²	@\$30/m ² = \$1,500 excl. GST	+ 10% margin = \$1,500 + \$150 = \$1,650 excl. GST	\$1,650 + 10% GST = \$1,815
Solar Hot Water	1	1 unit - \$2,727.27	+ 10% margin = \$2,727.27 + 272.72 = \$3,000.00	\$3000.00 + 10% GST = \$3300.00
Ducted Air-conditioning	1	1 Unit - \$9,572.72	+ 10% margin = \$9,572.72 + \$957.27 = \$10,529.99	\$10,529.99 + 10% GST = \$11,582.99
TOTAL: (Transfer total to Item 1(b) of Contract Schedule)				\$ (incl. GST)

Signed by the Owner/Owner's Representative

Signed by the Contractor/Contractor's Representative

DATED: / /
(day) (month) (year)

p.turner
DATED: 23 / 03 /2022
(day) (month) (year)

NOTE TO OWNER/S AND CONTRACTOR

These allowances should be kept to a minimum to reduce uncertainty about the final Contract Price.

When this Schedule is completed, Contractor to retain original and give 2 legible copies to Owner.

PROVISIONAL SUMS SCHEDULE

(Conditions 4 & 19 of the General Conditions of QBCC New Home Construction Contract)

Description of contracted service covered by the Provisional Sum	Contractor's best estimate of cost of providing the contracted service <u>excl. GST</u> . Include the estimated quantity and unit cost of materials (if any) and labour, and any other related costs (e.g. equipment hire).	PLUS Contractor's margin (state \$ amount or % to be added)	Total for Provisional Sum (incl. Contractor's margin & GST)
Example: Rock removal from Site	Excavator hire 5 hrs @ \$160/hr = \$800 Float hire = \$400 Tip fees = \$200 TOTAL: = \$1,400	+ 10% margin = \$1,400 + \$140 = \$1,540 excl. GST	\$1540 + 10% GST = \$1,694
Wet area Tiling	\$35/m2 x 253.25 = \$8,863.75	\$9,750.12	\$10,725.13
Alfresco Area Tiling	\$35/m2 x 168.83 = \$5,909.05	\$6,499.96	\$7,149.95
Living Area Tiling	\$35/m2 x 253.25 = \$8,863.75	\$9,750.12	\$10,725.13
TOTAL: (Transfer total to Item 1(c) of Contract Schedule)			\$ (incl. GST)

Signed by the Owner/Owner's Representative

Signed by the Contractor/Contractor's Representative
p.turner

DATED: / /
(day) (month) (year)

DATED: 23 / 03 / 2022
(day) (month) (year)

NOTE TO OWNER/S AND CONTRACTOR

These allowances should be kept to a minimum to reduce uncertainty about the final Contract Price.

When this Schedule is completed, Contractor to retain original and give 2 legible copies to Owner.

FORM 1 COMMENCEMENT NOTICE

(Condition 17 of the General Conditions of QBCC New Home Construction Contract)

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____
(insert name and business address of Contractor)

Site address: _____

NOTICE

In accordance with Condition 17 of the General Conditions of the Contract we advise:

The **date** on which **work** under the Contract **commenced on Site** was:

____ / ____ / ____
(day) (month) (year)

The **Date for Practical Completion** (stated in, or calculated in accordance with, Schedule Item 7) is:

____ / ____ / ____
(day) (month) (year)

SIGNED: _____

DATED:

____ / ____ / ____
(day) (month) (year)

(Contractor/Contractor's Representative to sign here)

NOTE TO OWNER

The Date for Practical Completion is subject to extensions of time authorised under this Contract.

OWNER'S ACKNOWLEDGEMENT OF RECEIPT OF COMMENCEMENT NOTICE

From: (Owner/s) _____
(insert name and postal address of Owner/s)

To: (Contractor) _____
(insert name and business address of Contractor)

Site address: _____

I/we acknowledge receipt of your Commencement Notice dated:

____ / ____ / ____
(day) (month) (year)

advising that work under the Contract commenced on Site on:

____ / ____ / ____
(day) (month) (year)

and that, subject to extensions of time authorised under the Contract, the Works will reach Practical Completion on:

____ / ____ / ____
(day) (month) (year)

SIGNED: _____

DATED:

____ / ____ / ____
(day) (month) (year)

NOTE TO OWNER

Retain the original of the entire Commencement Notice for your files.
Please complete and promptly post back to the builder a signed copy of this acknowledgement section.

FORM 2 **EXTENSION OF TIME CLAIM AND OWNER'S RESPONSE TO CLAIM**

(Condition 23 of the General Conditions of QBCC New Home Construction Contract)

NOTE TO CONTRACTOR: This blank form may be copied for multiple use. **You must attach any relevant supporting information** (e.g. dates on which rain, or its effects, prevented work on Site) **and give the Owner a signed copy of this claim form within 5 Business Days of the Owner approving the claim.**

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____

Regarding construction at: _____
(insert Site address)

The Contractor wishes to claim an extension of time of the Date for Practical Completion.

The cause of the delay in achieving Practical Completion is: _____

(insert full description of a cause of delay from Condition 23.1)

The cause of the delay:
(tick whichever is applicable)

☐

is not a cause of delay listed in Schedule Item 6B.

☐

is a cause of delay listed in Schedule Item 6B, but the number of days that the Contractor has actually been delayed is more than the allowance stated in Schedule Item 6B.

The delay arose on: ____ / ____ / ____
(day) (month) (year)

Number of additional Business Days claimed by the Contractor as a consequence of this delay: _____
(Business Days)

New Date for Practical Completion after allowance for this delay: ____ / ____ / ____
(day) (month) (year)

SIGNED: _____
(Contractor/Contractor's Representative to sign here)

DATED: ____ / ____ / ____
(day) (month) (year)

OWNER'S RESPONSE TO EOT CLAIM DATED: ____ / ____ / ____
(day) (month) (year)

NOTE TO OWNER

The Contractor must give you this form within 10 Business Days of the earlier of the Contractor becoming aware of the cause and extent of the delay or when the Contractor reasonably ought to have become aware of the cause and extent of the delay. If you accept the Contractor's claim for an extension, then the Date for Practical Completion will be extended by the Business Days claimed by the Contractor. **You must indicate your acceptance, rejection or partial rejection of the Contractor's claim by completing, signing and returning this form, or similar written notice, to the Contractor as soon as possible but within 10 Business Days of receiving the claim. Keep a copy for your records.**

Tick whichever is applicable:

☐

The Owner agrees with the extension of time claim.

☐

The Owner rejects the extension of time claim.

☐

The Owner rejects part of the extension of time claim.

☐

The part of the claim rejected is ____ Business Days.

Response to EOT Claim No.:

The reason/s for rejecting all or part of the extension of time claim is/are: (state reason/s below)

SIGNED: _____

DATED: ____ / ____ / ____
(day) (month) (year)

When this Schedule is completed, Contractor to retain original and give 2 legible copies to Owner.

FORM 3 **PROGRESS CLAIM**

Progress Claim No.: _____

(Conditions 19 & 28 of the General Conditions of QBCC New Home Construction Contract)

NOTE TO CONTRACTOR: This blank form may be copied for multiple use. Give this form to the Owner, together with Form 4 and copies of any certificates of inspection relevant to this payment stage.

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____

Regarding construction at: _____
(insert Site address)

The Contractor certifies that the Works have reached the Stage described as:

(The Stage must be a Progress Payment Stage as set out in Item 8A or 8B of the Contract Schedule)

The Contractor claims payment for the following:

1. The completion of Works to the Stage indicated above in the amount of: \$

(insert the amount in words and figures)

NOTE: The percentage/amount of the Contract Price that can be claimed is set out at Item 8A or 8B of the Contract Schedule.

2. Adjustment (if any) for Prime Cost (PC) Items claimed at this Stage: (Delete this section if no PC Items in Contract Price)

_____	\$ _____
_____	\$ _____
_____	\$ _____

(insert description of PC Item/s and whether adjustment is + or - compared to allowance stated in the PC Schedule)

NOTE: The Contractor must attach to this progress claim any invoice, receipt or other document showing the cost of any Prime Cost Item.

3. Adjustment (if any) for Provisional Sums (PS) claimed at this Stage: (Delete this section if no PS Items in Contract Price)

_____	\$ _____
_____	\$ _____
_____	\$ _____

(insert description of PS Item/s and whether adjustment is + or - compared to allowance stated in the PS Schedule)

NOTE: The Contractor must attach to this progress claim any invoice, receipt or other document showing the cost of any Provisional Sum.

4. Adjustment for variations: (must have been previously recorded in a Variation Document and authorised by Owner)

_____ as set out in QBCC Form 5 – Variation Document dated: _____ / _____ / _____	\$ _____
_____ as set out in QBCC Form 5 – Variation Document dated: _____ / _____ / _____	\$ _____
_____ as set out in QBCC Form 5 – Variation Document dated: _____ / _____ / _____	\$ _____

(insert description of variation/s)

(insert document date and any price increase/decrease due to variation)

TOTAL AMOUNT OF THIS PROGRESS CLAIM: \$ _____ (incl. GST)
(add or subtract any adjustments in Items 2, 3 & 4 above from the Stage payment stated in Item 1)

Signed by the Contractor/Contractor's Representative: _____ **DATED:** _____ / _____ / _____

NOTE TO CONTRACTOR:

Where claim is for Practical Completion Stage, you must attach a Defects Document in QBCC Form 6.

NOTE TO OWNER: Except for the Practical Completion Stage, you must pay the amount claimed by the Contractor, or any part of it with which you agree, within 5 Business Days of receipt of this progress claim. If you dispute all or part of the Contractor's progress claim, you must, within 5 Business Days of receiving the claim, give the Contractor a QBCC Form 4 – Notice of Dispute of Progress Claim or similar written notice stating that you dispute all or part of the progress claim and your reasons for doing so. **For the Practical Completion Stage, you must pay the Contractor immediately after the Contractor has satisfied Condition 28.3.**

When form completed, Contractor to retain original and give 2 legible copies to Owner.

FORM 4

NOTICE OF DISPUTE OF PROGRESS CLAIM

(Condition 19 of the General Conditions of QBCC New Home Construction Contract)

NOTE TO CONTRACTOR: This blank form may be copied for multiple use and must accompany a QBCC Form 3.

NOTE TO OWNER: If you intend to dispute a progress claim, this form must be returned to the Contractor within 5 Business Days of receipt of the disputed progress claim.

To: (Contractor) _____
(insert name and business address of Contractor)

From: (Owner/s) _____
(insert name and postal address of Owner/s)

Regarding construction at: _____
(insert Site address)

(tick whichever box is applicable)

☐ The Owner **rejects all of** your progress claim dated: ____ / ____ / ____ for the Stage described in
(day) (month) (year)

(set out reason/s)

Schedule Item 8A or 8B as _____

OR

☐ The Owner **rejects part of** your progress claim dated: ____ / ____ / ____ for the Stage described in
(day) (month) (year)

Schedule Item 8A or 8B as _____

The value of the part of the progress claim that is rejected is: \$ _____ (incl. GST)
(insert amount)

The reason/s for rejecting all or part of the claim is/are: (set out reason/s)

SIGNED: _____
(Owner/Owner's Representative to sign here)

DATED: ____ / ____ / ____
(day) (month) (year)

When form completed, Owner to give the Contractor the original and Owner to retain 2 legible copies.

FORM 5 VARIATION DOCUMENT

(Condition 21 of the General Conditions of QBCC New Home Construction Contract)

NOTE TO CONTRACTOR: This form, which may be copied for multiple use, must be presented to and signed by the Owner **before** you start any work described in the variation.

To: (Owner/s) _____
(insert name and postal address of Owner/s)

From: (Contractor) _____

Regarding construction at: _____
(insert Site address)

This document is for a variation: ☐ required by law
☐ for extra excavation and foundations
☐ requested by the Owner/Owner's Representative
☐ requested by the Contractor/Contractor's Representative for the following reasons: (insert reasons)

The change to the Works is as follows: _____

 (insert description of the variation including any change to the work or materials required by reason of the variation)

The Contractor's/Contractor's Representative's reasonable estimate of the period of any delay in the Date for Practical Completion that will result from the variation is: _____ **Business Days.**

NOTE TO CONTRACTOR/CONTRACTOR'S REPRESENTATIVE

If the variation causes you actual delay you must also submit a QBCC Form 2 – Extension of Time Claim and Owner's Response to Claim within 10 Business Days of the earlier of when you became aware of the cause and extent of the delay, or when you reasonably ought to have become aware of the cause and extent of the delay **(see Condition 23)**.

The variation will change the price payable by the Owner as follows: (tick whichever is applicable)

☐ **increase** the price by: \$ _____
(incl. GST)

☐ **no change** to price

☐ **decrease** the price by: \$ _____
(incl. GST)

Increase/decrease (delete whichever is not applicable)
the price by an amount that will be calculated as follows:

 (state how the increase/decrease will be calculated)

The increase or decrease (if any change) in the Contract Price payable by the Owner as a result of the variation will be taken into account in the Contractor's progress claim for the following Stage described in Schedule Item 8A or 8B:

 (insert description of Stage from Schedule Item 8A or 8B)

 (Owner/Owner's Representative to initial here)

NOTE: The Contractor cannot require payment for an increase in the Contract Price due to a variation before the variation work has been completed.

SIGNED: _____
 (Owner/Owner's Representative to sign)

SIGNED: _____
 (Contractor/Contractor's Representative to sign)

DATED: ____ / ____ / ____
 (day) (month) (year)

DATED: ____ / ____ / ____
 (day) (month) (year)

When form completed, Contractor to retain the original and give 2 legible copies to Owner.

FORM 6

DEFECTS DOCUMENT

(Conditions 19, 28 & 29 of the General Conditions of QBCC New Home Construction Contract)

For domestic building work at _____
(insert Site address)

NOTE TO CONTRACTOR: This form (which should be completed with the Owner or their Representative at handover) may be copied for multiple use.

If the Owner/Owner's representative claims that there are minor defects or minor omissions which will not unreasonably affect occupation, list below those you agree exist, and when you will attend to them, and the Owner may separately list any additional minor defects and minor omissions you do not agree exist.

1. AGREED MINOR DEFECTS/MINOR OMISSIONS *(attach additional pages if required)*

The Owner/Owner's Representative and the Contractor/Contractor's Representative agree that the following minor defects or minor omissions exist at Practical Completion.

Item No.	Description of minor defect or minor omission	Date for rectification

2. MINOR DEFECTS/MINOR OMISSIONS CONTRACTOR DOES NOT AGREE WITH *(attach additional pages if required)*

The Owner/Owner's Representative believes that the following additional minor defects or minor omissions exist at Practical Completion. The Contractor does not agree.

Item No.	Description of minor defect or minor omission	Contractor to state why they do not agree that the item listed is a minor defect or minor omission.

SIGNED: _____

(Owner/Owner's Representative to sign)

SIGNED: _____

(Contractor/Contractor's Representative to sign)

DATED: ____ / ____ / ____
(day) (month) (year)

DATED: ____ / ____ / ____
(day) (month) (year)

When form completed, Contractor to retain the original and give 2 legible copies to Owner.

FORM 7

CERTIFICATE OF PRACTICAL COMPLETION

(Conditions 19, 28 & 29 of the General Conditions of QBCC New Home Construction Contract)

NOTE TO CONTRACTOR/CONTRACTOR'S REPRESENTATIVE

The Contractor must complete, sign and give 2 copies of this Certificate to the Owner when seeking payment for the Practical Completion Stage.

The Contractor states that the Works at _____

(insert Site address)

have reached Practical Completion as:

- upon inspection of the Works, the Owner was satisfied that the Works had reached Practical Completion in accordance with the requirements of this Contract, including Condition 3 of the General Conditions of QBCC New Home Construction Contract; and
- the Contractor has provided the Owner with all written evidence (including, where the Owner has **not** engaged the building certifier, copies of all relevant certificates of inspection produced or held by the building certifier) that all relevant inspections and approvals required by the *Planning Act 2016* and the *Building Act 1975* and any body having the relevant jurisdiction were satisfactorily completed; and
- If the Owner or their representative claims that there are minor defects or minor omissions, the Contractor has compiled with the Owner or their representative, and signed, a QBCC Form 6 – *Defects Document* and given 2 copies to the Owner; and
- the Contractor has handed over the Works (including all keys and other access devices) to the Owner in exchange for payment of the Progress Claim for the Practical Completion Stage.

The Date of Practical Completion was: ____ / ____ / ____
(day) (month) (year)

SIGNED: _____
(Signed by the Owner/Owner's Representative)

DATED: ____ / ____ / ____
(day) (month) (year)

SIGNED: _____
(Signed by the Contractor/Contractor's Representative)

DATED: ____ / ____ / ____
(day) (month) (year)

NOTE TO OWNER/OWNER'S REPRESENTATIVE

When the Contractor has completed all of the requirements listed in this Certificate, the Owner must, upon receiving a copy of this Certificate signed by the Contractor, and possession of the site, immediately sign this Certificate and pay the Contractor the Progress Claim for the Practical Completion Stage (as adjusted under Condition 24, if applicable).

When form completed, Contractor to retain original and give 2 legible copies to Owner.

Need more information?

Visit qbcc.qld.gov.au or call us on 139 333.



CPCCBC4003A SELECT AND PREPARE A CONSTRUCTION CONTRACT CPCCBC4016A ADMINISTER A CONSTRUCTION CONTRACT

PRACTICAL ASSESSMENT INSTRUCTIONS

- The following practical assessment will require the Participant to complete work related activities.
- The Assessor will conduct observations of the Participant's work to determine whether they display sufficient practical skills and knowledge.
- Please fill in the details below – providing your name, signature and date of assessment.
 - The Participant's signature acknowledges that the Assessor provided clear instructions and the Participant understood what was required to complete this assessment.
- The Assessor may substitute a Practical Task with an alternate task of equal value.
 - Alternate tasks must be fully documented by the assessor in the Assessor Comments area.

Participant name Pippa Turner

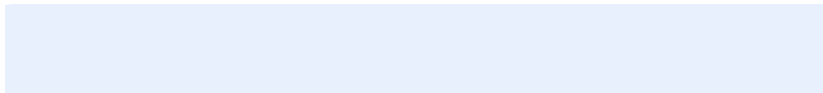
Participant signature



Date 24/03/2022

Assessor name

Assessor signature



Date [Click here to enter a date.](#)

Task	Task outcome (Tick)	
	Satisfactory	Not Yet Satisfactory
Task 1 (Occasion 1)	☐	☐
Task 1 (Occasion 2)	☐	☐

ASSESSOR COMMENTS

CPCCBC4003A SELECT AND PREPARE A CONSTRUCTION CONTRACT, CPCCBC4016A ADMINISTER A CONSTRUCTION CONTRACT & CPCCBC4032A APPLY CONTRACT LAW TO SALES PROCESSES

Practical Task 1 (2X)		
Description of task: On two (2) occasions, a suitable observer is to verify the participant's ability to apply contract law to residential and/or commercial construction sales processes. The participant is to gather evidence of how they have completed each component of the Practical Task, which is to be submitted with this Practical Assessment sheet. Evidence to be submitted may include: - Copy of a contract issued to sub-contractor for your project with relevant AS code on the front - Proof of consultation with sub-contractor regarding contract and contract terms, inclusions and omissions (emails) - Copy of HSE minimum requirements sent as contract condition - Construction contracts that have been developed, signed off, or contributed to by the candidate - Proof of correspondence with client regarding construction contract. Redact sensitive information as required. The assessor is to verify the observer's comments and provide the outcome for the practical task on the front cover of the Practical Assessment.		
Resources required: Two (2) pre-contract agreements; two (2) sales contracts (e.g. QBCC contracts), telephone, facsimile machine, computer.		
Assessment of task		
Name of participant:	Pippa Turner	
Name of observer:	Leslie Crocker	
Role of observer (Confirm suitability to sign)	Project Manager	
Email address of observer	lcrocker@woollam.com.au	
Signature of observer:		
Date:	25/03/2022	
When completing the task, did the participant:	Tick if satisfactorily completed. Provide comments if left unticked.	
	1 st Occasion	2 nd Occasion
1.A. Explain to the client: - Essential terms and elements of a valid contract - Types and purposes of agreements employed with the industry (including sales contracts and pre-contract agreements) - The range of documents that collectively make up a contract (including construction schedules, reports, specifications) - The importance of the contract to sales process - Implications of legislation, regulations and codes of practice (including Australian Consumer Law)	☒	☒

1.B. Discuss and agree upon clauses of a pre-contract agreement, including payment or deposit.	☒	☒
1.C. Ensure the pre-contract agreement is signed and processed according to organisational requirements.	☒	☒
1.D. Select appropriate contract and seek expert advice in the preparation of the contract, considering: - Contract rise and fall amounts - Schedule of progress payments - Processes for applying of extensions of time	☒	☒
1.E. Break down contract clauses/terms/conditions with the client, including: - Rights, liabilities and potential penalties of parties under the contract - Definitions of building work, common contract terms and procedures, considering – - Practical completion and issuing a final certificate - Defects liability and completion at the cost of the contractor - Effect of ousting the contractor from the building or site - Cooling off periods - Provisional sum and prime cost allowances - Measures to be taken in the event of an anomaly in the rendering of the contract, considering – - Variations - Circumstances that bring about a breach and termination of contract, considering – - Unreasonable/vexatious notice - Abandonment of a contract - Methods for resolving contractual disputes	☒	☒
1.F. Effectively communicated with clients, subcontractors, colleagues and external parties using the following methods: - Verbally using language/concepts appropriate to cultural differences - Non-verbal communication - Using technology (including telephone, facsimile, email) - In writing (including drafting responses to queries about contracts)	☒	☒
The participant's performance was: ☒ Satisfactory ☐ Not Satisfactory		

OBSERVER COMMENTS

In both instances Pippa clearly articulated the terms and conditions of the contract including the purposes of the annexures and all documents that make up the final contract as well as stressing the legal and regulations implications.

She methodically went through the pre award meeting mins which stipulates all the payment terms and timeframes and ensured that all necessary pages were signed in accordance with requirements. The contracts were appropriate for their purpose and she explained the inclusions and exclusions of rise and fall , progress payments and the steps necessary for applying extensions of time. The pre award meetings Pippa conducted broke down the rights, liabilities and penalties under the contract and she explained the process of achieving PC and final certificate, the liability periods and cooling off periods. All provisional sum allowance were discussed as well as the expectation and process for using them. Pippa explained the possible circumstances than can cause a breach of contract as well as the process for dealing with contractual disputes and mediation.

Once again Pippa's communication was of a very high standard both verbally and non verbally and her written communication demonstrated that she understands what she is talking about and is able to express succinctly.

Painting

Revision **A**

1720M – Cannonvale SS Administration and Resource Centre

Department of Education and Training, Cannonvale State School (DET Proj. #34-154626116) located at 56 Coral Esplanade, Cannonvale QLD 4802.

Woollam Constructions (ABN 94 009 676 064)

and

[insert Subcontract name] (ABN [insert Subcontractor ABN])

TGS Total Painting 39 874 750 742.

7 December 2020

QUEENSLAND : NEW SOUTH WALES : WESTERN AUSTRALIA

A "TF Woollam & Son Pty Ltd" Company ABN 94 009 676 064 ACN 009 676 064 QBCC 1343 NSW 165793C WA 101767

CONTACT : BRISBANE OFFICE : 1300 WOOLLAM : 71 LYTTON ROAD EAST BRISBANE 4169 : www.woollamconstructions.com.au

1.0 General Trade Inclusions

1.1 Preamble

This Subcontract is a lump sum fixed price contract. It is for the complete design, supply, supervision, provision of materials, materials handling, installation, certification, maintenance and compliance of the Works to be completed by the Subcontractor under the Subcontract. The Subcontract Price includes full compliance with the following project documentation:

- the Main Contract General Conditions, Special Conditions, Annexures and Attachments entered into between the Principal and the Contractor;
- the Subcontract General Conditions, Special Conditions, Annexures and Attachments entered into between the Contractor and the Subcontractor;
- the Scope of Works;
- any Project Documentation, including drawings, specifications, performance requirements and reports;
- any Consultant's Certifications, including directions, specifications, performance requirements and drawings;
- any finishes schedules;
- any traffic assessment and traffic management plans, which may vary throughout the course of the Works;
- "Woollam Constructions Onsite Rules";
- any operational or facility requirements of the adjacent or adjoining areas of the Site and the local environment;
- any development approvals or building approvals, and all conditions and requirements imposed with these approvals;
- any fire engineering and acoustic reports;
- any geotechnical investigations;
- any "Section J" reports;
- all applicable Australian Standards, the Building Code of Australia and any requirements of regulatory authorities;
- all local and governing authority requirements, fees and standards;
- any document register / transmittals;

1.2 Working Hours

The Site working hours are:

- Monday – Friday: 6:30am – 6:30pm
- Saturday: 6:30am – 6:30pm

Any changes to the working hours are at the discretion of the Contractor.

Should the Subcontractor require access or supervision to the Site outside of the working hours, this may be able to be provided by the Contractor at its discretion on a cost reimbursement basis.

It is anticipated that the Subcontractor will be on the Site during all normal Site working hours, including Saturdays.

1.3 Order of Precedence

The Subcontractor acknowledges the order of precedence applicable to this Subcontract, as outlined in the Formal Instrument of Agreement.

1.4 Tender Quotation

Any tender quotations provided prior to this Scope of Works are superseded by the Subcontract Price agreed between the parties. This includes any bills of quantities provided by the Contractor, the Subcontractor or a third party.

The Subcontract Agreement contains the Subcontract Price for the required works as documented within the Subcontract Documents contained within the Subcontract Agreement which is agreed between the parties.

1.5 Shop Drawings

The Contractor may require the Subcontractor to complete shop drawings prior to the manufacture of items for installation on the Project.

Shop drawings are to be completed in accordance with the agreed Works Programme, specifications and any additional requirements of the Contractor at its discretion. Shop drawn elements must not be

Signature  Date 23/03/2022

placed into manufacture until the Subcontractor has received formal approval to proceed from the Contractor. The Subcontractor will give the Contractor 2 Business Days written notice prior to commencing the manufacture, fabrication or finishes for each construction stage of the Works.

1.6 Document Transfer

"Procore & Outlook" will be utilised for this Project. Procore & Outlook is an internet-based file sharing software allowing for the transfer of documentation between parties.

Procore is free internet software that can be downloaded at www.procore.com.

Throughout the course of the Project, the Contractor will send individual notifications of an update to a document to the Subcontractor through Procore & Outlook. It is the Subcontractor's responsibility to ensure that construction of the Works is in accordance with the most current revision of a document.

The Subcontractor should check Procore & Outlook on a regular basis to ensure that current drawings and other documentation is used, and that onsite access has been made available to all required representatives of the Subcontractor. The Contractor will not send any hard copy drawings or drawing transmittals to the Subcontractor.

The Contractor will not accept claims for any additional works or costs incurred by the Subcontractor due to the Subcontractor's use of or reliance upon superseded documentation.

Any additional, remediation or corrective works required to be undertaken by the Subcontractor due to the Subcontractor's use of or reliance upon superseded documentation will be at the cost of the Subcontractor. The Subcontractor will also bear the costs of any acceleration or delays to the Works due to any additional, remediation or corrective works required to be undertaken.

1.7 Subcontract Documentation

On receipt of the Subcontract, the Subcontractor will check all documents relating to the Works and notify the Contractor in writing of any discrepancies or errors prior to commencement of the Works.

The Subcontractor is responsible for constructing the Works to the size requirements and in the locations shown on the Subcontract documents, or as directed by the Contractor. If any Site measurements differ from designed dimensions in the Subcontract documents, the Subcontractor will notify the Contractor in writing of the discrepancies and seek direction from the Contractor prior to fabricating or commencing installation of the Works at the Site.

Should any discrepancies occur in the Subcontract documents, the Subcontractor is to provide those of the highest standards when completing the Works.

1.8 Dimensional Coordination and Tolerances

The Subcontractor will carry out Site measurements prior to the manufacture and installation of any items in order to ensure dimensional coordination with previously installed works at the Site.

The Subcontractor will not be entitled to claim for a Variation or an Extension of Time for any failures to achieve dimensional coordination with previously installed works at the Site.

The Subcontractor is also responsible for achieving the required tolerances. This responsibility is not negated if assistance is provided by the Contractor.

Any areas not conforming to the Subcontract documents will be required to be rectified by the Subcontractor as directed by the Contractor. Any failure of the Subcontractor to carry out a rectification as directed by the Contractor will result in the Contractor having the work carried out by others and these costs being borne by the Subcontractor.

The Subcontractor accepts the allowable tolerances of other trades and parties connected with the Works. The Subcontractor agrees that modifications or additional works may be required due to tolerances of other trades or parties and that this will not be at any additional cost to the Contractor.

The Subcontractor is required to ensure that all tolerances required by the Subcontract specifications, Australian Standards, the Building Code of Australia and best industry practice are achieved with its Works under the Subcontract.

1.9 Temporary Works and Dewatering

The Subcontractor has allowed for all temporary works required for the completion of the Works in the Subcontract Price agreed under the Subcontract.

~~All measures of dewatering required for the Subcontractor's own and others works in connection with the Works under the Subcontract has also been allowed.~~

1.10 Construction Team Supervisor and Project Manager

The Subcontractor is to allow for a full time supervisor on Site during the Site working hours to supervise the provision of labour, materials and plant.

Signature

Date 23/03/2022

The supervisor is required to accept and act on any directions or site instructions issued by the Contractor. The supervisor is also required to check all works carried out by others which are likely to affect the installation of the Subcontractor's Works and report any irregularities directly to the Contractor's site representative.

The Subcontractor's supervisor is required to meet the following criteria:

- i. holds a current supervisor's licence;
- ii. holds the relevant license or certificate for the particular Works under the Subcontract;
- iii. has received appropriate formal training relevant to the particular Works under the Subcontract;
- iv. has read and is familiar with this Scope of Works and any applicable specifications or project documentation;
- v. has appropriate training in safety procedures;
- vi. is first aid qualified;
- vii. holds all other attributes and qualifications relevant to the role of supervisor for the Works under the Subcontract; and
- viii. has a personal **company** email address.

The Subcontractor's supervisor is required to be able to be contacted via telephone during normal business hours, Site working hours and as otherwise required by the Contractor. The supervisor is also required to attend all Site meetings, coordination meetings and all other meetings as required by the Contractor.

The Subcontractor is to complete the supervisor's details below:

Name:	Jeremy Wayne
Mobile Number:	04130890681
Email Address:	jeremy@tgspainting.net

The Subcontractor is also required to nominate a full time project manager who will be the point of contact in any circumstances necessary as determined by the Contractor.

The Subcontractor's project manager is required to be able to be contacted via telephone at all times and is the emergency contact for the Subcontractor. The project manager is also required to attend all Site meetings, coordination meetings and all other meetings as required by the Contractor.

The Subcontractor's project manager is required to have a personal **company** email address.

The Subcontractor is to complete the project manager's details below:

Name:	Brad Tattersall
Mobile Number:	0484741450
Email Address:	brad@tgspainting.net

The Contractor reserves the right to request any changes to the Subcontractor's onsite and representative team. These changes must be made within 24 hours and new contact details of the team provided to the Contractor in writing.

The Contractor reserves the right to request additional resources by way of tradesmen, materials, equipment or general labour as required in order for the Subcontractor to complete the Works by the Date for Completion.

1.11 Works Programme

The Subcontractor accepts the Works Programme and has advised the Contractor of any changes necessary associated with the Subcontract Works which must not be inconsistent with the works program under the Main Contract, prior to the contract award. The Date for Completion under the Subcontract is final and agreed between the parties.

The Subcontractor is to allow for all labour necessary to achieve the Works Programme to ensure that the Contractor is not delayed under the Main Contract, including working Saturdays and any other necessary overtime and out of hours works as required by the Contractor. A resource schedule will be

Signature Brad Tattersall Date 23/03/2022

completed, accepted by both parties and included in the Subcontract as a reference document as a guide to resource numbers required a various stages of the Project.

The Contractor does not guarantee the Subcontractor continuity of works or works within the documented sequence. The Subcontractor is required to mobilise and remobilise as necessary to suit the Works Programme. Any allowances for the acceleration of elements of the Works for early sign off and acceptance which must be approved by the Contractor has been included by the Subcontractor in the Subcontract Price.

The Subcontractor has also included all staging requirements, including staged completion and hand over of areas in the Subcontract. The Subcontractor has also included any out of sequence works, out of hours works and any arrangements necessary for completion of the Works by the Date for Completion.

1.12 WHS and Environmental

The Subcontractor must comply with all legislative requirements, Codes of Practice, Australian Standards, Contractor required quality assurance, environmental and health and safety policies, procedures and measures which apply to the Subcontract Works. In the event of any inconsistency, the Subcontractor is required to comply with such obligations, procedures or measures to the highest standard of environmental, quality assurance and health and safety protection.

The Subcontractor must comply with all quality assurance, environmental and health and safety policies, procedures and measures implemented, adopted or as directed in writing by the Contractor applicable to the Subcontract or the Main Contract.

The Subcontractor is to promptly submit the full service history and the results from any testing of any of the Subcontractors plant, machinery and tools upon request by the Contractor.

The Subcontractor is required to submit, within 2 days of the Subcontract award, Project specific Safe Work Method Statements (**SWMS**). Failure to do so will delay the Subcontractor's commencement and completion of the Project.

The Subcontractor will also supply any necessary protective clothing and equipment including task specific gloves, eye and ear protection. Woollam sites require all Subcontractors to wear long sleeve plants and shirts.

Radios and other musical devices are not permitted on Site.

All workers will be required to be inducted into the Site Safety System prior to commencing works on site. All workers will be required to attend prestart meetings each morning and sign on to the sites 'Sign on Site' registration system. This will require works to down load the 'Sign on Site' app to their mobile phones.

The Subcontractor is required to comply at all times with the Contractor's environmental systems, quality assurance systems and health and safety systems and requirements.

The Subcontractor must also comply with:

- i. ISO 14001/4:1996 *Environmental Management*;
- ii. AS/NZS 4804:2001 in relation to *Occupational Health and Safety Management*;
- iii. ISO 9001:2008 *Quality Assurance Systems*;

The Subcontractor will immediately notify, in accordance with the Subcontract, the Contractor of any environmental, quality assurance or health and safety incidents which occur at or within the vicinity of the Site.

Construction equipment is required to be fitted with noise suppressors and comply with all provisions of relevant legislation and the requirements of relevant authorities. All jackhammers and other noisy hand held tools are to be fitted with effective silencers of a type recommended by the manufacturers at all times.

Under no circumstances will the Contractor be held liable where the Subcontractor's quality assurance system fails.

1.13 Onsite Amenities and Facilities

All man and materials drop offs are required to be made within allocated drop off zones at the Site. There is to be no parking or unloading at the Site without the prior written approval of the Contractor.

Unless otherwise agreed in writing with the Main Contractor, all vehicle parking is at the discretion of the Main Contractor.

Signature



Date

23/03/2022

Amenities will be provided by the Contractor for use by the Subcontractor. Any damage or mistreatment of these amenities is the responsibility of the Subcontractor, and any costs to make good will be payable by the Subcontractor.

The Subcontractor is to provide its own office and storage facilities, including temporary services. The Contractor will allocate an area on Site if space is available.

Subcontractor signage is not to be displayed at the Site.

The Subcontractor acknowledges and agree the following onsite facilities arrangements:

- i. Lunch sheds to be provided by Woollam Constructions
- ii. Site ablutions to be provided by Woollam Constructions

1.14 Non-Conformances

The Subcontractor, including its representatives, employees, associated parties and sub-subcontractors, will conform with the Main Contract, Site Rules and Codes of Conduct as required by the Contractor at all times.

The Contractor will issue non-conformances to the Subcontractor when required, which must be complied with and remedied by the Subcontractor immediately.

1.15 Quality Assurance

The Subcontractor is required to prepare and submit a Quality Assurance Plan specific to the Project. The Plan is to be approved by the Contractor, and any relevant consultants, prior to commencement of the Works.

The Subcontractor is required to have procedures in place for the monitoring and control of the Works under the Subcontract.

Any documentation relating to the off-site manufacture and construction phases is required to be provided to the Contractor upon request.

The Subcontractor is required to provide the Contractor with its proposed Inspection Test Plans (ITPs) for review at least 5 Business Days prior to commencement of the Works on Site. The Subcontractor must amend the ITPs until determined satisfactory by the Contractor. Completed ITPs are required to be submitted with Progress Claims on the 25th of the Month for all works being claimed. Payment of works without completed ITPs will not be made as this is a condition of the Head Contract.

The Subcontractor is required to attend a prestart meeting with the Contractor prior to commencement of the Works at the Site.

1.16 Samples and Prototypes

The Subcontractor is to provide samples for all project deliverables for the Contractor's written approval. Samples are to be clearly labelled with the type and proposed location at the Site and must demonstrate the proposed product, finish or structure and must represent the final use of the product. Approval to proceed with or incorporate any samples into the Works is required to be given by the Contractor. However, this does not negate the Subcontractor's responsibility to ensure the samples are fitness for purpose.

Samples are required for items that are specified or nominated for use within the Subcontract documentation.

~~Samples are generally required to be set up onsite where connection to a substrate is required, and/or in a movable form. The Contractor may request samples or prototypes to be set up offsite.~~

1.17 Survey and Set Out

The Contractor will provide grids and datum points for the set out of the Subcontractor's Works.

All other surveying needs are required to be provided by the Subcontractor.

1.18 Authorities

The Subcontractor acknowledges and agrees that the following costs have been allowed for in the Subcontract Price:

- i. liaising with relevant authorities in relation to the Subcontract Works;
- ii. all inspections and certifications in connection with the Subcontract Works;
- iii. all fees for connections to authority infrastructure for the Subcontract Works;
- iv. compliance with all Australian Standards, the Building Code of Australia, development approvals and conditions and all authority requirements;
- v. compliance with all relevant local, state, national, professional, regulatory or statutory authority requirements as specified or otherwise required for the Subcontract Works;
- vi. all fees and notices to these authorities as specified or otherwise required by the Contractor;

Signature

Date

23/03/2022

1.19 Co-ordination

The co-ordination of the Subcontract Works is the responsibility of Subcontractor. Any additional works, corrective and re-works due to a lack of co-ordination is the Subcontractor's responsibility.

The Subcontractor must attend any design development and construction progress co-ordination meetings as required by the Contractor.

1.20 Form of Subcontract

The Subcontractor accepts the terms of the Subcontract in its entirety.

The Subcontractor has reviewed the Subcontract and has included all necessary provisions for carrying out the Works in accordance with the Subcontract.

1.21 Works in Connection

The Subcontractor has allowed for all works in connection with the Subcontract Works, which may be required to be performed by others, in the Subcontract Price.

The Subcontractor is to familiarise themselves with any as-built condition on site and allow all costs for the adoption and integration as necessary of existing works into the completed Works, including, but not limited to, connection and commissioning of all building services. For the avoidance of doubt, this includes allowing all cost and work associated with the acceptance by relevant government agency of any part of the Work both on and off maintenance.

1.22 Site Storage

There will be no storage of plant, tools, equipment or materials onsite, unless otherwise agreed by the Contractor. Any costs incurred for offsite storage, transport and holding is borne by the Subcontractor.

The Subcontractor is responsible for the safekeeping of all tools, material, equipment and any loss due to fire, flood, theft or otherwise of these items.

1.23 Waste Management

The Subcontractor is required to regularly remove all rubbish to the bins provided and upon request by the Contractor. Any failure of the Subcontractor to comply with a request will result in back charges for cleaning up, which will be borne by the Subcontractor.

Site cleans are required to be done by the Subcontractor on a daily basis, and as requested by the Contractor. The Subcontractor is to provide labour for any joint site cleans required at times to be nominated by the Contractor.

The Subcontractor is required to keep the Site in a tidy and organised state at all times, including managing loading and disposal of waste arising out of the Subcontract Works, in accordance with the waste management plan.

Pallets, polystyrene, boxes and bulked waste must not be placed (in whole or broken down form) at a waste point provided by the Contractor. Such waste is required to be removed from the Site and disposed of by the Subcontractor. The Subcontractor must break up or remove all pallets from site as directed by the Main Contractor.

All spoil created by the Subcontractor is required to be removed from the Site progressively as required. Stockpiles are not permitted onsite. Any costs necessary for compliance will be borne by the Subcontractor.

The Subcontractor is to take all measures necessary to keep all roads, streets, local authority assets, pavements and footpaths free and clear of any debris, dust, rubbish and loose materials.

The Subcontractor is to take all measures necessary to minimise nuisance from dust and noise affecting adjoining properties and the public generally.

The costs for and associated with the disposal of materials, sundries, installed elements where removed due to defective works, reworks or damage, is borne by the Subcontractor.

1.24 Materials Handling

The cost to establish, manage, maintain and operate all equipment necessary to transport, load, unload, lift handle and move materials associated with or arising out of the Works on, across or over the Site has been included by the Subcontractor in the Subcontract Price.

The Subcontractor is also required to maintain and operate materials handling equipment.

1.25 Temporary Services

Where the Contractor has agreed to supply water and/or power to the Subcontractor for their free use, no responsibility is taken for continuity of supply of these items where disruption may occur due to shut downs by supply authorities, temporary shutdowns for safety or maintenance purposes, or loss of supply due to damage caused by other contractors on the Project.

The Subcontractor is to make adequate provisions for continuity of the Works, i.e. provide small generators, stored water, battery operated tools, and any other items required.

Signature  Date 23/03/2022

1.26 Site Power

The Contractor will supply 240V Power for the use of the Subcontractor for small tools. The power will be supplied at a distance no greater than 50 metres from the Site.

The cost of connections from temporary boards to tools and site sheds is the responsibility of the Subcontractor.

Three-phase power will not be available.

Lead stands and hooks are to be provided by the Subcontractor.

The Subcontractor is to ensure regular safety checks are carried out on all hand held power tools, leads and plugs by a licensed electrician.

~~The Subcontractor may be required to provide a generator for early works and works prior to a permanent power connection to Site. The cost of this is to be borne by the Subcontractor.~~

1.27 Mobile Elevated Working Platforms (MEWP)

The Subcontractor is required to establish, manage, maintain, operate and dismantle all horizontal and vertical transportation on the Site as required. The Subcontractor will provide all necessary vertical movements of equipment and any back propping, including structural certification of the back propping, and support required as a result of the Subcontractor's plant selection, usage, or tasks being undertaken under the Subcontract Works.

The Subcontractor has allowed for all platforms, scaffolding and access structures necessary for the undertaking of the Subcontract Works.

1.28 Temporary Barricades and Access Ways

The Subcontractor shall supply, install, maintain, certify and dismantle all:

- i. temporary fences, hoardings screens, guards, handrails and barriers specific to the Works areas;
- ii. temporary safety and directional signage;
- iii. ~~temporary roads, paths walkways, driveways and measures for safe driveway crossing;~~

1.29 Traffic Control

~~The Subcontractor has included the traffic control of materials and plant deliveries, Site access by labour and other resources in the Subcontract Price.~~

~~When working outside the Site compound, the Subcontractor has also allowed for the following in the Subcontract Price:~~

- i. ~~Council fees, road opening permits, authority inspections;~~
- ii. ~~traffic control plans;~~
- iii. ~~Council approvals;~~

The Subcontractor is to comply with the site traffic management plan and notes the time restrictions to traffic entering and exiting the Site and routes away from the Site. All traffic management is to be provided by the Subcontractor for vehicles entering and leaving the Site.

~~The Subcontractor is required to erect pedestrian barriers at the Site entrance to close the pedestrian pathway when trucks are entering and leaving the Site.~~

The Subcontractor has read and understands the Contractor's traffic management plan and will conform to the plan in its entirety. If any amendments are required for specific construction sequences, the Subcontractor is to provide an alternate plan to the Contractor for approval at least 5 Business Days prior to the proposed commencement of the Works.

1.30 Licences and Certification

The Subcontractor must provide copies of all relevant licences and registrations prior to commencement of the Works at the Site, and upon direction by the Contractor.

The Subcontractor must ensure that all notifications, certifications and compliance documentation required for the Works are submitted to all required authorities.

1.31 Protection

The Subcontractor must provide soft and hard protection to finished surfaces to the satisfaction of the Contractor. The protection is to be maintained until the project reaches the Date for Completion. These protections must then be removed and disposed of offsite by the Subcontractor.

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1.32 Defects and Defects liability Period (DLP)

The Subcontractor must carry out regular inspections and prepare its own defects register for review by the Contractor at the Date for Completion.

The Contractor will, in addition to the above, issue and manage defects via Procore that the Subcontractor must attend to and finalise to the satisfaction of the Contractor.

Any defects are not deemed to be resolved or finalised until such time that the Contractor has issued in writing a formal close out and acceptance to the Subcontractor.

The Subcontractor is required to prepare and submit to the Contractor for approval a maintenance and testing schedule detailing the periodic maintenance, testing and good practice requirements to be carried out during the defect liability period. This maintenance schedule is to be approved by the Contractor. The Subcontractor is required to carry out the periodic maintenance and testing throughout the defects liability period and provide written confirmation to the Contractor at the time of maintenance and testing.

The Subcontractor will undertake all deliverables required at the Date for Completion and within the defect liability period, as documented within the Subcontract.

1.33 Personnel Checks

~~The Subcontractor must provide police checks to the Contractor of all personnel who will be attending site following Practical Completion of the Head Contract. The police check is to be:~~

- i. ~~No more than two years old; and~~
- ii. ~~Free from any criminal history.~~

~~Personnel will not be permitted on the site following Practical Completion if evidence is not provided at least 5 business days prior to attending site.~~

1.34 Certificate of Occupancy

The Subcontractor will provide all deliverables required for the Contractor or the Principal to be granted a Certificate of Occupancy.

1.35 Media

The Subcontractor shall not disclose any information concerning the project for distribution through any communications media without the Contractor's prior written approval. The Subcontractor shall refer to the Contractor any enquires from any media concerning the project.

1.36 Warranties

The Subcontractor must provide all warranties as required by the Subcontract specification requirements, or as a minimum the industry standard and/or as required by the Australian Standards.

No final payments or retentions will be released to the Subcontractor by the Contractor until the Subcontractor's warranties are received by the Contractor in their entirety.

1.37 Latent Condition

If during the execution of the Works, the Subcontractor discovers a latent condition, the Subcontractor must promptly and where possible before the latent condition is disturbed, give notice to the Contractor. The Subcontractor is to provide written notice to the Contractor within 5 business days after discovering the latent condition.

1.38 Final Inspection of Contract Works

The Subcontractor must carry out a full trade clean prior to hand over of the Site, to the satisfaction of the Contractor.

A trade clean requires the full cleaning of all installed and supplied items, incidentals and general work areas so that no rubbish, dust, marks, debris or evidence of construction remains at the Site.

1.39 Penetrations

~~The Subcontractor must coordinate and carry out the confirming and warranted installation of all penetrations. This includes all fire rating, acoustic treatment and making good of these penetrations as specified or otherwise required by the Contractor.~~

1.40 Coordination with Other Trades

The Subcontractor must coordinate with all other trades on the Site, as required for the completion of the Subcontract Works.

Back charge rate to the Subcontractor for work performed by the Contractor for cleaning up or carrying out minor works that form part of the Subcontractor's Work that the Subcontractor has not completed to program or as directed by the Contractor: \$100.00 per hour.

1.41 Protection of Works

The Subcontractor must carry out all patching and repairing all damage to the Works. Protection of the Works is the sole responsibility of the Subcontractor.

Where damage has occurred, in the first instance the Subcontractor must endeavour to settle the dispute with the party responsible for causing the damage. Should this be unsuccessful the

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subcontractor must provide a report to the Contractor within 48 hours after the damage occurred including:

- i. photographs of the damage occurred;
- ii. date of occurrence;
- iii. description of damage;
- iv. responsible contractor;
- v. record of conversation attempted;
- vi. costs to rectify;

1.42 Task Lighting

The Subcontractor must provide their own task lighting, which conforms to the following minimum standards:

- i. must be a commercially manufactured system;
- ii. all lights are to be guarded;
- iii. lights are to be permanently fixed to stands that have been designed and manufactured for their intended purpose;
- iv. lights and fittings are to be checked and tagged by a certified electrician;
- v. no form of lead light will be acceptable;

1.43 Design

To the extent set out in this Scope of Works, the Subcontractor is responsible for the full design of certain elements of the Works (**Subcontractor's Designed Works**). Subject to the Subcontract documentation, the Subcontractor shall be responsible for the design as set out within this Scope of Works in respect of the Subcontractor's Designed Works. In addition, the Subcontractor is responsible for design verification of the whole of the Works which shall comprise of the verification of design calculations after completing coordinated installation drawings, to ensure correct selection of any elements of the Subcontract Works for review before procurement.

The Subcontractor acknowledges that the status of the design is detailed within the Subcontract documentation and, to the extent that it is responsible for the Design, it has made due allowance for design development of the Subcontractor's Designed Works. Notwithstanding any order of precedence in the Subcontract documentation, to the extent that any conflict occurs between this Scope of Works and any associated design consultant's specification and drawings or Consultant's Certification forming part of the Subcontract, the obligations of the associated design consultant's specification and drawings or Consultant's Certification shall take precedence.

Following the receipt of the detailed design, the Subcontractor will check and verify the specified design duties and confirm compliance therewith through the submission of a formal Technical Submittal. Following such verification, the Subcontractor shall be responsible for, and the Subcontract Price allows for, the selection, supply and installation of plant of adequate capacity to achieve the specified design duties.

Following receipt of the Construction Drawings, the Subcontractor will then produce detailed working / fabrication drawings and will adjust/modify plant duties as necessary to suit the final coordinated design information.

1.44 Design Documents

1. The Subcontractor agrees:
 - (a) that the documents referenced in Subcontract Documents (Design Documents) comprise the entirety of the design;
 - (b) it has inspected and considered the Design Documents; and
 - (c) the Subcontractor warrants that subject to General Trade Inclusions Clause 1.44 Design Documents, items 2 and 4:
 - (i) the Subcontractor is able to carry out WUC and complete the Works in accordance with the Subcontractor's obligations under the Subcontract;
 - (ii) the Design Documents contain sufficient information for the Subcontractor to have made a full and complete assessment of the works required to achieve the design intent; and

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(iii) it has allowed for the supply and installation of all materials and the performance of all WUC to complete the Works in accordance with the Design Documents.

2. If the Subcontractor requires further details regarding the design, the Subcontractor may:
- (a) request further information from the Contractor via a Request for Information (RFI); or
 - (b) ~~prepare and submit a proposal to the Contractor for its approval setting out its solution (which shall be consistent with the intent generally found in the subcontract documents and shall be otherwise consistent with good industry practice), including relevant design details showing any proposed changes to the Design Documents or materials to be used to complete the Works where that solution is adopted (Subcontractor's Design Proposal).~~

The Subcontractor shall not be entitled to any EOT, variation, adjustment to the contract sum or any other Claim in relation to or arising out of an RFI ~~or Subcontractor's Design Proposal~~ except where that RFI ~~or the Subcontractor's Design Proposal~~ addresses a design defect ~~(other than a design defect in a Subcontractor's Design Proposal)~~ for which the Subcontractor is not responsible. For the avoidance of doubt, design defects include any error or omission that would create a non-compliance with legislative requirements. However, any coordination or physical works (including material supply) that are necessarily and obviously required to achieve the design intent, cannot be considered to be required as a result of a design defect

3. ~~If the Subcontractor provides the Contractor with a Subcontractor's Design Proposal under General Trade Inclusions Clause 1.4, item 2(b), the Subcontractor agrees:~~

- (a) ~~the Subcontractor shall be solely responsible for the adequacy of any design provided; and~~
- (b) ~~the Subcontractor warrants that the design the subject of the Subcontractor's Design Proposal will be fit for purpose, comply with all legislative requirements and will not in any way adversely affect any other aspect of the design, specifications or documentation in respect of the Works;~~
- (c) ~~the Subcontractor agrees to fully indemnify the Contractor and Principal in respect of any claim, loss, damage, liability, cost or expense that the Contractor or Principal incurs in respect of the design the subject of the Subcontractor's Design Proposal.~~

4. The Parties agree that the Subcontract is a 'construct only' Subcontract and that ~~other than in respect of the Subcontractor's Design Proposal~~ the Contractor is not responsible for the design or the Design Documents.

5. ~~The Subcontractor shall not commence the construction of any part of the Works for which the Subcontractor requires further details regarding the Subcontractor's Design Proposal until the Contractor has approved the Subcontractor's Design Proposal. The Subcontractor agrees that the Contractor's approval is not to be taken to impose on the Contractor, Principal or Principal's Representative any obligation or liability in respect of the completion of the design of that part of the Works and the Subcontractor is not permitted to make any Claim or seek any relief in respect of its obligations under the Subcontract in respect of such approval.~~

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2.0 Specific Conditions

Painting – Scope of Work

- 2.1** The Subcontractor is required to supply all labour, materials, plant and equipment to design and complete the **Painting** trade package(s) as detailed in accordance with the Subcontract documents, including Main Contract, the Subcontract, this Scope of Works, the drawings, specifications, finishes schedules, schedules, relevant Australian Standards, statutory requirements, authority requirements, local laws, industrial awards, advisory standards, industry codes of practice, workplace health and safety acts and regulations, local council requirements, the Building Code of Australia, Green Building Council of Australia and generally at law.
- 2.2** In addition to the defined works listed in this Scope of Works, the scope and extent of Works includes the supply of all incidental materials and performance of works which are not specifically detailed but are necessary for completion of the Works in accordance with the requirements of this Subcontract.
- 2.3** The Subcontractor's Scope of Works includes everything necessary for the proper and timely completion of the works in a co-ordinated and safe manner, including but not limited to the following items:

Trade Works:

- All works and activities to be carried out and completed in a safe, diligent, professional and tradesman like manner in full compliance with the regulations and requirements of the QLD Workplace Health and Safety Act, Australian Standards, Building Code of Australia, Codes of Practice, Industry Best Practice, QBCC Standards and Tolerances Guide and all other regulatory authority or laws having jurisdiction over the works.

Contract Documents

In addition to the tendering documents, Drawings, Specifications, Schedules and the like which describe the Trade Works, you have been provided access via Procore to the following documents which upon populating will form part of your contract. It is confirmed by the subcontractor that the contents of the documents are accepted, the terms and conditions contained within have been allowed for in submitting a tender and will be the basis to enter into a formal agreement for the Trade Works

- 01 1720M AS 2545-1993 General Cond (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes
- 02 1720M AS2124 Special Cond (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes
- ~~03 1720M Major Works SCA (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes~~
- ~~04 1720M Minor Works SCA (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes~~
- ~~05 1720M Supply Agreement (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes~~
- ~~06 1720M PO Terms & Conditions~~
- 07 1720M PTIM - AS2545
- ~~08 1720M PTIM - Major Works~~
- ~~09 1720M PTIM - Minor Works~~
- 10.01 1720M WHS Conditions of Contract
- 10.02 1720M WHS Management Plan
- 10.03 1720M Cannonvale SS ENV Plan
- 10.04 1720M Cannonvale Quality Plan
- 10.05 1720M Cannonvale Site Safety Rules
- 10.06 Cannonvale Resource Histogram
- 1720M 201007 Doc Register
- 300920 Cannonvale SS Administration & RIC Target Programme
- Resource Histogram
- (SIR) Supplier, Subcontractor Information Form - To be completed to allow the contract to be prepared should your firm not worked with Woollam in the last 12 months

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Woollam Reference Documents

The following reference documents additionally form part of the contract documents

- 0918 CON 002 Woollam Way Construction Manual - Contents Page
- ~~0919 CON 003 Woollam Way Construction Manual - Metal Roofing~~
- ~~0920 CON 004 Woollam Way Construction Manual - Windows and Doors~~
- ~~0921 CON 005 Woollam Way Construction Manual - Mechanical Services~~
- ~~0922 CON 006 Woollam Way Construction Manual - Structural Dimensional Tolerances~~
- ~~0923 CON 007 Woollam Way Construction Manual - Render~~
- 0924 CON 008 Woollam Way Construction Manual - Material Moisture
- ~~0925 CON 009 Woollam Way Construction Manual - Waterproofing In Ground Works~~
- ~~0926 CON 010 Woollam Way Construction Manual - Waterproofing Internal Areas~~
- ~~0927 CON 011 Woollam Way Construction Manual - Waterproofing External Areas~~
- ~~0928 CON 012 Woollam Way Construction Manual - Pools, Spas (Jacuzzi's) and In-Situ Tanks~~
- 0929 CON 013 Woollam Way Construction Manual - Steel Protection
- 0930 CON 014 Woollam Way Construction Manual - Stairways and Ramps
- 0931 CON 015 Woollam Way Construction Manual - Protection of Finished Surfaces
- ~~0932 CON 016 Woollam Way Construction Manual - Acoustic and Fire Separation~~
- 0933 CON 017 Woollam Way Construction Manual - Wall and Ceiling Linings
- 18.01 Silica Safety Alert – For Information
- Scaffolding Plan – Details of the scaffolding layout which will be provided by Woollam on the project. Specific Trade needs further to this will be a requirement of the Trade to provide their own means of access

Trade Documents

- Tender Drawing Register

Generally

- Provide all supervision, labour, materials, plant and equipment necessary to execute and complete the subcontract in accordance with but not limited to following scope of works and issued tender documents, specifications, drawings and reports.
- Include all works and activities to be carried out and completed in a safe, diligent, professional and tradesman like manner in full compliance with the regulations and requirements of the QLD Workplace Health and Safety Act, Australian Standards, Building Code of Australia, Codes of Practice, Industry Best Practice, QBCC Standards and Tolerances Guide and all other regulatory authority or laws having jurisdiction over the works.
- Allow for all works shown on the Architectural Drawings and relevant to your trade within the Architectural Specification.. The works are to be located as per the Architectural Drawings where specifically nominated.
- Submission of Samples as specified is required within 4 weeks of project award.
- The Subcontractor to have on site a competent full-time site supervisor for when they are undertaking there works. Subcontractors meetings will be held each week, with a review of the progress of the works against the 4 week look ahead program, and with the issue of an expanded time frame version for further planning and subcontractor resourcing. Coordination between the trades will be discussed as well as general site items.

Project Staging

The project itself is not staged and is a continuous build.

Subcontract Staging

N/A

WH&S

The Trade Contractor has reviewed the Site Workplace Health and Safety Plans and has allowed compliance within the Contract Sum.

- It is a site requirement that the wearing of Hardhats is mandatory. Gloves, Protective Glasses are to be on the worker and worn in undertaking work
- Long Sleeve Hi Vis Shirts are mandatory
- All PPE required to undertake the Trade Contractors Tasks will be supplied and Fit for Purpose

Preliminaries

The Trade Contractor has included

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- The Subcontractor to have on site a competent full-time site supervisor for when they are undertaking there works. This included the attendance at the Project Planning Meetings
- Site Establishment costs
- Site Demobilisation Costs
- Warranties and Guaranties
- Access Equipment required to complete works
- Site inspections as required

Shop Drawings

N/A

As Constructed Drawings

N/A

Material Certification

Details of all Paint Systems are to be submitted for approval before commencement of the works

General Items of work

- The works are to be undertaken in accordance with the construction program
- The Subcontractor is fully conforming with the Contract Documentation.
- Allow to visit site prior to delivery and ensure that suitable access is available for delivery vehicles. All deliveries are to be coordinated with the Head Contractor
- All works are supply and Install unless noted otherwise
- Main Contractor will only provide scaffold in accordance with scaffold mark up. Please note the scaffold mark-up drawings are a contractual document. All other Scaffold Requirements by Subcontractor.
- Include all labour, materials, plant, equipment, fabrication, delivery, access equipment, installation, and warranty of the Painting Works
- All works are supplied and installed as per manufacturers recommendations
- Refer to Section 19 Painting in the Specification
- Refer to the Building Fabric Schedule for specific Details
- Please note there are numerous paint colours to be applied, P# Paint Colours Scope & Location: as documented
- All paint systems are to include Mould Inhibition. Include a mould -inhibiting agent in all paints, use an agent recommended by the paint manufacturer for the paint product.

Internal Painting

- Internal plasterboard ceilings, bulkheads, walls, including wet areas
- Steel door frames
- Timber Doors
- Timber skirtings
- Timber stair treads
- Painting to Timber Reveals, Stairs and Seating (Sealer) as nominate - type SEALT
 - Foyer (G.26)
 - Stair (1.16) Timber Stairs Tiered Seating
 - Timber panelling and openings which are nominated as TIMH TIMS TIMV
 - Reveals to openings (approx. 300m wide) 34.
- Ceiling, Grid ceiling Plasterboard Perforated and Ceiling Tiles Prefinished – No Painting Required
- Ceiling, Non Grid Ceiling, Plasterboard Perforated – Painted as nominated

External Painting

- Note:- Exposed HDG Structural Steel and is not painted
- Note :- Aluminium Sunscreens and the like are Powdercoated Aluminium by Others
- Note:- Walls and Soffits nominated as FCP or FCP1 Cemintel – Barestone Cladding 9mm thick pre-finished fibre cement sheets – No Painting Required
- Note:- Downpipes are either Colourbond or HDG Structural Steel and is not Painted
- Exterior timber doors
- Soffit of Link Awning
- Note:- Concrete Soffit to Stair 2 and Stair Sides are unpainted, as they are Exposed Concrete Anti - graffiti coating is required

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- Note:- Concrete Soffit to Grid 9 - 10, E - F and Sides are unpainted, as they are Exposed Concrete Anti-graffiti coating is required
- Sealer to exposed concrete surfaces
- Anti-graffiti coating to external ground floor blockwork, exposed concrete slabs and FCP / FCP1 wall cladding. Please also refer to RW1, RW2, Refer to Civil Drawing MIS-0614-C005 for extent of Blockwork Retaining walls
- Line Marking - Dulux Roadmaster to External Road & Parking Pavement Surfaces: Refer to Civil drawings for layout - White, except for painting of symbols as per relevant standards sizes and colours - Note:- By Others

External Sealers and Anti-Graffiti Coating

- SEAL - CNF - Concrete Floated Finish By Concrete
- SEAL - Concrete Sealer Water-borne fully-penetrating slow-reacting lithium-silica sealer to all areas of exposed concrete on ground
- SEAL T Sealer, Timber Two component, ultra-low VOC, odourless, water-based, water reducible, non-yellowing aliphatic acrylic polyurethane coating. System to include additives as required to achieve required slip resistance.
- SEAL H - Concrete Sealer, Hydrophobic Water-borne fully-penetrating slow-reacting lithium-silica sealer (colourless, VOC, sodium and potassium-free, non-flammable, non-gelling, not efflorescence inducing, producing insoluble non-crack-inducing compounds, unable to trigger alkali-silicate reaction, and producing no hazardous waste), incorporating silane. Convergent Group Pentra-Sil (244+) to all areas of exposed concrete on ground
- GRT Graffiti Resistance Treatment
Non-toxic, non-carcinogenic, non-flammable, UV resistant single-pack water-borne polymer over-coating for masonry, concrete, painted surfaces, ceramics and metals, on porous substrates non-sacrificial (minimum five years' service on vertical surfaces), sacrificial on non-porous surfaces; paint and permanent marker graffiti removal by hot water power washer @ 7 - 1 OM pa, leaving no discoloration or removed graffiti demarcation lines. Graffiti Resistance Treatment is required to
 - Blockwalls shown both on the Architectural and Civil Drawings
 - All exposed concrete to Ground level shown both on the Architectural and Civil Drawings
 - CFP external wall cladding (FCP or FCP1 Cemintel sheeting) to a height of 3m above ground floor level

Handover

- Supply of 2.5 litres of each paint colour and paint system used
- Supply of 2.5 litres of each sealer type used
- Supply of 2.5 litres of Anti-graffiti cleaner/remover

General Items

- Working hours as per the site times. Note that Saturday is a working day
- All requirements to satisfy & meet OH&S requirements for silica dust.
- Agree with WC's site management the specific sequence and timing for undertaking the works including delivery and unloading times etc.
- Provide WC's site manager, at least five business days prior to commencement of the works, a site-specific Work Method Statement.
- No Spraying of paint is **NOT** permitted
- Low-Opacity Colours. Tint undercoats or provide extra coats as necessary to achieve opacity
- Preparation for Reactive Concrete Sealers - Unless the sealer is applied immediately (before curing), remove curing compounds and contamination, and open the surface to make it as uniformly-receptive as is practicable, to ensure even and adequate penetration by the sealer, e.g. by high pressure (> 34 MPa) water blasting, sludge removal and drying, or by dry-vacuum #80 grinding (confirm the grit # suitability for the required slip resistance) and waste removal.
- Apply paint to internal walls and ceilings including external walls. • Allow to prep timber to receive paint (reveals, architraves, doors & frames etc.).
- Allow to protect adjacent finished surfaces from paint by the use of taping, wrapping, covering, drop sheets etc.
- Allow to prepare surfaces for paint including applying gap filler where required and filling & sanding nail & screw holes.
- Allow for masking and cutting in paintwork around fittings, fixtures, joinery items etc where required cleaning of any overrun paint.
- All Floors are to be protected by the use of Drop sheets.

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- External Concrete is a finished product. Protect by the use of Drop sheets
Waste material, rags and trash will be removed from site daily. Clean all tools and equipment away from walls of building in accordance with Environmental & WHS requirements and local council regulations.
- Doors: Exterior face of door leaf, Luminance Contrast required
- Doors: Interior face of door leaf, Luminance Contrast required
- Doors: Interior doors, Luminance Contrast required
- All paint finishes to have a 3-coat system using the products specified in the project documentation
- All paint used on the project to be as specified.
- All colour selections are to be confirmed by the Architect prior to the works commencing.
- The subcontractor is to ensure all door hardware including hinges, striker plates and the like are adequately protected and not painted. And hardware that is painted is to be thoroughly cleaned by the painter, and/or replaced by the subcontractor if damaged.
- The subcontractor is to ensure all timber doors are sealed and painted on the top and bottom edges.
- The subcontractor has allowed to complete final touch ups of all painted surfaces prior to completion of the works as instructed by Woollam Constructions.
- All door hardware, switches, GPO plates, fittings and the like will be fitted off after final paint.
- The subcontractor will prepare all painted surfaces including but not limited to gapping, punching miscellaneous nails, puttying, filling and sealing minor gaps and cracks, caulking, filling nail holes, screw holes and the like and all other surface preparation required to complete the works to a high standard and to the satisfaction of Woollam Constructions
- The subcontractor is to ensure that all setting, sealers, fillers, caulking, putty and other surface preparation products are compatible with the surfaces and the paint system specified.
- External scaffold will be supplied by Woollam Constructions. All other internal access is the responsibility of the subcontractor.
- The subcontractor has allowed to clean all work areas daily prior to leaving site. Any work area left untidy will be cleaned by Woollam Constructions, with all costs being the subcontractor's responsibility.
- The subcontractor will only clean their equipment in the designated cleaning areas specified by Woollam Constructions. No cleaning out down stormwater pits or internal drains will be permitted.
- The subcontractor has allowed to protect all their works and adjoining surfaces that are to be retained when carrying out their works. Damage caused to the works and adjoining surfaces will be rectified by the subcontractor at their expense. Subcontractor will provide and place "Finished painting" signage.
- The subcontractor is to ensure that regardless of the number of coats specified in the paint systems, if full opaque finish or coverage of the painted surface is not achieved, apply further coats until full opacity and coverage is achieved. All responsibility for this coverage will be held by the subcontractor.
- All finishes are to be in accordance with the external and internal finishes schedules. Where there is conflicting information, the subcontractor is deemed to have allowed for the more onerous of the two, and must seek clarification from Woollam Constructions prior to proceeding with the works.
- The subcontractor is aware the project will require multiple establishments and has included this in the tender sum.
- The subcontractor agrees that if the construction programme is not maintained that the subcontractor will provide additional resources to catch up.
- The subcontractor is aware that multiple areas will be required to be painted simultaneously and has allowed for this provision.
- The subcontractor is to allow for full preparation of all surfaces to receive paint finishes prior to application including all filling, sanding, wiping down, priming, sealing and other preparatory work as required to achieve the required standard of finish approved by the Builder.
- The subcontractor is to allow for the protection of all adjoining works against splashing or spillage.
- The subcontractor is to allow for the full masking and cutting-in paintwork around all fittings, skirting, windows, joinery, openings, switchboards, etc where required.
- The subcontractor is to allow for the final inspection of all finished surfaces included in the subcontract and patching to all defective areas as directed by the Builder prior to issue of Practical Completion Certificate.
- Paint defects have been allowed, however damages done by other trades will be back charge to relevant trades.
- Allow to trade clean all areas following completion of the installation works
- Provide Warranties / Guarantees for all elements installed.
- Site inspections as required.
- All Commissioning, training, reports, ITP.
- 52 Week End Defects Liability Period (from the Projects Date of Practical Completion).

Reference Notes:

The Subcontractor has reviewed all drawings and specifications to identify interface and coordination works.

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Subcontractors meetings will be held each week, with a review of the progress of the works against the 4 week look ahead program, and with the issue of an expanded time frame version for further planning and subcontractor resourcing. Coordination between the trades will be discussed as well as general site items.

Variation Works not included within this Contract

The following works are to be treated as a variation to this Subcontract

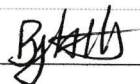
- Nil

Trade Exclusions

- Nil

- 2.4** The Subcontractor's drivers and operators of plant and machinery must be suitably qualified to operate the equipment. All deliveries to be made by Body Truck only. The Subcontractor is to ensure that a representative is on site to accept and coordinate all deliveries. Deliveries are to be confirmed with the Main Contractor 48 hours prior.
- 2.5** The Subcontract must supply all labour, plant, equipment and materials necessary to complete the Works in accordance with the drawings, specifications, documentation, Works Programme and the relevant Australian Standards, statutory requirements and professional standards, including everything necessary for the proper and timely completion in a properly coordinated and safe manner.
- 2.6** The main contractor is willing to supply a sample of all appliances and Sanitary / Sundry Hardware at the request of the subcontractor for use during the design / manufacture phase of joinery works. The subcontractor shall be responsible for ensuring these appliances are not damaged, and returned to site for use on the project.
- 2.7** Allow to protect all works and repair or replace any damaged items until Practical Completion of the works, and / or unit sign off & acceptance by the main contractor. Note: Defects following sign off are still the responsibility of the subcontractor.
- 2.8** Fire rated party walls are not to be penetrated
- 2.9** The subcontractor understands and accepts that there is minor errors within the project documentation and has allowed for the greater of the scope in all cases. Slight changes to documentation whereby detail is implied or could be reasonably anticipated as required shall be included within this scope of works and not give effect to delay, nor additional costs.
- 2.10** Precautions must be taken to endure that there is no health or safety risk to others when toxic or volatile elements are used. Any such substances shall comply with all Statute and Safety Regulations in this regard.
- 2.11** The Subcontractor confirms that "alternatives" or "equals" are to be submitted in accordance with the Project documentation. These must not be offered unless the conforming product is not suitable for its specified use, is no longer available or will cause delays to the Works Programme.
- 2.12** The Subcontractor must provide all materials in accordance with the Project documentation and the Subcontract.
- 2.13** The Subcontractor must comply with all requirements and deliverables of the Project specifications. Any deviation from these requirements will forfeit the Subcontractor's claim to additional works from onsite conditions.
- 2.14** The Subcontractor must verify and coordinate all existing datum points prior to commencement of the Works. The Contractor will provide grids and datum points only, and the Subcontractor is responsible to ensure accuracy. All other surveying needs are required to be provided by the Subcontractor. All setout is the responsibility of the Subcontractor.
- 2.15** Inspections are to be undertaken in accordance with the requirements of the Contractor and the Project documentation. The Subcontractor must allow the Contractor to photograph and document all works prior to sheeting and concealment of those works.
- 2.16** The Subcontractor accepts that the Principal will be undertaking works that will affect or influence the sequence and undertaking of the Subcontract Works. The Subcontractor is required to coordinate and assist in these works.
- 2.17** The Subcontractor must provide the Contractor with at least 2 Business Days' notice when any inspections are required. The Subcontractor is to undertake all inspections nominated within the Project Documentation.

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- 2.18** The Subcontractor has allowed for co-ordination between other structures, services and finishes trades. No claims will be accepted by the Contractor for additional works undertaken as a result of a lack of co-ordination between the Subcontractor and trades.
- 2.19** The Subcontractor accepts the sample approval process and agrees to submit all systems for approval to the Contractor prior to the manufacture, fabrication or ordering of any materials.
- 2.20** Where there are multiple options for the supply, finishing or installation of works generally or installation methods are specified, the Subcontractor must allow for the greater of the options.
- 2.21** The Subcontractor is responsible for all rails, barricades, lighting, scaffolds and warning lights required to carry out the Work in accordance with all statutory safety requirements.
- 2.22** The Subcontractor must advise the Contractor on approval and lead times on delivery of fittings as well as design co-ordination.
- 2.23** The Subcontractor has allowed to manufacture, deliver, unload, hoist, lower, erect and fix all its trades elements.
- 2.24** All set out by Subcontractor. Woollam will provide survey as per survey markup
- 2.25** The Subcontractor has allowed for the set out of works in accordance with the latest revision of documentation. The Main Contractor will provide Datum and Grid Lines only to allow the Subcontractor to set out from these points as required. The Main Contractor will provide survey in line with the Survey mark-ups.

Signature



Date

23/03/2022

3.0 Administration

- 3.1** In addition to the conditions of the Subcontract, the Subcontractor must submit the following information with any claimed Variations:
- written direction of the variation as directed by the Contractor;
 - signed works / dayworks sheets, including hours worked on the variation works and a record of materials purchased and used;
 - receipts for purchased goods and proof of payment where requested by the Contractor;
 - any other information deemed necessary by the Contractor for assessment of the claim;
 - Variations must be claimed in accordance with the approved hourly rates and material rates stated within this section;
 - Variations must be accompanied by a Statutory Declaration;
- 3.2** The Subcontractor must ensure that all Variations made under the Subcontract are submitted to the Contractor within the required timeframes. The Contractor recommends that the Subcontractor communicate this with all onsite, administration, management and support staff employed by the Subcontractor and who are associated with the Project.
- 3.3** Client staff, representatives, contractors or consultants will be on site for all or part of the Works in a supervisory and reporting capacity. Any such staff have no contractual authority and cannot provide direction to the Subcontractor. If any directions and/or discussions are had between the Subcontractor and any such staff, the Subcontractor must notify the Contractor immediately.
- Only a written direction issued by the Contractor to the Subcontractor will be considered a direction under the Subcontract.
- 3.4** The rates provided below are inclusive of men, materials, profit, float, delivery, associated fees, supervision and attendance. Other rates applicable are as follows (GST exclusive):
- Site Workforce, per hour:
- Tradesman, per hour: \$65.00
- Labourer, per hour: \$
- Apprentice, per hour: \$45.00
- Excavate only, per M3 (net in ground): \$
- Transport only, per M3 (net in ground): \$
- Disposal only, per M3 (net in ground): \$
- 3.5** Wet hire, per hour, 3 tonne excavator: \$
- Wet hire, per hour, 5 tonne excavator: \$
- Wet hire, per hour, 10 tonne excavator: \$
- Wet hire, per hour, 15 tonne excavator: \$
- Wet hour, per hour, rockbreaker: \$
- Concrete removal, per tonne: \$
- The above machinery rates are deemed to include all attachments.
- Bulking factors are agreed as per the below:
- [insert]
- 3.6** The Subcontractor accepts that the signing or authorisation of any day sheets by the Contractor is in no way a deemed acceptance that the Works are additional to, or a variation to, the Subcontract.
- 3.7** The Subcontractor accepts that the signing of ITP's or Subcontractor produced quality assurance measures by the Contractor is in no way a deemed acceptance or negates the Subcontractor's responsibilities under the Subcontract.
- 3.8** Completed ITPs are required to be submitted with Progress Claims on the 25th of the Month for all works being claimed. Payment of works without completed ITPs will not be made as this is a condition of the Head Contract. Any request by the Contractor for additional information is to be provided within 24 hours of requests being made.
- 3.9** The Subcontractor must submit detailed drawings where changes to layouts are proposed. The Subcontractor must obtain prior written approval from the Contractor prior to making any changes to a consultant's design.

Signature



Date

23/03/2022

The Contractor may request the following information from the Subcontractor to substantiate a Payment Claim or other Claim made under the Subcontract. The following is required to be made available by the Subcontractor within 24 hours of a request from the Contractor:

3.10

- i. mark-ups of completed and/or claimed works;
- ii. evidence of payment for claimed items;
- iii. evidence of ITP's completed for a particular element;
- iv. evidence of the claimed element being free of defects;
- v. warranties and certifications applicable to the claimed elements and works;
- vi. any other information as requested by the Contractor;

Signature



Date

23/03/2022

4.0 Completion

- 4.1** In addition to the requirements of this Subcontract, the Subcontractor is to ensure that Completion documentation is submitted as per the below.
- 4.2** The Subcontractor must prepare and submit one electronic maintenance manual in accordance with the requirements of the Contractor.
- 4.3** The Subcontractor must prepare and submit As Built documentation to the satisfaction of the Contractor. The Subcontractor must revise as required until approved by the Contractor.

The Subcontractor agrees that As-Built Drawings and Operation & Maintenance Manual documentation:

- a) are to be delivered to the Contractor in a complete but draft format (draft documents) 8 weeks prior to Practical Completion;
- b) the Contractor will review the draft documents and provide written approval or rejection of the draft documents in his discretion with comments;
- c) if the Contractor rejects the draft documents the Subcontractor will amend the draft documents addressing any comments by the Contractor within a further 10 business days and resubmit the draft documents to the Contractor;
- d) the Contractor will review the resubmitted draft documents and provide written approval or rejection of the revised draft documents with comments;
- e) approval of draft documents is a condition of Practical Completion and the Subcontractor will be liable for the full amount of liquidated damages until the Contractor approves the draft documentation;
- f) if the Contractor rejects the draft documentation a second or subsequent time:
 - i. the Subcontractor is not entitled to amend and resubmit the draft documents a further time unless the Contractor requests the Subcontractor to do so in writing;
 - ii. the costs and expenses of:
 - A. the Contractor;
 - B. the Principal;
 - C. the Principal's Representative; and
 - D. any third part consultant or contractor,
 in amending or finalising the draft documents will be due and payable by the Subcontractor as a debt due to the Contractor.
 - iii. the Subcontractor agrees to indemnify the Contractor in relation to any cost or expense of having the draft documents finalised including:
 - A. the Contractor's own costs and expenses;
 - B. the Contractor's costs and expenses in relation to engaging any third-party consultant or contractor to amend or finalise the draft documents.
 - C. the Principal's own costs and expenses;
 - D. the Principal's Representative's costs and expenses; and
 - E. the Principal's costs and expenses in relation to engaging any third-party consultant or contractor to amend or finalise the draft documents.
 - iv. Without prejudice to any other rights the Contractor may have including but not limited to any right of set-off, the Contractor shall be entitled to have immediate recourse to the security without notice to the Subcontractor to recover any costs or expenses in relation to amending or finalising the draft documents.
- g) It is a condition of the achievement of practical completion that the draft documents are finalised and approved in writing by the Contractor.

Signature

Date

23/03/2022

- 4.5** Submission of all documentation is to be made available electronically. Locked, illegible or unusable documents will not be accepted by the Contractor.
- 4.6** The Subcontractor must provide Form 16s for each element of the Works as certification, statement and guarantee that the Works have been undertaken as per the design and in accordance with all applicable Australian Standards, codes, practices and in accordance with the Project specifications.
- 4.7** The Subcontractor must provide the contact details for the main point of contact within the Defects Liability Period. The nominated individual is to be available at all hours in the case of an emergency, major defect or the failure of installed or supplied works.
- 4.8** The Subcontractor must also provide a point of contact for supplied items. This point of contact must include a general sales contact and a nominated individual who is able to attend to any faulty items during the life of the supplied items.
- 4.9** Regardless of trade, the Subcontractor must submit signed off drawings verifying that the Works have been completed in accordance with the Subcontract drawings.
- 4.10** The Contractor reserves the right to request certificates and warranties necessary for the certified completion of the Project to be submitted by the Subcontractor in staged elements. The Subcontractor must note that where this is undertaken, a final certificate guaranteeing works as a whole will also need to be completed and submitted to the Contractor.
- 4.11** The Contractor reserves the right to request submitted documentation be modified and resubmitted, and/or additional information provided by the Subcontractor.
- 4.13** Warranties supplied by the Subcontractor must commence at the date of the Contractor's practical completion under the Main Contract and be in accordance with the requirements of the Subcontract. Where two documents contradict one another, the Subcontractor must allow for the greater of these warranties.
- 4.14** Warranties are to be submitted as registered to the Subcontractor throughout the course of the Works, and changed as registered to the Principal upon practical completion of the Project.
- 4.15** The Contractor may, at its discretion, implement systems for the handover process and these systems are to be adopted by the Subcontractor. The Subcontractor is responsible for all training and administration necessary to administer and fulfil handover requirements as required by the Contractor.
- 4.16** The Subcontractor is aware that the above will form a requirement to the release of security or retention money (if any) and final account settlement following completion of the Works.

Signature



Date

23/03/2022

Cladding, Linings, Partitions

Revision **B**

1720M – Cannonvale SS Administration and Resource Centre

Department of Education and Training, Cannonvale State School (DET Proj. #34-154626116) located at 56 Coral Esplanade, Cannonvale QLD 4802.

Woollam Constructions (ABN 94 009 676 064)

and

BG Group NQ Pty Ltd (ABN 37 085 810 975)

23 March 2022

QUEENSLAND : NEW SOUTH WALES : WESTERN AUSTRALIA

A "TF Woollam & Son Pty Ltd" Company ABN 94 009 676 064 ACN 009 676 064 QBCC 1343 NSW 165793C WA 101767

CONTACT : BRISBANE OFFICE : 1300 WOOLLAM : 71 LYTTON ROAD EAST BRISBANE 4169 : www.woollamconstructions.com.au

1.0 General Trade Inclusions

1.1 Preamble

This Subcontract is a lump sum fixed price contract. It is for the complete design, supply, supervision, provision of materials, materials handling, installation, certification, maintenance and compliance of the Works to be completed by the Subcontractor under the Subcontract. The Subcontract Price includes full compliance with the following project documentation:

- the Main Contract General Conditions, Special Conditions, Annexures and Attachments entered into between the Principal and the Contractor;
- the Subcontract General Conditions, Special Conditions, Annexures and Attachments entered into between the Contractor and the Subcontractor;
- the Scope of Works;
- any Project Documentation, including drawings, specifications, performance requirements and reports;
- any Consultant's Certifications, including directions, specifications, performance requirements and drawings;
- any finishes schedules;
- any traffic assessment and traffic management plans, which may vary throughout the course of the Works;
- "Woollam Constructions Onsite Rules";
- any operational or facility requirements of the adjacent or adjoining areas of the Site and the local environment;
- any development approvals or building approvals, and all conditions and requirements imposed with these approvals;
- any fire engineering and acoustic reports;
- any geotechnical investigations;
- any "Section J" reports;
- all applicable Australian Standards, the Building Code of Australia and any requirements of regulatory authorities;
- all local and governing authority requirements, fees and standards;
- any document register / transmittals;

1.2 Working Hours

The Site working hours are:

- Monday – Friday: 6:30am – 6:30pm
- Saturday: 6:30am – 6:30pm

Any changes to the working hours are at the discretion of the Contractor.

Should the Subcontractor require access or supervision to the Site outside of the working hours, this may be able to be provided by the Contractor at its discretion on a cost reimbursement basis.

It is anticipated that the Subcontractor will be on the Site during all normal Site working hours, including Saturdays.

1.3 Order of Precedence

The Subcontractor acknowledges the order of precedence applicable to this Subcontract, as outlined in the Formal Instrument of Agreement.

1.4 Tender Quotation

Any tender quotations provided prior to this Scope of Works are superseded by the Subcontract Price agreed between the parties. This includes any bills of quantities provided by the Contractor, the Subcontractor or a third party.

The Subcontract Agreement contains the Subcontract Price for the required works as documented within the Subcontract Documents contained within the Subcontract Agreement which is agreed between the parties.

1.5 Shop Drawings

The Contractor may require the Subcontractor to complete shop drawings prior to the manufacture of items for installation on the Project.

Shop drawings are to be completed in accordance with the agreed Works Programme, specifications and any additional requirements of the Contractor at its discretion. Shop drawn elements must not be

Signature _____ Date _____

placed into manufacture until the Subcontractor has received formal approval to proceed from the Contractor. The Subcontractor will give the Contractor 2 Business Days written notice prior to commencing the manufacture, fabrication or finishes for each construction stage of the Works.

1.6 Document Transfer

"Procore & Outlook" will be utilised for this Project. Procore & Outlook is an internet-based file sharing software allowing for the transfer of documentation between parties.

Procore is free internet software that can be downloaded at www.procore.com.

Throughout the course of the Project, the Contractor will send individual notifications of an update to a document to the Subcontractor through Procore & Outlook. It is the Subcontractor's responsibility to ensure that construction of the Works is in accordance with the most current revision of a document.

The Subcontractor should check Procore & Outlook on a regular basis to ensure that current drawings and other documentation is used, and that onsite access has been made available to all required representatives of the Subcontractor. The Contractor will not send any hard copy drawings or drawing transmittals to the Subcontractor.

The Contractor will not accept claims for any additional works or costs incurred by the Subcontractor due to the Subcontractor's use of or reliance upon superseded documentation.

Any additional, remediation or corrective works required to be undertaken by the Subcontractor due to the Subcontractor's use of or reliance upon superseded documentation will be at the cost of the Subcontractor. The Subcontractor will also bear the costs of any acceleration or delays to the Works due to any additional, remediation or corrective works required to be undertaken.

1.7 Subcontract Documentation

On receipt of the Subcontract, the Subcontractor will check all documents relating to the Works and notify the Contractor in writing of any discrepancies or errors prior to commencement of the Works.

The Subcontractor is responsible for constructing the Works to the size requirements and in the locations shown on the Subcontract documents, or as directed by the Contractor. If any Site measurements differ from designed dimensions in the Subcontract documents, the Subcontractor will notify the Contractor in writing of the discrepancies and seek direction from the Contractor prior to fabricating or commencing installation of the Works at the Site.

Should any discrepancies occur in the Subcontract documents, the Subcontractor is to provide those of the highest standards when completing the Works.

1.8 Dimensional Coordination and Tolerances

The Subcontractor will carry out Site measurements prior to the manufacture and installation of any items in order to ensure dimensional coordination with previously installed works at the Site.

The Subcontractor will not be entitled to claim for a Variation or an Extension of Time for any failures to achieve dimensional coordination with previously installed works at the Site.

The Subcontractor is also responsible for achieving the required tolerances. This responsibility is not negated if assistance is provided by the Contractor.

Any areas not conforming to the Subcontract documents will be required to be rectified by the Subcontractor as directed by the Contractor. Any failure of the Subcontractor to carry out a rectification as directed by the Contractor will result in the Contractor having the work carried out by others and these costs being borne by the Subcontractor.

The Subcontractor accepts the allowable tolerances of other trades and parties connected with the Works. The Subcontractor agrees that modifications or additional works may be required due to tolerances of other trades or parties and that this will not be at any additional cost to the Contractor.

The Subcontractor is required to ensure that all tolerances required by the Subcontract specifications, Australian Standards, the Building Code of Australia and best industry practice are achieved with its Works under the Subcontract.

1.9 Temporary Works and Dewatering

~~The Subcontractor has allowed for all temporary works required for the completion of the Works in the Subcontract Price agreed under the Subcontract.~~

~~All measures of dewatering required for the Subcontractor's own and others works in connection with the Works under the Subcontract has also been allowed.~~

1.10 Construction Team Supervisor and Project Manager

The Subcontractor is to allow for a full time supervisor on Site during the Site working hours to supervise the provision of labour, materials and plant.

Signature _____ Date _____

The supervisor is required to accept and act on any directions or site instructions issued by the Contractor. The supervisor is also required to check all works carried out by others which are likely to affect the installation of the Subcontractor's Works and report any irregularities directly to the Contractor's site representative.

The Subcontractor's supervisor is required to meet the following criteria:

- i. holds a current supervisor's licence;
- ii. holds the relevant license or certificate for the particular Works under the Subcontract;
- iii. has received appropriate formal training relevant to the particular Works under the Subcontract;
- iv. has read and is familiar with this Scope of Works and any applicable specifications or project documentation;
- v. has appropriate training in safety procedures;
- vi. is first aid qualified;
- vii. holds all other attributes and qualifications relevant to the role of supervisor for the Works under the Subcontract; and
- viii. has a personal **company** email address.

The Subcontractor's supervisor is required to be able to be contacted via telephone during normal business hours, Site working hours and as otherwise required by the Contractor. The supervisor is also required to attend all Site meetings, coordination meetings and all other meetings as required by the Contractor.

The Subcontractor is to complete the supervisor's details below:

Name:	TBA
Mobile Number:	
Email Address:	

The Subcontractor is also required to nominate a full time project manager who will be the point of contact in any circumstances necessary as determined by the Contractor.

The Subcontractor's project manager is required to be able to be contacted via telephone at all times and is the emergency contact for the Subcontractor. The project manager is also required to attend all Site meetings, coordination meetings and all other meetings as required by the Contractor.

The Subcontractor's project manager is required to have a personal **company** email address.

The Subcontractor is to complete the project manager's details below:

Name:	Jacob Hart
Mobile Number:	0400247887
Email Address:	jacob@bgygroupnethgld.com.au

The Contractor reserves the right to request any changes to the Subcontractor's onsite and representative team. These changes must be made within 24 hours and new contact details of the team provided to the Contractor in writing.

The Contractor reserves the right to request additional resources by way of tradesmen, materials, equipment or general labour as required in order for the Subcontractor to complete the Works by the Date for Completion.

1.11 Works Programme

The Subcontractor accepts the Works Programme and has advised the Contractor of any changes necessary associated with the Subcontract Works which must not be inconsistent with the works program under the Main Contract, prior to the contract award. The Date for Completion under the Subcontract is final and agreed between the parties.

The Subcontractor is to allow for all labour necessary to achieve the Works Programme to ensure that the Contractor is not delayed under the Main Contract, including working Saturdays and any other necessary overtime and out of hours works as required by the Contractor. A resource schedule will be

Signature _____ Date _____

completed, accepted by both parties and included in the Subcontract as a reference document as a guide to resource numbers required a various stages of the Project.

The Contractor does not guarantee the Subcontractor continuity of works or works within the documented sequence. The Subcontractor is required to mobilise and remobilise as necessary to suit the Works Programme. Any allowances for the acceleration of elements of the Works for early sign off and acceptance which must be approved by the Contractor has been included by the Subcontractor in the Subcontract Price.

The Subcontractor has also included all staging requirements, including staged completion and hand over of areas in the Subcontract. The Subcontractor has also included any out of sequence works, out of hours works and any arrangements necessary for completion of the Works by the Date for Completion.

1.12 WHS and Environmental

The Subcontractor must comply with all legislative requirements, Codes of Practice, Australian Standards, Contractor required quality assurance, environmental and health and safety policies, procedures and measures which apply to the Subcontract Works. In the event of any inconsistency, the Subcontractor is required to comply with such obligations, procedures or measures to the highest standard of environmental, quality assurance and health and safety protection.

The Subcontractor must comply with all quality assurance, environmental and health and safety policies, procedures and measures implemented, adopted or as directed in writing by the Contractor applicable to the Subcontract or the Main Contract.

The Subcontractor is to promptly submit the full service history and the results from any testing of any of the Subcontractors plant, machinery and tools upon request by the Contractor.

The Subcontractor is required to submit, within 2 days of the Subcontract award, Project specific Safe Work Method Statements (**SWMS**). Failure to do so will delay the Subcontractor's commencement and completion of the Project.

The Subcontractor will also supply any necessary protective clothing and equipment including task specific gloves, eye and ear protection. Woollam sites require all Subcontractors to wear long sleeve plants and shirts.

Radios and other musical devices are not permitted on Site.

All workers will be required to be inducted into the Site Safety System prior to commencing works on site. All workers will be required to attend prestart meetings each morning and sign on to the sites 'Sign on Site' registration system. This will require works to down load the 'Sign on Site' app to their mobile phones.

The Subcontractor is required to comply at all times with the Contractor's environmental systems, quality assurance systems and health and safety systems and requirements.

The Subcontractor must also comply with:

- i. ISO 14001/4:1996 *Environmental Management*;
- ii. AS/NZS 4804:2001 in relation to *Occupational Health and Safety Management*;
- iii. ISO 9001:2008 *Quality Assurance Systems*;

The Subcontractor will immediately notify, in accordance with the Subcontract, the Contractor of any environmental, quality assurance or health and safety incidents which occur at or within the vicinity of the Site.

Construction equipment is required to be fitted with noise suppressors and comply with all provisions of relevant legislation and the requirements of relevant authorities. All jackhammers and other noisy hand held tools are to be fitted with effective silencers of a type recommended by the manufacturers at all times.

Under no circumstances will the Contractor be held liable where the Subcontractor's quality assurance system fails.

1.13 Onsite Amenities and Facilities

All man and materials drop offs are required to be made within allocated drop off zones at the Site. There is to be no parking or unloading at the Site without the prior written approval of the Contractor.

Unless otherwise agreed in writing with the Main Contractor, all vehicle parking is at the discretion of the Main Contractor.

Signature _____ Date _____

Amenities will be provided by the Contractor for use by the Subcontractor. Any damage or mistreatment of these amenities is the responsibility of the Subcontractor, and any costs to make good will be payable by the Subcontractor.

The Subcontractor is to provide its own office and storage facilities, including temporary services. The Contractor will allocate an area on Site if space is available.

Subcontractor signage is not to be displayed at the Site.

The Subcontractor acknowledges and agree the following onsite facilities arrangements:

- i. Lunch sheds to be provided by Woollam Constructions
- ii. Site ablutions to be provided by Woollam Constructions

1.14 Non-Conformances

The Subcontractor, including its representatives, employees, associated parties and sub-subcontractors, will conform with the Main Contract, Site Rules and Codes of Conduct as required by the Contractor at all times.

The Contractor will issue non-conformances to the Subcontractor when required, which must be complied with and remedied by the Subcontractor immediately.

1.15 Quality Assurance

The Subcontractor is required to prepare and submit a Quality Assurance Plan specific to the Project. The Plan is to be approved by the Contractor, and any relevant consultants, prior to commencement of the Works.

The Subcontractor is required to have procedures in place for the monitoring and control of the Works under the Subcontract.

Any documentation relating to the off-site manufacture and construction phases is required to be provided to the Contractor upon request.

The Subcontractor is required to provide the Contractor with its proposed Inspection Test Plans (ITPs) for review at least 5 Business Days prior to commencement of the Works on Site. The Subcontractor must amend the ITPs until determined satisfactory by the Contractor. Completed ITPs are required to be submitted progressively. Progress Claims on the 25th of the Month for all works being claimed. ~~Payment of works without completed ITPs will not be made as this is a condition of the Head Contract.~~

The Subcontractor is required to attend a prestart meeting with the Contractor prior to commencement of the Works at the Site.

1.16 Samples and Prototypes

The Subcontractor is to provide samples for all project deliverables for the Contractor's written approval. Samples are to be clearly labelled with the type and proposed location at the Site and must demonstrate the proposed product, finish or structure and must represent the final use of the product. Approval to proceed with or incorporate any samples into the Works is required to be given by the Contractor. However, this does not negate the Subcontractor's responsibility to ensure the samples are fitness for purpose.

Samples are required for items that are specified or nominated for use within the Subcontract documentation.

~~Samples are generally required to be set up onsite where connection to a substrate is required, and/or in a movable form. The Contractor may request samples or prototypes to be set up offsite.~~

1.17 Survey and Set Out

The Contractor will provide grids and datum points for the set out of the Subcontractor's Works.

All other surveying needs are required to be provided by the Subcontractor.

1.18 Authorities

The Subcontractor acknowledges and agrees that the following costs have been allowed for in the Subcontract Price:

- i. liaising with relevant authorities in relation to the Subcontract Works;
- ii. all inspections and certifications in connection with the Subcontract Works;
- iii. all fees for connections to authority infrastructure for the Subcontract Works;
- iv. compliance with all Australian Standards, the Building Code of Australia, development approvals and conditions and all authority requirements;
- v. compliance with all relevant local, state, national, professional, regulatory or statutory authority requirements as specified or otherwise required for the Subcontract Works;
- vi. all fees and notices to these authorities as specified or otherwise required by the Contractor;

Signature _____ Date _____

1.19 Co-ordination

The co-ordination of the Subcontract Works is the responsibility of Subcontractor. Any additional works, corrective and re-works due to a lack of co-ordination is the Subcontractor's responsibility.

~~The Subcontractor must attend any design development and construction progress co-ordination meetings as required by the Contractor.~~

1.20 Form of Subcontract

The Subcontractor accepts the terms of the Subcontract in its entirety.

The Subcontractor has reviewed the Subcontract and has included all necessary provisions for carrying out the Works in accordance with the Subcontract.

1.21 Works in Connection

The Subcontractor has allowed for all works in connection with the Subcontract Works, which may be required to be performed by others, in the Subcontract Price.

The Subcontractor is to familiarise themselves with any as-built condition on site and allow all costs for the adoption and integration as necessary of existing works into the completed Works, including, but not limited to, connection and commissioning of all building services. For the avoidance of doubt, this includes allowing all cost and work associated with the acceptance by relevant government agency of any part of the Work both on and off maintenance.

1.22 Site Storage

There will be no storage of plant, tools, equipment or materials onsite, unless otherwise agreed by the Contractor. Any costs incurred for offsite storage, transport and holding is borne by the Subcontractor.

The Subcontractor is responsible for the safekeeping of all tools, material, equipment and any loss due to fire, flood, theft or otherwise of these items.

1.23 Waste Management

The Subcontractor is required to regularly remove all rubbish to the bins provided and upon request by the Contractor. Any failure of the Subcontractor to comply with a request will result in back charges for cleaning up, which will be borne by the Subcontractor.

Site cleans are required to be done by the Subcontractor on a daily basis, and as requested by the Contractor. The Subcontractor is to provide labour for any joint site cleans required at times to be nominated by the Contractor.

The Subcontractor is required to keep the Site in a tidy and organised state at all times, including managing loading and disposal of waste arising out of the Subcontract Works, in accordance with the waste management plan.

Pallets, polystyrene, boxes and bulked waste must not be placed (in whole or broken down form) at a waste point provided by the Contractor. Such waste is required to be removed from the Site and disposed of by the Subcontractor. The Subcontractor must break up or remove all pallets from site as directed by the Main Contractor.

All spoil created by the Subcontractor is required to be removed from the Site progressively as required. Stockpiles are not permitted onsite. Any costs necessary for compliance will be borne by the Subcontractor.

The Subcontractor is to take all measures necessary to keep all roads, streets, local authority assets, pavements and footpaths free and clear of any debris, dust, rubbish and loose materials.

The Subcontractor is to take all measures necessary to minimise nuisance from dust and noise affecting adjoining properties and the public generally.

The costs for and associated with the disposal of materials, sundries, installed elements where removed due to defective works, reworks or damage, is borne by the Subcontractor.

1.24 Materials Handling

The cost to establish, manage, maintain and operate all equipment necessary to transport, load, unload, lift handle and move materials associated with or arising out of the Works on, across or over the Site has been included by the Subcontractor in the Subcontract Price.

The Subcontractor is also required to maintain and operate materials handling equipment.

1.25 Temporary Services

Where the Contractor has agreed to supply water and/or power to the Subcontractor for their free use, no responsibility is taken for continuity of supply of these items where disruption may occur due to shut downs by supply authorities, temporary shutdowns for safety or maintenance purposes, or loss of supply due to damage caused by other contractors on the Project.

The Subcontractor is to make adequate provisions for continuity of the Works, i.e. provide small generators, stored water, battery operated tools, and any other items required.

Signature _____ Date _____

1.26 Site Power

The Contractor will supply 240V Power for the use of the Subcontractor for small tools. The power will be supplied at a distance no greater than ~~50~~³⁰ metres from the Site.

The cost of connections from temporary boards to tools and site sheds is the responsibility of the Subcontractor.

Three-phase power will not be available.

Lead stands and hooks are to be provided by the Subcontractor.

The Subcontractor is to ensure regular safety checks are carried out on all hand held power tools, leads and plugs by a licensed electrician.

~~The Subcontractor may be required to provide a generator for early works and works prior to a permanent power connection to Site. The cost of this is to be borne by the Subcontractor.~~

1.27 Mobile Elevated Working Platforms (MEWP)

The Subcontractor is required to establish, manage, maintain, operate and dismantle all horizontal and vertical transportation on the Site as required. The Subcontractor will provide all necessary vertical movements of equipment and any back propping, including structural certification of the back propping, and support required as a result of the Subcontractor's plant selection, usage, or tasks being undertaken under the Subcontract Works.

The Subcontractor has allowed for all platforms, scaffolding and access structures necessary for the undertaking of the Subcontract Works.

1.28 Temporary Barricades and Access Ways

The Subcontractor shall supply, install, maintain, certify and dismantle all:

- i. temporary fences, hoardings screens, guards, handrails and barriers specific to the Works areas;
- ii. temporary safety and directional signage;
- ~~iii. temporary roads, paths walkways, driveways and measures for safe driveway crossing;~~

1.29 Traffic Control

~~The Subcontractor has included the traffic control of materials and plant deliveries, Site access by labour and other resources in the Subcontract Price.~~

~~When working outside the Site compound, the Subcontractor has also allowed for the following in the Subcontract Price:~~

- ~~i. Council fees, road opening permits, authority inspections;~~
- ~~ii. traffic control plans;~~
- ~~iii. Council approvals;~~

The Subcontractor is to comply with the site traffic management plan and notes the time restrictions to traffic entering and exiting the Site and routes away from the Site. All traffic management is to be provided by the Builder for vehicles entering and leaving the Site.

~~The Subcontractor is required to erect pedestrian barriers at the Site entrance to close the pedestrian pathway when trucks are entering and leaving the Site.~~

The Subcontractor has read and understands the Contractor's traffic management plan and will conform to the plan in its entirety. If any amendments are required for specific construction sequences, the Subcontractor is to provide an alternate plan to the Contractor for approval at least 5 Business Days prior to the proposed commencement of the Works.

1.30 Licences and Certification

The Subcontractor must provide copies of all relevant licences and registrations prior to commencement of the Works at the Site, and upon direction by the Contractor.

The Subcontractor must ensure that all notifications, certifications and compliance documentation required for the Works are submitted to all required authorities.

1.31 Protection

The Subcontractor must provide soft and hard protection to finished surfaces to the satisfaction of the Contractor. The protection is to be maintained until the project reaches the Date for Completion. These protections must then be removed and disposed of offsite by the Subcontractor.

Signature _____ Date _____

1.32 Defects and Defects liability Period (DLP)

The Subcontractor must carry out regular inspections and prepare its own defects register for review by the Contractor at the Date for Completion.

The Contractor will, in addition to the above, issue and manage defects via Procore that the Subcontractor must attend to and finalise to the satisfaction of the Contractor.

Any defects are not deemed to be resolved or finalised until such time that the Contractor has issued in writing a formal close out and acceptance to the Subcontractor.

The Subcontractor is required to prepare and submit to the Contractor for approval a maintenance and testing schedule detailing the periodic maintenance, testing and good practice requirements to be carried out during the defect liability period. This maintenance schedule is to be approved by the Contractor. The Subcontractor is required to carry out the periodic maintenance and testing throughout the defects liability period and provide written confirmation to the Contractor at the time of maintenance and testing.

The Subcontractor will undertake all deliverables required at the Date for Completion and within the defect liability period, as documented within the Subcontract.

1.33 Personnel Checks

The Subcontractor must provide police checks to the Contractor of all personnel who will be attending site following Practical Completion of the Head Contract. The police check is to be:

- i. ~~No more than two years old; and~~
- ii. ~~Free from any criminal history.~~

~~Personnel will not be permitted on the site following Practical Completion if evidence is not provided at least 5 business days prior to attending site.~~

1.34 Certificate of Occupancy

The Subcontractor will provide all deliverables required for the Contractor or the Principal to be granted a Certificate of Occupancy.

1.35 Media

The Subcontractor shall not disclose any information concerning the project for distribution through any communications media without the Contractor's prior written approval. The Subcontractor shall refer to the Contractor any enquires from any media concerning the project.

1.36 Warranties

The Subcontractor must provide all warranties as required by the Subcontract specification requirements, or as a minimum the industry standard and/or as required by the Australian Standards.

No final payments or retentions will be released to the Subcontractor by the Contractor until the Subcontractor's warranties are received by the Contractor in their entirety.

1.37 Latent Condition

If during the execution of the Works, the Subcontractor discovers a latent condition, the Subcontractor must promptly and where possible before the latent condition is disturbed, give notice to the Contractor. The Subcontractor is to provide written notice to the Contractor within 5 business days after discovering the latent condition.

1.38 Final Inspection of Contract Works

The Subcontractor must carry out a full trade clean prior to hand over of the Site, to the satisfaction of the Contractor.

A trade clean requires the full cleaning of all installed and supplied items, incidentals and general work areas so that no rubbish, dust, marks, debris or evidence of construction remains at the Site.

1.39 Penetrations

The Subcontractor must coordinate and carry out the confirming and warranted installation of all penetrations. This includes ~~all fire rating~~, acoustic treatment and making good of these penetrations as specified or otherwise required by the Contractor.

1.40 Coordination with Other Trades

The Subcontractor must coordinate with all other trades on the Site, as required for the completion of the Subcontract Works.

~~Back charge rate to the Subcontractor for work performed by the Contractor for cleaning up or carrying out minor works that form part of the Subcontractor's Work that the Subcontractor has not completed to program or as directed by the Contractor: \$100.00 per hour.~~

1.41 Protection of Works

The Subcontractor must carry out all patching and repairing all damage to the Works. Protection of the Works is the sole responsibility of the Subcontractor.

Where damage has occurred, in the first instance the Subcontractor must endeavour to settle the dispute with the party responsible for causing the damage. Should this be unsuccessful the

Signature _____ Date _____

subcontractor must provide a report to the Contractor within ~~48 hours~~ ^{5 days} after the damage occurred including:

- i. photographs of the damage occurred;
- ii. date of occurrence;
- iii. description of damage;
- iv. responsible contractor;
- v. record of conversation attempted;
- vi. costs to rectify;

1.42 Task Lighting

The Subcontractor must provide their own task lighting, which conforms to the following minimum standards:

- i. must be a commercially manufactured system;
- ii. all lights are to be guarded;
- iii. lights are to be permanently fixed to stands that have been designed and manufactured for their intended purpose;
- iv. lights and fittings are to be checked and tagged by a certified electrician;
- v. no form of lead light will be acceptable;

1.43 Design

To the extent set out in this Scope of Works, the Subcontractor is responsible for the full design of certain elements of the Works (**Subcontractor's Designed Works**). Subject to the Subcontract documentation, the Subcontractor shall be responsible for the design as set out within this Scope of Works in respect of the Subcontractor's Designed Works. In addition, the Subcontractor is responsible for design verification of the whole of the Works which shall comprise of the verification of design calculations after completing coordinated installation drawings, to ensure correct selection of any elements of the Subcontract Works for review before procurement.

The Subcontractor acknowledges that the status of the design is detailed within the Subcontract documentation and, to the extent that it is responsible for the Design, it has made due allowance for design development of the Subcontractor's Designed Works. Notwithstanding any order of precedence in the Subcontract documentation, to the extent that any conflict occurs between this Scope of Works and any associated design consultant's specification and drawings or Consultant's Certification forming part of the Subcontract, the obligations of the associated design consultant's specification and drawings or Consultant's Certification shall take precedence.

Following the receipt of the detailed design, the Subcontractor will check and verify the specified design duties and confirm compliance therewith through the submission of a formal Technical Submittal. Following such verification, the Subcontractor shall be responsible for, and the Subcontract Price allows for, the selection, supply and installation of plant of adequate capacity to achieve the specified design duties.

Following receipt of the Construction Drawings, the Subcontractor will then produce detailed working / fabrication drawings and will adjust/modify plant duties as necessary to suit the final coordinated design information.

1.44 Design Documents

1. The Subcontractor agrees:
 - (a) ~~that the documents referenced in Subcontract Documents (Design Documents) comprise the entirety of the design;~~
 - (b) it has inspected and considered the Design Documents; and
 - (c) the Subcontractor warrants that subject to General Trade Inclusions Clause 1.44 Design Documents, items 2 and 4:
 - (i) the Subcontractor is able to carry out WUC and complete the Works in accordance with the Subcontractor's obligations under the Subcontract;
 - (ii) the Design Documents contain sufficient information for the Subcontractor to have made a full and complete assessment of the works required to achieve the design intent; and

Signature _____ Date _____

(iii) it has allowed for the supply and installation of all materials and the performance of all WUC to complete the Works in accordance with the Design Documents.

2. If the Subcontractor requires further details regarding the design, the Subcontractor may:
 - (a) request further information from the Contractor via a Request for Information (RFI); or
 - (b) prepare and submit a proposal to the Contractor for its approval setting out its solution (which shall be consistent with the intent generally found in the subcontract documents and shall be otherwise consistent with good industry practice), including relevant design details showing any proposed changes to the Design Documents or materials to be used to complete the Works where that solution is adopted (Subcontractor's Design Proposal).

The Subcontractor shall not be entitled to any EOT, variation, adjustment to the contract sum or any other Claim in relation to or arising out of an RFI or Subcontractor's Design Proposal except where that RFI or the Subcontractor's Design Proposal addresses a design defect (other than a design defect in a Subcontractor's Design Proposal) for which the Subcontractor is not responsible. For the avoidance of doubt, design defects include any error or omission that would create a non-compliance with legislative requirements. However, any coordination or physical works (including material supply) that are necessarily and obviously required to achieve the design intent, cannot be considered to be required as a result of a design defect

3. If the Subcontractor provides the Contractor with a Subcontractor's Design Proposal under General Trade Inclusions Clause 1.4, item 2(b), the Subcontractor agrees:
 - (a) the Subcontractor shall be solely responsible for the adequacy of any design provided; and
 - (b) the Subcontractor warrants that the design the subject of the Subcontractor's Design Proposal will be fit for purpose, comply with all legislative requirements and will not in any way adversely affect any other aspect of the design, specifications or documentation in respect of the Works;
 - (c) the Subcontractor agrees to fully indemnify the Contractor and Principal in respect of any claim, loss, damage, liability, cost or expense that the Contractor or Principal incurs in respect of the design the subject of the Subcontractor's Design Proposal.
4. The Parties agree that the Subcontract is a 'construct only' Subcontract and that other than in respect of the Subcontractor's Design Proposal the Contractor is not responsible for the design or the Design Documents.
5. The Subcontractor shall not commence the construction of any part of the Works for which the Subcontractor requires further details regarding the Subcontractor's Design Proposal until the Contractor has approved the Subcontractor's Design Proposal. The Subcontractor agrees that the Contractor's approval is not to be taken to impose on the Contractor, Principal or Principal's Representative any obligation or liability in respect of the completion of the design of that part of the Works and the Subcontractor is not permitted to make any Claim or seek any relief in respect of its obligations under the Subcontract in respect of such approval.

Signature _____ Date _____

2.0 Specific Conditions

Cladding, Linings, Partitions – Scope of Work

- 2.1** The Subcontractor is required to supply all labour, materials, plant and equipment to design and complete the **Cladding, Linings, Partitions** trade package(s) as detailed in accordance with the Subcontract documents, including Main Contract, the Subcontract, this Scope of Works, the drawings, specifications, finishes schedules, schedules, relevant Australian Standards, statutory requirements, authority requirements, local laws, industrial awards, advisory standards, industry codes of practice, workplace health and safety acts and regulations, local council requirements, the Building Code of Australia, Green Building Council of Australia and generally at law.
- 2.2** In addition to the defined works listed in this Scope of Works, the scope and extent of Works includes the supply of all incidental materials and performance of works which are not specifically detailed but are necessary for completion of the Works in accordance with the requirements of this Subcontract.
- 2.3** The Subcontractor's Scope of Works includes everything necessary for the proper and timely completion of the works in a co-ordinated and safe manner, including but not limited to the following items:

Trade Works:

- All works and activities to be carried out and completed in a safe, diligent, professional and tradesman like manner in full compliance with the regulations and requirements of the QLD Workplace Health and Safety Act, Australian Standards, Building Code of Australia, Codes of Practice, Industry Best Practice, QBCC Standards and Tolerances Guide and all other regulatory authority or laws having jurisdiction over the works.

Contract Documents

In addition to the tendering documents, Drawings, Specifications, Schedules and the like which describe the Trade Works, you have been provided access via Procore to the following documents which upon populating will form part of your contract. It is confirmed by the subcontractor that the contents of the documents are accepted, the terms and conditions contained within have been allowed for in submitting a tender and will be the basis to enter into a formal agreement for the Trade Works

- 01 1720M AS 2545-1993 General Cond (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes
- 02 1720M AS2124 Special Cond (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes
- ~~03 1720M Major Works SCA (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes~~
- ~~04 1720M Minor Works SCA (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes~~
- ~~05 1720M Supply Agreement (Draft) – For reference will be required to be populated to incorporate the subcontract details and appendixes~~
- ~~06 1720M PO Terms & Conditions~~
- 07 1720M PTIM - AS2545
- ~~08 1720M PTIM - Major Works~~
- ~~09 1720M PTIM - Minor Works~~
- 10.01 1720M WHS Conditions of Contract
- 10.02 1720M WHS Management Plan
- 10.03 1720M Cannonvale SS ENV Plan
- 10.04 1720M Cannonvale Quality Plan
- 10.05 1720M Cannonvale Site Safety Rules
- 10.06 Cannonvale Resource Histogram
- 1720M 201007 Doc Register
- 300920 Cannonvale SS Administration & RIC Target Programme
- Resource Histogram
- (SIR) Supplier, Subcontractor Information Form - To be completed to allow the contract to be prepared should your firm not worked with Woollam in the last 12 months

Woollam Reference Documents

The following reference documents additionally form part of the contract documents

Signature _____ Date _____

- 0918 CON 002 Woollam Way Construction Manual - Contents Page
- 0919 CON 003 Woollam Way Construction Manual - Metal Roofing
- 0920 CON 004 Woollam Way Construction Manual - Windows and Doors
- 0921 CON 005 Woollam Way Construction Manual - Mechanical Services
- 0922 CON 006 Woollam Way Construction Manual - Structural Dimensional Tolerances
- ~~0923 CON 007 Woollam Way Construction Manual - Render~~
- 0924 CON 008 Woollam Way Construction Manual - Material Moisture
- ~~0925 CON 009 Woollam Way Construction Manual - Waterproofing In Ground Works~~
- ~~0926 CON 010 Woollam Way Construction Manual - Waterproofing Internal Areas~~
- 0927 CON 011 Woollam Way Construction Manual - Waterproofing External Areas
- 0928 CON 012 Woollam Way Construction Manual - Pools, Spas (Jacuzzi's) and In-Situ Tanks
- ~~0929 CON 013 Woollam Way Construction Manual - Steel Protection~~
- ~~0930 CON 014 Woollam Way Construction Manual - Stairways and Ramps~~
- 0931 CON 015 Woollam Way Construction Manual - Protection of Finished Surfaces
- 0932 CON 016 Woollam Way Construction Manual - Acoustic and Fire Separation
- 0933 CON 017 Woollam Way Construction Manual - Wall and Ceiling Linings
- 18.01 Silica Safety Alert – For Information
- Scaffolding Plan – Details of the scaffolding layout which will be provided by Woollam on the project. Specific Trade needs further to this will be a requirement of the Trade to provide their own means of access

Trade Documents

- Tender Drawing Register

Generally

- Provide all supervision, labour, materials, plant and equipment necessary to execute and complete the subcontract in accordance with but not limited to following scope of works and issued tender documents, specifications, drawings and reports.
- Include all works and activities to be carried out and completed in a safe, diligent, professional and tradesman like manner in full compliance with the regulations and requirements of the QLD Workplace Health and Safety Act, Australian Standards, Building Code of Australia, Codes of Practice, Industry Best Practice, QBCC Standards and Tolerances Guide and all other regulatory authority or laws having jurisdiction over the works.
- Allow for all works shown on the Architectural Drawings and other Drawings, specifications and schedules relevant to your trade. You will need to reference other drawings such as but not limited to, as example Window Shop Drawings for opening sizes to suite this trade, Structural Steel Drawings, Roof Truss Drawings, to establish information regarding extent of required battening and fixings. The works are to be located as per the Architectural Drawings where specifically nominated.
- You will reference Service trades shop drawings to allow there works to be undertaken and that framing etc is to allow for the services installation.
- ~~This Subcontract requires Shop Drawings, Design Drawings and Layout Drawings to be prepared, including manufacturers details and reference data.~~
- The subcontractor will have a pre-commencement meeting with the site manager and project manager to ensure all aspects of the works are covered.
- The subcontractor shall provide all necessary resources, material and equipment to achieve milestone events within the Woollam construction programme.
- The subcontractor shall provide all WH&S documentation for approval prior to commencement.
- The subcontractor is to provide a methodology plan for review prior to commencement.
- The subcontractor shall provide all necessary insurances to the Contractor prior to commencement.
- Ensure that all For Construction Drawings PDF's are sought prior to starting works on site and at any time are the most up to date revision.
- Submission of Samples as specified is required within 4 weeks of project award.
- The Subcontractor to have on site a competent full-time site supervisor for when they are undertaking there works. Subcontractors meetings will be held each week, with a review of the progress of the works against the 4 week look ahead program, and with the issue of an expanded time frame version for further planning and subcontractor resourcing. Coordination between the trades will be discussed as well as general site items.

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Project Staging

The project itself is not staged and is a continuous build.

Subcontract Staging

The Trade Works are staged as the works are not continuous within the Project Construction Program

- The Subcontractor acknowledges that the subcontract works are staged where shop drawings are to be submitted in numerous stages in advance, for approval, to allow sufficient fabrication time to be ahead of the staged installation of the works.
- The Subcontractor acknowledges that the trade works are critical to the progressive completion of the project works. Specifically, are on the critical path of the Project Construction Program.
- The following stages are envisaged, and are a general outline only
- Design Reference Documents
- External Cladding Works
- Ground level works
- First floor works

WH&S

The Trade Contractor has reviewed the Site Workplace Health and Safety Plans and has allowed compliance within the Contract Sum.

- It is a site requirement that the wearing of Hardhats is mandatory. Gloves, Protective Glasses are to be on the worker and worn in undertaking work
- Long Sleeve Hi Vis Shirts are mandatory
- All PPE required to undertake the Trade Contractors Tasks will be supplied and Fit for Purpose

Preliminaries

The Trade Contractor has included

- Production and Submission of shop drawings for approval / or Supplier Design reference documents
- The Subcontractor to have on site a competent full-time site supervisor for when they are undertaking there works. This included the attendance at the Project Planning Meetings
- Site establishment costs
- Site Demobilisation Costs
- Warranties and Guaranties
- Production and Submission of shop drawings for approval / or Supplier Design reference documents
- All crange to install the works
- Access Equipment required to complete works
- Site inspections as required
- Testing and Commissioning
- Fire Certification
- Supply of as-built drawings, O&M manuals, Certification & Form 15 and Form 16
- Compliance with current workplace health and safety legislation.
- Attendance to the QRFS inspection with a full demonstration of a compliant working system.
- Demonstration and Training
- Man and Material access to site and High Level works
- Maintenance - 12 months

Shop Drawings

During the Shop Drawing process there may be RFI's. The shop drawing process is to commence in an submitted for approval. It is expected as a mimimum:-

- The Shop Drawings are to consider works detailed beyond the Architectural Drawings and will require working with other consultant's design documents, other trade shop drawings to meet the requirements of the Project. This would Include:-
- Design Calculations and submission of Design criteria
- This Subcontract requires Shop Drawings, Design Drawings and Layout Drawings to be prepared. These drawings are to be produced and be accompanied with certification from a Structural Engineer and associated tests by the manufacturer and supplier of components.
- Documents / Drawings required by the Subcontractor are to be provided within two weeks of award and to seek approval.
- External wall Framing Design
- Provider wall system manufacturers data on each system being constructed
- Provided system data schedule with form 16

Signature _____ Date _____

- The Subcontractor is to review all documents provided. This subcontract has an amount of work which is to be designed as part of the works. Design Works are not limited to but include the following:-
 - External walls designed to the wind loading provided including compensating heads and required wall bracing.
 - External walls designed to suite window openings
 - Support Heads to windows
 - Internal walls designed to include compensating heads and required wall bracing
 - Ceilings designed to be self-supporting including additional loads such as light fitting and including lateral bracing
 - Bulkheads to provide lateral support for alignment and implied lateral support of ceilings
 - The Subcontractor is to prepare a full reference system document nominating each wall and ceiling system being utilised, incorporating all design documentation for reference prior to the works being undertaken
- Seismic Design of Fixings, Mountings, for both vertical, horizontal and Lateral support for all walls and ceilings. The Subcontractor has allowed to provide all necessary seismic mountings and restraints to ensure they are capable to withstand any seismic loading and stresses offered by cyclone and earthquake activities. All required design & submission of documents and details for seismic compliance is included in the scope.
 - The Subcontractor shall provide the systems that remain stable and do not show signs of deflection, permanent deformation or rattling. The system will support the imposed seismic, wind and dead loads including eccentric loads (e.g. Loads on attached shelves and brackets).
 - The Subcontractor has allowed to provide all necessary seismic mountings and restraints to ensure they are capable to withstand any seismic loading and stresses offered by cyclone and earthquake activities. All required design & submission of documents and details for seismic compliance included in scope.
 - The Subcontractor has allowed to provide the Ceiling systems designed to AS/NZS 2785 for both ultimate and serviceability limit states, including for all effects of supported materials, components, services and the water-saturated weight of supported absorption components. Where supported by the roof structure, the systems will also accommodate the effects of live, wind and earthquake design, and action, deflection of the structure.
- Engineering / Designer Inspection of the works
 - The Subcontractors designed works eg external walls, ceilings, bulkheads and fixings shall be inspected during the construction and as a minimum at the following stages:-
 - When the works commence, so as to confirm that all materials to be installed are correct, and that the design drawings are correctly being followed
 - Twice during the works prior, to sheeting to confirm the integrity of framing is compliant
 - Insulation inspections prior to sheeting
 - Smoke and Fire Inspections of partitions progressively for compliance
 - Sheeting inspection for fire and sound rating compliance.
 - At each stage within 24 hours of the inspection a report is to be provided regarding compliance to the Builder from the Subcontractor
 - Final certification
- Certification
 - A Final Report of Compliance incorporating all referenced systems and designs utilised and including all progressive inspection reports and the final sign off compliance certificate

As Constructed Drawings

Refer Shop Drawings

Material Grade Certification

- Certificates to be issued from the material Suppliers

General Items of work

- The New Building works as a general description include
 - External wall frames designed to suite wind loadings including Sisalation and Battens set out as required ready to take the external wall cladding
 - All external wall framing and internal wall framing
 - Packing and framing to steel ring beam both internally and externally *with in tolerances*

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- Internal wall Framing
- Ceiling Framing
- Insulation to walls and ceilings
- Smoke and Fire walls
- Linings as per wall types
- Ceiling Linings as nominated
- ~~Feature linings as nominated~~
- Soffit Framing
- Soffit Linings
- External wall Cladding
- Fire rating of Structural Steel Members
- Access Panels *as per RCC only*
- Cornices and Square Set as Nominated
- Noggings for fixtures and fittings
- Installation of fittings and fixtures
- Skirtings
- Installation of door frames supplied by others
- Unless Noted Otherwise all works are Supply and install
- The works are to be undertaken in accordance with the construction program
- You have deemed to review the architectural and the other services trades drawings to establish works which you are required to coordinate with, and to provide nogging support to.
- Materials nominated within the documents for Wall, and Ceiling Systems as specified shall be used without exception. However alternative materials and systems will be considered on the basis that full details and testing data be provided, for consideration. Approval of alternatives are to be obtained prior to any use onsite. No delay to the project will be accepted due to a submitted alternative.

- Fire Property Schedule
- All materials to comply with 9901.5 Fire Properties Schedule contained within the Building Fabric Schedule

Fire Rating and Acoustic Requirements

- The works incorporate the following Fire rating and Acoustic Ratings

- ~~Hour Fire Rated Construction~~
- ~~1.5 Hour Fire Rated Construction~~
- ~~2.0 Hour Fire Rated Construction~~
- ~~4.0 Hour Fire Rated Construction~~
- Acoustic Rw 25
- Acoustic Rw 30
- Acoustic Rw 35
- Acoustic Rw 45
- Acoustic Rw 50
- ~~Acoustic Absorption H~~
- ~~Acoustic Absorption M~~
- Including Construction Separation
- Secure Construction
- Smoke Rated Construction
- Thermal Envelope

Steel Stud Framing

- As detailed to achieve each wall type system
- Includes wall battening
- Includes drop ceilings
- Stud details and centres are to be constructed as per the subcontractors certified design
- All wall frames to be full height and incorporate deflection head tracks.
- All Level 1 wall frames continue to the underside of trusses, except for Smoke & Fire walls, which extend to the underside of roof.
- Install steel door jambs supplied by Woollam Constructions to stud walls.
- Insulation, Sarking Types Incorporated in the Works
 - INAL - Insulation, Acoustic Infill - Autex Baffle Blocks.
 - INCO - Insulation, Ceiling Overlay - Bradford Glasswool Acoustigard 75mm
 - INP - Insulation, Partition Batt - Bradford Glasswool Acoustigard 50mm

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- ~~• INPL - Insulation Perforated Lining - Black-faced polyester bulk material, 50 mm thick and 11 kg/m³~~
- ~~• INR - Insulation, Roof - CSR Bradford Glasswool Anticon 90 Batts~~
- INTB - Insulation, Thermal Break - CSR Bradford Thermal Break Tape. Fletcher Thermatape.
- INWB1 - Insulation, External Wall Blanket Type 1 - CSR Bradford Gold HP Wall Batts 75mm
- INWB2 - Insulation, External Wall Blanket Type 2 - CSR Bradford Gold HP Wall Batts 90mm
- SVB - Sarking, Vapour Barrier - CSR Bradford Thermoseal Wall Wrap XP

Linings

- PB - Plasterboard Lining, Traditional Types
- PBF - Plasterboard, fire resistant grade
- PBI - Plasterboard, impact resistant grade
- PBM - Plasterboard, Moisture-Resistant

Wall Panelling

- WPA - Wall Panel, Acoustic Absorber - Autex Quietspace 3D Tiles, Colours
 - 1 : Stately
 - 2 : Porcelain
 - 3 : Granny Smith

Ceilings

- CLGA - Grid Ceiling, Acoustic Tiles
- CLP - Ceiling, Plasterboard
- ~~• CLPP - Ceiling, Plasterboard Perforated~~
- CLW - Ceiling, Water Resistant Plasterboard

Cornices

- CCSR - Cornice Shadow Recess - Bead: Rondo P50

Plasterboard

- All setting to be done to a level 4 finish as stipulated in the as/nzs 2589, 2007.
- Includes pre-paint /patch after first coat of paint sealant ~~and before final coats~~ are applied.

Sound Lagging to Pipes

- ~~• Should the Sound rating of the Walls or ceilings not be able to be achieved then Pipework is to be covered by an insulation Baffle.~~

External Soffits and Wall Cladding

- FCP Fibre Cement , Panel System - Cemintel Barestone Cladding Prefinished
- CLFG Fibre Cement , Panel System - Cemintel Barestone Cladding Prefinished
- External Cladding systems are to be fully documented and presented for approval before commencement on site. The works include:-
 - Insulation to Metal Stud walls
 - Sisalation
 - Top hats and Gasket Strip
 - Intermediate top hats as per the design manual
 - Horizontal support members
 - Fixing centres as per manufactures recommendations
 - ~~○ Secret fixings~~
 - Backing Strips
 - Weather barriers
 - Continuous Horizontal Sealant Bead to match panel colour 6mm diameter to sheet top and sides
 - Bond backing strip to npanel with continuous polyurethane sealant 6mm nominal diameter Vertical Joint Sealant over Bond Breaker tape for 4.0kpa and above, refer to façade system technical Specification for suitable sealant

Fire and Smoke Walls

- Smoke walls
- Fire Rated walls
- ~~• Fire stopping of Horizontal Wall penetrations~~
- Smoke Stopping of Horizontal Wall Penetrations
- ~~• Fire stopping of Ceiling Penetrations~~

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- Smoke stopping of Ceiling Penetrations
- (Note all large penetrations for services will be installed by a Passive Fire Contractor)
- Supply and install of smoke and fire rated walls complete with certification.

Fire Encasement to Structural Steel

- Fire encase with 2-hour system, Structural steel columns and beams where nominated
- Separate certification of the systems is required as this is a structural element of the building
- 3 x 16 mm Firecheck may be required, depending on dimensional tolerances or allow for Promat Board system

Construction and Movement Joints

- Construction and Movement Joints shall be provided as and where required to walls ceilings

Door Frames, Doors and Door Furniture Supply

- Door Frames and Hinges by Builder
- Doors by Builder
- Door Furniture by Builder
- Door Grilles by Mechanical Contractor

Door Frames, Doors and Door Furniture Installation

- Install Door frames by Subcontractor
- Install Doors by Subcontractor
- Install Door Furniture and Door Grilles by Subcontractor
- Once hung, doors are to be removed with all edges primed twice and paint allowed to dry
- Doors are to be rehung
- Doors are to be wedged so as not to bang due to wind
- Install Door Hardware by Subcontractor

- Installation of Door hardware provided by Wooliam Constructors. It is the responsibility of the Subcontractor to receive all items from delivery, advise Wooliam within 24 hours of any missing items, material movement to installation area and final installation.
- Supply, Receive, Storage, Fitting and Fixing of door hardware. Provide all ancillary fixings not specifically provided by the hardware supplier
- The subcontractor shall allow to install a temporary construction keying system (cylinders and keys supplied by Builder)
- The subcontractor shall allow to install master keying system (cylinders and keys supplied by Builder) requirements to all doors and gates in accordance with door schedule and documentation (inclusive of locks to glazing) at Project Handover
- Supply all necessary templates and fixings
- The subcontractor has allowed to install all smoke and acoustic seals in accordance with the project documentation.
- Cutting, trimming, drilling, mortising to suit even bearing of locks, hinges, furniture, and associated hardware.
- All door hardware is to be cut in prior to doors being painted. The subcontractor shall remove and re-install once doors are glossed and complete, inclusive of final adjustment.
- Ensure all locks are construction keyed and operative during construction of the building.
- Including for coordinating cut-outs and installation of air conditioning supply and/or return air grilles (supplied by others) in accordance with the door / mechanical schedule.
- Include for adjustment of all door hardware closer mechanisms prior to inspection as necessary prior to Practical Completion. Adjust door closers to provide comfortable closing speed and effective latching function. Similarly adjust closer 'hold open' device when fitted.
- Check all door hardware and furniture for damage and malfunction prior to Practical Completion and coordinate with Main Contractor for repair/replacement.
- Allow to inspect all installed door hardware and furniture and make good to the satisfaction of the Main Contractor any items installed not complying with the manufacturers' instructions and which may affect the conditions of warranties/guarantees.
- Install Door Grilles by Subcontractor
- Installation of Door Grilles provided by Wooliam Constructors. It is the responsibility of the Subcontractor to receive all items from delivery, advise Wooliam within 24 hours of any missing items, material movement to installation area and final installation.

metal only no other thing
timber only

- Contractor any items installed not complying with the manufacturers' instructions and which may affect the conditions of warranties/guarantees.
- Install Door Grilles by Subcontractor
- Installation of Door Grilles provided by Wooliam Constructors. It is the responsibility of the Subcontractor to receive all items from delivery, advise Wooliam within 24 hours of any missing items, material movement to installation area and final installation.

Signature

Date

- Installation of door grilles included cutting through the door to create the penetration so that the door grille will be a tight fit in the door, *Prep done by manufacture when ordering*
- The door penetration shall be trimmed with timber blocking in the door core to support the door ply face and to fix the door grille

Fittings and Fixtures Supply

- Fittings and Fixtures Supply by Builder
- BDP - Pin Board
- BDW - White Board
- BINK - 76L Double Waste Bin
- ~~BLD - Blind, Dual~~
- ~~BLT - Blind, Translucent~~
- BNBR - Bin, Book Return
- CLK - Clock, Wall Mounted
- CTNE - Curtain Track
- DSGP - Dispenser, Glove
- DSL - Dispenser, Liquid Soap
- DSP - Dispenser, Paper Towel
- DSTP - Dispenser, Toilet Paper
- GR1 - Grab Rail Type 1
- GR2 - Grab Rail Type 2
- HC - Coat Hook
- RKR - Rail Kitchen Roll Holder
- RTT - Rail, Tea Towel
- SHC Shelf, Cleaners Stainless Steel shelf, bracketed to wall, with six cam-cleat mop-holders and five hooks. 5 hooks/ 6 holders
- SHLS - Shelf, Stainless Steel

Fittings and Fixtures Installation by Subcontractor

- Installation of Fittings and Fixtures
- Installation of Sundry hardware provided by Woollam Constructions. It is the responsibility of the contractor to receive all items from delivery, advise Woollam within 24 hours of any missing items, material movement to installation area and finally installation.
- Supply and Noggings for installation of all Fittings and Fixtures. Generally 18mm ply to areas as documented. All plywood to be H2 treated or LOSP.

Supply and Install Skirtings

- SKAF - Skirting, Aluminium Flat bar 100mm
- ~~SKCF - Skirting, Coved Resilient floor covering~~
- SKPT - Skirting, Timber 19 mm Thick finger-jointed pine timber skirting. 100mm H

~~Timber Stairs and Seating~~

- ~~TIMH - Hardwood American Oak~~
- ~~TIMS - Timber, Solid Lamora / Oak Ply~~
- ~~NSR - Stair Nosing Rebated Latham Asbralloy Infill - Black FA501SWAK~~

Carpentry Generally

- Supply and Installation of all timber skirting and architraves as documented. If required, scribe to floor finish so that there is no gap between bottom of skirting and floor finish.
- All architraves, skirting timber stops and the like are to be arised.
- The subcontractor is to include for filling gaps, screw holes to all wall, metal frames, trims, ceiling and timber works prior to painting
- Allow for return visits to complete finishing works to flash/gap door frames and skirtings after joinery installation. Do not attempt to stop skirting at abutment lines.

Material Applied Finishes

- As per Specification
- Finishes Schedule

Materials and Erection

All lifting and erection will be undertaken by Subcontractor

Signature _____ Date _____

General Items

- Working hours as per the site times. Note that Saturday is a working day
- Engage a seismic design specialist to design restraints, perform installation inspections and provide certification. Allow for the requirements of AS1170.4 as well as the requirement that the building remain serviceable following the design event for importance Level 2 structures. Note requirements extend to both cyclone and wind events.
- The subcontractor notes and accepts that there may be inconsistencies, coordination issues and minor errors within the documentation. No variation will be accepted for works referred to in one section of the documentation but excluded from others.
- Allow to provide a Form 15, compliance with seismic design. This includes any changes required to the contract drawings to ensure that the as installed is seismic compliant.
- The Subcontractor shall be required to inspect the works of preceding trades suitably early, prior to the Subcontract Works commencing installation (e.g. alignment, level and finish to structural walls and floors) to allow others to rectify any works as necessary and to satisfy itself as to the suitability before proceeding. The Main Contractor will not accept any claims for additional costs which result from out of tolerance preceding trades unless enough prior, early notification has been given to the Main Contractor to allow these works to be rectified by others.
- The Subcontractor shall be in attendance during inspections, testing and/or witnessing by the Contactor, Architect, Client's representatives, and/or specialist representatives of manufacturer, acoustic consultants, of product performance, design and quality. These may include those described within the specification or detailed in the agreed Inspection and Test Plans (ITPs) and will include on site acoustic testing.
- In accordance with the Main Contractor's ITP procedures, all Subcontractors must be given the opportunity for own penetrations that require fire rating in enclosed or concealed from view locations, has undertaken photographic evidence, labelling and logging of the location of each and every completed penetration to verify that the fire rating has been completed and installed in compliance with the recommendations of an accredited passive fire certifier, licensed with the QBCC prior to sheeting.
- Obtain approval from the Main Contractor for all deliveries at least 48 hours in advance or as otherwise agreed. The Subcontractor is to allow for waiting time incurred arising from its Subcontract Works and all other delivery charges. The Main Contractor will not under any circumstances accept any extra costs for part loads, uneconomical loads or waiting time associated with deliveries.
- The Subcontractor shall include for forming all documented openings including coordinating with other subcontractors (e.g. joinery) to ensure critical dimensions are maintained. Check drawings, schedules and specifications and report discrepancies to the Builder. All openings to be built within required tolerances to receive door frames and the like.
- Allow for making good to partitions and ceilings after installation of services to achieve the specified fire rating/acoustic performance. Services sealing by others.
- The subcontractor is wholly responsible for achieving the required tolerances including allowance for the tolerance of adjacent or existing elements. No assistance given by the managing contractor will in any way reduce or negate this responsibility. All areas not meeting the specification will be rectified as directed by the managing contractor. Failure to carry out rectification as directed will result in work being carried out by others and costs deducted from the subcontractors sum.
- Allow for return visits to install beads and complete finishing works to flash/gap door frames and skirtings after joinery installation. Do not attempt to stop skirting at abutment lines.
- The subcontractor is to include for filling gaps, screw holes to all wall, metal frames, trims, ceiling and timber works prior to painting.
- The Subcontractor must make allowance to leave areas behind particular to partitions and ceilings for the installation of large mechanical and electrical plant and equipment or any other item that cannot enter a space through a designed opening. The Subcontractor will return to each particular area and complete the works as directed by the Main Contractor. The Subcontractor is deemed to have allowed for return visits to complete the Subcontract Works including any access scaffolding or lifting equipment required to complete and make good.
- The Subcontractor is deemed to include for leaving out areas affected by scaffold tie points and returning to make good on completion of the removal of these tie points to the external walls.

Signature _____ Date _____

- The Subcontractor is deemed to include for creating temporary openings as required for material access where there is insufficient design openings and returning to make good on completion of the removal of these tie points to the external walls.
- The subcontractor is to provide sufficient resources to enable multiple levels to be finished at the same time.
- Provision of all labour, materials, plant and equipment to complete the supply and installation of all contracted works.
- The subcontractor has been made aware and acknowledges that the project quality standards are of a first-class finish. Works that are not to a high standard will be rejected and rectified to meet this standard at no cost to the Contractor. No additional claims will be entertained at all in complying with this obligation.
- The subcontractor acknowledges that:
 - Cutting of any products such as;
 - Concrete, mortar, brick, blocks, pavers, tiles, natural and composite stone benchtops
 - Cement-based materials such as fibre-cement sheeting and autoclaved-aerated concrete
 - Must be completed whilst under appropriate Silica dust controls i.e. if it has to be cut inside, let the Woollam Site Manager know and complete the cuts in a controlled environment.
 - All subcontractors working with any of the above products must have FIT tested masks (minimum P2) and provide copies of FIT testing for verification.
 - If required; supply and use of M or H Class Vacuums with the appropriate filters and attachments.
 - Any costs borne with the above are deemed to be included in your subcontract sum.
- The Contractor will provide staged scaffold to the external perimeter of the building only. The subcontractor shall supply all other access plant and equipment required to complete the Subcontract works. This includes staged scaffolding, mobile scaffolding, EWP's, boom lifts and the like including barricades, signage and harnesses in accordance with safety standards.
- The Subcontractor is responsible for all setting out and site measures as required from surveyed gridlines and datum levels provided by the Main Contractor.
- On site bulk storage of materials, prefabricated or manufactured works is not allowed unless approved by the Builder in writing.
- The subcontractor has allowed to remove all excess material and plaster "droppings" from adjoining surfaces as directed by Woollam Constructions.
- The subcontractor has allowed to remove all plaster droppings from the floor progressively.
- It is the responsibility of the Subcontractor to remove all pallets from site, strictly no pallets are to be placed in skips. Cost associated with filling bins with pallets will be passed back on to the subcontractor.
- The subcontractor has allowed for all horizontal movement.
- The subcontractor shall keep their works and adjacent area's in a safe and tidy manner. All subcontractors shall be responsible for their daily clean up and placing of rubbish in skips provided by the builder.
- The Subcontractor is to provide waste bins to complete the wash out of plastering products at a location agreed by the Main Contractor as absolutely no washing out is to be completed on site. The subcontractor is to undertake the replacement of all bins and changeout as required. All wash out must be in accordance with BCC requirements and ESC guidelines.
- The subcontractor has allowed to attend a pre-paint sign off with the painter and principal contractor. Works are required to be an acceptable standard prior to pre-paint.
- The subcontractor has allowed for the patching of plasterboard walls and ceilings after pre-paint.
- Class 4 finish unless otherwise documented.
- Supply all sundry fixings, brackets and the like required for installation.
- Expansion joints and the like are to be installed to industry standards and manufacturers recommendations as required.
- Subcontractor is to provide a drawing of all expansion joints prior to sheeting for approval.
- Allow for any packing required to achieve a plumb and level finish. This may include timber/steel packing to blockwork, steel or windows.
- Allow for all stop beads, corner beads, expansion joints and angles along with door, skirting and general flash gap trims. Note: Include for Latham K Wall Series Movement Joint
- Allow for shadow lines (P50 and the like) or cornice or square set to ceilings and or walls as documented.

Signature _____ Date _____

- Where required, wall head track is to be set out and fixed in advance of partitions to allow accurate installation of interface works.
- Allow to frame out and sheet around ducts penetrating through walls/works as required.
- Coordinate with the Mechanical Subcontractor for the exhaust vent installations (S&I by other) and ensure that all board is patched and set by the subcontractor undertaking this scope of work.
- Ensure that the wall line is 'true' at the ceiling interface, and any materials required to achieve this outcome.
- Wall and ceiling mounted access panels in accordance with the architectural drawings and all services drawings (Mechanical, Hydraulic, Electrical & Fire). Allow to coordinate on site for specific locations of access panels as required.
- Supply and install metal stud framing, furring channel, battening to internal and external walls including any window heads, sills and side framing where structural steel is not provided.
- Supply and install any steel wall framing as required by the partitions system supplier to meet their installation requirements even those not shown on the structural drawings. This includes for any girts required.
- Supply and installation of all board products, ply, plasters, and the like as documented. Ensure reveals, packing, framing, sheeting, fixings, angles, trims, stopping beads, cornice, control joints, glues, sealant, gap filler, foam, tape and the like are all supplied and installed as required.
- Allow to frame, and sheet bulkheads, pelmets, step-downs and the like.
- Allow to square set all openings and where linings meet other surfaces.
- Allow for all wall angles, trims and fixings to complete the works. Allow for all setting beads as required to corners and angles.
- Allow to form recesses as required. Including but not limited to: Fire Extinguisher Cabinets and the like.
- Ensure that the ceiling and partitions systems comply with the acoustic, fire, smoke & thermal requirements as per the drawings, specifications, briefs, codes, Australian Standards and other applicable documentation. This includes any sound/noise transfer from wet areas, lifts, service risers, mechanical & hydraulic services to adjacent rooms and all required certification.
- Allow to install plasterboard sheets horizontally, and pay special attention to glancing light issues, and ensure that finished plaster surfaces are true and level or in the case of walls, true and plumb. Plasterboard sheets are to be cut around opening and not to butt up to them.
- Allow to seal between works (ceilings & partitions works) and abutting elements, including but not limited to glazing, brickwork, blockwork, concrete etc.
- Allow for final patch once joinery is installed and prior to final coats.
- Subcontractor is to co-ordinate and liaise with the bed hoist installation to ensure bed hoist is installed in correct position and joints and abutting surface are neat and seamless.
- Supply & install all ceiling types including suspended ceiling systems including furring channel, hangers, clips etc. and all items associated with bulkheads and coffers etc. This is to include but not be limited to angles, stopping beads, trims, angles, blockouts, packing as necessary, sheeting/lining/cladding, cornice, control joints, fixings, glues, sealant, gap filler, foam, tape and similar as documented and as required to complete the contracted works.
- Treatment of all penetrations through plasterboard walls with sealants, fire rated fillers and trims as required to meet acoustic & fire rating requirements.
- Allow to fire rate and seal the linen and rubbish chute inclusive of passive fire requirements and form 16.
- All fire rating requirements to structural steel inclusive of but not limited to promat in accordance with the documentation [Part of FC].
- Allow for fire rated walls, linings, smoke walls and ceilings as noted on drawings, Fire Engineering Report and as required by any statutory authority.
- Allow for the certification and form 16 for fire rated walls by someone with the appropriate QBCC licence.
- Allow for the caulking of fire rated walls to achieve form 16.
- Allow for full height (to underside of concrete or roof) fire rated walls to the fire compartments, and full height walls to smoke compartments. Fire rated walls to concrete are to include fire rated sealant.
- All smoke sealing to soffits and cavities inclusive of photo's and records.
- Supply, Installation and certification of all insulation materials to all areas as required. Works to include for all materials to suit specified rating, installation into wall/ceiling space, cutting and adjacent to suit roof layout, trimming around any light penetrations/transformers and the like, all required safety and personal protective equipment to safely complete the works. Insulation is to meet the section J report and requirements, and any Acoustic requirements.
- It is the subcontractor's responsibility to review the required R ratings and ensure that the insulation products are suitable for the task at hand.

Signature _____ Date _____

- EXCLUDE any insulation between the roof sheeting and the roofing safety mesh. This roofing insulation will be supplied and installed by the roofer.
- Acoustic wall insulation is to continue to the underside of the roof or slab structure to create an acoustic seal.
- If walls do not continue to underside of roof, the ceiling is to be provided with acoustic insulation equivalent to wall insulation.
- Allow for all acoustic mounts and isolators where required to meet the required ratings. Excludes Impact Rating between Concrete Floors.
- All sarking material including tape, is to comply with the Building Code and Australian Standards AS1530.1 and AS1530.3 fire testing requirement for non-combustible materials (i.e. TBA FIREFLY).
- All external wall parts of the building envelope are to comply with BCA J1.4 – Climate Zone 6 for a Total R value of achieving a minimum rating as infirmed by the JV3 Report.
- Acoustic lagging to all hydraulic services pipework in habitable and non-habitable locations as part of the drywall and insulation system in accordance with drawings and documents.
- The subcontractor has allowed to meet all acoustic performance requirements as set out within the project documentation.
- Provision of all lined soffit types including supports, framing, system, sheeting etc. as detailed and required.
- Provide samples of finished works and items as may be requested. All samples submitted for approval shall be submitted via the Contractor and shall be clearly marked and identified as to their intended location and use. Samples shall be made into sections representative of connections and fixing details.
- Assess all Consultants' design drawings and advise on any details not considered to be appropriate to ensure adequate performance of the Subcontract Works. Such assessment and advice shall be provided in a timely manner to avoid delaying the Works.
- Inspect the base structural works (i.e. concrete or primary structural steel) before commencing work for suitability to accept installation of secondary steel and cladding elements and notify the Main Contractor immediately of any major irregularities.
- Supply and install any secondary framing as documented to complete the works to vertical and horizontal elements.
- Conform to specified tolerances in the building structure and accommodate instances where structural members may be out of plumb and level. Install any packing as required.
- Supply fixings, bolts, unistruts, furring channels, brackets, sealant, sundry trims, bracings, flashings, drainage holes and all ancillary items necessary to complete the Works.
- Provide all metal powder coat aluminium and Colourbond flashings in connection with CFC cladding, including parapet capping, boards, clips, expansion joints, dress, apron and step (expansion) flashings with blow back drip edges, brackets, perimeter and dress trims, angles, back trays, protective strips, fixings, sealants, infill strips, toe moulds, miscellaneous framing and the like required to complete the total works and as per the drawings and documentation.
- All free edges of cladding (except those entering gutter) are to be atheistically trimmed with appropriate folded metal capping, trims, shadow moulds and foot moulds as required.
- All parapet linings including secondary framing, top hat sections, aluminium angles, colourbond capping, raking and ancillary items to complete the total Subcontract Works as per the documents.
- All screws or fixings used must be James Hardie approved products.
- The Subcontractor shall be responsible for the water tightness of the total CFC system and against external windows and doors including weather angles, flashings and all penetrations and fixings through membrane systems to be properly treated and caulking to all adjoining surfaces.
- The subcontractor has allowed for the sealing of all external cladding to ensure the system complies with manufacturers guidelines and is water tight. All filing using exterior grade materials and stops is a requirement with pre-paint process utilised as the QA system inclusive of ITP's.
- The supply and fixing of all necessary packing, brackets, fixings, sub-sills, storm moulds, column covers, flashings, infills and gaskets and ensure no contact between dissimilar metals.
- Provision for forming, flashing and sealing penetrations required by other trades (e.g. lighting, fire sprinklers, power supplies, louvres, structural members), and allow for these to be co-ordinated with the relevant trades.
- It is the responsibility of the contractor to set and sand all sheets ready to receive their final finish - Handover of the cladding at Practical Completion free of defects and blemishes.
- Provide warranties for supply and install of all materials, stating that the works will remain waterproof and weather-tight, for a period of fifteen (15) years from The Main Contractor's practical completion date.
- Engage the manufacturer's competent person or an approved Façade Engineer as required to inspect the application of the system to the structure and provide requisite design parameters and

Signature _____ Date _____

certification of the total proposed system. Provide relevant certification upon completion for the installation works (Form 16).

- Contractor must provide independent certification of all seismic support and fixing systems signed by structural and seismic engineer.
- Allow to seal all penetrations of ductwork/pipework through walls/roofs.
- Commissioning and testing of all installed equipment and controls.
- All cutting, patching, framing up, furring in and making good associated with the building structure for the passage of ducts, pipes, grilles, diffusers, flues, conduits, etc.
- Provision of a works program, detailed working drawings, a commissioning program, a quality system manual and other requirements as Specified or required by the Contract Documents. These documents and samples shall be provided for review and acceptance prior to commencement of work on site.
- Undertake site investigations and measurements prior to providing Work Shop Drawings. It is noted that the Subcontractor remains solely responsible for dimensions. The Subcontractor shall not be entitled to additional costs due to dimension discrepancies.
- Work Shop drawings shall be submitted to the Contractor allowing sufficient time for approval by the relevant design authorities and/or the Contractor so as not to affect the works programme. The granting of approvals shall at no time absolve the Subcontractor of his responsibilities under the Subcontract. Should errors in workshop drawings become evident during manufacture or installation, the responsibility for all costs associated with adjustment or rectification shall be borne by the Subcontractor.
- Allow for all nuts and bolts, fixtures, fittings, hardware, temporary bracing, wedges, mounting brackets, fixing channels, washers and additional sundry items as required to erect the metalwork and structural steel, all in accordance with the approved drawings. Including all safe working platforms, handrails or support systems and signage for the safe erection of the structural steel, purlins, girts and bracing systems, temporary and permanent in accordance with Statutory Requirements.
- Warranties
The Subcontractor is to provide warranties for the projects on all items supplied
 - This is to include an extended Warrantee, meaning that an offered 12 month warrantee does not commence on the date of equipment purchase but actually required from the date of the Project Practical Completion. Generally, there is 3 months from commencement of fit out to practical Completion of the Project.
 - As part of the Submission Process / Shop drawing stage, the Warranty & Maintenance Information is to be completed to the stage of the warranties being provided. (An Example is provided within the Tender Documents) This is required to be signed off / approved by the client.
 - Please note that each piece of equipment is to have logged its serial number and it recorded in the Warranty & Maintenance Information Form including the room location so that there is an identifiable record for the Client following the project handover
 - As part of the Training process required by the client the Warranty & Maintenance Information is to be fully completed, made available, and run through with the training process.
 - The Warranty & Maintenance Information and a Manufacturers Statement of Warrantee for each item is to be included in the Operation and Maintenance Manual.
 - All Warrantee and Product Information is to be delivered to the site office in a bundled & preassembled manner. It is the responsibility of the Subcontractor to gain receipt and acknowledgement of this via the Project Contract Administrator.
 - It is Acknowledged to achieve practical completion that the Manuals, warrantless and certification is to be completed
- All Commissioning, training, reports, ITP.
- 52 Week End Defects Liability Period (from the Projects Date of Practical Completion).

Reference Notes:

The Subcontractor has reviewed all drawings and specifications to identify interface and coordination works.

Subcontractors meetings will be held each week, with a review of the progress of the works against the 4 week look ahead program, and with the issue of an expanded time frame version for further planning and subcontractor resourcing. Coordination between the trades will be discussed as well as general site items.

Variation Works not included within this Contract

The following works are to be treated as a variation to this Subcontract

- NOT APPLICABLE

Signature _____ Date _____

Trade Exclusions

- Supply and Installation of Roof Trusses
- Supply of Door Frames
- Supply of Doors
- Supply of Door Furniture
- Supply of Door Grilles
- Supply of Fittings and Fixtures

* Sealing & Joinery

- 2.4** The Subcontractor shall ensure that where any finishes are either adjacent to or intersect one another, the requirement for the architectural intent of the intersection or alignment will be achieved by the Subcontractor irrespective of any Australian Standard or other statutory guideline for tolerance that may otherwise permit a misalignment to occur.
- 2.5** The Subcontractor is responsible for the fitment of any necessary accessories, or alteration of plant, required so as not to disturb or damage the finished Works or Work elements.
- 2.6** The Subcontractor's drivers and operators of plant and machinery must be suitably qualified to operate the equipment. All deliveries to be made by Body Truck only. The Subcontractor is to ensure that a representative is on site to accept and coordinate all deliveries. Deliveries are to be confirmed with the Main Contractor 48 hours prior.
- 2.7** The Subcontract must supply all labour, plant, equipment and materials necessary to complete the Works in accordance with the drawings, specifications, documentation, Works Programme and the relevant Australian Standards, statutory requirements and professional standards, including everything necessary for the proper and timely completion in a properly coordinated and safe manner.
- 2.8** The Subcontractor is responsible for all associated costs involved in mobilizing and demobilizing to and from the Site.
- 2.9** The Subcontractor confirms that it is suitably qualified to undertake all Works within the Project scope and is qualified as necessary by local authorities and legislation and holds the relevant approvals to undertake all Works under the Subcontract.
- 2.10** The Subcontractor confirms that "alternatives" or "equals" are to be submitted in accordance with the Project documentation. These must not be offered unless the conforming product is not suitable for its specified use, is no longer available or will cause delays to the Works Programme.
- 2.11** The Subcontractor must locate, coordinate and protect all existing services adjacent to the Subcontractor's Works. The Subcontractor has allowed for protection and precautions as necessary to prevent damage to adjacent work, structures and services (including in-ground services), landscaping and site surrounds, and to prevent injury to any persons.
- 2.12** The Subcontractor must provide all materials in accordance with the Project documentation and the Subcontract.
- 2.13** The Subcontractor must comply with all requirements and deliverables of the Project specifications. Any deviation from these requirements will forfeit the Subcontractor's claim to additional works from onsite conditions.
- 2.14** The Subcontractor must verify and coordinate all existing datum points prior to commencement of the Works. The Contractor will provide grids and datum points only, and the Subcontractor is responsible to ensure accuracy. All other surveying needs are required to be provided by the Subcontractor. All setout is the responsibility of the Subcontractor.
- 2.15** Inspections are to be undertaken in accordance with the requirements of the Contractor and the Project documentation. The Subcontractor must allow the Contractor to photograph and document all works prior to sheeting and concealment of those works.
- 2.16** The Subcontractor accepts that the Principal will be undertaking works that will affect or influence the sequence and undertaking of the Subcontract Works. The Subcontractor is required to coordinate and assist in these works.

Signature _____ Date _____

- 2.17** The Subcontractor accepts that shut downs of exiting services and works affecting subcontractors will be communicated via notice to the Subcontractor. The Subcontractor must alert the Contractor of this at least 10 Business Days prior to the commencement of the Works.
- 2.18** The Subcontractor has allowed for co-ordination between other structures, services and finishes trades. No claims will be accepted by the Contractor for additional works undertaken as a result of a lack of co-ordination between the Subcontractor and trades.
- 2.19** The Subcontractor accepts the sample approval process and agrees to submit all systems for approval to the Contractor prior to the manufacture, fabrication or ordering of any materials.
- 2.20** The Subcontractor must ensure that all major components are inspected and tested offsite where possible.
- 2.21** The Subcontractor is responsible for the provision of training to all required personnel prior to handover of the Works and the Date for Completion.
- 2.22** Where there are multiple options for the supply, finishing or installation of works generally or installation methods are specified, the Subcontractor must allow for the greater of the options.
- 2.23** The Subcontractor must protect the Works at all times prior to the Date for Completion, and when necessary provide planked walkways for the use of all trades and the Contractor as required.
- 2.24** Where there are multiple options for the supply or installation of works generally or installation methods are specified, the Subcontractor must allow for the greater of the options.
- 2.25** The Subcontractor is responsible for all rails, barricades, lighting, scaffolds and warning lights required to carry out the Work in accordance with all statutory safety requirements.
- 2.27** The Subcontractor must advise the Contractor on approval and lead times on delivery of fittings as well as design co-ordination.
- 2.28** All set out by Subcontractor. Woollam will provide survey as per survey markup
- 2.29** The Subcontractor has allowed for the set out of works in accordance with the latest revision of documentation. The Main Contractor will provide Datum and Grid Lines only to allow the Subcontractor to set out from these points as required. The Main Contractor will provide survey in line with the Survey mark-ups.
- 2.30** Provide all means of separation necessary between own and others works for separation from dissimilar metals and non-complimentary surfaces.
- 2.31** It is the Subcontractors responsibility to achieve the documented clearances and tolerances. No assistance given by the Main Contractor will, in any way, reduce or negate this responsibility.
- 2.32** The Subcontractor has allowed for all testing as required within the Project Documentation.
- 2.33** Where inspections have been undertaken off site, these inspections do not relieve the Subcontractor from their responsibility to carry out the works in accordance with the project requirements. The Subcontractor may be required to carry out additional tests if the workmanship is identified as being defective. Any subsequent rectification required will be a cost to the Subcontractor.
- 2.34** The Subcontractor notes and accepts that the Main Contractor reserves the right to alter the pour sequence, and undertake additional or change pours for the efficiency of the Project. The Subcontractor acknowledges and accepts this, and notes that there shall be no additional charges incurred due to these changes.
- 2.35** The Subcontractor acknowledges that by installing the Works, they have accepted the condition and workmanship of the substrate, and any re-work as a result of needing to rectify any sub-standard finish will be at the cost of the Subcontractor. Notify the Builder immediately of any substrates that may be incomplete or require additional work in order to achieve an acceptable finish of the Subcontractors Work.
- 2.36** The sub-contractor is to ensure that the council infrastructure around the property and along the adjoining roads is not disturbed. The sub-contractor is to carry out a dilapidation report where works is being carried out on council property. The sub-contractor will be responsible for the costs and/or fines imposed by the local council.

Signature _____ Date _____

3.0 Administration

3.1

In addition to the conditions of the Subcontract, the Subcontractor must submit the following information with any claimed Variations:

- i. written direction of the variation as directed by the Contractor;
- ii. signed works / dayworks sheets, including hours worked on the variation works and a record of materials purchased and used;
- iii. receipts for purchased goods and proof of payment where requested by the Contractor;
- iv. any other information deemed necessary by the Contractor for assessment of the claim;
- v. Variations must be claimed in accordance with the approved hourly rates and material rates stated within this section;
- vi. Variations must be accompanied by a Statutory Declaration;

3.2

The Subcontractor must ensure that all Variations made under the Subcontract are submitted to the Contractor within the required timeframes. The Contractor recommends that the Subcontractor communicate this with all onsite, administration, management and support staff employed by the Subcontractor and who are associated with the Project.

3.3

Client staff, representatives, contractors or consultants will be on site for all or part of the Works in a supervisory and reporting capacity. Any such staff have no contractual authority and cannot provide direction to the Subcontractor. If any directions and/or discussions are had between the Subcontractor and any such staff, the Subcontractor must notify the Contractor immediately.

Only a written direction issued by the Contractor to the Subcontractor will be considered a direction under the Subcontract.

3.4

Variations to be in accordance with annexed schedule.

Hourly and Additional Works rates: -

Tradesman, per hour: - \$ 95.80

Labourer, per hour: - \$ 83.50

Apprentice, per hour: - \$ 66.20

Supply & install additional 1 # access panels: - \$ 330

Supply & install additional 1 # Fire rated access panels: - \$ 550

Supply & Install additional 10mm plasterboard wall including studwork per m2: - \$ NA

Supply & Install additional 13mm suspended ceiling including concealed suspension grid per m2: - \$

Supply & Install additional external CFC Cladding per m2: - \$

Supply & Install additional 9mm FC wall linings including studwork m2: - \$

Supply & Install 13mm Aquachek per m2: - \$

Supply & Install 13mm Firechek per m2: - \$

Supply & Install 16mm Firechek per m2: - \$

Supply & Install cornice per lineal metre: - \$

Supply & Install Criterion Aluminium Skirting: - \$

Supply & Install Timber Skirting: - \$

3.5

The Subcontractor accepts that the signing or authorisation of any day sheets by the Contractor is in no way a deemed acceptance that the Works are additional to, or a variation to, the Subcontract.

3.6

The Subcontractor accepts that the signing of ITP's or Subcontractor produced quality assurance measures by the Contractor is in no way a deemed acceptance or negates the Subcontractor's responsibilities under the Subcontract.

3.7

The Subcontractor must submit detailed drawings where changes to layouts are proposed. The Subcontractor must obtain approval from Contractor prior to making any changes to a consultant's design.

3.8

The Contractor may request the following information from the Subcontractor to substantiate a Payment Claim or other Claim made under the Subcontract. The following is required to be made available by the Subcontractor within 24 hours of a request from the Contractor:

Signature _____ Date _____

-
- i. Mark-ups of completed and/or claimed works;
 - ii. Evidence of payment for claimed items;
 - iii. Evidence of ITP's completed for a particular element;
 - iv. Evidence of the claimed element being free of defects;
 - v. Warranties and certifications applicable to the claimed elements and works;
 - vi. Any other information as requested by the Contractor;
-

Signature _____ Date _____

4.0 Completion

- 4.1** In addition to the requirements of this Subcontract, the Subcontractor is to ensure that Completion documentation is submitted as per the below.
- 4.2** The Subcontractor must prepare and submit one electronic maintenance manual in accordance with the requirements of the Contractor.
- 4.3** The Subcontractor must prepare and submit As Built documentation to the satisfaction of the Contractor. The Subcontractor must revise as required until approved by the Contractor.

The Subcontractor agrees that As-Built Drawings and Operation & Maintenance Manual documentation:

- a) are to be delivered to the Contractor in a complete but draft format (draft documents) 8 weeks prior to Practical Completion;
- b) the Contractor will review the draft documents and provide written approval or rejection of the draft documents in his discretion with comments;
- c) if the Contractor rejects the draft documents the Subcontractor will amend the draft documents addressing any comments by the Contractor within a further 10 business days and resubmit the draft documents to the Contractor;
- d) the Contractor will review the resubmitted draft documents and provide written approval or rejection of the revised draft documents with comments;
- e) approval of draft documents is a condition of Practical Completion and the Subcontractor will be liable for the full amount of liquidated damages until the Contractor approves the draft documentation;
- f) if the Contractor rejects the draft documentation a second or subsequent time:
 - i. the Subcontractor is not entitled to amend and resubmit the draft documents a further time unless the Contractor requests the Subcontractor to do so in writing;
 - ii. the costs and expenses of:
 - A. the Contractor;
 - B. the Principal;
 - C. the Principal's Representative; and
 - D. any third part consultant or contractor,
 in amending or finalising the draft documents will be due and payable by the Subcontractor as a debt due to the Contractor.
 - iii. the Subcontractor agrees to indemnify the Contractor in relation to any cost or expense of having the draft documents finalised including:
 - A. the Contractor's own costs and expenses;
 - B. the Contractor's costs and expenses in relation to engaging any third-party consultant or contractor to amend or finalise the draft documents.
 - C. the Principal's own costs and expenses;
 - D. the Principal's Representative's costs and expenses; and
 - E. the Principal's costs and expenses in relation to engaging any third-party consultant or contractor to amend or finalise the draft documents.
 - iv. Without prejudice to any other rights the Contractor may have including but not limited to any right of set-off, the Contractor shall be entitled to have immediate recourse to the security without notice to the Subcontractor to recover any costs or expenses in relation to amending or finalising the draft documents.
- g) It is a condition of the achievement of practical completion that the draft documents are finalised and approved in writing by the Contractor.

Signature _____ Date _____

- 4.5 Submission of all documentation is to be made available electronically. Locked, illegible or unusable documents will not be accepted by the Contractor.
- 4.6 The Subcontractor must provide Form 16s for each element of the Works as certification, statement and guarantee that the Works have been undertaken as per the design and in accordance with all applicable Australian Standards, codes, practices and in accordance with the Project specifications.
- 4.7 The Subcontractor must provide the contact details for the main point of contact within the Defects Liability Period. The nominated individual is to be available at all hours in the case of an emergency, major defect or the failure of installed or supplied works.
- 4.8 The Subcontractor must also provide a point of contact for supplied items. This point of contact must include a general sales contact and a nominated individual who is able to attend to any faulty items during the life of the supplied items.
- 4.9 Regardless of trade, the Subcontractor must submit signed off drawings verifying that the Works have been completed in accordance with the Subcontract drawings.
- 4.10 The Contractor reserves the right to request certificates and warranties necessary for the certified completion of the Project to be submitted by the Subcontractor in staged elements. The Subcontractor must note that where this is undertaken, a final certificate guaranteeing works as a whole will also need to be completed and submitted to the Contractor.
- 4.11 The Contractor reserves the right to request submitted documentation be modified and resubmitted, and/or additional information provided by the Subcontractor.
- 4.13 Warranties supplied by the Subcontractor must commence at the date of the Contractor's practical completion under the Main Contract and be in accordance with the requirements of the Subcontract. Where two documents contradict one another, the Subcontractor must allow for the greater of these warranties.
- 4.14 Warranties are to be submitted as registered to the Subcontractor throughout the course of the Works, and changed as registered to the Principal upon practical completion of the Project.
- 4.15 The Contractor may, at its discretion, implement systems for the handover process and these systems are to be adopted by the Subcontractor. The Subcontractor is responsible for all training and administration necessary to administer and fulfil handover requirements as required by the Contractor.
- 4.16 The Subcontractor is aware that the above will form a requirement to the release of security or retention money (if any) and final account settlement following completion of the Works.

Signature _____ Date _____

PROJECT:	1720M Cannonvale State School
CONTRACT PARTNER:	BG Group
DATE:	11/03/2022
ATTENDEES:	Pippa Turner, Les Crocker, Jacob Hart

The tenderer agrees to and/or confirms the following matters as listed below

CONTRACT			
Item		Yes/No	Comment
1.	Do you agree to enter into a AS 2124 Special Conditions and AS 2545-1993 Subcontract Agreement?	✓ Yes	
2.	Have you received a draft copy of the proposed agreement?	No	BS to provide
3.	The Contract Partner has received understands and agrees to the "Scope of Works".	Yes	
4.	Can you confirm that you understand and have allowed for all the General Conditions of Contract, including those relating to payment; securities (and their release); the timely issue of notices; defects; variations etc?	Yes	
5.	Have you priced all items in the Invitation to Tender (including Trade Specific Items) based on drawings, Preliminaries, Specification, Scope of Works and any other documents forming part of the Tender Package or issued subsequently?	Yes	
6.	Have you nominated any exclusions or clarifications?	Yes	Refer final quote
7.	Do you confirm the tender price is a fixed lump sum and shall remain firm for the duration of the project and includes everything necessary to complete the works as defined?	Yes	
8.	Do you understand that the Contract Partner is only upon execution of the contract authorised to proceed with performance of the works?	Yes	
9.	Are any Provisional Sums nominated in tender submission?	No	
10.	Do you confirm that you have made your own evaluation of costs and are not reliant on any Bills of Quantities provided by WC or the Client? Bills of Quantities are not a Sub-Contract Document (unless noted here otherwise).	Yes	
11.	Have you allowed for cash retentions – max 5% (2 @ 2.5%), or unconditional bank guarantees to be supplied as security? The Contract Partner understands that cash retention will be held until an original copy of the BG is received by WC.	Yes	Bank guarantees

Item		Yes/No	Comment
12.	Are you aware that Liquidated damages of? (a) \$979.45 per / day + GST if the failure by the Subcontractor causes the Main Contractor to be in breach of the Main Contract.	Yes.	
13.	What is your ABN Number?		37 085 810 975
14.	Is GST excluded from (or added separately to) your submitted price? Do you acknowledge that all quoted costs are expressed as net of GST?	Yes	
15.	Can you confirm you are registered with the Tax Department and fully paid to date without arrears?	Yes	
16.	Have you allowed to comply with all Statutory regulations and requirements inclusive of all fees and payments required that are associated with your work?	Yes	
17.	Do you understand that your defects liability period will be 12 months from the date of Practical Completion of the Project?	Yes.	
COMPLIANCE (WHS, QA and ENVIRONMENT)			
18.	Have you received a copy of the WC WHS, Environmental, Site Quality and Traffic Management Plans for the project?	Yes	Balance to be provided.
19.	Do you confirm you have allowed to comply with all the requirements of the management plans and comply with all reasonable requests by WC in regard to Compliance?	Yes	
20.	Have you allowed to provide all required PPE and RPE equipment for your employees as outlined in your SWMS and to comply with Site Safety Rules?	Yes	
21.	Do you understand that WC reserve the right to charge your organisation for safety equipment supplied by us to your staff?	Yes	
22.	Have you allowed to comply with all statutory and legal requirements with regards to Environmental and Workplace Health & Safety?	Yes	
23.	You must provide site specific Safe Work Method Statements (SWMS) for all your activities prior to commencement of works under the contract. Your SWMS must identify any High-Risk Work and list all Hazardous Substances you will be using and include hard copies of their SDS. You must ensure that the handling/ storage and PPE requirements stated in the relevant SDS are outlined in your SWMS.	Yes	

Item		Yes/No	Comment
24.	Do you understand that you must provide proof of consultation & training in your site specific SWMSs for your employees prior to commencement –and that on site. All SWMSs must be pre-signed prior to arrival of staff	Yes.	
25.	Do you acknowledge that you are responsible for and have allowed to provide supervision to ensure compliance with Compliance requirements on site including your SWMSs?	Yes	
26.	Do you understand that prior to commencement on site all employees must complete a site induction and complete a Site Induction Record?	Yes	
27.	Do you understand that all your workers on site must have Construction Industry General Induction training (White Card or accepted equivalent) on their person as well as any relevant plant operator certificates required to carry out their work at the time of undertaking the site induction? Under no circumstances will your workers be permitted on site without this proof.	Yes	
28.	Woollam Constructions conducts consultative meetings for all workers on site such as Daily Pre-start, Toolbox Talks, Contract Partner Coordination and in some cases Safety Committee meetings. Do you understand you are required to participate in these meetings?	Yes	
29.	Will you have trained first aiders in your workforce for this project?	Yes	
30.	All incidents must be reported immediately to the Site Manager, be investigated, recorded. and notified in accordance with the applicable State Legislation, and Woollam Constructions OHSM and WHS Management Plan.	Yes	
31.	Do you have a procedure for rehabilitation of injured employees such as a Suitable Duties Plan?	Yes	
32.	Do you have/keep records of pre-existing injuries with your workers? Are you aware you must manage workers to prevent or minimise a re-occurrence of these injuries?	Yes	
33.	Do you understand you are required to carry out environmental, safety and housekeeping inspections of your work areas? You will be back charged for removal of any waste material left overnight.	Yes	
34.	Have you regularly trained your employees in manual handling techniques?	Yes	
35.	Have you allowed to provide all necessary electrical leads, lead stands &/or suitable insulated hooks and other electrical equipment suitably maintained & tagged to legal and WC site specific requirements?	Yes	
36.	Have you allowed to maintain and (where required by regulation & WC site specific requirements) keep logs relating to all plant, equipment, safety equipment and materials in accordance with Codes of Practice and legal requirements?	Yes	

Item		Yes/No	Comment
37.	Have you allowed for all temporary safety requirements necessary to complete the works, inclusive of barricades / handrails / fencing / bunting to installation activities, penetrations, and excavations? Also, all trade specific signage requirements?	Yes	As required
38.	Are you aware that this is an alcohol & drug free site and Random Drug and Alcohol will be conducted? There is no smoking on site unless in designated smoking areas.	Yes	
39.	Will you comply with the Construction Management Plan / Traffic Management Plan required to meet Council requirements (if applicable)? Are you aware of and have allowed for the limitations and restrictions upon parking? There is no parking allowed on site.	Yes	Parking available north end school.
40.	All deliveries to site must be pre-arranged with site manager giving a minimum of 24 hr notice as traffic management plans may need to be implemented.	Yes	
41.	Have you allowed to comply with all noise, dust, waste (including silica dust), water, sediment & spill control management and all other environmental requirements?	Yes	in particular any silica dust requirement
ADMINISTRATION			
42.	Are you aware that commencement on site will be conditional upon the supply of the following? Certificates of Currency for Workers' Compensation, Public Liability and Professional Indemnity (where applicable) Insurances. ◆ Safe Work Method Statements ◆ Employee site induction (Construction Industry General Induction White card (or accepted equivalent + site induction). ◆ Proof of Competency including any high-risk licenses required If a sole trader, the Contract Partner acknowledges that he must provide evidence of Personal Accident Insurance.	Yes	
43.	Workers Compensation (QLD) – are you aware that proof of payment must detail the number of persons covered by the policy. A written explanation is required if the Annual Wage Bill divided by the number of employees is less than \$50,000.	Yes	
44.	WC does not guarantee payment for materials off site.	Yes	
45.	Are you aware that Progress Claims must be accompanied by the statutory declaration & Subcontractor's Statement (QLD) nominated in your WC agreement and proof of currency of insurances? Failure to provide details will delay the processing of any progress claim.	Yes	

Item		Yes/No	Comment
46.	Do you accept payment terms of 30 days from the end of the month in which the claim was submitted?	Yes	
47.	Are you aware that all invoices/claims for payment must be emailed to accounts@woollamconstructions.com.au and NOT to site? (otherwise processing delays will occur)	Yes	
48.	The proposed date for Practical Completion is: 15/12/2022	Yes	
49.	There will be no payment for unfixed plant and materials	Yes	
50.	The Contract Partner must provide sufficient details for the claim to be assessed and provide further details and information upon request.	Yes.	
WORKS & PROGRAMME			
51.	Can you confirm you have inspected the site & surrounding areas to ascertain conditions applicable and accept these constraints and conditions and that you have allowed for all existing conditions, restrictions, and other circumstances of the site?		Not applicable for this contract
52.	Will any of the works be subcontracted? If so which elements and provide subcontractors details	No	
53.	Normal Site Working hours will be 6:30am to 6:30pm Mon-Fri 6:30am to 6:30pm Sat. Can you confirm that you have taken account of this in your tender?	Yes	
54.	Can you confirm your ability to complete the works in the programmed time?	Yes	
55.	Are you prepared to provide the resources necessary to meet the program?	Yes	
56.	Allowance for a six (6) day working week or as required?	Yes	
57.	Have you allowed for all costs associated with the working out of hours if this is required in order to complete your subcontract works?	Yes	
58.	When requested, are you prepared to submit programs demonstrating how you will execute your works to maintain the Contractors Program?	Yes	
59.	Do you have any long lead-time items? If so, provide.	Yes	Confirm Barestone
60.	Do you understand that you are required to co-ordinate and co-operate with all contractors/ tenderer's working on the site, and that no claims related to lack of co-ordination and co-operation will be accepted?	Yes	cladding
61.	Are you aware that WC cannot guarantee continuity of work?	Yes	
62.	Will you ensure suitable attendance at meetings as required by the Contractor?	Yes	
63.	Lost time – Pay own costs for labour only associated with inclement weather, industrial action & safety stoppages.	Yes.	

Item		Yes/No	Comment
64.	What mobilisation period is required to commence on site?		4-6 weeks to site.
65.	How many people does your company employ (directly)?	25	
66.	How many of the Contract Partner's employees will be engaged on the Subcontract Works?	10	Av. 10 workers.
67.	A competent site supervisor/foreperson/leading hand is to be on site at all times to attend site program meetings.	Yes	
68.	The Contract Partner agrees that the supervisor will be responsible for issuing and receiving all instructions and will be the sole person responsible for signing of on ITP's and QA.	Yes	
69.	The Contract Partner agrees that Woollam Constructions may direct the Contract Partner to vary the works by issuing a written "Site Instruction" at any time. All site instructions must be complied with.	Yes	Written SI only signed by SM.
70.	If the Contract Partner considers that a "Site Instruction" issued by WC constitutes a variation, the Contract Partner must notify WC in writing within three (3) business days of receipt of the direction.	Yes	
71.	The Contract Partner agrees that all day works shall be signed by the Site Manager on the day the works were undertaken. If day works are not signed off daily, then a reasonable assessment of the hours will be undertaken by WC.	Yes	
LABOUR, SUPERVISION & PRELIMINARY ITEMS			
72.	What is your estimate of man hours to complete the S/C Works?		
73.	What are your average and maximum labour requirements?		Av. 10 workers Max 20 workers
74.	Day labour rates will be as per Scope of Works Section 3.0.	Yes	
75.	Are you aware that payment for any day labour will be strictly conditional upon a written instruction by a WC supervisor in advance, and upon day labour docket amounts agreed to with the WC Project Manager for the project?	Yes	
76.	Have you allowed to provide supervision at all times whilst performing work on site and contract obligations to supervise works under defect liability period?	Yes	
77.	Have you allowed to co-ordinate with site management and receive all your deliveries to site?	Yes	
78.	What is the name of your nominated supervisor(s)?		Tom Dildben TB
79.	What is his/her/their mobile number?		TB provided.
80.	Are you aware of the limitations upon the availability of storage space on site? Have you allowed to co-ordinate your deliveries to suite this limitation?	Yes	Require container on site
81.	Have you allowed performing regular clean-up of your work areas and placing rubbish, into a bin provided	Yes.	

Item		Yes/No	Comment
	by WC in a central area, which may not necessarily be in a convenient location? Do you accept that if you fail to perform such clean-up activities WC reserve the right to notify you and carry out such cleaning and removal of rubbish and charge your company accordingly, including a reasonable charge for administration?	Yes	
82.	Have you allowed for a final trade clean of your works?	Yes	
83.	Have you allowed for all horizontal movement of labour, equipment and materials around the site? Including loading/unloading of trucks		BG allowed all materials movement
84.	Have you allowed for all vertical movement of labour, equipment and materials around the site, including hoisting & craneage?	Yes	Loading dock required.
85.	The Contractor will provide power, water and access lighting; have you allowed to provide task lighting and leads, lead stands/hooks and, in the case of your offices/sheds, connection of power?	Yes	
86.	Have you allowed for any necessary scaffolding or mechanical boom/scissor lifts to carry out your works?	Yes	Softfits. A-B + to E scissor. by BG
87.	Lunch and ablution facilities will be provided by WC.	Yes	
88.	Do you understand that the WC Site office and equipment is for WC only?	Yes	Scaffold external walls
89.	Have you allowed to provide any site offices and storage facilities inclusive of installation, relocation, running expenses and removal of same?	Yes	Leave off sheets to complete from EWP.
90.	Have you allowed for the satisfactory protection of your works until Practical Completion and for others works which may be damaged whilst carrying out defect rectification up to and beyond Practical Completion? Also, protection of other trades work when working near or over. Breakage or damages will be contra charged if proved.	Yes	
91.	Have you allowed for the safe keeping of all your materials, equipment & tools required to carry out the works? WC are not responsible in any way for the loss and/or replacement of same (i.e. theft, vandalism) howsoever this may be caused.	Yes	
92.	WC will provide set-out / datum points. Have you allowed for all other survey, calculations and set-out necessary to complete your works?	Yes	
93.	Do you accept that your company will be charged the cost on any reinstatement of survey marks lost or damaged by the actions of your employees or those under your control?	Yes	
94.	Do you employ any temporary foreign labour?	No	
95.	Do you confirm that any temporary foreign labour is employed in accordance with the work entitlements of their visa's? If requested confirm you will be able to produce evidence of visa compliance.		Not applicable

Item		Yes/No	Comment
96.	Wet weather access between site sheds and workplace will not be provided.	Yes	
97.	Will the Contract Partner require 3-phase power?	No	
DRAWINGS / WARRANTIES / QUALITY			
98.	Have you allowed to provide shop drawings for review?		Yes - trusses
99.	Have you allowed for the preparation and submission of as-built drawings, warranties, O&M manuals prior to substantial completion? [Draft format documents must be submitted when requested by WC prior to Practical Completion for approval]	Yes	
100.	Have you allowed to provide drawings in the format required?	Yes	
101.	Have you allowed to comply with Quality Assurance requirements specified by the Contract Documents?	Yes	
102.	Where the Contract so requires, are you prepared to provide Warranties in the prescribed format prior to substantial completion?	Yes	
103.	Have you allowed to provide all necessary test certification / compliance documentation, including those to cover BCA / WCA conditions? Provide specific details here.	Yes	
104.	The Contract Partner accepts that defects must be attended to within a reasonable timeframe as directed by Woollam Constructions.	Yes	
105.	The Contract Partner understands it must work from only "issued for construction" drawings:	Yes	Procure .
106.	The Contract Partners understands the Subcontract Works must meet Woollam Constructions quality requirements identified in ITPs.	Yes	
INDUSTRIAL			
107.	Have you included for all employee statutory entitlements, Awards, or other applicable allowances and conditions?	Yes	
108.	Have you assessed whether your workplace relations arrangements are consistent with the Code and Implementation Guidelines? (DEEWR advice about Code compliance of workplace arrangements to be provided to verify)?	Yes	
109.	Can you confirm that you do not have workplace agreements, policies or practices that encourage, or discourage employees, on the project site to join or maintain financial membership with a relevant union or any industrial association?	Yes	
110.	Can you confirm that you do not provide union application forms with induction packages or inform prospective employees of their rights, obligations and benefits of union membership?	Yes	

Item		Yes/No	Comment
111.	Do you have any requirements or practices that encourage, suggest or pressure subcontractors or suppliers to adopt or require any particular form of industrial agreement or to adopt any particular terms and conditions of employment?	No	
112.	Can you confirm that any induction forms you use do not require employees to identify their union status or require subcontractors or suppliers to identify the union status of employees?	Yes	
113.	Can you confirm that union delegates do not undertake or administer any part of the site induction process, or have access to the names of new staff, job applicants, subcontractors or suppliers?	Yes	
114.	Can you confirm that your industrial instruments do not grant access to a site, to a representative of an industrial association other than in strict compliance with the procedures governing entry and inspection under the Fair Work Act 2009 or relevant State legislation?	Yes	
115.	Can you confirm that you do not have any arrangements for the employment of a non-working shop steward or job delegate, or other such person, on the project site?	Yes	
116.	Can you confirm that you do not require the payment by any person, or enterprise, of a 'bargaining fee', however described, to any industrial association?	Yes	
CODE COMPLIANCE			
117.	Are you aware that the Code for the Tendering and Performance of Building Work 2016 (the Code) and the Implementation Guidelines apply to the project that is the subject of tender?	Yes	
118.	Have you allowed for compliance with the Code and the Guidelines in relation to all construction building work undertaken you and your related entities, as defined in the Implementation Guidelines, including construction building work on all privately funded construction projects in Australia?	Yes	
119.	Have you complied with the Code and Implementation Guidelines in preparing the tender?	Yes	
120.	Have you allowed for compliance with the Code and Implementation Guidelines in performing the Contract and, in privately funded projects undertaken by you, should you be the successful Tenderer?	Yes	
121.	Have you allowed for the need to ensure each subcontractor complies with the Code and Guidelines?	Yes	
122.	Have you allowed to keep appropriate records of your compliance with the Code and the Guidelines, and to ensure each subcontractor complies with the Code and Guidelines in this respect?	Yes	
123.	Can you confirm that you have not had a sanction applied to you by the Commonwealth or any State or Territory government, as contemplated in the section	Yes	

Item		Yes/No	Comment
	of the Code relating to 'Compliance Principles'? If you have, please provide details of that sanction.		
124.	Are you aware that information concerning compliance with the Code, including details of whether or not a sanction has been imposed, may be used by the Commonwealth, its agencies and ministers, and disclosed to others for the purposes of facilitating compliance with the Code and the exercise of their statutory and portfolio responsibilities? Do you agree to comply with these rights of use and disclosure?	Yes	
125.	Are you aware that you must not appoint a subcontractor, consultant or supplier in relation to the project where the appointment would breach a sanction imposed by the Commonwealth?	Yes	
REFERENCES			
126.	Provide three trade references whom we can contact (Name, company, position, phone number)		CSR Cemintel
	1. To be provided		Boral plasterboard
	2.		
	3.		
MISCELLANEOUS			
127.	Have you allowed to provide samples as required by the Contract?	Yes	
128.	Have you allowed for all excavation and the removal of excess spoil associated with your works?		Not applicable
129.	Allowance for Rock excavation?		Not applicable

WC OFFICE USE ONLY ✓ = Actioned / Received X = Not applicable	<u>DETAILS / COMMENTS</u> Detail here who you spoke to and any feedback received to proceed with contractor induction.
☐ Track Record Checked: (Consult with Construction Manager &/or Compliance Manager). ☐ Received confirmation from Site Managers or other building companies of their workmanship, Compliance and general construction ability. Compliance System submissions: ☐ Safe Work Method Statement outlining hazards/risk and containing controls for all planned activities ☐ SDS Register Hazardous / Dangerous Substance with relevant SDS ☐ Plant & Equipment Register (with maintenance requirements detailed) ☐ Authority Design &/or Plant Registration and relevant Plant Risk Assessments ☐ Current Electrical Register (including all RCD trip time testing) ☐ Training Register (with competency statements / licences) ☐ For any mobile plant that does not require operator certification &/or licensing, the contractor must confirm that their nominated operator/s are competent within their Training Register	

CONTRACT PARTNER TENDER INTERVIEW

1720M Cannonvale SS

PROJECT: 1720M Cannonvale State School
CONTRACT PARTNER: TGS Painting
DATE: 11/03/2022
ATTENDEES: Pippa Turner, Les Crocker, Brad Tattersal
 John Lowrie

The tenderer agrees to and/or confirms the following matters as listed below:

CONTRACT			
Item		Yes/No	Comment
1.	Do you agree to enter into a Woollam Constructions (WC) Minor Works Agreement?	Yes ✓	
2.	Have you received a draft copy of the proposed agreement?	NO	→ JL TO PROVIDE
3.	The Contract Partner has received understands and agrees to the 'Scope of Works'.	Yes ✓	
4.	Can you confirm that you understand and have allowed for all the General Conditions of Contract, including those relating to payment; securities (and their release); the timely issue of notices; defects; variations etc?	yes ✓	
5.	Have you priced all items in the Invitation to Tender the trade Scope of Works (including Trade Specific Items) based on drawings, Preliminaries, Specification, Scope of Works and any other documents forming part of the Tender Package or issued subsequently?	yes ✓	
6.	Have you nominated any exclusions or clarifications?	NO ✓	
7.	Do you confirm the tender price is a fixed lump sum and shall remain firm for the duration of the project and includes everything necessary to complete the works as defined?	yes ✓	
8.	Do you understand that the Contract Partner is only upon execution of the contract authorised to proceed with performance of the works?	yes ✓	
9.	Are any Provisional Sums nominated in tender submission?	no ✓	
10.	Do you confirm that you have made your own evaluation of costs and are not reliant on any Bills of Quantities provided by WC or the Client? Bills of Quantities are not a Sub-Contract Document (unless noted here otherwise).	yes ✓	
11.	Have you allowed for cash retentions – max 5% (2 @ 2.5%), or unconditional bank guarantees to be supplied as security? The Contract Partner understands that cash retention will be held until an original copy of the BG is received by WC.	yes ✓	

Item		Yes/No	Comment
12.	Are you aware that Liquidated damages of? (a) 100,000 per 2 day = GST for costs incurred by the Main Contractor for extended overheads and other damages excluding damages and (b) 5750.00 per / day = GST if the failure by the Subcontractor causes the Main Contractor to be in breach of the Main Contract.	yes ✓	
13.	What is your ABN Number?	yes ✓	39874 750742
14.	Is GST excluded from (or added separately to) your submitted price? Do you acknowledge that all quoted costs are expressed as net of GST?	yes ✓	
15.	Can you confirm you are registered with the Tax Department and fully paid to date without arrears?	yes ✓	
16.	Have you allowed to comply with all Statutory regulations and requirements inclusive of all fees and payments required that are associated with your work?	yes ✓	
17.	Do you understand that your defects liability period will be 12 months from the date of Practical Completion of the Project?	yes ✓	
COMPLIANCE (WHS, QA and ENVIRONMENT)			
18.	Have you received a copy of the WC WHS, Environmental, Site Quality and Traffic Management Plans for the project?	yes ✓	
19.	Do you confirm you have allowed to comply with all the requirements of the management plans and comply with all reasonable requests by WC in regard to Compliance?	yes ✓	
20.	Have you allowed to provide all required PPE and RPE equipment for your employees as outlined in your SWMS and to comply with Site Safety Rules?	yes ✓	
21.	Do you understand that WC reserve the right to charge your organisation for safety equipment supplied by us to your staff?	yes ✓	
22.	Have you allowed to comply with all statutory and legal requirements with regards to Environmental and Workplace Health & Safety?	yes ✓	
23.	You must provide site specific Safe Work Method Statements (SWMS) for all your activities prior to commencement of works under the contract. Your SWMS must identify any High-Risk Work and list all Hazardous Substances you will be using and include hard copies of their SDS. You must ensure that the handling/ storage and PPE requirements stated in the relevant SDS are outlined in your SWMS.	yes ✓	

CONTRACT PARTNER TENDER INTERVIEW

Item		Yes/No	Comment
24.	Do you understand that you must provide proof of consultation & training in your site specific SWMSs for your employees prior to commencement –and that on site. All SWMSs must be pre-signed prior to arrival of staff	Yes	✓ A. BRAD HAS ISSUED A COPY TO JL HOWEVER DC/RS TO CHECK AND COMMENT.
25.	Do you acknowledge that you are responsible for and have allowed to provide supervision to ensure compliance with Compliance requirements on site including your SWMSs?	Yes	✓
26.	Do you understand that prior to commencement on site all employees must complete a site induction and complete a Site Induction Record?	Yes ✓	BRAD CONFIRMED THAT THEY HAVE IMPLEMENTED INTERNAL INDUCTION SYSTEM/ PROCESS.
27.	Do you understand that all your workers on site must have Construction Industry General Induction training (White Card or accepted equivalent) on their person as well as any relevant plant operator certificates required to carry out their work at the time of undertaking the site induction? Under no circumstances will your workers be permitted on site without this proof	Yes	✓
28.	Woolam Constructions conducts consultative meetings for all workers on site such as Daily Pre-start, Toolbox Talks, Contract Partner Coordination and in some cases Safety Committee meetings. Do you understand you are required to participate in these meetings?	Yes	✓
29.	Will you have trained first aiders in your workforce for this project?	Yes	✓ Andrew Brayfield
30.	All incidents must be reported immediately to the Site Manager, be investigated, recorded, and notified in accordance with the applicable State Legislation, and Woolam Constructions OHSMM and WHS Management Plan.	Yes	✓
31.	Do you have a procedure for rehabilitation of injured employees such as a Suitable Duties Plan?	Yes	✓
32.	Do you have/keep records of pre-existing injuries with your workers? Are you aware you must manage workers to prevent or minimise a re-occurrence of these injuries?	Yes	✓
33.	Do you understand you are required to carry out environmental, safety and housekeeping inspections of your work areas? You will be back charged for removal of any waste material left overnight.	Yes	✓
34.	Have you regularly trained your employees in manual handling techniques?	Yes	✓ Pre-start meeting
35.	Have you allowed to provide all necessary electrical leads, lead stands &/or suitable insulated hooks and other electrical equipment suitably maintained & tagged to legal and WC site specific requirements?	Yes	✓
36.	Have you allowed to maintain and (where required by regulation & WC site specific requirements) keep logs relating to all plant, equipment, safety equipment and materials in accordance with Codes of Practice and legal requirements?	Yes	✓

CONTRACT PARTNER TENDER INTERVIEW

Item		Yes/No	Comment
46.	Do you accept payment terms of 30 days from the end of the month in which the claim was submitted?	YES ✓	
47.	Are you aware that all invoices/claims for payment must be emailed to accounts@woollamconstructions.com.au and NOT to site? (otherwise processing delays will occur)	YES ✓	CURRENT DC DATE.
48.	The proposed date for Practical Completion is: TBA	YES	
49.	There will be no payment for unfixed plant and materials	YES ✓	
50.	The Contract Partner must provide sufficient details for the claim to be assessed and provide further details and information upon request.	YES ✓	
WORKS & PROGRAMME			
51.	Can you confirm you have inspected the site & surrounding areas to ascertain conditions applicable and accept these constraints and conditions and that you have allowed for all existing conditions, restrictions, and other circumstances of the site?	YES ✓	
52.	Will any of the works be subcontracted? If so which elements and provide subcontractors details	NO ✓	
53.	Normal Site Working hours will be 6:30am to 6:30pm Mon-Fri 6:30am to 6:30pm Sat. Can you confirm that you have taken account of this in your tender?	YES ✓	
54.	Can you confirm your ability to complete the works in the programmed time?	YES ✓	
55.	Are you prepared to provide the resources necessary to meet the program?	YES ✓	
56.	Allowance for a six (6) day working week or as required?	YES ✓	
57.	Have you allowed for all costs associated with the working out of hours if this is required in order to complete your subcontract works?	YES ✓	
58.	When requested, are you prepared to submit programs demonstrating how you will execute your works to maintain the Contractors Program?	YES ✓	
59.	Do you have any long lead-time items? If so, provide.	NO ✓	
60.	Do you understand that you are required to co-ordinate and co-operate with all contractors/ tenderer's working on the site, and that no claims related to lack of co-ordination and co-operation will be accepted?	YES ✓	
61.	Are you aware that WC cannot guarantee continuity of work?	YES ✓	
62.	Will you ensure suitable attendance at meetings as required by the Contractor?	YES ✓	
63.	Lost time – Pay own costs for labour only associated with inclement weather, industrial action & safety stoppages.	YES ✓	
64.	What mobilisation period is required to commence on site?	NO ✓	

CONTRACT PARTNER TENDER INTERVIEW

Item		Yes/No	Comment
65.	How many people does your company employ (directly)?	10	✓
66.	How many of the Contract Partner's employees will be engaged on the Subcontract Works?	4	✓
67.	A competent site supervisor/foreperson/leading hand is to be on site at all times to attend site program meetings.	yes	✓ Andrew Brayfield
68.	The Contract Partner agrees that the supervisor will be responsible for issuing and receiving all instructions and will be the sole person responsible for signing of on ITP's and QA.	yes	✓
69.	The Contract Partner agrees that Woollam Constructions may direct the Contract Partner to vary the works by issuing a written "Site Instruction" at any time. All site instructions must be complied with.	yes	✓
70.	If the Contract Partner considers that a "Site Instruction" issued by WC constitutes a variation, the Contract Partner must notify WC in writing within three (3) business days of receipt of the direction.	yes	✓
71.	The Contract Partner agrees that all day works shall be signed by the Site Manager on the day the works were undertaken. If day works are not signed off daily, then a reasonable assessment of the hours will be undertaken by WC.	yes	✓
LABOUR, SUPERVISION & PRELIMINARY ITEMS			
72.	What is your estimate of man hours to complete the S/C Works?	✓	540 man hours
73.	What are your average and maximum labour requirements?	✓	4-5
74.	Day labour rates will be as per Scope of Works Section 3.0.	yes	✓
75.	Are you aware that payment for any day labour will be strictly conditional upon a written instruction by a WC supervisor in advance, and upon day labour docket amounts agreed to with the WC Project Manager for the project?	yes	✓
76.	Have you allowed to provide supervision at all times whilst performing work on site and contract obligations to supervise works under defect liability period?	yes	✓
77.	Have you allowed to co-ordinate with site management and receive all your deliveries to site?	yes	✓
78.	What is the name of your nominated supervisor(s)?	✓	Andrew Brayfield
79.	What is his/her/their mobile number?	✓	0407 687 534
80.	Are you aware of the limitations upon the availability of storage space on site? Have you allowed to co-ordinate your deliveries to suite this limitation?	yes	✓
81.	Have you allowed performing regular clean-up of your work areas and placing rubbish, into a bin provided by WC in a central area, which may not necessarily be in a convenient location?	yes	✓

Item		Yes/No	Comment
	Do you accept that if you fail to perform such clean-up activities WC reserve the right to notify you and carry out such cleaning and removal of rubbish and charge your company accordingly, including a reasonable charge for administration?	Yes ✓	
82.	Have you allowed for a final trade clean of your works?	Yes ✓	
83.	Have you allowed for all horizontal movement of labour, equipment and materials around the site? Including loading/unloading of trucks	Yes ✓	
84.	Have you allowed for all vertical movement of labour, equipment and materials around the site, including hoisting & craneage?	N/A ✓	
85.	The Contractor will provide power, water and access lighting; have you allowed to provide task lighting and leads, lead stands/hooks and, in the case of your offices/sheds, connection of power?	Yes ✓	
86.	Have you allowed for any necessary scaffolding or mechanical boom/scissor lifts to carry out your works?	No ✓	yes Suggested By WC
87.	Lunch and ablution facilities will be provided by WC.	Yes ✓	
88.	Do you understand that the WC Site office and equipment is for WC only?	Yes ✓	
89.	Have you allowed to provide any site offices and storage facilities inclusive of installation, relocation, running expenses and removal of same?	N/A ✓	
90.	Have you allowed for the satisfactory protection of your works until Practical Completion and for others works which may be damaged whilst carrying out defect rectification up to and beyond Practical Completion? Also, protection of other trades work when working near or over. Breakage or damages will be charged if proved.	Yes ✓	
91.	Have you allowed for the safe keeping of all your materials, equipment & tools required to carry out the works? WC are not responsible in any way for the loss and/or replacement of same (i.e. theft, vandalism) howsoever this may be caused.	Yes ✓	
92.	WC will provide set-out / datum points. Have you allowed for all other survey, calculations and set-out necessary to complete your works?	Yes ✓	
93.	Do you accept that your company will be charged the cost on any reinstatement of survey marks lost or damaged by the actions of your employees or those under your control?	Yes ✓	
94.	Do you employ any temporary foreign labour?	No ✓	
95.	Do you confirm that any temporary foreign labour is employed in accordance with the work entitlements of their visa's? If requested confirm you will be able to produce evidence of visa compliance.	N/A ✓	
96.	Wet weather access between site sheds and workplace will not be provided.	Yes ✓	

Item		Yes/No	Comment
97.	Will the Contract Partner require 3-phase power?	NO	✓
DRAWINGS / WARRANTIES / QUALITY			
98.	Have you allowed to provide shop drawings for review?	yes	✓
99.	Have you allowed for the preparation and submission of as-built drawings, warranties, O&M manuals prior to substantial completion? [Draft format documents must be submitted when requested by WC prior to Practical Completion for approval]	yes	✓
100.	Have you allowed to provide drawings in the format required?	yes	✓
101.	Have you allowed to comply with Quality Assurance requirements specified by the Contract Documents?	yes	✓
102.	Where the Contract so requires, are you prepared to provide Warranties in the prescribed format prior to substantial completion?	yes	✓
103.	Have you allowed to provide all necessary test certification / compliance documentation, including those to cover BCA / WCA conditions? Provide specific details here.	yes	✓
104.	The Contract Partner accepts that defects must be attended to within a reasonable timeframe as directed by Woollam Constructions.	yes	✓
105.	The Contract Partner understands it must work from only 'issued for construction' drawings.	yes	✓
106.	The Contract Partners understands the Subcontract Works must meet Woollam Constructions quality requirements identified in ITPs.	yes	✓
INDUSTRIAL			
107.	Have you included for all employee statutory entitlements, Awards, or other applicable allowances and conditions?	yes	✓
108.	Have you assessed whether your workplace relations arrangements are consistent with the Code and Implementation Guidelines? (DEEWR advice about Code compliance of workplace arrangements to be provided to verify)?	yes	✓
109.	Can you confirm that you do not have workplace agreements, policies or practices that encourage, or discourage employees, on the project site to join or maintain financial membership with a relevant union or any industrial association?	yes	✓
110.	Can you confirm that you do not provide union application forms with induction packages or inform prospective employees of their rights, obligations and benefits of union membership?	yes	✓

Item		Yes/No	Comment
111.	Do you have any requirements or practices that encourage, suggest or pressure subcontractors or suppliers to adopt or require any particular form of industrial agreement or to adopt any particular terms and conditions of employment?	no	✓
112.	Can you confirm that any induction forms you use do not require employees to identify their union status or require subcontractors or suppliers to identify the union status of employees?	yes	✓
113.	Can you confirm that union delegates do not undertake or administer any part of the site induction process, or have access to the names of new staff, job applicants, subcontractors or suppliers?	yes	✓
114.	Can you confirm that your industrial instruments do not grant access to a site, to a representative of an industrial association other than in strict compliance with the procedures governing entry and inspection under the Fair Work Act 2009 or relevant State legislation?	yes	✓
115.	Can you confirm that you do not have any arrangements for the employment of a non-working shop steward or job delegate, or other such person, on the project site?	yes	✓
116.	Can you confirm that you do not require the payment by any person, or enterprise, of a 'bargaining fee', however described, to any industrial association?	yes	✓
CODE COMPLIANCE			
117.	Are you aware that the Code for the Tendering and Performance of Building Work 2016 (the Code) and the Implementation Guidelines apply to the project that is the subject of tender?	yes	✓
118.	Have you allowed for compliance with the Code and the Guidelines in relation to all construction building work undertaken you and your related entities, as defined in the Implementation Guidelines, including construction building work on all privately funded construction projects in Australia?	yes	✓
119.	Have you complied with the Code and Implementation Guidelines in preparing the tender?	yes	✓
120.	Have you allowed for compliance with the Code and Implementation Guidelines in performing the Contract and, in privately funded projects undertaken by you, should you be the successful Tenderer?	yes	✓
121.	Have you allowed for the need to ensure each subcontractor complies with the Code and Guidelines?	yes	✓
122.	Have you allowed to keep appropriate records of your compliance with the Code and the Guidelines, and to ensure each subcontractor complies with the Code and Guidelines in this respect?	yes	✓
123.	Can you confirm that you have not had a sanction applied to you by the Commonwealth or any State or Territory government, as contemplated in the section	yes	✓

Item		Yes/No	Comment
	of the Code relating to 'Compliance Principles'? If you have, please provide details of that sanction.	yes	✓
124.	Are you aware that information concerning compliance with the Code, including details of whether or not a sanction has been imposed, may be used by the Commonwealth, its agencies and ministers, and disclosed to others for the purposes of facilitating compliance with the Code and the exercise of their statutory and portfolio responsibilities? Do you agree to comply with these rights of use and disclosure?	yes	✓
125.	Are you aware that you must not appoint a subcontractor, consultant or supplier in relation to the project where the appointment would breach a sanction imposed by the Commonwealth?	yes	✓
REFERENCES			
126.	Provide three trade references whom we can contact (Name, company, position, phone number)		
	1. Cameron Robertson ROBINSON	✓	0418 184 535
	2. Michael Zepes - QBH	✓	0418 776 071
	3. Shawn O'Reilly - John Foster	✓	0455 717 730
MISCELLANEOUS			
127.	Have you allowed to provide samples as required by the Contract?	yes	✓
128.	Have you allowed for all excavation and the removal of excess spoil associated with your works?	N/A	✓
129.	Allowance for Rock excavation?	N/A	✓

- Brad confirmed that he will be using Dulux Pant System.
- WC/DC to provide schedule of pant colours and finish.
- Brad to provide evidence of Internal Induction records.

WC OFFICE USE ONLY	DETAILS / COMMENTS
✓ = Actioned / Received X = Not applicable	Detail here who you spoke to and any feedback received to proceed with contractor induction.
☐ Track Record Checked: (Consult with Construction Manager &/or Compliance Manager). ☐ Received confirmation from Site Managers or other building companies of their workmanship, Compliance and general construction ability. Compliance System submissions: ☐ Safe Work Method Statement outlining hazards/risk and containing controls for all planned activities ☐ SDS Register Hazardous / Dangerous Substance with relevant SDS ☐ Plant & Equipment Register (with maintenance requirements detailed) ☐ Authority Design &/or Plant Registration and relevant Plant Risk Assessments ☐ Current Electrical Register (including all RCD trip time testing) ☐ Training Register (with competency statements / licences) ☐ For any mobile plant that does not require operator certification &/or licensing, the contractor must confirm that their nominated operator/s are competent within their Training Register	



woollam
CONSTRUCTIONS

since 1884

**General Conditions of Subcontract AS2545-1993
Special Conditions of Contract & Annexures**

**Cannonvale State School –
Administration and Resource Centre**

Trusses, Cladding, Ceilings and Partitions

T F Woollam & Son Pty Ltd (ABN 94 009 676 064)

(Contractor)

and

BG Group NQ Pty Ltd (ABN 37 085 810 975)

(Sub-Contractor)

Formal Instrument of Agreement

Dated 23 / 03 / 2022

Parties

1. **TF Woollam & Son Pty Ltd trading as Woollam Constructions ACN 009 676 064** of 71 Lytton Road East Brisbane QLD 4169 (**Contractor**).
2. **BG Group NQ Pty Ltd (ABN 37 085 810 975)** of 7-8 Brice Court, Garbutt QLD 4814 (**Subcontractor**).

Background

- A. The *Contractor* wishes to engage the *Sub-Contractor* to carry out *WUC* and complete *the Works* in accordance with the requirements of the *Contract*.
- B. The *Contractor* and the *Sub-Contractor* agree that the *Sub-Contractor* shall carry out *WUC* and complete *the Works* for the *Contractor* on the terms of the *Contract*.

Agreed terms

The definitions in the Australian Standard Subcontract Conditions 2545-1993 and AS2124 Special Conditions of Contract Annexure below apply to this Formal Instrument of Agreement unless otherwise indicated.

1. Performance

- (a) The *Sub-Contractor* shall carry out *WUC* and complete *the Works* in accordance with the *Contract*.
- (b) The *Contractor* shall pay the *Sub-Contractor* the *contract sum* at the times and in the manner provided for in the *Contract*.
- (c) Each of the parties shall perform the obligations imposed on it by the *Contract*.

2. Contract Sum

The *contract sum* is **\$900,000 excl GST** (Nine Hundred Thousand Dollars) excluding GST)

4. Contract documents

- (a) The *Contract* comprises the following documents marked as follows:

	Document Description
(A)	This Formal Instrument of Agreement
(B)	AS 2545-1993 Subcontract Conditions

	Document Description
(C)	AS2124 Special Conditions of Contract Annexure

- (b) Where there is any inconsistency, ambiguity or discrepancy between the documents set out above, they will prevail in their stated order of precedence, so that this *Formal Instrument of Agreement* is the primary contract document.
- (c) Where there is any inconsistency, ambiguity or discrepancy between the documents comprising the *Principal's project requirements*, clause 8.1 of the *Contract* shall apply.

5. Entire contract

- (a) The documents listed in clause 4 of this *Formal Instrument of Agreement* constitute the entire agreement between the parties in respect of *the Works* and the *Contract* supersedes all previous agreements, undertakings and communications, whether written or oral, relating to the subject matter of the *Contract*.
- (b) The *Contract* may be varied only by written instrument executed by both parties.

6. Parties to give effect to the contract

The parties agree that they shall do everything reasonably necessary to give effect to the *Contract*.

7. Work performed prior to date of execution of contract

The terms of the *Contract* apply to all of *the Works* even if they were performed prior to the date of execution of the *Contract*.

Executed as an agreement.

Signed on behalf of **TF Woollam & Son Pty Ltd**
trading as Woollam Constructions ACN 009 676
064 in accordance with section 127 of the
Corporations Act 2001:

Project Manager

Print name

Witness

Print name

Signed on behalf of **BG Group NQ Pty Ltd**
(ABN 37 085 810 975) in accordance with section
127 of the *Corporations Act 2001*:

Secretary/Director

Print name

Director

Print name

Australian Standard[®]

Subcontract conditions

AS 2545—1993

(Incorporating Amendment No. 1)

This Australian Standard was prepared by Committee OB/3, General Conditions of Contract. It was approved on behalf of the Council of Standards Australia on 17 August 1993 and published on 27 September 1993.

The following interests are represented on Committee OB/3:

Australian Chamber of Commerce and Industry
Australian Electrical and Electronic Manufacturers Association
Australian Institute of Project Management
Australian Institute of Purchasing and Supply Management
Australian Institute of Quantity Surveyors
Australian Mining Industry Council
AUSTROADS
Construction Industry Engineering Services Group
Electricity Supply Association of Australia
Institution of Engineers Australia
Law Council of Australia
Master Builders Australia
Metal Trades Industry Association of Australia
National Public Works Conference
Process Engineers and Constructors Association
Railways of Australia Committee
Royal Australian Institute of Architects
The Association of Consulting Engineers Australia

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Suggestions for improvements to Australian Standards, addressed to the head office of Standards Australia, are welcomed. Notification of any inaccuracy or ambiguity found in an Australian Standard should be made without delay in order that the matter may be investigated and appropriate action taken.

Australian Standard[®]

Subcontract conditions

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PREFACE

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

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

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

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

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

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

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

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

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

A1 | **Legislation has come into force in some jurisdictions dealing with security of payments. Parties intending to use this Standard should seek expert advice as to their rights and obligations under such legislation.**

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STANDARDS AUSTRALIA

Australian Standard

Subcontract conditions

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

1 CONSTRUCTION OF SUBCONTRACT

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

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

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

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

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

2 INTERPRETATION

In the Subcontract, except where the context otherwise requires —

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

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

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

'Date for Substantial Completion' means—

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

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

'Date of Substantial Completion' means—

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

'day' means calendar day;

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

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

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

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

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

‘month’ means calendar month;

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

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

‘Principal’ means the Principal stated in the Annexure;

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

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

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

‘secondary subcontractor’ means a subcontractor to the Subcontractor;

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

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

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

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

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

‘Subcontract Sum’ means —

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

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

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

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

‘Substantial Completion’ is that stage in the execution of the work under the Subcontract when—

- (a) the Works are complete except for minor omissions and minor defects—
 - (i) which do not prevent the Works from being reasonably capable of being used for their intended purpose; and
 - (ii) which the Main Contractor’s Representative determines that the Subcontractor has reasonable grounds for not promptly rectifying; and
 - (iii) rectification of which will not prejudice the convenient use of the Works; and
- (b) those tests which are required by the Subcontract to be carried out and passed before the Works reach Substantial Completion have been carried out and passed; and
- (c) documents and other information required under the Subcontract which, in the opinion of the Main Contractor’s Representative, are essential for the use, operation and maintenance of the Works have been supplied;

‘Superintendent’ means the person stated in the Annexure as the Superintendent or other person from time to time appointed in writing by the Principal to be the Superintendent and notified as such in writing to the Subcontractor by the Main Contractor and, so far as concerns the functions exercisable by a Superintendent’s Representative, includes a Superintendent’s Representative;

‘Temporary Works’ means works used in the execution of the work under the Subcontract but not forming part of the Works;

‘work under the Subcontract’ means the work which the Subcontractor is or may be required to execute under the Subcontract and includes variations, remedial work, Constructional Plant and Temporary Works;

‘Works’ means the whole of the work to be executed in accordance with the Subcontract, including variations provided for by the Subcontract, which by the Subcontract is to be handed over to the Main Contractor.

NOTE: In addition to these definitions, some terms, specific to a clause, are defined in that clause. Refer to the Index.

The clause headings and sub-clause headings in the Subcontract Conditions shall not form part of the Subcontract Conditions and shall not be used in the interpretation of the Subcontract.

Words in the singular include the plural and words in the plural include the singular, according to the requirements of the context.

Words importing a gender include every gender.

3 NATURE OF SUBCONTRACT

3.1 Performance and Payment

The Subcontractor shall execute and complete the work under the Subcontract.

The Main Contractor shall pay the Subcontractor—

- (a) for work for which the Main Contractor accepted a lump sum, the lump sum;
- (b) for work for which the Main Contractor accepted rates, the sum ascertained by multiplying the measured quantity of each section or item of work actually carried out under the Subcontract by the rate accepted by the Main Contractor for the section or item,

adjusted by any additions or deductions made pursuant to the Subcontract.

3.2 Quantities

Quantities in a Bill of Quantities or Schedule of Rates are estimated quantities only.

A direction shall not be required to be given by the Main Contractor's Representative by reason of the actual quantity of an item required to perform the Subcontract being greater or less than the quantity shown in the Bill of Quantities or Schedule of Rates.

3.3 Adjustment for Actual Quantities— Schedule of Rates

Where otherwise than by reason of a direction of the Main Contractor's Representative to vary the work under the Subcontract, the actual quantity of an item required to perform the Subcontract is greater or less than the quantity shown in the Schedule of Rates—

- (a) where the Main Contractor accepted a lump sum for the item, the difference shall be valued under Clause 40.5 as if it were varied work directed by the Main Contractor's Representative as a variation;
- (b) where the Main Contractor accepted a rate for the item, the rate shall apply to greater or lesser quantities provided that where limits of accuracy are stated in the Annexure the rate shall apply to the greater or lesser quantities within the limits and quantities outside the limits shall be valued under Clause 40.5 as if they were varied work directed by the Main Contractor's Representative as a variation.

If a Schedule of Rates omits an item which should have been included, the item shall be valued under Clause 40.5 as if it were extra work directed by the Main Contractor's Representative as a variation.

4 BILL OF QUANTITIES

4.1 Purpose of the Bill of Quantities

Alternative 1

A Bill of Quantities forms part of the Subcontract only to the extent provided in the Subcontract.

Alternative 2

A Bill of Quantities shall not form part of the Subcontract.

Alternative 3

A Bill of Quantities forms part of the Specification.

4.2 Pricing and Lodgment

Where there is a Bill of Quantities—

- (a) all items included in the Bill of Quantities shall be priced and extended by the Subcontractor and the prices as extended shall, on addition, equal the sum accepted by the Main Contractor for the execution of the whole of the work to which the Bill of Quantities relates;
- (b) the Subcontractor shall lodge the Bill of Quantities so priced and extended with the Main Contractor's Representative before the expiration of the time for lodgment stated in the Annexure or such further time as may be directed by the Main Contractor's Representative from time to time;
- (c) notwithstanding any other provision of the Subcontract, the Subcontractor shall not be entitled to payment until the Subcontractor has lodged the Bill of Quantities, so priced and extended.

4.3 Errors in Pricing

Any errors in extension or addition or both, or correction of incorrect or inconsistent rates or prices (including the insertion of rates or prices wrongly omitted and the deletion of rates or prices wrongly included) discovered by the Main Contractor or the Subcontractor

in the Priced Bill of Quantities shall be notified to the Main Contractor's Representative in writing by the party making the discovery and corrected in a manner agreed between the Subcontractor and the Main Contractor's Representative or, in the event of failure to agree, as determined by the Main Contractor's Representative so that the total of all items in the Priced Bill of Quantities continues to equal the sum accepted by the Main Contractor for the execution of the whole of the work to which the Bill of Quantities relates.

4.4 Errors in Bills of Quantities

If the Priced Bill of Quantities is in error in that it—

- (a) contains an incorrect quantity in relation to any item included therein; or
- (b) contains an item which should not have been included therein; or
- (c) omits an item which should have been included therein;

then —

- (i) in a case of Clause 4.4(a) where the item is deficient in quantity or in the case of Clause 4.4(c)— upon application in writing to the Main Contractor's Representative by the Subcontractor; and
- (ii) in a case of Clause 4.4(a) where the item is excessive in quantity or in the case of Clause 4.4(b) — upon notification in writing to the Subcontractor by the Main Contractor's Representative,

the lump sum accepted by the Main Contractor for the execution of the whole of the work to which the Bill of Quantities relates shall except when the value of the error is less than \$400, be adjusted by such amount as is required to correct the error, determined in the manner provided by Clause 40.5 for the valuation of variations as if the correction were a variation under Clause 40.

The Bill of Quantities shall be deemed to be in error as aforesaid to the extent that the items and quantities included in it differ from those required for the execution of the Works in accordance with the drawings and specification referred to in the Subcontract, measured in accordance with the method of measurement evidenced by the Subcontract.

5 SECURITY, RETENTION MONEYS AND PERFORMANCE UNDERTAKINGS

5.1 Purpose

Security, retention moneys and performance undertakings are for the purpose of ensuring the due and proper performance of the Subcontract.

5.2 Provision of Security

If it is provided in the Annexure that a party shall provide security then the party shall provide security in the amount stated in the Annexure and in accordance with this Clause.

5.3 Form of Security

The security shall be in the form of cash, bonds or inscribed stock issued by the Australian Government or the Government of a State or Territory of Australia, interest bearing deposit in a trading bank carrying on business in Australia, an approved unconditional undertaking given by an approved financial institution or insurance company, or other form approved by the party having the benefit of the security.

The party having the benefit of the security shall have a discretion to approve or disapprove of the form of an unconditional undertaking and the financial institution or insurance company giving it or other form of security offered. The form of unconditional undertaking attached to these Subcontract Conditions is approved.

If the security is not transferable by delivery it shall be accompanied by an executed transfer or such other documentation as is necessary to effect a transfer of the security. The costs (including all stamp duty or other taxes) of and incidental to the transfer and retransfer shall be borne by the party providing the security.

5.4 Time for Lodgment of Security

Security shall be lodged within 28 days of the Date of Acceptance of Tender.

5.5 Recourse to Retention Moneys and Conversion of Security

A party may have recourse to retention moneys and/or cash security and/or may convert into money security that does not consist of money where —

- (a) the party has become entitled to exercise a right under the Subcontract in respect of the retention moneys and/or security; and
- (b) the party has given the other party notice in writing for the period stated in the Annexure, or if no period is stated, five days, of the party's intention to have recourse to the retention moneys and/or cash security and/or to convert the security; and
- (c) the period stated in the Annexure or if no period is stated, five days has or have elapsed since the notice was given.

5.6 Substitution of Security for Retention Moneys

The Subcontractor shall be at liberty at any time to provide in lieu of retention moneys, security in any of the forms permitted by Clause 5.3. To the extent that such security is provided, the Main Contractor shall not deduct retention moneys and shall forthwith release retention moneys.

*** 5.7 Reduction of Security and Retention Moneys**

Upon issue of the Certificate of Substantial Completion, the Main Contractor's entitlement to security and retention moneys shall be reduced to the percentage thereof stated in the Annexure or, if no percentage is stated, to 50 percent thereof.

Subject to the first paragraph of Clause 5.7, if in the opinion of the Main Contractor's Representative it is reasonable to further reduce the Main Contractor's entitlement to security and retention moneys, that entitlement shall be reduced to the amount which the Main Contractor's Representative determines to be reasonable.

The Main Contractor shall, within 14 days of the Main Contractor's Representative making such a determination, release security and retention moneys in excess of the entitlement.

5.8 Release of Security

If the Subcontractor has provided additional security pursuant to Clause 42.4, the Main Contractor shall release that additional security within 21 days of incorporation into the Works of the unfixed plant or materials in respect of which the additional security was furnished.

If the Main Contractor has provided security, then when the Subcontractor has been paid all moneys finally due to the Subcontractor under the Subcontract or a Separable Portion, the Subcontractor shall release the security lodged by the Main Contractor in respect of the Subcontract or the Separable Portion, as the case may be.

If the Subcontractor has provided security, then the Main Contractor shall release it when required by Clause 42.8.

5.9 Interest on Security and Retention Moneys

Alternative 1

A party holding retention moneys and/or cash security shall forthwith deposit the money in an interest bearing account in a bank. That party shall nominate the bank and the type of account. The account shall be in the joint names of the Main Contractor and the Subcontractor and shall be one from which moneys can only be drawn with the signatures of two persons, one appointed by each of the Main Contractor and the Subcontractor. The moneys shall be held until the Main Contractor or the Subcontractor is entitled to receive them.

Interest earned on security lodged by the Subcontractor and on retention moneys belongs to the Subcontractor. Interest earned on security lodged by the Main Contractor belongs to the Main Contractor.

Upon the Main Contractor or the Subcontractor becoming entitled to receive any moneys, including interest in the account, the other party shall forthwith have that party's appointee sign all documentation necessary to withdraw the moneys and shall give the signed documentation to the other party.

Alternative 2

A party holding retention moneys or cash security shall own any interest earned on the retention moneys or security. Except where retention moneys or cash security are held by a government department or agency or a municipal, public or statutory authority, retention moneys or cash security shall be held in trust by the party holding them for the other party until the Main Contractor or the Subcontractor is entitled to receive them.

5.10 Deed of Guarantee, Undertaking and Substitution

Where—

- (a) a party is a corporation that is related to or is a subsidiary of another corporation as defined in the Corporations Law as amended from time to time; and
- (b) the Main Contractor has included in the Subcontract tender documents a form of Deed of Guarantee, Undertaking and Substitution;

that party shall, if requested by the other party in writing within 7 days after the Date of Acceptance of Tender lodge with the other party, within 14 days after that request having been made, a Deed of Guarantee, Undertaking and Substitution in the form included in such tender documents duly executed by the first party and that other corporation for the performance of the obligations and the discharge of the liabilities of the first party under the Subcontract.

For the purpose of Clause 5.10, the terms 'corporation' and 'subsidiary' have the meanings defined in the Corporations Law.

6 EVIDENCE OF SUBCONTRACT

6.1 Subcontract in Absence of Formal Instrument of Agreement

Unless a Formal Instrument of Agreement is executed by the parties, the agreement in writing between the parties for the execution of the work under the Subcontract, including documents or parts of documents to which reference may properly be made to ascertain the rights and obligations of the parties, shall evidence the Subcontract.

6.2 Formal Instrument of Agreement

If the conditions of tender require a Formal Instrument of Agreement, the Main Contractor shall prepare in duplicate a Formal Instrument of Agreement and shall, within 28 days after the Date of Acceptance of Tender, forward it to the Subcontractor with a request that it be executed.

Within 14 days after being requested in writing by the Main Contractor so to do, the Subcontractor shall execute both copies of the Formal Instrument of Agreement in the manner directed in writing by the Main Contractor and return them to the Main Contractor.

Within 14 days after receipt from the Subcontractor of the two copies of the Formal Instrument of Agreement duly executed by the Subcontractor, the Main Contractor shall execute both copies, have them stamped (unless they are exempt from duty) and forward one copy to the Subcontractor.

The Main Contractor's Representative may extend the periods under Clause 6.2 by notice in writing to the parties.

The Main Contractor shall bear the cost of any stamp duty payable on the Subcontract.

7 SERVICE OF NOTICES

A notice shall be deemed to have been given when it is received by the person to whom it is addressed or is delivered to the address of that person stated in the Subcontract or last communicated in writing by that person to the person giving the notice, whichever is the earlier.

The Main Contractor, the Subcontractor and the Main Contractor's Representative shall each notify the others of a change of address.

Without limiting the generality of 'notice', it includes a document.

8 SUBCONTRACT DOCUMENTS

8.1 Discrepancies

The several documents forming the Subcontract are to be taken as mutually explanatory of one another. If either party discovers an ambiguity or discrepancy in any document prepared for the purpose of executing the work under the Subcontract, that party shall notify the Main Contractor's Representative in writing of the ambiguity or discrepancy. In the event of an ambiguity or discrepancy being discovered and brought to the attention of the Main Contractor's Representative or discovered by the Main Contractor's Representative, the Main Contractor's Representative shall direct the Subcontractor as to the interpretation to be followed by the Subcontractor in carrying out the work.

If the direction causes the Subcontractor to incur more or less cost than the Subcontractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5.

8.2 Dimensions

Where any discrepancy exists between figured and scaled dimensions, the figured dimensions shall prevail.

8.3 Supply of Documents by Main Contractor

The Main Contractor shall supply to the Subcontractor the number of copies stated in the Annexure, or if no number is stated then 3 copies of the Drawings, Specification, Bill of Quantities (if any) and other documents required by the Subcontract to be supplied to the Subcontractor by the Main Contractor.

Documents supplied to the Subcontractor by the Main Contractor shall remain the property of the Main Contractor and shall be returned by the Subcontractor to the Main Contractor on demand in writing. The documents shall not, without the prior written approval of the Main Contractor, be used, copied or reproduced for any purpose other than the execution of the work under the Subcontract.

8.4 Supply of Documents by Subcontractor

If the Subcontract requires the Subcontractor to supply documents, the Subcontractor shall supply the number of copies stated in the Annexure, or if no number is stated then 5 copies.

If the Subcontractor submits documents to the Main Contractor's Representative, then—

- (a) the Main Contractor's Representative shall not be bound to check the documents for errors, omissions or compliance with the requirements of the Subcontract; 10
- (b) notwithstanding the provisions of Clause 23, the Main Contractor's Representative's approval shall not relieve the Subcontractor from responsibility for the Subcontractor's errors or omissions or compliance with the requirements of the Subcontract; 15
- (c) if the Subcontract provides that the Subcontractor must obtain the Main Contractor's Representative's direction whether documents are suitable or are not suitable then within the time stated in the Annexure (or if no time is stated then within 28 days) after receipt of the documents, the Main Contractor's Representative shall notify the Subcontractor that the documents are suitable or are not suitable; 20
- (d) if the Main Contractor's Representative notifies the Subcontractor that the documents are not suitable, the Main Contractor's Representative shall give reasons why the documents are not suitable, and the Subcontractor shall submit new or amended documents for the Main Contractor's Representative's direction under this Clause; 25
- (e) the Main Contractor's Representative shall not reject documents which are in accordance with the requirements of the Subcontract. 30

Copies of documents supplied by the Subcontractor shall be the property of the Main Contractor but shall not be used or copied otherwise than for the use, maintenance or alteration of the Works or the Main Contract Works by the Main Contractor, the Principal, the Superintendent and their identified consultants. 35

8.5 Availability of Documents

Whilst work under the Subcontract is being performed, one complete set of Drawings, Specification and other written information supplied by the Main Contractor, the Main Contractor's Representative and the Subcontractor shall be kept by the Subcontractor at the Site or other location approved in writing by the Main Contractor and shall be available at all times for reference by the Main Contractor, the Main Contractor's Representative and any persons nominated in writing by either of them. 40

During the manufacture or assembly of any significant part of the work under the Subcontract away from the part of the Site where the Works are to be constructed, a set of the drawings and written information relevant to that part of the work shall be kept by the Subcontractor at the place of manufacture or assembly and shall be available for reference by the Main Contractor, the Main Contractor's Representative and any person nominated in writing by either of them. 45

8.6 Confidential Information

Drawings, specifications and other information, samples, models, patterns and the like, supplied by either the Subcontractor or the Main Contractor and marked or otherwise identified as confidential shall be regarded as confidential, and shall not be disclosed to a third party other than the Principal, the Superintendent and their identified consultants for the purpose of the execution, use, maintenance or alteration of the Main Contract Works except with the prior agreement of the other party to the Subcontract. 50

If required in writing by a party, the other party shall enter into a separate agreement not to disclose to anyone else other than the Principal, the Superintendent and their identified consultants any confidential matter even after the issue of the Final Certificate pursuant to Clause 42.8 or the earlier termination of the Subcontract.

* 8.7 Media Releases

The Subcontractor shall not issue any information, publication, document or article for publication concerning the project in any media without prior approval of the Main Contractor, which approval shall not be unreasonably withheld. The Subcontractor shall refer to the Main Contractor any enquiries concerning the project from any media.

9 ASSIGNMENT AND SECONDARY SUBCONTRACTING

9.1 Assignment

Neither party shall, without the prior written approval of the other and except on such reasonable terms and conditions as are determined in writing by the other, assign the Subcontract or any payment or any other right or benefit or interest thereunder.

9.2 Secondary Subcontracting

The Subcontractor shall not without the written approval of the Main Contractor's Representative which approval shall not be unreasonably withheld, subcontract or allow a secondary subcontractor to assign or subcontract work described in the Annexure.

With a request for approval the Subcontractor shall provide to the Main Contractor's Representative particulars in writing of the work to be subcontracted and the name and the address of the proposed secondary subcontractor.

The Subcontractor shall provide to the Main Contractor's Representative other information which the Main Contractor's Representative reasonably requests, including the proposed secondary subcontract documents without prices.

Within 28 days after a request by the Subcontractor for approval to subcontract work, the Main Contractor's Representative shall advise the Subcontractor of approval or the reasons why approval is not given.

Approval may be conditional upon the secondary subcontract including—

- (a) provision that the secondary subcontractor shall not assign or subcontract without the consent in writing of the Subcontractor;
- (b) provisions which may be reasonably necessary to enable the Subcontractor to fulfil the Subcontractor's obligations to the Main Contractor.

9.3 Subcontractor's Responsibility

Approval to subcontract shall not relieve the Subcontractor from any liability or obligation under the Subcontract. Except where the Subcontract otherwise provides, the Subcontractor shall be liable to the Main Contractor for the acts and omissions of secondary subcontractors and employees and agents of secondary subcontractors as if they were acts or omissions of the Subcontractor.

10 SELECTED AND NOMINATED SECONDARY SUBCONTRACTORS

10.1 Definitions

If the Subcontract provides that certain work or the supply of certain items shall be subcontracted to a Selected or Nominated Secondary Subcontractor, the work or the supply of the items is 'Selected Secondary Subcontract Work' or 'Nominated Secondary Subcontract Work' as the case may be, and:

‘Selected Secondary Subcontractor’ means a secondary subcontractor identified in the Subcontractor’s tender from a list of secondary subcontractors provided by the Main Contractor in the tender documents for Selected Secondary Subcontract Work. The list may include one or more secondary subcontractors.

‘Nominated Secondary Subcontractor’ means—

- (a) a secondary subcontractor to whom the Subcontractor is directed by the Main Contractor’s Representative to subcontract Nominated Secondary Subcontract Work; or
- (b) a secondary subcontractor named in the Subcontract with whom the Main Contractor has entered into a prior contract for the Nominated Secondary Subcontract Work, which prior contract requires the secondary subcontractor to assign the prior contract to the Subcontractor and a copy of which prior contract is included in the tender documents; or
- (c) a secondary subcontractor named in the Subcontract with whom the Main Contractor has entered into a prior contract for the Nominated Secondary Subcontract Work, which requires the secondary subcontractor to enter into deed of novation with the Subcontractor for the Nominated Secondary Subcontract Work and a copy of which deed of novation is included in the tender documents.

‘Nominated Secondary Subcontract Work’ shall relate only to work or the supply of items for which a Provisional Sum has been included in the Subcontract.

10.2 Selected Secondary Subcontract

If the Subcontract includes Selected Secondary Subcontract Work the Subcontractor shall subcontract the Selected Secondary Subcontract Work to a Selected Secondary Subcontractor.

If the tender documents specify the terms and conditions upon which the secondary subcontract is to be entered into, the secondary subcontract shall include those terms and conditions.

10.3 Nominated Secondary Subcontract

If the Subcontract includes Nominated Secondary Subcontract Work, at such time as is necessary to avoid delay to the Subcontractor, the Main Contractor’s Representative shall direct the Subcontractor to subcontract the Nominated Secondary Subcontract Work to a Nominated Secondary Subcontractor.

If the Subcontract provides that the Main Contractor may assign to the Subcontractor the benefit of a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor, the Subcontractor shall, when directed by the Main Contractor’s Representative, accept the assignment of that prior contract.

If the Subcontract provides that the Main Contractor may novate to the Subcontractor a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor in respect of Nominated Secondary Subcontract Work, the Subcontractor shall when directed by the Main Contractor’s Representative, execute a deed of novation of that prior contract in the form included in the tender documents and unless the Subcontract otherwise provides, the Subcontractor shall give the Main Contractor credit for payments made by the Main Contractor to the Nominated Secondary Subcontractor in respect of the Nominated Secondary Subcontract Work.

The Subcontractor shall ensure that the provisions of the secondary subcontract are severally set out in the secondary subcontract documents, so that the secondary subcontract is fully expressed and complete in itself and includes provisions—

- (a) that in respect of the Nominated Secondary Subcontract Work, the Nominated Secondary Subcontractor will undertake towards the Subcontractor obligations and liabilities which will enable the Subcontractor to discharge the Subcontractor’s obligations and liabilities to the Main Contractor under the terms of the Subcontract;

- (b) that the Nominated Secondary Subcontractor will indemnify the Subcontractor against loss resulting from any failure by the Nominated Secondary Subcontractor to perform such obligations or fulfil such liabilities;
- (c) that the Nominated Secondary Subcontractor will indemnify the Subcontractor against loss resulting from any negligence by the Nominated Secondary Subcontractor and the Nominated Secondary Subcontractor's servants and agents and against any misuse by them of any Constructional Plant or Temporary Works provided by the Subcontractor for the purposes of the secondary subcontract;
- (d) that the Nominated Secondary Subcontractor will lodge security in a form provided by Clause 5.3 and that security and retention moneys shall be calculated on the same scale and on the same basis respectively as apply in the Subcontract;
- (e) equivalent to those in Clause 44.

The Subcontractor shall not be obliged to enter into a secondary subcontract with a Nominated Secondary Subcontractor against whom the Subcontractor raises reasonable objection.

If the Subcontractor declines to enter into a secondary subcontract with the Nominated Secondary Subcontractor on the ground that the Nominated Secondary Subcontractor refuses to enter into a secondary subcontract containing provisions in paragraphs (a) to (e) of Clause 10.3, the Main Contractor's Representative shall nominate another Nominated Secondary Subcontractor or direct the Subcontractor to enter into a secondary subcontract with the Nominated Secondary Subcontractor on such other terms as the Main Contractor's Representative specifies. In the latter event—

- (i) the Subcontractor shall not be bound to discharge obligations and liabilities under the Subcontract to the extent that the secondary subcontract terms so specified by the Main Contractor's Representative are inconsistent with the discharge; and
- (ii) if the Subcontractor suffers loss arising out of the refusal of the Nominated Secondary Subcontractor to accept such provisions the Main Contractor shall pay to the Subcontractor the amount of loss which the Subcontractor could not reasonably avoid.

10.4 Provisions applying generally to Selected and Nominated Secondary Subcontract Work

If the Subcontractor is required by Clause 10 to enter a secondary subcontract, or to accept an assignment or to execute a deed of novation, the Subcontractor shall proceed promptly to do so and shall notify the Main Contractor's Representative in writing as soon as the secondary subcontract, assignment or novation has been effected.

With the consent of the Subcontractor, the Main Contractor's Representative may direct the Subcontractor to perform Selected or Nominated Secondary Subcontract Work.

Notwithstanding Clause 16.2 if the Subcontractor is to be responsible to the Main Contractor for the design or suitability of Selected or Nominated Secondary Subcontract Work, as distinct from the quality or workmanship, the responsibility shall be expressly stated in the Subcontract and the Subcontractor's liability for the design or suitability of the Selected or Nominated Secondary Subcontract Work shall only be that which is expressly stated in the Subcontract.

Except as herein contained, and subject to any reasonable objection made by the Subcontractor pursuant to this Clause —

- (i) the Main Contractor shall have no liability to a Selected or Nominated Secondary Subcontractor arising from the secondary subcontract between the Subcontractor and Selected or Nominated Secondary Subcontractor; and

- (ii) the Main Contractor shall not be liable to the Subcontractor for any act, default or omission or breach of contract by a Selected or Nominated Secondary Subcontractor, arising from the secondary subcontract between the Subcontractor and Selected or Nominated Secondary Subcontractor.

* 10.5 Direct Payment of Nominated Secondary Subcontractor

In respect of Nominated Secondary Subcontract Work performed by a Nominated Secondary Subcontractor, the Main Contractor shall make payment directly to the Nominated Secondary Subcontractor. Except where the Subcontractor has accepted an assignment of the benefit of a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor—

- (a) such payment shall be made on behalf of the Subcontractor; and
- (b) if the Subcontractor reasonably requests the Main Contractor in writing not to make a payment to the Nominated Secondary Subcontractor, the Main Contractor shall withhold payment but under no circumstances, including bankruptcy or winding up of the Subcontractor, shall payment be made to the Subcontractor.

The Main Contractor as stakeholder shall hold retention moneys and security provided by a Nominated Secondary Subcontractor and shall disburse or apply the retention moneys or security as jointly requested by the Subcontractor and the Nominated Secondary Subcontractor or in accordance with the decision of an arbitrator or Court.

10.6 Termination of Nominated Secondary Subcontract

The Subcontractor shall not unreasonably terminate a secondary subcontract for Nominated Secondary Subcontract Work and as early as possible the Subcontractor shall notify the Main Contractor's Representative of the Subcontractor's intention to terminate and the reasons. If a Nominated Secondary Subcontractor repudiates or abandons the secondary subcontract or it is terminated, the Subcontractor shall forthwith notify the Main Contractor's Representative in writing and the Main Contractor's Representative shall proceed under Clause 10.3 to nominate a Nominated Secondary Subcontractor to complete the secondary subcontract work and Clause 11(b) shall apply.

11 PROVISIONAL SUMS

A provisional sum included in the Subcontract shall not itself be payable by the Main Contractor but where at the direction of the Main Contractor's Representative the work or item to which the provisional sum relates is performed or supplied by—

- (a) the Subcontractor, the work or item shall be valued under Clause 40.5;
- (b) a secondary subcontractor to the Subcontractor the Main Contractor shall pay the Subcontractor the amount payable by the Subcontractor to the secondary subcontractor for the work or item, disregarding any damages payable by the Subcontractor to the secondary subcontractor or vice versa, plus the amount or percentage thereon for profit and attendance stated in the Annexure or, where not so stated, as stated elsewhere in the Subcontract; and
- (c) a Nominated Secondary Subcontractor pursuant to a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor, the benefit of which has been assigned to the Subcontractor, the Main Contractor shall pay the Subcontractor the amount stated in the Annexure or the percentage for profit and attendance stated in the Annexure of the amount payable by the Main Contractor to the Nominated Secondary Subcontractor for the work or item or, where no amount or percentage is stated, as stated elsewhere in the Subcontract, disregarding any damages payable by the Main Contractor to the Nominated Secondary Subcontractor or vice versa.

The amount payable to a secondary subcontractor for materials or goods is to be taken to be the nett cost to the Subcontractor (disregarding any deduction of cash discount for prompt payment).

12 LATENT CONDITIONS

12.1 Definition

Latent Conditions are —

- (a) physical conditions on the Site or its surroundings, including artificial things but excluding weather conditions, which differ materially from the physical conditions which should reasonably have been anticipated by the Subcontractor at the time of the Subcontractor's tender if the Subcontractor had—
 - (i) examined all information made available in writing by the Main Contractor to the Subcontractor for the purpose of tendering; and
 - (ii) examined all information relevant to the risks, contingencies and other circumstances having an effect on the tender and obtainable by the making of reasonable enquiries; and
 - (iii) inspected the Site and its surroundings; and
- (b) any other conditions which the Subcontract specifies to be Latent Conditions.

12.2 Notification

If during the execution of the work under the Subcontract, the Subcontractor becomes aware of a Latent Condition, the Subcontractor shall forthwith and where possible before the Latent Condition is disturbed, give written notice thereof to the Main Contractor's Representative.

If required by the Main Contractor's Representative, the Subcontractor shall provide to the Main Contractor's Representative 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 Subcontractor estimates to be necessary to deal with the Latent Condition;
- (c) the time the Subcontractor anticipates will be required to deal with the Latent Condition and the expected delay in achieving Substantial Completion;
- (d) the Subcontractor's estimate of the cost of the measures necessary to deal with the Latent Condition; and
- (e) other details reasonably required by the Main Contractor's Representative.

12.3 Extension of Time and Cost

Delay caused by a Latent Condition may justify an extension of time under Clause 35.5.

If a Latent Condition causes the Subcontractor to —

- (a) carry out additional work;
- (b) use additional Constructional Plant; or
- (c) incur extra cost (including but not limited to the cost of delay or disruption),

which the Subcontractor could not reasonably have anticipated at the time of tendering, a valuation shall be made under Clause 40.5.

12.4 Time Bar

In making a valuation pursuant to Clause 12.3, regard shall not be had to the value of additional work carried out, additional Constructional Plant used or extra cost incurred more than 21 days before the date on which the Subcontractor gives the written notice required by the first paragraph of Clause 12.2.

13 PATENTS, COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS

The Main Contractor warrants that unless otherwise provided in the Subcontract—

- (a) design; 5
- (b) materials;
- (c) documents; and 10
- (d) methods of working,

specified in the Subcontract or provided or directed by the Main Contractor or the Main Contractor's Representative will not infringe any patent, registered design, trademark or name, copyright or other protected right. 15

The Subcontractor warrants that any other design, materials, documents and methods of working provided by the Subcontractor will not infringe any patent, registered design, trademark or name, copyright or other protected right. 20

14 STATUTORY REQUIREMENTS

14.1 Complying with Statutory Requirements 25

The Subcontractor shall comply with the requirements of—

- (a) Acts of the Commonwealth;
- (b) Acts and Ordinances of the State or Territory in which the work under the Subcontract or any part thereof is carried out; 30
- (c) Ordinances, regulations, by-laws, orders and proclamations under the Acts and Ordinances; 35
- (d) persons acting in the exercise of statutory powers enabling them to give directions affecting the work under the Subcontract.

If a requirement is at variance with a provision of the Subcontract, as soon as the Subcontractor discovers the variance the Subcontractor shall notify the Main Contractor's Representative in writing specifying the difference. 40

If a requirement necessitates a change to the Works or so much of the Temporary Works or method of working as may be specified in the Subcontract, the Main Contractor's Representative shall direct a variation under Clause 40.1. 45

Except to the extent that the Subcontract provides reimbursement in respect of a requirement referred to in Clause 14.1 the Subcontractor shall bear the cost of complying with the requirement, whether the requirement existed at the time of tendering or not. 50

* 14.2 Payment Where There is No Variation

If a requirement does not necessitate a variation under Clause 40 but is—

- (a) a change after the 28th day prior to the date of closing of tenders in a requirement referred to in Clause 14.1 (a), (b) or (c); or 55
- (b) a requirement referred to in Clause 14.1 (d),

which necessitates a change in the Temporary Works or the Subcontractor's method of working and thereby causes the Subcontractor to incur more or less cost than the Subcontractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5. 60

14.3 Notices and Fees 65

The Subcontractor shall give the notices necessary to comply with the requirements referred to in Clause 14.1.

The Subcontractor shall pay any fees or charges necessary to comply with the requirements referred to in Clause 14.1. 70

If a requirement necessitates the provision or expansion of services of a municipal, public or statutory authority in relation to the Works or the Temporary Works, the Subcontractor shall pay any fee or charge payable to the authority for the services and to the extent to which the services are not included in the work under the Subcontract, the fee or charge shall be reimbursed by the Main Contractor to the Subcontractor.

If after the 14th day prior to the date of closing of tenders there is required to be paid by the Subcontractor to a municipal, public or statutory authority in relation to the Works or the Temporary Works —

- (a) an increase or decrease in a fee or charge, the difference shall be valued under Clause 40.5; and
- (b) there is a new fee or charge, that fee or charge shall be reimbursed by the Main Contractor to the Subcontractor.

14.4 Documents Evidencing Approvals of Authorities

The Subcontractor shall give the Main Contractor copies of documents issued to the Subcontractor by municipal, public or other statutory authorities in respect of the work under the Subcontract and, in particular, any approvals of work.

15 PROTECTION OF PEOPLE AND PROPERTY

Except to the extent that the Main Contractor is required by Clause 49 to provide things or take measures, in so far as compliance with the requirements of the Subcontract permits, the Subcontractor shall—

- (a) provide all things and take all measures necessary to protect people and property;
- (b) avoid unnecessary interference with the passage of people and vehicles;
- (c) prevent nuisance and unreasonable noise and disturbance.

Without limiting the generality of the Subcontractor's obligations, they include the provision of barricades, guards, fencing, temporary roads, footpaths, warning signs, lighting, watching, traffic flagging, safety helmets and clothing, removal of obstructions and protection of services.

If the Subcontractor or the employees or agents of the Subcontractor damage property, including but not limited to public utilities and services and property on or adjacent to the Site, the Subcontractor shall promptly make good the damage and pay any compensation which the law requires the Subcontractor to pay.

If the Subcontractor fails to comply with an obligation under Clause 15 the Main Contractor may, in addition to any other remedy, perform the obligation on the Subcontractor's behalf and the cost incurred by the Main Contractor shall be a debt due from the Subcontractor to the Main Contractor.

16 CARE OF THE WORK AND REINSTATEMENT OF DAMAGE

16.1 Care of the Work Under the Subcontract

From and including the earlier of the date of commencement of work and the date on which the Subcontractor is given access to the Site to 4 p.m. on the Date of Substantial Completion of the Works, the Subcontractor shall be responsible for the care of the work under the Subcontract.

Without limiting the generality of the Subcontractor's obligations, the Subcontractor shall be responsible for the care of unfixed items the value of which has been included in a payment certificate under Clause 42.1, things entrusted to the Subcontractor by the Main Contractor for the purpose of carrying out the work under the Subcontract, things brought on to the Site by secondary subcontractors for that purpose, the Works, the Temporary Works and Constructional Plant and the Subcontractor shall provide the storage and

protection necessary to preserve these items and things and the Works, the Temporary Works and Constructional Plant.

After 4 p.m. on the Date of Substantial Completion the Subcontractor shall remain responsible for the care of outstanding work and items to be removed from the Site by the Subcontractor and shall be liable for damage occasioned by the Subcontractor in the course of completing outstanding work or complying with obligations under Clauses 30.6, 31.1 and 37.

16.2 Reinstatement

If loss or damage (except loss or damage which is the direct consequence, without fault or omission on the part of the Subcontractor, of an Excepted Risk defined in Clause 16.3) occurs to anything while the Subcontractor is responsible for its care, the Subcontractor shall at the Subcontractor's own cost promptly make good the loss or damage.

16.3 Excepted Risks

The Excepted Risks are —

- (a) any negligent act or omission of the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative or the employees, consultants or agents of any of them;
- (b) any risk specifically excepted in the Subcontract;
- (c) war, invasion, act of foreign enemies, hostilities, (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any Government or public authority;
- (d) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the Subcontractor or the Subcontractor's employees or agents;
- (e) use or occupation by the Principal, the Main Contractor or the employees or agents of either of them or other contractors to the Principal or the Main Contractor (not being employed by the Subcontractor or a Nominated Subcontractor engaged by the Main Contractor pursuant to a prior contract the benefit of which has been assigned to the Subcontractor pursuant to the Subcontract) of any part of the Works or the Temporary Works;
- (f) defects in the design of the work under the Subcontract other than a design provided by the Subcontractor.

17 DAMAGE TO PERSONS AND PROPERTY OTHER THAN THE WORKS

17.1 Indemnity by Subcontractor

The Subcontractor shall indemnify the Main Contractor against—

- (a) loss of or damage to property of the Main Contractor, including existing property in or upon which the work under the Subcontract is being carried out;
- (b) claims by any person against the Main Contractor in respect of personal injury or death or loss of or damage to any property,

arising out of or as a consequence of the carrying out by the Subcontractor of the work under the Subcontract, but the Subcontractor's liability to indemnify the Main Contractor shall be reduced proportionally to the extent that the act or omission of the Main Contractor or employees or agents of the Main Contractor may have contributed to the loss, damage, death or injury.

Clause 17.1 shall not apply to —

- (i) the extent that the liability of the Subcontractor is limited by another provision of the Subcontract;

- (ii) exclude any other right of the Main Contractor to be indemnified by the Subcontractor;
- (iii) things for the care of which the Subcontractor is responsible under Clause 16.1;
- (iv) damage which is the unavoidable result of the construction of the Works in accordance with the Subcontract; and
- (v) claims in respect of the right of the Main Contractor to construct the work under the Subcontract on the Site.

17.2 Indemnity by the Main Contractor

The Main Contractor shall indemnify the Subcontractor in respect of damage referred to in Clause 17.1(iv) and claims referred to in Clause 17.1(v).

18 INSURANCE OF THE WORKS

On or before the Date of Acceptance of Tender, the Main Contractor shall cause to have in force a policy of insurance in relation to the work under the Subcontract in the terms of the policy or proposed policy included in the documents on which the Subcontractor tendered or if not so included, a copy of which was provided to the Subcontractor following receipt by the Main Contractor of a written request by the Subcontractor for a copy of the policy. The policy or proposed policy shall include the name of the insurer. The Main Contractor shall maintain or cause to be maintained the policy while ever the Subcontractor has an interest therein and the Main Contractor shall pay or cause to be paid all premiums thereon.

19 PUBLIC LIABILITY INSURANCE

Alternative 1

On or before the Date of Acceptance of Tender, the Main Contractor shall cause to have in force in relation to the work under the Subcontract a policy of insurance in the terms of the policy or proposed policy included in the documents on which the Subcontractor tendered or if not so included, a copy of which was provided to the Subcontractor following receipt by the Main Contractor of a written request from the Subcontractor for a copy of the policy. The policy or proposed policy shall include the name of the insurer. The Main Contractor shall maintain or cause to be maintained the policy while ever the Subcontractor has an interest therein and the Main Contractor shall pay or cause to be paid all premiums thereon.

Alternative 2

Before the Subcontractor commences work, the Subcontractor shall take out a Public Liability Policy of insurance in the joint names of the Principal, the Main Contractor and the Subcontractor which covers the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative and the Subcontractor and all secondary subcontractors employed from time to time in relation to the work under the Subcontract for their respective rights and interests and covers their liabilities to third parties. The policy shall also cover the Subcontractor's liability to the Main Contractor and Main Contractor's liability to the Subcontractor for loss of or damage to property (other than property required to be insured by Clause 18) and the death of or injury to any person (other than liability which is required by law to be insured under a Workers Compensation Policy of insurance).

The Public Liability Policy of insurance shall be for an amount in respect of any one occurrence not less than the sum stated in the Annexure and, unless otherwise specified elsewhere in the Subcontract, shall be effected with an insurer and in terms both approved in writing by the Main Contractor which approvals shall not be unreasonably withheld. The policy shall be maintained until the Final Certificate is issued under Clause 42.8.

20 INSURANCE OF EMPLOYEES

Before commencing work the Subcontractor shall insure against liability for death of or injury to persons employed by the Subcontractor including liability by statute and at common law. The insurance cover shall be maintained until all work including remedial work is completed. 5

The insurance shall be extended to indemnify the Principal and the Main Contractor for their respective statutory liabilities to persons employed by the Subcontractor. 10

The Subcontractor shall ensure that every secondary subcontractor to the Subcontractor is similarly insured.

21 INSPECTION AND PROVISIONS OF INSURANCE POLICIES 15

21.1 Proof of Insurance

Before the Subcontractor commences work and whenever requested in writing by the other party, a party liable to effect or maintain insurance shall produce evidence to the satisfaction and approval of the other party of the insurance effected and maintained. 20

The effecting of insurance shall not limit the liabilities or obligations of a party under other provisions of the Subcontract. 25

21.2 Failure to Produce Proof of Insurance

If, after being requested in writing by the other party so to do, a party fails to produce evidence of compliance with insurance obligations under Clauses 18, 19 or 20 which is to the satisfaction and approval of the other party, the other party may effect and maintain the insurance and pay the premiums. The amount paid shall be a debt due from the party in default to the other party. Where the defaulting party is the Subcontractor, the Main Contractor may refuse payment until evidence of compliance with insurance obligations under Clauses 18, 19 and 20 is produced by the Subcontractor to the satisfaction and approval of the Main Contractor. The rights given by Clause 21.2 are in addition to any other right. 30 35

21.3 Notices from or to the Insurer

The party effecting insurance under Clause 18 or 19 shall ensure that each policy of insurance contains provisions acceptable to the other party that will— 40

- (a) require the insurer, whenever the insurer gives the Principal, the Main Contractor or the Subcontractor, a notice of cancellation or other notice concerning the policy, at the same time, to inform the other party in writing that the notice has been given; 45
- (b) provide that a notice of claim given to the insurer by the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative or the Subcontractor shall be accepted by the insurer as a notice of claim given by the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative and the Subcontractor; and 50
- (c) require the insurer, whenever the party fails to renew the policy or to pay a premium, to give notice in writing thereof forthwith to the Principal, the Main Contractor and the Subcontractor and prior to the insurer giving any notice of cancellation. 55

21.4 Notices of Potential Claims

The Subcontractor shall, as soon as practicable, inform the Main Contractor in writing of any occurrence that may give rise to a claim under a policy of insurance required by Clause 18 or 19 and shall keep the Main Contractor informed of subsequent developments concerning the claim. The Subcontractor shall ensure that secondary subcontractors in respect of their operations similarly inform the Main Contractor. 60 65

Where a policy of insurance required by the Subcontract has been effected by the Main Contractor, the Main Contractor shall similarly inform the Subcontractor.

21.5 Settlement of Claims

Upon settlement of a claim under the insurance specified by Clause 18—

- (a) to the extent that the work under the Subcontract needing reinstatement has been the subject of a payment or allowance by the Main Contractor to the Subcontractor, if the Subcontractor has not completed reinstatement of that work, moneys received shall, if not paid into a joint account pursuant to the Main Contract, be paid into a trust account in the name of the Main Contractor at a bank agreed upon by the parties. As the Subcontractor proceeds to reinstate the loss or damage, the Main Contractor's Representative shall certify against the Subcontract trust account for the cost of reinstatement; and
- (b) to the extent that the work to be reinstated has not been the subject of a payment or allowance by the Main Contractor to the Subcontractor, the Subcontractor shall be entitled immediately to receive from moneys received, the amount of money so paid in relation to any loss suffered by the Subcontractor relating to that work under the Subcontract (including the supply of goods and materials on site whether or not incorporated in the Works).

21.6 Cross Liability

Any insurance required to be effected by the Subcontractor in joint names in accordance with the Subcontract other than the insurance referred to in Clause 20, shall include a cross-liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons comprising the insured and for the purpose of which the insurer accepts the term 'insured' as applying to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased thereby).

22 CLERK OF WORKS AND INSPECTORS

The Main Contractor's Representative shall forthwith notify the Subcontractor in writing of the name of any Clerk of Works or inspector appointed by the Principal or the Superintendent.

23 MAIN CONTRACTOR'S REPRESENTATIVE

The Main Contractor shall ensure that at all times there is a Main Contractor's Representative and that in the exercise of the functions of the Main Contractor's Representative under the Subcontract, the Main Contractor's Representative—

- (a) acts honestly and fairly;
- (b) acts within the time prescribed under the Subcontract or where no time is prescribed, within a reasonable time; and
- (c) arrives at a reasonable measure or value of work, quantities or time.

If, pursuant to a provision of the Subcontract enabling the Main Contractor's Representative to give directions, the Main Contractor's Representative gives a direction, the Subcontractor shall comply with the direction.

In Clause 23 'direction' includes agreement, approval, authorization, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement.

Except where the Subcontract otherwise provides, a direction may be given orally but the Main Contractor's Representative shall as soon as practicable confirm it in writing.

If the Subcontractor in writing requests the Main Contractor's Representative to confirm an oral direction, the Subcontractor shall not be bound to comply with the direction until the Main Contractor's Representative confirms it in writing.

24 DIRECTIONS BY OTHERS

The Main Contractor's Representative may from time to time appoint individuals to exercise any functions of the Main Contractor's Representative under the Subcontract but not more than one such individual shall be delegated the same function at the same time. The appointment of such an individual shall not prevent the Main Contractor's Representative from exercising any function.

The Main Contractor's Representative shall forthwith notify the Subcontractor in writing of—

- (a) the appointment and the name of each individual so appointed and the functions delegated to that individual;
- (b) the termination of the appointment of each individual.

If the Subcontractor makes a reasonable objection to the appointment of any such individual, the Main Contractor's Representative shall terminate the appointment.

No direction shall have any force or effect under the Subcontract unless given by the Main Contractor's Representative or an individual authorized to give that direction.

If anyone other than the Main Contractor's Representative or any individual so authorized by the Main Contractor's Representative purports to give the Subcontractor a direction, the Subcontractor shall forthwith notify the Main Contractor's Representative.

25 SUBCONTRACTOR'S REPRESENTATIVE

The Subcontractor shall personally superintend the execution of the work under the Subcontract or, at all times during which any activities relating to the execution of the work under the Subcontract are taking place, have a competent representative present on the Site and, if required by the Main Contractor's Representative, at other places at which activities relating to the execution of the work under the Subcontract are taking place.

The Subcontractor shall forthwith notify the Main Contractor's Representative in writing of the name of the representative and of any subsequent changes. Any direction defined in Clause 23 shall—

- (a) if it relates to the execution of work on the Site and is given to the representative on the Site; or
- (b) if it relates to the execution of work at any other place and is given to the representative at the other place,

be deemed to have been given to the Subcontractor.

Matters within the knowledge of a representative of the Subcontractor shall be deemed to be within the knowledge of the Subcontractor.

If the Main Contractor's Representative makes a reasonable objection to the appointment of a representative, the Subcontractor shall terminate the appointment and appoint another representative.

26 CONTROL OF SUBCONTRACTOR'S EMPLOYEES AND SECONDARY SUBCONTRACTORS

The Main Contractor's Representative may direct the Subcontractor to have removed from the Site or from any activity connected with the work under the Subcontract, within such time as the Main Contractor's Representative directs, any person employed in connection with the work under the Subcontract who, in the opinion of the Main Contractor's Representative, is guilty of misconduct or is incompetent or negligent. The person shall not thereafter be employed on the Site or on activities connected with the work under the Subcontract without the prior written approval of the Main Contractor's Representative.

27 SITE

27.1 Access to Site

The Main Contractor shall on or before the expiration of the time stated in the Annexure give the Subcontractor access to the Site or sufficient of the Site to enable the Subcontractor to commence work. If the Main Contractor has not given the Subcontractor access to the whole Site, the Main Contractor shall from time to time give the Subcontractor access to such further parts of the Site as may be necessary to enable the Subcontractor to execute the work under the Subcontract in accordance with the requirements of the Subcontract. The Main Contractor shall advise the Subcontractor in writing of the date upon which access to the Site or any part thereof will be available.

Notwithstanding the provisions of Clause 27.1, if the Subcontractor is in breach of Clause 21.1, the Main Contractor may refuse to give the Subcontractor access to the Site or any part of the Site until the Subcontractor has complied with the requirements of Clause 21.1.

The Subcontractor is not entitled to sole possession of any part of the Site. The Subcontractor acknowledges that the Main Contractor and others will be carrying out work on the Site concurrently with the performance of the work under the Subcontract.

27.2 Access for the Main Contractor and Others

The Subcontractor shall allow to the Main Contractor, to the Main Contractor's Representative, to the Principal, to the Superintendent, to other authorized consultants for the Main Contract Works and to their respective authorized representatives, to the Clerk of Works and inspectors under the Main Contract, to other subcontractors and to others engaged by the Main Contractor or the Principal, access at all reasonable times to the Works.

The Subcontractor shall also allow to the Main Contractor, the Main Contractor's Representative, the Principal, the Superintendent, to other authorized consultants for the Main Contract Works and to their respective authorized representatives, and to the Clerk of Works and inspectors access to all places where work under the Subcontract is being performed and shall provide all facilities for such access as may be reasonably necessary.

If requested by the Subcontractor, the Main Contractor shall provide to the Subcontractor the names of the persons entitled to such access.

The Main Contractor shall ensure that the Subcontractor is not impeded in the execution of the Subcontractor's work by any persons referred to in Clause 27.2, whilst exercising the right of access given by Clause 27.2.

27.3 Delivery of Materials to and Work on Site Before Access

Until access to the Site or part of the Site is given to the Subcontractor under Clause 27.1, the Subcontractor shall not deliver materials to or perform work on the Site or part of the Site, as the case may be, unless approval is given in writing by the Main Contractor's Representative.

27.4 Use of Site by Subcontractor

Unless the Subcontract otherwise provides or the Main Contractor's Representative gives prior written approval, the Subcontractor shall not use the Site or allow it to be used for—

- (a) camping;
- (b) residential purposes; or
- (c) any purpose not connected with the work under the Subcontract.

27.5 Finding of Minerals, Fossils and Relics

Valuable minerals, fossils, articles or objects of antiquity or of anthropological or archaeological interest, treasure trove, coins and articles of value found on the Site shall, as between the parties, be and remain the property of the Main Contractor. Immediately upon the discovery of these things the Subcontractor shall take precautions to prevent their loss, removal or damage and shall notify the Main Contractor's Representative of the discovery.

If compliance with obligations under Clause 27.5 causes the Subcontractor to incur more or less cost than the Subcontractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5.

28 SETTING OUT THE WORKS

28.1 Setting Out

The Main Contractor's Representative shall supply to the Subcontractor the information and survey marks necessary to enable the Subcontractor to set out the Works and the survey marks specified in the Subcontract. Upon receipt of any necessary information and survey marks, the Subcontractor shall set out the Works in accordance with the Subcontract and shall provide all instruments and things necessary for that purpose.

28.2 Care of Survey Marks

The Subcontractor shall keep in their true positions all survey marks supplied by the Main Contractor's Representative.

If a survey mark is disturbed or obliterated, the Subcontractor shall immediately notify the Main Contractor's Representative and, unless the Main Contractor's Representative otherwise directs, the Subcontractor shall reinstate the survey mark.

If the disturbance or obliteration is caused by a person other than the Subcontractor, or a secondary subcontractor to the Subcontractor or the agents of either of them, the cost incurred by the Subcontractor in reinstating the survey mark shall be valued under Clause 40.5.

28.3 Errors in Setting Out

If the Subcontractor discovers an error in the position, level, dimensions or alignment of any work under the Subcontract, the Subcontractor shall immediately notify the Main Contractor's Representative and, unless the Main Contractor's Representative otherwise directs, the Subcontractor shall rectify the error.

If the error has been caused by incorrect information, survey marks or data supplied by the Main Contractor's Representative, the cost incurred by the Subcontractor in rectifying the error shall be valued under Clause 40.5.

28.4 Survey Mark Defined

'Survey mark' in Clause 28 means a survey peg, bench mark, reference mark, signal, alignment, level mark or any other mark for the purpose of setting out, checking or measuring work under the Subcontract.

29 MATERIALS, LABOUR AND CONSTRUCTIONAL PLANT

29.1 Provision of Materials, Labour and Constructional Plant

Except to the extent that the Subcontract otherwise provides, the Subcontractor shall supply everything necessary for the proper performance of the Subcontractor's obligations and discharge of the Subcontractor's liabilities under the Subcontract.

29.2 Removal of Materials and Constructional Plant

From time to time the Main Contractor's Representative may by written notice to the Subcontractor direct the Subcontractor not to remove from the Site Constructional Plant or materials. Thereafter, the Subcontractor shall not remove the materials or the Constructional Plant without the prior written approval of the Main Contractor's Representative, which approval shall not be unreasonably withheld.

29.3 Manufacture and Supply of Materials

The Main Contractor's Representative may direct the Subcontractor to supply particulars of—

- (a) the mode and place of manufacture;
- (b) the source of supply;
- (c) the performance capacities; and
- (d) other information,

in respect of any materials, machinery or equipment to be supplied by the Subcontractor under or used in connection with the Subcontract.

30 MATERIALS AND WORK

30.1 Quality of Materials and Work

The Subcontractor shall use the materials and standards of workmanship required by the Subcontract. In the absence of any requirement to the contrary, the Subcontractor shall use suitable new materials.

*30.2 Quality Assurance

The Subcontractor shall, if requirements are so stated in the Subcontract—

- (a) plan, establish and maintain a quality system which conforms to those requirements;
- (b) provide the Main Contractor's Representative with access to the quality system of the Subcontractor and each of the secondary subcontractors to the Subcontractor to enable monitoring and quality auditing.

Any such quality system shall be used only as an aid to achieving compliance with the Subcontract and to document such compliance. Such system shall not relieve the Subcontractor of the responsibility to comply with the Subcontract.

NOTE: The inclusion of Quality Assurance requirements in the Subcontract will require detailed clauses in the Specification or elsewhere in the Subcontract which have regard to the Quality Standard selected for the work.

30.3 Defective Materials or Work

If the Main Contractor's Representative discovers material or work provided by the Subcontractor which is not in accordance with the Subcontract, the Main Contractor's Representative may direct the Subcontractor to—

- (a) remove the material from the Site;
- (b) demolish the work;
- (c) reconstruct, replace or correct the material or work; or
- (d) not to deliver the material or work to the Site.

The Main Contractor's Representative may direct the times within which the Subcontractor must commence and complete the removal, demolition, replacement or correction.

If the Subcontractor fails to comply with the direction issued by the Main Contractor's Representative pursuant to Clause 30.3 within the time specified by the Main Contractor's Representative in the direction and provided the Main Contractor's Representative has given the Subcontractor notice in writing that after the expiry of 5 days from the date on which the Subcontractor receives the notice the Main Contractor intends to have the work carried out by other persons, the Main Contractor may have the work of removal, demolition, replacement or correction carried out by other persons and the cost incurred by the Main Contractor in having the work so carried out shall be a debt due from the Subcontractor to the Main Contractor.

30.4 Variations due to Defective Materials or Work

Instead of a direction under Clause 30.3, the Main Contractor's Representative may direct a variation pursuant to Clause 40. The variation shall be valued under Clause 40.5 and—

- (a) if the variation causes an increase or decrease in the value to the Main Contractor of the Works, regard shall also be had to the increase or decrease; and
- (b) if the variation results in the Subcontractor incurring more or less cost than would reasonably have been incurred had the Subcontractor been given a direction under Clause 30.3, regard shall also be had to the difference.

30.5 Acceptance of Defective Materials or Work

Instead of a direction under Clause 30.3 or 30.4, the Main Contractor's Representative may notify the Subcontractor that the Main Contractor elects to accept the material or work notwithstanding that it is not in accordance with the Subcontract. In that event the resulting increase or decrease in the value to the Main Contractor of the Works and any other loss suffered by the Main Contractor shall be valued under Clause 40.5.

30.6 Generally

The Main Contractor's Representative shall give either a direction under Clause 30.3 or 30.4 or a notice under Clause 30.5 as soon as practicable after the Main Contractor's Representative becomes aware that material or work is not in accordance with the Subcontract. The Main Contractor's Representative may give the direction or notice at any time before the issue of the Final Certificate under Clause 42.8.

Except to the extent that to do so would be inconsistent with a direction under Clause 30.4 or a notice under Clause 30.5 and notwithstanding that the Main Contractor's Representative has not given a direction under Clause 30.3, the Subcontractor shall promptly remove, demolish, replace or correct material or work that is not in accordance with the Subcontract.

A progress payment, or a test or a failure by the Main Contractor's Representative or anyone else to disapprove any material or work shall not prejudice the power of the Main Contractor's Representative to subsequently give a direction under Clause 30.3 or 30.4 or a notice under Clause 30.5.

Nothing in Clause 30 shall prejudice any other right which the Main Contractor may have against the Subcontractor arising out of the failure of the Subcontractor to provide material or work in accordance with the Subcontract.

The Main Contractor's Representative shall not be obliged to give a direction under Clause 30.4 or a notice under Clause 30.5 to assist the Subcontractor.

31 EXAMINATION AND TESTING

31.1 Main Contractor's Representative May Order Tests

In Clause 31 'test' includes examine and measure.

At any time prior to the issue of the Final Certificate, the Main Contractor's Representative may direct that any material or work under the Subcontract be tested. The Subcontractor shall provide such assistance and samples and make accessible such parts of the work under the Subcontract as may be required by the Main Contractor's

Representative. On completion of the tests, the Subcontractor shall make good the work under the Subcontract so that it fully complies with the Subcontract.

31.2 Covering Up of Work

The Main Contractor's Representative may direct that any part of the work under the Subcontract shall not be covered up or made inaccessible without the Main Contractor's Representative's prior approval.

31.3 Who Conducts Tests

Tests shall be conducted as provided in the Subcontract or by the Main Contractor's Representative or a person (which may include the Subcontractor) nominated by the Main Contractor's Representative.

31.4 Notice of Tests

Before conducting a test under the Subcontract, the party conducting the test, being the Main Contractor's Representative or the Subcontractor, shall give reasonable notice in writing to the other of the time, date and place of the test. If the other does not then attend, the test may nevertheless proceed.

31.5 Procedure if Tests Delayed

Without prejudice to any other right, if the Subcontractor or the Main Contractor's Representative delays in conducting a test, the other, after giving reasonable notice in writing of intention to do so, may conduct the test.

31.6 Results of Tests

Results of tests shall be promptly made available by each party to the other and to the Main Contractor's Representative.

31.7 Costs of Testing

Costs of and incidental to testing shall be valued under Clause 40.5 and shall be borne by the Main Contractor or paid by the Main Contractor to the Subcontractor unless—

- (a) the Subcontract provides that the Subcontractor shall bear the costs or the test is one which the Subcontractor was required to conduct other than pursuant to a direction under Clause 31.1;
- (b) the test shows that the material or work is not in accordance with the Subcontract;
- (c) the test is in respect of work under the Subcontract covered up or made inaccessible without the Main Contractor's Representative's prior approval where such was required;
- (d) the test is consequent upon a failure of the Subcontractor to comply with a requirement of the Subcontract.

Where such costs are not to be borne by the Main Contractor, they shall be borne by the Subcontractor or paid by the Subcontractor to the Main Contractor.

31.8 Access for Testing

If during the Defects Liability Period—

- (a) the Main Contractor or the Main Contractor's Representative asserts that material or work is not in accordance with the Subcontract; and
 - (b) the Subcontractor requests permission to test the material or work,
- the Main Contractor shall not unreasonably refuse the Subcontractor access to test the material or work.

32 WORKING HOURS

The working hours and working days shall be as stated in the Subcontract and if not so stated as notified by the Main Contractor's Representative to the Subcontractor prior to commencement of work on Site and shall not be varied without the prior approval of the Main Contractor's Representative except when, in the interests of safety of the work under

the Subcontract or to protect life or property the Subcontractor finds it necessary to carry out work outside the working hours or on other than the working days stated in the Subcontract. In such cases the Subcontractor shall notify the Main Contractor's Representative in writing of the circumstances as early as possible.

All costs attributable to the contract administration by or on behalf of the Main Contractor of work during times approved pursuant to the last paragraph shall be borne by the Main Contractor.

33 PROGRESS AND PROGRAMMING OF THE WORKS

33.1 Rate of Progress

The Subcontractor shall proceed with the work under the Subcontract with due expedition and without delay.

The Subcontractor shall not suspend the progress of the whole or any part of the work under the Subcontract except where the suspension is under Clause 44.9 or is directed or approved by the Main Contractor's Representative under Clause 34.

The Subcontractor shall give the Main Contractor's Representative reasonable advance notice of when the Subcontractor requires any information, materials, documents or instructions from the Main Contractor's Representative, the Main Contractor, the Superintendent or the Principal.

Upon the request of the Main Contractor's Representative, the Subcontractor shall provide to the Main Contractor's Representative all information which may be reasonably required to enable the proper coordination of the Main Contract Works.

Upon the request of the Subcontractor, the Main Contractor's Representative shall provide to the Subcontractor all information which may be reasonably required to enable the proper coordination of the work under the Subcontract with the Main Contract Works.

The Main Contractor and the Main Contractor's Representative shall not be obliged to furnish any information, materials, documents or instructions earlier than the Main Contractor or the Main Contractor's Representative, as the case may be, should reasonably have anticipated at the Date of Acceptance of Tender.

The Subcontractor shall permit the execution of work on the Site by persons engaged by the Main Contractor or the Principal and shall co-operate with the Main Contractor's other subcontractors and with others engaged by the Main Contractor or the Principal and subject to the Main Contractor being responsible for the overall coordination of the work under the Subcontract into the Main Contract Works, the Main Contractor and the Subcontractor agree to coordinate the execution of the work under the Subcontract with the execution of the Main Contract Works.

The Main Contractor's Representative may direct in what order and at what time the various stages or parts of the work under the Subcontract shall be performed. If the Subcontractor can reasonably comply with the direction, the Subcontractor shall do so. If the Subcontractor cannot reasonably comply, the Subcontractor shall notify the Main Contractor's Representative in writing, giving reasons.

If compliance with the direction causes the Subcontractor to incur more or less cost than otherwise would have been incurred had the Subcontractor not been given the direction, the difference shall be valued under Clause 40.5.

33.2 Construction Program

For the purposes of Clause 33, a 'construction program' is a statement in writing showing the dates by which, or the times within which, the various stages or parts of the work under the Subcontract are to be executed or completed.

A construction program shall not affect rights or obligations in Clause 33.1.

The Subcontractor may voluntarily furnish to the Main Contractor's Representative a construction program.

The Main Contractor's Representative may direct the Subcontractor to furnish to the Main Contractor's Representative a construction program within the time and in the form directed by the Main Contractor's Representative.

The Subcontractor shall not, without reasonable cause, depart from—

- (a) a construction program included in the Subcontract; or
- (b) a construction program furnished to the Main Contractor's Representative.

The furnishing of a construction program or of a further construction program shall not relieve the Subcontractor of any obligations under the Subcontract including the obligation to not, without reasonable cause, depart from an earlier construction program.

34 SUSPENSION OF THE WORKS

34.1 Suspension by the Main Contractor's Representative

If the Main Contractor's Representative considers that the suspension of the whole or part of the work under the Subcontract is necessary—

- (a) because of an act or omission of—
 - (i) the Principal, the Superintendent or an employee, consultant or agent of the Principal; or
 - (ii) the Main Contractor, the Main Contractor's Representative, another subcontractor or an employee or agent of any of them;
 - (iii) the Subcontractor, a secondary subcontractor to the Subcontractor or an employee or agent of either;
- (b) for the protection or safety of any person or property; or
- (c) to comply with an order of a court,

the Main Contractor's Representative shall direct the Subcontractor to suspend the progress of the whole or part of the work under the Subcontract for such time as the Main Contractor's Representative thinks fit.

34.2 Suspension by Subcontractor

If the Subcontractor wishes to suspend the whole or part of the work under the Subcontract, otherwise than under Clause 44.9, the Subcontractor shall obtain the prior approval of the Main Contractor's Representative. The Main Contractor's Representative may approve of the suspension and may impose conditions of approval.

34.3 Recommencement of Work

As soon as the Main Contractor's Representative becomes aware that the reason for any suspension no longer exists, the Main Contractor's Representative shall direct the Subcontractor to recommence work on the whole or on the relevant part of the work under the Subcontract.

If work is suspended pursuant to Clause 34.2 or 44.9, the Subcontractor may recommence work at any time after reasonable advance notice to the Main Contractor's Representative.

34.4 Cost of Suspension

Any cost incurred by the Subcontractor by reason of a suspension under Clause 34.1 or Clause 34.2 shall be borne by the Subcontractor but if the suspension is due to an act or omission of the Principal, the Superintendent or an employee, consultant or agent of the Principal, or is due to an act, default or omission of the Main Contractor, the Main Contractor's Representative or an employee or agent of either of them, and the suspension causes the Subcontractor to incur more or less cost than otherwise would have been incurred but for the suspension, the difference shall be valued under Clause 40.5.

34.5 Effect of Suspension

Suspension shall not affect the Date for Substantial Completion but the cause of suspension may be a ground for extension of time under Clause 35.5.

35 TIMES FOR COMMENCEMENT AND SUBSTANTIAL COMPLETION

35.1 Time for Commencement of Work on the Site

The Subcontractor shall give the Main Contractor's Representative 7 days' notice of the date upon which the Subcontractor proposes to commence work on the Site. 5

The Main Contractor's Representative may reduce the period of notice required.

The Subcontractor shall commence work on the Site within 14 days after the Main Contractor has given the Subcontractor possession of sufficient of the Site to enable the Subcontractor to commence work. 10

The Main Contractor's Representative may extend the time for commencement of work on the Site. 15

35.2 Time for Substantial Completion

The Subcontractor shall execute the work under the Subcontract to Substantial Completion by the Date for Substantial Completion. 20

Upon the Date of Substantial Completion the Subcontractor shall give possession of the Works to the Main Contractor.

35.3 Separable Portions

The interpretations of— 25

(a) Date for Substantial Completion; 30

(b) Date of Substantial Completion;

(c) Substantial Completion,

and Clauses 5.7, 16, 35, 37, 38, 42.3 and 42.5 shall apply separately to each Separable Portion and references therein to the Works and to work under the Subcontract shall mean so much of the Works and the work under the Subcontract as is comprised in the relevant Separable Portion. 35

If the Subcontract does not make provision for the amount of security, retention moneys, liquidated damages or bonus applicable to a Separable Portion, the respective amounts applicable shall be such proportion of the security, retention moneys, liquidated damages or bonus applicable to the whole of the work under the Subcontract as the value of the Separable Portion bears to the value of the whole of the work under the Subcontract. 40

35.4 Use of Partly Completed Works

If a part of the Works has reached Substantial Completion but another part of the Works has not reached Substantial Completion and the parties cannot agree upon the creation of Separable Portions, the Main Contractor's Representative may determine that the respective parts shall be Separable Portions. 50

In using the Separable Portion that has reached Substantial Completion, the Main Contractor shall not hinder the Subcontractor in the performance of the work under the Subcontract. 55

35.5 Extension of Time for Substantial Completion

When it becomes evident to the Subcontractor that anything, including an act or omission of the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative, the Main Contractor's other subcontractors or the employees, consultants, other contractors or agents of any of them may delay the work under the Subcontract, the Subcontractor shall promptly notify the Main Contractor's Representative in writing with details of the possible delay and the cause. 60

When it becomes evident to the Main Contractor that anything which the Main Contractor is obliged to do or provide under the Subcontract may be delayed, the Main Contractor shall give notice to the Main Contractor's Representative who shall notify the Subcontractor in writing of the extent of the likely delay. 65

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If the Subcontractor is or will be delayed in reaching Substantial Completion by a cause described in the next paragraph and within 21 days after the delay occurs the Subcontractor gives the Main Contractor's Representative a written claim for an extension of time for Substantial Completion setting out the facts on which the claim is based, the Subcontractor shall be entitled to an extension of time for Substantial Completion.

The causes are—

- (a) events occurring on or before the Date for Substantial Completion which are beyond the reasonable control of the Subcontractor including but not limited to—
 - industrial conditions;
 - inclement weather;
- (b) any of the following events whether occurring before, on or after the Date for Substantial Completion—
 - (i) delays caused by —
 - the Principal;
 - the Superintendent;
 - the Main Contractor;
 - the Main Contractor's Representative;
 - the Main Contractor's other subcontractors;
 - the employees, consultants, other contractors or agents of any of the above;
 - (ii) actual quantities of work being greater than the quantities in the Bill of Quantities or the quantities determined by reference to the upper limit of accuracy stated in the Annexure (otherwise than by reason of a variation directed under Clause 40);
 - (iii) latent conditions;
 - (iv) variations directed under Clause 40;
 - (v) repudiation or abandonment by a Nominated Secondary Subcontractor;
 - (vi) changes in the law;
 - (vii) directions by municipal, public or statutory authorities but not where the direction arose from the failure of the Subcontractor to comply with a requirement referred to in Clause 14.1;
 - (viii) delays by municipal, public or statutory authorities not caused by the Subcontractor;
 - (ix) claims referred to in Clause 17.1(v);
 - (x) any breach of the Subcontract by the Main Contractor;
 - (xi) any other cause which is expressly stated in the Subcontract to be a cause for extension of time for Substantial Completion.

Where more than one event causes concurrent delays and the cause of at least one of those events, but not all of them, is not a cause referred to in the preceding paragraph, then to the extent that the delays are concurrent, the Subcontractor shall not be entitled to an extension of time for Substantial Completion.

In determining whether the Subcontractor is or will be delayed in reaching Substantial Completion regard shall not be had to—

- whether the Subcontractor can reach Substantial Completion by the Date for Substantial Completion without an extension of time;
- whether the Subcontractor can, by committing extra resources or incurring extra expenditure, make up the time lost.

With any claim for an extension of time for Substantial Completion, or as soon as practicable thereafter, the Subcontractor shall give the Main Contractor's Representative written notice of the number of days extension claimed.

If the Subcontractor is entitled to an extension of time for Substantial Completion the Main Contractor's Representative shall, within 35 days after receipt of the notice of the number of days extension claimed, grant a reasonable extension of time. If within the 35 days the Main Contractor's Representative does not grant the full extension of time claimed, the Main Contractor's Representative shall before the expiration of the 35 days give the Subcontractor notice in writing of the reason.

In determining a reasonable extension of time for an event causing delay, the Main Contractor's Representative shall have regard to whether the Subcontractor has taken all reasonable steps to preclude the occurrence of the cause and minimize the consequences of the delay.

Notwithstanding that the Subcontractor is not entitled to an extension of time the Main Contractor's Representative may at any time and from time to time before the issue of the Final Certificate by notice in writing to the Subcontractor extend the time for Substantial Completion for any reason.

A delay by the Main Contractor or the failure of the Main Contractor's Representative to grant a reasonable extension of time or to grant an extension of time within 35 days shall not cause the Date for Substantial Completion to be set at large but nothing in this paragraph shall prejudice any right of the Subcontractor to damages.

35.6 Damages for Delay in Reaching Substantial Completion

If the Subcontractor fails to reach Substantial Completion by the Date for Substantial Completion the Subcontractor shall be indebted to the Main Contractor for—

- (a) extra costs incurred by the Main Contractor for extended overheads and other damages excluding damages referred to in Clause 35.6(b); and
- (b) if the failure by the Subcontractor causes the Main Contractor to be in breach of the Main Contract, damages whether liquidated or otherwise which the Main Contractor thereby becomes liable to pay the Principal.

The Subcontractor's indebtedness under Clause 35.6(a) shall be liquidated and the Subcontractor shall pay the Main Contractor liquidated damages at the rate stated in the Annexure for every day after the Date for Substantial Completion to and including the Date of Substantial Completion or the date that the Subcontract is terminated under Clause 44, whichever first occurs.

The Subcontractor's indebtedness under Clause 35.6(b) is not included in the liquidated damages applicable to Clause 35.6(a).

If after the Subcontractor has paid damages, liquidated or otherwise, or such damages have been deducted, the time for Substantial Completion is extended, the Main Contractor shall forthwith repay to the Subcontractor any damages paid or deducted in respect of the period up to and including the new Date for Substantial Completion.

*** 35.7 Limit on Damages for Delay**

The Subcontractor's liability under Clause 35.6(a) is limited to the amount stated in the Annexure.

The Subcontractor's liability under Clause 35.6(b) is limited to the amount stated in the Annexure.

*** 35.8 Bonus for Early Substantial Completion**

If the Date of Substantial Completion is earlier than the Date for Substantial Completion the Main Contractor shall pay the Subcontractor the bonus stated in the Annexure for every day after the Date of Substantial Completion up to and including the Date for Substantial Completion.

The total of the bonus shall not exceed the limit stated in the Annexure.

36 DELAY OR DISRUPTION COSTS

Where the Subcontractor has been granted an extension of time under Clause 35.5 for any delay caused by any of the events referred to in Clause 35.5 (b)(i), the Main Contractor shall pay to the Subcontractor such extra costs as are necessarily incurred by the Subcontractor by reason of the delay.

Where the Subcontractor has been granted an extension of time under Clause 35.5 for any delay caused by any other event for which payment of extra costs for delay and disruption is provided for in the Annexure or elsewhere in the Subcontract, the Main Contractor shall pay to the Subcontractor such extra costs as are necessarily incurred by the Contractor by reason of the delay.

Nothing in Clause 36 shall—

- (a) oblige the Main Contractor to pay extra costs for delay or disruption which have already been included in the value of a variation or any other payment under the Subcontract; or
- (b) limit the Main Contractor's liability for damages for breach of contract.

Notwithstanding anything hereinbefore provided in Clause 36, the Main Contractor's liability to pay extra costs for delay or disruption caused by the Principal, the Superintendent or the employees, consultants, other contractors or agents of either of them or to pay damages for breach of contract where such breach is caused by breach of the Main Contract by the Principal shall only be to the extent to which the extra costs incurred or damages suffered by the Subcontractor have been recovered by the Main Contractor from the Principal or included in the reimbursement to the Main Contractor by the Principal by reason of delay in the progress of the Main Contract Works.

37 DEFECTS LIABILITY

The Defects Liability Period shall commence on the Date of Substantial Completion.

As soon as possible after Substantial Completion, the Subcontractor shall rectify any defects or omissions in the work under the Subcontract existing at Substantial Completion.

Unless otherwise stated in the Annexure or elsewhere in the Subcontract, the Defects Liability Period shall be a period expiring on the expiration of the Defects Liability Period under the Main Contract or if there are several, then the last to expire.

Where the date of expiration of the Defects Liability Period is the same as the date of expiration of the Defects Liability Period under the Main Contract, the Main Contractor's Representative shall within 14 days of becoming aware of the date of expiration of the Defects Liability Period under the Main Contract, inform the Subcontractor in writing of that date.

At any time prior to the 21st day after the expiration of the Defects Liability Period, the Main Contractor's Representative may direct the Subcontractor to rectify any omission or defect in the work under the Subcontract existing at the Date of Substantial Completion which becomes apparent prior to the expiration of the Defects Liability Period. The direction shall identify the omission or defect and state a date by which the Subcontractor shall complete the work of rectification and may state a date by which the work of rectification shall commence. In respect of such work of rectification, if the Superintendent directs pursuant to the Main Contract, a separate Defects Liability Period of a stated duration, there shall be a corresponding Defects Liability Period under the Subcontract. The separate Defects Liability Period shall commence on the date the Main Contractor completes the work of rectification pursuant to the Main Contract. Clause 37 shall apply in respect of the work of rectification and the Defects Liability Period for that work of rectification.

If the Subcontractor's work of rectification is not commenced or completed by the stated dates, the Main Contractor may have the work of rectification carried out at the Subcontractor's expense, but without prejudice to any other rights that the Main

Contractor may have against the Subcontractor with respect to such omission or defect, and the cost of the work of rectification incurred by the Main Contractor shall be a debt due from the Subcontractor.

If it is necessary for the Subcontractor to carry out work of rectification, the Subcontractor shall do so at times and in a manner which cause as little inconvenience as is reasonably possible to the work under the Main Contract and to the occupants and users of the Works.

38 CLEANING UP

The Subcontractor shall keep the Site and the work clean and tidy. The Subcontractor shall regularly remove rubbish and surplus material.

Within 14 days after the Date of Substantial Completion the Subcontractor shall remove Temporary Works and Constructional Plant.

The Main Contractor's Representative may extend the time for removal of Temporary Works or Constructional Plant necessary to enable the Subcontractor to perform remaining obligations.

Notwithstanding the provisions of Clause 44, if the Subcontractor fails to comply with any obligation imposed on the Subcontractor by Clause 38, the Main Contractor's Representative may, after the Main Contractor's Representative has given reasonable notice in writing to the Subcontractor, have the work of cleaning and tidying up carried out by other persons and the reasonable cost incurred by the Main Contractor in having the work so carried out may be recovered by the Main Contractor as a debt due from the Subcontractor to the Main Contractor. The rights given by this paragraph are in addition to any other right.

39 URGENT PROTECTION

If urgent action is necessary to protect the work under the Subcontract, other property or people and the Subcontractor fails to take the action, the Main Contractor may take the necessary action. If the action was action which the Subcontractor should have taken at the Subcontractor's cost, the cost incurred by the Main Contractor shall be a debt due from the Subcontractor.

If time permits, the Main Contractor's Representative shall give the Subcontractor prior written notice of the Main Contractor's intention to take action under Clause 39.

40 VARIATIONS

40.1 Variations to the Work

The Main Contractor's Representative may direct the Subcontractor to —

- (a) increase, decrease or omit any part of the work under the Subcontract;
- (b) change the character or quality of any material or work;
- (c) change the levels, lines, positions or dimensions of any part of the work under the Subcontract;
- (d) execute additional work; and/or
- (e) demolish or remove material or work no longer required by the Main Contractor.

The Subcontractor shall not vary the work under the Subcontract except as directed by the Main Contractor's Representative or approved in writing by the Main Contractor's Representative under Clause 40.

The Subcontractor is bound only to execute a variation which is within the general scope of the Subcontract.

The Subcontractor shall not be bound to execute a variation directed after Substantial Completion unless the variation is in respect of rectification work referred to in Clause 37.

40.2 Proposed Variations

Upon receipt of a notice in writing from the Main Contractor's Representative advising the Subcontractor of a proposed variation under Clause 40, the Subcontractor shall advise the Main Contractor's Representative whether the proposed variation can be effected. If the variation can be effected, the Subcontractor shall —

- (a) advise the Main Contractor's Representative of the effect which the Subcontractor anticipates that the variation will have on the construction program and time for Substantial Completion; and
- (b) provide an estimate of the cost (including delay costs, if any) of the proposed variation.

The Main Contractor shall reimburse the Subcontractor for the reasonable costs of complying with the requirements of Clause 40.2.

40.3 Pricing the Variation

Unless the Main Contractor's Representative and the Subcontractor agree upon the price for a variation, the variation directed or approved by the Main Contractor's Representative under Clause 40.1 shall be valued under Clause 40.5.

The Main Contractor's Representative may direct the Subcontractor to provide a detailed quotation for the work of a variation supported by measurements or other evidence of cost.

40.4 Variations for the Convenience of the Subcontractor

If the Subcontractor requests the Main Contractor's Representative to approve a variation for the convenience of the Subcontractor, the Main Contractor's Representative may do so in writing. The approval may be conditional.

Unless the Main Contractor's Representative otherwise directs in the notice approving the variation, the Subcontractor shall not be entitled to—

- (a) an extension of time for Substantial Completion; or
- (b) extra payment,

in respect of the variation or anything arising out of the variation which would not have arisen had the variation not been approved.

The Main Contractor's Representative shall not be obliged to approve a variation for the convenience of the Subcontractor.

40.5 Valuation

Where the Subcontract provides that a valuation shall be made under Clause 40.5, the Main Contractor shall pay or allow the Subcontractor, or the Subcontractor shall pay or allow the Main Contractor, as the case may require, an amount ascertained by the Main Contractor's Representative as follows —

- (a) if the Subcontract prescribes specific rates or prices to be applied in determining the value, those rates or prices shall be used;
- (b) if Clause 40.5(a) does not apply, the rates or prices in a Priced Bill of Quantities or Schedule of Rates shall be used to the extent that it is reasonable to use them;
- (c) to the extent that neither Clause 40.5(a) or 40.5(b) apply, reasonable rates or prices shall be used in any valuation made by the Main Contractor's Representative;
- (d) in determining the deduction to be made for work which is taken out of the Subcontract, the deduction shall include a reasonable amount for profit and overheads;

- (e) if the valuation is of an increase or decrease in a fee or charge or is a new fee or charge under Clause 14.3, the value shall be the actual increase or decrease or the actual amount of the new fee or charge without regard to overheads or profit;
- (f) if the valuation relates to extra costs incurred by the Subcontractor for delay or disruption, the valuation shall include a reasonable amount for overheads but shall not include profit or loss of profit; 5
- (g) if Clause 11(b) applies, the percentage referred to in Clause 11(b) shall be used for valuing the Subcontractor's profit and attendance; and 10
- (h) daywork shall be valued in accordance with Clause 41.

When under Clause 40.3 the Main Contractor's Representative directs the Subcontractor to support a variation with measurements and other evidence of cost, the Main Contractor's Representative shall allow the Subcontractor the reasonable cost of preparing the measurements or other evidence of cost that has been incurred over and above normal overhead cost. 15

41 DAYWORK 20

The Main Contractor's Representative may direct that—

- (i) quantities greater than the upper limit of accuracy referred to in Clause 3.3 shall be carried out as Daywork; 25
- (ii) work under the Subcontract forming part of a variation directed by the Superintendent to be carried out as daywork under the Main Contract; or 30
- (iii) a variation due to defective work or materials directed by the Main Contractor's Representative under Clause 30.4, shall be carried out as Daywork. 35

The Subcontractor shall thereafter each day record particulars of all resources used by the Subcontractor for the execution of the Daywork and each day furnish to the Main Contractor's Representative the particulars and copies of time sheets, wages sheets, invoices, receipts and other documents evidencing the cost of the Daywork. The Main Contractor's Representative may direct the manner in which matters are to be recorded. 40

In determining the value of Daywork regard shall be had to—

- (a) the amount of wages and allowances paid or payable by the Subcontractor at the rates obtaining on the Site at the time as established by the Subcontractor to the satisfaction of the Main Contractor's Representative or at such other rates as may be approved by the Main Contractor's Representative; 45
- (b) the amount paid or payable by the Subcontractor in accordance with any statute or award applicable to day labour additional to the wages paid or payable under Clause 41(a); 50
- (c) the amount of hire charges in respect of Constructional Plant approved by the Main Contractor's Representative for use on the work in accordance with such hiring rates and conditions as may be agreed between the Main Contractor's Representative and the Subcontractor or, in the absence of agreement, in accordance with such rates and conditions as may be determined by the Main Contractor's Representative; 55
- (d) the amounts paid for services, secondary subcontracts and professional fees; 60
- (e) the actual cost to the Subcontractor at the Site of all materials supplied and required for the work; and
- (f) the charge stated in the Annexure or, if no charge is stated, a charge agreed between the Main Contractor's Representative and the Subcontractor to cover overheads, administrative costs, site supervision, establishment costs, attendance and profit, or, in the absence of agreement, a reasonable charge determined by the Main Contractor's Representative. 65

Amounts payable for Daywork shall not be subject to adjustment for rise and fall in costs notwithstanding that the Subcontract may provide for adjustment for rise and fall in costs. 70

42 CERTIFICATES AND PAYMENTS

42.1 Payment Claims, Certificates, Calculations and Time for Payment

At the times for payment claims stated in the Annexure and upon issue of a Certificate of Substantial Completion and within the time prescribed by Clause 42.7, the Subcontractor shall deliver to the Main Contractor's Representative claims for payment supported by evidence of the amount due to the Subcontractor and such information as the Main Contractor's Representative may reasonably require. Claims for payment shall include the value of work carried out by the Subcontractor in the performance of the Subcontract to that time together with all amounts then due to the Subcontractor arising out of or in connection with the Subcontract or for any alleged breach thereof.

Within 21 days after receipt of a claim for payment, the Main Contractor's Representative shall issue to the Main Contractor and to the Subcontractor a payment certificate stating the payment which, in the opinion of the Main Contractor's Representative, is to be made by the Main Contractor to the Subcontractor or by the Subcontractor to the Main Contractor. The Main Contractor's Representative shall set out in the certificate the calculations employed to arrive at the amount and, if the amount is more or less than the amount claimed by the Subcontractor, the reasons for the difference. The Main Contractor's Representative shall allow in any payment certificate issued pursuant to this Clause 42.1 or any Final Certificate issued pursuant to Clause 42.8 or a Certificate issued pursuant to Clause 44.6, amounts paid under the Subcontract and amounts otherwise due from the Main Contractor to the Subcontractor and/or due from the Subcontractor to the Main Contractor arising out of or in connection with the Subcontract including but not limited to any amount due or to be credited under any other provisions of the Subcontract.

If the Subcontractor fails to make a claim for payment under Clause 42.1, the Main Contractor's Representative may nevertheless issue a payment certificate.

Subject to the provisions of the Subcontract, within 35 days after receipt by the Main Contractor's Representative of a claim for payment or within 14 days of issue by the Main Contractor's Representative of the Main Contractor's Representative's payment certificate, whichever is the earlier, the Main Contractor shall pay to the Subcontractor or the Subcontractor shall pay to the Main Contractor, as the case may be, an amount not less than the amount shown in the Certificate as due to the Subcontractor or to the Main Contractor as the case may be, or if no payment certificate has been issued, the Main Contractor shall pay the amount of the Subcontractor's claim. A payment made pursuant to this Clause shall not prejudice the right of either party to dispute under Clause 47 whether the amount so paid is the amount properly due and payable and on determination (whether under Clause 47 or as otherwise agreed) of the amount so properly due and payable, the Main Contractor or Subcontractor, as the case may be, shall be liable to pay the difference between the amount of such payment and the amount so properly due and payable.

Payment of moneys shall not be evidence of the value of work or an admission of liability or evidence that work has been executed satisfactorily but shall be a payment on account only, except as provided by Clause 42.8.

Notwithstanding Clause 42.4, the Main Contractor shall be obliged to pay for an item of unfixed plant and materials where that item is—

- (i) to be imported into Australia, provided the Subcontractor has given the Main Contractor a clean on board bill of lading or its equivalent, drawn or endorsed to the order of the Main Contractor and, where appropriate, a customs invoice for the item; or
- (ii) listed in the Annexure and which is not an item to be imported into Australia, provided the Subcontractor establishes to the satisfaction of the Main Contractor's Representative that the Subcontractor has paid for the item, and the item is properly stored, labelled the property of the Main Contractor and adequately protected.

Upon payment to the Subcontractor of the amount which includes the value of the item, the item shall be the property of the Main Contractor free of any lien or charge.

Except as provided in the Subcontract, the Main Contractor shall not be obliged to pay for any item of unfixed plant and materials which is not incorporated in the Works.

*** 42.1A Where the Subcontractor is a Nominated Subcontractor**

Notwithstanding Clause 42.1, if the Subcontractor is a Nominated Subcontractor to whom the Main Contractor is directed by the Superintendent to subcontract Nominated Subcontract Work pursuant to the first paragraph of Clause 10.3 of the Main Contract, the Main Contractor shall not be obliged to make a progress payment to the Subcontractor in respect of the value of any work performed by the Subcontractor—

- (a) until 7 days after the Main Contractor has been paid by the Principal in respect of the work; and
- (b) greater than the Main Contractor has been paid by the Principal in respect of the work.

Clause 42.1A does not apply if the reason for delay or failure by the Principal to make payment to the Main Contractor is a default of the Main Contractor.

42.2 Correction of Payment Certificates

At any time, and from time to time, the Main Contractor's Representative may by a further certificate correct any error which has been discovered in any previous certificate, other than a Certificate of Substantial Completion or Final Certificate.

42.3 Retention Moneys

The Main Contractor may deduct from moneys otherwise due to the Subcontractor amounts up to the limit of the percentages, if any, stated in the Annexure of so much of the value of the respective items stated in the Annexure as is included in the calculation of a payment.

42.4 Unfixed Plant and Materials

Alternative 1

If the Subcontractor claims payment for plant or materials intended for incorporation in the Works but not incorporated, the Main Contractor shall not be obliged to make payment for the plant or materials unless the Subcontractor provides additional security in one of the forms provided by Clause 5.3 in an amount equal to the payment claimed for the plant or materials.

Alternative 2

If the Subcontractor claims payment for plant or materials intended for incorporation in the Works but not incorporated the Main Contractor shall not be obliged to make payment for such plant or materials but the Main Contractor may make payment, if the Subcontractor establishes to the satisfaction of the Main Contractor's Representative that—

- (a) such plant or materials have reasonably but not prematurely been delivered to or adjacent to the Site;
- (b) ownership of the plant and materials will pass to the Main Contractor upon the making of the payment claimed; and
- (c) such plant or materials are properly stored, labelled the property of the Main Contractor and adequately protected.

Upon payment to the Subcontractor of the amount claimed, the plant or materials the subject of the claim shall be the property of the Main Contractor free of any lien or charge.

Alternative 3

The Subcontractor shall not be entitled to payment for plant or materials not incorporated in the Works.

42.5 Certificate of Substantial Completion

The Subcontractor shall give the Main Contractor's Representative at least 14 days' notice of the date upon which the Subcontractor anticipates that Substantial Completion will be reached.

When the Subcontractor is of the opinion that Substantial Completion has been reached, the Subcontractor shall in writing request the Main Contractor's Representative to issue a Certificate of Substantial Completion. Within 14 days of the receipt of the request, the Main Contractor's Representative shall give to the Subcontractor and to the Main Contractor a Certificate of Substantial Completion stating the Date of Substantial Completion or give the Subcontractor in writing the reasons for not issuing the Certificate.

When the Main Contractor's Representative is of the opinion that Substantial Completion has been reached, the Main Contractor's Representative may issue a Certificate of Substantial Completion, whether or not the Subcontractor has made a request for its issue.

42.6 Effect of Certificates

The issue of a payment certificate or a Certificate of Substantial Completion shall not constitute approval of any work or other matter nor shall it prejudice any claim by the Main Contractor or the Subcontractor.

42.7 Final Payment Claim

Within 21 days after the expiration of the Defects Liability Period, or where there is more than one, the last to expire, the Subcontractor shall lodge with the Main Contractor's Representative a final payment claim and endorse it 'Final Payment Claim'.

The Subcontractor shall include in that claim all moneys which the Subcontractor considers to be due from the Main Contractor under or arising out of the Subcontract or any alleged breach thereof.

After the expiration of the period for lodging a Final Payment Claim, any claim which the Subcontractor could have made against the Main Contractor and has not made shall be barred.

42.8 Final Certificate

Within 28 days after receipt of the Subcontractor's Final Payment Claim or, where the Subcontractor fails to lodge such a claim, the expiration of the period specified in Clause 42.7 for lodgement of the Final Payment Claim by the Subcontractor, the Main Contractor's Representative shall issue to the Subcontractor and to the Main Contractor a final payment certificate endorsed 'Final Certificate'. In the certificate the Main Contractor's Representative shall certify the amount which in the Main Contractor's Representative's opinion is finally due from the Main Contractor to the Subcontractor or from the Subcontractor to the Main Contractor under or arising out of the Subcontract or any alleged breach thereof.

Unless either party, either before the Final Certificate has been issued or not later than 8 days after the issue thereof, serves a notice of dispute under Clause 47, the Final Certificate shall be evidence in any proceedings of whatsoever nature and whether under the Subcontract or otherwise between the parties arising out of the Subcontract, that the

Works have been completed in accordance with the terms of the Subcontract and that any necessary effect has been given to all the terms of the Subcontract which require additions or deductions to be made pursuant to the Subcontract, except in the case of—

- (a) fraud, dishonesty or fraudulent concealment relating to the Works or any part thereof or to any matter dealt with in the said Certificate;

- (b) any defect (including omission) in the Works or any part thereof which was not apparent at the end of the Defects Liability Period, or would not have been disclosed upon reasonable inspection at the time of the issue of the Final Certificate; or
- (c) any accidental or erroneous inclusion or exclusion of any work, plant, materials or figures in any computation or any arithmetical error in any computation.

Within 14 days after the issue of the Final Certificate which certifies a balance owing by the Main Contractor to the Subcontractor, the Main Contractor shall release to the Subcontractor any retention moneys or security then held by the Main Contractor.

42.9 Interest on Overdue Payments

If any moneys due to either party remain unpaid after the date upon which or the expiration of the period within which they should have been paid then interest shall be payable thereon from but excluding the date upon which, or the expiration of the period within which they should have been paid, to and including the date upon which the moneys are paid. The rate of interest shall be the rate stated in the Annexure and if no rate is stated the rate shall be 18 percent per annum. Interest shall be compounded at six monthly intervals.

42.10 Set Offs by the Main Contractor

The Main Contractor may deduct from moneys due to the Subcontractor any money due from the Subcontractor to the Main Contractor otherwise than under the Subcontract and if those moneys are insufficient, the Main Contractor may, subject to Clause 5.5, have recourse to retention moneys and, if they are insufficient, then to security under the Subcontract.

42.11 Recourse for Unpaid Moneys

Where, within the time provided by the Subcontract, a party fails to pay the other party an amount due and payable under the Subcontract, the other party may, subject to Clause 5.5, have recourse to retention moneys, if any, and, if those moneys are insufficient, then to security under the Subcontract and any deficiency remaining may be recovered by the other party as a debt due and payable.

43 PAYMENT OF WORKERS AND SECONDARY SUBCONTRACTORS

- (a) Before the Main Contractor makes each payment to the Subcontractor, the Main Contractor's Representative may, not less than five days before a payment certificate is due, in writing request the Subcontractor—
 - (i) to give the Main Contractor's Representative a statutory declaration by the Subcontractor or, where the Subcontractor is a corporation, by a representative of the Subcontractor who is in a position to know the facts declared, that all workers who have at any time been employed by the Subcontractor on work under the Subcontract have at the date of the request been paid all moneys due and payable to them in respect of their employment on the work under the Subcontract; and
 - (ii) to provide documentary evidence to the Main Contractor's Representative that at the date of the request all workers who have been employed by a secondary subcontractor of the Subcontractor have been paid all moneys due and payable to them in respect of their employment on the work under the Subcontract.
- (b) Not earlier than 14 days after the Subcontractor has made a claim for payment under Clause 42.1, and before the Main Contractor makes that payment to the Subcontractor, the Subcontractor shall give to the Main Contractor's Representative a statutory declaration by the Subcontractor or, where the Subcontractor is a

corporation, by a representative of the Subcontractor who is in a position to know the facts declared, that all secondary subcontractors of the Subcontractor have been paid all moneys due and payable to them in respect of work under the Subcontract.

(c) If the Subcontractor fails—

(i) within five days after a request by the Main Contractor's Representative under Clause 43(a), to provide the statutory declaration, or the documentary evidence (as the case may be) required pursuant to Clause 43; or

(ii) to comply with Clause 43(b),

notwithstanding Clause 42.1, the Main Contractor may withhold payment of moneys due to the Subcontractor until the statutory declaration or documentary evidence (as the case may be) is received by the Main Contractor's Representative.

If the Subcontractor provides to the Main Contractor's Representative satisfactory proof of the maximum amount due and payable to workers and secondary subcontractors of the Subcontractor by the Subcontractor, the Main Contractor shall not be entitled to withhold any amount in excess of the maximum amount.

At the written request of the Subcontractor and out of moneys payable to the Subcontractor, the Main Contractor may on behalf of the Subcontractor make payments directly to any worker or secondary subcontractor of the Subcontractor.

If a worker or secondary subcontractor of the Subcontractor obtains a court order in respect of moneys referred to in Clause 43(a) or (b) and produces to the Main Contractor the court order and a statutory declaration that it remains unpaid, the Main Contractor may pay the amount of the order, and costs included in the order, to the worker or secondary subcontractor and the amount paid shall be a debt due from the Subcontractor to the Main Contractor.

After the making of a sequestration order or a winding up order in respect of the Subcontractor, the Main Contractor shall not make any payment to a worker or secondary subcontractor of the Subcontractor without the concurrence of the official receiver or trustee of the estate of the bankrupt or the liquidator as the case may be.

44 DEFAULT OR INSOLVENCY

44.1 Preservation of Other Rights

If a party breaches or repudiates the Subcontract, nothing in Clause 44 shall prejudice the right of the other party to recover damages or exercise any other right.

44.2 Default by the Subcontractor

If the Subcontractor commits a substantial breach of contract and the Main Contractor considers that damages may not be adequate remedy, the Main Contractor may give the Subcontractor a written notice to show cause.

Substantial breaches include but are not limited to—

- (a) suspension of work, in breach of Clause 33.1;
- (b) failing to proceed with due expedition and without delay, in breach of Clause 33.1;
- (c) failing to lodge security, in breach of Clause 5;
- (d) failing to use the materials or standards of workmanship required by the Subcontract, in breach of Clause 30.1;
- (e) failing to comply with a direction of the Main Contractor's Representative under Clause 30.3, in breach of Clause 23;
- (f) failing to provide evidence of insurance, in breach of Clause 21.1; and/or

- (g) in respect of Clause 43, knowingly providing a statutory declaration or documentary evidence which contains a statement that is untrue.

44.3 Requirements of a Notice by the Main Contractor to Show Cause

5

A notice under Clause 44.2 shall—

- (a) state that it is a notice under Clause 44 of the Subcontract Conditions;
- (b) specify the alleged substantial breach; 10
- (c) require the Subcontractor to show cause in writing why the Main Contractor should not exercise a right referred to in Clause 44.4;
- (d) specify the time and date by which the Subcontractor must show cause (which time shall not be less than 7 clear days after the notice is given to the Subcontractor); 15
and
- (e) specify the place at which cause must be shown. 20

44.4 Rights of the Main Contractor

If by the time specified in a notice under Clause 44.2, the Subcontractor fails to show reasonable cause why the Main Contractor should not exercise a right referred to in Clause 44.4, the Main Contractor may by notice in writing to the Subcontractor— 25

- (a) take out of the hands of the Subcontractor the whole or part of the work remaining to be completed; or
- (b) terminate the Subcontract. 30

Upon giving a notice under Clause 44.2, the Main Contractor may suspend payments to the Subcontractor until the earlier of—

- (i) the date upon which the Subcontractor shows reasonable cause; 35
- (ii) the date upon which the Main Contractor takes action under Clause 44.4(a) or (b);
or
- (iii) the date which is 7 days after the last day for showing cause in the notice under Clause 44.2. 40

If the Main Contractor exercises the right under Clause 44.4(a), the Subcontractor shall not be entitled to any further payment in respect of the work taken out of the hands of the Subcontractor unless a payment becomes due to the Subcontractor under Clause 44.6. 45

44.5 Procedure when the Main Contractor Takes Over Work

If the Main Contractor takes work out of the hands of the Subcontractor under Clause 44.4(a) the Main Contractor shall complete that work and the Main Contractor may without payment of compensation take possession of such of the Constructional Plant and other things on or in the vicinity of the Site as are owned by the Subcontractor and are reasonably required by the Main Contractor to facilitate completion of the work. 50

If the Main Contractor takes possession of Constructional Plant or other things, the Main Contractor shall maintain the Constructional Plant and, subject to Clause 44.6, on completion of the work the Main Contractor shall return to the Subcontractor the Constructional Plant and any things taken under this Clause which are surplus. 55

44.6 Adjustment on Completion of the Work Taken Out of the Hands of the Subcontractor

When work taken out of the hands of the Subcontractor under Clause 44.4(a) is completed the Main Contractor's Representative shall ascertain the cost incurred by the Main Contractor in completing the work and shall issue a certificate to the Main Contractor and the Subcontractor certifying the amount of that cost. 65

If the cost incurred by the Main Contractor is greater than the amount which would have been paid to the Subcontractor if the work had been completed by the Subcontractor, the difference shall be a debt due from the Subcontractor to the Main Contractor. If the cost incurred by the Main Contractor is less than the amount that would have been paid to the 70

Subcontractor if the work had been completed by the Subcontractor, the difference shall be a debt due to the Subcontractor from the Main Contractor. The Main Contractor shall keep records of the cost in a similar manner to that prescribed in Clause 41.

If the Subcontractor is indebted to the Main Contractor, the Main Contractor may retain Constructional Plant or other things taken under Clause 44.5 until the debt is satisfied. If after reasonable notice, the Subcontractor fails to pay the debt, the Main Contractor may sell the Constructional Plant or other things and apply the proceeds to satisfaction of the debt and the costs of sale. Any excess shall be paid to the Subcontractor.

44.7 Default of the Main Contractor

If the Main Contractor commits a substantial breach of contract and the Subcontractor considers that damages may not be an adequate remedy, the Subcontractor may give the Main Contractor a written notice to show cause.

Substantial breaches include but are not limited to—

- (a) failing to make a payment, in breach of Clause 42.1;
- (b) failure by the Main Contractor's Representative to issue a Certificate of Substantial Completion, or give the Subcontractor, in writing, the reasons for not issuing the Certificate within 14 days of receipt of a request by the Subcontractor to issue the Certificate, in breach of Clause 42.5;
- (c) failing to produce evidence of insurance, in breach of Clause 21.1;
- (d) failing to give the Subcontractor access to sufficient of the Site, in breach of Clause 27.1, but only if the failure continues for longer than the period stated in the Annexure; and/or
- (e) failing to lodge security in breach of Clause 5.

44.8 Requirements of a Notice by the Subcontractor to Show Cause

A notice under Clause 44.7 shall—

- (a) state that it is a notice under Clause 44 of the Subcontract Conditions;
- (b) specify the alleged substantial breach;
- (c) require the Main Contractor to show cause in writing why the Subcontractor should not exercise a right referred to in Clause 44.9;
- (d) specify the time and date by which the Main Contractor must show cause (which shall not be less than 7 clear days after the notice is given to the Main Contractor); and
- (e) specify the place at which cause must be shown.

44.9 Rights of Subcontractor

If, by the time specified in a notice under Clause 44.7, the Main Contractor fails to show reasonable cause why the Subcontractor should not exercise a right referred to in Clause 44.9, the Subcontractor may by notice in writing to the Main Contractor suspend the whole or any part of the work under the Subcontract.

The Subcontractor shall lift the suspension if the Main Contractor remedies the breach but if within 28 days after the date of suspension under Clause 44.9, the Main Contractor fails to remedy the breach or, if the breach is not capable of remedy, fails to make other arrangements to the reasonable satisfaction of the Subcontractor, the Subcontractor may by notice in writing to the Main Contractor terminate the Subcontract.

The Subcontractor shall be entitled to recover from the Main Contractor any damages incurred by the Subcontractor by reason of the suspension.

44.10 Rights of the Parties on Termination

If the Subcontract is terminated under Clause 44.4(b) or Clause 44.9 the rights and liabilities of the parties shall be the same as they would be at common law had the defaulting party repudiated the Subcontract and the other party had elected to treat the Subcontract as at an end and recover damages.

44.11 Insolvency

If—

- (a) a party informs the other party in writing or creditors generally that the party is insolvent;
- (b) a party commits an act of bankruptcy;
- (c) a bankruptcy petition is presented against a party;
- (d) a party is made bankrupt;
- (e) a meeting of creditors of a party is called with a view to—
 - (i) entering a scheme of arrangement or composition with creditors; or
 - (ii) placing the party under official management;
- (f) a party enters a scheme of arrangement or composition with creditors;
- (g) a resolution is passed at a meeting of creditors to place a party under official management;
- (h) a party is placed under official management;
- (i) a receiver of the property or part of the property of a party is appointed;
- (j) an application is made to a court for the winding up of a party and not stayed within 14 days;
- (k) a winding up order is made in respect of a party; and/or
- (l) execution is levied against a party by creditors, debenture holders or trustees or under a floating charge

then—

where the other party is the Main Contractor, the Main Contractor may, without giving a notice to show cause, exercise the right under Clause 44.4(a); or

where the other party is the Subcontractor, the Subcontractor may, without giving a notice to show cause, exercise the right under Clause 44.9.

The rights given by Clause 44.11 are in addition to any other rights and may be exercised notwithstanding that there has been no breach of contract.

* 45 TERMINATION BY FRUSTRATION

If, under the law governing the Subcontract, the Subcontract is frustrated, the Main Contractor shall pay the Subcontractor—

- (a) for work executed prior to the date of frustration, the amount which would have been payable if the Subcontract had not been frustrated and the Subcontractor had made a progress claim on the date of frustration;
- (b) the cost of materials reasonably ordered by the Subcontractor for the work under the Subcontract, which the Subcontractor is liable to accept, but only if the materials become the property of the Main Contractor upon payment;
- (c) costs reasonably incurred by the Subcontractor in the expectation of completing the whole of the work under the Subcontract and not included in any payment by the Main Contractor;
- (d) all retention moneys and security;
- (e) the reasonable cost of removal of Constructional Plant;

- (f) the reasonable cost of returning to their place of recruitment the Subcontractor's employees engaged in the work under the Subcontract at the date of frustration.

46 TIME FOR NOTIFICATION OF CLAIMS

46.1 Subcontractor's Prescribed Notice

The Main Contractor shall not be liable upon any claim by the Subcontractor in respect of or arising out of a breach of the Subcontract unless within 28 days after the first day upon which the Subcontractor could reasonably have been aware of the breach, the Subcontractor has given to the Main Contractor's Representative the prescribed notice.

The Main Contractor shall not be liable upon any other claim by the Subcontractor for any extra cost or expense in respect of or arising out of any direction or approval by the Main Contractor's Representative unless within 42 days after the first day upon which the Subcontractor could reasonably have been aware of the entitlement to make the claim, the Subcontractor has given to the Main Contractor's Representative the prescribed notice.

The prescribed notice is a notice in writing which includes particulars of all the following—

- (a) the breach, act, omission, direction, approval or circumstances on which the claim is or will be based;
- (b) the provision of the Subcontract or other basis for the claim or proposed claim; and
- (c) the quantum or likely quantum of the claim.

This Clause 46.1 shall not have any application to—

- (i) any claim for payment to the Subcontractor of an amount or amounts forming part of the Contract Sum;
- (ii) any claim for payment for a variation directed by the Main Contractor's Representative or to be made pursuant to Clause 12.3;
- (iii) any claim for an extension of time for Substantial Completion;
- (iv) the provisions of Clause 46.2; or
- (v) any breach of contract by the Principal or direction of the Superintendent to which Clause 47.4 applies.

46.2 Time for Disputing Main Contractor's Representative's Direction

If the Main Contractor's Representative—

- (a) has given a direction (other than a decision under Clause 47.2) pursuant to the Subcontract; and
- (b) has served a notice in writing on each party that if a party wishes to dispute the direction then that party is required to do so under Clause 47,

the direction shall not be disputed unless a notice of dispute in accordance with Clause 47.1 is given by one party to the other party and the Main Contractor's Representative within 42 days after the date of service on that party of the notice pursuant to Clause 46.2.(b).

47 DISPUTE RESOLUTION

47.1 Notice of Dispute

If a dispute between the Subcontractor and the Main Contractor arises out of or in connection with the Subcontract, including a dispute concerning a direction given by the Main Contractor's Representative, then either party shall deliver by hand or send by certified mail to the other party and to the Main Contractor's Representative a notice of dispute in writing adequately identifying and providing details of the dispute.

Notwithstanding the existence of a dispute, the Main Contractor and the Subcontractor shall continue to perform the Subcontract and subject to Clause 44, the Subcontractor shall continue with the work under the Subcontract and the Main Contractor and the Subcontractor shall continue to comply with Clause 42.1.

A claim in tort, under statute or for restitution based on unjust enrichment or for rectification or frustration, may be included in an arbitration.

47.2 Further Steps Required Before Proceedings

Within 14 days after service of a notice of dispute, the parties shall confer at least once, and if the dispute is one to which Clause 47.4 applies, at the option of either party and provided the Superintendent so agrees, in the presence of the Superintendent, 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 including (if the dispute is one to which Clause 47.4 applies) whether it is therefore to be resolved pursuant to the dispute resolution procedures of the Main Contract. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute.

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 arbitration or litigation.

47.3 Arbitration

Arbitration shall be effected by a single arbitrator who shall be nominated by the person named in the Annexure, or if no person is named, by the Chairperson for the time being of the Chapter of the Institute of Arbitrators Australia in the State or Territory named in the Annexure. Such arbitration shall be held in the State or Territory stated in the Annexure.

Unless the parties agree in writing, any person agreed upon by the parties to resolve the dispute pursuant to Clause 47.2 shall not be appointed as an arbitrator, nor may that person be called as a witness by either party in any proceedings.

Notwithstanding Clause 42.9, the arbitrator may award whatever interest the arbitrator considers reasonable.

If one party has overpaid the other, whether pursuant to a Main Contractor's Representative's certificate or not and whether under a mistake of law or fact, the arbitrator may order repayment together with interest.

47.4 Claims or Disputes Affecting the Main Contract Works

When the Main Contractor becomes aware of a breach of the Main Contract by the Principal or a direction given by the Superintendent under the Main Contract which breach or direction affects work, material or the performance of work under the Subcontract, and provided that the Main Contractor's Representative has—

- (a) promptly served on the Subcontractor a notice setting out adequate details of the breach or sent a written copy of the Superintendent's direction, as the case may be; and
- (b) when complying with Clause 47.4(a) or previously, provided to the Subcontractor a written copy of the relevant provisions of the Main Contract relating to the notification of claims and resolution of disputes,

the Main Contractor, by notice promptly given in writing by the Main Contractor's Representative to the Subcontractor, may require any claim or dispute to be made by the Subcontractor arising out of the breach or direction to proceed under or be resolved pursuant to the provisions of the Main Contract.

The Subcontractor, on receipt of the latter notice given by the Main Contractor's Representative, shall—

- (i) promptly acknowledge in writing the receipt of the Main Contractor's Representative's said notice; and

- (ii) if the Subcontractor requires the Main Contractor, on behalf of the Subcontractor, to make a claim or to serve a notice of dispute on the Principal in respect of the breach or direction, the Subcontractor shall, in writing and within a reasonable time to enable the Main Contractor to comply with the provisions of the Main Contract, request the Main Contractor either to give a prescribed notice, a copy of which shall be served either with the Subcontractor's request or within a reasonable time thereafter to enable the Main Contractor to comply with the provisions of the Main Contract relating to service thereof on the Superintendent, or, where appropriate, to serve a notice of dispute in respect of the breach or direction.

Upon the receipt of the Subcontractor's written request given under Clause 47.4(ii), the Main Contractor shall take such steps as are reasonably necessary to proceed in accordance with the Main Contract with the Subcontractor's claim or dispute. The Subcontractor shall comply with the Main Contractor's reasonable requirements in respect to providing details of the claim or dispute.

The Subcontractor shall indemnify the Main Contractor, to the extent of the Subcontractor's interest in respect of the claim or dispute, against all costs and expenses that may reasonably be incurred by the Main Contractor by reason of complying with the request of the Subcontractor given under Clause 47.4(ii). The Subcontractor shall, with the request, lodge with the Main Contractor reasonable cash or other security against such costs and expenses and any moneys the Main Contractor may recover shall be for the benefit of the Subcontractor to the extent of the Subcontractor's interest in the claim or dispute.

If the Main Contractor is in breach of any provision of the Main Contract or of this Clause 47.4 relating to the notification of the claim or in proceeding with the dispute and the breach was not due to any act or omission of the Subcontractor, nothing in Clause 47.4 shall prevent the Subcontractor from thereafter proceeding pursuant to Clause 47.1 and 47.2 as if the dispute was not a dispute to which the provisions of Clause 47.4 apply.

47.5 Summary or Urgent Relief

Nothing herein shall prejudice the right of a party to institute proceedings to enforce payment due under Clause 42 or to seek urgent injunctive or declaratory relief in respect of a dispute under Clause 47 or any matter arising under the Subcontract.

48 WAIVER OF CONDITIONS

Except as provided at law or in equity or elsewhere in the Subcontract, none of the terms of the Subcontract shall be varied, waived, discharged or released, except with the prior consent in writing of the Main Contractor in each instance.

49 SERVICES AND FACILITIES

Services and facilities shall be provided as stated in the Annexure.

**ANNEXURE to the Australian Standard
Subcontract conditions****PART**

5 This Annexure shall be issued as part of the tender documents for the Subcontract and is to be
attached to the Subcontract Conditions and shall be read as part of the Subcontract.

10	The law applicable is that of the State or Territory of: (Clause 1)	Queensland
	Payments under the Subcontract shall be made at: (Clause 1)	Brisbane
	The Main Contractor: (Clause 2)	Woollam Constructions (A.C.N.009 676 064)
	The address of the Main Contractor:	71 Lytton Road, East Brisbane QLD 4169
	The Main Contractor's Representative: (Clause 2)	Barry Styan
	The address of the Main Contractor's Representative:	71 Lytton Road, East Brisbane QLD 4169
	The Subcontractor : (Clause 2)	BG Group NQ Pty Ltd (ABN 37 085 810 975)
	The address of the Subcontractor:	7-8 Brice Court, Garbutt, QLD 4814
	Subcontract Sum:	\$900,000.00 excl GST

The Date or period for Substantial Completion:
(Clause 2 and Clause 35.2):

Refer to Special Conditions of Contract Attached

Limits of accuracy applying to quantities for
which the Main Contractor accepted a rate or
rates in the Subcontract:
(Clause 3.3(b))

Refer to Special Conditions of Contract Attached.

Bill of Quantities — the alternative applying:
(Clause 4.1)

Refer to Special Conditions of Contract Attached

The time for lodgment of the priced copy of the
Bill of Quantities:
(Clause 4.2)

Refer to Special Conditions of Contract Attached

Subcontractor shall provide security in the
amount of:
(Clause 5.2)

Refer to Special Conditions of Contract Attached

Subcontractor has elected to provide 2 x Bank
Guarantees \$22,500.00 each

Main Contractor shall provide security in the
amount of:
(Clause 5.2)

Refer to Special Conditions of Contract Attached.

The period of notice required of a party's
intention to have recourse to retention moneys
and/or to convert security:
(Clause 5.5)

Refer to Special Conditions of Contract Attached

The percentage to which the entitlement to
security and retention moneys is reduced:
(Clause 5.7)

Refer to Special Conditions of Contract Attached

Interest on retention moneys and security —
the alternative applying:
(Clause 5.9)

Refer to Special Conditions of Contract Attached

The number of copies to be supplied by the
Main Contractor:
(Clause 8.3)

Refer to Special Conditions of Contract Attached.

The number of copies to be supplied by the
Subcontractor:
(Clause 8.4)

Refer to Special Conditions of Contract Attached

The time within which the Main Contractor's Representative must give a direction as to the suitability of documents:
(Clause 8.4 (c))

Refer to Special Conditions of Contract Attached

Where there are Separable Portions, these items shall be deleted.

Work which cannot be subcontracted without approval:
(Clause 9.2)

Refer to Special Conditions of Contract Attached

The amount or percentage for profit and attendance:
(Clause 11(b))

Refer to Special Conditions of Contract Attached

The amount or percentage for profit and attendance:
(Clause 11(c))

Refer to Special Conditions of Contract Attached.

Public Liability Insurance—the alternative applying:
(Clause 19)

Refer to Special Conditions of Contract Attached

The amount of Public Liability Insurance under alternative 2 shall be not less than:
(Clause 19)

Refer to Special Conditions of Contract Attached

The time for giving access to the Site:
(Clause 27.1)

Refer to Special Conditions of Contract Attached

Liquidated Damages per day:
(Clause 35.6(a))

Refer to Special Conditions of Contract Attached

Limit on Liquidated Damages under Clause 35.6(a):
(Clause 35.7)

Refer to Special Conditions of Contract Attached

Limit on Damages under Clause 35.6(b):
(Clause 35.7)

Refer to Special Conditions of Contract Attached

Bonus per day for early Substantial Completion:
(Clause 35.8)

Refer to Special Conditions of Contract Attached

Limit of bonus:
(Clause 35.8)

Refer to Special Conditions of Contract Attached.

Where there are Separable Portions, these items shall be deleted.

Where there are Separable Portions, these items shall be deleted.

Extra costs for Delay or Disruption :
(Clause 36)

Event

Refer to Special Conditions of Contract Attached.

.....

The Defects Liability Period:
(This entry is to be completed only if the
date of expiry of the Defects Liability
Period is to be different from that
contained in the Main Contract)
(Clause 37)

Refer to Special Conditions of Contract Attached

The charge for overheads, profit, etc.
for Daywork:
(Clause 41(f))

Refer to Special Conditions of Contract Attached.

.

Times for payment claims:
(Clause 42.1)

. . . Refer to Special Conditions of Contract
Attached.

Unfixed plant and materials for which payment
claims may be made notwithstanding that they
are not incorporated in the Works
(Clause 42.1(ii)).

Refer to Special Conditions of Contract Attached. .

.....

.....

Retention Moneys on:
(Clause 42.3)

- (a) work incorporated in the Works and any work
or items for which a different amount of
retention is not provided,.....0% of the value
until0% of the Subcontract Sum is held;
- (b) items on Site but not yet incorporated in the
Works,.....0%;
- (c) items off Site but in Australia.....0%;
- (d) items not in Australia0%;
- (e) disbursements incurred by the
Subcontractor for customs duties, freight,
marine insurance, primage, landing and
transport in respect of the work under the
Subcontract0%;

Unfixed Plant and Materials — the alternative applying:
(Clause 42.4)

Refer to Special Conditions of Contract Attached

The rate of interest on overdue payments:
(Clause 42.9)

Refer to Special Conditions of Contract Attached

The delay in giving access to sufficient of the Site which shall be a substantial breach:
(Clause 44.7(d))

Refer to Special Conditions of Contract Attached

The person to nominate an arbitrator:
(Clause 47.3)

Refer to Special Conditions of Contract Attached

Location of arbitration:
(Clause 47.3)

Refer to Special Conditions of Contract Attached.

SERVICES AND FACILITIES
(Clause 49)

A. ELECTRICITY

- (i) Installation of 240 Volts ~~will~~
~~will not~~ be supplied on Site by the Main Contractor at the
following points:
- (ii) Installation of 415 Volts ~~will~~
~~will not~~ supplied on Site by the Main Contractor at the
following points:
*Main Contractor.
~~*Subcontractor.~~
- (iii) Cost of electricity supplied will be borne by the
~~*Subcontractor.~~
- (iv) Cost of connection to power supply will be borne by the
~~*Subcontractor.~~
- (v) Supply of leads will be by
*Main Contractor.
*Subcontractor.

B. SCAFFOLDING

- (i) Initial supply and erection and final removal
of scaffold will be carried out by the
*Main Contractor.
*Subcontractor.
- (ii) Adjustment and moving of scaffold and/or planks
will be carried out by the
*Main Contractor.
*Subcontractor.
- (iii) Cost of hire of scaffolding will be borne by the
*Main Contractor.
*Subcontractor.

C. HOISTING (INCLUDING CRANAGE)

- (i) Hoisting facilities including services by necessary
operators will be provided by the
*Main Contractor.
*Subcontractor.
- (ii) Labour to handle materials to be hoisted or lifted
will be supplied by the
*Main Contractor.
*Subcontractor.
- (iii) If by Main Contractor materials shall be handled from
..... to.
- (iv) Charge for hoisting and crange facilities (if any)
to be at following rates:

* Delete as appropriate.

- D. Constructional plant to be supplied or made available by main contractor for use by subcontractor as follows:

.....

.....

This plant will be supplied or made available in good order and condition for use by the Subcontractor in carrying out the work under the Subcontract and, if supplied, shall be returned on the following date or dates:

.....

.....

NOTE: The cost of cleaning and/or repair other than due to normal wear and tear will be charged to the Subcontractor.

E. TELEPHONES

If a telephone service is installed by the Main Contractor it will be available for the Subcontractor who will be charged for outward calls.

F. GENERAL

- (i) Space for erection of Subcontractor's sheds will be provided by Main Contractor
- (ii) Lavatory accommodation and washing facilities will be provided by Main Contractor
- (iii) Water and Boiling Water for all reasonable purposes necessary under the Subcontract will be provided by Main Contractor

¶ Separable Portions – Not Used

1. Separable Portion:
2. Subcontractor shall provide security in the amount of:
(Clause 5.2)

- Main Contractor shall provide security in the amount of:
(Clause 5.2)

- The period of notice required of a party's intention to have recourse to retention moneys and/or to convert security:
(Clause 5.5)

3. The Date for Substantial Completion:
(Clause 35.2)

4. Liquidated Damages per day:
(Clause 35.6)

5. Limit on:
 - (a) Liquidated Damages under Clause 35.6(a):
 - (b) Damages under Clause 35.6(b):
(Clause 35.7)

6. Bonus per day for early Substantial Completion:
(Clause 35.8)

7. Limit of bonus:

8. Extra Costs for Delay or Disruption: Event
(Clause 36)
.....
.....

9. Defects Liability Period (This entry is to be completed only if the date of expiry of the Defects Liability Period is to be different from that contained in the Main Contract):
(Clause 37)

.....

¶ Use this part of the Annexure where there are Separable Portions and ensure that the description of the Separable Portions covers all the work under the Subcontract. Make a separate column for each Separable Portion.

APPROVED FORM OF UNCONDITIONAL UNDERTAKING

(Clause 5.3)

At the request of ('the Subcontractor') and in consideration of ('the Main Contractor') 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 Main Contractor to a maximum aggregate sum of \$

(.....)

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

Should the Financial Institution be notified in writing, purporting to be signed by for and on behalf of the Main Contractor that the Main Contractor desires payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the Financial Institution will make the payment or payments to the Main Contractor 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 Main Contractor 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 Main Contractor and thereupon the liability of the Financial Institution hereunder shall immediately cease.

DATED at.....this.....day of 19.....

**ANNEXURE to the Australian Standard
Subcontract conditions****PART**

NOTE: This table is intended for easy reference to clauses that may have been deleted, amended or added to Australian Standard 2545 — 1993.

1 The following Clauses have been deleted from the Subcontract Conditions in AS 2545 — 1993:

2 The following Clauses have been amended and differ from the corresponding Clauses in

3 The following Clauses have been added to those of AS 2545 — 1993:

CERTIFICATE OF SUBSTANTIAL COMPLETION

(Clause 42.5)

Title of Subcontract:

I am of the opinion that Substantial Completion of*

was reached on
 (Date of Substantial Completion)

Signed:

Main Contractor's Representative

Date

* Insert 'the Works' or, where there are Separable Portions, the description of the Separable Portion.

AUSTRALIAN STANDARD
GENERAL CONDITIONS OF TENDERING AND FORM OF TENDER

- 1 Tender documents, upon which the tenderer is to tender are:

(The tender documents should be specifically listed in each case.)

- 2 Tenderers must complete the Tender Form provided and lodge it with any accompanying schedules or information in a sealed envelope endorsed with the Subcontract number at the place and by the time stated in the invitation to tender.
- 3 The Main Contractor is not bound to accept the lowest or any tender.

TENDER FORM

Name of person,
firm or company
tendering

USE

BLOCK

LETTERS

address

..... (A.C.N.)

of
hereby tender(s) to perform the work for:

Description
of works

.....

.....

..... (Contract No.) in
accordance with the following Documents:

.....

.....

List Documents:

.....

.....

.....

(The documents on
which the tender is
based should be
specifically listed)

.....

.....

.....

.....

.....

When the tender documents
provide that the tender is
to a lump sum only, (2)
does not apply.

1 For the lump sum of

(\$); and

When the tender documents
provide that the tender is
to be a Schedule of Rates
only, (1) does not apply.

2 At the rates in the attached Schedule of Rates

If the tenderer is a firm the
full names of the individual
members of the firm must
be stated here.

.....

Insert date.

DATED this day of..... 20

.....
Signature of Tender

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AMENDMENT CONTROL SHEET

AS 2545—1993

Amendment No. 1 (2000)

REVISED TEXT

SUMMARY: This amendment applies to the Preface.

Published on 11 October 2000.



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CONSTRUCTIONS

since 1884

**General Conditions of Subcontract AS2545-1993
Special Conditions of Contract & Annexures**

**Cannonvale State School –
Administration and Resource Centre**

T F Woollam & Son Pty Ltd (ABN 94 009 676 064)

(Contractor)

and

TGS Total Painting (ABN 39 874 750 742)

(Sub-Contractor)

Formal Instrument of Agreement

Dated 23/03/2022

Parties

1. **TF Woollam & Son Pty Ltd trading as Woollam Constructions ACN 009 676 064** of 71 Lytton Road East Brisbane QLD 4169 (**Contractor**).
2. **TGS Total Painting (ABN 39 874 750 742)** of 37 Cooper Avenue, Campwin Beach QLD 4737 (**Subcontractor**).

Background

- A. The *Contractor* wishes to engage the *Sub-Contractor* to carry out *WUC* and complete *the Works* in accordance with the requirements of the *Contract*.
- B. The *Contractor* and the *Sub-Contractor* agree that the *Sub-Contractor* shall carry out *WUC* and complete *the Works* for the *Contractor* on the terms of the *Contract*.

Agreed terms

The definitions in the Australian Standard Subcontract Conditions 2545-1993 and AS2124 Special Conditions of Contract Annexure below apply to this Formal Instrument of Agreement unless otherwise indicated.

1. Performance

- (a) The *Sub-Contractor* shall carry out *WUC* and complete *the Works* in accordance with the *Contract*.
- (b) The *Contractor* shall pay the *Sub-Contractor* the *contract sum* at the times and in the manner provided for in the *Contract*.
- (c) Each of the parties shall perform the obligations imposed on it by the *Contract*.

2. Contract Sum

The *contract sum* is **\$41,367.59** (excluding GST)

4. Contract documents

- (a) The *Contract* comprises the following documents marked as follows:

	Document Description
(A)	This Formal Instrument of Agreement
(B)	AS 2545-1993 Subcontract Conditions

	Document Description
(C)	AS2124 Special Conditions of Contract Annexure

- (b) Where there is any inconsistency, ambiguity or discrepancy between the documents set out above, they will prevail in their stated order of precedence, so that this *Formal Instrument of Agreement* is the primary contract document.
- (c) Where there is any inconsistency, ambiguity or discrepancy between the documents comprising the *Principal's project requirements*, clause 8.1 of the *Contract* shall apply.

5. Entire contract

- (a) The documents listed in clause 4 of this *Formal Instrument of Agreement* constitute the entire agreement between the parties in respect of *the Works* and the *Contract* supersedes all previous agreements, undertakings and communications, whether written or oral, relating to the subject matter of the *Contract*.
- (b) The *Contract* may be varied only by written instrument executed by both parties.

6. Parties to give effect to the contract

The parties agree that they shall do everything reasonably necessary to give effect to the *Contract*.

7. Work performed prior to date of execution of contract

The terms of the *Contract* apply to all of *the Works* even if they were performed prior to the date of execution of the *Contract*.

Executed as an agreement.

Signed on behalf of **TF Woollam & Son Pty Ltd**
trading as Woollam Constructions ACN 009 676
064 in accordance with section 127 of the
Corporations Act 2001:

Project Manager

Print name

Witness

Print name

Signed on behalf of TGS Total Painting
(ABN 39 874 750 742) in accordance with section
127 of the *Corporations Act 2001*:

Secretary/Director

Print name

Director

Print name

Australian Standard[®]

Subcontract conditions

AS 2545—1993

(Incorporating Amendment No. 1)

This Australian Standard was prepared by Committee OB/3, General Conditions of Contract. It was approved on behalf of the Council of Standards Australia on 17 August 1993 and published on 27 September 1993.

The following interests are represented on Committee OB/3:

Australian Chamber of Commerce and Industry
Australian Electrical and Electronic Manufacturers Association
Australian Institute of Project Management
Australian Institute of Purchasing and Supply Management
Australian Institute of Quantity Surveyors
Australian Mining Industry Council
AUSTROADS
Construction Industry Engineering Services Group
Electricity Supply Association of Australia
Institution of Engineers Australia
Law Council of Australia
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Metal Trades Industry Association of Australia
National Public Works Conference
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Australian Standard[®]

Subcontract conditions

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PREFACE

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

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

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

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

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

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

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

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

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

A1 | **Legislation has come into force in some jurisdictions dealing with security of payments. Parties intending to use this Standard should seek expert advice as to their rights and obligations under such legislation.**

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STANDARDS AUSTRALIA

Australian Standard Subcontract conditions

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

1 CONSTRUCTION OF SUBCONTRACT

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

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

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

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

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

2 INTERPRETATION

In the Subcontract, except where the context otherwise requires —

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

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

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

'Date for Substantial Completion' means—

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

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

'Date of Substantial Completion' means—

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

'day' means calendar day;

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

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

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

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

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

‘month’ means calendar month;

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

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

‘Principal’ means the Principal stated in the Annexure;

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

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

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

‘secondary subcontractor’ means a subcontractor to the Subcontractor;

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

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

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

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

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

‘Subcontract Sum’ means —

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

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

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

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

‘Substantial Completion’ is that stage in the execution of the work under the Subcontract when—

- (a) the Works are complete except for minor omissions and minor defects—
 - (i) which do not prevent the Works from being reasonably capable of being used for their intended purpose; and
 - (ii) which the Main Contractor’s Representative determines that the Subcontractor has reasonable grounds for not promptly rectifying; and
 - (iii) rectification of which will not prejudice the convenient use of the Works; and
- (b) those tests which are required by the Subcontract to be carried out and passed before the Works reach Substantial Completion have been carried out and passed; and
- (c) documents and other information required under the Subcontract which, in the opinion of the Main Contractor’s Representative, are essential for the use, operation and maintenance of the Works have been supplied;

‘Superintendent’ means the person stated in the Annexure as the Superintendent or other person from time to time appointed in writing by the Principal to be the Superintendent and notified as such in writing to the Subcontractor by the Main Contractor and, so far as concerns the functions exercisable by a Superintendent’s Representative, includes a Superintendent’s Representative;

‘Temporary Works’ means works used in the execution of the work under the Subcontract but not forming part of the Works;

‘work under the Subcontract’ means the work which the Subcontractor is or may be required to execute under the Subcontract and includes variations, remedial work, Constructional Plant and Temporary Works;

‘Works’ means the whole of the work to be executed in accordance with the Subcontract, including variations provided for by the Subcontract, which by the Subcontract is to be handed over to the Main Contractor.

NOTE: In addition to these definitions, some terms, specific to a clause, are defined in that clause. Refer to the Index.

The clause headings and sub-clause headings in the Subcontract Conditions shall not form part of the Subcontract Conditions and shall not be used in the interpretation of the Subcontract.

Words in the singular include the plural and words in the plural include the singular, according to the requirements of the context.

Words importing a gender include every gender.

3 NATURE OF SUBCONTRACT

3.1 Performance and Payment

The Subcontractor shall execute and complete the work under the Subcontract.

The Main Contractor shall pay the Subcontractor—

- (a) for work for which the Main Contractor accepted a lump sum, the lump sum;
- (b) for work for which the Main Contractor accepted rates, the sum ascertained by multiplying the measured quantity of each section or item of work actually carried out under the Subcontract by the rate accepted by the Main Contractor for the section or item,

adjusted by any additions or deductions made pursuant to the Subcontract.

3.2 Quantities

Quantities in a Bill of Quantities or Schedule of Rates are estimated quantities only.

A direction shall not be required to be given by the Main Contractor's Representative by reason of the actual quantity of an item required to perform the Subcontract being greater or less than the quantity shown in the Bill of Quantities or Schedule of Rates.

3.3 Adjustment for Actual Quantities— Schedule of Rates

Where otherwise than by reason of a direction of the Main Contractor's Representative to vary the work under the Subcontract, the actual quantity of an item required to perform the Subcontract is greater or less than the quantity shown in the Schedule of Rates—

- (a) where the Main Contractor accepted a lump sum for the item, the difference shall be valued under Clause 40.5 as if it were varied work directed by the Main Contractor's Representative as a variation;
- (b) where the Main Contractor accepted a rate for the item, the rate shall apply to greater or lesser quantities provided that where limits of accuracy are stated in the Annexure the rate shall apply to the greater or lesser quantities within the limits and quantities outside the limits shall be valued under Clause 40.5 as if they were varied work directed by the Main Contractor's Representative as a variation.

If a Schedule of Rates omits an item which should have been included, the item shall be valued under Clause 40.5 as if it were extra work directed by the Main Contractor's Representative as a variation.

4 BILL OF QUANTITIES

4.1 Purpose of the Bill of Quantities

Alternative 1

A Bill of Quantities forms part of the Subcontract only to the extent provided in the Subcontract.

Alternative 2

A Bill of Quantities shall not form part of the Subcontract.

Alternative 3

A Bill of Quantities forms part of the Specification.

4.2 Pricing and Lodgment

Where there is a Bill of Quantities—

- (a) all items included in the Bill of Quantities shall be priced and extended by the Subcontractor and the prices as extended shall, on addition, equal the sum accepted by the Main Contractor for the execution of the whole of the work to which the Bill of Quantities relates;
- (b) the Subcontractor shall lodge the Bill of Quantities so priced and extended with the Main Contractor's Representative before the expiration of the time for lodgment stated in the Annexure or such further time as may be directed by the Main Contractor's Representative from time to time;
- (c) notwithstanding any other provision of the Subcontract, the Subcontractor shall not be entitled to payment until the Subcontractor has lodged the Bill of Quantities, so priced and extended.

4.3 Errors in Pricing

Any errors in extension or addition or both, or correction of incorrect or inconsistent rates or prices (including the insertion of rates or prices wrongly omitted and the deletion of rates or prices wrongly included) discovered by the Main Contractor or the Subcontractor

in the Priced Bill of Quantities shall be notified to the Main Contractor's Representative in writing by the party making the discovery and corrected in a manner agreed between the Subcontractor and the Main Contractor's Representative or, in the event of failure to agree, as determined by the Main Contractor's Representative so that the total of all items in the Priced Bill of Quantities continues to equal the sum accepted by the Main Contractor for the execution of the whole of the work to which the Bill of Quantities relates.

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4.4 Errors in Bills of Quantities

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If the Priced Bill of Quantities is in error in that it—

- (a) contains an incorrect quantity in relation to any item included therein; or
- (b) contains an item which should not have been included therein; or
- (c) omits an item which should have been included therein;

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then —

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- (i) in a case of Clause 4.4(a) where the item is deficient in quantity or in the case of Clause 4.4(c)— upon application in writing to the Main Contractor's Representative by the Subcontractor; and
- (ii) in a case of Clause 4.4(a) where the item is excessive in quantity or in the case of Clause 4.4(b) — upon notification in writing to the Subcontractor by the Main Contractor's Representative,

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the lump sum accepted by the Main Contractor for the execution of the whole of the work to which the Bill of Quantities relates shall except when the value of the error is less than \$400, be adjusted by such amount as is required to correct the error, determined in the manner provided by Clause 40.5 for the valuation of variations as if the correction were a variation under Clause 40.

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The Bill of Quantities shall be deemed to be in error as aforesaid to the extent that the items and quantities included in it differ from those required for the execution of the Works in accordance with the drawings and specification referred to in the Subcontract, measured in accordance with the method of measurement evidenced by the Subcontract.

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5 SECURITY, RETENTION MONEYS AND PERFORMANCE UNDERTAKINGS

5.1 Purpose

Security, retention moneys and performance undertakings are for the purpose of ensuring the due and proper performance of the Subcontract.

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5.2 Provision of Security

If it is provided in the Annexure that a party shall provide security then the party shall provide security in the amount stated in the Annexure and in accordance with this Clause.

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5.3 Form of Security

The security shall be in the form of cash, bonds or inscribed stock issued by the Australian Government or the Government of a State or Territory of Australia, interest bearing deposit in a trading bank carrying on business in Australia, an approved unconditional undertaking given by an approved financial institution or insurance company, or other form approved by the party having the benefit of the security.

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The party having the benefit of the security shall have a discretion to approve or disapprove of the form of an unconditional undertaking and the financial institution or insurance company giving it or other form of security offered. The form of unconditional undertaking attached to these Subcontract Conditions is approved.

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If the security is not transferable by delivery it shall be accompanied by an executed transfer or such other documentation as is necessary to effect a transfer of the security. The costs (including all stamp duty or other taxes) of and incidental to the transfer and retransfer shall be borne by the party providing the security.

5.4 Time for Lodgment of Security

Security shall be lodged within 28 days of the Date of Acceptance of Tender.

5.5 Recourse to Retention Moneys and Conversion of Security

A party may have recourse to retention moneys and/or cash security and/or may convert into money security that does not consist of money where —

- (a) the party has become entitled to exercise a right under the Subcontract in respect of the retention moneys and/or security; and
- (b) the party has given the other party notice in writing for the period stated in the Annexure, or if no period is stated, five days, of the party's intention to have recourse to the retention moneys and/or cash security and/or to convert the security; and
- (c) the period stated in the Annexure or if no period is stated, five days has or have elapsed since the notice was given.

5.6 Substitution of Security for Retention Moneys

The Subcontractor shall be at liberty at any time to provide in lieu of retention moneys, security in any of the forms permitted by Clause 5.3. To the extent that such security is provided, the Main Contractor shall not deduct retention moneys and shall forthwith release retention moneys.

* 5.7 Reduction of Security and Retention Moneys

Upon issue of the Certificate of Substantial Completion, the Main Contractor's entitlement to security and retention moneys shall be reduced to the percentage thereof stated in the Annexure or, if no percentage is stated, to 50 percent thereof.

Subject to the first paragraph of Clause 5.7, if in the opinion of the Main Contractor's Representative it is reasonable to further reduce the Main Contractor's entitlement to security and retention moneys, that entitlement shall be reduced to the amount which the Main Contractor's Representative determines to be reasonable.

The Main Contractor shall, within 14 days of the Main Contractor's Representative making such a determination, release security and retention moneys in excess of the entitlement.

5.8 Release of Security

If the Subcontractor has provided additional security pursuant to Clause 42.4, the Main Contractor shall release that additional security within 21 days of incorporation into the Works of the unfixed plant or materials in respect of which the additional security was furnished.

If the Main Contractor has provided security, then when the Subcontractor has been paid all moneys finally due to the Subcontractor under the Subcontract or a Separable Portion, the Subcontractor shall release the security lodged by the Main Contractor in respect of the Subcontract or the Separable Portion, as the case may be.

If the Subcontractor has provided security, then the Main Contractor shall release it when required by Clause 42.8.

5.9 Interest on Security and Retention Moneys

Alternative 1

A party holding retention moneys and/or cash security shall forthwith deposit the money in an interest bearing account in a bank. That party shall nominate the bank and the type of account. The account shall be in the joint names of the Main Contractor and the Subcontractor and shall be one from which moneys can only be drawn with the signatures of two persons, one appointed by each of the Main Contractor and the Subcontractor. The moneys shall be held until the Main Contractor or the Subcontractor is entitled to receive them.

Interest earned on security lodged by the Subcontractor and on retention moneys belongs to the Subcontractor. Interest earned on security lodged by the Main Contractor belongs to the Main Contractor.

Upon the Main Contractor or the Subcontractor becoming entitled to receive any moneys, including interest in the account, the other party shall forthwith have that party's appointee sign all documentation necessary to withdraw the moneys and shall give the signed documentation to the other party.

Alternative 2

A party holding retention moneys or cash security shall own any interest earned on the retention moneys or security. Except where retention moneys or cash security are held by a government department or agency or a municipal, public or statutory authority, retention moneys or cash security shall be held in trust by the party holding them for the other party until the Main Contractor or the Subcontractor is entitled to receive them.

5.10 Deed of Guarantee, Undertaking and Substitution

Where—

- (a) a party is a corporation that is related to or is a subsidiary of another corporation as defined in the Corporations Law as amended from time to time; and
- (b) the Main Contractor has included in the Subcontract tender documents a form of Deed of Guarantee, Undertaking and Substitution;

that party shall, if requested by the other party in writing within 7 days after the Date of Acceptance of Tender lodge with the other party, within 14 days after that request having been made, a Deed of Guarantee, Undertaking and Substitution in the form included in such tender documents duly executed by the first party and that other corporation for the performance of the obligations and the discharge of the liabilities of the first party under the Subcontract.

For the purpose of Clause 5.10, the terms 'corporation' and 'subsidiary' have the meanings defined in the Corporations Law.

6 EVIDENCE OF SUBCONTRACT

6.1 Subcontract in Absence of Formal Instrument of Agreement

Unless a Formal Instrument of Agreement is executed by the parties, the agreement in writing between the parties for the execution of the work under the Subcontract, including documents or parts of documents to which reference may properly be made to ascertain the rights and obligations of the parties, shall evidence the Subcontract.

6.2 Formal Instrument of Agreement

If the conditions of tender require a Formal Instrument of Agreement, the Main Contractor shall prepare in duplicate a Formal Instrument of Agreement and shall, within 28 days after the Date of Acceptance of Tender, forward it to the Subcontractor with a request that it be executed.

Within 14 days after being requested in writing by the Main Contractor so to do, the Subcontractor shall execute both copies of the Formal Instrument of Agreement in the manner directed in writing by the Main Contractor and return them to the Main Contractor.

Within 14 days after receipt from the Subcontractor of the two copies of the Formal Instrument of Agreement duly executed by the Subcontractor, the Main Contractor shall execute both copies, have them stamped (unless they are exempt from duty) and forward one copy to the Subcontractor.

The Main Contractor's Representative may extend the periods under Clause 6.2 by notice in writing to the parties.

The Main Contractor shall bear the cost of any stamp duty payable on the Subcontract.

7 SERVICE OF NOTICES

A notice shall be deemed to have been given when it is received by the person to whom it is addressed or is delivered to the address of that person stated in the Subcontract or last communicated in writing by that person to the person giving the notice, whichever is the earlier.

The Main Contractor, the Subcontractor and the Main Contractor's Representative shall each notify the others of a change of address.

Without limiting the generality of 'notice', it includes a document.

8 SUBCONTRACT DOCUMENTS

8.1 Discrepancies

The several documents forming the Subcontract are to be taken as mutually explanatory of one another. If either party discovers an ambiguity or discrepancy in any document prepared for the purpose of executing the work under the Subcontract, that party shall notify the Main Contractor's Representative in writing of the ambiguity or discrepancy. In the event of an ambiguity or discrepancy being discovered and brought to the attention of the Main Contractor's Representative or discovered by the Main Contractor's Representative, the Main Contractor's Representative shall direct the Subcontractor as to the interpretation to be followed by the Subcontractor in carrying out the work.

If the direction causes the Subcontractor to incur more or less cost than the Subcontractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5.

8.2 Dimensions

Where any discrepancy exists between figured and scaled dimensions, the figured dimensions shall prevail.

8.3 Supply of Documents by Main Contractor

The Main Contractor shall supply to the Subcontractor the number of copies stated in the Annexure, or if no number is stated then 3 copies of the Drawings, Specification, Bill of Quantities (if any) and other documents required by the Subcontract to be supplied to the Subcontractor by the Main Contractor.

Documents supplied to the Subcontractor by the Main Contractor shall remain the property of the Main Contractor and shall be returned by the Subcontractor to the Main Contractor on demand in writing. The documents shall not, without the prior written approval of the Main Contractor, be used, copied or reproduced for any purpose other than the execution of the work under the Subcontract.

8.4 Supply of Documents by Subcontractor

If the Subcontract requires the Subcontractor to supply documents, the Subcontractor shall supply the number of copies stated in the Annexure, or if no number is stated then 5 copies.

If the Subcontractor submits documents to the Main Contractor's Representative, then—

- (a) the Main Contractor's Representative shall not be bound to check the documents for errors, omissions or compliance with the requirements of the Subcontract; 10
- (b) notwithstanding the provisions of Clause 23, the Main Contractor's Representative's approval shall not relieve the Subcontractor from responsibility for the Subcontractor's errors or omissions or compliance with the requirements of the Subcontract; 15
- (c) if the Subcontract provides that the Subcontractor must obtain the Main Contractor's Representative's direction whether documents are suitable or are not suitable then within the time stated in the Annexure (or if no time is stated then within 28 days) after receipt of the documents, the Main Contractor's Representative shall notify the Subcontractor that the documents are suitable or are not suitable; 20
- (d) if the Main Contractor's Representative notifies the Subcontractor that the documents are not suitable, the Main Contractor's Representative shall give reasons why the documents are not suitable, and the Subcontractor shall submit new or amended documents for the Main Contractor's Representative's direction under this Clause; 25
- (e) the Main Contractor's Representative shall not reject documents which are in accordance with the requirements of the Subcontract. 30

Copies of documents supplied by the Subcontractor shall be the property of the Main Contractor but shall not be used or copied otherwise than for the use, maintenance or alteration of the Works or the Main Contract Works by the Main Contractor, the Principal, the Superintendent and their identified consultants. 35

8.5 Availability of Documents

Whilst work under the Subcontract is being performed, one complete set of Drawings, Specification and other written information supplied by the Main Contractor, the Main Contractor's Representative and the Subcontractor shall be kept by the Subcontractor at the Site or other location approved in writing by the Main Contractor and shall be available at all times for reference by the Main Contractor, the Main Contractor's Representative and any persons nominated in writing by either of them. 40

During the manufacture or assembly of any significant part of the work under the Subcontract away from the part of the Site where the Works are to be constructed, a set of the drawings and written information relevant to that part of the work shall be kept by the Subcontractor at the place of manufacture or assembly and shall be available for reference by the Main Contractor, the Main Contractor's Representative and any person nominated in writing by either of them. 45

8.6 Confidential Information

Drawings, specifications and other information, samples, models, patterns and the like, supplied by either the Subcontractor or the Main Contractor and marked or otherwise identified as confidential shall be regarded as confidential, and shall not be disclosed to a third party other than the Principal, the Superintendent and their identified consultants for the purpose of the execution, use, maintenance or alteration of the Main Contract Works except with the prior agreement of the other party to the Subcontract. 50

If required in writing by a party, the other party shall enter into a separate agreement not to disclose to anyone else other than the Principal, the Superintendent and their identified consultants any confidential matter even after the issue of the Final Certificate pursuant to Clause 42.8 or the earlier termination of the Subcontract.

* 8.7 Media Releases

The Subcontractor shall not issue any information, publication, document or article for publication concerning the project in any media without prior approval of the Main Contractor, which approval shall not be unreasonably withheld. The Subcontractor shall refer to the Main Contractor any enquiries concerning the project from any media.

9 ASSIGNMENT AND SECONDARY SUBCONTRACTING

9.1 Assignment

Neither party shall, without the prior written approval of the other and except on such reasonable terms and conditions as are determined in writing by the other, assign the Subcontract or any payment or any other right or benefit or interest thereunder.

9.2 Secondary Subcontracting

The Subcontractor shall not without the written approval of the Main Contractor's Representative which approval shall not be unreasonably withheld, subcontract or allow a secondary subcontractor to assign or subcontract work described in the Annexure.

With a request for approval the Subcontractor shall provide to the Main Contractor's Representative particulars in writing of the work to be subcontracted and the name and the address of the proposed secondary subcontractor.

The Subcontractor shall provide to the Main Contractor's Representative other information which the Main Contractor's Representative reasonably requests, including the proposed secondary subcontract documents without prices.

Within 28 days after a request by the Subcontractor for approval to subcontract work, the Main Contractor's Representative shall advise the Subcontractor of approval or the reasons why approval is not given.

Approval may be conditional upon the secondary subcontract including—

- (a) provision that the secondary subcontractor shall not assign or subcontract without the consent in writing of the Subcontractor;
- (b) provisions which may be reasonably necessary to enable the Subcontractor to fulfil the Subcontractor's obligations to the Main Contractor.

9.3 Subcontractor's Responsibility

Approval to subcontract shall not relieve the Subcontractor from any liability or obligation under the Subcontract. Except where the Subcontract otherwise provides, the Subcontractor shall be liable to the Main Contractor for the acts and omissions of secondary subcontractors and employees and agents of secondary subcontractors as if they were acts or omissions of the Subcontractor.

10 SELECTED AND NOMINATED SECONDARY SUBCONTRACTORS

10.1 Definitions

If the Subcontract provides that certain work or the supply of certain items shall be subcontracted to a Selected or Nominated Secondary Subcontractor, the work or the supply of the items is 'Selected Secondary Subcontract Work' or 'Nominated Secondary Subcontract Work' as the case may be, and:

‘Selected Secondary Subcontractor’ means a secondary subcontractor identified in the Subcontractor’s tender from a list of secondary subcontractors provided by the Main Contractor in the tender documents for Selected Secondary Subcontract Work. The list may include one or more secondary subcontractors.

‘Nominated Secondary Subcontractor’ means—

- (a) a secondary subcontractor to whom the Subcontractor is directed by the Main Contractor’s Representative to subcontract Nominated Secondary Subcontract Work; or
- (b) a secondary subcontractor named in the Subcontract with whom the Main Contractor has entered into a prior contract for the Nominated Secondary Subcontract Work, which prior contract requires the secondary subcontractor to assign the prior contract to the Subcontractor and a copy of which prior contract is included in the tender documents; or
- (c) a secondary subcontractor named in the Subcontract with whom the Main Contractor has entered into a prior contract for the Nominated Secondary Subcontract Work, which requires the secondary subcontractor to enter into deed of novation with the Subcontractor for the Nominated Secondary Subcontract Work and a copy of which deed of novation is included in the tender documents.

‘Nominated Secondary Subcontract Work’ shall relate only to work or the supply of items for which a Provisional Sum has been included in the Subcontract.

10.2 Selected Secondary Subcontract

If the Subcontract includes Selected Secondary Subcontract Work the Subcontractor shall subcontract the Selected Secondary Subcontract Work to a Selected Secondary Subcontractor.

If the tender documents specify the terms and conditions upon which the secondary subcontract is to be entered into, the secondary subcontract shall include those terms and conditions.

10.3 Nominated Secondary Subcontract

If the Subcontract includes Nominated Secondary Subcontract Work, at such time as is necessary to avoid delay to the Subcontractor, the Main Contractor’s Representative shall direct the Subcontractor to subcontract the Nominated Secondary Subcontract Work to a Nominated Secondary Subcontractor.

If the Subcontract provides that the Main Contractor may assign to the Subcontractor the benefit of a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor, the Subcontractor shall, when directed by the Main Contractor’s Representative, accept the assignment of that prior contract.

If the Subcontract provides that the Main Contractor may novate to the Subcontractor a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor in respect of Nominated Secondary Subcontract Work, the Subcontractor shall when directed by the Main Contractor’s Representative, execute a deed of novation of that prior contract in the form included in the tender documents and unless the Subcontract otherwise provides, the Subcontractor shall give the Main Contractor credit for payments made by the Main Contractor to the Nominated Secondary Subcontractor in respect of the Nominated Secondary Subcontract Work.

The Subcontractor shall ensure that the provisions of the secondary subcontract are severally set out in the secondary subcontract documents, so that the secondary subcontract is fully expressed and complete in itself and includes provisions—

- (a) that in respect of the Nominated Secondary Subcontract Work, the Nominated Secondary Subcontractor will undertake towards the Subcontractor obligations and liabilities which will enable the Subcontractor to discharge the Subcontractor’s obligations and liabilities to the Main Contractor under the terms of the Subcontract;

- (b) that the Nominated Secondary Subcontractor will indemnify the Subcontractor against loss resulting from any failure by the Nominated Secondary Subcontractor to perform such obligations or fulfil such liabilities;
- (c) that the Nominated Secondary Subcontractor will indemnify the Subcontractor against loss resulting from any negligence by the Nominated Secondary Subcontractor and the Nominated Secondary Subcontractor's servants and agents and against any misuse by them of any Constructional Plant or Temporary Works provided by the Subcontractor for the purposes of the secondary subcontract;
- (d) that the Nominated Secondary Subcontractor will lodge security in a form provided by Clause 5.3 and that security and retention moneys shall be calculated on the same scale and on the same basis respectively as apply in the Subcontract;
- (e) equivalent to those in Clause 44.

The Subcontractor shall not be obliged to enter into a secondary subcontract with a Nominated Secondary Subcontractor against whom the Subcontractor raises reasonable objection.

If the Subcontractor declines to enter into a secondary subcontract with the Nominated Secondary Subcontractor on the ground that the Nominated Secondary Subcontractor refuses to enter into a secondary subcontract containing provisions in paragraphs (a) to (e) of Clause 10.3, the Main Contractor's Representative shall nominate another Nominated Secondary Subcontractor or direct the Subcontractor to enter into a secondary subcontract with the Nominated Secondary Subcontractor on such other terms as the Main Contractor's Representative specifies. In the latter event—

- (i) the Subcontractor shall not be bound to discharge obligations and liabilities under the Subcontract to the extent that the secondary subcontract terms so specified by the Main Contractor's Representative are inconsistent with the discharge; and
- (ii) if the Subcontractor suffers loss arising out of the refusal of the Nominated Secondary Subcontractor to accept such provisions the Main Contractor shall pay to the Subcontractor the amount of loss which the Subcontractor could not reasonably avoid.

10.4 Provisions applying generally to Selected and Nominated Secondary Subcontract Work

If the Subcontractor is required by Clause 10 to enter a secondary subcontract, or to accept an assignment or to execute a deed of novation, the Subcontractor shall proceed promptly to do so and shall notify the Main Contractor's Representative in writing as soon as the secondary subcontract, assignment or novation has been effected.

With the consent of the Subcontractor, the Main Contractor's Representative may direct the Subcontractor to perform Selected or Nominated Secondary Subcontract Work.

Notwithstanding Clause 16.2 if the Subcontractor is to be responsible to the Main Contractor for the design or suitability of Selected or Nominated Secondary Subcontract Work, as distinct from the quality or workmanship, the responsibility shall be expressly stated in the Subcontract and the Subcontractor's liability for the design or suitability of the Selected or Nominated Secondary Subcontract Work shall only be that which is expressly stated in the Subcontract.

Except as herein contained, and subject to any reasonable objection made by the Subcontractor pursuant to this Clause —

- (i) the Main Contractor shall have no liability to a Selected or Nominated Secondary Subcontractor arising from the secondary subcontract between the Subcontractor and Selected or Nominated Secondary Subcontractor; and

- (ii) the Main Contractor shall not be liable to the Subcontractor for any act, default or omission or breach of contract by a Selected or Nominated Secondary Subcontractor, arising from the secondary subcontract between the Subcontractor and Selected or Nominated Secondary Subcontractor.

* 10.5 Direct Payment of Nominated Secondary Subcontractor

In respect of Nominated Secondary Subcontract Work performed by a Nominated Secondary Subcontractor, the Main Contractor shall make payment directly to the Nominated Secondary Subcontractor. Except where the Subcontractor has accepted an assignment of the benefit of a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor—

- (a) such payment shall be made on behalf of the Subcontractor; and
- (b) if the Subcontractor reasonably requests the Main Contractor in writing not to make a payment to the Nominated Secondary Subcontractor, the Main Contractor shall withhold payment but under no circumstances, including bankruptcy or winding up of the Subcontractor, shall payment be made to the Subcontractor.

The Main Contractor as stakeholder shall hold retention moneys and security provided by a Nominated Secondary Subcontractor and shall disburse or apply the retention moneys or security as jointly requested by the Subcontractor and the Nominated Secondary Subcontractor or in accordance with the decision of an arbitrator or Court.

10.6 Termination of Nominated Secondary Subcontract

The Subcontractor shall not unreasonably terminate a secondary subcontract for Nominated Secondary Subcontract Work and as early as possible the Subcontractor shall notify the Main Contractor's Representative of the Subcontractor's intention to terminate and the reasons. If a Nominated Secondary Subcontractor repudiates or abandons the secondary subcontract or it is terminated, the Subcontractor shall forthwith notify the Main Contractor's Representative in writing and the Main Contractor's Representative shall proceed under Clause 10.3 to nominate a Nominated Secondary Subcontractor to complete the secondary subcontract work and Clause 11(b) shall apply.

11 PROVISIONAL SUMS

A provisional sum included in the Subcontract shall not itself be payable by the Main Contractor but where at the direction of the Main Contractor's Representative the work or item to which the provisional sum relates is performed or supplied by—

- (a) the Subcontractor, the work or item shall be valued under Clause 40.5;
- (b) a secondary subcontractor to the Subcontractor the Main Contractor shall pay the Subcontractor the amount payable by the Subcontractor to the secondary subcontractor for the work or item, disregarding any damages payable by the Subcontractor to the secondary subcontractor or vice versa, plus the amount or percentage thereon for profit and attendance stated in the Annexure or, where not so stated, as stated elsewhere in the Subcontract; and
- (c) a Nominated Secondary Subcontractor pursuant to a prior contract made between the Main Contractor and a Nominated Secondary Subcontractor, the benefit of which has been assigned to the Subcontractor, the Main Contractor shall pay the Subcontractor the amount stated in the Annexure or the percentage for profit and attendance stated in the Annexure of the amount payable by the Main Contractor to the Nominated Secondary Subcontractor for the work or item or, where no amount or percentage is stated, as stated elsewhere in the Subcontract, disregarding any damages payable by the Main Contractor to the Nominated Secondary Subcontractor or vice versa.

The amount payable to a secondary subcontractor for materials or goods is to be taken to be the nett cost to the Subcontractor (disregarding any deduction of cash discount for prompt payment).

12 LATENT CONDITIONS

12.1 Definition

Latent Conditions are —

- (a) physical conditions on the Site or its surroundings, including artificial things but excluding weather conditions, which differ materially from the physical conditions which should reasonably have been anticipated by the Subcontractor at the time of the Subcontractor's tender if the Subcontractor had—
 - (i) examined all information made available in writing by the Main Contractor to the Subcontractor for the purpose of tendering; and
 - (ii) examined all information relevant to the risks, contingencies and other circumstances having an effect on the tender and obtainable by the making of reasonable enquiries; and
 - (iii) inspected the Site and its surroundings; and
- (b) any other conditions which the Subcontract specifies to be Latent Conditions.

12.2 Notification

If during the execution of the work under the Subcontract, the Subcontractor becomes aware of a Latent Condition, the Subcontractor shall forthwith and where possible before the Latent Condition is disturbed, give written notice thereof to the Main Contractor's Representative.

If required by the Main Contractor's Representative, the Subcontractor shall provide to the Main Contractor's Representative 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 Subcontractor estimates to be necessary to deal with the Latent Condition;
- (c) the time the Subcontractor anticipates will be required to deal with the Latent Condition and the expected delay in achieving Substantial Completion;
- (d) the Subcontractor's estimate of the cost of the measures necessary to deal with the Latent Condition; and
- (e) other details reasonably required by the Main Contractor's Representative.

12.3 Extension of Time and Cost

Delay caused by a Latent Condition may justify an extension of time under Clause 35.5.

If a Latent Condition causes the Subcontractor to —

- (a) carry out additional work;
- (b) use additional Constructional Plant; or
- (c) incur extra cost (including but not limited to the cost of delay or disruption),

which the Subcontractor could not reasonably have anticipated at the time of tendering, a valuation shall be made under Clause 40.5.

12.4 Time Bar

In making a valuation pursuant to Clause 12.3, regard shall not be had to the value of additional work carried out, additional Constructional Plant used or extra cost incurred more than 21 days before the date on which the Subcontractor gives the written notice required by the first paragraph of Clause 12.2.

13 PATENTS, COPYRIGHT AND OTHER INTELLECTUAL PROPERTY RIGHTS

The Main Contractor warrants that unless otherwise provided in the Subcontract—

- (a) design; 5
- (b) materials;
- (c) documents; and 10
- (d) methods of working,

specified in the Subcontract or provided or directed by the Main Contractor or the Main Contractor's Representative will not infringe any patent, registered design, trademark or name, copyright or other protected right. 15

The Subcontractor warrants that any other design, materials, documents and methods of working provided by the Subcontractor will not infringe any patent, registered design, trademark or name, copyright or other protected right. 20

14 STATUTORY REQUIREMENTS

14.1 Complying with Statutory Requirements 25

The Subcontractor shall comply with the requirements of—

- (a) Acts of the Commonwealth;
- (b) Acts and Ordinances of the State or Territory in which the work under the Subcontract or any part thereof is carried out; 30
- (c) Ordinances, regulations, by-laws, orders and proclamations under the Acts and Ordinances; 35
- (d) persons acting in the exercise of statutory powers enabling them to give directions affecting the work under the Subcontract.

If a requirement is at variance with a provision of the Subcontract, as soon as the Subcontractor discovers the variance the Subcontractor shall notify the Main Contractor's Representative in writing specifying the difference. 40

If a requirement necessitates a change to the Works or so much of the Temporary Works or method of working as may be specified in the Subcontract, the Main Contractor's Representative shall direct a variation under Clause 40.1. 45

Except to the extent that the Subcontract provides reimbursement in respect of a requirement referred to in Clause 14.1 the Subcontractor shall bear the cost of complying with the requirement, whether the requirement existed at the time of tendering or not. 50

* 14.2 Payment Where There is No Variation

If a requirement does not necessitate a variation under Clause 40 but is—

- (a) a change after the 28th day prior to the date of closing of tenders in a requirement referred to in Clause 14.1 (a), (b) or (c); or 55
- (b) a requirement referred to in Clause 14.1 (d),

which necessitates a change in the Temporary Works or the Subcontractor's method of working and thereby causes the Subcontractor to incur more or less cost than the Subcontractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5. 60

14.3 Notices and Fees 65

The Subcontractor shall give the notices necessary to comply with the requirements referred to in Clause 14.1.

The Subcontractor shall pay any fees or charges necessary to comply with the requirements referred to in Clause 14.1. 70

If a requirement necessitates the provision or expansion of services of a municipal, public or statutory authority in relation to the Works or the Temporary Works, the Subcontractor shall pay any fee or charge payable to the authority for the services and to the extent to which the services are not included in the work under the Subcontract, the fee or charge shall be reimbursed by the Main Contractor to the Subcontractor.

If after the 14th day prior to the date of closing of tenders there is required to be paid by the Subcontractor to a municipal, public or statutory authority in relation to the Works or the Temporary Works —

- (a) an increase or decrease in a fee or charge, the difference shall be valued under Clause 40.5; and
- (b) there is a new fee or charge, that fee or charge shall be reimbursed by the Main Contractor to the Subcontractor.

14.4 Documents Evidencing Approvals of Authorities

The Subcontractor shall give the Main Contractor copies of documents issued to the Subcontractor by municipal, public or other statutory authorities in respect of the work under the Subcontract and, in particular, any approvals of work.

15 PROTECTION OF PEOPLE AND PROPERTY

Except to the extent that the Main Contractor is required by Clause 49 to provide things or take measures, in so far as compliance with the requirements of the Subcontract permits, the Subcontractor shall—

- (a) provide all things and take all measures necessary to protect people and property;
- (b) avoid unnecessary interference with the passage of people and vehicles;
- (c) prevent nuisance and unreasonable noise and disturbance.

Without limiting the generality of the Subcontractor's obligations, they include the provision of barricades, guards, fencing, temporary roads, footpaths, warning signs, lighting, watching, traffic flagging, safety helmets and clothing, removal of obstructions and protection of services.

If the Subcontractor or the employees or agents of the Subcontractor damage property, including but not limited to public utilities and services and property on or adjacent to the Site, the Subcontractor shall promptly make good the damage and pay any compensation which the law requires the Subcontractor to pay.

If the Subcontractor fails to comply with an obligation under Clause 15 the Main Contractor may, in addition to any other remedy, perform the obligation on the Subcontractor's behalf and the cost incurred by the Main Contractor shall be a debt due from the Subcontractor to the Main Contractor.

16 CARE OF THE WORK AND REINSTATEMENT OF DAMAGE

16.1 Care of the Work Under the Subcontract

From and including the earlier of the date of commencement of work and the date on which the Subcontractor is given access to the Site to 4 p.m. on the Date of Substantial Completion of the Works, the Subcontractor shall be responsible for the care of the work under the Subcontract.

Without limiting the generality of the Subcontractor's obligations, the Subcontractor shall be responsible for the care of unfixed items the value of which has been included in a payment certificate under Clause 42.1, things entrusted to the Subcontractor by the Main Contractor for the purpose of carrying out the work under the Subcontract, things brought on to the Site by secondary subcontractors for that purpose, the Works, the Temporary Works and Constructional Plant and the Subcontractor shall provide the storage and

protection necessary to preserve these items and things and the Works, the Temporary Works and Constructional Plant.

After 4 p.m. on the Date of Substantial Completion the Subcontractor shall remain responsible for the care of outstanding work and items to be removed from the Site by the Subcontractor and shall be liable for damage occasioned by the Subcontractor in the course of completing outstanding work or complying with obligations under Clauses 30.6, 31.1 and 37.

16.2 Reinstatement

If loss or damage (except loss or damage which is the direct consequence, without fault or omission on the part of the Subcontractor, of an Excepted Risk defined in Clause 16.3) occurs to anything while the Subcontractor is responsible for its care, the Subcontractor shall at the Subcontractor's own cost promptly make good the loss or damage.

16.3 Excepted Risks

The Excepted Risks are —

- (a) any negligent act or omission of the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative or the employees, consultants or agents of any of them;
- (b) any risk specifically excepted in the Subcontract;
- (c) war, invasion, act of foreign enemies, hostilities, (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power, martial law or confiscation by order of any Government or public authority;
- (d) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel not caused by the Subcontractor or the Subcontractor's employees or agents;
- (e) use or occupation by the Principal, the Main Contractor or the employees or agents of either of them or other contractors to the Principal or the Main Contractor (not being employed by the Subcontractor or a Nominated Subcontractor engaged by the Main Contractor pursuant to a prior contract the benefit of which has been assigned to the Subcontractor pursuant to the Subcontract) of any part of the Works or the Temporary Works;
- (f) defects in the design of the work under the Subcontract other than a design provided by the Subcontractor.

17 DAMAGE TO PERSONS AND PROPERTY OTHER THAN THE WORKS

17.1 Indemnity by Subcontractor

The Subcontractor shall indemnify the Main Contractor against—

- (a) loss of or damage to property of the Main Contractor, including existing property in or upon which the work under the Subcontract is being carried out;
- (b) claims by any person against the Main Contractor in respect of personal injury or death or loss of or damage to any property,

arising out of or as a consequence of the carrying out by the Subcontractor of the work under the Subcontract, but the Subcontractor's liability to indemnify the Main Contractor shall be reduced proportionally to the extent that the act or omission of the Main Contractor or employees or agents of the Main Contractor may have contributed to the loss, damage, death or injury.

Clause 17.1 shall not apply to —

- (i) the extent that the liability of the Subcontractor is limited by another provision of the Subcontract;

- (ii) exclude any other right of the Main Contractor to be indemnified by the Subcontractor;
- (iii) things for the care of which the Subcontractor is responsible under Clause 16.1;
- (iv) damage which is the unavoidable result of the construction of the Works in accordance with the Subcontract; and
- (v) claims in respect of the right of the Main Contractor to construct the work under the Subcontract on the Site.

17.2 Indemnity by the Main Contractor

The Main Contractor shall indemnify the Subcontractor in respect of damage referred to in Clause 17.1(iv) and claims referred to in Clause 17.1(v).

18 INSURANCE OF THE WORKS

On or before the Date of Acceptance of Tender, the Main Contractor shall cause to have in force a policy of insurance in relation to the work under the Subcontract in the terms of the policy or proposed policy included in the documents on which the Subcontractor tendered or if not so included, a copy of which was provided to the Subcontractor following receipt by the Main Contractor of a written request by the Subcontractor for a copy of the policy. The policy or proposed policy shall include the name of the insurer. The Main Contractor shall maintain or cause to be maintained the policy while ever the Subcontractor has an interest therein and the Main Contractor shall pay or cause to be paid all premiums thereon.

19 PUBLIC LIABILITY INSURANCE

Alternative 1

On or before the Date of Acceptance of Tender, the Main Contractor shall cause to have in force in relation to the work under the Subcontract a policy of insurance in the terms of the policy or proposed policy included in the documents on which the Subcontractor tendered or if not so included, a copy of which was provided to the Subcontractor following receipt by the Main Contractor of a written request from the Subcontractor for a copy of the policy. The policy or proposed policy shall include the name of the insurer. The Main Contractor shall maintain or cause to be maintained the policy while ever the Subcontractor has an interest therein and the Main Contractor shall pay or cause to be paid all premiums thereon.

Alternative 2

Before the Subcontractor commences work, the Subcontractor shall take out a Public Liability Policy of insurance in the joint names of the Principal, the Main Contractor and the Subcontractor which covers the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative and the Subcontractor and all secondary subcontractors employed from time to time in relation to the work under the Subcontract for their respective rights and interests and covers their liabilities to third parties. The policy shall also cover the Subcontractor's liability to the Main Contractor and Main Contractor's liability to the Subcontractor for loss of or damage to property (other than property required to be insured by Clause 18) and the death of or injury to any person (other than liability which is required by law to be insured under a Workers Compensation Policy of insurance).

The Public Liability Policy of insurance shall be for an amount in respect of any one occurrence not less than the sum stated in the Annexure and, unless otherwise specified elsewhere in the Subcontract, shall be effected with an insurer and in terms both approved in writing by the Main Contractor which approvals shall not be unreasonably withheld. The policy shall be maintained until the Final Certificate is issued under Clause 42.8.

20 INSURANCE OF EMPLOYEES

Before commencing work the Subcontractor shall insure against liability for death of or injury to persons employed by the Subcontractor including liability by statute and at common law. The insurance cover shall be maintained until all work including remedial work is completed. 5

The insurance shall be extended to indemnify the Principal and the Main Contractor for their respective statutory liabilities to persons employed by the Subcontractor. 10

The Subcontractor shall ensure that every secondary subcontractor to the Subcontractor is similarly insured.

21 INSPECTION AND PROVISIONS OF INSURANCE POLICIES 15

21.1 Proof of Insurance

Before the Subcontractor commences work and whenever requested in writing by the other party, a party liable to effect or maintain insurance shall produce evidence to the satisfaction and approval of the other party of the insurance effected and maintained. 20

The effecting of insurance shall not limit the liabilities or obligations of a party under other provisions of the Subcontract. 25

21.2 Failure to Produce Proof of Insurance

If, after being requested in writing by the other party so to do, a party fails to produce evidence of compliance with insurance obligations under Clauses 18, 19 or 20 which is to the satisfaction and approval of the other party, the other party may effect and maintain the insurance and pay the premiums. The amount paid shall be a debt due from the party in default to the other party. Where the defaulting party is the Subcontractor, the Main Contractor may refuse payment until evidence of compliance with insurance obligations under Clauses 18, 19 and 20 is produced by the Subcontractor to the satisfaction and approval of the Main Contractor. The rights given by Clause 21.2 are in addition to any other right. 30 35

21.3 Notices from or to the Insurer

The party effecting insurance under Clause 18 or 19 shall ensure that each policy of insurance contains provisions acceptable to the other party that will— 40

- (a) require the insurer, whenever the insurer gives the Principal, the Main Contractor or the Subcontractor, a notice of cancellation or other notice concerning the policy, at the same time, to inform the other party in writing that the notice has been given; 45
- (b) provide that a notice of claim given to the insurer by the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative or the Subcontractor shall be accepted by the insurer as a notice of claim given by the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative and the Subcontractor; and 50
- (c) require the insurer, whenever the party fails to renew the policy or to pay a premium, to give notice in writing thereof forthwith to the Principal, the Main Contractor and the Subcontractor and prior to the insurer giving any notice of cancellation. 55

21.4 Notices of Potential Claims

The Subcontractor shall, as soon as practicable, inform the Main Contractor in writing of any occurrence that may give rise to a claim under a policy of insurance required by Clause 18 or 19 and shall keep the Main Contractor informed of subsequent developments concerning the claim. The Subcontractor shall ensure that secondary subcontractors in respect of their operations similarly inform the Main Contractor. 60 65

Where a policy of insurance required by the Subcontract has been effected by the Main Contractor, the Main Contractor shall similarly inform the Subcontractor.

21.5 Settlement of Claims

Upon settlement of a claim under the insurance specified by Clause 18—

- (a) to the extent that the work under the Subcontract needing reinstatement has been the subject of a payment or allowance by the Main Contractor to the Subcontractor, if the Subcontractor has not completed reinstatement of that work, moneys received shall, if not paid into a joint account pursuant to the Main Contract, be paid into a trust account in the name of the Main Contractor at a bank agreed upon by the parties. As the Subcontractor proceeds to reinstate the loss or damage, the Main Contractor's Representative shall certify against the Subcontract trust account for the cost of reinstatement; and
- (b) to the extent that the work to be reinstated has not been the subject of a payment or allowance by the Main Contractor to the Subcontractor, the Subcontractor shall be entitled immediately to receive from moneys received, the amount of money so paid in relation to any loss suffered by the Subcontractor relating to that work under the Subcontract (including the supply of goods and materials on site whether or not incorporated in the Works).

21.6 Cross Liability

Any insurance required to be effected by the Subcontractor in joint names in accordance with the Subcontract other than the insurance referred to in Clause 20, shall include a cross-liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons comprising the insured and for the purpose of which the insurer accepts the term 'insured' as applying to each of the persons comprising the insured as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased thereby).

22 CLERK OF WORKS AND INSPECTORS

The Main Contractor's Representative shall forthwith notify the Subcontractor in writing of the name of any Clerk of Works or inspector appointed by the Principal or the Superintendent.

23 MAIN CONTRACTOR'S REPRESENTATIVE

The Main Contractor shall ensure that at all times there is a Main Contractor's Representative and that in the exercise of the functions of the Main Contractor's Representative under the Subcontract, the Main Contractor's Representative—

- (a) acts honestly and fairly;
- (b) acts within the time prescribed under the Subcontract or where no time is prescribed, within a reasonable time; and
- (c) arrives at a reasonable measure or value of work, quantities or time.

If, pursuant to a provision of the Subcontract enabling the Main Contractor's Representative to give directions, the Main Contractor's Representative gives a direction, the Subcontractor shall comply with the direction.

In Clause 23 'direction' includes agreement, approval, authorization, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection, request or requirement.

Except where the Subcontract otherwise provides, a direction may be given orally but the Main Contractor's Representative shall as soon as practicable confirm it in writing.

If the Subcontractor in writing requests the Main Contractor's Representative to confirm an oral direction, the Subcontractor shall not be bound to comply with the direction until the Main Contractor's Representative confirms it in writing.

24 DIRECTIONS BY OTHERS

The Main Contractor's Representative may from time to time appoint individuals to exercise any functions of the Main Contractor's Representative under the Subcontract but not more than one such individual shall be delegated the same function at the same time. The appointment of such an individual shall not prevent the Main Contractor's Representative from exercising any function.

The Main Contractor's Representative shall forthwith notify the Subcontractor in writing of—

- (a) the appointment and the name of each individual so appointed and the functions delegated to that individual;
- (b) the termination of the appointment of each individual.

If the Subcontractor makes a reasonable objection to the appointment of any such individual, the Main Contractor's Representative shall terminate the appointment.

No direction shall have any force or effect under the Subcontract unless given by the Main Contractor's Representative or an individual authorized to give that direction.

If anyone other than the Main Contractor's Representative or any individual so authorized by the Main Contractor's Representative purports to give the Subcontractor a direction, the Subcontractor shall forthwith notify the Main Contractor's Representative.

25 SUBCONTRACTOR'S REPRESENTATIVE

The Subcontractor shall personally superintend the execution of the work under the Subcontract or, at all times during which any activities relating to the execution of the work under the Subcontract are taking place, have a competent representative present on the Site and, if required by the Main Contractor's Representative, at other places at which activities relating to the execution of the work under the Subcontract are taking place.

The Subcontractor shall forthwith notify the Main Contractor's Representative in writing of the name of the representative and of any subsequent changes. Any direction defined in Clause 23 shall—

- (a) if it relates to the execution of work on the Site and is given to the representative on the Site; or
- (b) if it relates to the execution of work at any other place and is given to the representative at the other place,

be deemed to have been given to the Subcontractor.

Matters within the knowledge of a representative of the Subcontractor shall be deemed to be within the knowledge of the Subcontractor.

If the Main Contractor's Representative makes a reasonable objection to the appointment of a representative, the Subcontractor shall terminate the appointment and appoint another representative.

26 CONTROL OF SUBCONTRACTOR'S EMPLOYEES AND SECONDARY SUBCONTRACTORS

The Main Contractor's Representative may direct the Subcontractor to have removed from the Site or from any activity connected with the work under the Subcontract, within such time as the Main Contractor's Representative directs, any person employed in connection with the work under the Subcontract who, in the opinion of the Main Contractor's Representative, is guilty of misconduct or is incompetent or negligent. The person shall not thereafter be employed on the Site or on activities connected with the work under the Subcontract without the prior written approval of the Main Contractor's Representative.

27 SITE

27.1 Access to Site

The Main Contractor shall on or before the expiration of the time stated in the Annexure give the Subcontractor access to the Site or sufficient of the Site to enable the Subcontractor to commence work. If the Main Contractor has not given the Subcontractor access to the whole Site, the Main Contractor shall from time to time give the Subcontractor access to such further parts of the Site as may be necessary to enable the Subcontractor to execute the work under the Subcontract in accordance with the requirements of the Subcontract. The Main Contractor shall advise the Subcontractor in writing of the date upon which access to the Site or any part thereof will be available.

Notwithstanding the provisions of Clause 27.1, if the Subcontractor is in breach of Clause 21.1, the Main Contractor may refuse to give the Subcontractor access to the Site or any part of the Site until the Subcontractor has complied with the requirements of Clause 21.1.

The Subcontractor is not entitled to sole possession of any part of the Site. The Subcontractor acknowledges that the Main Contractor and others will be carrying out work on the Site concurrently with the performance of the work under the Subcontract.

27.2 Access for the Main Contractor and Others

The Subcontractor shall allow to the Main Contractor, to the Main Contractor's Representative, to the Principal, to the Superintendent, to other authorized consultants for the Main Contract Works and to their respective authorized representatives, to the Clerk of Works and inspectors under the Main Contract, to other subcontractors and to others engaged by the Main Contractor or the Principal, access at all reasonable times to the Works.

The Subcontractor shall also allow to the Main Contractor, the Main Contractor's Representative, the Principal, the Superintendent, to other authorized consultants for the Main Contract Works and to their respective authorized representatives, and to the Clerk of Works and inspectors access to all places where work under the Subcontract is being performed and shall provide all facilities for such access as may be reasonably necessary.

If requested by the Subcontractor, the Main Contractor shall provide to the Subcontractor the names of the persons entitled to such access.

The Main Contractor shall ensure that the Subcontractor is not impeded in the execution of the Subcontractor's work by any persons referred to in Clause 27.2, whilst exercising the right of access given by Clause 27.2.

27.3 Delivery of Materials to and Work on Site Before Access

Until access to the Site or part of the Site is given to the Subcontractor under Clause 27.1, the Subcontractor shall not deliver materials to or perform work on the Site or part of the Site, as the case may be, unless approval is given in writing by the Main Contractor's Representative.

27.4 Use of Site by Subcontractor

Unless the Subcontract otherwise provides or the Main Contractor's Representative gives prior written approval, the Subcontractor shall not use the Site or allow it to be used for—

- (a) camping;
- (b) residential purposes; or
- (c) any purpose not connected with the work under the Subcontract.

27.5 Finding of Minerals, Fossils and Relics

Valuable minerals, fossils, articles or objects of antiquity or of anthropological or archaeological interest, treasure trove, coins and articles of value found on the Site shall, as between the parties, be and remain the property of the Main Contractor. Immediately upon the discovery of these things the Subcontractor shall take precautions to prevent their loss, removal or damage and shall notify the Main Contractor's Representative of the discovery.

If compliance with obligations under Clause 27.5 causes the Subcontractor to incur more or less cost than the Subcontractor could reasonably have anticipated at the time of tendering, the difference shall be valued under Clause 40.5.

28 SETTING OUT THE WORKS

28.1 Setting Out

The Main Contractor's Representative shall supply to the Subcontractor the information and survey marks necessary to enable the Subcontractor to set out the Works and the survey marks specified in the Subcontract. Upon receipt of any necessary information and survey marks, the Subcontractor shall set out the Works in accordance with the Subcontract and shall provide all instruments and things necessary for that purpose.

28.2 Care of Survey Marks

The Subcontractor shall keep in their true positions all survey marks supplied by the Main Contractor's Representative.

If a survey mark is disturbed or obliterated, the Subcontractor shall immediately notify the Main Contractor's Representative and, unless the Main Contractor's Representative otherwise directs, the Subcontractor shall reinstate the survey mark.

If the disturbance or obliteration is caused by a person other than the Subcontractor, or a secondary subcontractor to the Subcontractor or the agents of either of them, the cost incurred by the Subcontractor in reinstating the survey mark shall be valued under Clause 40.5.

28.3 Errors in Setting Out

If the Subcontractor discovers an error in the position, level, dimensions or alignment of any work under the Subcontract, the Subcontractor shall immediately notify the Main Contractor's Representative and, unless the Main Contractor's Representative otherwise directs, the Subcontractor shall rectify the error.

If the error has been caused by incorrect information, survey marks or data supplied by the Main Contractor's Representative, the cost incurred by the Subcontractor in rectifying the error shall be valued under Clause 40.5.

28.4 Survey Mark Defined

'Survey mark' in Clause 28 means a survey peg, bench mark, reference mark, signal, alignment, level mark or any other mark for the purpose of setting out, checking or measuring work under the Subcontract.

29 MATERIALS, LABOUR AND CONSTRUCTIONAL PLANT

29.1 Provision of Materials, Labour and Constructional Plant

Except to the extent that the Subcontract otherwise provides, the Subcontractor shall supply everything necessary for the proper performance of the Subcontractor's obligations and discharge of the Subcontractor's liabilities under the Subcontract.

29.2 Removal of Materials and Constructional Plant

From time to time the Main Contractor's Representative may by written notice to the Subcontractor direct the Subcontractor not to remove from the Site Constructional Plant or materials. Thereafter, the Subcontractor shall not remove the materials or the Constructional Plant without the prior written approval of the Main Contractor's Representative, which approval shall not be unreasonably withheld.

29.3 Manufacture and Supply of Materials

The Main Contractor's Representative may direct the Subcontractor to supply particulars of—

- (a) the mode and place of manufacture;
- (b) the source of supply;
- (c) the performance capacities; and
- (d) other information,

in respect of any materials, machinery or equipment to be supplied by the Subcontractor under or used in connection with the Subcontract.

30 MATERIALS AND WORK

30.1 Quality of Materials and Work

The Subcontractor shall use the materials and standards of workmanship required by the Subcontract. In the absence of any requirement to the contrary, the Subcontractor shall use suitable new materials.

*30.2 Quality Assurance

The Subcontractor shall, if requirements are so stated in the Subcontract—

- (a) plan, establish and maintain a quality system which conforms to those requirements;
- (b) provide the Main Contractor's Representative with access to the quality system of the Subcontractor and each of the secondary subcontractors to the Subcontractor to enable monitoring and quality auditing.

Any such quality system shall be used only as an aid to achieving compliance with the Subcontract and to document such compliance. Such system shall not relieve the Subcontractor of the responsibility to comply with the Subcontract.

NOTE: The inclusion of Quality Assurance requirements in the Subcontract will require detailed clauses in the Specification or elsewhere in the Subcontract which have regard to the Quality Standard selected for the work.

30.3 Defective Materials or Work

If the Main Contractor's Representative discovers material or work provided by the Subcontractor which is not in accordance with the Subcontract, the Main Contractor's Representative may direct the Subcontractor to—

- (a) remove the material from the Site;
- (b) demolish the work;
- (c) reconstruct, replace or correct the material or work; or
- (d) not to deliver the material or work to the Site.

The Main Contractor's Representative may direct the times within which the Subcontractor must commence and complete the removal, demolition, replacement or correction.

If the Subcontractor fails to comply with the direction issued by the Main Contractor's Representative pursuant to Clause 30.3 within the time specified by the Main Contractor's Representative in the direction and provided the Main Contractor's Representative has given the Subcontractor notice in writing that after the expiry of 5 days from the date on which the Subcontractor receives the notice the Main Contractor intends to have the work carried out by other persons, the Main Contractor may have the work of removal, demolition, replacement or correction carried out by other persons and the cost incurred by the Main Contractor in having the work so carried out shall be a debt due from the Subcontractor to the Main Contractor.

30.4 Variations due to Defective Materials or Work

Instead of a direction under Clause 30.3, the Main Contractor's Representative may direct a variation pursuant to Clause 40. The variation shall be valued under Clause 40.5 and—

- (a) if the variation causes an increase or decrease in the value to the Main Contractor of the Works, regard shall also be had to the increase or decrease; and
- (b) if the variation results in the Subcontractor incurring more or less cost than would reasonably have been incurred had the Subcontractor been given a direction under Clause 30.3, regard shall also be had to the difference.

30.5 Acceptance of Defective Materials or Work

Instead of a direction under Clause 30.3 or 30.4, the Main Contractor's Representative may notify the Subcontractor that the Main Contractor elects to accept the material or work notwithstanding that it is not in accordance with the Subcontract. In that event the resulting increase or decrease in the value to the Main Contractor of the Works and any other loss suffered by the Main Contractor shall be valued under Clause 40.5.

30.6 Generally

The Main Contractor's Representative shall give either a direction under Clause 30.3 or 30.4 or a notice under Clause 30.5 as soon as practicable after the Main Contractor's Representative becomes aware that material or work is not in accordance with the Subcontract. The Main Contractor's Representative may give the direction or notice at any time before the issue of the Final Certificate under Clause 42.8.

Except to the extent that to do so would be inconsistent with a direction under Clause 30.4 or a notice under Clause 30.5 and notwithstanding that the Main Contractor's Representative has not given a direction under Clause 30.3, the Subcontractor shall promptly remove, demolish, replace or correct material or work that is not in accordance with the Subcontract.

A progress payment, or a test or a failure by the Main Contractor's Representative or anyone else to disapprove any material or work shall not prejudice the power of the Main Contractor's Representative to subsequently give a direction under Clause 30.3 or 30.4 or a notice under Clause 30.5.

Nothing in Clause 30 shall prejudice any other right which the Main Contractor may have against the Subcontractor arising out of the failure of the Subcontractor to provide material or work in accordance with the Subcontract.

The Main Contractor's Representative shall not be obliged to give a direction under Clause 30.4 or a notice under Clause 30.5 to assist the Subcontractor.

31 EXAMINATION AND TESTING

31.1 Main Contractor's Representative May Order Tests

In Clause 31 'test' includes examine and measure.

At any time prior to the issue of the Final Certificate, the Main Contractor's Representative may direct that any material or work under the Subcontract be tested. The Subcontractor shall provide such assistance and samples and make accessible such parts of the work under the Subcontract as may be required by the Main Contractor's

Representative. On completion of the tests, the Subcontractor shall make good the work under the Subcontract so that it fully complies with the Subcontract.

31.2 Covering Up of Work

The Main Contractor's Representative may direct that any part of the work under the Subcontract shall not be covered up or made inaccessible without the Main Contractor's Representative's prior approval.

31.3 Who Conducts Tests

Tests shall be conducted as provided in the Subcontract or by the Main Contractor's Representative or a person (which may include the Subcontractor) nominated by the Main Contractor's Representative.

31.4 Notice of Tests

Before conducting a test under the Subcontract, the party conducting the test, being the Main Contractor's Representative or the Subcontractor, shall give reasonable notice in writing to the other of the time, date and place of the test. If the other does not then attend, the test may nevertheless proceed.

31.5 Procedure if Tests Delayed

Without prejudice to any other right, if the Subcontractor or the Main Contractor's Representative delays in conducting a test, the other, after giving reasonable notice in writing of intention to do so, may conduct the test.

31.6 Results of Tests

Results of tests shall be promptly made available by each party to the other and to the Main Contractor's Representative.

31.7 Costs of Testing

Costs of and incidental to testing shall be valued under Clause 40.5 and shall be borne by the Main Contractor or paid by the Main Contractor to the Subcontractor unless—

- (a) the Subcontract provides that the Subcontractor shall bear the costs or the test is one which the Subcontractor was required to conduct other than pursuant to a direction under Clause 31.1;
- (b) the test shows that the material or work is not in accordance with the Subcontract;
- (c) the test is in respect of work under the Subcontract covered up or made inaccessible without the Main Contractor's Representative's prior approval where such was required;
- (d) the test is consequent upon a failure of the Subcontractor to comply with a requirement of the Subcontract.

Where such costs are not to be borne by the Main Contractor, they shall be borne by the Subcontractor or paid by the Subcontractor to the Main Contractor.

31.8 Access for Testing

If during the Defects Liability Period—

- (a) the Main Contractor or the Main Contractor's Representative asserts that material or work is not in accordance with the Subcontract; and
 - (b) the Subcontractor requests permission to test the material or work,
- the Main Contractor shall not unreasonably refuse the Subcontractor access to test the material or work.

32 WORKING HOURS

The working hours and working days shall be as stated in the Subcontract and if not so stated as notified by the Main Contractor's Representative to the Subcontractor prior to commencement of work on Site and shall not be varied without the prior approval of the Main Contractor's Representative except when, in the interests of safety of the work under

the Subcontract or to protect life or property the Subcontractor finds it necessary to carry out work outside the working hours or on other than the working days stated in the Subcontract. In such cases the Subcontractor shall notify the Main Contractor's Representative in writing of the circumstances as early as possible.

All costs attributable to the contract administration by or on behalf of the Main Contractor of work during times approved pursuant to the last paragraph shall be borne by the Main Contractor.

33 PROGRESS AND PROGRAMMING OF THE WORKS

33.1 Rate of Progress

The Subcontractor shall proceed with the work under the Subcontract with due expedition and without delay.

The Subcontractor shall not suspend the progress of the whole or any part of the work under the Subcontract except where the suspension is under Clause 44.9 or is directed or approved by the Main Contractor's Representative under Clause 34.

The Subcontractor shall give the Main Contractor's Representative reasonable advance notice of when the Subcontractor requires any information, materials, documents or instructions from the Main Contractor's Representative, the Main Contractor, the Superintendent or the Principal.

Upon the request of the Main Contractor's Representative, the Subcontractor shall provide to the Main Contractor's Representative all information which may be reasonably required to enable the proper coordination of the Main Contract Works.

Upon the request of the Subcontractor, the Main Contractor's Representative shall provide to the Subcontractor all information which may be reasonably required to enable the proper coordination of the work under the Subcontract with the Main Contract Works.

The Main Contractor and the Main Contractor's Representative shall not be obliged to furnish any information, materials, documents or instructions earlier than the Main Contractor or the Main Contractor's Representative, as the case may be, should reasonably have anticipated at the Date of Acceptance of Tender.

The Subcontractor shall permit the execution of work on the Site by persons engaged by the Main Contractor or the Principal and shall co-operate with the Main Contractor's other subcontractors and with others engaged by the Main Contractor or the Principal and subject to the Main Contractor being responsible for the overall coordination of the work under the Subcontract into the Main Contract Works, the Main Contractor and the Subcontractor agree to coordinate the execution of the work under the Subcontract with the execution of the Main Contract Works.

The Main Contractor's Representative may direct in what order and at what time the various stages or parts of the work under the Subcontract shall be performed. If the Subcontractor can reasonably comply with the direction, the Subcontractor shall do so. If the Subcontractor cannot reasonably comply, the Subcontractor shall notify the Main Contractor's Representative in writing, giving reasons.

If compliance with the direction causes the Subcontractor to incur more or less cost than otherwise would have been incurred had the Subcontractor not been given the direction, the difference shall be valued under Clause 40.5.

33.2 Construction Program

For the purposes of Clause 33, a 'construction program' is a statement in writing showing the dates by which, or the times within which, the various stages or parts of the work under the Subcontract are to be executed or completed.

A construction program shall not affect rights or obligations in Clause 33.1.

The Subcontractor may voluntarily furnish to the Main Contractor's Representative a construction program.

The Main Contractor's Representative may direct the Subcontractor to furnish to the Main Contractor's Representative a construction program within the time and in the form directed by the Main Contractor's Representative.

The Subcontractor shall not, without reasonable cause, depart from—

- (a) a construction program included in the Subcontract; or
- (b) a construction program furnished to the Main Contractor's Representative.

The furnishing of a construction program or of a further construction program shall not relieve the Subcontractor of any obligations under the Subcontract including the obligation to not, without reasonable cause, depart from an earlier construction program.

34 SUSPENSION OF THE WORKS

34.1 Suspension by the Main Contractor's Representative

If the Main Contractor's Representative considers that the suspension of the whole or part of the work under the Subcontract is necessary—

- (a) because of an act or omission of—
 - (i) the Principal, the Superintendent or an employee, consultant or agent of the Principal; or
 - (ii) the Main Contractor, the Main Contractor's Representative, another subcontractor or an employee or agent of any of them;
 - (iii) the Subcontractor, a secondary subcontractor to the Subcontractor or an employee or agent of either;
- (b) for the protection or safety of any person or property; or
- (c) to comply with an order of a court,

the Main Contractor's Representative shall direct the Subcontractor to suspend the progress of the whole or part of the work under the Subcontract for such time as the Main Contractor's Representative thinks fit.

34.2 Suspension by Subcontractor

If the Subcontractor wishes to suspend the whole or part of the work under the Subcontract, otherwise than under Clause 44.9, the Subcontractor shall obtain the prior approval of the Main Contractor's Representative. The Main Contractor's Representative may approve of the suspension and may impose conditions of approval.

34.3 Recommencement of Work

As soon as the Main Contractor's Representative becomes aware that the reason for any suspension no longer exists, the Main Contractor's Representative shall direct the Subcontractor to recommence work on the whole or on the relevant part of the work under the Subcontract.

If work is suspended pursuant to Clause 34.2 or 44.9, the Subcontractor may recommence work at any time after reasonable advance notice to the Main Contractor's Representative.

34.4 Cost of Suspension

Any cost incurred by the Subcontractor by reason of a suspension under Clause 34.1 or Clause 34.2 shall be borne by the Subcontractor but if the suspension is due to an act or omission of the Principal, the Superintendent or an employee, consultant or agent of the Principal, or is due to an act, default or omission of the Main Contractor, the Main Contractor's Representative or an employee or agent of either of them, and the suspension causes the Subcontractor to incur more or less cost than otherwise would have been incurred but for the suspension, the difference shall be valued under Clause 40.5.

34.5 Effect of Suspension

Suspension shall not affect the Date for Substantial Completion but the cause of suspension may be a ground for extension of time under Clause 35.5.

35 TIMES FOR COMMENCEMENT AND SUBSTANTIAL COMPLETION

35.1 Time for Commencement of Work on the Site

The Subcontractor shall give the Main Contractor's Representative 7 days' notice of the date upon which the Subcontractor proposes to commence work on the Site. 5

The Main Contractor's Representative may reduce the period of notice required.

The Subcontractor shall commence work on the Site within 14 days after the Main Contractor has given the Subcontractor possession of sufficient of the Site to enable the Subcontractor to commence work. 10

The Main Contractor's Representative may extend the time for commencement of work on the Site. 15

35.2 Time for Substantial Completion

The Subcontractor shall execute the work under the Subcontract to Substantial Completion by the Date for Substantial Completion. 20

Upon the Date of Substantial Completion the Subcontractor shall give possession of the Works to the Main Contractor.

35.3 Separable Portions

The interpretations of— 25

- (a) Date for Substantial Completion; 30
- (b) Date of Substantial Completion;
- (c) Substantial Completion,

and Clauses 5.7, 16, 35, 37, 38, 42.3 and 42.5 shall apply separately to each Separable Portion and references therein to the Works and to work under the Subcontract shall mean so much of the Works and the work under the Subcontract as is comprised in the relevant Separable Portion. 35

If the Subcontract does not make provision for the amount of security, retention moneys, liquidated damages or bonus applicable to a Separable Portion, the respective amounts applicable shall be such proportion of the security, retention moneys, liquidated damages or bonus applicable to the whole of the work under the Subcontract as the value of the Separable Portion bears to the value of the whole of the work under the Subcontract. 40

35.4 Use of Partly Completed Works

If a part of the Works has reached Substantial Completion but another part of the Works has not reached Substantial Completion and the parties cannot agree upon the creation of Separable Portions, the Main Contractor's Representative may determine that the respective parts shall be Separable Portions. 50

In using the Separable Portion that has reached Substantial Completion, the Main Contractor shall not hinder the Subcontractor in the performance of the work under the Subcontract. 55

35.5 Extension of Time for Substantial Completion

When it becomes evident to the Subcontractor that anything, including an act or omission of the Principal, the Superintendent, the Main Contractor, the Main Contractor's Representative, the Main Contractor's other subcontractors or the employees, consultants, other contractors or agents of any of them may delay the work under the Subcontract, the Subcontractor shall promptly notify the Main Contractor's Representative in writing with details of the possible delay and the cause. 60

When it becomes evident to the Main Contractor that anything which the Main Contractor is obliged to do or provide under the Subcontract may be delayed, the Main Contractor shall give notice to the Main Contractor's Representative who shall notify the Subcontractor in writing of the extent of the likely delay. 65

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If the Subcontractor is or will be delayed in reaching Substantial Completion by a cause described in the next paragraph and within 21 days after the delay occurs the Subcontractor gives the Main Contractor's Representative a written claim for an extension of time for Substantial Completion setting out the facts on which the claim is based, the Subcontractor shall be entitled to an extension of time for Substantial Completion.

The causes are—

- (a) events occurring on or before the Date for Substantial Completion which are beyond the reasonable control of the Subcontractor including but not limited to—
 - industrial conditions;
 - inclement weather;
- (b) any of the following events whether occurring before, on or after the Date for Substantial Completion—
 - (i) delays caused by —
 - the Principal;
 - the Superintendent;
 - the Main Contractor;
 - the Main Contractor's Representative;
 - the Main Contractor's other subcontractors;
 - the employees, consultants, other contractors or agents of any of the above;
 - (ii) actual quantities of work being greater than the quantities in the Bill of Quantities or the quantities determined by reference to the upper limit of accuracy stated in the Annexure (otherwise than by reason of a variation directed under Clause 40);
 - (iii) latent conditions;
 - (iv) variations directed under Clause 40;
 - (v) repudiation or abandonment by a Nominated Secondary Subcontractor;
 - (vi) changes in the law;
 - (vii) directions by municipal, public or statutory authorities but not where the direction arose from the failure of the Subcontractor to comply with a requirement referred to in Clause 14.1;
 - (viii) delays by municipal, public or statutory authorities not caused by the Subcontractor;
 - (ix) claims referred to in Clause 17.1(v);
 - (x) any breach of the Subcontract by the Main Contractor;
 - (xi) any other cause which is expressly stated in the Subcontract to be a cause for extension of time for Substantial Completion.

Where more than one event causes concurrent delays and the cause of at least one of those events, but not all of them, is not a cause referred to in the preceding paragraph, then to the extent that the delays are concurrent, the Subcontractor shall not be entitled to an extension of time for Substantial Completion.

In determining whether the Subcontractor is or will be delayed in reaching Substantial Completion regard shall not be had to—

- whether the Subcontractor can reach Substantial Completion by the Date for Substantial Completion without an extension of time;
- whether the Subcontractor can, by committing extra resources or incurring extra expenditure, make up the time lost.

With any claim for an extension of time for Substantial Completion, or as soon as practicable thereafter, the Subcontractor shall give the Main Contractor's Representative written notice of the number of days extension claimed.

If the Subcontractor is entitled to an extension of time for Substantial Completion the Main Contractor's Representative shall, within 35 days after receipt of the notice of the number of days extension claimed, grant a reasonable extension of time. If within the 35 days the Main Contractor's Representative does not grant the full extension of time claimed, the Main Contractor's Representative shall before the expiration of the 35 days give the Subcontractor notice in writing of the reason.

In determining a reasonable extension of time for an event causing delay, the Main Contractor's Representative shall have regard to whether the Subcontractor has taken all reasonable steps to preclude the occurrence of the cause and minimize the consequences of the delay.

Notwithstanding that the Subcontractor is not entitled to an extension of time the Main Contractor's Representative may at any time and from time to time before the issue of the Final Certificate by notice in writing to the Subcontractor extend the time for Substantial Completion for any reason.

A delay by the Main Contractor or the failure of the Main Contractor's Representative to grant a reasonable extension of time or to grant an extension of time within 35 days shall not cause the Date for Substantial Completion to be set at large but nothing in this paragraph shall prejudice any right of the Subcontractor to damages.

35.6 Damages for Delay in Reaching Substantial Completion

If the Subcontractor fails to reach Substantial Completion by the Date for Substantial Completion the Subcontractor shall be indebted to the Main Contractor for—

- (a) extra costs incurred by the Main Contractor for extended overheads and other damages excluding damages referred to in Clause 35.6(b); and
- (b) if the failure by the Subcontractor causes the Main Contractor to be in breach of the Main Contract, damages whether liquidated or otherwise which the Main Contractor thereby becomes liable to pay the Principal.

The Subcontractor's indebtedness under Clause 35.6(a) shall be liquidated and the Subcontractor shall pay the Main Contractor liquidated damages at the rate stated in the Annexure for every day after the Date for Substantial Completion to and including the Date of Substantial Completion or the date that the Subcontract is terminated under Clause 44, whichever first occurs.

The Subcontractor's indebtedness under Clause 35.6(b) is not included in the liquidated damages applicable to Clause 35.6(a).

If after the Subcontractor has paid damages, liquidated or otherwise, or such damages have been deducted, the time for Substantial Completion is extended, the Main Contractor shall forthwith repay to the Subcontractor any damages paid or deducted in respect of the period up to and including the new Date for Substantial Completion.

*** 35.7 Limit on Damages for Delay**

The Subcontractor's liability under Clause 35.6(a) is limited to the amount stated in the Annexure.

The Subcontractor's liability under Clause 35.6(b) is limited to the amount stated in the Annexure.

*** 35.8 Bonus for Early Substantial Completion**

If the Date of Substantial Completion is earlier than the Date for Substantial Completion the Main Contractor shall pay the Subcontractor the bonus stated in the Annexure for every day after the Date of Substantial Completion up to and including the Date for Substantial Completion.

The total of the bonus shall not exceed the limit stated in the Annexure.

36 DELAY OR DISRUPTION COSTS

Where the Subcontractor has been granted an extension of time under Clause 35.5 for any delay caused by any of the events referred to in Clause 35.5 (b)(i), the Main Contractor shall pay to the Subcontractor such extra costs as are necessarily incurred by the Subcontractor by reason of the delay.

Where the Subcontractor has been granted an extension of time under Clause 35.5 for any delay caused by any other event for which payment of extra costs for delay and disruption is provided for in the Annexure or elsewhere in the Subcontract, the Main Contractor shall pay to the Subcontractor such extra costs as are necessarily incurred by the Contractor by reason of the delay.

Nothing in Clause 36 shall—

- (a) oblige the Main Contractor to pay extra costs for delay or disruption which have already been included in the value of a variation or any other payment under the Subcontract; or
- (b) limit the Main Contractor's liability for damages for breach of contract.

Notwithstanding anything hereinbefore provided in Clause 36, the Main Contractor's liability to pay extra costs for delay or disruption caused by the Principal, the Superintendent or the employees, consultants, other contractors or agents of either of them or to pay damages for breach of contract where such breach is caused by breach of the Main Contract by the Principal shall only be to the extent to which the extra costs incurred or damages suffered by the Subcontractor have been recovered by the Main Contractor from the Principal or included in the reimbursement to the Main Contractor by the Principal by reason of delay in the progress of the Main Contract Works.

37 DEFECTS LIABILITY

The Defects Liability Period shall commence on the Date of Substantial Completion.

As soon as possible after Substantial Completion, the Subcontractor shall rectify any defects or omissions in the work under the Subcontract existing at Substantial Completion.

Unless otherwise stated in the Annexure or elsewhere in the Subcontract, the Defects Liability Period shall be a period expiring on the expiration of the Defects Liability Period under the Main Contract or if there are several, then the last to expire.

Where the date of expiration of the Defects Liability Period is the same as the date of expiration of the Defects Liability Period under the Main Contract, the Main Contractor's Representative shall within 14 days of becoming aware of the date of expiration of the Defects Liability Period under the Main Contract, inform the Subcontractor in writing of that date.

At any time prior to the 21st day after the expiration of the Defects Liability Period, the Main Contractor's Representative may direct the Subcontractor to rectify any omission or defect in the work under the Subcontract existing at the Date of Substantial Completion which becomes apparent prior to the expiration of the Defects Liability Period. The direction shall identify the omission or defect and state a date by which the Subcontractor shall complete the work of rectification and may state a date by which the work of rectification shall commence. In respect of such work of rectification, if the Superintendent directs pursuant to the Main Contract, a separate Defects Liability Period of a stated duration, there shall be a corresponding Defects Liability Period under the Subcontract. The separate Defects Liability Period shall commence on the date the Main Contractor completes the work of rectification pursuant to the Main Contract. Clause 37 shall apply in respect of the work of rectification and the Defects Liability Period for that work of rectification.

If the Subcontractor's work of rectification is not commenced or completed by the stated dates, the Main Contractor may have the work of rectification carried out at the Subcontractor's expense, but without prejudice to any other rights that the Main

Contractor may have against the Subcontractor with respect to such omission or defect, and the cost of the work of rectification incurred by the Main Contractor shall be a debt due from the Subcontractor.

If it is necessary for the Subcontractor to carry out work of rectification, the Subcontractor shall do so at times and in a manner which cause as little inconvenience as is reasonably possible to the work under the Main Contract and to the occupants and users of the Works.

38 CLEANING UP

The Subcontractor shall keep the Site and the work clean and tidy. The Subcontractor shall regularly remove rubbish and surplus material.

Within 14 days after the Date of Substantial Completion the Subcontractor shall remove Temporary Works and Constructional Plant.

The Main Contractor's Representative may extend the time for removal of Temporary Works or Constructional Plant necessary to enable the Subcontractor to perform remaining obligations.

Notwithstanding the provisions of Clause 44, if the Subcontractor fails to comply with any obligation imposed on the Subcontractor by Clause 38, the Main Contractor's Representative may, after the Main Contractor's Representative has given reasonable notice in writing to the Subcontractor, have the work of cleaning and tidying up carried out by other persons and the reasonable cost incurred by the Main Contractor in having the work so carried out may be recovered by the Main Contractor as a debt due from the Subcontractor to the Main Contractor. The rights given by this paragraph are in addition to any other right.

39 URGENT PROTECTION

If urgent action is necessary to protect the work under the Subcontract, other property or people and the Subcontractor fails to take the action, the Main Contractor may take the necessary action. If the action was action which the Subcontractor should have taken at the Subcontractor's cost, the cost incurred by the Main Contractor shall be a debt due from the Subcontractor.

If time permits, the Main Contractor's Representative shall give the Subcontractor prior written notice of the Main Contractor's intention to take action under Clause 39.

40 VARIATIONS

40.1 Variations to the Work

The Main Contractor's Representative may direct the Subcontractor to —

- (a) increase, decrease or omit any part of the work under the Subcontract;
- (b) change the character or quality of any material or work;
- (c) change the levels, lines, positions or dimensions of any part of the work under the Subcontract;
- (d) execute additional work; and/or
- (e) demolish or remove material or work no longer required by the Main Contractor.

The Subcontractor shall not vary the work under the Subcontract except as directed by the Main Contractor's Representative or approved in writing by the Main Contractor's Representative under Clause 40.

The Subcontractor is bound only to execute a variation which is within the general scope of the Subcontract.

The Subcontractor shall not be bound to execute a variation directed after Substantial Completion unless the variation is in respect of rectification work referred to in Clause 37.

40.2 Proposed Variations

Upon receipt of a notice in writing from the Main Contractor's Representative advising the Subcontractor of a proposed variation under Clause 40, the Subcontractor shall advise the Main Contractor's Representative whether the proposed variation can be effected. If the variation can be effected, the Subcontractor shall —

- (a) advise the Main Contractor's Representative of the effect which the Subcontractor anticipates that the variation will have on the construction program and time for Substantial Completion; and
- (b) provide an estimate of the cost (including delay costs, if any) of the proposed variation.

The Main Contractor shall reimburse the Subcontractor for the reasonable costs of complying with the requirements of Clause 40.2.

40.3 Pricing the Variation

Unless the Main Contractor's Representative and the Subcontractor agree upon the price for a variation, the variation directed or approved by the Main Contractor's Representative under Clause 40.1 shall be valued under Clause 40.5.

The Main Contractor's Representative may direct the Subcontractor to provide a detailed quotation for the work of a variation supported by measurements or other evidence of cost.

40.4 Variations for the Convenience of the Subcontractor

If the Subcontractor requests the Main Contractor's Representative to approve a variation for the convenience of the Subcontractor, the Main Contractor's Representative may do so in writing. The approval may be conditional.

Unless the Main Contractor's Representative otherwise directs in the notice approving the variation, the Subcontractor shall not be entitled to—

- (a) an extension of time for Substantial Completion; or
- (b) extra payment,

in respect of the variation or anything arising out of the variation which would not have arisen had the variation not been approved.

The Main Contractor's Representative shall not be obliged to approve a variation for the convenience of the Subcontractor.

40.5 Valuation

Where the Subcontract provides that a valuation shall be made under Clause 40.5, the Main Contractor shall pay or allow the Subcontractor, or the Subcontractor shall pay or allow the Main Contractor, as the case may require, an amount ascertained by the Main Contractor's Representative as follows —

- (a) if the Subcontract prescribes specific rates or prices to be applied in determining the value, those rates or prices shall be used;
- (b) if Clause 40.5(a) does not apply, the rates or prices in a Priced Bill of Quantities or Schedule of Rates shall be used to the extent that it is reasonable to use them;
- (c) to the extent that neither Clause 40.5(a) or 40.5(b) apply, reasonable rates or prices shall be used in any valuation made by the Main Contractor's Representative;
- (d) in determining the deduction to be made for work which is taken out of the Subcontract, the deduction shall include a reasonable amount for profit and overheads;

- (e) if the valuation is of an increase or decrease in a fee or charge or is a new fee or charge under Clause 14.3, the value shall be the actual increase or decrease or the actual amount of the new fee or charge without regard to overheads or profit;
- (f) if the valuation relates to extra costs incurred by the Subcontractor for delay or disruption, the valuation shall include a reasonable amount for overheads but shall not include profit or loss of profit; 5
- (g) if Clause 11(b) applies, the percentage referred to in Clause 11(b) shall be used for valuing the Subcontractor's profit and attendance; and 10
- (h) daywork shall be valued in accordance with Clause 41.

When under Clause 40.3 the Main Contractor's Representative directs the Subcontractor to support a variation with measurements and other evidence of cost, the Main Contractor's Representative shall allow the Subcontractor the reasonable cost of preparing the measurements or other evidence of cost that has been incurred over and above normal overhead cost. 15

41 DAYWORK 20

The Main Contractor's Representative may direct that—

- (i) quantities greater than the upper limit of accuracy referred to in Clause 3.3 shall be carried out as Daywork; 25
- (ii) work under the Subcontract forming part of a variation directed by the Superintendent to be carried out as daywork under the Main Contract; or 30
- (iii) a variation due to defective work or materials directed by the Main Contractor's Representative under Clause 30.4, shall be carried out as Daywork. 35

The Subcontractor shall thereafter each day record particulars of all resources used by the Subcontractor for the execution of the Daywork and each day furnish to the Main Contractor's Representative the particulars and copies of time sheets, wages sheets, invoices, receipts and other documents evidencing the cost of the Daywork. The Main Contractor's Representative may direct the manner in which matters are to be recorded. 40

In determining the value of Daywork regard shall be had to—

- (a) the amount of wages and allowances paid or payable by the Subcontractor at the rates obtaining on the Site at the time as established by the Subcontractor to the satisfaction of the Main Contractor's Representative or at such other rates as may be approved by the Main Contractor's Representative; 45
- (b) the amount paid or payable by the Subcontractor in accordance with any statute or award applicable to day labour additional to the wages paid or payable under Clause 41(a); 50
- (c) the amount of hire charges in respect of Constructional Plant approved by the Main Contractor's Representative for use on the work in accordance with such hiring rates and conditions as may be agreed between the Main Contractor's Representative and the Subcontractor or, in the absence of agreement, in accordance with such rates and conditions as may be determined by the Main Contractor's Representative; 55
- (d) the amounts paid for services, secondary subcontracts and professional fees; 60
- (e) the actual cost to the Subcontractor at the Site of all materials supplied and required for the work; and
- (f) the charge stated in the Annexure or, if no charge is stated, a charge agreed between the Main Contractor's Representative and the Subcontractor to cover overheads, administrative costs, site supervision, establishment costs, attendance and profit, or, in the absence of agreement, a reasonable charge determined by the Main Contractor's Representative. 65

Amounts payable for Daywork shall not be subject to adjustment for rise and fall in costs notwithstanding that the Subcontract may provide for adjustment for rise and fall in costs. 70

42 CERTIFICATES AND PAYMENTS

42.1 Payment Claims, Certificates, Calculations and Time for Payment

At the times for payment claims stated in the Annexure and upon issue of a Certificate of Substantial Completion and within the time prescribed by Clause 42.7, the Subcontractor shall deliver to the Main Contractor's Representative claims for payment supported by evidence of the amount due to the Subcontractor and such information as the Main Contractor's Representative may reasonably require. Claims for payment shall include the value of work carried out by the Subcontractor in the performance of the Subcontract to that time together with all amounts then due to the Subcontractor arising out of or in connection with the Subcontract or for any alleged breach thereof.

Within 21 days after receipt of a claim for payment, the Main Contractor's Representative shall issue to the Main Contractor and to the Subcontractor a payment certificate stating the payment which, in the opinion of the Main Contractor's Representative, is to be made by the Main Contractor to the Subcontractor or by the Subcontractor to the Main Contractor. The Main Contractor's Representative shall set out in the certificate the calculations employed to arrive at the amount and, if the amount is more or less than the amount claimed by the Subcontractor, the reasons for the difference. The Main Contractor's Representative shall allow in any payment certificate issued pursuant to this Clause 42.1 or any Final Certificate issued pursuant to Clause 42.8 or a Certificate issued pursuant to Clause 44.6, amounts paid under the Subcontract and amounts otherwise due from the Main Contractor to the Subcontractor and/or due from the Subcontractor to the Main Contractor arising out of or in connection with the Subcontract including but not limited to any amount due or to be credited under any other provisions of the Subcontract.

If the Subcontractor fails to make a claim for payment under Clause 42.1, the Main Contractor's Representative may nevertheless issue a payment certificate.

Subject to the provisions of the Subcontract, within 35 days after receipt by the Main Contractor's Representative of a claim for payment or within 14 days of issue by the Main Contractor's Representative of the Main Contractor's Representative's payment certificate, whichever is the earlier, the Main Contractor shall pay to the Subcontractor or the Subcontractor shall pay to the Main Contractor, as the case may be, an amount not less than the amount shown in the Certificate as due to the Subcontractor or to the Main Contractor as the case may be, or if no payment certificate has been issued, the Main Contractor shall pay the amount of the Subcontractor's claim. A payment made pursuant to this Clause shall not prejudice the right of either party to dispute under Clause 47 whether the amount so paid is the amount properly due and payable and on determination (whether under Clause 47 or as otherwise agreed) of the amount so properly due and payable, the Main Contractor or Subcontractor, as the case may be, shall be liable to pay the difference between the amount of such payment and the amount so properly due and payable.

Payment of moneys shall not be evidence of the value of work or an admission of liability or evidence that work has been executed satisfactorily but shall be a payment on account only, except as provided by Clause 42.8.

Notwithstanding Clause 42.4, the Main Contractor shall be obliged to pay for an item of unfixed plant and materials where that item is—

- (i) to be imported into Australia, provided the Subcontractor has given the Main Contractor a clean on board bill of lading or its equivalent, drawn or endorsed to the order of the Main Contractor and, where appropriate, a customs invoice for the item; or
- (ii) listed in the Annexure and which is not an item to be imported into Australia, provided the Subcontractor establishes to the satisfaction of the Main Contractor's Representative that the Subcontractor has paid for the item, and the item is properly stored, labelled the property of the Main Contractor and adequately protected.

Upon payment to the Subcontractor of the amount which includes the value of the item, the item shall be the property of the Main Contractor free of any lien or charge.

Except as provided in the Subcontract, the Main Contractor shall not be obliged to pay for any item of unfixed plant and materials which is not incorporated in the Works.

*** 42.1A Where the Subcontractor is a Nominated Subcontractor**

Notwithstanding Clause 42.1, if the Subcontractor is a Nominated Subcontractor to whom the Main Contractor is directed by the Superintendent to subcontract Nominated Subcontract Work pursuant to the first paragraph of Clause 10.3 of the Main Contract, the Main Contractor shall not be obliged to make a progress payment to the Subcontractor in respect of the value of any work performed by the Subcontractor—

- (a) until 7 days after the Main Contractor has been paid by the Principal in respect of the work; and
- (b) greater than the Main Contractor has been paid by the Principal in respect of the work.

Clause 42.1A does not apply if the reason for delay or failure by the Principal to make payment to the Main Contractor is a default of the Main Contractor.

42.2 Correction of Payment Certificates

At any time, and from time to time, the Main Contractor's Representative may by a further certificate correct any error which has been discovered in any previous certificate, other than a Certificate of Substantial Completion or Final Certificate.

42.3 Retention Moneys

The Main Contractor may deduct from moneys otherwise due to the Subcontractor amounts up to the limit of the percentages, if any, stated in the Annexure of so much of the value of the respective items stated in the Annexure as is included in the calculation of a payment.

42.4 Unfixed Plant and Materials

Alternative 1

If the Subcontractor claims payment for plant or materials intended for incorporation in the Works but not incorporated, the Main Contractor shall not be obliged to make payment for the plant or materials unless the Subcontractor provides additional security in one of the forms provided by Clause 5.3 in an amount equal to the payment claimed for the plant or materials.

Alternative 2

If the Subcontractor claims payment for plant or materials intended for incorporation in the Works but not incorporated the Main Contractor shall not be obliged to make payment for such plant or materials but the Main Contractor may make payment, if the Subcontractor establishes to the satisfaction of the Main Contractor's Representative that—

- (a) such plant or materials have reasonably but not prematurely been delivered to or adjacent to the Site;
- (b) ownership of the plant and materials will pass to the Main Contractor upon the making of the payment claimed; and
- (c) such plant or materials are properly stored, labelled the property of the Main Contractor and adequately protected.

Upon payment to the Subcontractor of the amount claimed, the plant or materials the subject of the claim shall be the property of the Main Contractor free of any lien or charge.

Alternative 3

The Subcontractor shall not be entitled to payment for plant or materials not incorporated in the Works.

42.5 Certificate of Substantial Completion

The Subcontractor shall give the Main Contractor's Representative at least 14 days' notice of the date upon which the Subcontractor anticipates that Substantial Completion will be reached.

When the Subcontractor is of the opinion that Substantial Completion has been reached, the Subcontractor shall in writing request the Main Contractor's Representative to issue a Certificate of Substantial Completion. Within 14 days of the receipt of the request, the Main Contractor's Representative shall give to the Subcontractor and to the Main Contractor a Certificate of Substantial Completion stating the Date of Substantial Completion or give the Subcontractor in writing the reasons for not issuing the Certificate.

When the Main Contractor's Representative is of the opinion that Substantial Completion has been reached, the Main Contractor's Representative may issue a Certificate of Substantial Completion, whether or not the Subcontractor has made a request for its issue.

42.6 Effect of Certificates

The issue of a payment certificate or a Certificate of Substantial Completion shall not constitute approval of any work or other matter nor shall it prejudice any claim by the Main Contractor or the Subcontractor.

42.7 Final Payment Claim

Within 21 days after the expiration of the Defects Liability Period, or where there is more than one, the last to expire, the Subcontractor shall lodge with the Main Contractor's Representative a final payment claim and endorse it 'Final Payment Claim'.

The Subcontractor shall include in that claim all moneys which the Subcontractor considers to be due from the Main Contractor under or arising out of the Subcontract or any alleged breach thereof.

After the expiration of the period for lodging a Final Payment Claim, any claim which the Subcontractor could have made against the Main Contractor and has not made shall be barred.

42.8 Final Certificate

Within 28 days after receipt of the Subcontractor's Final Payment Claim or, where the Subcontractor fails to lodge such a claim, the expiration of the period specified in Clause 42.7 for lodgement of the Final Payment Claim by the Subcontractor, the Main Contractor's Representative shall issue to the Subcontractor and to the Main Contractor a final payment certificate endorsed 'Final Certificate'. In the certificate the Main Contractor's Representative shall certify the amount which in the Main Contractor's Representative's opinion is finally due from the Main Contractor to the Subcontractor or from the Subcontractor to the Main Contractor under or arising out of the Subcontract or any alleged breach thereof.

Unless either party, either before the Final Certificate has been issued or not later than 8 days after the issue thereof, serves a notice of dispute under Clause 47, the Final Certificate shall be evidence in any proceedings of whatsoever nature and whether under the Subcontract or otherwise between the parties arising out of the Subcontract, that the

Works have been completed in accordance with the terms of the Subcontract and that any necessary effect has been given to all the terms of the Subcontract which require additions or deductions to be made pursuant to the Subcontract, except in the case of—

- (a) fraud, dishonesty or fraudulent concealment relating to the Works or any part thereof or to any matter dealt with in the said Certificate;

- (b) any defect (including omission) in the Works or any part thereof which was not apparent at the end of the Defects Liability Period, or would not have been disclosed upon reasonable inspection at the time of the issue of the Final Certificate; or
- (c) any accidental or erroneous inclusion or exclusion of any work, plant, materials or figures in any computation or any arithmetical error in any computation.

Within 14 days after the issue of the Final Certificate which certifies a balance owing by the Main Contractor to the Subcontractor, the Main Contractor shall release to the Subcontractor any retention moneys or security then held by the Main Contractor.

42.9 Interest on Overdue Payments

If any moneys due to either party remain unpaid after the date upon which or the expiration of the period within which they should have been paid then interest shall be payable thereon from but excluding the date upon which, or the expiration of the period within which they should have been paid, to and including the date upon which the moneys are paid. The rate of interest shall be the rate stated in the Annexure and if no rate is stated the rate shall be 18 percent per annum. Interest shall be compounded at six monthly intervals.

42.10 Set Offs by the Main Contractor

The Main Contractor may deduct from moneys due to the Subcontractor any money due from the Subcontractor to the Main Contractor otherwise than under the Subcontract and if those moneys are insufficient, the Main Contractor may, subject to Clause 5.5, have recourse to retention moneys and, if they are insufficient, then to security under the Subcontract.

42.11 Recourse for Unpaid Moneys

Where, within the time provided by the Subcontract, a party fails to pay the other party an amount due and payable under the Subcontract, the other party may, subject to Clause 5.5, have recourse to retention moneys, if any, and, if those moneys are insufficient, then to security under the Subcontract and any deficiency remaining may be recovered by the other party as a debt due and payable.

43 PAYMENT OF WORKERS AND SECONDARY SUBCONTRACTORS

- (a) Before the Main Contractor makes each payment to the Subcontractor, the Main Contractor's Representative may, not less than five days before a payment certificate is due, in writing request the Subcontractor—
 - (i) to give the Main Contractor's Representative a statutory declaration by the Subcontractor or, where the Subcontractor is a corporation, by a representative of the Subcontractor who is in a position to know the facts declared, that all workers who have at any time been employed by the Subcontractor on work under the Subcontract have at the date of the request been paid all moneys due and payable to them in respect of their employment on the work under the Subcontract; and
 - (ii) to provide documentary evidence to the Main Contractor's Representative that at the date of the request all workers who have been employed by a secondary subcontractor of the Subcontractor have been paid all moneys due and payable to them in respect of their employment on the work under the Subcontract.
- (b) Not earlier than 14 days after the Subcontractor has made a claim for payment under Clause 42.1, and before the Main Contractor makes that payment to the Subcontractor, the Subcontractor shall give to the Main Contractor's Representative a statutory declaration by the Subcontractor or, where the Subcontractor is a

corporation, by a representative of the Subcontractor who is in a position to know the facts declared, that all secondary subcontractors of the Subcontractor have been paid all moneys due and payable to them in respect of work under the Subcontract.

(c) If the Subcontractor fails—

(i) within five days after a request by the Main Contractor's Representative under Clause 43(a), to provide the statutory declaration, or the documentary evidence (as the case may be) required pursuant to Clause 43; or

(ii) to comply with Clause 43(b),

notwithstanding Clause 42.1, the Main Contractor may withhold payment of moneys due to the Subcontractor until the statutory declaration or documentary evidence (as the case may be) is received by the Main Contractor's Representative.

If the Subcontractor provides to the Main Contractor's Representative satisfactory proof of the maximum amount due and payable to workers and secondary subcontractors of the Subcontractor by the Subcontractor, the Main Contractor shall not be entitled to withhold any amount in excess of the maximum amount.

At the written request of the Subcontractor and out of moneys payable to the Subcontractor, the Main Contractor may on behalf of the Subcontractor make payments directly to any worker or secondary subcontractor of the Subcontractor.

If a worker or secondary subcontractor of the Subcontractor obtains a court order in respect of moneys referred to in Clause 43(a) or (b) and produces to the Main Contractor the court order and a statutory declaration that it remains unpaid, the Main Contractor may pay the amount of the order, and costs included in the order, to the worker or secondary subcontractor and the amount paid shall be a debt due from the Subcontractor to the Main Contractor.

After the making of a sequestration order or a winding up order in respect of the Subcontractor, the Main Contractor shall not make any payment to a worker or secondary subcontractor of the Subcontractor without the concurrence of the official receiver or trustee of the estate of the bankrupt or the liquidator as the case may be.

44 DEFAULT OR INSOLVENCY

44.1 Preservation of Other Rights

If a party breaches or repudiates the Subcontract, nothing in Clause 44 shall prejudice the right of the other party to recover damages or exercise any other right.

44.2 Default by the Subcontractor

If the Subcontractor commits a substantial breach of contract and the Main Contractor considers that damages may not be adequate remedy, the Main Contractor may give the Subcontractor a written notice to show cause.

Substantial breaches include but are not limited to—

- (a) suspension of work, in breach of Clause 33.1;
- (b) failing to proceed with due expedition and without delay, in breach of Clause 33.1;
- (c) failing to lodge security, in breach of Clause 5;
- (d) failing to use the materials or standards of workmanship required by the Subcontract, in breach of Clause 30.1;
- (e) failing to comply with a direction of the Main Contractor's Representative under Clause 30.3, in breach of Clause 23;
- (f) failing to provide evidence of insurance, in breach of Clause 21.1; and/or

- (g) in respect of Clause 43, knowingly providing a statutory declaration or documentary evidence which contains a statement that is untrue.

44.3 Requirements of a Notice by the Main Contractor to Show Cause

A notice under Clause 44.2 shall—

- (a) state that it is a notice under Clause 44 of the Subcontract Conditions; 5
- (b) specify the alleged substantial breach; 10
- (c) require the Subcontractor to show cause in writing why the Main Contractor should not exercise a right referred to in Clause 44.4; 15
- (d) specify the time and date by which the Subcontractor must show cause (which time shall not be less than 7 clear days after the notice is given to the Subcontractor); and
- (e) specify the place at which cause must be shown. 20

44.4 Rights of the Main Contractor

If by the time specified in a notice under Clause 44.2, the Subcontractor fails to show reasonable cause why the Main Contractor should not exercise a right referred to in Clause 44.4, the Main Contractor may by notice in writing to the Subcontractor— 25

- (a) take out of the hands of the Subcontractor the whole or part of the work remaining to be completed; or
- (b) terminate the Subcontract. 30

Upon giving a notice under Clause 44.2, the Main Contractor may suspend payments to the Subcontractor until the earlier of—

- (i) the date upon which the Subcontractor shows reasonable cause; 35
- (ii) the date upon which the Main Contractor takes action under Clause 44.4(a) or (b); or
- (iii) the date which is 7 days after the last day for showing cause in the notice under Clause 44.2. 40

If the Main Contractor exercises the right under Clause 44.4(a), the Subcontractor shall not be entitled to any further payment in respect of the work taken out of the hands of the Subcontractor unless a payment becomes due to the Subcontractor under Clause 44.6. 45

44.5 Procedure when the Main Contractor Takes Over Work

If the Main Contractor takes work out of the hands of the Subcontractor under Clause 44.4(a) the Main Contractor shall complete that work and the Main Contractor may without payment of compensation take possession of such of the Constructional Plant and other things on or in the vicinity of the Site as are owned by the Subcontractor and are reasonably required by the Main Contractor to facilitate completion of the work. 50

If the Main Contractor takes possession of Constructional Plant or other things, the Main Contractor shall maintain the Constructional Plant and, subject to Clause 44.6, on completion of the work the Main Contractor shall return to the Subcontractor the Constructional Plant and any things taken under this Clause which are surplus. 55

44.6 Adjustment on Completion of the Work Taken Out of the Hands of the Subcontractor

When work taken out of the hands of the Subcontractor under Clause 44.4(a) is completed the Main Contractor's Representative shall ascertain the cost incurred by the Main Contractor in completing the work and shall issue a certificate to the Main Contractor and the Subcontractor certifying the amount of that cost. 60

If the cost incurred by the Main Contractor is greater than the amount which would have been paid to the Subcontractor if the work had been completed by the Subcontractor, the difference shall be a debt due from the Subcontractor to the Main Contractor. If the cost incurred by the Main Contractor is less than the amount that would have been paid to the 70

Subcontractor if the work had been completed by the Subcontractor, the difference shall be a debt due to the Subcontractor from the Main Contractor. The Main Contractor shall keep records of the cost in a similar manner to that prescribed in Clause 41.

If the Subcontractor is indebted to the Main Contractor, the Main Contractor may retain Constructional Plant or other things taken under Clause 44.5 until the debt is satisfied. If after reasonable notice, the Subcontractor fails to pay the debt, the Main Contractor may sell the Constructional Plant or other things and apply the proceeds to satisfaction of the debt and the costs of sale. Any excess shall be paid to the Subcontractor.

44.7 Default of the Main Contractor

If the Main Contractor commits a substantial breach of contract and the Subcontractor considers that damages may not be an adequate remedy, the Subcontractor may give the Main Contractor a written notice to show cause.

Substantial breaches include but are not limited to—

- (a) failing to make a payment, in breach of Clause 42.1;
- (b) failure by the Main Contractor's Representative to issue a Certificate of Substantial Completion, or give the Subcontractor, in writing, the reasons for not issuing the Certificate within 14 days of receipt of a request by the Subcontractor to issue the Certificate, in breach of Clause 42.5;
- (c) failing to produce evidence of insurance, in breach of Clause 21.1;
- (d) failing to give the Subcontractor access to sufficient of the Site, in breach of Clause 27.1, but only if the failure continues for longer than the period stated in the Annexure; and/or
- (e) failing to lodge security in breach of Clause 5.

44.8 Requirements of a Notice by the Subcontractor to Show Cause

A notice under Clause 44.7 shall—

- (a) state that it is a notice under Clause 44 of the Subcontract Conditions;
- (b) specify the alleged substantial breach;
- (c) require the Main Contractor to show cause in writing why the Subcontractor should not exercise a right referred to in Clause 44.9;
- (d) specify the time and date by which the Main Contractor must show cause (which shall not be less than 7 clear days after the notice is given to the Main Contractor); and
- (e) specify the place at which cause must be shown.

44.9 Rights of Subcontractor

If, by the time specified in a notice under Clause 44.7, the Main Contractor fails to show reasonable cause why the Subcontractor should not exercise a right referred to in Clause 44.9, the Subcontractor may by notice in writing to the Main Contractor suspend the whole or any part of the work under the Subcontract.

The Subcontractor shall lift the suspension if the Main Contractor remedies the breach but if within 28 days after the date of suspension under Clause 44.9, the Main Contractor fails to remedy the breach or, if the breach is not capable of remedy, fails to make other arrangements to the reasonable satisfaction of the Subcontractor, the Subcontractor may by notice in writing to the Main Contractor terminate the Subcontract.

The Subcontractor shall be entitled to recover from the Main Contractor any damages incurred by the Subcontractor by reason of the suspension.

44.10 Rights of the Parties on Termination

If the Subcontract is terminated under Clause 44.4(b) or Clause 44.9 the rights and liabilities of the parties shall be the same as they would be at common law had the defaulting party repudiated the Subcontract and the other party had elected to treat the Subcontract as at an end and recover damages.

44.11 Insolvency

If—

- (a) a party informs the other party in writing or creditors generally that the party is insolvent;
- (b) a party commits an act of bankruptcy;
- (c) a bankruptcy petition is presented against a party;
- (d) a party is made bankrupt;
- (e) a meeting of creditors of a party is called with a view to—
 - (i) entering a scheme of arrangement or composition with creditors; or
 - (ii) placing the party under official management;
- (f) a party enters a scheme of arrangement or composition with creditors;
- (g) a resolution is passed at a meeting of creditors to place a party under official management;
- (h) a party is placed under official management;
- (i) a receiver of the property or part of the property of a party is appointed;
- (j) an application is made to a court for the winding up of a party and not stayed within 14 days;
- (k) a winding up order is made in respect of a party; and/or
- (l) execution is levied against a party by creditors, debenture holders or trustees or under a floating charge

then—

where the other party is the Main Contractor, the Main Contractor may, without giving a notice to show cause, exercise the right under Clause 44.4(a); or

where the other party is the Subcontractor, the Subcontractor may, without giving a notice to show cause, exercise the right under Clause 44.9.

The rights given by Clause 44.11 are in addition to any other rights and may be exercised notwithstanding that there has been no breach of contract.

* 45 TERMINATION BY FRUSTRATION

If, under the law governing the Subcontract, the Subcontract is frustrated, the Main Contractor shall pay the Subcontractor—

- (a) for work executed prior to the date of frustration, the amount which would have been payable if the Subcontract had not been frustrated and the Subcontractor had made a progress claim on the date of frustration;
- (b) the cost of materials reasonably ordered by the Subcontractor for the work under the Subcontract, which the Subcontractor is liable to accept, but only if the materials become the property of the Main Contractor upon payment;
- (c) costs reasonably incurred by the Subcontractor in the expectation of completing the whole of the work under the Subcontract and not included in any payment by the Main Contractor;
- (d) all retention moneys and security;
- (e) the reasonable cost of removal of Constructional Plant;

- (f) the reasonable cost of returning to their place of recruitment the Subcontractor's employees engaged in the work under the Subcontract at the date of frustration.

46 TIME FOR NOTIFICATION OF CLAIMS

46.1 Subcontractor's Prescribed Notice

The Main Contractor shall not be liable upon any claim by the Subcontractor in respect of or arising out of a breach of the Subcontract unless within 28 days after the first day upon which the Subcontractor could reasonably have been aware of the breach, the Subcontractor has given to the Main Contractor's Representative the prescribed notice.

The Main Contractor shall not be liable upon any other claim by the Subcontractor for any extra cost or expense in respect of or arising out of any direction or approval by the Main Contractor's Representative unless within 42 days after the first day upon which the Subcontractor could reasonably have been aware of the entitlement to make the claim, the Subcontractor has given to the Main Contractor's Representative the prescribed notice.

The prescribed notice is a notice in writing which includes particulars of all the following—

- (a) the breach, act, omission, direction, approval or circumstances on which the claim is or will be based;
- (b) the provision of the Subcontract or other basis for the claim or proposed claim; and
- (c) the quantum or likely quantum of the claim.

This Clause 46.1 shall not have any application to—

- (i) any claim for payment to the Subcontractor of an amount or amounts forming part of the Contract Sum;
- (ii) any claim for payment for a variation directed by the Main Contractor's Representative or to be made pursuant to Clause 12.3;
- (iii) any claim for an extension of time for Substantial Completion;
- (iv) the provisions of Clause 46.2; or
- (v) any breach of contract by the Principal or direction of the Superintendent to which Clause 47.4 applies.

46.2 Time for Disputing Main Contractor's Representative's Direction

If the Main Contractor's Representative—

- (a) has given a direction (other than a decision under Clause 47.2) pursuant to the Subcontract; and
- (b) has served a notice in writing on each party that if a party wishes to dispute the direction then that party is required to do so under Clause 47,

the direction shall not be disputed unless a notice of dispute in accordance with Clause 47.1 is given by one party to the other party and the Main Contractor's Representative within 42 days after the date of service on that party of the notice pursuant to Clause 46.2.(b).

47 DISPUTE RESOLUTION

47.1 Notice of Dispute

If a dispute between the Subcontractor and the Main Contractor arises out of or in connection with the Subcontract, including a dispute concerning a direction given by the Main Contractor's Representative, then either party shall deliver by hand or send by certified mail to the other party and to the Main Contractor's Representative a notice of dispute in writing adequately identifying and providing details of the dispute.

Notwithstanding the existence of a dispute, the Main Contractor and the Subcontractor shall continue to perform the Subcontract and subject to Clause 44, the Subcontractor shall continue with the work under the Subcontract and the Main Contractor and the Subcontractor shall continue to comply with Clause 42.1.

A claim in tort, under statute or for restitution based on unjust enrichment or for rectification or frustration, may be included in an arbitration.

47.2 Further Steps Required Before Proceedings

Within 14 days after service of a notice of dispute, the parties shall confer at least once, and if the dispute is one to which Clause 47.4 applies, at the option of either party and provided the Superintendent so agrees, in the presence of the Superintendent, 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 including (if the dispute is one to which Clause 47.4 applies) whether it is therefore to be resolved pursuant to the dispute resolution procedures of the Main Contract. At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute.

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 arbitration or litigation.

47.3 Arbitration

Arbitration shall be effected by a single arbitrator who shall be nominated by the person named in the Annexure, or if no person is named, by the Chairperson for the time being of the Chapter of the Institute of Arbitrators Australia in the State or Territory named in the Annexure. Such arbitration shall be held in the State or Territory stated in the Annexure.

Unless the parties agree in writing, any person agreed upon by the parties to resolve the dispute pursuant to Clause 47.2 shall not be appointed as an arbitrator, nor may that person be called as a witness by either party in any proceedings.

Notwithstanding Clause 42.9, the arbitrator may award whatever interest the arbitrator considers reasonable.

If one party has overpaid the other, whether pursuant to a Main Contractor's Representative's certificate or not and whether under a mistake of law or fact, the arbitrator may order repayment together with interest.

47.4 Claims or Disputes Affecting the Main Contract Works

When the Main Contractor becomes aware of a breach of the Main Contract by the Principal or a direction given by the Superintendent under the Main Contract which breach or direction affects work, material or the performance of work under the Subcontract, and provided that the Main Contractor's Representative has—

- (a) promptly served on the Subcontractor a notice setting out adequate details of the breach or sent a written copy of the Superintendent's direction, as the case may be; and
- (b) when complying with Clause 47.4(a) or previously, provided to the Subcontractor a written copy of the relevant provisions of the Main Contract relating to the notification of claims and resolution of disputes,

the Main Contractor, by notice promptly given in writing by the Main Contractor's Representative to the Subcontractor, may require any claim or dispute to be made by the Subcontractor arising out of the breach or direction to proceed under or be resolved pursuant to the provisions of the Main Contract.

The Subcontractor, on receipt of the latter notice given by the Main Contractor's Representative, shall—

- (i) promptly acknowledge in writing the receipt of the Main Contractor's Representative's said notice; and

- (ii) if the Subcontractor requires the Main Contractor, on behalf of the Subcontractor, to make a claim or to serve a notice of dispute on the Principal in respect of the breach or direction, the Subcontractor shall, in writing and within a reasonable time to enable the Main Contractor to comply with the provisions of the Main Contract, request the Main Contractor either to give a prescribed notice, a copy of which shall be served either with the Subcontractor's request or within a reasonable time thereafter to enable the Main Contractor to comply with the provisions of the Main Contract relating to service thereof on the Superintendent, or, where appropriate, to serve a notice of dispute in respect of the breach or direction.

Upon the receipt of the Subcontractor's written request given under Clause 47.4(ii), the Main Contractor shall take such steps as are reasonably necessary to proceed in accordance with the Main Contract with the Subcontractor's claim or dispute. The Subcontractor shall comply with the Main Contractor's reasonable requirements in respect to providing details of the claim or dispute.

The Subcontractor shall indemnify the Main Contractor, to the extent of the Subcontractor's interest in respect of the claim or dispute, against all costs and expenses that may reasonably be incurred by the Main Contractor by reason of complying with the request of the Subcontractor given under Clause 47.4(ii). The Subcontractor shall, with the request, lodge with the Main Contractor reasonable cash or other security against such costs and expenses and any moneys the Main Contractor may recover shall be for the benefit of the Subcontractor to the extent of the Subcontractor's interest in the claim or dispute.

If the Main Contractor is in breach of any provision of the Main Contract or of this Clause 47.4 relating to the notification of the claim or in proceeding with the dispute and the breach was not due to any act or omission of the Subcontractor, nothing in Clause 47.4 shall prevent the Subcontractor from thereafter proceeding pursuant to Clause 47.1 and 47.2 as if the dispute was not a dispute to which the provisions of Clause 47.4 apply.

47.5 Summary or Urgent Relief

Nothing herein shall prejudice the right of a party to institute proceedings to enforce payment due under Clause 42 or to seek urgent injunctive or declaratory relief in respect of a dispute under Clause 47 or any matter arising under the Subcontract.

48 WAIVER OF CONDITIONS

Except as provided at law or in equity or elsewhere in the Subcontract, none of the terms of the Subcontract shall be varied, waived, discharged or released, except with the prior consent in writing of the Main Contractor in each instance.

49 SERVICES AND FACILITIES

Services and facilities shall be provided as stated in the Annexure.

**ANNEXURE to the Australian Standard
Subcontract conditions****PART A**

5 This Annexure shall be issued as part of the tender documents for the Subcontract and is to be
attached to the Subcontract Conditions and shall be read as part of the Subcontract.

10

The law applicable is that of the State or
Territory of:
(Clause 1)

Queensland

Payments under the Subcontract shall be
made at:
(Clause 1)

Brisbane

The Main Contractor:
(Clause 2)

Woollam Constructions (A.C.N.009 676 064)

The address of the Main Contractor:

71 Lytton Road, East Brisbane QLD 4169

The Main Contractor's Representative:
(Clause 2)

Peter Lando

The address of the Main Contractor's
Representative:

71 Lytton Road, East Brisbane QLD 4169

The
Subcontractor
: (Clause 2)

TGS Total Painting (ABN 39 874 750 742)

The address of the Subcontractor:
Subcontract Sum:

37 Cooper Avenue, Campwin Beach QLD 4737
\$41,367.59 excl GST

The Date or period for Substantial Completion:
(Clause 2 and Clause 35.2):

Refer to Special Conditions of Contract Attached

Limits of accuracy applying to quantities for
which the Main Contractor accepted a rate or
rates in the Subcontract:
(Clause 3.3(b))

Refer to Special Conditions of Contract Attached.

Bill of Quantities — the alternative applying:
(Clause 4.1)

Refer to Special Conditions of Contract Attached

The time for lodgment of the priced copy of the
Bill of Quantities:
(Clause 4.2)

Refer to Special Conditions of Contract Attached

Subcontractor shall provide security in the
amount of:
(Clause 5.2)

Refer to Special Conditions of Contract Attached

Main Contractor shall provide security in the
amount of:
(Clause 5.2)

Refer to Special Conditions of Contract Attached.

The period of notice required of a party's
intention to have recourse to retention moneys
and/or to convert security:
(Clause 5.5)

Refer to Special Conditions of Contract Attached

The percentage to which the entitlement to
security and retention moneys is reduced:
(Clause 5.7)

Refer to Special Conditions of Contract Attached

Interest on retention moneys and security —
the alternative applying:
(Clause 5.9)

Refer to Special Conditions of Contract Attached

The number of copies to be supplied by the
Main Contractor:
(Clause 8.3)

Refer to Special Conditions of Contract Attached.

The number of copies to be supplied by the
Subcontractor:
(Clause 8.4)

Refer to Special Conditions of Contract Attached

The time within which the Main Contractor's Representative must give a direction as to the suitability of documents:
(Clause 8.4 (c))

Refer to Special Conditions of Contract Attached

Where there are Separable Portions, these items shall be deleted.

Work which cannot be subcontracted without approval:
(Clause 9.2)

Refer to Special Conditions of Contract Attached

The amount or percentage for profit and attendance:
(Clause 11(b))

Refer to Special Conditions of Contract Attached

The amount or percentage for profit and attendance:
(Clause 11(c))

Refer to Special Conditions of Contract Attached.

Public Liability Insurance—the alternative applying:
(Clause 19)

Refer to Special Conditions of Contract Attached

The amount of Public Liability Insurance under alternative 2 shall be not less than:
(Clause 19)

Refer to Special Conditions of Contract Attached

The time for giving access to the Site:
(Clause 27.1)

Refer to Special Conditions of Contract Attached

Liquidated Damages per day:
(Clause 35.6(a))

Refer to Special Conditions of Contract Attached

Limit on Liquidated Damages under Clause 35.6(a):
(Clause 35.7)

Refer to Special Conditions of Contract Attached

Limit on Damages under Clause 35.6(b):
(Clause 35.7)

Refer to Special Conditions of Contract Attached

Bonus per day for early Substantial Completion:
(Clause 35.8)

Refer to Special Conditions of Contract Attached

Limit of bonus:
(Clause 35.8)

Refer to Special Conditions of Contract Attached.

Where there are Separable Portions, these items shall be deleted.

Where there are Separable Portions, these items shall be deleted.

Extra costs for Delay or Disruption :
(Clause 36)

Event

Refer to Special Conditions of Contract Attached.

.....

The Defects Liability Period:
(This entry is to be completed only if the
date of expiry of the Defects Liability
Period is to be different from that
contained in the Main Contract)
(Clause 37)

Refer to Special Conditions of Contract Attached

The charge for overheads, profit, etc.
for Daywork:
(Clause 41(f))

Refer to Special Conditions of Contract Attached.

.

Times for payment claims:
(Clause 42.1)

... Refer to Special Conditions of Contract
Attached.

Unfixed plant and materials for which payment
claims may be made notwithstanding that they
are not incorporated in the Works
(Clause 42.1(ii)).

Refer to Special Conditions of Contract Attached. .

.....

.....

Retention Moneys on:
(Clause 42.3)

- (a) work incorporated in the Works and any work or items for which a different amount of retention is not provided, ...10....% of the value until ..5.....% of the Subcontract Sum is held;
- (b) items on Site but not yet incorporated in the Works,%;
- (c) items off Site but in Australia%;
- (d) items not in Australia%;
- (e) disbursements incurred by the Subcontractor for customs duties, freight, marine insurance, primage, landing and transport in respect of the work under the Subcontract%;

Unfixed Plant and Materials — the alternative
applying:
(Clause 42.4)

Refer to Special Conditions of Contract Attached

The rate of interest on overdue payments:
(Clause 42.9)

Refer to Special Conditions of Contract Attached

The delay in giving access to sufficient of the
Site which shall be a substantial breach:
(Clause 44.7(d))

Refer to Special Conditions of Contract Attached

The person to nominate an arbitrator:
(Clause 47.3)

Refer to Special Conditions of Contract Attached

Location of arbitration:
(Clause 47.3)

Refer to Special Conditions of Contract Attached.

SERVICES AND FACILITIES (Clause 49)

A. ELECTRICITY

- (i) Installation of 240 Volts ~~will~~
~~will not~~ be supplied on Site by the Main Contractor at the
following points:
- (ii) Installation of 415 Volts ~~will~~
~~will not~~ supplied on Site by the Main Contractor at the
following points:
*Main Contractor.
*Subcontractor.
- (iii) Cost of electricity supplied will be borne by the
*Main Contractor.
*Subcontractor.
- (iv) Cost of connection to power supply will be borne by the
*Main Contractor.
*Subcontractor.
- (v) Supply of leads will be by
*Main Contractor.
*Subcontractor.

B. SCAFFOLDING

- (i) Initial supply and erection and final removal
of scaffold will be carried out by the
*Main Contractor.
*Subcontractor.
- (ii) Adjustment and moving of scaffold and/or planks
will be carried out by the
*Main Contractor.
*Subcontractor.
- (iii) Cost of hire of scaffolding will be borne by the
*Main Contractor.
*Subcontractor.

C. HOISTING (INCLUDING CRANAGE)

- (i) Hoisting facilities including services by necessary
operators will be provided by the
*Main Contractor.
*Subcontractor.
- (ii) Labour to handle materials to be hoisted or lifted
will be supplied by the
*Main Contractor.
*Subcontractor.
- (iii) If by Main Contractor materials shall be handled from
..... to.....
- (iv) Charge for hoisting and crange facilities (if any)
to be at following rates:

* Delete as appropriate.

- D. Constructional plant to be supplied or made available by main contractor for use by subcontractor as follows:

.....

This plant will be supplied or made available in good order and condition for use by the Subcontractor in carrying out the work under the Subcontract and, if supplied, shall be returned on the following date or dates:

.....

NOTE: The cost of cleaning and/or repair other than due to normal wear and tear will be charged to the Subcontractor.

E. TELEPHONES

If a telephone service is installed by the Main Contractor it will be available for the Subcontractor who will be charged for outward calls.

F. GENERAL

- (i) Space for erection of Subcontractor's sheds will be provided by Main Contractor
- (ii) Lavatory accommodation and washing facilities will be provided by Main Contractor
- (iii) Water and Boiling Water for all reasonable purposes necessary under the Subcontract will be provided by Main Contractor

¶ Separable Portions – Not Used

1. Separable Portion:
2. Subcontractor shall provide security in the amount of:
(Clause 5.2)

- Main Contractor shall provide security in the amount of:
(Clause 5.2)

- The period of notice required of a party's intention to have recourse to retention moneys and/or to convert security:
(Clause 5.5)

3. The Date for Substantial Completion:
(Clause 35.2)

4. Liquidated Damages per day:
(Clause 35.6)

5. Limit on:
 - (a) Liquidated Damages under Clause 35.6(a):
 - (b) Damages under Clause 35.6(b):
(Clause 35.7)

6. Bonus per day for early Substantial Completion:
(Clause 35.8)

7. Limit of bonus:
(Clause 35.8)

8. Extra Costs for Delay or Disruption: Event
(Clause 36)
.....

9. Defects Liability Period (This entry is to be completed only if the date of expiry of the Defects Liability Period is to be different from that contained in the Main Contract):
(Clause 37)

.....

¶ Use this part of the Annexure where there are Separable Portions and ensure that the description of the Separable Portions covers all the work under the Subcontract. Make a separate column for each Separable Portion.

APPROVED FORM OF UNCONDITIONAL UNDERTAKING

(Clause 5.3)

At the request of ('the Subcontractor') and in consideration of ('the Main Contractor') 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 Main Contractor to a maximum aggregate sum of \$

(.....)

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

Should the Financial Institution be notified in writing, purporting to be signed by for and on behalf of the Main Contractor that the Main Contractor desires payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the Financial Institution will make the payment or payments to the Main Contractor 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 Main Contractor 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 Main Contractor and thereupon the liability of the Financial Institution hereunder shall immediately cease.

DATED at.....this.....day of 19.....

**ANNEXURE to the Australian Standard
Subcontract conditions****PART B**

NOTE: This table is intended for easy reference to clauses that may have been deleted, amended or added to Australian Standard 2545 — 1993.

1 The following Clauses have been deleted from the Subcontract Conditions in AS 2545 — 1993:

2 The following Clauses have been amended and differ from the corresponding Clauses in

3 The following Clauses have been added to those of AS 2545 — 1993:

CERTIFICATE OF SUBSTANTIAL COMPLETION

(Clause 42.5)

Title of Subcontract:

I am of the opinion that Substantial Completion of*

was reached on

. (Date of Substantial Completion)

Signed:

Main Contractor's Representative

Date

* Insert 'the Works' or, where there are Separable Portions, the description of the Separable Portion.

AUSTRALIAN STANDARD
GENERAL CONDITIONS OF TENDERING AND FORM OF TENDER

- 1 Tender documents, upon which the tenderer is to tender are:

(The tender documents should be specifically listed in each case.)

- 2 Tenderers must complete the Tender Form provided and lodge it with any accompanying schedules or information in a sealed envelope endorsed with the Subcontract number at the place and by the time stated in the invitation to tender.
- 3 The Main Contractor is not bound to accept the lowest or any tender.

TENDER FORM

Name of person,
firm or company
tendering

USE

BLOCK

LETTERS

address

..... (A.C.N.)

of
hereby tender(s) to perform the work for:

Description
of works

.....
.....
..... (Contract No.) in
accordance with the following Documents:

List Documents:

(The documents on
which the tender is
based should be
specifically listed)

When the tender documents
provide that the tender is
to a lump sum only, (2)
does not apply.

1 For the lump sum of
(\$); and

When the tender documents
provide that the tender is
to be a Schedule of Rates
only, (1) does not apply.

2 At the rates in the attached Schedule of Rates

If the tenderer is a firm the
full names of the individual
members of the firm must
be stated here.

.....

Insert date.

DATED this day of 20

.....
Signature of Tender

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AMENDMENT CONTROL SHEET

AS 2545—1993

Amendment No. 1 (2000)

REVISED TEXT

SUMMARY: This amendment applies to the Preface.

Published on 11 October 2000.

SCHEDULE 4 – REQUEST FOR APPROVAL TO SUBCONTRACT**Clause 9.2**Contract Name: Cannonvale State SchoolProject Number: 86070

Pursuant to Clause 9.2(b) of the Conditions of Contract I request approval to enter into a subcontract for the following part of the works under the Contract:

Proposed subcontractor: BG Group NQ Pty LtdACN: ABN: 37 085 810 975

Address:

Licence No: Category:

Trade: Restrictions (if any):

Total value of proposed subcontract: \$.....

I confirm that:

- (5) ~~the proposed subcontract documents incorporate AS2545-1993 or AS4300-1995 Australian Standard Subcontract Conditions (as applicable) as the general conditions of contract, amended only to reflect the Head Contract Conditions of Contract;*~~

~~* delete if the total value of the proposed subcontract is less than \$50,000~~

- (6) if the Best Practice Principles (as that term is defined in the Conditions of Contract) are applicable, the Contractor has complied and will continue to comply with Clause 9.2 when procuring and entering into the subcontract;
- (7) the proposed subcontractor has been informed of the existence of the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) (BIF Act);
- (8) if a project trust is required at the time of this request, the proposed subcontractor has been given a notice of project trust as required by the BIF Act;
- (9) for the purposes of the BIF Act the propose subcontractor:
- ☒ IS a related entity, as defined by section 10A of the BIF Act, or
- ☐ IS NOT a related entity, as defined by section 10A of the BIF Act;
- (10) the proposed subcontractor:
- (a) has a personal services business determination in effect from the Australian Taxation Office under the *Income Tax Assessment Act 1997* (Cth); or
- (b) in relation to the work to be performed under the subcontract:
- (i) will be paid to achieve a specified result or outcome; and
- (ii) is required to supply the plant and equipment or tools of trade needed to perform the work; and
- (iii) will be liable for the cost of rectifying any defect in the work performed.

I warrant that if approval is granted, the subcontract will be entered into in accordance with the above.

Signed
ContractorDate 23/03/2022

SCHEDULE 4 – REQUEST FOR APPROVAL TO SUBCONTRACT**Clause 9.2**Contract Name: Cannonvale State SchoolProject Number: 86070

Pursuant to Clause 9.2(b) of the Conditions of Contract I request approval to enter into a subcontract for the following part of the works under the Contract:

Proposed subcontractor: TGS PaintingACN: ABN: 39 874 750 742

Address:

Licence No: Category:

Trade: Restrictions (if any):

Total value of proposed subcontract: \$.....

I confirm that:

- (5) ~~the proposed subcontract documents incorporate AS2545-1993 or AS4300-1995 Australian Standard Subcontract Conditions (as applicable) as the general conditions of contract, amended only to reflect the Head Contract Conditions of Contract;*~~

~~* delete if the total value of the proposed subcontract is less than \$50,000~~

- (6) if the Best Practice Principles (as that term is defined in the Conditions of Contract) are applicable, the Contractor has complied and will continue to comply with Clause 9.2 when procuring and entering into the subcontract;
- (7) the proposed subcontractor has been informed of the existence of the *Building Industry Fairness (Security of Payment) Act 2017* (Qld) (BIF Act);
- (8) if a project trust is required at the time of this request, the proposed subcontractor has been given a notice of project trust as required by the BIF Act;
- (9) for the purposes of the BIF Act the propose subcontractor:
- ☒ IS a related entity, as defined by section 10A of the BIF Act, or
- ☐ IS NOT a related entity, as defined by section 10A of the BIF Act;
- (10) the proposed subcontractor:
- (a) has a personal services business determination in effect from the Australian Taxation Office under the *Income Tax Assessment Act 1997* (Cth); or
- (b) in relation to the work to be performed under the subcontract:
- (i) will be paid to achieve a specified result or outcome; and
- (ii) is required to supply the plant and equipment or tools of trade needed to perform the work; and
- (iii) will be liable for the cost of rectifying any defect in the work performed.

I warrant that if approval is granted, the subcontract will be entered into in accordance with the above.

Signed 
ContractorDate 23/03/2022