

SUBCONTRACT

Subcontract Agreement 23001 / 38956
No: *Job No. / Order No.*

A Gabrielli Constructions Pty Ltd
ACN 088 090 279
ABN 29 088 090 279
Contractor

and

Rapaw
ACN 97 158 997 623
Subcontractor

For

Design and Construct
(trade/type of work)

In relation to

Magnetic Island Wastewater Treatment Plant B67474
(name of project)

Date

15 MAR 23

Parties

A Gabrielli Constructions Pty Ltd | ACN 088 090 279 (Contractor)

Address | 336 Woolcock Street, Garbutt QLD 4814
Telephone | (07) 4725 1100
Email | contracts@gabrielliconstruction.com
Contact | Adrian Gabrielli

Rapaw | ABN 97 158 997 623 (Subcontractor)

Address | 320 Woolcock Street
Garbutt
Townsville
4814
Telephone |
Email | robert.drane@rapaw.com.au
Contact |

Background

- A. The Contractor has engaged the Subcontractor to undertake the WUS in accordance with the Subcontract.
- B. The Subcontractor has agreed to carry out the WUS in accordance with the Subcontract.
- C. The Subcontractor represents to the Contractor that it has the requisite skill and experience and ability to execute or provide the work required under the Subcontract in accordance with the Subcontract.

It is agreed

1 Definitions and Interpretation

1.1 Definitions

Associated includes the Subcontractor's employees, agents, subcontractors, suppliers or any other party whom the Subcontractor is responsible.

Business Day means:

- (1) for the purpose of making payment to the Subcontractor and for calculating the Date for Completion where it is expressed as a period of time, means a day that is not a Saturday, Sunday, public or special holiday in the jurisdiction stated in Item 15; and
- (2) for all other purposes also excludes the 24 December to 2 January in the following year (inclusive).

Completion is that stage in the carrying out and completion of WUS when:

- (1) the WUS is complete except for minor defects, which:
 - (a) do not prevent the WUS from being reasonably capable of being used for their intended purpose and do not cause any impediment to the use or occupation of the WUS;
 - (b) the Contractor determines the Subcontractor has reasonable grounds for not promptly rectifying; and
 - (c) rectification of which, individually or collectively, will not prejudice the work of other contractors or the convenient use of the WUS;
- (2) all of the Subcontractor's plant, equipment and tools, rubbish and excess material have been removed from the Site;
- (3) the Subcontractor has provided the Contractor with all documentation regarding the WUS which is required by the Subcontract; and
- (4) any other requirements for Completion stated in the Subcontract have been achieved.

Date for Commencement means the date in Item 5.

Date for Completion means the date in Item 6 as adjusted in accordance with the Subcontract.

Date of Completion means the date evidenced in a certificate of Completion as the date upon which Completion was reached or where another date is determined in any arbitration or litigation as the date upon which Completion was reached, that other date.

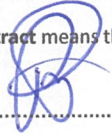
Defects Liability Period means the period stated in Item 12.

Delay Event means the events listed in Item 8.

Extension of Time ('EOT') means a time extension in relation to the performance of the WUS (including in relation to Completion) granted or directed by the Contractor in accordance with clause 9 of the Subcontract.

Governing Law is stated in Item 15.

Head Contract means the contract described at Item 9.

INITIAL  **AJG**

Item means an Item set out in Annexure A of the Subcontract.

Insolvency Event means:

- (1) the party is insolvent or is financially unable to proceed with its obligations under the Subcontract;
- (2) execution is levied against the party by a creditor;
- (3) the party is a natural person or a partnership and commits an act of bankruptcy; is made bankrupt; has a bankruptcy petition presented against him or her or presents his or her own petition; makes a proposal for a scheme of arrangement or a composition; or is required to present a debtor's petition or has a sequestration order made under Part X of the Bankruptcy Act 1966 (Cth); or
- (4) the party is a corporation and notice is given of a meeting of creditors with a view to the corporation entering a deed of company arrangement; it enters a deed of company arrangement with creditors; a controller or administrator is appointed; an application is made to a court for its winding up and not stayed within 14 days; a winding up order is made in respect of the corporation; or it resolves by special resolution that it be wound up voluntarily.

Intellectual Property Right means any patent, registered or unregistered design, trademark or name, copyright, trade secrets and know-how and other similar proprietary rights and all other intellectual property rights conferred under statute or common law.

Law means any act, regulation, ordinance, proclamation, permit, approval, permission, consent, by-law, statutory instrument or similar legislative instrument applicable under the Governing Law.

Legislative Requirements includes Laws, certificates, licences, consents, permits, approvals, clearances, requirements or other precondition required by Law or any government or statutory authority; and fees and charges payable in connection with the forgoing.

No Claim means no claim for money or adjustment to the Subcontract Price or for an extension of time to the Date for Completion or for costs, expenses, loss or damages or other relief on any basis whatsoever whether under this Subcontract, otherwise at law or in equity.

Provisional Sums means the sums specified in Annexure C.

Reference Date has the meaning given to it in the Security of Payment Act.

Scope of Works means the written requirements for the WUS described in Annexure C which may include the stated purpose for which the WUS is intended.

Security of Payment Act means the Building and Construction Industry Payments Act 2004 (Qld).

Site means the site specified in Item 4.

Subcontract means the executed agreement between the Contractor and the Subcontractor and comprises the documents in Item 1.

Subcontract Price means the price specified in Annexure C.

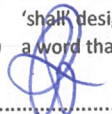
WHS Requirements means all Legislative Requirements relating to workplace health and safety.

WUS or Work Under Subcontract means the work which the Subcontractor is or may be required to carry out and complete under the Subcontract and includes variations, remedial work, design, plant and temporary works.

1.2

Interpretation

- (1) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.
- (2) A reference to:
 - (a) a person includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
 - (b) a natural person includes their personal representatives, successors and permitted assigns; and
 - (c) a corporation includes its successors and permitted assigns.
- (3) Reference to:
 - (a) legislation or a legislative provision includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision; and
 - (b) a body or authority which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
 - (c) including and includes (or similar words) are not words of limitation;
 - (d) the words 'at any time' mean 'at any time and from time to time';
 - (e) time means the time in the location of the Site;
 - (f) 'shall' designates a mandatory obligation to do the thing referred to;
 - (g) a word that is derived from a defined word has a corresponding meaning;

INITIAL  

- (h) monetary amounts are expressed in Australian dollars;
 - (i) the singular includes the plural and vice-versa;
 - (j) words importing one gender include all other genders; and
 - (k) a thing includes each part of that thing.
- (4) A provision of this Subcontract must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Subcontract or the inclusion of the provision.

1.3 Head Contract

The Subcontractor acknowledges that the Contractor has entered into the Head Contract in relation to the Project and the terms, if any, specified in Annexure B, taken from the Head Contract, apply to this Subcontract.

2 Engagement and Performance

2.1 Engagement

The Contractor engages the Subcontractor to perform the WUS. Subject to the Subcontractor complying with the Subcontract and all of its obligations at law, the Contractor will pay the Subcontractor for performance of the WUS.

2.2 Subcontractor's obligations

The Subcontractor must:

- (1) carry out and complete the WUS to the Contractor's reasonable satisfaction in a competent manner, with due diligence and without delay;
- (2) comply with the Contractor's directions;
- (3) implement a quality assurance system reasonably acceptable to the Contractor;
- (4) use suitable new materials and proper and tradesman-like workmanship;
- (5) provide all labour, materials, tools, plant and everything required to perform the WUS and complete the WUS by the Date for Completion;
- (6) obtain all permits, approvals and consents necessary to carry out and complete the WUS (unless the Subcontract expressly states that the Contractor will obtain them) and comply with those permits, approvals and consents; and
- (7) ensure the WUS comply with all Legislative Requirements that are applicable,

and the Subcontractor warrants that:

- (8) the WUS when complete will comply with the Subcontract and be fit for their intended purpose; and
- (9) the Subcontractor will at all times exercise a high standard of skill, care and diligence in the execution and Completion of the WUS.

2.3 Program

- (1) Whenever requested by the Contractor the Subcontractor must provide a program of the works in the format required by the Contractor. The Contractor may direct changes to the program but otherwise once a program is accepted by the Contractor, the Subcontractor must not depart from the program unless directed to do so by the Contractor.
- (2) If the Subcontractor requests a change to the program, the Contractor will use reasonable endeavours to accommodate any such change but is not obliged to do so where it will have a negative impact on the Contractor's ability to complete the Contractor's works, or co-ordinate the work of other contractors, within the time required.

3 Subcontract Price

3.1 Subcontract Price

The Subcontractor acknowledges that the Subcontract Price includes all preliminaries, supervision, Provisional Sums, overheads (off site and on site), profits, costs, expenses, fees and charges to be incurred by the Subcontractor in performing all obligations of and incidental to carrying out the WUS, unless otherwise specifically excluded from the Subcontract Price. The Subcontractor Price is fixed and not subject to any rise and fall.

3.2 Provisional Sums

- (1) A Provisional Sum included in the Subcontract is not of itself payable by the Contractor to the Subcontractor and the work to which the Provisional Sum relates is only to be carried out by the Subcontractor as directed by the Contractor.
- (2) All margin, profit and off-site overheads relating to the Provisional Sum are deemed to be included in the Subcontract Price.
- (3) The Subcontractor warrants that it has used due care and skill in determining a reasonable amount for the Provisional Sum included in the Subcontract.
- (4) The Provisional Sum works will be valued by the Contractor based on the actual reasonable cost incurred by the Subcontractor in performing that work and the Subcontractor must provide documentary evidence of the actual cost of the Provisional Sum works.
- (5) Once the Contractor has given the Subcontractor written notice determining the actual cost of the Provisional Sum work, that cost may be included by the Subcontractor in the next payment claim under clause 15 and the Subcontract Price will be adjusted up or down by the difference between the determination and the Provisional Sum.

INITIAL

AJG

4 Security

4.1 Provision of Security

If Annexure A requires, security must be provided to the Contractor by the Subcontractor prior to the commencement of the WUS and in form and for the amount set out in Item 10.

4.2 Recourse to Security

The Contractor may have recourse to any security (including retention moneys) held by it under the Subcontract to protect any right or interest of the Contractor in relation to the Subcontract. Nothing in this clause 4 prohibits the Contractor from recovering any amount owed by the Subcontractor to the Contractor in any circumstances, in another way apart from having recourse to Security.

4.3 Reduction and return of Security

Subject to the Contractor's right to use the security, the Contractor will release the security as follows:

- (1) any security in excess of 2.5% of the Subcontract Price upon the Contractor being granted practical completion being achieved under the Head Contract; and
- (2) any remaining security within 10 Business Days after the expiration of the Defects Liability Period.

5 Personnel

5.1 Subcontractor's Representative

The Subcontractor must appoint a representative for the duration of this Subcontract who is acceptable to the Contractor, to personally superintend the carrying out of the WUS. Any directions given by the Contractor to the Subcontractor's Representative will be deemed within the Subcontractor's knowledge.

5.2 Personnel Generally

- (1) The Subcontractor must:
 - (a) ensure that the Subcontractor and (as applicable) the Subcontractor's Associates are appropriately qualified, skilled and if applicable licensed to carry out the WUS;
 - (b) attend meetings as reasonably required by the Contractor in relation to the WUS or the Site; and
 - (c) not subcontract any part of the WUS without the Contractor's prior written approval (in the Contractor's absolute discretion).
- (2) The Contractor may direct that the Subcontractor remove from the Site or the WUS any person who in the Contractor's reasonable opinion is guilty of misconduct, is incompetent, negligent or otherwise interfering with the orderly progress of the WUS or other work at the Site.
- (3) The Subcontractor must not interfere with and must co-operate and co-ordinate with other contractors at the Site or associated with the WUS.

6 Subcontract documents

6.1 Discrepancies

- (1) If the Subcontractor discovers any inconsistency, ambiguity or discrepancy in any document prepared for the purpose of carrying out the WUS (Discrepancy), the Subcontractor must give the Contractor written notice of it within 7 days of becoming aware, or when the Subcontractor ought to have become aware, of the discrepancy.
- (2) If there is a discrepancy, ambiguity or inconsistency in the documents forming this Subcontract, the higher or more stringent quality or quantity will apply and it is deemed that this resolution is allowed for in the Subcontract Price.

6.2 Subcontractor-supplied documents

If the Subcontractor submits a document to the Contractor, then the Contractor will not be required to check that document for errors, omissions, inconsistencies, ambiguities, discrepancies or compliance with the Subcontract and the Contractor's acknowledgement or approval will not prejudice the Subcontractor's obligations.

6.3 Contractor's documents

- (1) Copies of documents supplied by the Contractor will remain the Contractor's property and must be promptly returned upon Completion or termination of the Subcontract.
- (2) The Subcontractor acknowledges that information or documents of any nature made available to it by or on behalf of the Contractor:
 - (a) do not constitute a warranty or representation of any kind by the Contractor; and
 - (b) have been checked and verified by the Subcontractor for correctness and completeness and the Subcontractor warrants that it is satisfied that the documents are complete and sufficient to carry out the WUS in accordance with this Subcontract.



7 Carrying out the WUS

7.1 Obligations

- (1) In carrying out the WUS the Subcontractor must:
 - (a) keep the Site clean and tidy and free of rubbish;
 - (b) comply with any Site policies or requirements notified to the Subcontractor;
 - (c) comply with all reasonable directions of the Contractor in relation to the Site (including in relation to safety) and ensure that the Subcontractor's personnel adopt safe work practices when attending the Site;
 - (d) not cause any harm or damage to the environment or the work of any other contractors; and
 - (e) prevent nuisance and unreasonable noise and disturbance.
- (2) The Subcontractor is responsible for the care of the WUS until the Completion and must take all measures to protect WUS from loss and damage.

7.2 Site

- (1) The Contractor will give the Subcontractor non-exclusive access to sufficient areas of the Site for commencement of WUS on Site. The Subcontractor must not access any part of the Site unless the Contractor has notified the Subcontractor that the Subcontractor may access that area. The Subcontractor indemnifies the Contractor against any loss or damage suffered by the Contractor as a consequence of a breach by the Subcontractor of this clause.
- (2) Upon Completion the Subcontractor must immediately remove all plant, equipment and facilities from Site except as expressly permitted otherwise by the Contractor.
- (3) The failure of the Contractor to provide sufficient access to the Site by the Date for Commencement will entitle the Subcontractor to claim for an extension of time under clause 9 but will not entitle the Subcontractor to terminate the Subcontract or claim for any delay damages.

7.3 Other contractors

The Subcontractor must:

- (1) not cause damage to the work of;
- (2) not delay the work of;
- (3) at all times allow access to the Site by;
- (4) liaise and co-ordinate the performance of the WUS with;
- (5) not change the program of the WUS if it would adversely impact on the works of, other contractors engaged by the Contractor (or the Principal) in connection with the Project and the Subcontractor warrants that it has made allowance for compliance with these obligations in the Subcontract Price.

8 Health safety and the environment

8.1 General Safety Requirements

- (1) The Subcontractor must:
 - (a) carry out and complete its obligations under the Subcontract and comply with all lawful directions of the Contractor in accordance with the WHS Requirements;
 - (b) cooperate, consult and coordinate activities with the Contractor and any other contractors, so as to enable the Contractor to comply with its obligations under all relevant WHS Requirements;
 - (c) maintain appropriate safety precautions and programs so as to prevent injury to persons or damage to property on, about or adjacent to the Site and the Project;
 - (d) comply with any site specified induction program established for the Project; and
 - (e) promptly notify, provide information and cooperate with the Contractor with respect to any incident that is required to be reported to any authority.
 - (f) ensure the health and safety of all its employees, agents or subcontractors while on the Site;
 - (g) ensure that other persons are not exposed to risk of injury or illness arising out of the Subcontractor's activities on site and all of its employees, agents and subcontractors comply with all directions, plans, statements, policies and procedures of the Contractor, or by any statutory authority concerning workplace health and safety on the Site;
 - (h) carry out work on Site, only during the hours permitted by the Contractor; and
 - (i) ensure that all preventive methods are utilised to prevent pollution and contamination and otherwise comply with the requirements of the Contractor's environmental policies and any further requirements as specified.
- (2) If the Contractor carries out urgent works to protect persons or property (including the WUS) which should have been done by the Subcontractor, the Contractor may recover from the Subcontractor the cost the Contractor incurs as a debt due and owing from the Subcontractor.

9 Time and extensions of time

9.1 Time for provision of WUS

- (1) The Subcontractor must promptly commence the WUS and perform the WUS with due diligence and without delay.
- (2) The Subcontractor must complete the WUS in accordance with the program provided by the Contractor and by the Date for Completion.
- (3) If the Subcontractor is delayed in carrying out the WUS for any reason the Subcontractor must promptly notify the Contractor in writing.

INITIAL

AJG

9.2 Claim

The Subcontractor is entitled to claim an EOT if the Subcontractor:

- (1) is delayed by a Delay Event in a manner which will prevent it from achieving Completion by the Date for Completion;
- (2) did not cause or contribute to the Delay Event by an act or omission of the Subcontractor or any party under the control of the Subcontractor;
- (3) submitted a written claim to the Contractor for an EOT within 7 days after the Subcontractor became aware (or should reasonably have first become aware) of the Delay Event occurring; and
- (4) includes with its written claim particulars of the delay and the Delay Event causing the delay, the number of days claimed together with the basis of calculating that period, the steps the Subcontractor is or will take to mitigate the delay and evidence that the Subcontractor will be delayed in achieving Completion.

9.3 Determination of extension of time

- (1) Provided the Contractor has:

- (a) given the notice strictly in accordance with 9.2;
- (b) actually been delaying in completing the WUS by the Date for Completion by a Delay Event; and
- (c) not caused or contributed to, and taken all reasonable steps to mitigate, the delay,

the Contractor will extend the Date for Completion by a period equal to the delay. Where there are concurrent delays caused by events or circumstances which are not Delay Events, the Subcontractor will not be entitled to an EOT.

- (2) The Subcontractor has No Claim:

- (a) as a result of an extension granted by the Contractor under 9.3; or
- (b) if the Contractor does not grant an extension because the Subcontractor failed to comply with the requirements of 9.2, and the granting of an EOT in accordance with this clause is the Subcontractors sole remedy for delay or disruption caused to the WUS.

- (3) The Contractor may extend the Date for Completion at any time, without any obligation to act for the Subcontractor's beneficiary and for any reason.

9.4 Liquidated damages

- (1) If the WUS does not reach Completion by the Date for Completion liquidated damages at the rate stated in Item 11 will be due and payable to the Contractor by the Subcontractor for every day after the Date for Completion to and including the earliest of the Date of Completion or termination of the Subcontract or the Contractor taking WUS out of the hands of the Subcontractor.

- (2) The Contractor may recover the amount of liquidated damages:

- (a) on demand from the Contractor;
- (b) by deducting the amount from any amount certified by the Contractor under clause 15.2; or
- (c) from any security,

even though Completion has not occurred.

- (3) If liquidated damages are not stated in Item 11 then the Contractor will be entitled to recover general damages for the Subcontractors' failure to reach Completion by the Date for Completion.

9.5 Suspension

- (1) The Contractor may, at its absolute discretion, direct the Subcontractor to suspend the whole or part of WUS.
- (2) A direction to suspend must be given in writing unless the suspension must be effected urgently.
- (3) If the suspension is due to an act or omission of the Contractor and the suspension causes the Subcontractor to incur more or less cost than would otherwise have been incurred, including the costs of demobilising and remobilising to Site, the costs will be assessed by the Contractor and added to or deducted from the Subcontract Price. In all other circumstances the Subcontractor will bear the costs of suspension.

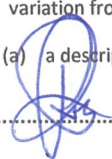
10 Variations

10.1 Variations to the WUS

- (1) The Contractor may, before the Date for Completion, direct the Subcontractor in writing to vary the WUS by increasing, decreasing, changing or omitting any part of the WUS.
- (2) The Subcontractor must not vary the WUS except as directed in writing by the Contractor. If the Contractor varies the WUS by omitting work the Contractor may thereafter have that work carried out by a third party and the Subcontractor will have No Claim against the Contractor as a result of the omitted work.

10.2 Contractor's proposed variations

- (1) The Subcontractor must, within 5 days (or such longer period as agreed with the Contractor) after receiving a proposed variation from the Contractor, provide a written variation estimate which sets out:
 - (a) a description of the work to be undertaken to carry out the variation;

INITIAL  AJG

- (b) any effect on the Date for Completion;
 - (c) a detailed breakdown of the cost of carrying out the variation supported by quotes from suppliers or subcontractors where appropriate (including material, labour, plant and equipment breakdown plus any margin for profit or overheads for the Subcontractor); and
 - (d) whether the variation will conflict with any Laws.
- (2) The Contractor shall, as soon as possible after receiving the Subcontractors estimate under clause 10.2(2), provide an instruction to the Subcontractor whether or not to proceed with the variation in whole or in part. If the instruction is to proceed, the Contractor must either:
- (a) confirm the variation estimate is accepted; or
 - (b) confirm that the variation must proceed without an agreement on the cost of and/or delay caused by the variation, in which case the Subcontractor must carry out the variation and the Subcontractor's reasonable costs will be assessed by the Contractor taking into account any allowances under the Head Contract, any rates previously agreed and used by the parties and current market costs.

10.3 Subcontractor's notice of variations

- (1) If the Subcontractor considers that a direction by the Contractor amounts to a variation but it is not given in writing identifying the work as a "variation" with an identification number, the Subcontractor must within the earlier of:
- (a) 5 Business Days after receiving the direction; or
 - (b) prior to commencing the work the subject of the purported variation,
- notify the Contractor that the Subcontractor considers the direction to be a variation and providing the information required by clause 10.2(1).
- (2) If the Subcontractor does not strictly comply with clause 10.3(1) the Subcontractor will have No Claim in relation to the direction or the varied work.

11 Completion

- (1) When the Subcontractor considers that Completion has been achieved the Subcontractor must notify the Contractor, who will inspect the WUS, to determine whether Completion has been achieved.
- (2) After the inspection the Contractor will:
- (a) issue the Subcontractor with a certificate of completion; or
 - (b) advise the Subcontractor what further steps need to be taken before Completion is achieved and the provisions of this clause 11 will apply again.

12 Defects

12.1 Defects Generally

- (1) The Subcontractor must, at its own cost, rectify, repair or replace any damage to or defects in the WUS or any other part of the Site, caused by the Subcontractor during the carrying out of the WUS.
- (2) Within 10 days after the Date of Completion the Subcontractor must complete rectification of any defects which existed in the WUS at the Date of Completion.
- (3) The Defects Liability Period will commence at 4:00pm on the Date of Completion and will be in place for the period or until the time stated in Item 12.
- (4) If during the Defects Liability Period, the Contractor considers that the WUS are not in accordance with the Subcontract, the Contractor will notify the Subcontractor and the Subcontractor must, within 7 days or such other period as the Contractor advises, rectify the defective WUS so that it complies with the Subcontract. The Contractor may specify a date by which the rectification must start, a date by which the rectification must be completed and that a separate further Defects Liability Period applies in relation to the rectified WUS.
- (5) The Subcontractor must carry out rectification of defects at times and in a manner causing as little inconvenience to the occupants or users of the WUS as possible, and in accordance with all directions of the Contractor or the Principal.
- (6) If rectification is not carried out in accordance with the direction, the Contractor may have the rectification carried out by itself or by others and the cost incurred in doing so will be a debt due and owing by the Subcontractor to the Contractor.

12.2 Expiry of Defects Liability Period

- (1) The Contractor must provide the Subcontractor written notice stating:
- (a) the date the Defects Liability Period ends; and
 - (b) if security is held by way of retention money:
 - a. the amount of retention money to be released to the Subcontractor (subject to the Contractor's rights under clause 4.2); and

INITIAL  **AJG**

- b. the date that the retention amount is proposed to be paid to the Subcontractor;
 - (2) The notice under 12.2(1) must be given:
 - (a) if the end of Defects Liability Period is linked to the expiry of the defects liability period under the Head Contract, within the earlier of:
 - a. if the Contractor is aware of when the Defects Liability Period will end, within 10 Business Days before the end of the Defects Liability Period; or
 - b. if the Contractor is not aware of when the Defects Liability Period will end, within 5 Business Days after the Contractor receives a notice from the Principal or otherwise becoming aware of the date of expiry of the Defects Liability Period under the Head Contract; and
 - (b) if the end of the Defects Liability Period is not linked to the expiry of the Defects Liability Period under the Head Contract, within 10 Business Days before the expiry of the Defects Liability Period.

13 Insurance

13.1 Obligation

Before commencing the WUS, the Subcontractor must effect the policies of insurance identified below in this clause.

13.2 Public Liability Insurance

The public liability insurance must note the Contractor as a third party beneficiary and must cover the Contractor and the Subcontractor for their respective rights and interests, liability to each other for loss, loss of use, or damage to property and the death of or injury to any person, and liability to third parties and include a cross liability clause in which the insurer or action against any of the persons comprising the insured. The public liability insurance must also be for an amount in respect of any one occurrence not less than the sum stated in Item 13, and be maintained until the end of the Defects Liability Period and completion of all WUS on the site

13.3 Worker's Compensation Insurance

The workers' compensation policy must cover statutory and common law liability for death or injury to persons employed by the Subcontractor in connection with the performance of the WUS and must be maintained until the end of the Defects Liability Period and completion of all WUS. To the extent permitted by law the policy shall extend to include a Principal's Indemnity.

13.4 Motor Vehicle Insurance

The motor vehicle insurance must be maintained for the duration of the Subcontract, provide cover damage to property (including third party property damage) in relation to motor vehicles operated by the Subcontractor in the performance of the WUS. The Subcontractor must also maintain a Compulsory Third Party insurance policy in relation to vehicles owned or operated by the Subcontractor as required by law.

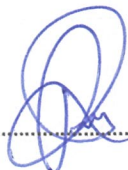
13.5 General insurance requirements

- (1) The Subcontractor must effect and maintain all insurances on reasonable terms and with insurers which are registered with the Australian Prudential Regulation Authority and have no less than an A- credit rating from Standards and Poor's (or equivalent).
- (2) The Subcontractor must, prior to the commencement of the WUS and whenever subsequently asked by the Contractor, furnish to the Contractor evidence in the form of certificates of currency that the insurance policies identified in this clause remain current.
- (3) If the Subcontractor fails to provide the certificates of currency the Contractor may (without limiting any other right or remedy) effect the policies and recover the costs of doing so from the Subcontractor as a debt due and payable. The Subcontractor is liable for and must pay all deductibles or excesses payable under a policy of insurance required to be effected or maintained by the Subcontractor under the Subcontract.

14 Intellectual property rights and confidentiality

14.1 Intellectual Property Rights

- (1) The Subcontractor must not use any Intellectual Property Right owned or used by the Contractor for any purpose whatsoever except for the performance of its obligations under the Subcontract.
- (2) The Subcontractor warrants that any documents, design or method of working it provides the Contractor for use in connection with the Subcontract will not infringe any Intellectual Property Rights of any third party.
- (3) The Subcontractor grants the Contractor:
 - (a) ownership of any Intellectual Property Rights in any documents, design or method of working the Subcontractor provides the Contractor for use in connection with the WUS immediately upon first use or creation; and
 - (b) an irrevocably, transferrable, royalty free licence to use any pre-existing Intellectual Property Rights for any purpose whatsoever relating to the WUS or the Project.

INITIAL  AJG

14.2 Confidentiality

- (1) The Subcontractor must keep confidential and must not divulge or disclose the existence or terms of this Subcontract or any of the information provided to it by the Contractor or any documents created by the Subcontractor in relation to the WUS unless:
 - (a) any such information is already lawfully in the public domain;
 - (b) it is required to be disclosed by a Legislative Requirement is;
 - (c) it is disclosed to the Subcontractor's solicitor, accountant or other professional advisors or to the Subcontractor's subcontractors or suppliers for the purpose of carrying out the WUS under a corresponding obligation of confidentiality.
- (2) The Subcontractor must promptly enter into any confidentially agreement reasonably required by the Contractor in relation to the WUS to give effect to the obligations in this clause.

14.3 Indemnity

The Subcontractor indemnifies the Contractor against any loss, claim, liability, action, cost or damages suffered or incurred arising out of or in connection with any breach by the Subcontractor of its obligation or warranties under this clause 14.

15 Payment

15.1 Claim for Payment

- (1) The Subcontractor is not entitled to submit a claim for payment (and no Reference Date arises) if the Subcontractor has not provided to the Contractor:
 - (a) evidence of insurance in accordance with the Subcontract;
 - (b) security to the Contractor under clause 4; and
 - (c) a statutory declaration declaring that all employees, subcontractors and suppliers have been paid all amounts owing to them dated no earlier than 1 Business Day before the date of a claim for payment.
- (2) The Subcontractor may submit a claim for payment in accordance with the time frame in Item 14 up until Completion and once within 10 Business Days after Completion. Those times for making a claim for payment are the only Reference Dates under the Subcontract
- (3) Claims for payment must be based on the value of the WUS completed at the time and supported by appropriate evidence.
- (4) The Subcontractor must, as a condition precedent to receiving payment, provide any information or documentation in support of its payment claims reasonably requested by the Contractor; and each payment claim must be in the form of, or have attached to it, a tax invoice.
- (5) The Subcontractor is not entitled to claim payment for any goods or materials not incorporated into the WUS at the Site.

15.2 Payment Schedules

- (1) The Contractor must issue the Subcontractor a payment schedule within the later of:
 - (a) 15 Business Days of receipt of the claim for payment made in accordance with subclause 15.1; or
 - (b) if a longer period would, without reference to the time period in clause 15.2(1)(a), be allowed under the Security of Payment Act that longer period,
- (2) Provided the Subcontractor has issued the Contractor a valid tax invoice for the amount in the payment schedule under 15.2(1) the Contractor must pay the amount stated within 25 Business days from Reference Date stated in Item 14.
- (3) Neither a payment schedule, payment of money or acceptance of payment will be evidence that the relevant WUS has been carried out satisfactorily. Payment is on account only.
- (4) In consideration of the Contractor making the final payment to the Subcontractor and releasing any retention owed to the Subcontractor at the end of the Defects Liability Period, the Subcontractor releases the Contractor from all claims and actions and agrees that the Subcontractor has No Claim arising out of or in connection with this Subcontract or the WUS.

15.3 Set-off

Without prejudice to any other rights whether under the Subcontract or at law, the Contractor may set-off or deduct from any amounts due to the Subcontractor under the Subcontract (including any amounts certified by the Contractor for payment to the Subcontractor), or any security or retention moneys, any amount due or which the Contractor reasonably asserts is or will be due from the Subcontractor to the Contractor in connection with the WUS.

16 Indemnity

- (1) The Subcontractor indemnifies the Contractor against:
 - (a) any liability to or claim by a third party (including the subcontractor's Associates); and
 - (b) all costs, charges, expenses (including in connection with advisors), fines, penalties, losses and damages suffered or incurred by the Contractor (Costs),arising directly or indirectly out of or in connection with any wilful or negligent act or omission or breach of this Subcontract by Subcontractor or the Subcontractor's Associates.



AJG

INITIAL

- (2) The indemnity in this clause 16:
 - (a) will be reduced proportionally by the extent that a negligent act or omission of breach of this Subcontract by the Contractor has contributed to the liability, claim or Costs; and
 - (b) survives the completion of the WUS or termination of this Subcontract.
- (3) It is not necessary for the Contractor to incur or suffer the liability, claim or Costs or make payment before enforcing a right of indemnity under this Subcontract.
- (4) The Subcontractor remains fully liable for the WUS notwithstanding:
 - (a) that the Subcontractor subcontracts any part of the WUS;
 - (b) the Contractor reviews, approves or comments on the WUS or any documents (or fails to review, approve or comment on the WUS or any documents); or
 - (c) any insurances effected by the Subcontractor.

17 Notification of Claims

- (1) The Subcontractor must give written notice to the Contractor as soon as possible after becoming aware of any right to make any claim against the Contractor in connection with this Subcontract or the WUS.
- (2) The written notice under clause 17(1) must include an outline of the basis of the claim and the quantum of the claim.
- (3) If the Subcontractor does not make the claim strictly in accordance with the time prescribed under this Subcontract for that type of claim, or if no time is prescribed, within 10 Business Days of when a competent and experienced contractor ought reasonably have become aware of the right to make a claim, the Subcontractor will have No Claim in relation to the subject matter of the claim.

18 Termination

18.1 Termination for Breach

- (1) If a party (First Party) commits a breach of the Subcontract, the other party (Second Party) may give the First Party a written notice expressly referencing this clause 18.1 requiring the First Party to show cause why the Second Party should not exercise its right to terminate the Subcontract under this clause and state the date and time by which cause must be shown (which must be not less than 7 days after the notice is given).
- (2) If the First Party does not show reasonable cause by the date and time required then:
 - (a) if the First Party is the Contractor the Subcontractor may by written notice:
 - a. suspend the WUS; and
 - b. if the breach is not remedied within 14 days after the suspension is commenced, by written notice to the Contractor terminate the Subcontract; or
 - (b) if the First Party is the Subcontractor the Contractor may by written notice:
 - a. terminate the Subcontract; or
 - b. take out of the hands of the Subcontractor the whole or part of the WUS remaining to be completed and suspend payment until it becomes due and payable pursuant to clause 18.5.

18.2 Take out

If the Contractor gives a notice under clause 18.1(2)(b)(B) the Contractor may complete the WUS taken out of the Subcontractor's hands and may:

- (1) use materials, equipment and other things belonging to the Subcontractor intended for the WUS; and
 - (2) subject to payment of reasonable rental for such plant and equipment if they are owned by a third party, without other payment or compensation to the Subcontractor take possession of, and use such of the construction plant and equipment and other things on or in the vicinity of the Site as were used by the Subcontractor; and
 - (3) subcontract with the Subcontractor's subcontractors and consultants (and the Subcontractor may be required to novate those subcontracts to the Contractor),
- as are reasonably required by the Contractor to facilitate completion of the WUS.

18.3 Termination for Insolvency Event

To the extent permitted by law, if an Insolvency Event occurs to a party, the other party may exercise a right in clause 18.1(2) notwithstanding that there has been no breach of Subcontract and without giving a notice to show cause.

18.4 Termination for convenience

The Contractor may, at any time in its absolute discretion elect to terminate this Subcontract by written notice to the Subcontractor. The Subcontractor will be entitled to be paid for WUS completed prior to the date of termination under this clause 18.4 but will otherwise have No Claim in relation to the termination.

18.5 Entitlements following termination

- (1) Upon termination of the Subcontract:

(a) If:

AJG

INITIAL

- a. the Contractor terminates the Subcontract or takes the WUS out of the Subcontractor's hands under clause 18.1; or
- b. the Contractor terminates the Subcontract under clause 18.3 for the Subcontractor's insolvency, and the costs to the Contractor of completing the WUS are greater than the amount that would have otherwise been payable to the Subcontractor under the Subcontract for completion of the WUS, the difference will be a debt due and payable from the Subcontractor to the Contractor once determined;

(b) If:

- a. the Subcontractor terminates the Subcontract under clause 18.1;
- b. the Subcontractor terminates the Subcontract under clause 18.3 for the Contractor's insolvency; or
- c. the Subcontract is terminated by the Contractor for its convenience under clause 18.4

the Subcontractor will be entitled to be paid for WUS completed prior to the date of termination, the reasonable cost of materials and goods reasonably ordered by the Subcontractor for the WUS, which the Subcontractor is legally bound to accept, but only if the materials or goods are delivered to the Site or other place as directed by the Contractor, labelled as directed by the Contractor, and free from any liens, charges, claims and other encumbrances and the Subcontractor's reasonable costs of demobilisation from the Site.

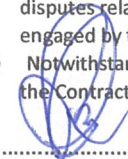
- (2) The Subcontractor has No Claim arising out of or in connection with termination of the Subcontract except as expressly set out in this clause 18.5.

19 Notice and communications generally

- (1) A communication may be given in the following forms and shall be deemed duly given or made in the case of:
 - (a) delivery in person, when delivered;
 - (b) delivery by post:
 - a. in Australia to an Australian address the second (3rd) Business Day after posting; or
 - b. in any other case on the 10th Business Day after posting; or
 - (c) email, at the time shown in an email acknowledgement sent by the receiver to the sender (not the automatic delivery confirmation report generated by the sender's email system), except where the sender receives notice that the email was undelivered or unsuccessful, or receives an out of office notice from the receiver, in which case, the email will not be delivered under the Subcontract.
- (2) Notices of dispute or notices to show cause given under the Subcontract must not be sent by email and such notice, if given in this manner will be deemed invalid.

20 Dispute resolution

- (1) All disputes between the parties in connection with this Subcontract must be resolved as follows:
 - (a) If a party considers that a dispute exists in connection with this Subcontract, that party may give the other party a written notice detailing the nature of the dispute (Notice of Dispute).
 - (b) Upon receipt of a Notice of Dispute, each party must meet at least once within 14 days and otherwise use its best efforts to resolve the dispute.
 - (c) If the parties have not resolved the dispute or agreed an alternate means of resolving the dispute within the 14 days after the Notice of Dispute is served, then either party may commence mediation by giving notice to the other party and referring the matter to the Institute of Arbitrators and Mediators Australia. The Mediation and Conciliation Rules of the Institute of Arbitrators and Mediators Australia will apply to any mediation under this Subcontract and the parties must comply with those rules.
 - (d) If the parties do not resolve the dispute by mediation or within 14 days after conclusion of the mediation conference, then either party may, at its discretion, refer the dispute to litigation.
- (2) If any dispute arises between the parties in connection with any fact, matter or thing that:
 - (a) is the subject of or relates to a dispute between the Contractor and the Principal under the Head Contract; or
 - (b) has been resolved under the dispute resolution process in the Head Contract,
 - (c) then 20(1) does not apply and instead:
 - a. the Subcontractor is bound by the outcome of the dispute resolution process in the Head Contract;
 - b. if the matter is a claim that is passed through from the Contractor to the Principal, the Contractor will (at the request and expense of the Subcontractor) take such steps as are reasonably necessary and available to the Contractor under the Head Contract to endeavour to achieve a resolution of the dispute under the Head Contract that is reasonably satisfactory to the Subcontractor; and
 - c. the Subcontractor must co-operate with and assist the Contractor with the dispute, including by providing the Contractor with documents and any other things that are reasonably required.
- (3) The Subcontractor must provide reasonable assistance to the Contractor (including attending any meetings) to resolve disputes relating to the Project even if it is not part of the WUS (and may include disputes with other subcontractors engaged by the Contractor in connection with the Project).
- (4) Notwithstanding the existence of a dispute, the parties must continue to perform this Subcontract in all aspects except that the Contractor is not obliged to pay an amount in dispute.

INITIAL  AJG

- (5) Nothing in this clause shall prejudice the right of a party to institute proceedings to seek urgent injunctive or declaratory relief in respect of a dispute arising under this Subcontract.

21 Security interest

- (1) All section references in this clause are to sections of the Personal Property Securities Act 2009 (Cth) (Act).
- (2) The parties agree that this Subcontract creates a security interest in favour of the Contractor and that the Contractor may at any time give the Subcontractor notice requiring the Subcontractor to take all steps, to provide all information (including serial numbers) or do any other thing that the Contractor considers necessary or desirable to:
- (a) ensure that this Subcontract (or any related document) or any security interest arising under it, is enforceable against the Subcontractor or any third party;
 - (b) protect, perfect, record or better secure, or obtain or preserve the priority of, the Contractor's security position under this Subcontract (or any related document); or
 - (c) overcome any defect or adverse effect arising from the Act and any regulations under the Act on the Contractor's security position or the Contractor's rights or obligations under or in connection with this Subcontract or any encumbrance or document contemplated by this Subcontract.
- (3) Except if this Subcontract expressly permits the disclosure, the Subcontractor:
- (a) agrees not to disclose any information of the kind mentioned in section 275(1); and
 - (b) to waive any right the Subcontractor has under section 275(7)(c) to authorise disclosure of such information.
- (4) To the extent permitted by the Act the Contractor has no obligation to give any notice statement or copies of any documents under the Act.

22 Taxes and Levies

22.1 GST

- (1) In this clause, any expression used that is defined in GST Legislation has that defined meaning.
- (2) If the supply of goods or services by one party (Supplier) to another party (Recipient) under this Contract is a taxable supply, then the amount due to the Supplier for that supply will be the sum of:
- (a) the amount that is payable under this Contract by the Recipient for that supply (or, if no amount is payable, the value of that supply); and
 - (b) the amount of GST payable by the Supplier in respect of that supply.
- (3) The Recipient's obligation to pay to the Supplier the amount by which consideration is increased under this clause is subject to the Supplier first providing to the Recipient a tax invoice conforming with the requirements of GST Legislation.
- (4) If a party becomes liable for any penalties or interest as a result of a late payment of GST, where that late payment is as a direct result of a failure of another party to comply with the terms of this clause that other party must pay to the first party an additional amount on demand equal to the amount of those penalties and interest.

22.2 Subcontractor must pay

The Subcontractor is responsible for its employees, including their wages or salaries, paid public holidays, annual leave, sick leave, superannuation, PAYE and other taxes, workers' compensation and other insurances and all other obligations arising out of or in connection with the activities of the Subcontractor.

23 General

- (1) The Subcontractor is engaged as an independent Subcontractor to the Contractor in carrying out and completing the WUS and neither the Subcontractor nor its employees are employees or agents of the Contractor.
- (2) The Subcontract is governed by the Governing Law and the parties submit to the exclusive jurisdiction of the Governing Law and the Commonwealth of Australia.
- (3) Except as provided at law, or elsewhere in the Subcontract, none of the terms of the Subcontract will be varied, waived, discharged or released except as agreed by the parties in writing.
- (4) The Subcontract may be executed in counterparts. If executed as counterparts, each party will provide a colour copy of the executed Subcontract to the other party within 3 days of execution.
- (5) This is the entire agreement between the parties about the WUS and supersedes any other agreement, negotiations, correspondence or exchange between the parties.
- (6) This Subcontract applies to the whole of the WUS even if carried out by the Subcontractor prior to the execution of this Subcontract.
- (7) All express warranties given by the Subcontractor under this Subcontract are additional to any warranties or conditions implied by statute or common law.
- (8) The Subcontractor may not assign or novate the Subcontract or any right, benefit or interest under the Subcontract without the prior written consent of the Contractor.



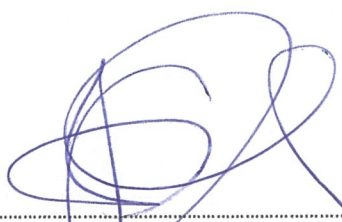
Executed as deed and delivered on the date that the last party signs:

Executed by A Gabrielli Constructions Pty Ltd ABN 29 088 090 279
by its duly authorised officer in the presence of:


.....
Witness

Lucy Muston
.....
Name of Witness (BLOCK LETTERS)

28/03/2023
.....
Date of Signature


.....
Officer on behalf of A Gabrielli Constructions Pty Ltd
ADRIAN GABRIELLI
MANAGING DIRECTOR
.....
Name and Position (BLOCK LETTERS)

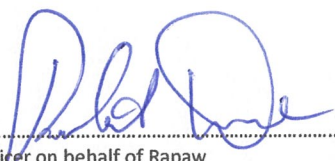
28/03/2023
.....
Date of Signature

Executed by Rapaw ABN 97 158 997 623 by its duly authorised
officer in the presence of:


.....
Witness

GARY POWIS
.....
Name of Witness (BLOCK LETTERS)

24/03/2023
.....
Date of Signature


.....
Officer on behalf of Rapaw
Rob Drane Technical Manager
.....
Name and Position (BLOCK LETTERS)

24/3/23
.....
Date of Signature

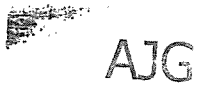
INITIAL  AJG
.....

ANNEXURE A - SUBCONTRACT DETAILS

Item	Description	Details
1.	Subcontract	The Subcontract is comprised of the following documents: - Annexure B – Special Conditions of the Subcontract as attached; - the Subcontract; - this Annexure A - Subcontract Details; - Annexure C – Scope of Work; and - Price / Schedule of Rates, as attached.
2.	Contractor's Representative	
	Name	Adrian Gabrielli
	Address:	336 Woolcock Street, Garbutt QLD 4814
	Email:	contracts@gabrielliconstruction.com
3.	Subcontractor's Representative	
	Name	
	Address:	320 Woolcock Street Garbutt Townsville QLD 4814
	Email:	robert.drane@rapaw.com.au
4.	Site (clause 1.1)	Apex Camp 1 Birt Street
5.	Date for Commencement (clause 1.1)	15 MAR 23
6.	Date for Completion (clause 1.1)	26 JUN 23
7.	Additional requirement for achieving Completion (clause 1.1)	As per Head Contract, Drawings and Specifications.
8.	Events which constitute Delay Events (clause 1.1)	- A variation; - A breach of the Subcontract by the Contractor; - A suspension under clause 14 where the suspension is not caused or contributed by the Subcontractor; - A direction by a Local, State or Federal Government Authority; - Change in a Legislative Requirement occurring after the Date for Commencement.
9.	Head Contract (clause 1.1)	As listed in Annexure C Part 3B

INITIAL  **AJG**

Item	Description	Details
10.	Amount & form of security (clause 4)	Retention (retained at a maximum of 10% of each payment made to the Subcontractor until 5% of the Subcontract Price and any deductions which may be required to be made under the Subcontract is retained); or Two unconditional and irrevocable bank guarantees each for 2.5% of the Subcontract Price. Bank guarantees with expiry dates are not accepted without prior approval.
11.	Rate of Liquidated Damages (clause 9.4)	\$150 per day
12.	Defects Liability Period (clause 12)	Until the later of: • 1 year after the Date of Completion; or • expiry of the defects liability period under the Head Contract.
13.	The amount of public liability insurance (clause 13.2)	\$20,000,000.00 each occurrence.
14.	Time to submit claims for payment (clause 15.1)	25 th of the Month <i>(if blank, the last business day of each calendar month)</i>
15.	Governing law (clause 1.1)	Queensland <i>(if blank, the State or Territory in which the WUS are to take place.)</i>

INITIAL  

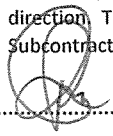
ANNEXURE B – SPECIAL CONDITIONS

24 Design

- (1) The Subcontractor warrants that any design carried out under the Subcontract will be fit for its intended purpose and will be in accordance with the requirements set out in the Subcontract and that the WUS, when Complete will be fit for their intended purpose.
- (2) The Subcontractor must ensure that the design is submitted to the Contractor for review in accordance with any program provided and in any event within sufficient time so as not to delay the carrying out of th WUS.
- (3) The Contractor may (but is under no obligation to) review and provide feedback on the Subcontractor's design and require changes to the design so that it complies with the requirements of the Subcontract. The Subcontractor must amend the design accordingly unless the Subcontractor promptly notifies the Contractor in writing that doing so would result in:
 - (a) the WUS not complying with the Subcontract; or
 - (b) the Subcontractor not being unable to comply with the Subcontract.
- (4) The Subcontractor must not carry out any construction work in relation to the design unless the Contractor has:
 - (a) reviewed the design and advised that the Contractor has no comments; or
 - (b) advised the Subcontractor that it does not wish to review the design.
- (5) The Subcontractor must provide the Contractor with copies of any design and inspection certificates required by the Subcontract in relation to the design.
- (6) The Subcontractor must effect and maintain professional indemnity insurance and the provisions of clause 13.5 will also apply to this insurance. Such insurance must provide for cover of \$insert per occurrence and in the annual aggregate and be maintained for the period of the Subcontract and then for 7 years after the Completion of the WUS.
- (7) The Subcontractor must provide an appropriate consent under Part IX of the Copyright Act 1968 (Cth) from each person engaged by the Subcontractor who contributed to the creation of any design in which copyright exists in the form required by the Head Contract or if no form is prescribed in a form reasonably acceptable to the Contractor.

25 Head Contract

- (1) The Subcontractor acknowledges that the Head Contract is available for review by the Subcontractor at the office of the Contractor upon request and the Subcontractor warrants that it has carried out the necessary review of the Head Contract to understand the requirements for the WUS.
- (2) To the extent that the provisions of the Head Contract (including all documents, drawings, specifications, schedules, annexures and attachments that comprise the Head Contract) relate to or are applicable to the performance or administration of that part of the work under the Head Contract that comprises the WUS, such provisions are by reference incorporated into this Subcontract as if references to the Principal were references to Contractor and references to Contractor were references to the Subcontractor. The incorporation of such provisions in this Subcontract only applies if they:
 - (a) require the Sub confer on the Contractor a right or power,
 - (b) contractor to observe, perform and comply with an obligation; orand do not detract from the Contractor's rights or powers or the Subcontractors obligations, in this Subcontract. If the Head Contract includes references to any third party involved in its administration (for example a superintendent or Principal's representative), such references are to be read as references to the Contractor
- (3) Where the requirements of the Head Contract are inconsistent with or differ in any way from the requirements (including but not limited to the time frames for lodging notices or claims) under this Subcontract, the requirement which places the higher or stricter obligation on the Subcontractor will prevail to the extent of any inconsistency.
- (4) Notwithstanding anything contained above, if the Subcontractor complies with its requirements under this clause, but in doing so does not allow the Contractor sufficient time to take appropriate steps under the Head Contract to protect its interest in respect of the claim, then Subcontractor shall be considered to have breached this clause, and clause 25(6) will apply. Without limiting this clause, if the Head Contract provides that a notice or claim must be lodged with the Principal by a certain time, then the Subcontractor shall provide such a notice or claim to Contractor in the form and containing the details required under the Head Contract, at least 2 business days before the date on which the Contractor must lodge the claim under the Head Contract.
- (5) To the extent permitted by law, if the Subcontract provides a right or entitlement to the Subcontractor which the Contractor is not provided under the Head Contract, or which is restricted or limited under the Head Contract, then the corresponding right or entitlement under this Subcontract shall be similarly limited, so that:
 - (a) the Subcontractor shall not at any time have a right against the Contractor which the Contractor does not have against the Principal under the Head Contract;
 - (b) that Contractor does not at any time have a right or entitlement under the Head Contract which is of lesser effect than the right of the Subcontractor against the Contractor.
- (6) The Subcontractor is barred from making any claim against the Contractor in respect of which the Subcontractor has not complied with this clause.
- (7) If the Head Contract allows the Principal or another party to give a direction directly to the Subcontractor, then the Subcontractor must comply with the direction to the extent required by the Head Contract and must immediately notify the Contractor of the direction. The giving of such notice will not entitle the Subcontractor to any extension of time or additional cost, and the Subcontractor must still comply with the provisions of this Subcontract in relation to claims.

INITIAL  

ANNEXURE C – SCOPE OF WORK & SUBCONTRACT PRICE

(1) Scope of Work

To supply materials, equipment, plant, and labour to complete the design and construct and associated works for the Magnetic Island Treatment Plant as per but not limited to drawings, specifications, addenda, Purchase Order 38956, Construction Program, Schedule 1.

(2) Subcontract Price

\$680,000.00 GST Exclusive

(3) Documents incorporated into this Subcontract

- | | |
|------------------------------------|--|
| (a) This Subcontract Document | 23001 / 38956 |
| (b) Special Conditions of Contract | Head Contract Between A Gabrielli Constructions Pty Ltd and the Principals -in respect of the Project Magnetic Island Treatment Plant ("the Head Contract"). |
| (c) Specification(s) marked | SharePoint web-based document control system to be used for document management. |
| (d) Drawings | SharePoint web-based document control system to be used for document management. Drawings as per Drawing Transmittal dated 15/03/2023 and revised drawings as updated by A. Gabrielli Constructions. |
| (e) Construction Program | Specific contract works are as scheduled as per A Gabrielli Constructions Program which is attached. Program will be updated via Aconex web-based document control system. |
| (f) Other Documents | All Form 16's, and/or other Forms eg.(Floor Covering- Fire Indices Test Reports, Hydraulics - Test Flow Reports) as requested by Building Certifier. Operation and Maintenance Manuals including product care and maintenance, warranties and guarantees, "As Constructed" drawings are to be provided as requested. All documentation to be presented in the format provided by AGC. NO final payment will be released until ALL documentation has been received and is completed as required to comply with the Client and Building Certifier. |

INITIAL



AJG

FORM - PURCHASE ORDER



ACN: 088 090 279 ABN: 29 088 090 279
 336 WOOLCOCK STREET, GARBUTT
 PO BOX 8143 GABUTT QLD 4814
 PHONE: 07 4725 1100 FAX: 07 4725 4800

ORDER NUMBER		38956	
SUPPLIER:		Rapaw	
PROJECT:		Magnetic Island Treatment Plant	
DELIVERY ADDRESS:		38-56 Wansfell Street	
DATE:	15/03/2023	DATE REQUIRED BY:	

QTY	DESCRIPTION	UNIT PRICE
	Attention: Robert- 0499 900 404 SUBCONTRACT AGREEMENT TO FOLLOW To supply materials, plant equipment and labour to complete the design and construct and associated works for the Magnetic Island Treatment Plant project as per but not limited to entire set of drawings, specifications, and addenda 1 & 2. Including but not limited to: - Schedule 1 – Design and Construct - Drawing Transmittal Dated: 15/03/2023 - RFQ Subcontract Agreement - Construction Program - Start Date: 15/03/2023 - Finish Date: 26/06/2023 CONTRACT SUM Payment terms as per Subcontract Agreement Project Foreman – Gary Powis- 0447 401 849 Must confirm start/finish date and all other onsite conditions and requirements with Site Foreman prior to commencement of works. Cost Code 10-01	\$ 680,000.00 + GST

CONDITIONS

- All packages must include a delivery docket or show order number on parcels
- Order number must appear on delivery dockets, invoices etc.
- Materials and machinery must be adequately packed for transit.

Per 

Per 

PURCHASE ORDER	Document No.: FIN01-FORM-09	Version No.: 1A
Release Date: 12 JANUARY 2017	Uncontrolled if Printed	Page 1 of 1

FORM

SCHEDULE 1 – Design and Construct

Subcontractor: Rapaw
Project: Magnetic Island Treatment Plant
Date: 15/03/2023
Purchase Order #: 38956

1. To supply all materials, plant, equipment and labour to complete the design and construct and associated works for the Magnetic Island Treatment Plant Project as per but not limited to drawings and specifications including Architectural, Electrical, Hydraulic, Mechanical, Structural, Civil, Mark Ups, Architect Instructions/Directions on the Aconex Project Directory including Addenda.
2. As per drawing transmittal dated 15/03/2023
3. PROJECT SCOPE - Subcontractor is responsible for, including but not limited to, the following:
 - a. Design and construct a new Sewage Treatment Plant to replace the existing septic system to meet statutory requirements and treatment technology addressing at Magnetic Island APEX Camp as per specifications and documentation including but not limited to:
 - i. Design
 - o Design shall be prepared by RPEQ Engineer in accordance with NATSPEC and relevant industry standards.
 - o An independent RPEQ engineer (independent to the subcontractor) must review and certify the plant treatment process design.
 - o Design and achieve the following:
 - EQ Conditions
 - Recycled water legislation including table 10 of tender scope of works.
 - As per tender specifications and scope of works.
 - Statutory requirements and project objectives
 - Onsite sewage design
 - Onsite wastewater management report for application of ERA 63
 - o UV Disinfection / Residual chlorination / Control systems / monitoring requirements/ instrumental & alarms / storage tanks/ pumping systems.
 - o Electrical- determine the point of supply and capacity of existing main switchboard to accommodate new supply.
 - o Develop a recycled water solution for the beneficial reuse of surplus treated effluent.
 - o Plumbing approval
 - o Provision of all required documentation including:
 - Project schedule and methodology
 - Design management plan / project plan
 - Project specific operational risk assessment
 - Environmental management plan
 - Concept design-
 - Drawing- process diagram, site layout, MEDLI modelling etc.
 - Design report – outlining.
 - Detailed design-
 - Drawings- Hydraulic, Civil, Electrical, SLD's Process diagram, site layout, MEDLI modelling etc.
 - Design report- outlining assumptions, basis of design, functional specification.
 - Safety in design
 - Commissioning Plan
 - Draft end user agreement
 - Process proving plan.
 - ii. Provision of fully functional and fitted out wastewater treatment plant.
 - iii. Design, supply & installation of all required services including but not limited to
 - o Hydraulics / Mechanical / Process - Storage tanks, pipework and associated fittings, flowmeters, valves, pumps, including all excavation / civil works as required.
 - o Electrical / Programming / Process controls etc - Electrical infrastructure, switchboards / distribution boards, PLC, cabling, conduits etc to complete system.
 - iv. Instrumentation, analysers, programming, monitoring & controls, all required software to operate system.
 - v. Evapotranspiration system, irrigation, irrigation infrastructure, vegetation
 - vi. All commissioning and process proving.
 - vii. All plant and equipment to complete works including crange, access equipment etc.

SCHEDULE 1	Document No.: CON17-FORM-08	Version No.: 2
Release Date: 14 August 2018	Uncontrolled if Printed	Page 1 of 3

FORM
SCHEDULE 1 – Design and Construct

- viii. Training
 - ix. Certification of design and construction (form 15, form 12) etc.
 - x. Works by AGC
 - o AGC to provide we 5t excavator (with operator) to work under direction of subcontractor as required for the project.
 - xi. All works as detailed on all drawings and specifications
 - b. Provide Fire Rated Penetrations as relevant to scope
 - c. Provide samples and tech data as required
 - d. Subcontractor to confirm the location of services on site.
 - e. Subcontractor is deemed to have visited site to ascertain conditions and accessibility.
 - f. Subcontractor is responsible for confirmation of quantities and site measurements relevant to the scope of work.
 - g. Provision to complete works out of hours if required.
 - h. Protection of all Subcontractor's scope of works in progress and protection of existing infrastructure by Subcontractor.
 - i. Repair works and/or reinstate works where any damage or defect is found to be attributed to Subcontractor.
 - j. Provide all fuel and include all disposables
 - k. Allowance for unlimited number of mobilisation and demobilisation occurrences.
 - l. Subcontractor shall coordinate with all other relevant trades and suppliers and refer to all other drawings and specifications to confirm entire scope of works.
 - m. Subcontractor to remove their own rubbish from site and carry out periodic cleaning of site affected by Subcontract works of Subcontractor. Failure to clean site will result in a back charge when others clean up rubbish caused by Subcontractor.
4. PLANT & EQUIPMENT - Subcontractor is responsible for, including but not limited to, the following:
- a. Subcontractor is responsible for supplying their own huts and crib rooms for workers.
 - b. Supply scaffolding and/or edge protection as required
 - c. Provide plant, and/or access equipment and competent operators to carry out the scope of work
 - d. Subcontractor is responsible for supply and maintenance of all access equipment including but not limited to Elevated work platforms, ladders, mobile scaffold, work platforms, etc.
 - e. All plant and equipment supplied by the Subcontractor must be maintained in a state fit for purpose.
 - f. Supply barricading, shoring, flagging as required
 - g. Provide signage, warning tapes and other identification as relevant to scope
 - h. Maintain control of all required deliveries, materials, equipment and plant on and off site.
5. HSEQ - Subcontractor is responsible for, including but not limited to, the following:
- a. All PPE required including, long pants, long sleeve shirt, hardhat, steel cap boots and all items outline in SWMS
 - b. Subcontractor is responsible for adhering to A. GABRIELLI CONSTRUCTIONS site specific induction
 - c. Attend site meetings (progress/safety meetings, design meetings and coordination meetings) as required
 - d. Sign off on completion of work on ITP (Inspection Test Plan) held by A. Gabrielli Constructions Site Foreman
 - e. All works must be carried out to current NCC (formerly BCA), Building Act 1975, Building Application Decision Notice, Workplace Health and Safety Act, Workplace Health and Safety Regulations, Rail Safety Act, Electrical Safety Act, Australian Standards, Local Authority Requirements, Queensland Development Codes, Manufacturers Recommendations and Specification. The current National Construction Code (NCC) is available via <http://www.abcb.gov.au/Resources/NCC>
 - f. All Contractors to adhere to COVID19 Safe Management Plan & practice social distancing
 - g. Provide the following documentation prior to commencing on site;
 - i. Details of supervision, Subcontractor to advise A. Gabrielli Constructions who is the site contact person with contact information
 - ii. Provide copies of certificates of competency.
 - iii. All work must be in compliance with all required authorities for this project.
 - iv. Work Method Statements/JSEA's for works being carried out onsite must be provided for review PRIOR to commencing onsite.
 - v. List of hazardous substances to be used
 - vi. Copies of SDS' and associated risk assessments
 - vii. Development and submission of Inspection and test plans for approval prior to commencement of work
 - viii. Register of electrical equipment.
 - ix. List of plant and equipment to be used, including registration details and serial numbers.
 - x. Details of inspection, testing and maintenance procedures.
 - xi. Risk assessments for plant (if being used onsite).
 - xii. Details of incident investigation and injury management procedure.
 - xiii. Details of any toolbox talks or prestart talks to be undertaken.

SCHEDULE 1	Document No.: CON17-FORM-08	Version No.: 2
Release Date: 14 August 2018	Uncontrolled if Printed	Page 2 of 3

FORM
SCHEDULE 1 – Design and Construct

6. INSURANCES – the following insurances must be provided PRIOR to commencing onsite;
 - a. WorkCover
 - b. Public Liability Insurance not less than \$20 million
 - c. Professional Indemnity
7. VARIATIONS & PAYMENTS
 - a. No variations shall be paid unless approved by the client
 - b. No variation shall be given due to contractor's failure to coordinate with other contractors or view all drawings and specifications to confirm their entire scope of works.
 - c. All variations to be submitted in the approved format i.e.
 - i. Breakup between labour and materials.
 - ii. Timesheets signed by the nominated A. GABRIELLI CONSTRUCTIONS representative using agreed schedule of rates
 - iii. Other substantiation (photos, receipts etc)
 - iv. Agreed margin on materials – 10%
 - d. Payment claims to be submitted by the 25th of each month including details of total man hours with breakdowns of apprentice and indigenous hours undertaken
8. HANDOVER - Subcontractor is responsible for, including but not limited to, the following:
 - a. Undertake training and/or handover with the Client if required
 - b. Submission of all handover documentation as per template provided by AGC, including but not limited to; Project Directory, General Description of Works, Equipment Descriptions, Maintenance Periods & Procedures, Manufacturers Literature, Warranties, Guarantees, Quality Assurance & Certification, Form 15, Form 16, Electrical Safety Certificates, Fire Indices.
 - c. Fire rated penetration register and certification as relevant to scope
 - d. Supply 'As Constructed' Drawings in both PDF and DWG Format. The drawings shall be to scale and drawn in a professional manner using a CAD drafting package fully compatible with the latest version of AutoCAD.
9. DOCUMENT CONTROL & CORRESPONDENCE
 - a. Subcontractor is required to use Aconex document storage and transmittal system for ALL project correspondence. Training is provided via arrangement with A. GABRIELLI CONSTRUCTIONS (free of charge) and Aconex will also provide assistance directly.
 - b. For all correspondence in Aconex please direct the following to the indicated personnel:
 - i. Variations & RFIs – Bernie Travers, Jennifer Bojocan, Lucy Muston, Kris Williams
 - ii. Invoicing and claims – Caroline Burgess
 - iii. Safety Documents – Bernie Travers, Lucy Muston, Jennifer Bojocan
10. CONSTRUCTION PROGRAM
 - a. Onsite start date is 15/03/2023 and finish date is 26/06/2023 or as directed by A. Gabrielli Constructions and/or Site Foreman Gary Powis- 0447 401 849.
 - b. Subcontractor Must confirm all start and finish dates with Site Foreman.
 - c. The construction program forms part of this contract and failure to achieve the program times may result in A. Gabrielli Constructions taking action to recover resultant damages.
11. PRICE BREAKDOWN
 - a. Lump Sum \$ 680,000.00 + GST

SCHEDULE 1	Document No.: CON17-FORM-08	Version No.: 2
Release Date: 14 August 2018	Uncontrolled if Printed	Page 3 of 3