

CPCBC4003

SELECT, PREPARE AND ADMINISTER A CONSTRUCTION CONTRACT

PRACTICAL ASSESSMENT

Participant name	Lucy Muston
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FOR THE PARTICIPANT
Instructions - The tasks outlined on the following pages will require performance of normal workplace activities, as a result of a structured activity set by an Observer in the workplace or a simulated activity set by your Assessor/Observer. - The timeframe for these tasks will be established by your Assessor/Observer, in consideration of location conditions and industry requirements. - You must complete all tasks unassisted by the Assessor or other personnel, unless the steps note this assistance. - You must attempt all tasks (and itemised steps) for a 'Satisfactory' assessment outcome to be awarded. - For any observation conducted that is incomplete, or without satisfactory performance, the observation will need to be completed again after further training support.

FOR THE ASSESSOR/OBSERVER
Instructions - The following observation record should be used to judge and record your observations of the Participant as they complete the task(s) set. You must record your observations of the Participant's performance. - For each occasion, indicate the task performed and whether it was a simulation or workplace-based task. - Any simulated assessment must ensure the Participant still performs under workplace conditions which reflect industry standards. - In the comments, provide clear detail regarding the task that the Participant was required to do (e.g. PPE used, materials handled, attachments connected, plant types). - All steps must be satisfactorily demonstrated by the Participant for a 'Satisfactory' determination (indicated by an Assessor tick to the right of each itemised step, or an Observer tick to the right of each itemised step, and confirmation by an Assessor in the Assessor Comments). - Where you have determined that one or more task steps have not been satisfactorily demonstrated, provide the Participant with additional support and outline details of such assistance in the Assessor/Observer Comments. Allow the Participant two (2) further opportunities to demonstrate the task again to allow an opportunity for a 'Satisfactory' assessment outcome to be achieved. - If after three (3) attempts the Assessor determines that the Participant cannot demonstrate the required steps, a 'Not Satisfactory' outcome is to be determined.

TASK OUTCOME					
Task	Date	Task Type (Tick)	Location	Task outcome (Tick)	
				Satisfactory	Not Satisfactory
Task 1	Select Date.	☐ Workplace ☐ Simulation		☐	☐

ASSESSOR COMMENTS: GENERAL**As necessary, outline:**

- Details on reattempts, alternative arrangements or reasonable adjustments made.
- Where a Participant is deemed 'Not Satisfactory', provide recommendations for future training.

ASSESSOR COMMENTS: PRACTICAL TASK 1
☐ Individual student (as named on cover page)

☐ Multiple students [☐ All from Attendance Report, ☐ Specific students involved – identify students]

Task	Provide detail
1.1A. 1.1B. 1.2C.	Specify types of contract reviewed and how it was determined the most suitable to the project:
1.1A. 1.1B.	Specify the class of construction project requiring a contract:
1.1D.	Specify circumstances the participant outlined that constitute a breach of contract:
1.1D. 1.2E.	Specify circumstances the participant outlined that constitute a termination of the contract:
1.1E.	Specify how the participant confirmed legislative requirements have been met when using this contract:
1.2B.	Specify how the participant verified the owner capacity to form a binding agreement:
1.2D.	Specify documents prepared and compiled to determine contract details:

ASSESSOR COMMENTS: PRACTICAL TASK 1	
1.3A. 1.3B.	Specify how the participant clarified and confirmed details of the contract with the owner to resolve discrepancies or disagreements:
1.3B. 1.3D.	Specify who the participant consulted when preparing the contract draft:
1.4B.	Specify how the participant monitored price and time variations:
1.4B. 1.4E. 1.4F.	Specify which parties were negotiated with to resolve contract anomalies:
1.5E.	Specify how documents were developed, stored securely, during and post contract:

CPCCBC4003

SELECT, PREPARE AND ADMINISTER A CONSTRUCTION CONTRACT

Practical Task 1

Description of task:

The participant must select an appropriate contract for a construction project and prepare and administer this contract, providing the assessor with copies of documents used and observer comments as evidence, including:

- Identify and analyse business contracts.
 - Review different building and construction contracts and select the correct contract by analysing identified legislative requirements and construction type and determine legal requirements.
 - Locate a standard contract document and read the elements, terms, sections and clauses to determine relevance to the agreement.
 - Review the rights, obligations and liabilities of all parties.
 - Consider the job and determine and analyse circumstances that constitute a breach of contract and factors involved in contract termination.
 - Confirm legislative requirements and procedures are met.
- Select appropriate contract.
 - Make an offer and receive acceptance to create a legal relationship in the form of a contract.
 - Confirm the owner capacity to form a binding agreement. (direct and clear communication, witness signature, legally able to enter into a contract).
 - Select the contract appropriate to the type of construction.
 - Prepare and compile the range of documents that collectively make up the contract.
 - Determine and document requirements for contract termination and special conditions agreed by all parties.
- Prepare the contract.
 - Clarify and confirm details with owner to resolve discrepancies or disagreements.
 - Prepare selected contract draft with details, in consultation with relevant personnel and in accordance with the accepted processes of workplace and legal requirements. (*Policies and procedures checklist - HO1*)
 - Determine and schedule progress payments, including processes for applying for extension of time.
 - Consult with legal representative to ensure legality and validity of the draft contract.
 - Prepare the final contract following workplace legal process. (*Policies and procedures checklist - HO1*)
- Administer the contract.
 - Administer the contract following legal and regulatory requirements and to workplace standards. (*Policies and procedures checklist - HO1*)
 - Monitor price and time variations and negotiate with various parties to resolve contract anomalies.
 - Process applications for EOT in accordance with workplace policies and contract conditions.
 - Process progress payments accurately as due under the contract.
 - Act to minimise liquidated damages or penalties nominated in the contract.
 - Administer contract, resolving disputes in accordance with contract, legislation and regulations.
 - Assess conditions for issuing a final certificate. (*Final Certificate checklist - HO2*)
- Finalise a contract.
 - Apply processes to document practical completion of the contract. (*Practical completion checklist – HO3*)
 - Finalise defects liability under a building or construction contract. (*End of Defects Liability Checklist- HO4*)
 - Finalise contract in accordance with relevant legislation and contract provisions. (*Final Certificate checklist – HO2*)
 - Collect contract and final inspection documentation and issue completion certificate.
 - Complete and secure documentation arising from finalisation of a contract for records purposes.

These tasks may be simulated or real. 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. The Observer is to provide detailed comments on the tasks completed by the Participant (on the Observer Comments, overleaf). The Assessor is to verify the Observer's comments, noting their findings in the Assessor Comments (on the back of the Practical Assessment cover page) and provide the assessment outcome.

Resources required:

Access to construction industry contracts, construction drawings & specifications, client, workplace policies, procedures and quality documentation, access to legal representation, PC, digital devices, applications and software to transmit and receive information electronically, access to legislated requirements, building and construction codes and standards.

Observer details	
Name of observer:	BERNARD TRAVERS
Role of observer (Confirm suitability to sign)	PROJECT MANAGER
Email address of observer	BERNIE@GABRIELCONSTRUCTION.COM
Signature of observer:	
Date:	Select Date. 2.10.2024

When completing the task, did the Participant:	Tick if satisfactorily completed. Provide comments if left unticked.
1 Identify and analyse business contracts.	
1.1A. Review different building and construction contracts and select the correct contract by analysing identified legislative requirements and construction type and determine legal requirements.	☒
1.1B. Locate a standard contract document and read the elements, terms, sections and clauses to determine relevance to the agreement.	☒
1.1C. Review the rights, obligations and liabilities of all parties.	☒
1.1D. Consider the job and determine and analyse circumstances that constitute a breach of contract and factors involved in contract termination.	☒
1.1E. Confirm legislative requirements and procedures are met.	☒
2 Select appropriate contract.	
1.2A. Make an offer and receive acceptance to create a legal relationship in the form of a contract.	☒
1.2B. Confirm the owner capacity to form a binding agreement. (direct and clear communication, witness signature, legally able to enter into a contract).	☒
1.2C. Select the contract appropriate to the type of construction.	☒
1.2D. Prepare and compile the range of documents that collectively make up the contract.	☒
1.2E. Determine and document requirements for contract termination and special conditions agreed by all parties.	☒
3 Prepare the contract.	
1.3A. Clarify and confirm details with owner to resolve discrepancies or disagreements.	☒
1.3B. Prepare selected contract draft with details, in consultation with relevant personnel and in accordance with the accepted processes of workplace and legal requirements. (Policies and procedures checklist – HO1)	☒
1.3C. Determine and schedule progress payments, including processes for applying for extension of time.	☒
1.3D. Consult with legal representative to ensure legality and validity of the draft contract.	☒
1.3E. Prepare the final contract following workplace legal process.	☒
4 Administer the contract.	
1.4A. Administer the contract following legal and regulatory requirements and to workplace standards. (Policies and procedures checklist – HO1)	☒

When completing the task, did the Participant:	Tick if satisfactorily completed. Provide comments if left unticked.
1.4B. Monitor price and time variations and negotiate with various parties to resolve contract anomalies.	☒
1.4C. Process applications for EOT in accordance with workplace policies and contract conditions. (<i>Policies and procedures checklist – HO1</i>)	☒
1.4D. Process progress payments accurately as due under the contract.	☒
1.4E. Act to minimise liquidated damages or penalties nominated in the contract.	☒
1.4F. Administer contract, resolving disputes in accordance with contract, legislation and regulations.	☒
1.4G. Assess conditions for issuing a final certificate. (<i>Final Certificate checklist – HO2</i>)	☐
5. Finalise a contract	
1.5A. Apply processes to document practical completion of the contract. (<i>Practical completion checklist – HO3</i>)	☒
1.5B. Finalise defects liability under a building or construction contract. (<i>End of Defects Liability Checklist – HO4</i>)	☒
1.5C. Finalise contract in accordance with relevant legislation and contract provisions. (<i>Final Certificate checklist – HO2</i>)	☒
1.5D. Collect contract and final inspection documentation and issue completion certificate.	☒
1.5E. Complete and secure documentation arising from finalisation of a contract for records purposes.	☒

Observer comments:

LUCY DEMONSTRATES THE CORE CONTENTS OF THIS MODULE IN HER CURRENT ROLE IN OUR BUSINESS.

Policies and Procedures Checklist

Participant name:	Lucy Muston
Date:	19/08/2024
Policies and procedures reviewed:	Yes

Checklist item	Yes/No	Comments
Workplace has in place policies to prevent delays.	☒ Yes ☐ No	The company has established and implemented comprehensive policies aimed at preventing delays in work processes. These policies include clear project timelines, effective communication channels, regular progress tracking, and contingency planning for unforeseen obstacles. By ensuring these measures are in place, the organisation can maintain operational efficiency and meet project deadlines consistently.
Workplace has in place policies against changes in the scope of work.	☒ Yes ☐ No	The company has implemented strict policies to manage and control changes in the scope of work. These policies require detailed project scopes to be defined and agreed upon at the outset, with any proposed changes undergoing a thorough review and approval process. This ensures that all stakeholders are aware of the implications of scope changes and helps maintain project focus, budget adherence, and timely delivery.
Workplace has in place policies for ensuring work conditions are consistent with contract agreements.	☒ Yes ☐ No	The organisation has established robust policies to ensure that work conditions align with contract agreements. These policies include regular audits and reviews of work conditions, clear communication of contract terms to all relevant personnel, and a systematic process for addressing discrepancies. This approach helps to uphold contractual obligations, encourage a fair and compliant work environment, and minimise the risk of contractual disputes.
Workplace has in place procedures for ensuring quantity of materials used are consistent with contract agreements.	☒ Yes ☐ No	The company has implemented detailed procedures to ensure that the quantity of materials used aligns with contract agreements. These procedures include accurate inventory tracking, regular audits, and reconciliation processes. Additionally, project managers are required to verify material usage against contract specifications, and any discrepancies are promptly addressed through established review protocols. This ensures that material usage is efficient, cost-effective, and compliant with contractual obligations.

Workplace has in place procedures for ensuring quality of materials used are consistent with contract agreements.	☒ Yes ☐ No	The organisation has established thorough procedures to ensure that the quality of materials used meets the standards specified in contract agreements. These procedures include thorough evaluating and approval of suppliers, routine quality inspections, and testing of materials upon receipt. Additionally, there is a systematic process for documenting and addressing any quality issues, ensuring that only materials that meet contractual quality standards are used in projects. This approach helps maintain high-quality outputs and compliance with contractual commitments.
Workplace has in place procedures for ensuring project timelines are followed.	☒ Yes ☐ No	The company has implemented comprehensive procedures to ensure project timelines are adhered to. These procedures include detailed project planning with defined milestones, regular progress reviews, and the use of project management tools to track deadlines. Additionally, there are clear escalation paths for addressing delays and a system for adjusting timelines in response to unforeseen changes while maintaining overall project goals. This ensures that projects are completed on schedule, enhancing efficiency and client satisfaction.
Workplace has in place procedures for resolving/addressing delays.	☒ Yes ☐ No	The organisation has established effective procedures for resolving and addressing delays. These procedures include regular project monitoring to identify potential delays early, a clear protocol for reporting and escalating issues, and predefined contingency plans. Additionally, the company conducts root cause analyses to understand the reasons for delays and implements corrective actions to prevent recurrence. This proactive approach ensures timely resolution of delays and minimises their impact on project timelines.
Workplace has in place procedures for resolving/addressing quality variations.	☒ Yes ☐ No	The company has established comprehensive procedures for resolving and addressing quality variations. These procedures include regular quality inspections and audits to detect deviations, a systematic process for reporting and documenting quality issues, and immediate corrective actions to address any identified variations. Additionally, there is a focus on root cause analysis to prevent future occurrences and continuous improvement initiatives to maintain high-quality standards. This approach ensures that any quality issues are swiftly resolved, maintaining the integrity and consistency of the final product.

Final Certificate Checklist

Participant name:	Lucy Muston
Date:	19/08/2024
Project:	Green Haven Residential Complex
Site address:	Green Haven Residential Complex 1250 Evergreen Lane Harmony Hills,
State / Territory:	Queensland
Conditions for issuing final certificate reviewed:	Yes

Checklist item	Yes/No	Comments
All patent defects have been remedied.	☒ Yes ☐ No ☐ N/A	All patent defects identified during the construction and inspection phases of the Green Haven Residential Complex have been successfully remedied as of August 19, 2024. This process ensured that any visible or apparent defects were addressed before final inspection and handover.
Adjustments to the contract sum have been agreed.	☒ Yes ☐ No ☐ N/A	Adjustments to the contract sum for the Green Haven Residential Complex project have been agreed upon as of August 19, 2024. These adjustments reflect changes in scope, variations, and any additional work required during the course of the project.
All claims have been settled.	☒ Yes ☐ No ☐ N/A	All claims related to the Green Haven Residential Complex project have been successfully settled as of August 19, 2024. This includes any financial, contractual, or legal claims made during the course of the project.
Defects liability period has expired.	☒ Yes ☐ No ☐ N/A	The Defects Liability Period for the Green Haven Residential Complex has officially expired as of August 19, 2024. This signifies the conclusion of the period during which the contractor was responsible for remedying any defects that arose after practical completion.
Notice of Final Completion has been sent by the contractor.	☒ Yes ☐ No ☐ N/A	The Notice of Final Completion for the Green Haven Residential Complex has been officially sent by the contractor as of August 19, 2024. This notice marks the formal conclusion of all construction activities, confirming that the project has been completed in accordance with the contract specifications and is ready for final handover.

All Work to be performed under the agreement has been completed.	☒ Yes ☐ No ☐ N/A	All work to be performed under the agreement for the Green Haven Residential Complex has been successfully completed as of August 19, 2024. This confirms that the project has been finished according to the contract, including all construction, installations, and any specified additional work.
Workplace has in place procedures for resolving/addressing quality variations.	☒ Yes ☐ No ☐ N/A	The Green Haven Residential Complex has established and implemented comprehensive procedures for resolving and addressing quality variations. These procedures ensure that any deviations from the specified quality standards are promptly identified, assessed, and corrected.

Practical Completion Checklist

Participant name:	Lucy Muston
Date:	19/08/2024
Project:	Green Haven Residential Complex
Site address:	Green Haven Residential Complex 1250 Evergreen Lane Harmony Hills,
State/ Territory:	QLD
Conditions for verifying practical completion:	1. Substantial Completion of Work , 2. Compliance with Building Codes and Standards, 3. Functional Utility Connections, 4. Completion of Common Areas and Amenities, 5. Safety and Accessibility, 6. Documentation and Handover Information, 7. Client Inspection and Approval, 8. Environmental and Sustainability Certification, 9. Handover and Occupation Readiness, 10. Financial and Contractual Closeout

Checklist item	Yes/No	Comments
Site equipment has been removed.	☒ Yes ☐ No ☐ N/A	All construction equipment has been successfully removed from the Green Haven Residential Complex site. This includes heavy machinery (e.g., cranes, excavators, and loaders), temporary site offices, storage containers, and any remaining construction materials. The site has been cleared and prepared for final inspections, ensuring that it is safe and accessible for the upcoming occupancy
Utilities are available for use.	☒ Yes ☐ No ☐ N/A	All essential utilities at the Green Haven Residential Complex are fully installed and operational. The site is now equipped with reliable water, electricity, gas, and sewage systems, ensuring that each residential unit and community facility is ready for immediate use.
All site hazards have been removed.	☒ Yes ☐ No ☐ N/A	All potential site hazards at the Green Haven Residential Complex have been identified, addressed, and removed. The site has undergone a thorough safety inspection to ensure it is free of risks, making it safe for residents, visitors, and all personnel involved in the final stages of the project.
Health and safety inspection has been conducted.	☒ Yes ☐ No ☐ N/A	A comprehensive health and safety inspection was conducted on 16/08/2024 at the Green Haven Residential Complex. The inspection aimed to verify that the site meets all health and safety regulations and is fully compliant with local and national standards, ensuring the well-being of all future residents, visitors, and staff.
All commissioning work has been completed.	☒ Yes ☐ No ☐ N/A	All commissioning work at the Green Haven Residential Complex has been successfully completed as of 16/08/2024. The commissioning process involved thorough testing, calibration, and verification of all building systems to ensure they

		operate according to the design specifications and meet the project's performance requirements.
All required test certificated has been submitted.	☒ Yes ☐ No ☐ N/A	As of 19/08/2024, all required test certificates for the Green Haven Residential Complex have been successfully submitted to the relevant authorities and stakeholders. These certificates confirm that all systems and components have been tested, meet the specified standards, and comply with regulatory requirements.
Schedule for outstanding works has been arranged.	☒ Yes ☐ No ☐ N/A	A detailed schedule for the completion of all outstanding works at the Green Haven Residential Complex has been arranged as of 21/08/2024. This schedule outlines the remaining tasks, responsible parties, and timelines to ensure that all outstanding items are addressed promptly and efficiently before the final handover.
Notice of Anticipated Practical Completion has been submitted.	☒ Yes ☐ No ☐ N/A	The Notice of Anticipated Practical Completion for the Green Haven Residential Complex has been submitted to the client and relevant authorities as of 26/08/2024. This notice formally communicates the projected date on which the project will be deemed practically complete, indicating that the construction is nearing completion and the site is almost ready for final handover.

End of Defects Liability Checklist

Participant name:	Lucy Muston
Date:	19/08/2024
Project overview:	Green Haven Residential Complex
Site address:	Green Haven Residential Complex 1250 Evergreen Lane Harmony Hills,
State/ Territory:	QLD
Instructions to make good defects:	1. Identify and Document Defects, 2. Prioritise Defects, 3. Develop a Defect Rectification Plan, 4. Execute Defect Rectification, 5. Quality Assurance, 6. Final Reporting.

Checklist item	Yes/No	Comments
Construction certification has been submitted.	☒ Yes ☐ No ☐ N/A	The Construction Certification for the Green Haven Residential Complex has been formally submitted as of 19/08/2024. This certification provides confirmation that the construction work has been completed in accordance with the approved plans, specifications, and applicable regulations.
Certificate of Practical Completion submitted.	☒ Yes ☐ No ☐ N/A	The Certificate of Practical Completion for the Green Haven Residential Complex has been formally submitted as of August 19, 2024. This certificate indicates that the construction work is substantially complete and that the project is ready for final inspection and handover.
Statement of Compliance submitted.	☒ Yes ☐ No ☐ N/A	The Statement of Compliance for the Green Haven Residential Complex has been formally submitted as of August 19, 2024. This statement certifies that the construction project complies with all relevant regulations, codes, and standards, and confirms that the project is ready for final approval and occupancy.
Site inspection conducted.	☒ Yes ☐ No ☐ N/A	A comprehensive site inspection for the Green Haven Residential Complex was conducted on August 19, 2024. The inspection aimed to verify the completion of construction work, ensure compliance with project specifications, and identify any outstanding issues or defects.
Asset testing and repairs have been carried out.	☒ Yes ☐ No ☐ N/A	Asset testing and repairs for the Green Haven Residential Complex have been completed as of August 19, 2024. This process involved thorough testing of all critical systems and components, followed by necessary repairs to ensure optimal performance and compliance with project specifications.

Site restoration completed.	☒ Yes ☐ No ☐ N/A	Site restoration for the Green Haven Residential Complex has been completed as of August 5, 2024. This process involved the final clean-up, repair of any damage caused during construction, and ensuring the site is left in a condition suitable for handover.
Surplus material removed from construction site.	☒ Yes ☐ No ☐ N/A	The removal of surplus material from the Green Haven Residential Complex construction site was completed on August 19, 2024. This process involved clearing all remaining excess materials, equipment, and debris to ensure the site is ready for final inspection and handover.
Health and Safety inspection certificates received.	☒ Yes ☐ No ☐ N/A	The Health and Safety Inspection Certificates for the Green Haven Residential Complex have been received as of August 19, 2024. These certificates confirm that the site meets all required health and safety standards and regulations.
Release notices from relevant authorities have been received.	☒ Yes ☐ No ☐ N/A	The release notices from relevant authorities for the Green Haven Residential Complex have been received as of August 19, 2024. These notices confirm that all necessary approvals and clearances have been granted, allowing for the finalisation of the project.

SUBCONTRACT

Subcontract Agreement No: 2659

Job No./ Order No.

A Gabrielli Constructions Pty Ltd ACN 088 090 279

ABN 29 088 090 279

Contractor

and

PowerTech

Electrical Servies

ABN: 12 345 678

For

Electrical Works

(trade/type of work)

in relation to

**Green Haven
Residential Complex**
(name of project)



Date 28/02/2024

Parties

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

Address	336 Woolcock Street, Garbutt QLD 4814
Telephone	(07) 4725 1100
Facsimile	(07) 4725 4800
Email	contracts@gabrielliconstruction.com
Contact	Adrian Gabrielli

PowerTech Electrical Services Pty Ltd | ABN 12 345 678 901 (Subcontractor)

Address	789 Electric Avenue Volt City, Electra State, 67890
Telephone	07 4758 2569
Facsimile	N/A
Email	info@powertechelectrical.com
Contact	John Doe

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

Associates 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.

Date of Subcontract means the date the last party executes the Subcontract.

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.

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

Insolvency Event means:

- (a) the party is insolvent or is financially unable to proceed with its obligations under the Subcontract;
- (b) execution is levied against the party by a creditor;
- (c) 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

- (d) 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.

Subcontract Works means the physical product completed by the Subcontractor under the Subcontract which by the Subcontract or is to be handed over to the Contractor.

1.2 Interpretation

- (a) 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.
- (b) A reference to:
- (i) a person includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
 - (ii) a natural person includes their personal representatives, successors and permitted assigns; and
 - (iii) a corporation includes its successors and permitted assigns.

- (c) Reference to:
- (i) 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
 - (ii) 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;
 - (iii) including and includes (or similar words) are not words of limitation;
 - (iv) the words 'at any time' mean 'at any time and from time to time';
 - (v) time means the time in the location of the Site;
 - (vi) 'shall' designates a mandatory obligation to do the thing referred to;
 - (vii) a word that is derived from a defined word has a corresponding meaning;
 - (viii) monetary amounts are expressed in Australian dollars;
 - (ix) the singular includes the plural and vice-versa;
 - (x) words importing one gender include all other genders; and
 - (xi) a thing includes each part of that thing.
- (d) 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:

- (a) carry out and complete the WUS to the Contractor's reasonable satisfaction in a competent manner, with due diligence and without delay;
- (b) comply with the Contractor's directions;
- (c) implement a quality assurance system reasonably acceptable to the Contractor;
- (d) use suitable new materials and proper and tradesman-like workmanship;
- (e) provide all labour, materials, tools, plant and everything required to perform the WUS and complete the WUS by the Date for Completion;

- (f) 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
- (g) ensure the WUS and the Subcontract Works comply with all Legislative Requirements that are applicable;

and the Subcontractor warrants that:

- (h) the WUS and the Subcontract Works when complete will comply with the Subcontract and be fit for their intended purpose; and
- (i) 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

- (a) 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.
- (b) 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

- (a) 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.
- (b) The Subcontractor Price is fixed and not subject to any rise and fall or any other adjustment except as expressly set out in the Subcontract.

3.2 Provisional Sums

- (a) 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.
- (b) All margin, profit and off-site overheads relating to the Provisional Sum are deemed to be included in the Subcontract Price.
- (c) The Subcontractor warrants that it has used due care and skill in determining a reasonable amount for the Provisional Sum included in the Subcontract.
- (d) 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.
- (e) 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.



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 Contractors right to use the security, the Contractor will release the security as follows:

- (a) 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
- (b) 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

- (a) The Subcontractor must:
 - (i) ensure that the Subcontractor and (as applicable) the Subcontractor's Associates are appropriately qualified, skilled and if applicable licensed to carry out the WUS;
 - (ii) attend meetings as reasonably required by the Contractor in relation to the WUS or the Site; and
 - (iii) not subcontract any part of the WUS without the Contractor's prior written approval (in the Contractor's absolute discretion).
- (b) 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.
- (c) The Subcontractor must not interfere with and must co-operate and co-ordinate with other contractors at the Site or associated with the WUS.

5.3 Warranties

The Subcontractor must provide to the Contractor:

- (a) the subcontractor warranties specified in Annexure E in a form reasonably acceptable to the Contractor and which are expressly in the name of the Contractor and the Principal and capable of being assigned on a several basis; and
- (b) other warranties from subcontractors in relation to parts of the Subcontract Works which are generally expected in

the market for works similar to the Subcontract Works.

6 Subcontract documents

6.1 Discrepancies

- (a) 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.
- (b) 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

- (a) 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.
- (b) The Subcontractor acknowledges that information or documents of any nature made available to it by or on behalf of the Contractor:
 - (i) do not constitute a warranty or representation of any kind by the Contractor; and
 - (ii) 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

- (a) In carrying out the WUS the Subcontractor must:
 - (i) keep the Site clean and tidy and free of rubbish;
 - (ii) comply with any Site policies or requirements notified to the Subcontractor;
 - (iii) 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;
 - (iv) not cause any harm or damage to the environment or the work of any other contractors; and
 - (v) prevent nuisance and unreasonable noise and disturbance.
- (b) 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

- (a) 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.
- (b) Upon Completion the Subcontractor must immediately remove all plant, equipment and facilities from Site except as expressly permitted otherwise by the Contractor.
- (c) 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

- (a) The Subcontractor must:
 - (i) not cause damage to the work of;
 - (ii) not delay the work of;
 - (iii) at all times allow access to the Site by;
 - (iv) liaise and co-ordinate the performance of the WUS with;
 - (v) 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.
- (b) The Subcontractor must promptly notify the Contractor in writing if it becomes aware that work being performed by other contractors engaged by the Contractor or Principal in connection with the Site does not comply with any Legislative Requirements, any generally acceptable standard for work or any quality requirements in this Subcontract of which the Contractor notifies the Subcontractor.

8 Health safety and the environment

8.1 General Safety Requirements

- (a) The Subcontractor must and ensure that its Associates:
 - (i) carry out and complete its obligations under the Subcontract and comply with all lawful directions of the Contractor in accordance with the WHS Requirements;
 - (ii) comply with all WHS Requirements;
 - (iii) 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;
 - (iv) 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;
 - (v) comply with any site specified induction program established for the Project; and
 - (vi) promptly notify, provide information and cooperate with the Contractor with respect to any incident that is required to be reported to any authority.
 - (vii) ensure the health and safety of all its employees, agents or subcontractors while on the Site;

- (viii) 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;
 - (ix) carry out work on Site, only during the hours permitted by the Contractor; and
 - (x) 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.
- (b) The Subcontractor must keep records sufficient to evidence the Subcontractor's compliance with this clause and make those records available to the Contractor for inspection and copying upon written request from the Contractor.
- (c) 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

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

9.2 Claim

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

- (a) is delayed by a Delay Event in a manner which will prevent it from achieving Completion by the Date for Completion;
- (b) 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;
- (c) 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
- (d) 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.

and the delay is on the critical path of the approved construction program.

9.3 Determination of extension of time

- (a) Provided the Contractor has:
 - (i) given the notice strictly in accordance with and the delay satisfies the requirements of 9.2;
 - (ii) actually been delaying in completing the WUS by the Date for Completion by a Delay Event; and
 - (iii) 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.

- (b) Where there are concurrent delays caused by events or circumstances which are not Delay Events, the Subcontractor will not be entitled to an EOT.
- (c) The Subcontractor has No Claim:
 - (i) as a result of an extension granted by the Contractor under 9.3; or
 - (ii) 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.

- (d) 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

- (a) 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.
- (b) The Contractor may recover the amount of liquidated damages:
 - (i) on demand from the Contractor;
 - (ii) by deducting the amount from any amount certified by the Contractor under clause 15.2; or
 - (iii) from any security,even though Completion has not occurred.
- (c) 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

- (a) The Contractor may, at its absolute discretion, direct the Subcontractor to suspend the whole or part of WUS.
- (b) A direction to suspend must be given in writing unless the suspension must be effected urgently.
- (c) If the suspension is due to circumstances resulting from the Contractor's breach of this Subcontract 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

- (a) 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 and the Subcontractor must comply with the direction.
- (b) 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

- (a) 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:
 - (i) a description of the work to be undertaken to carry out the variation;
 - (ii) any effect on the Date for Completion;
 - (iii) 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
 - (iv) whether the variation will conflict with any Legislative Requirements.
- (b) The Contractor shall, as soon as possible after receiving the Subcontractors estimate under clause 10.2(b), 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:
 - (i) confirm the variation estimate is accepted; or
 - (ii) 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:
 - (A) any allowances under the Head Contract,
 - (B) any rates and prices stated in this Subcontract; or
 - (C) reasonable rates and prices.

10.3 Subcontractor's notice of variations

- (a) 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:
 - (i) 5 Business Days after receiving the direction; or
 - (ii) 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(a).
- (b) If the Subcontractor does not strictly comply with clause 10.3(a) the Subcontractor will have No Claim in relation to the direction or the varied work.

11 Completion

- (a) 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.
- (b) After the inspection the Contractor will:
 - (i) issue the Subcontractor with a certificate of completion; or
 - (ii) 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

- (a) 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.
- (b) 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.
- (c) The Defects Liability Period will commence at 4:00pm on the Date of Completion (or if there are separately parts on the Date of Completion of each part) and will be in place for the period or until the time stated in Item 12 after the Date of Completion of the whole of the Subcontract Works.
- (d) 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.
- (e) 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.
- (f) 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

- (a) If the Subcontract Works are “building work” within the meaning of *Queensland Building and Construction Commission Act 1991* (Qld) to which Part 4A of that Act applies, the Contractor must provide the Subcontractor written notice stating:
 - (i) the date the Defects Liability Period ends; and
 - (ii) 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
 - (B) the date that the retention amount is proposed to be paid to the Subcontractor;
- (b) The notice under 12.2(a) must be given:
 - (i) 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
 - (ii) 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 Contract Works Insurance

The Contract Works Insurance must name the Contractor as an insured and cover the Subcontract Works against loss and damage to the full reinstatement value at all times until Completion.

13.3 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.

13.4 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.

13.5 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.

13.6 General insurance requirements

- (a) 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).
- (b) 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. If requested, the Subcontractor must provide a copy of any insurance policy required to be effected under this Subcontract.
- (c) 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

- (a) The Subcontractor must not use any:
 - (i) information and documents; and
 - (ii) Intellectual Property Right

owned or used by the Contractor for any purpose whatsoever except for the performance of its obligations under the Subcontract.

- (b) The Subcontractor agrees that the information or documents of any nature made available to the Subcontractor by or on the Contractor:
 - (i) do not constitute a warranty or representation of any kind by the Contractor; and
 - (ii) have been checked and verified by the Subcontractor for correctness and completeness and the Subcontractor is satisfied that they are complete and sufficient for the Subcontractor to carry out the WUS in accordance with this Subcontract.
- (c) 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.
- (d) The Subcontractor grants the Contractor:
 - (i) 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
 - (ii) 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.

14.2 Confidentiality

- (a) 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:
 - (i) any such information is already lawfully in the public domain other than by reason of the Subcontractor's breach of this Subcontract;
 - (ii) with the Contractor's prior written consent or if it is required to be disclosed by a Legislative Requirement is;
 - (iii) 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.
- (b) The Subcontractor must promptly enter into any confidentiality agreement reasonably required by the Contractor in relation to the WUS to give effect to the obligations in this clause.

14.3 Media and Publicity

Without derogating from the obligations of confidentiality in this clause, the Subcontractor must not make any public statement or publish any information in relation to the WUS or the Project without the consent of the Contractor.

14.4 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.

14.5 Survival

The obligations in this clause survive completion of the WUS or termination of this Subcontract.

15 Payment

15.1 Claim for payment

- (a) 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:
 - (i) evidence of insurance in accordance with the Subcontract;
 - (ii) security to the Contractor under clause 4;
 - (iii) 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; and
 - (iv) in respect of the claim for payment made immediately following Completion, a deed of release in the form included in Annexure D. .
- (b) 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.
- (c) Claims for payment must be based on the value of the WUS completed at the time and supported by appropriate evidence to allow the Contractor to assess the claim and must for variations specifically include information necessary to evidence the actual cost of the variation including day works sheets and subcontractor contracts/purchase orders.
- (d) 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.
- (e) 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

- (a) The Contractor must issue to the Subcontractor a payment schedule within the later of 15 Business Days after receipt of the claim for payment made in accordance with subclause 15.1 which states the amount the Contractor determines is payable and if that amount is not the full amount claimed by the Subcontractor the amount withheld and the reason that the amount is being withheld.

15.3 Payment

- (a) Provided the Subcontractor has issued the Contractor a valid tax invoice for the amount in the payment schedule under clause 15.2 the Contractor must pay the amount stated within 25 Business Days after receiving the Subcontractor's claim for payment issued in accordance with clause 15.1.
- (b) 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.
- (c) 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.

15.4 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 may be due from the Subcontractor to the Contractor in connection with the WUS.

16 Indemnity

- (a) The Subcontractor indemnifies the Contractor against:
- (i) any liability to or claim by a third party (including the subcontractor's Associates); and
 - (ii) 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.
- (b) The indemnity in this clause 16:
- (i) will be reduced proportionally by the extent that a negligent act or omission or breach of this Subcontract by the Contractor has contributed to the liability, claim or Costs; and
 - (ii) survives the completion of the WUS or termination of this Subcontract.
- (c) 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.
- (d) The Subcontractor remains fully liable for the WUS notwithstanding:
- (i) that the Subcontractor subcontracts any part of the WUS;
 - (ii) the Contractor reviews, approves of or comments on the WUS or any documents (or fails to review, approve of comment on the WUS or any documents); or
 - (iii) any insurances effected by the Subcontractor.

17 Notification of claims

- (a) 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.
- (b) The written notice under clause 17(a) must include an outline of the basis of the claim and the quantum of the claim.
- (c) If the Subcontractor does not make the claim strictly in accordance with:
- (i) the time prescribed under this Subcontract for that type of claim; or
 - (ii) if no time is prescribed, within 5 Business Days after a competent and experienced contractor ought reasonably have become aware of the right to make a claim; or
 - (iii) if the Head Contract has a shorter period for the making of the particular claim, the shorter period,
- the Subcontractor will have No Claim in relation to the subject matter of the claim.

18 Termination

18.1 Termination for Breach

- (a) 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).

- (b) If the First Party does not show reasonable cause by the date and time required then:
 - (i) 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
 - (ii) 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(b)(ii)(B) the Contractor may complete the WUS taken out of the Subcontractor's hands and may:

- (a) use materials, equipment and other things belonging to the Subcontractor intended for the WUS; and
- (b) 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
- (c) 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(b) 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

- (a) Upon termination of the Subcontract:
 - (i) if:
 - (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;
 - (ii) 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.

- (b) 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 Notices and communications generally

- (a) A communication may be given in the following forms and shall be deemed duly given or made in the case of:
- (i) delivery in person, when delivered;
 - (ii) 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
 - (iii) 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.
- (b) 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

- (a) All disputes between the parties in connection with this Subcontract must be resolved as follows:
- (i) 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).
 - (ii) 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.
 - (iii) 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.
 - (iv) 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.
- (b) If any dispute arises between the parties in connection with any fact, matter or thing that:
- (i) is the subject of or relates to a dispute between the Contractor and the Principal under the Head Contract; or



- (ii) has been resolved under the dispute resolution process in the Head Contract,
- (iii) then 20(a) 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.
- (c) 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).
- (d) 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.
- (e) 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

- (a) All section references in this clause are to sections of the Personal Property Securities Act 2009 (Cth) (Act).
- (b) 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:
 - (i) ensure that this Subcontract (or any related document) or any security interest arising under it, is enforceable against the Subcontractor or any third party;
 - (ii) 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
 - (iii) 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.
- (c) Except if this Subcontract expressly permits the disclosure, the Subcontractor:
 - (i) agrees not to disclose any information of the kind mentioned in section 275(1); and
 - (ii) to waive any right the Subcontractor has under section 275(7)(c) to authorise disclosure of such information.
- (d) 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

- (a) In this clause, any expression used that is defined in GST Legislation has that defined meaning.
- (b) 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:

- (i) 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
 - (ii) the amount of GST payable by the Supplier in respect of that supply.
- (c) 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.
- (d) 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

- (a) 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.
- (b) 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.
- (c) 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.
- (d) 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.
- (e) This is the entire agreement between the parties about the WUS and supersedes any other agreement, negotiations, correspondence or exchange between the parties.
- (f) This Subcontract applies to the whole of the WUS even if carried out by the Subcontractor prior to the execution of this Subcontract.
- (g) All express warranties given by the Subcontractor under this Subcontract are additional to any warranties or conditions implied by statute or common law.
- (h) 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

Officer on behalf of A Gabrielli Constructions Pty Ltd

Name of Witness

Name and Position

(BLOCK LETTERS)

(BLOCK LETTERS)

Date of Signature

Date of Signature

Executed by PowerTech Electrical Services

ABN: 12 345 678 901 by its duly authorised officer in the presence of:

Witness

Officer on behalf of PowerTech Electrical Services

Name of Witness

Name and Position

(BLOCK LETTERS)

(BLOCK LETTERS)

Date of Signature

Date of Signature



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	John Doe
	Address:	1250 Evergreen Lane, Harmony Hills, Suburbia,12345
	Email:	info@powertechelectrical.com
4.	Site (clause 1.1)	1250 Evergreen Lane, Harmony Hills, Suburbia,12345
5.	Date for Commencement (clause 1.1)	1 st March 2024
6.	Date for Completion (clause 1.1)	9 th August 2024
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; - Inclement weather of greater than 2 hours duration on any one day, occurring before the Date for Completion; - A direction by a Local, State or Federal Government Authority; - Change in a Legislative Requirement which necessitates a change



Item	Description	Details
		to the Subcontract Works occurring after the Date for Commencement.
9.	Head Contract (clause 1.1)	As listed in Annexure C Part 3B
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)	\$500 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)	25th 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>

Annexure B Special Conditions

24 Design

- (a) The Subcontractor warrants that:
 - (i) any design carried out under the Subcontract:
 - (A) will be fit for its intended purpose;
 - (B) will be in accordance with all requirements set out in the Subcontract and all Legislative Requirements; and
 - (C) the WUS and Subcontract Works, when Complete will be fit for their intended purpose;
 - (ii) unless expressly stated elsewhere in the Subcontract, must engage and retain the consultants identified in the Subcontractor's tender and who are suitably qualified and experienced;
 - (iii) it has carefully examined and checked any preliminary design included in Annexure C and that such preliminary design is suitable, appropriate and adequate for the purpose stated in Annexure C;
 - (iv) all design documents and the construction methods, techniques, materials and workmanship employed in and about the construction of the Subcontract Works in each case is suitable and adequate for their respective functions and purposes; and
 - (v) is, as between the Contractor and the Subcontractor, solely responsible for and assumes all risk in relation to the design and the whole of the Subcontract Works, and for any further design work, delays, cost increases, losses and expenses caused by or resulting from any deficiencies in the design.
- (b) 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 the WUS.
- (c) 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:
 - (i) the WUS not complying with the Subcontract; or
 - (ii) the Subcontractor not being unable to comply with the Subcontract.
- (d) The Subcontractor must not carry out any construction work in relation to the design unless the Contractor has:
 - (i) reviewed the design and advised that the Contractor has no comments; or
 - (ii) advised the Subcontractor that it does not wish to review the design.
- (e) The Subcontractor must provide the Contractor with copies of any design and inspection certificates required by the Subcontract in relation to the design.
- (f) The Subcontractor must effect and maintain professional indemnity insurance and the provisions of clause 13.6 will also apply to this insurance. Such insurance must provide for cover of \$10million 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.
- (g) 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

- (a) 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.
- (b) The Subcontractor must:
 - (i) perform the WUS in such a manner to ensure that the Subcontract Works complies with the Head Contract and so as to enable the Contractor to comply with its obligations under the Head Contract; and
 - (ii) deliver the WUS in a manner to ensure that the Subcontract Works, when completed, will comply with the Head Contract so that the Principal cannot claim damages against the Contractor for breach of the Head Contract as a result of any act or omission (including negligence) by the Subcontractor in performing the WUS.
- (c) 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:
 - (i) require the Subcontractor to observe, perform and comply with an obligation; or
 - (ii) confer on the Contractor a right or power,and 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.
- (d) 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.
- (e) 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(g) 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.
- (f) 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:
 - (i) 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;
 - (ii) 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.
- (g) The Subcontractor is barred from making any claim against the Contractor in respect of which the Subcontractor has not complied with this clause.
- (h) 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.

26 Latent conditions

- (a) **Latent Conditions** are physical conditions on the Site or its surroundings, including artificial things but excluding weather conditions, which differ materially from those which should reasonably have been anticipated by an experienced and qualified subcontractor in the position of the Subcontractor at the Date of Subcontract if the Subcontractor had:
 - (i) examined all information made available to it prior to the Date of Subcontract; and
 - (ii) inspected and carried out all reasonable investigations in relation to the Site and its surroundings.
- (b) If the Subcontractor becomes aware of a Latent Condition during the execution of the WUS the Subcontractor must immediately give written notice to the Contractor including details of:
 - (i) the Latent Condition and in what respects it differs materially; and
 - (ii) the additional work, resources and time which the Subcontractor estimates to be necessary to deal with the Latent Condition including the estimated cost and necessary extension of time.
- (c) If a Latent Condition necessarily causes the Subcontractor to carry out additional work approved by the Contractor which the Subcontractor could not reasonably have anticipated at the Date of Subcontract, a valuation will be made under clause 10.2(b)(ii) provided that the Subcontractor have No Claim for costs incurred prior to the date on which the Subcontractor gave the written notice required by 26(b),

27 Materials and items supplied by Contractor

- (a) The Contractor will supply certain materials and items to you as specified in Annexure C for the purpose of inclusion in the WUS (**Supplied Items**). The Subcontractor must use the Supplied Items only for the purpose of the WUS.
- (b) Prior to the later of the date stated in the project program and so as not to delay the carrying out of the WUS, the Supplied items will be delivered to the Site.
- (c) On delivery of the Supplied Items, the Subcontractor must inspect them and promptly notify the Contractor in writing of any defect or damage in the Supplied Items (**Defect Report**). The Contractor will promptly arrange for any defect or damage to the Supplied Items that the Subcontractor notifies to the Contractor of to be rectified at the Contractor's cost.
- (d) After the Subcontractor's inspection:
 - (i) the Subcontractor responsible for the care and protection of the Supplied Items but the Supplied Items still remain the Contractor's property; and
 - (ii) the Supplied Items are deemed to be free from defects or damage except as set out in the Defect Report except to the extent such defect or damages could not have been discovered by a competent subcontractor that had acted reasonably and thoroughly and carefully undertaken the investigation of the Supplied Items required by this Special Condition.
- (e) The Subcontractor must not remove any Supplied Items from the Site.

28 Contractor's Equipment

- (a) In using any of the Contractor's temporary works or construction plant and equipment (**Contractor's Equipment**) the Subcontractor must:
 - (i) only use the Contractor's Equipment to carry out the WUS;



- (ii) keep the Contractor's Equipment in good order and condition;
- (iii) ensure that the Subcontractor and any of the Subcontractor's Associates are appropriately qualified and trained to do so;
- (iv) immediately notify the Contractor of any damage to or failure of the Contractor's Equipment or damage caused by the Contractor's Equipment;
- (v) not remove the Contractor's Equipment from the Site;
- (vi) immediately comply with any direction that the Contractor gives the Subcontractor about the Contractor's Equipment,

and in electing to use the Contractor's Equipment:

- (vii) the Subcontractor uses the Contractor's Equipment at its own risk;
- (viii) the Contractor make no representation or warranty about the Contractor's Equipment, including as to its condition, suitability or fitness for purpose; and
- (ix) the Subcontractor has No Claim in connection with (viii).

29 Existing operations

- (a) The Subcontractor acknowledges that the Principal will continue its normal operations at and in the vicinity of the Site while the WUS are undertaken. As such the Subcontractor must:
 - (i) only carry out the WUS during the specified working hours;
 - (ii) carry out the WUS so as not to disrupt, interrupt or interfere with the Principal's normal operations;
 - (iii) except as necessarily required under the Subcontract, ensure the continuity of all access and services necessary for the Principal to continue its normal operations.

30 Nominated Subcontractor

Where the Contractor nominates a particular subcontractor or supplier for parts of the WUS, the Subcontractor must use that subcontractor or supplier for that part of the WUS at its cost. The Contractor has no liability to the Subcontractor for that subcontractor supplier's actual performance.



Annexure C Scope of Work & Subcontract Price

Scope of Work

Comprehensive Electrical Installation and Commissioning

1. Subcontract Price

\$1,200,000.00 GST Exclusive

2. Documents Incorporated into this Subcontract

- | | |
|--------------------------------------|--|
| a) This Subcontract Document | 2659 |
| b) Special Conditions of Contract | Head Contract Between A Gabrielli Constructions Pty Ltd and the Principals Harmony Developments Pty Ltd in respect of the Project - Green Haven Residential Complex. |
| c) Specification(s) marked | Aconex web-based document control system to be used for document management |
| d) Drawings | Aconex web-based document control system to be used for document management. |
| a) 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. |
| b) Other documents | |



Annexure D Deed of Release - Completion

Subcontract	[insert]
Contract	[insert]
Subcontractor	[insert]

1. The Subcontractor certifies that:
 - (a) subject to clause 15.1(b), the Subcontract is entitled to payment of its final progress claim in respect of the WUS following Completion of \$[insert] (**Completion Payment**);
 - (b) after Completion the Contractor is entitled to continue to hold Security in accordance with the Subcontract; and
 - (c) the following claims are the subject of dispute between the Contractor and the Subcontractor, notified by the Subcontractor to the Contractor under clause 19 of the Subcontract: \$[insert] for [insert].
2. To the extent permitted by law, the Subcontractor agrees that payment by the Contractor to the Subcontractor of the Completion Payment is full and final payment to the Subcontractor of all amounts due and payable at Completion of the WUS except for the amounts described in paragraphs 1(b) or 1(c) above (if any).
3. In consideration of the payment by the Contractor of the Completion Payment and to the extent permitted by law:
 - (a) the Subcontractor waives, releases and forever discharges the Contractor from all or any claims, actions, damages, costs, losses and expenses which the Subcontractor has now or might have in the future against the Contractor whether arising under or in connection with the Subcontract or in any way connected with the execution of the work under the Subcontract; and
 - (b) this deed may be pleaded as a complete and unconditional bar to any proceedings of whatever nature sought to be instituted, filed or maintained against the Contractor by the Subcontractor after the date of this deed.
4. Clause 3 does not apply to any claim, action, suit, proceeding or demand:
 - (a) which may arise as a result of any act or direction of the Contractor during the Defects Liability Period; or
 - (b) in respect of the amounts described in paragraphs 1(b) or 1(c) above (if any).
5. Execution of the deed by the Subcontractor does not limit or in any way effect the Subcontractor's obligations and liabilities under the Subcontract.
6. Unless otherwise defined in this deed, capitalised terms in this deed have the meaning given to them in the Subcontract.

Executed by the Subcontractor as a deed and delivered on..... (insert date)

[insert execution block]



Annexure E Subcontractor Warranties

Item / Trade	Period
1. All warranties as required under the Head Contract	