

April 15 2021

John England Drainage Contractors Pty Ltd
PO Box 246
Samford, QLD 4520



PROJECT: Holy Spirit Secondary College
RE: Subcontractor Agreement
SUBCONTRACT NO: 01/2019.6

Congratulations on being awarded the relevant subcontract works for the Holy Spirit Secondary College.

We are please to provide you with one (1) copy of the attached Subcontract Agreement. All pages of the contract are to be read, signed and returned by email within 7 days. Please sign page 7 and initial all other pages in the bottom left hand corner.

NOTE: Signing of the Subcontract is to be undertaken by your company Director or Principal.

Upon receiving the signed subcontract, Carsburg Civil will sign and send a copy of the completed subcontract. Note that no subcontract payments will be made until signed subcontracts are received by Carsburg Civil.

Please also collate the below information and send through to our office a minimum of 1 week prior to your commencement on site:

- Signed Contract
- WorkCover Certificate of Currency
- Public Liability Insurance
- Building/Contractors License
- Site specific SWMS & JSA documentation

We look forward to working with you on the project and should you have any additional queries do not hesitate to contact me on mobile 0417 755 806.

Yours faithfully

A handwritten signature in red ink, appearing to be 'Neil Carsburg', is written over a horizontal line.

Neil Carsburg
Managing Director
Carsburg Civil Pty Ltd



The home of building

Subcontract Agreement

Contractor to Subcontractor

FOR RESIDENTIAL & COMMERCIAL BUILDING WORK IN **QUEENSLAND**

Subcontract Agreement

SCHEDULE

(SC-2) (01/2019.6)

BETWEEN

ITEM 1 - CONTRACTOR (Clause 1)			
Name (as it appears on the QBCC licence)	Carsburg Civil		
Trading as	Carsburg Civil		
Address	207 Elliott Road Banyo QLD 4014		
ABN	66 631 834 903	QBCC licence number	N/A
Phone 1	0417755806	Phone 2	
Email address	neil@carsburgearthmoving.com.au		
Facsimile number			
Is the Contractor a member of Master Builders Queensland?			☒ Yes ☐ No

AND

ITEM 2 - SUBCONTRACTOR (Clause 1)			
Name (as it appears on the QBCC licence)	John England Drainage Contractor Pty Ltd		
Trading as	John England Drainage Contractor Pty Ltd		
Address	PO Box 246 Samford QLD 4520		
ABN	26 054 463 099	QBCC licence number	
Phone 1	07 5498 2026	Phone 2	0411 800 812
Email address	jedcon@civildrainage.net.au		
Facsimile number	07 5498 2020		
Is the Subcontractor a member of Master Builders Queensland?			☐ Yes ☐ No

ITEM 3 - SUBCONTRACT PRICE (GST exclusive) (Clause 1)	
(a) Lump Sum Component (includes Deposit)	\$36,445.40
(b) Prime Cost Items (see Part A of the Appendix)	\$0.00
(c) Provisional Sums (see Part B of the Appendix)	\$0.00
(d) Subcontract Price (GST exclusive) (a+b+c)	\$36,445.40
(e) GST on Subcontract Price	\$3,644.54
(f) GST Inclusive Subcontract Price (d+e)	\$40,089.94

ITEM 4 - DEPOSIT (Clauses 1 and 10.2)	
Deposit (percentage of Subcontract Price)	10%
	\$4008.99

ITEM 5-SCOPE AND EXTENT OF THE SUBCONTRACT WORKS (Clause 1)

NB: Attach additional documents, if appropriate, that describe the scope and extent of the works and include these in **Appendix Part D**

Civil Drainage complete to plans Civil Works REV A given, excavate, supply, lay, joint, bed and backfill and 1 x CCTV on completion

ITEM 6-LAND (Clauses 1 and 17)

Address	441 Beams Road Fitzgibbon Qld 4077		
Lot no.	1	Plan type (e.g. RP)	
Local government	Brisbane City Council		

ITEM 7-AUTHORISED REPRESENTATIVE (Clause 1)

Contractor's Representative (if applicable)	Neil Carsburg
Subcontractor's Representative (if applicable)	John England

ITEM 8-SUBCONTRACTOR'S MARGIN (Clause 1)

Subcontractor's Margin (if nothing stated, 20%)	0%
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ITEM 9-DATE FOR COMPLETION (Clauses 1 and 22.1)

Date for Completion	31/05/2021
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ITEM 10- DEFECTS LIABILITY PERIOD (Clauses 1 and 24)

NB: The **Defects Liability Period** commences on the **Date of Completion**

Defects Liability Period (if nothing stated, twelve (12) months)	12 Months
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ITEM 11-FORM OF SECURITY (Clause 4.1)

☒ Not Required ☐ Bank Guarantee ☐ Cash Retention ☐ Other (please specify)

Other (please specify)	
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ITEM 12- AMOUNT OF SECURITY (Clause 4.1)

Amount of Security (maximum 5% of the Subcontract Price)	
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ITEM 13- RETENTION AMOUNT (Clause 4.2)

Percentage to be retained from each progress payment (maximum 10%)	
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ITEM 14- SECURITY AT COMPLETION (Clause 4.6)

Security to be held after Completion (maximum 2.5% of the Subcontract Price)	
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ITEM 15 - CONSTRUCTION WORKS POLICY (Clause 8.2)

 Party responsible for insuring the **Subcontract Works** (if nothing stated, the **Contractor**)

☒ Contractor ☐ Subcontractor

ITEM 16 - PUBLIC LIABILITY INSURANCE (Clause 8.3)

Amount of Public Liability Insurance (if nothing stated, \$10 million per occurrence)

\$10,000,000.00

ITEM 17 - ACCESS TO THE SITE (Clauses 17.1 and 17.2)

 Party responsible for **Site** access (if nothing stated, the **Contractor**)

☒ Contractor ☐ Subcontractor

(a) Date for providing access

10/05/2021

OR

 (b) Time after notice is given for access to the **Site**

Business Days

ITEM 18 - EOT NOTICES (Clause 19.2)

Time to provide an Extension of Time claim

3 Business Days

ITEM 19 - INCLEMENT WEATHER ALLOWANCE (Clause 19.3)

Inclement Weather allowance

5 Days

ITEM 20 - DELAY COSTS (Clause 20)

 Is the **Subcontractor** permitted to claim **Delay Costs**?

☐ Yes ☒ No

ITEM 21 - LIQUIDATED DAMAGES (Clause 23)

 Do Liquidated Damages apply to the **Subcontract**?

☐ Yes ☒ No

(a) Liquidated Damages rate

per Day

(b) Limit on Liquidated Damages

ITEM 22 - PROGRESS CLAIMS (Clause 26.1)
Progress Claims are to be submitted

☐ (a) on Completion OR ☒ (b) on the Day of the period noted below OR ☐ (c) at the times provided in Part E of the Appendix

(a) on Completion;

 (b) **Progress Claims** to be submitted each ☐ Week ☐ Fortnight ☒ Month

and submitted on the 28th Day of the period

 (c) at the times provided in Part E of the **Appendix**
ITEM 23 - ACCOUNT FOR PAYMENTS (Clause 26.4)

Account name

Financial institution at which account is kept

BSB No.

Account No.

ITEM 24 - PAYMENT PERIOD (Clause 26.5)

Time for payment of a Progress Claim or a Final Claim after the Submission Date	25 Business Days
(if nothing stated, 25 Business Days)	

NB: If section 67U of the *Queensland Building and Construction Commission Act 1991* applies, refer to Clause 26.5.

ITEM 25 - INTEREST (Clause 26.6)

Interest rate	
(if nothing stated, the rate stated in section 67P of the <i>Queensland Building and Construction Commission Act 1991</i>)	

ITEM 26- SPECIAL CONDITIONS (Clause 36)

Are there any special conditions forming part of the Subcontract ?	☐ Yes ☒ No
(if yes, complete Part E of the Appendix)	

APPENDIX

APPENDIX

THE APPENDIX TO THE SCHEDULE MUST BE COMPLETED WHERE APPLICABLE.

PART A - ALLOWANCES FOR PRIME COST ITEMS (if applicable)

This is to be read in conjunction with Clause 5 of the General Conditions

Description of each Prime Cost Item	Quantity	Allowance per unit (GST exclusive)	Total allowance for the Prime Cost Item (GST exclusive)
1. Civil Drainage complete to plans Civil Works Sheet 4 Rev A Refer BOQ	1	\$36,445.40	\$36,445.40
Total of Prime Cost Items (GST exclusive)			\$36,445.40
(This total has been transferred to Item 3(b) of the Schedule)			

PART B - ALLOWANCES FOR PROVISIONAL SUMS (if applicable)

This is to be read in conjunction with Clause 5 of the General Conditions

Description of each Provisional Sum	Total allowance for the Provisional Sum (GST exclusive)
1. ex a m p l e installation only of laminated flooring	
2.	
Total of Provisional Sums (GST exclusive)	\$0.00
(This total has been transferred to Item 3(c) of the Schedule)	

PART C - DRAWINGS AND SPECIFICATIONS

Drawings

Drawing No.	Issue	Prepared by	Brief description of drawing
Civil Works	Rev A	Westera Partners	Civil Works Plan 1 of 8

Specifications

	Details
1.	

PART D-OTHER DOCUMENTS

Bill of Quantities (set out relevant sections of BOQ):

	Details
1	Refer attached B00

Other Documents

	Details
1.	Scope of Works.

PART E - SPECIAL CONDITIONS (Item 26) (Clause 36)

Any Special Conditions in addition to, or in amendment of, the General Conditions must be set out below.
(Number each Special Condition - e.g. SC1, SC2 - or, if applicable, refer to the specific clause in the General Conditions affected).

Special Condition No.	Details of Special Conditions	General Condition affected (if applicable)
SC		
SC		

AGREEMENT

AGREEMENT

The **Contractor** and the **Subcontractor** agree that the **Subcontractor** is to carry out and complete the **Subcontract Works**, and the **Contractor** must pay the **Subcontractor** the **Subcontract Price**, as adjusted under the **Subcontract**, for the **Subcontract Works** in accordance with the provisions of the **Subcontract**.

SIGNED - CONTRACTOR

Signed by, or for and on behalf of, the **Contractor**

Signature

Printed name

Date

SIGNED - SUBCONTRACTOR

Signed by, or for and on behalf of, the **Subcontractor**

Signature

Printed name

Date

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SUBCONTRACT AGREEMENT - GENERAL CONDITIONS

1 DEFINITIONS

NOTE: In the **Subcontract**, certain words and phrases used throughout are defined, and are shown in bold when used (e.g. **Contractor**).

In the **Subcontract**, except where the context otherwise requires:

Act	means the <i>Queensland Building and Construction Commission Act 1991</i> ;
Appendix	means the Appendix to the Schedule of the Subcontract ;
Business Day	means a Day that is not: • a Saturday or Sunday; or • a public holiday in the place in which any relevant act is to be or may be done; or • any day occurring within the period 22 December to 10 January.
Commission	means the Queensland Building and Construction Commission;
Completion	means that stage of the Subcontract Works when: a) the Subcontract Works are completed in compliance with the Subcontract, including all Drawings and Specifications, without any defects or omissions other than minor defects or minor omissions that: i) do not prevent the Subcontract Works from being used for their stated purpose; ii) the Subcontractor has reasonable grounds for not promptly rectifying; and iii) the rectification of which will not prejudice the convenient use of the Subcontract Works; b) all commissioning, testing and training which are required by the Subcontract to be carried out and passed before the Subcontract Works reach Completion, have been carried out and passed; and c) documents and other information required under the Subcontract, including 'Operation and Maintenance Manuals', as-built drawings, warranties, and certificates (including Form 15s and 16s where relevant) which are required for the use and operation of the Subcontract Works, have been provided to the Contractor;
Construction Works Policy	means a policy of insurance providing indemnity to the Subcontractor , the Contractor , and the Subcontractor's subcontractors against liability for physical loss, destruction or damage to the Subcontract Works , or to materials and goods on or adjacent to the Land ;
Contractor	means the person stated in Item 1 of the Schedule and includes the Contractor's permitted assignees and transferees;
Contractor's Client	means the person to whom the Contractor has contracted under the Head Contract and includes the Contractor's Client's administrators, permitted assignees and transferees;
Contractor's Representative	means the person stated in Item 7 of the Schedule ;
Date for Completion	means the date stated in Item 9 of the Schedule by which the Subcontract Works are to be brought to Completion , as adjusted from time to time under the Subcontract ;
Date of Completion	means the date on which the Subcontract Works reach Completion ;
Days	means calendar days;
Defects Liability Period	means the period commencing on the Date of Completion and ending on the later of the following events: a) the period stated in Item 10 of the Schedule and as extended in accordance with Clause 24.4; b) the Contractor being satisfied that the Subcontract Works have been satisfactorily tested by being used as an integral component of the use of the work carried out under the Head Contract; c) after the Subcontractor has completed all of the work under the Subcontract; d) the last day of any defects liability period applicable to the Head Contract;
Deposit	means the amount stated in Item 4 of the Schedule to be paid by the Contractor to the Subcontractor under Clause 10.2 of the Subcontract ;
Direction	includes, but is not limited to, any agreement, approval, authorisation, certificate, decision, demand, determination, explanation, instruction, notice, order, permission, rejection,

	request, or requirement;
Drawings	means the plans (including, but not limited to, elevations, sections and details relating to the Subcontract Works) and designs relating to the Subcontract Works described in Part C of the Appendix ;
Due Date for Payment	means the date calculated in accordance with Clause 26.5;
Final Claim	means a claim for payment made in accordance with Clause 26.2;
Head Contract	means the contract between the Contractor and the Contractor's Client which governs the construction of the whole of the work to be carried out and completed on the Site by the Contractor , of which the Subcontract Works forms a part;
Inclement Weather	means the existence of weather conditions, including, but not limited to, rain, wind, heat, cold, humidity, hail, snow, sleet, dew, fog, storm, dust, or flood, and their after-effects which have an adverse impact on the diligent, usual or safe carrying out of the Subcontract Works by the Subcontractor or the Subcontractor's subcontractors;
Information System	means a system for generating, sending, receiving, storing, or otherwise processing electronic communications;
Land	means the land described in Item 6 of the Schedule on which the Subcontract Works are to be carried out;
Latent Condition	means any physical condition, including artificial things, on or around the Land , including surface and subsurface conditions, which differ materially from the physical conditions reasonably expected by a competent subcontractor at the date of the formation of the Subcontract ;
Payment Schedule	means a document given by the Contractor to the Subcontractor in accordance with Clause 26.3;
Possession	means when the Subcontract Works , or any part of the Subcontract Works , are taken over, occupied or used by the Contractor or the Contractor's employees, other contractors or agents;
President	means the President of Master Builders Queensland;
Prime Cost Item	means an item (for example, a fixture or fitting) that either has not been selected, or the price of which is not known, at the date of the formation of the Subcontract , and the cost for the supply and delivery of which the Subcontractor has made a reasonable allowance in the Subcontract ;
Progress Claim	means a claim for payment made in accordance with Clause 26.1;
Provisional Sum	means an estimate of the cost of carrying out particular work (including the cost of supplying any materials needed for the work) under the Subcontract for which the Subcontractor , after having made all reasonable enquiries, could not state a definite amount at the date of the formation of the Subcontract ;
Schedule	means the schedule contained in the Subcontract ;
Security	means any moneys, bank guarantees, bonds, or other valuable security provided in accordance with Clause 4;
Site	means that part of the Land necessary to be occupied and used by the Subcontractor for the construction of the Subcontract Works ;
Specifications	means the specifications relating to the Subcontract Works described in Part C of the Appendix ;
Statutory Requirements	includes, but is not limited to, any legislation, delegated (including, but not limited to, subordinate) legislation, permit, approval, or other law or legal requirement, and any Direction from, or requirement of, a local government or other entity having jurisdiction over the carrying out of the Subcontract Works ;
Subcontract	means these general conditions, any special conditions set out in Part E of the Appendix , the Schedule , the Drawings , the Specifications , and anything else annexed to, or incorporated by reference into, the Subcontract ;
Subcontract Price	means the amount stated in Item 3 of the Schedule , as adjusted from time to time under the Subcontract ;
Subcontract Works	means the whole of the work to be carried out by the Subcontractor under the Subcontract , a description of which is contained in Item 5 of the Schedule and includes Variations to the Subcontract Works ;
Subcontractor	means the person stated in Item 2 of the Schedule and includes the Subcontractor's permitted assignees and transferees;

Subcontractor's Margin	means the margin stated in Item 8 of the Schedule to be applied in accordance with the Subcontract ;
Subcontractor's Representative	means the person stated in Item 7 of the Schedule ;
Submission Date	means the date on which the Subcontractor submits (as the case may be) a Progress Claim or the Final Claim to the Contractor ;
Substantial Breach	means a party's failure or refusal to perform a substantial obligation under the Subcontract ;
Tribunal	means the Queensland Civil and Administrative Tribunal established under the <i>Queensland Civil and Administrative Tribunal Act 2009</i> ;
Variation	whether agreed by the parties, deemed under the Subcontract , or otherwise, means to vary the Subcontract Works by: • changing the nature or scope of the work that the Subcontractor is required to carry out under the Subcontract, including the omission of work from the Subcontract Works; or • changing the manner or sequencing in which the Subcontractor is required to carry out the work under the Subcontract;
WHS Act	means (separately and together) the <i>Work Health and Safety Act 2011</i> (Qld) as amended from time to time and includes related Acts and Regulations; and
WHS Management Plan	means a document prepared by the Subcontractor in respect of the Subcontract Works which sets out the way in which the Subcontract Works are to be carried out in order to comply with the requirements of the WHS Act .

2 INTERPRETATION

In the **Subcontract**:

- headings and explanatory notes do not form part of the **Subcontract**, and cannot be used in its interpretation;
- words in the singular include the plural and vice versa, according to the requirements of the context;
- references to a person include an individual, firm or body corporate or unincorporated;
- if the time for making any payment or doing any other act required or permitted by the **Subcontract** falls on a **Day** which is not a **Business Day**, then the time for making the payment or doing the act is deemed to be the next **Business Day**; and
- a reference to "including", "includes", or "include" is to be read as followed by the words "without limitation".

3 DISCREPANCIES AND AMBIGUITIES

3.1 *Parties to consult if discrepancy or ambiguity found*

If either party finds any discrepancy or ambiguity in the **Subcontract**, that party must notify the other party in writing. The parties agree to consult with each other in an attempt to resolve the discrepancy or ambiguity. Failing resolution, the discrepancy or ambiguity is to be resolved in accordance with Clause 3.2, or if that Clause should not resolve the discrepancy or ambiguity, then in accordance with Clause 32. If the resolution of the discrepancy or ambiguity causes the **Subcontractor** to incur more or less cost than the **Subcontractor** could reasonably have anticipated at the date of the formation of the **Subcontract**, the difference is to be valued under Clause 25.7.

3.2 *Order of precedence of documents*

Subject to Clause 3.1, any discrepancy or ambiguity in or between any documents comprising the **Subcontract** is to be resolved by adopting the following order of precedence:

- any special conditions set out in Part E of the **Appendix**;
- these general conditions;
- the **Drawings**;
- the **Specifications**; and
- any other subcontract documents.

3.3 *Figured dimensions prevail over scaled dimensions*

Where any discrepancy exists between figured and scaled dimensions, the figured dimensions prevail.

4 SECURITY

4.1 *Subcontractor's Security*

- This Clause 4 only applies if **Security** is required by Item 11 of the **Schedule** to be provided.
- The **Subcontractor** must provide **Security** in the form stated in Item 11 of the **Schedule** in the amount stated in Item 12 of the **Schedule**.
- If **Security** is to be provided in any form other than cash retention, such **Security** must be provided to the **Contractor** a minimum of 5 **Business Days** prior to commencing the **Subcontract Works**.

4.2 *Cash Retention*

If stated in Item 11 of the **Schedule** that **Security** is to be provided in the form of cash retention, and subject to the **Subcontract**, the **Contractor** may deduct from any amount due to the **Subcontractor**, and retain, the percentage of the amount due stated in Item 13 of the **Schedule** until the total amount retained by the **Contractor** equals the amount stated in Item 12 of the **Schedule**.

4.3 Secure Subcontractor's performance

Security provided by the **Subcontractor** to the **Contractor** under Clause 4 is for the purpose of securing the performance of the **Subcontractor's** obligations under the **Subcontract** by the **Subcontractor** including the **Subcontractor's** obligation to rectify defects.

4.4 Replacement Security

- a) In replacement of, or instead of, all or any part of the amount retained, or that could be retained, by the **Contractor** under Clause 4.2, the **Subcontractor** may, at any time, give to the **Contractor** one or more bank guarantees, bonds, or other valuable securities. Within two (2) **Business Days** after receipt of replacement security, the **Contractor** must release all or that part of the amount retained by the **Contractor** under Clause 4.2 for which the **Subcontractor** has given to the **Contractor** replacement security.
- b) In replacement of, or instead of, a bank guarantee, bond, or other valuable security provided under Clause 4.4(a), the **Subcontractor** may, at any time, elect to replace the bank guarantee, bond, or other valuable security with cash retention. The **Contractor** must retain the amount so elected by the **Subcontractor** from the next payment made to the **Subcontractor** under Clause 26 and must return the bank guarantee, bond, or other valuable security to the **Subcontractor** within two (2) **Business Days** of doing so.

4.5 Recourse to Security

The **Contractor** may use, or convert and use, all or any part of the **Security** held under Clause 4 to obtain an amount due from the **Subcontractor** to the **Contractor** under the **Subcontract** only if:

- a) the **Contractor** gives the **Subcontractor** a written notice of the **Contractor's** intention to use, or convert and use, the **Security**;
- b) the notice was given within twenty-eight (28) **Days** after the **Contractor** becomes aware, or ought reasonably to have become aware, of the **Contractor's** right to obtain the amount due from the **Subcontractor**;
- c) the notice sets out the proposed use and the amount owed; and
- d) the amount due is a debt due from the **Subcontractor** to the **Contractor** because of circumstances associated with the **Subcontractor's** performance of the **Subcontract**.

4.6 Reduction of Security

Upon **Completion**, the **Contractor's** entitlement to the **Security** is reduced to the percentage stated in Item 14 of the **Schedule**.

4.7 Release of Security

- a) The **Contractor** must release **Security** when all amounts owed to the **Contractor** by the **Subcontractor** as set out in a **Payment Schedule** given in response to a **Final Claim** have been paid to the **Contractor**.
- b) The **Subcontractor** must submit a **Final Claim** for the release of any **Security** that is in the form of cash retention.

5 PRIME COST ITEMS AND PROVISIONAL SUMS

5.1 Contractor to provide Directions relating to Prime Cost Items or Provisional Sums

If the **Subcontract** includes any **Prime Cost Items** or **Provisional Sums** in Part A or Part B of the **Appendix**, the **Contractor** must give to the **Subcontractor** all necessary written and signed **Directions** requested by the **Subcontractor** regarding the selection or supply of the item or work represented by a **Prime Cost Item** or **Provisional Sum** within five (5) **Business Days** of the **Subcontractor's** request.

5.2 Subcontractor to provide notice to Contractor where a Prime Cost Item is unavailable

If any **Prime Cost Item** selected by the **Contractor** is unavailable or will, in the opinion of the **Subcontractor**, unduly delay the progress of the **Subcontract Works**, the **Contractor** must specify in writing to the **Subcontractor** an alternative item within five (5) **Business Days** of the **Subcontractor's** request to do so.

5.3 If Contractor fails to specify alternative Prime Cost Item

If the **Contractor** fails to comply with Clause 5.2, the **Subcontractor** may select and supply an alternative **Prime Cost Item** as near as reasonably possible in quality to the originally selected **Prime Cost Item**.

5.4 Subcontract Price adjustment where cost is less than allowance

If the actual cost of a **Prime Cost Item**, or the actual cost of the work in respect of a **Provisional Sum**, is less than the total amount allowed for that item or work in Part A or Part B of the **Appendix**, the difference between the two amounts is to be deducted from the **Subcontract Price**. The **Subcontractor** must provide the **Contractor** with evidence of the actual cost of a **Prime Cost Item**.

5.5 Subcontract Price adjustment where cost exceeds allowance

If the actual cost of a **Prime Cost Item**, or the actual cost of the work in respect of a **Provisional Sum**, exceeds the total

amount allowed for that item or work in Part A or Part B of the **Appendix**, the excess amount plus the **Subcontractor's Margin** applied to that excess amount is to be added to the **Subcontract Price** provided the **Subcontractor** has provided the **Contractor** with evidence of the actual cost of the **Prime Cost Items** or the work in respect of the **Provisional Sum**.

6 LATENT CONDITIONS

6.1 Subcontractor to notify Contractor of Latent Condition

The **Subcontractor** must, on becoming aware of a **Latent Condition**, promptly give to the **Contractor** a written notice describing the **Latent Condition**, the **Subcontractor's** estimate of the work required to overcome the **Latent Condition**, and the **Subcontractor's** estimate of the time required to overcome the **Latent Condition**. The **Subcontractor** must not carry out any work required to overcome the **Latent Condition** until directed to do so by the **Contractor**.

6.2 Contractor's written notice

Within two (2) **Business Days** after receiving a notice under Clause 6.1 provided by the **Subcontractor**, the **Contractor** must give to the **Subcontractor** a written notice setting out full details of the work that the **Subcontractor** is required to carry out to remedy or otherwise overcome the **Latent Condition**, together with all necessary specifications, drawings and other design documents for that work.

6.3 Variation due to Latent Condition

The **Subcontractor** must vary the **Subcontract Works** to overcome any notified **Latent Condition** by undertaking the works as directed by the **Contractor** under Clause 6.2. The **Variation** is to be valued in accordance with Clause 25.7.

6.4 Contractor's failure to agree to Variation

If the **Contractor** fails to agree to a **Variation** required to overcome a **Latent Condition** in writing, then the dispute arising as a result is to be resolved in accordance with Clause 32.

7 STATUTORY REQUIREMENTS

7.1 Compliance with Statutory Requirements

The **Subcontractor** must:

- a) comply with all **Statutory Requirements** relating to the **Subcontract Works**;
- b) obtain any consent, approval and permit that are expressly required to be obtained and paid for by the **Subcontractor** under the **Subcontract**; and
- c) give any notice or report, and pay any fee, in order to comply with this Clause.

7.2 Increased cost of compliance

If the cost to the **Subcontractor**:

- a) in complying with all **Statutory Requirements**, increases after the date that is two (2) weeks prior to the date of the formation of the **Subcontract**; or
- b) in carrying out the **Subcontract Works**, increases after the date that is two (2) weeks prior to the date of the formation of the **Subcontract** as a result of the introduction or increase of any fee, tax, duty, charge, levy, other impost or regulation,

the amount of the increase is to be added to the **Subcontract Price**.

7.3 Variation due to compliance with Statutory Requirements

If the **Subcontractor's** compliance with a **Statutory Requirement** requires a **Variation** to the **Subcontract Works**, the **Contractor** must, within five (5) **Business Days** after receiving a Variation Document provided by the **Subcontractor** that complies with the requirements set out in Clause 25.6, give to the **Subcontractor** a written notice agreeing to the **Variation**.

7.4 Contractor's failure to agree to Variation

If the **Contractor** fails to agree to a **Variation** submitted pursuant to Clause 7.3, then the dispute arising as a result is to be resolved in accordance with Clause 32.

8 INSURANCE

8.1 Statutory insurance obligations

The **Subcontractor** must take out and maintain all policies of insurance, including, for example, WorkCover in respect of its workers, required to be taken out and maintained by the **Subcontractor** by a **Statutory Requirement** relating to the **Subcontract Works**.

8.2 Construction Works Policy

The party stated in Item 15 of the **Schedule** must take out and maintain a **Construction Works Policy** for the full insurable value of the **Subcontract Works** from the date that is five (5) **Business Days** after the date of the formation of the **Subcontract**, but no later than two (2) **Business Days** prior to the date worked out in accordance with Clause 17.1, until the **Date of Completion**. The **Construction Works Policy** must note the **Subcontractor** and the **Contractor** as Insureds under the policy.

8.3 Public liability insurance to be provided by Subcontractor

The **Subcontractor** must take out and maintain a public liability insurance policy for an amount not less than the amount stated in Item 16 of the **Schedule** from the date that is five (5) **Business Days** after the date of the formation of the **Subcontract**, but no later than two (2) **Business Days** prior to the date worked out in accordance with Clause 17.1, until the expiry of the **Defects Liability Period**. The public liability insurance policy must cover the **Subcontractor** and the **Contractor** for their liabilities to third parties in respect of personal injury to, or death of, any person (other than liability which is required by law to be insured under a workers compensation policy of insurance), and loss or damage to property except the **Subcontract Works**, arising out of, or in connection with, the **Subcontract Works**. The public liability insurance policy must note the **Subcontractor** and the **Contractor** as Insureds under the policy.

8.4 Responsibility if loss caused by Contractor

To the maximum extent permitted by law, the **Subcontractor** is not liable, and does not provide any indemnity, to the **Contractor**, the **Contractor's** employees or agents, or any other person for whom the **Contractor** is responsible for any injury or death to any person, or loss or damage to any property, which arises as a result of any act or omission by the **Contractor**, or any person for whom the **Contractor** is responsible, and in respect of such claims the **Contractor** must indemnify the **Subcontractor**.

8.5 Evidence of policies to be provided on written request

A party required to take out and maintain a policy of insurance under this Clause must:

- a) take out and maintain the policy of insurance with a reputable insurer; and
- b) if the other party gives a written notice requesting to view the policy of insurance, make available for the other party to view the current policy of insurance within five (5) **Business Days** after the giving of the notice.

9 SUBCONTRACTOR'S WARRANTIES

9.1 Warranties relating to the carrying out of the Subcontract Works

The **Subcontractor** warrants that the **Subcontractor** will carry out the **Subcontract Works**:

- a) with reasonable care and skill;
- b) in accordance with the **Drawings** and the **Specifications**;
- c) with reasonable diligence; and
- d) in accordance with all relevant laws and legal requirements, including, for example, the *Building Act 1975* and the National Construction Code.

9.2 Warranties relating to suitability of materials

Subject to Clause 9.3, the **Subcontractor** warrants that all materials to be supplied by the **Subcontractor** for use in the **Subcontract Works**:

- a) will be free from defects and, having regard to generally accepted practices or standards applied in the building and construction industry for the materials, or the specifications, instructions or recommendations of manufacturers or suppliers of the materials, suitable for the purpose for which they are to be used; and
- b) unless expressly stated otherwise elsewhere in the **Subcontract** or the parties have agreed in writing otherwise, will be new.

9.3 Applicability of Clause 9.2

Clause 9.2 does not apply if the **Contractor** is responsible for nominating the materials to be supplied by the **Subcontractor** for use in the **Subcontract Works** notwithstanding any recommendation, representation, suggestion or other approach having been made to the **Contractor** by the **Subcontractor**:

- a) supporting, or approving, the use of the materials; or
- b) criticising, or disapproving the use of, other materials that could be considered to be appropriate for use for the purpose for which the materials nominated by the **Contractor** are to be used,

and there are no reasonable grounds for not using the materials or, if there are reasonable grounds for not using the materials, the **Contractor** insists on the materials being used despite written advice to the contrary given to the **Contractor** by the **Subcontractor**.

9.4 Subcontractor's Payment Claims

By submitting a **Progress Claim** or a **Final Claim**, the **Subcontractor** warrants that it holds the appropriate licence to carry out the **Subcontract Works** where required to do so by the **Act**.

10 CONTRACTOR'S OBLIGATIONS

10.1 Contractor's obligation to pay the Subcontract Price

The **Contractor** must pay the **Subcontractor** the **Subcontract Price** in accordance with the **Subcontract**.

10.2 Contractor's obligation to pay Deposit

The **Contractor** must pay the **Deposit** to the **Subcontractor** within five (5) **Business Days** after the date of the formation of the **Subcontract** or two (2) **Business Days** prior to the date worked out in accordance with Clause 17.1, whichever is the earlier.

10.3 Materials supplied by Contractor to be new, good and suitable for their purposes

Unless expressly stated otherwise elsewhere in the **Subcontract**, if the **Contractor** is to supply materials for use in the **Subcontract Works**, the **Contractor** must supply materials which are new, good and suitable for the purposes for which

they are to be used and comply with any relevant Australian Standards or Codes, and where requested by the **Subcontractor**, provide written evidence of the materials' compliance.

10.4 **Documents supplied by Contractor**

If the **Contractor** supplies any documents to the **Subcontractor** relating to the **Subcontract Works**, the **Contractor**:

- a) warrants that the documents or data are, or will be, accurate, suitable for the purposes for which they will be used and appropriate in all respects for the **Land** (including the **Site**);
- b) warrants that the documents or data comply with all **Statutory Requirements** relating to the **Subcontract Works**;
- c) warrants that all consents, approvals and permits necessary for the lawful commencement of, and the carrying out of, the **Subcontract Works** have been obtained, and all related fees and charges have been paid, except to that extent which any such necessary consent, approval or permit is expressly required to be obtained and paid for by the **Subcontractor** under the **Subcontract**;
- d) acknowledges that it is, and will continue to be, reasonable for the **Subcontractor** to rely on the documents or data; and
- e) must supply a sufficient number of copies to enable the **Subcontractor** to perform the **Subcontract Works**, and to obtain necessary approvals if the **Subcontractor** is required to do so under the **Subcontract**.

10.5 **Communications between Contractor and Subcontractor**

The **Contractor** must not give **Directions** to the **Subcontractor's** employees or subcontractors. The **Contractor** is not entitled to rely on any statements made or representations given by the **Subcontractor's** employees or subcontractors other than those personally made or given by the **Subcontractor** and later confirmed in writing.

10.6 **Intellectual property rights warranty if Contractor provides design**

The **Contractor** warrants that:

- a) any **Drawings or Specifications** supplied by the **Contractor**; or
- b) any document which incorporates designs which were prepared:
 - i) under instruction, supervision or direction from the **Contractor**; or
 - ii) from sketches supplied by the **Contractor**;

do not infringe any copyright, moral right or other intellectual property right. The **Contractor** indemnifies the **Subcontractor** against all actions, proceedings, claims, demands, costs, losses, and damages in respect of any actual or alleged infringement of any copyright, moral right, or other intellectual property right by the **Subcontractor** as a result of the carrying out of the **Subcontract Works**.

11 **SUBCONTRACTOR'S INDEMNITY**

- a) Insofar as this Clause applies to property, it applies to property other than **Subcontract Works**.
- b) The **Subcontractor** indemnifies, and will keep indemnified, the **Contractor** against:
 - i) any loss of or damage to the **Contractor's Client's** or the **Contractor's** property including existing property in or upon which **Subcontract Works** is being carried out; and
 - ii) claims in respect of personal injury or death or loss of, or damage to, any other property, arising out of or as a consequence of the carrying out of the **Subcontract Works** and is due to the negligent act, omission or default of the **Subcontractor** or the **Subcontractor's** agent or contractors.
- c) The **Subcontractor's** liability will be reduced proportionately to the extent that any negligent act, omission or default of the **Contractor** or any person other than the **Subcontractor** for whom the **Contractor** is responsible may have contributed to such personal injury, death, loss or damage.
- d) The **Contractor** must take reasonable steps to mitigate any loss or damage caused, or contributed to, by the causes listed in this Clause.

12 **CONTRACTOR'S INDEMNITY**

- a) The **Contractor** indemnifies, and will keep indemnified, the **Subcontractor** against any claim, demand, loss, damage, cost, expenses, or liability arising out of:
 - i) any negligent act or omission of the **Contractor** or the **Contractor's** consultants, agents or contractors;
 - ii) any breach of contract or statutory duty by the **Contractor** or the **Contractor's** consultants, agents or contractors; and
 - iii) damage which is the unavoidable result of the construction of the **Subcontract Works** in accordance with the **Subcontract**.
- b) The **Contractor's** liability will be reduced proportionately to the extent that any negligent act, omission or default of the **Subcontractor** or any person other than the **Contractor** for whom the **Subcontractor** is responsible may have contributed to such personal injury, death, loss or damage.
- c) The **Subcontractor** must take reasonable steps to mitigate any loss or damage caused, or contributed to, by the causes listed in this Clause.

13 **CLEANING UP**

- a) Insofar as it relates to the **Subcontract Works**, the **Subcontractor** must:
 - i) keep the **Site** and the **Subcontract Works** clean and tidy; and
 - ii) regularly remove rubbish and surplus material from the **Site**.
- b) The **Contractor** may, at any time, direct the **Subcontractor** to clean and tidy the **Site** or remove rubbish or surplus material from the **Site**.
- c) Within ten (10) **Business Days** after the **Date of Completion**, the **Subcontractor** must remove temporary works and constructional plant. The **Contractor** may extend the period within which the **Subcontractor** must remove temporary works and constructional plant from the **Site** to enable the **Subcontractor** to perform outstanding obligations under the **Subcontract**.
- d) If the **Subcontractor** fails to comply with any obligation imposed by this Clause, the **Contractor** may direct the **Subcontractor** to rectify the non-compliance and provide the time for rectification. If the **Subcontractor** fails to comply with such a **Direction** by the time stated in the **Direction** for rectification, the **Contractor** may perform that obligation on the **Subcontractor's** behalf or have that work carried out by other persons. The reasonable costs incurred by the **Contractor** in doing so may be recovered by the **Contractor** as a debt due and payable from the **Subcontractor** to the **Contractor**. The rights given to the **Contractor** by this Clause are in addition to any other right of the **Contractor**.

14 PROTECTION OF PERSONS AND PROPERTY

- a) In carrying out the **Subcontract Works**, the **Subcontractor** must:
 - i) provide all things and take all measures necessary to protect persons and property;
 - ii) avoid unnecessary interference with the passage of persons or anything used for transportation; and
 - iii) prevent nuisance and unreasonable noise and disturbance to persons or property.
- b) The **Contractor** may direct the **Subcontractor** to comply with this Clause and may specify such measures as are reasonably necessary to so comply. The **Subcontractor** is bound to carry out all such measures as directed.
- c) If the **Subcontractor**, or the **Subcontractor's** agents or contractors, damage property, including but not limited to public utilities and services and property on or adjacent to the **Site**, the **Subcontractor** must promptly make good the damage and pay any compensation which the law requires the **Subcontractor** to pay.
- d) If the **Subcontractor** fails to comply with an obligation under this Clause, the **Contractor** may direct the **Subcontractor** to rectify the non-compliance and provide the time for rectification. If the **Subcontractor** fails to comply with such a **Direction** by the time stated in the **Direction** for rectification, the **Contractor** may perform that obligation on the **Subcontractor's** behalf or have that work carried out by other persons. The reasonable costs incurred by the **Contractor** in doing so may be recovered by the **Contractor** as a debt due and payable from the **Subcontractor** to the **Contractor**. The rights given to the **Contractor** by this Clause are in addition to any other right of the **Contractor**.

15 CARE OF THE SUBCONTRACT WORKS

From the commencement of the **Subcontract Works** through to the **Date of Completion**, the **Subcontractor** is responsible for the care of the **Subcontract Works** including:

- a) all materials and plant which are the property of the **Subcontractor**, or the **Subcontractor's** agents or contractors, which are used or intended to be used for the purpose of carrying out the **Subcontract Works**; and
- b) all materials and plant entrusted to the **Subcontractor**, or the **Subcontractor's** agents or subcontractors, by the **Contractor** for the purpose of carrying out the **Subcontract Works**.

16 DEFECTIVE WORK

- a) If the **Contractor** discovers material or work carried out by the **Subcontractor** which is not in accordance with the **Subcontract** ('defective work'), the **Contractor** may, at any time up to the expiration of the **Defects Liability Period**, direct the **Subcontractor** to remove, rectify, reconstruct, replace, or correct that part of the **Subcontract Works** that does not comply with the **Subcontract**. The **Contractor** may direct the times within which the **Subcontractor** must commence and complete the removal, rectification, reconstruction, replacement, or correction.
- b) The **Subcontractor** must, at its own cost, comply with any **Direction** given by the **Contractor** in accordance with Clause 16(a) within the timeframes provided in the **Direction** or, if no timeframes are provided, then within five (5) **Business Days**.
- c) If the **Subcontractor** fails to comply with an obligation under this Clause, the **Contractor** may:
 - i) perform that obligation on the **Subcontractor's** behalf or have that work carried out by other persons, and the reasonable costs incurred by the **Contractor** in doing so may be recovered by the **Contractor** as a debt due and payable from the **Subcontractor** to the **Contractor**; or
 - ii) in its absolute discretion, accept the defective work and, if it does so, the **Contractor** may reduce the **Subcontract Price** by taking into account:
 - A) the diminution in the value of the work because of the defective work; or

B) the cost from which the **Subcontractor** is relieved of in not rectifying the defective work.

d) The rights given to the **Contractor** by this Clause are in addition to any other right of the **Contractor**.

17 THE LAND

17.1 Subcontractor to have access to the Site and existing buildings

The **Contractor** must provide to the **Subcontractor** access to the **Site**, and all reasonably required access to any existing buildings on the **Land** necessary to carry out the **Subcontract Works**, by:

- a) if a date is stated in Item 17(a) of the **Schedule**, the stated date; or
- b) if a time is stated in Item 17(b) of the **Schedule**, the end of the stated period commencing on the **Day** the **Contractor** provides notice to the **Subcontractor** of access to the **Site**.

17.2 Access to the Site

- a) The party stated in Item 17 of the **Schedule** is responsible for providing and maintaining access to the **Site** for any persons, vehicles or machinery reasonably necessary for the carrying out of the **Subcontract Works**.
- b) If the party stated in Item 17 of the **Schedule** is the **Contractor**, and the **Site** becomes inaccessible due to any reason beyond the control of the **Subcontractor**, any costs incurred by the **Subcontractor** in obtaining sufficient access to the **Site**, together with the **Subcontractor's Margin**, is to be added to the **Subcontract Price**.

17.3 Evidence of boundaries or position of the Land to be provided by Contractor

If relevant to the performance of the **Subcontract Works**, and if requested in writing by the **Subcontractor**, the **Contractor** must, within five (5) **Business Days** after the **Subcontractor's** request, give to the **Subcontractor** satisfactory written evidence of the boundaries or position of the **Land**, and the **Contractor** warrants that such evidence will be accurate.

18 COORDINATION OF THE SUBCONTRACT WORKS

- a) The **Subcontractor** must permit the execution of the work on the **Site** by persons engaged by the **Contractor** and must co-operate with the **Contractor's** other subcontractors and with others engaged by the **Contractor** and, subject to the **Contractor** being responsible for the overall coordination of the work under the **Head Contract**, the **Contractor** and the **Subcontractor** agree to coordinate the execution of the **Subcontract Works** with the execution of the work under the **Head Contract**.
- b) The **Contractor** may direct in what order and at what time the various stages or parts of the **Subcontract Works** must be performed. If the **Subcontractor** cannot reasonably comply, the **Subcontractor** must promptly notify the **Contractor** in writing, giving reasons. If the **Direction** differs substantially from what a competent subcontractor would expect at the date of the formation of the **Subcontract**, and compliance with the **Direction** causes the **Subcontractor** to incur more or less cost than would otherwise have been incurred had the **Subcontractor** not been given the **Direction**, the difference is to be valued under Clause 25.7.

19 DELAYS AND EXTENSION OF TIME CLAIMS

19.1 Subcontractor's claim for an extension of time

Subject to Clause 19.2, the **Subcontractor** is entitled to an extension of the **Date for Completion** if the progress of the **Subcontract Works** is delayed as a result of any of the following causes:

- a) a **Variation** of the **Subcontract Works** under the **Subcontract**;
- b) an act or omission of the **Contractor's Client**, the **Contractor's Client's** consultants and agents, the **Contractor**, the **Contractor's Representative**, or the **Contractor's** consultants, other agents or other contractors;
- c) a **Latent Condition**;
- d) a breach of the **Subcontract** by the **Contractor**;
- e) a lawful suspension of the **Subcontract Works**;
- f) claims or proceedings being taken, or threatened to be taken, by a third party that did not arise as a result of any breach by the **Subcontractor** of the **Subcontract**;
- g) proceedings being taken, or threatened by, or disputes with, adjoining neighbouring owner or occupier that did not arise as a result of any breach by the **Subcontractor** of the **Subcontract**;
- h) an act of prevention by the **Contractor** not otherwise covered by this Clause;
- i) **Inclement Weather**, or any conditions arising as a direct or indirect consequence resulting from **Inclement Weather** (subject to Clause 19.3);
- j) industrial action or civil commotion affecting the **Subcontract Works**, any persons employed in respect of the **Subcontract Works**, or the manufacture or supply of materials for the **Subcontract Works**; or
- k) any other cause not reasonably foreseeable at the date of the formation of the **Subcontract**, and beyond the reasonable control of the **Subcontractor**.

19.2 Notice of extension of time

If, at any time prior to the **Subcontract Works** reaching **Completion**, the progress of the **Subcontract Works** was, or will be delayed, as a result of a cause set out in Clause 19.1, the **Subcontractor** must, within the time provided by Item

18 of the **Schedule** of the **Subcontractor** becoming, or ought reasonably to have become, aware of the cause and extent of the delay, give to the **Contractor** a written claim, signed by or on behalf of the **Subcontractor**, for a reasonable extension of the **Date for Completion** that sets out the cause and consequences of the delay.

19.3 Extension for delays involving Inclement Weather

With respect to a cause of delay referred to in Clause 19.1(i), the **Subcontractor** is not entitled to an extension of the **Date for Completion** for any delays resulting from that cause until the allowance for that cause stated in Item 19 of the **Schedule** has been fully exhausted.

19.4 Contractor's assessment of claim

Within ten (10) **Business Days** after receiving the **Subcontractor's** written claim submitted in accordance with Clause 19.2, the **Contractor** must assess the claim and give written notice to the **Subcontractor**:

- a) accepting the claimed extension of the **Date for Completion**; or
- b) if the **Contractor** disputes the **Subcontractor's** entitlement to all or any part of the claimed extension of the **Date for Completion**, give the **Subcontractor** a written notice:
 - i) stating that the **Contractor** disputes the claimed extension of the **Date for Completion**;
 - ii) setting out full details of the **Contractor's** reasons for the dispute; and
 - iii) granting any part of the claimed extension of the **Date for Completion** that is not disputed by the **Contractor**.

19.5 Deemed acceptance

If the **Contractor** fails to give written notice in accordance with Clause 19.4, the **Contractor** is deemed to have accepted the **Subcontractor's** entitlement to, and granted, all of the claimed extension of the **Date for Completion**.

19.6 Contractor's discretion

Where the **Subcontractor** is not entitled to an extension of the **Date for Completion** under this Clause, the **Contractor** may nevertheless, at any time prior to the submission by the **Subcontractor** of a **Final Claim** and at the **Contractor's** sole discretion, extend the **Date for Completion** for any reason by giving the **Subcontractor** a written notice setting out the extension of the **Date for Completion**.

20 DELAY COSTS

- a) This Clause only applies if Item 20 of the **Schedule** provides that the **Subcontractor** is permitted to claim Delay Costs.
- b) If the **Subcontractor** is granted an extension of the **Date for Completion** under Clause 19 for a cause set out in Clause 19.1(a) to (h), the **Subcontractor** is entitled to the reasonable costs (including any additional administration, management or supervisory costs, and overhead) the **Subcontractor** incurs as a consequence of the delay resulting from the relevant cause, provided that the **Subcontractor** gives to the **Contractor**, a written claim for such delay costs and details of the reasonable costs incurred by the **Subcontractor**, by no later than the date that is twenty (20) **Business Days** after the extension of the **Date for Completion** is granted under Clause 19.

21 SUSPENSION OF THE WORKS

21.1 Notice of Suspension

If, at any time prior to the **Subcontract Works** reaching **Completion**, the **Contractor** is:

- a) in **Substantial Breach** of the **Subcontract**, or
- b) fails to comply with an order of a Court or **Tribunal** given in favour of the **Subcontractor** in relation to any issue arising out of, or in connection with, the **Subcontract**,

the **Subcontractor** may give a written notice to the **Contractor**:

- c) describing each alleged breach of the **Subcontract** by the **Contractor** or the **Contractor's** failure; and
- d) stating the **Subcontractor's** intention to suspend the **Subcontract Works** unless the **Contractor** remedies the alleged breach or breaches or failure within five (5) **Business Days** after receiving the **Subcontractor's** notice.

21.2 If Contractor fails to remedy breach or failure, Subcontractor may suspend Subcontract Works

If the **Contractor** fails to remedy the breach or breaches or failure set out in a notice given to it by the **Subcontractor** in accordance with Clause 21.1 within the time stated in that notice, the **Subcontractor** may, without prejudice to any of the **Subcontractor's** other rights or remedies, suspend performance of the **Subcontract Works** by further written notice to the **Contractor** provided that such a notice of suspension must not be given unreasonably or vexatiously and, if so given, then such purported notice of suspension is void, and of no force and effect.

21.3 Recommencement of the Subcontract Works if remedied

The **Subcontractor** must recommence the carrying out of the **Subcontract Works** within five (5) **Business Days** of the alleged breach or breaches or failure being remedied by the **Contractor**.

22 COMPLETION

22.1 Date for Completion

The **Subcontractor** must bring the **Subcontract Works** to **Completion** by the **Date for Completion**.

- 22.2 Subcontractor's notice of anticipated Completion**
Not less than five (5) **Business Days** before the **Day** on which the **Subcontractor** anticipates bringing the **Subcontract Works** to **Completion**, the **Subcontractor** must give to the **Contractor** written notice of the **Day** on which the **Subcontractor** anticipates bringing the **Subcontract Works** to **Completion**.
-
- 22.3 Subcontractor's notice of Completion**
The **Subcontractor** must give a written notice to the **Contractor** when the **Subcontractor** believes that the **Subcontract Works** have reached **Completion**.
-
- 22.4 Contractor's response to notice of Completion**
If the **Contractor** disputes that the **Subcontract Works** have reached **Completion**, the **Contractor** must, within fifteen (15) **Business Days** after receipt of the notice under Clause 22.3, give the **Subcontractor** a written notice:
a) stating that the **Contractor** disputes that the **Subcontract Works** have reached **Completion**; and
b) setting out full details of the further work that the **Contractor** believes is required to be carried out for the **Subcontract Works** to reach **Completion**.
-
- 22.5 Contractor's failure to give a notice under Clause 22.4**
If the **Contractor** does not give the **Subcontractor** a notice in accordance with Clause 22.4, the **Subcontract Works** are deemed to have reached **Completion** on the date of the giving of the notice under Clause 22.3.
-
- 22.6 Subcontractor's response to Contractor's notice**
If the **Contractor** gives the **Subcontractor** a notice under Clause 22.4, the **Subcontractor** must:
a) if the **Subcontractor** disputes that any further work is necessary for the **Subcontract Works** to reach **Completion**, give the **Contractor** a written notice of dispute under Clause 32; or
b) if the **Subcontractor** does not dispute that further work is necessary for the **Subcontract Works** to reach **Completion**, carry out the further work necessary for the **Subcontract Works** to reach **Completion** and then give the **Contractor** a further written notice under Clause 22.3.
-
- 22.7 Consequences of Contractor taking Possession of, occupies, or uses the Subcontract Works when not entitled to do so**
If, for any reason, the **Contractor**:
a) takes **Possession** of;
b) occupies; or
c) uses,
the **Subcontract Works**, or any part of the **Subcontract Works**, when not entitled to do so under the **Subcontract** and without the prior consent of the **Subcontractor**, the **Subcontract Works**, or the relevant part of the **Subcontract Works**, are deemed to have reached **Completion** on the **Day** that the **Contractor** takes **Possession** of, occupies, or uses the **Subcontract Works**, or that part of the **Subcontract Works**, and the **Contractor** is liable to the **Subcontractor** for any loss or damage that the **Subcontractor** may incur or suffer as a result.
-
- 23 LIQUIDATED DAMAGES**
- 23.1 Applicability of Clause 23**
This Clause 23 only applies if Item 21 of the **Schedule** provides that liquidated damages apply to the **Subcontract**.
-
- 23.2 Contractor's entitlement to liquidated damages**
If the **Subcontractor** fails to bring the **Subcontract Works** to **Completion** by the **Date for Completion**, the **Contractor** may, after the **Date for Completion**, from time to time give to the **Subcontractor** one or more written claims for liquidated damages at the rate stated in Item 21 (a) of the **Schedule** for each **Day** after the **Date for Completion** until the **Date of Completion**, or the **Day** on which the **Subcontract** is terminated, whichever is earlier.
-
- 23.3 Time for liquidated damages claim**
The **Contractor** will not be entitled to liquidated damages, or any other monetary consideration (including damages for breach of contract), for any failure by the **Subcontractor** to bring the **Subcontract Works** to **Completion** by the **Date for Completion** for any period for which a written claim for liquidated damages in accordance with Clause 23.2 has not been given prior to twenty-eight (28) **Days** after the **Date of Completion**, or the **Day** on which the **Subcontract** is terminated (as the case may be).
-
- 23.4 Subcontractor's obligations on receipt of claim for liquidated damages**
Subject to Clauses 23.2 and 23.3, the **Subcontractor** must within ten (10) **Business Days** after receiving a written claim from the **Contractor** for liquidated damages:
a) pay or allow to the **Contractor** the liquidated damages claimed; or
b) give to the **Contractor** a written notice of dispute in accordance with Clause 32.1 that sets out:
i) the amount of the liquidated damages claimed by the **Contractor** that the **Subcontractor** disputes; and
ii) the **Subcontractor's** reasons for disputing that amount of the liquidated damages claimed, and pay or allow to the **Contractor** any undisputed amount of the liquidated damages claimed

- 23.5 Limit on Liquidated Damages**
If an amount is stated in Item 21 (b) of the **Schedule**, the **Subcontractor's** liability under Clause 23 is limited to the amount stated in Item 21 (b) of the **Schedule**.
-
- 24 DEFECTS LIABILITY PERIOD**
- 24.1 Defects Liability Period**
If, after the **Subcontract Works** have reached **Completion** but prior to the expiration of the **Defects Liability Period**, the **Contractor** becomes aware of any defects in, or omissions from, the **Subcontract Works**, the **Contractor** must give the **Subcontractor** a written notice setting out full details of the defect or omission.
-
- 24.2 Subcontractor must rectify defects identified during the Defects Liability Period**
Subject to reasonable access being provided, the **Subcontractor** must, within the **Defects Liability Period** and, if reasonably required by the **Subcontractor**, a further period of twenty (20) **Business Days** after the expiry of the **Defects Liability Period**, rectify any defects in, and omissions from, the **Subcontract Works** notified to the **Subcontractor** in accordance with Clause 24.1, during usual business hours and at no cost to the **Contractor**. If the **Contractor's** notification includes a time within which the defects must be rectified, and such time is reasonable in all of the circumstances, then the **Subcontractor** must complete such rectification within that time.
-
- 24.3 Consequences of Subcontractor failing to rectify defects within time**
If the **Subcontractor** fails to rectify the defects notified by the **Contractor** in accordance with Clause 24.2 within the time noted in the **Contractor's** notice, the **Contractor** may perform that obligation on the **Subcontractor's** behalf or have the rectification work carried out by other persons. The reasonable costs incurred by the **Contractor** in doing so may be recovered by the **Contractor** as a debt due and payable from the **Subcontractor** to the **Contractor**. The rights given to the **Contractor** by this Clause are in addition to any other right of the **Contractor**.
-
- 24.4 Extending Defects Liability Period**
Without limiting the **Subcontractor's** obligations under Clause 24, the **Subcontractor** must, within ten (10) **Business Days** of a written direction from the **Contractor**, deliver any as-built information not previously delivered to the **Contractor** and review and update the as-built information and deliver the updated as-built information to the **Contractor**.
-
- 25 VARIATIONS**
- 25.1 Variations to the Subcontract Works**
The **Subcontractor** must not vary the **Subcontract Works** except as directed in writing by the **Contractor** or approved or permitted in writing by the **Contractor**.
-
- 25.2 Request for a Variation**
Either party may request a **Variation** to the **Subcontract Works**.
-
- 25.3 Contractor's Directions to vary the Subcontract Works**
The **Contractor** may direct the **Subcontractor** to vary the **Subcontract Works** so as to:
- increase, decrease or omit any part of the **Subcontract Works**;
 - change the character or quality of any material or work;
 - change the levels, lines, positions or dimensions of any part of the **Subcontract Works**;
 - carry out additional work; and/or
 - demolish or remove material or work no longer required by the **Contractor**.
-
- 25.4 Variation within general scope of the Subcontract Works**
The **Subcontractor** is bound only to carry out a **Variation** which is within the general scope of the **Subcontract**.
-
- 25.5 Variations after Completion**
The **Subcontract Works** may not be varied after the **Subcontract Works** reach **Completion** unless the **Subcontractor**, at its discretion, agrees otherwise.
-
- 25.6 Variation Document**
Within fifteen (15) **Business Days** of receiving a **Direction** from the **Contractor** under Clause 25.3, or the **Subcontractor** receiving a **Direction** to vary the **Subcontract Works** that it reasonably believes to be a **Direction** from the **Contractor** under Clause 25.3, and before any work the subject of the **Variation** is started, the **Subcontractor** must provide the **Contractor** with a **Variation Document** that is:
- readily legible;
 - describes the **Variation** and sets out the details of the scope of work which is the subject of the **Variation**;
 - states the date of the request for the **Variation**;
 - states the **Subcontractor's** estimate of any period of delay to the progress of the **Subcontract Works** as a result of the **Variation**; and
 - states any adjustment to the **Subcontract Price** because of the **Variation**, or the method for calculating the adjustment.
-
- 25.7 Valuation of the Variation**

Variations must be valued:

- a) if the parties agree to a price for, or the methodology for calculating the price of, the **Variation**, the agreed price; or
- b) in the absence of agreement on, or the methodology for calculating the price of, the **Variation**, the reasonable valuation of the **Variation** plus the **Subcontractor's Margin**.

If the **Variation** is a negative **Variation** that results in a reduction to the **Subcontract Price**, the **Subcontractor** is entitled to the **Subcontractor's Margin** on the negative **Variation** and the **Subcontractor's Margin** is to be added to the **Subcontract Price**.

25.8 Contractor's written response to Variation

- a) If the **Contractor** agrees to the **Variation**, the **Contractor** must give the **Subcontractor** a written notice agreeing to the **Variation** within five (5) **Business Days** after receiving the Variation Document provided by the **Subcontractor** under Clause 25.6.
- b) If the **Contractor** does not agree to the **Variation**, or does not provide written notice pursuant to Clause 25.8(a), then the dispute arising as a result is to be resolved in accordance with Clause 32.

25.9 No work before receipt of Contractor's notice

The **Subcontractor** must not start to carry out any work the subject of a **Variation** until the **Subcontractor** receives the written notice from the **Contractor** under Clause 25.8(a) agreeing to the **Variation**.

26 PAYMENT

26.1 Progress claims

- a) The **Subcontractor** may submit progress claims to the **Contractor** on the following reference dates:
 - i) the times stated in Item 22 of the **Schedule** (or, if any time stated in Item 22 of the **Schedule** is not a **Business Day**, the next **Business Day**) up to the expiration of the **Defects Liability Period**;
 - ii) on the **Subcontract Works** reaching **Completion**;
 - iii) if, after the **Subcontract Works** reach **Completion** and prior to the expiration of the **Defects Liability Period**, the parties agree to a **Variation** to the **Subcontract Works**, on the completion of the work which is the subject of the **Variation**; and
 - iv) on the expiration of the **Defects Liability Period** in accordance with Clause 26.2.
- b) A **Progress Claim** must set out:
 - i) details of:
 - A) the work carried out by the **Subcontractor** to which the **Progress Claim** relates;
 - B) the amount that the **Subcontractor** claims for payment by the **Contractor** for that work;
 - C) the amount of cash retention provided pursuant to Clause 4.2 that is due for release pursuant to Clause 4.6; and
 - D) any other amount arising out of, or in connection with, the **Subcontract** that the **Subcontractor** claims for payment by the **Contractor**; and
 - ii) the total amount that the **Subcontractor** claims for payment by the **Contractor**; and be in the form of a tax invoice.

26.2 Final Claim

No later than ten (10) **Business Days** after the expiration of the **Defects Liability Period**, the **Subcontractor** may submit a **Final Claim** to the **Contractor** that sets out:

- a) the total amount of the **Progress Claims** submitted by the **Subcontractor** to the **Contractor** under Clause 26.1;
- b) the total amount of the payments made by the **Contractor** to the **Subcontractor** under the **Subcontract** up to and including the date on which the **Subcontractor** submits the **Final Claim**;
- c) details of:
 - i) any work carried out by the **Subcontractor** to which the **Final Claim** relates;
 - ii) any amount that the **Subcontractor** claims for payment by the **Contractor** in respect of any such work;
 - iii) any amount of cash retention provided pursuant to Clause 4.2 that is due for release pursuant to Clause 4.7; and
 - iv) any other amount arising out of, or in connection with, the **Subcontract** that the **Subcontractor** claims for payment by the **Contractor**; and
- d) the total amount that the **Subcontractor** claims for payment by the **Contractor** in the **Final Claim**; and be in the form of a tax invoice.

26.3 Payment Schedule

- a) Upon receipt of a **Progress Claim** or a **Final Claim** that complies with the requirements of Clause 26.1 or 26.2, as applicable, the **Contractor** must issue a **Payment Schedule** no later than fifteen (15) **Business Days** after the **Submission Date** of the **Progress Claim** or **Final Claim** that sets out the amount which the **Contractor**

- proposes to pay the **Subcontractor** ('Scheduled Amount').
- b) If the Scheduled Amount is less than the amount of the **Progress Claim** or **Final Claim**, as applicable, the **Payment Schedule** must include reasons why the Scheduled Amount is less and, if it is less because the **Contractor** is withholding payment for any reason, the **Contractor's** reasons for withholding payment.
 - c) A **Payment Schedule** given in response to a **Final Claim** must include the balance of any **Security** that is in the form of cash retention that is due to be released to the **Subcontractor** under Clause 4.7.
 - d) The **Subcontractor** agrees that a **Payment Schedule** issued by the **Contractor** under this Clause is a payment schedule given under, and for the purposes of, the **Subcontract** and the *Building Industry Fairness (Security of Payment) Act 2017* (Qld).

26.4 Payment by Contractor

- a) If the **Contractor** has not issued a Payment Schedule in accordance with Clause 26.3, the **Contractor** must pay to the **Subcontractor** the total amount of the **Progress Claim** or the **Final Claim**, as applicable, by no later than the **Due Date for Payment**.
- b) If the **Contractor** issues a Payment Schedule in accordance with Clause 26.3, the **Contractor** must pay to the **Subcontractor** the total amount of the Payment Schedule by no later than the **Due Date for Payment**.
- c) The **Subcontractor** agrees that the **Contractor** may make any payment under the **Subcontract** into the account described in Item 23 of the **Schedule**.

26.5 Due Date for Payment

- a) Subject to Clause 26.5(b), the **Due Date for Payment** for a **Progress Claim** or a **Final Claim** is the time stated in Item 24 of the **Schedule** after the **Submission Date**.
- b) If section 67U of the **Act** applies to the **Subcontract**, and the **Due Date for Payment** calculated pursuant to Clause 26.5(a) for a **Progress Claim** or a **Final Claim**, as applicable, exceeds the maximum time for payment permitted by section 67U of the **Act**, then the **Due Date for Payment** for the **Progress Claim** or the **Final Claim**, as applicable, is the maximum time permitted by section 67U of the **Act**.

26.6 Outstanding payments

If the **Contractor** fails to make any payment due to the **Subcontractor** under the **Subcontract** on or before the **Due Date for Payment**:

- a) the **Subcontractor** is entitled to interest on the outstanding amount at the rate stated in Item 25 of the **Schedule**, payable from the **Day** after the **Due Date for Payment** until the date of payment; and
- b) the **Contractor** must pay to the **Subcontractor** any debt collection costs, including any legal costs on a full indemnity basis, associated with recovering, or the attempted recovery of, the outstanding amount.

26.7 Payment on account only

Payment, other than payment of the **Final Claim**, is payment on account only.

26.8 Deductions from progress claims or Final Claim

The **Contractor** may deduct from moneys owing to the **Subcontractor** under Clause 26 any money due to the **Contractor** from the **Subcontractor** whether under the **Subcontract**, another contract, or otherwise and whether in relation to the **Subcontract Works** or otherwise.

26.9 Reference date on termination of Subcontract

In the event that the **Subcontract** is terminated for any reason, a reference date for the purposes of a **Progress Claim** pursuant to Clause 26.1 arises on the date of termination.

26.10 Unfixed Plant and Materials

- a) **Progress claims** must not include, and the **Contractor** is not liable to pay for, unfixed plant and materials.
- b) Notwithstanding Clause 26.10(a), the **Contractor** may, in its absolute discretion, consent to the payment of unfixed plant and materials if:
 - i) the **Subcontractor** provides additional **Security** as may be reasonably requested by the **Contractor**;
 - ii) the **Subcontractor** establishes to the reasonable satisfaction of the **Contractor** that the **Subcontractor** has paid for the unfixed plant and materials or otherwise owns the unfixed plant and materials;
 - iii) ownership of the unfixed plant and materials will pass to the **Contractor** upon payment being made for the unfixed plant and materials;
 - iv) the **Contractor** is satisfied that the unfixed plant and materials are in accordance with the **Subcontract**;
 - v) the unfixed plant and materials are separately stored and adequately protected and insured by the **Subcontractor**;
 - vi) the unfixed plant and materials are clearly labelled the property of the **Contractor** and endorsed with the name of the project;
 - vii) if delivered to, or adjacent to, the **Site**, the unfixed plant and materials have not been delivered earlier than is reasonably necessary for the **Subcontractor** to execute the **Subcontract Works** in

- viii) accordance with the **Subcontract**; and the **Contractor** is satisfied that the unfixed plant and materials are not encumbered in any way, including having a secured interest registered upon them pursuant to the *Personal Property Securities Act 2009*.

27 CONTRACTOR'S RIGHT TO TERMINATE CONTRACT

27.1 Contractor's right to give notice of intention to terminate Subcontract

If the **Subcontractor**:

- a) fails to proceed with the **Subcontract Works** with reasonable diligence or with reasonable care and skill;
 - b) unlawfully suspends the carrying out of the **Subcontract Works**;
 - c) refuses or persistently neglects to remove or remedy defective work or improper materials so that the progress of the **Subcontract Works** is significantly adversely affected;
 - d) is unable to complete the **Subcontract Works**;
 - e) fails to take out or maintain any insurance policy required by the **Subcontract**;
 - f) has its Queensland Building and Construction Commission licence (if applicable) suspended; or
 - g) is otherwise in **Substantial Breach** of the **Subcontract**,
- the **Contractor** may give a written notice to the **Subcontractor** by hand or, registered "Priority" post:
- h) describing each alleged breach of the **Subcontract** by the **Subcontractor**; and
 - i) stating the **Contractor's** intention to terminate the **Subcontract** unless the **Subcontractor** remedies the alleged breach or breaches within ten (10) **Business Days** after receiving the **Contractor's** notice.

27.2 If Subcontractor fails to remedy the breach, Contractor may terminate Subcontract

- a) If the **Subcontractor** fails to remedy the breach or breaches set out in a notice given to it by the **Contractor** in accordance with Clause 27.1 within the time stated in that notice, the **Contractor** may, without prejudice to any other rights or remedies, terminate the **Subcontract** by further written notice to the **Subcontractor** provided that such a notice of termination must not be given unreasonably or vexatiously and, if so given, then such purported notice of termination is void, and of no force and effect.
- b) If the **Subcontract** is terminated in accordance with Clause 27.2(a), the rights and liabilities of the parties are the same as they would have been at common law had the **Subcontractor** repudiated the **Subcontract** and the **Contractor** elected to treat the **Subcontract** as at an end and recover damages.

27.3 Contractor may not terminate Subcontract in certain circumstances

Subject to Clause 27.5, the **Contractor** may not terminate the **Subcontract** if the **Contractor** is in **Substantial Breach** of the **Subcontract**.

27.4 Contractor's right to engage another contractor to complete the Subcontract Works

If the **Contractor** terminates the **Subcontract** in accordance with Clause 27.2, the **Contractor** may engage another contractor to complete the **Subcontract Works**.

27.5 Contractor's right to terminate if Head Contract is terminated

The **Contractor** may terminate the **Subcontract** if the **Head Contract** is terminated for any reason.

27.6 Subcontractor entitled to reasonable remuneration if Subcontract terminated

If the **Subcontract** is terminated in accordance with Clause 27.5, the **Subcontractor** is entitled to a reasonable remuneration for the unpaid value of that part of the **Subcontract Works** it carried out under the **Subcontract** up to, and including, the **Day** on which the **Subcontract** is terminated.

28 SUBCONTRACTOR'S RIGHT TO TERMINATE SUBCONTRACT

28.1 Subcontractor's right to give notice of intention to terminate Subcontract

If the **Contractor**:

- a) fails to comply with any of its obligations under Clause 8;
 - b) fails to comply with any of its obligations under Clause 10;
 - c) fails to comply with any of its obligations under Clause 17;
 - d) fails to comply with any of its obligations under Clause 26;
 - e) fails to remedy any **Substantial Breach** of the **Subcontract** set out in a suspension notice given in accordance with Clause 21.1 within five (5) **Business Days** after receiving that notice; or
 - f) is otherwise in **Substantial Breach** of the **Subcontract**,
- the **Subcontractor** may give a written notice to the **Contractor** by hand or registered "Priority" post:
- g) describing each alleged breach of the **Subcontract** by the **Contractor**; and
 - h) stating the **Subcontractor's** intention to terminate the **Subcontract** unless the **Contractor** remedies the alleged breach or breaches within ten (10) **Business Days** after receiving the **Subcontractor's** notice.

28.2 If Contractor fails to remedy breach, Subcontractor may terminate Subcontract

If the **Contractor** fails to remedy the breach or breaches set out in a notice given to by the **Subcontractor** in accordance with Clause 28.1 within the time stated in that notice, the **Subcontractor** may, without prejudice to any other rights or remedies, terminate the **Subcontract** by further written notice to the **Contractor** provided that such a notice of

termination must not be given unreasonably or vexatiously and, if so given, then such purported notice of termination is void, and of no force and effect.

28.3 Subcontractor may not terminate Subcontract in certain circumstances

The **Subcontractor** may not terminate the **Subcontract** if the **Subcontractor** is in **Substantial Breach** of the **Subcontract**.

28.4 Subcontractor's right to recover on termination

If the **Subcontract** is terminated in accordance with Clause 28.2, the **Subcontractor** is entitled to, without prejudice to any other rights or remedies, recover from the **Contractor** all losses, costs, expenses, and damages it incurs or suffers as a result of, or otherwise in connection with, the **Contractor's** breach or breaches, and the termination, as if the **Contractor** had repudiated the **Subcontract** at law, and the **Subcontractor** had accepted the repudiation and elected to terminate the **Subcontract**. The **Subcontractor** may also remove from the **Land**, and retain, all unfixed materials, goods, plant and equipment previously provided by the **Subcontractor** provided such unfixed materials, goods, plant and equipment has not been paid for by the **Contractor**.

29 INSOLVENCY EVENT

29.1 Contractor's rights for insolvency of the Subcontractor

If the **Subcontractor**:

- a) commits an act of bankruptcy, or is made bankrupt;
- b) makes a composition or other arrangement with creditors;
- c) assigns assets for the benefit of creditors generally;
- d) being a company, becomes insolvent, enters into a deed of company arrangement, has a controller, administrator or receiver appointed, or is in liquidation;

the **Contractor** may:

- e) subject to Clause 29.3, immediately terminate the **Subcontract** on giving a written notice to the **Subcontractor** setting out the ground or grounds relied on by the **Contractor** for the termination; or
- f) immediately take out of the hands of the **Subcontractor** the whole or that part of the **Subcontract Works** not yet completed on giving a written notice to the **Subcontractor** setting out the ground or grounds relied on by the **Contractor** for that action. The **Contractor** may complete the work taken out of the hands of the **Subcontractor** itself or contract with others to do so.

29.2 Subcontractor's rights for insolvency of the Contractor

If the **Contractor**:

- a) commits an act of bankruptcy, or is made bankrupt;
- b) makes a composition or other arrangement with creditors;
- c) assigns assets for the benefit of creditors generally;
- d) being a company, becomes insolvent, enters into a deed of company arrangement, has a controller, administrator or receiver appointed, or is in liquidation;

the **Subcontractor** may, subject to Clause 29.3, immediately terminate the **Subcontract** on giving a written notice to the **Contractor** setting out the ground or grounds relied on by the **Subcontractor** for the termination.

29.3 Enforceability if the Subcontractor or the Contractor is a company

If the **Subcontractor** or the **Contractor**, as applicable, is a company and enters into certain arrangements for the purpose of avoiding being wound up in insolvency or appoints an administrator, then the right to terminate the **Subcontract** pursuant to Clause 29.1 or Clause 29.2 may be limited by the *Corporations Act 2001* (Cth).

30 TERMINATION FOR UNLICENSED WORK

30.1 Contractor may terminate immediately

If the **Subcontractor** is required by the **Act** to hold a licence and the **Subcontractor** does not hold a licence of the appropriate class issued by the Queensland Building and Construction Commission in accordance with the requirements of the **Act**, the **Contractor** may terminate the **Subcontract** immediately on giving written notice to the **Subcontractor**.

30.2 Requirements of notice

A written notice under Clause 30.1 must set out the ground or grounds relied on by the **Contractor** for the termination.

31 NOTICES

31.1 Copies of notices to be provided by one party to the other

The **Subcontractor** or the **Contractor** must provide to the other party a copy of any:

- a) report, notice, order or other document given in relation to the **Subcontract Works** by any supplier of services (such as, for example, gas, electricity, telephone, water and sewerage); and
- b) certificate of inspection of the **Subcontract Works**, as soon as practicable after receipt.

31.2 Methods for giving notices and other documents

Unless expressly stated otherwise elsewhere in the **Subcontract**, and subject to Clause 31.3, any written notice or other document, to be given by a party under the **Subcontract** is deemed to have been given and received:

- a) if delivered by hand to the other party, at the time of delivery;
- b) if the other party is a company and the notice is left at its registered office or a principal place of business, at the time that the notice is left at the registered office or principal place of business;
- c) if sent by pre-paid or registered post to the other party at the address of the other party stated in the **Subcontract**, or another address notified by the other party in writing, at 9.00am on the date that is four (4) **Business Days** after the date of posting;
- d) if sent by facsimile transmission to the other party at the facsimile number of the other party stated in the **Subcontract**, or another facsimile number notified by the other party in writing, at the time set out in a written confirmation of the correct transmission of the facsimile; or
- e) if sent by email to the other party at the email address of the other party stated in the **Subcontract**, or another email address notified by the other party in writing, at the time when the email leaves the **Information System** used by the party which sent the email.

31.3 **Notices given outside of usual business hours**

If any written notice, or other document, is given at a time after 5.00pm on a **Business Day**, or during a **Day** that is not a **Business Day**, the notice, or other document, is deemed to have been given at 9.00am on the next **Business Day**.

31.4 **Consent to electronic communications**

- a) The parties agree that facsimile transmission and email communications from either party to the other constitute an 'electronic communication' as that term is defined in the *Electronic Transactions Act 1999 (Cth)* and corresponding State legislation including the *Electronic Transactions (Queensland) Act 2001*.
- b) Unless expressly stated otherwise elsewhere in the **Subcontract**, the parties agree that any written notice, or other document, to be given by a party under the **Subcontract** may be given and received via facsimile transmission or email, or both.

32 **RESOLUTION OF DISPUTES**

32.1 **Notice of dispute**

If a dispute or difference (together referred to as a 'dispute') arises out of, or in connection with, the **Subcontract**, either party may give the other party a written notice of dispute setting out the details of the dispute, including any amount in dispute. Notwithstanding the giving of a notice of dispute, the parties must, subject to the **Subcontract**, continue to perform the **Subcontract**.

32.2 **Without prejudice conference**

- a) Within five (5) **Business Days** after receiving the notice of dispute, the parties must arrange, and participate in, a 'without prejudice' conference between them, or their authorised representatives, in an attempt to resolve the dispute.
- b) By agreement between the parties, a dispute arising out of, or in connection with, the **Subcontract** may be referred to Master Builders Queensland for a 'without prejudice' conference at any time provided that one of the parties is a member of Master Builders Queensland.
- c) If the parties fail to resolve all of the dispute during the 'without prejudice' conference, or if the party given the notice of dispute fails to participate in a 'without prejudice' conference in accordance with Clause 32.2, then the parties may agree to refer all or any part of the dispute to:
 - i) Expert Determination under Clause 32.3; and/or
 - ii) mediation or arbitration under Clause 32.4.

32.3 **Expert Determination**

- a) This Clause applies to all or any part of the dispute that the parties have agreed to refer to Expert Determination under Clause 32.2(c)(i).
- b) If the parties fail to agree on the person to be appointed as the Expert, then the Chair of the Resolution Institute will nominate the Expert.
- c) The Expert Determination must be carried out, and is subject to, the Resolution Institute Expert Determination Rules.

32.4 **Mediation or Arbitration**

- a) This Clause applies to all or any part of the dispute that the parties have agreed to refer to mediation or arbitration under Clause 32.2(c)(ii).
- b) If the parties fail to agree on the person to be appointed as the mediator or the arbitrator, then either party may give a written notice to the **President** and the other party requesting that the **President** appoint (as the case may be):
 - i) a mediator to facilitate the mediation; or
 - ii) an arbitrator to decide all or that part of the dispute referred to arbitration.
- c) If either party gives a notice under Clause 32.4(b), the **President** must give to the parties a written notice setting out the name and contact details of (as the case may be):
 - i) the mediator appointed by the **President** to facilitate the mediation; or

- ii) the arbitrator appointed by the **President** to decide all or that part of the dispute referred to arbitration.
- d) Within five (5) **Business Days** of receiving a notice under Clause 32.4(c), the parties must:
 - i) request the mediator or the arbitrator named in the notice to make suitable arrangements for (as the case may be) the mediation or the arbitration; and
 - ii) participate in (as the case may be) the mediation or the arbitration and pay the costs of the mediation (including the costs of the mediator) or the costs of the arbitration (including the costs of the arbitrator) in equal shares unless otherwise agreed by the parties or decided by the arbitrator.

32.5 Legal Proceedings

If the parties fail to:

- a) agree to refer any part of the dispute to Expert Determination or mediation or arbitration within:
 - i) ten (10) **Business Days** after the 'without prejudice' conference; or
 - ii) if the party given the notice of dispute fails to participate in a 'without prejudice' conference, fifteen (15) **Business Days** after the giving of the notice of dispute; or
 - b) resolve all of the dispute during any Expert Determination or mediation or arbitration referred to under Clause 32.2(c),
- then either party may commence legal proceedings in relation to any part of the dispute that is not:
- c) agreed to be referred to Expert Determination or mediation or arbitration under Clause 32.2(c); or
 - d) resolved during any Expert Determination or mediation or arbitration.

32.6 Precondition to legal proceedings

Neither party may commence legal proceedings in relation to a dispute unless the parties have undertaken the processes set out in Clauses 32.1 to 32.5 and those processes have failed to resolve the dispute, or one of the parties attempted to follow these processes and the other party has failed to participate.

32.7 Legal Rights

- a) The parties acknowledge that the purpose of this Clause is to facilitate reasonable, timely and cooperative resolution of all disputes.
- b) Nothing in this Clause will prejudice the right of a party to institute legal proceedings to:
 - i) enforce payment under Clause 26;
 - ii) enforce the provision of **Security** under Clause 4; or
 - iii) for injunctive or declaratory relief in relation to any matter arising out of, or in connection with, the **Subcontract**.
- c) Nothing in this Clause prevents either party from seeking to resolve a dispute through any other means that is able to function concurrently to the dispute resolution process, including through the exercise of any right under the laws governing Security of Payment in the state or territory where the **Subcontract Works** are being carried out.

33 GOODS AND SERVICES TAX

- a) For the purposes of the **Subcontract**, the terms "ABN", "GST", "GST law", "registered", "tax invoice" and "taxable supply" have the meanings given to them in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).
- b) The **Subcontractor** warrants that the **Subcontractor** is:
 - i) the holder of any ABN stated in the **Schedule**; and
 - ii) registered and will continue to be registered until the expiration of the **Defects Liability Period**.
- c) The **Subcontract Price** excludes GST unless noted otherwise.
- d) Where the **Subcontract Works**, or any part of the **Subcontract Works**, constitute a taxable supply, the **Subcontractor** must comply in every respect with GST law.
- e) The payment claims that the **Subcontractor** submits under Clause 26.1 and 26.2 must be in the form of a tax invoice.

34 HEALTH, SAFETY & ENVIRONMENTAL PROTECTION

34.1 Principal contractor

Unless otherwise agreed by the parties, the **Contractor** is the 'principal contractor' (as defined) under the **WHS Act** for the purposes of the **Subcontract Works**.

34.2 Subcontractor's obligations

Without limiting the obligations of the **Contractor** pursuant to the **WHS Act**, the **Subcontractor**, in respect of the **Subcontract Works**, must ensure that:

- a) any person carrying out any part of the **Subcontract Works** complies with all relevant **Statutory Requirements** in respect of:
 - i) work, health and safety; and
 - ii) environmental protection;
- b) any person carrying out any part of the **Subcontract Works** complies with the **Contractor's** Work Health and

- Safety Management Plan for the **Site**;
- c) a **WHS Management Plan** is prepared in respect of the **Subcontract Works**;
 - d) every obligation holder (whether an employer, self-employed person, or other person conducting a business or undertaking) conducting a business or undertaking that includes the carrying out of high risk construction work on behalf of the **Subcontractor** for the purposes of carrying out the **Subcontract Works**, provides the **Contractor** with a copy of their Safe Work Method Statements prior to commencing work;
 - e) all common plant, plant, housekeeping, inductions, hazardous substances, work at height, falling objects, and the like which are required to be identified and managed by any **Statutory Requirement** are identified and managed to prevent or minimise exposure to the risk of injury or illness; and
 - f) every obligation holder provides adequate information, instruction, training and supervision to prevent or minimise exposure to the risk of fatality, injury or illness.

34.3 **Exclusion from Site**

The **Contractor** may exclude or remove from the **Site** any person (including, but not limited to, the **Subcontractor**, the **Subcontractor's** officers, employees, consultants, agents and contractors), whose acts, omissions or other conduct in the **Contractor's** opinion does not meet the requirements of the **Contractor's** Work Health and Safety Management Plan for the **Site**.

35 **MISCELLANEOUS**

35.1 **Entire agreement**

The parties acknowledge that the terms of their contract are fully set out in the **Subcontract**, and may not be altered, varied, deleted or otherwise affected by reference to any prior representations, conditions or agreements, whether written or verbal.

35.2 **Subcontract includes prior work**

The **Subcontract** applies to all of the **Subcontract Works** whether undertaken by the **Subcontractor** prior to, or after, the date of the formation of the **Subcontract**.

35.3 **Unfixed and demolished materials**

All demolished materials, and unfixed building materials supplied by the **Subcontractor** and not paid for by the **Contractor**, are the property of the **Subcontractor** unless expressly stated otherwise elsewhere in the **Subcontract**.

35.4 **Subcontractor's right to subcontract**

The **Subcontractor** may subcontract any part of the **Subcontract Works** with the prior written consent of the **Contractor**, which must not be unreasonably withheld, but is not relieved in doing so from any obligation or liability under the **Subcontract** or the **Act** for the work that is the subject of any such subcontract.

35.5 **Parties rights to assign Subcontract**

Neither party may assign the **Subcontract**, or any right, benefit, obligation, liability or interest under the **Subcontract**, without the prior written consent of the other party.

35.6 **No waiver**

Unless expressly stated otherwise elsewhere in the **Subcontract**, none of the provisions of the **Subcontract**, or any entitlement, remedy, obligation or liability arising out of, or otherwise in connection with, the **Subcontract**, may be waived, discharged or released for any reason whatsoever except with the prior written consent of the parties.

35.7 **Governing law**

The **Subcontract** is governed by, and is to be construed in accordance with, the laws of the State of Queensland and the Commonwealth of Australia.

35.8 **Severance**

If any provision of the **Subcontract** is void, voidable, unenforceable or illegal, or has the effect of making another provision of this **Subcontract** void, unenforceable or illegal, it is to be read down so as to be valid and enforceable or, if it cannot be so read down, the provision (or where possible the offending words) is to be severed from the **Subcontract** without affecting the validity, legality or enforceability of the remaining provisions (or parts of those provisions) which continue to have effect.

35.9 **Exchange of Subcontract**

- a) The **Subcontract** may be executed in counterparts.
- b) A counterpart may be a copy of the **Subcontract** printed from a facsimile or email transmission.
- c) All counterparts together are taken to constitute one instrument and will not be binding until executed counterparts are exchanged.
- d) A copy of the **Subcontract** which has been executed by a party may be relied upon by a party to the same extent as if it was an original of the **Subcontract** executed by the party.

36 **SPECIAL CONDITIONS**

Any special conditions set out in Part E of the **Appendix** form part of the **Subcontract**. The special conditions prevail over these general conditions to the extent of any inconsistency.

**ANNEXURE to the
Subcontract
Conditions**

ANNEXURE

A

Item

1	<i>Main Contractor</i>	CARSBURG CIVIL PTY LTD
		ABN 66631 834 903
2	<i>Main Contractor's address</i>	207 Elliott Road Banyo, QLD 4114
	<i>Main Contractor's accounts email address</i>	accounts@carsburgearthmoving.com.au
3	<i>Subcontractor</i>	John England Drainage Contractor Pty Ltd
		ABN: 26 054 463 099
4	<i>Subcontractor's address</i>	PO Box 246, Samford, QLD 4520
	<i>Subcontractor's email address</i>	jedcon@civildrainage.net.au
5	<i>Main Contractor's Representative (Project Manager)</i>	Neil Carsburg
	<i>Main Contractor's Representative email address</i>	neil@carsburgearthmoving.com.au
	<i>Main Contractor's Representative (Site Manager)</i>	Arty Hawkins
	<i>Main Contractor's Representative email address</i>	arty@carsburgearthmoving.com.au
7	<i>Principal</i>	Brisbane Catholic Education
8	<i>Date for Subcontractor commencement (subclause 17.2)</i>	10.05.2021
9	<i>Date for Subcontractor completion (subclause 22.1)</i>	31.05.2021
10	<i>Latent Condition Margin (subclause 25.7)</i>	10%

11	Progress claims (Clause 26)		
	(a)	Times for progress claims (subclause 26.1)	28 th day of each month that <i>WUS</i> is completed
	(b)	Times for payment of progress claims (subclause 26.5)	25 business days from claim date
12	Subcontractor's security		
	(a)	Form (clause 4.1)	
	(b)	Amount or maximum percentage of subcontract sum (clause 4.2)	
	(c)	If retention moneys. percentage of each progress certificate	
	(f)	Subcontractor's security upon certificate of practical completion is reduced by (subclause 4.6)	
13	Public and products liability insurance (clause 8)		
	(a)	Party responsible for insuring Subcontract works	Subcontractor
	(b)	Amount per occurrence shall be not less than	\$10,000,000.00 per occurrence for the public liability component and in the aggregate for the products liability component
14	Variation margin (subclause 25.7)		0%
15	Subcontract liquidated damages (subclause 23.2)		\$500 per day
16	Defects liability period (subclause 24.1)		12 months

Initial:

SCOPE OF WORKS

The Subcontractor shall carry out the complete Works associated with the **Drainage Package**. This component of the Works shall include, but not necessarily be limited to the following:

1.1 Overall General Obligations

The Subcontractor shall as required by this Subcontract:

1.1.1 Without limiting the generality of the Subcontractor's obligations, comply with the requirements for:

- Direction, Personnel and Meetings
- Warranties by Subcontractor and Suppliers
- Setting Out
- Site Clean and Tidy and Minimisation of Waste
- Construction Method Statement and Materials
- Site Co-ordination
- Temporary Services
- Prototypes and Samples
- Protection of Work and Materials and Reinstatement
- Dust, Water, Noise
- Workforce Records
- OHS&R
- Traffic and Parking
- Testing
- Submissions by the Subcontractor
- Workshop Drawings
- Urgent Protection
- Rectification
- Time
- Substantial Completion
- Industrial Relations

1.1.2 Carry out the Works in strict accordance with the Workplace Health & Safety Act and the Builder's general safety instructions.

1.1.3 Ensure all temporary works including structures required are to be designed and constructed in accordance with all OH&S requirements, Australian Standards and the likes.

1.1.4 Prior to bringing any hazardous substance onto the Site, the Subcontractor shall provide the Builder's Representative with Material Safety Data Sheets (MSDS) for review.

- 1.1.5 Ensure throughout the continuance of the Works that the integrity of any existing temporary works that are within the control of the Subcontractor, are maintained at all times by the Subcontractor.
- 1.1.6 Prior to commencement on site, provide a list of machines and equipment proposed to be used on site. All machinery, plant and equipment must comply with the associated plant regulations, code of practice for temporary electrics and all test certificates and compliance details are to be maintained and submitted to the Builder for review.
- 1.1.7 Inspect the Site and areas adjacent to the Site and make all due consideration for working in close proximity to existing school facilities, which will require care and adherence to guidelines dealing with but not limited to noise generation, public access, pedestrian management and traffic management.
(* The Subcontractor must maintain unobstructed and a safe means of pedestrian access along all required access routes.)
- 1.1.8 Provide a certified First Aid personnel and a fully maintained First Aid kit on site at all times whilst carrying out the Works.
- 1.1.9 Provide all Personal Protective Equipment (PPE) required to carryout the Works.
- 1.1.10 Ensure that all work areas are clearly defined by suitable barriers and warning lights, directional signage and similar items required to carry out the Works when working in or adjacent to public areas.
- 1.1.11 Ensure that surrounding roads are kept in a clean state, free from dirt, mud and damage. The Subcontractor is responsible for ensuring that its vehicles, trucks and the likes or those of its subcontractors and suppliers are washed down and maintained clean prior to exiting the site. Any costs that maybe incurred as a consequence of non-adherence to this provision will be borne by the Subcontractor.
- 1.1.12 Mobilise to Site all necessary supervision, labour, plant, equipment, temporary and permanent materials required for the Works.
- 1.1.13 Co-ordinate delivery of materials and plant for the Works to compliment the sequence/timing of other works occurring at the site. Costs for returns, 'standing time' or reloading will be deemed included in the Subcontract Sum.
- 1.1.14 Be responsible for achieving the required tolerances. Any assistance provided by the Builder will in any way reduce or negate the responsibility of the Subcontractor.
- 1.1.15 A full set of all Architectural, Structural, Civil and Services Drawings and Specifications is maintained at Carsburg Civil Project Office. The Subcontractor, by entering into this agreement is deemed to have perused all information available as at the time of entering into and carrying out the work covered by this agreement and has included for all work covered by this Scope of Work, irrespective of whether that information and/or drawings were specifically issued to the Subcontractor.

1.2 General Trade Obligations

- 1.2.1 Allow for coordination with other trades to compliment the sequence/ timing of other works on site.
- 1.2.2 Site Supervisor or a competent representative to attend site meetings as required

- 1.2.3 Perform appropriate testing as specified and pay all fees associated with same. Provide results of all tests
- 1.2.4 Obtain all necessary permits and waste disposal fees required to carry out these works and pay all fees associated
- 1.2.5 Acquisition of licenses of Waste Disposal including all dumping and permit fees imposed by State and Municipal Authorities.
- 1.2.6 Submission and approval of truck routes and tipping locations shall be the responsibility of the subcontractor.
- 1.2.7 Ensure all equipment used to carry out these works must conform with the Workplace Health and Safety Act which includes provisions for monthly checks of all electrical equipment.
- 1.2.8 All works necessary to make the site trafficable and the reinstatement to areas upon completion as required
- 1.2.9 Ensure all imported and exported material is inspected and handled in accordance with fireant regulations

1.3 Specific Trade Work

Drainage

- 1.3.1 Supply all labour, materials, plant and equipment necessary to carry out Drainage works in accordance with the contract drawings & reports.
- 1.3.2 Provide sediment & erosion control measures including temporary stormwater surface diversions and maintenance throughout the project
- 1.3.3 Supply and install subsoil drainage under all new kerbs and block retaining walls
- 1.3.4 Provide all pipes, fittings, field inlets, manhole covers

1.4 Work by Others

- 1.4.1 Civil Earthwork
- 1.4.2 Supply and install of new rainwater tanks x 2
- 1.4.3 Line Marking
- 1.4.4 Location of existing underground services
- 1.4.5 Traffic Management
- 1.4.6 Scour protection
- 1.4.7 Supply of sand bedding

**ANNEXURE to the
Subcontract
Conditions**

ANNEXURE C

PRICE BREAKDOWN

Holy Spirit Secondary College - Fitzgibbon - Bill of Quantities - Rev 2

Item Description	Quantity	Unit	Unit Rate (Ex GST)	Amount (Ex GST)
P&G				
Site Establishment & Dis-establishment		Lump Sum	N/A	\$1,400.00
Environmental Control				
Sediment Protection to various Pits - during construction - existing	5	No	\$118.08	\$590.40
Sub Total				\$590.40
Drainage				
Drainage - trench, supply, bed, lay, cap, joint and backfill concrete RCRRJ pipe incl CCTV				
300dia RCP to 1.5m deep	38	m	\$150.00	\$5,700.00
225dia RCP to 1.5m deep	15	m	\$171.00	\$2,565.00
150dia RCP to 1.8m deep	15	m	\$196.00	\$2,940.00
extra over for non rippable rock with 8T Excavator - rate only		m3	\$275.00	rate only
900x600 Field Inlet - 3/1, 1/2, 8/3, 1/4, 4/5, 8/1,	5	No	\$2,100.00	\$10,500.00
e/o - Stormsacks or equivalent to Field Inlets		No	\$750.00	rate only
Inlet on 1050dia MH - 1.5 - 2m deep - 4/1, 2/2, 4/1, 2/4, 2/6,	3	No	\$4,250.00	\$12,750.00
Sub Total				\$34,455.00
TOTAL COST (excl GST)				\$36,445.40
GST				\$ 3,644.54
TOTAL COST (incl GST)				\$ 40,089.94

Construction Management Plan

1.0 Site Management

1.1. Site Security

The site will be secured using appropriate steel temporary fencing with access gates and mesh screening. A rubbered encased chain and padlock will be used for the front entrance gates.

All visitors or subcontractors who have not been inducted to the site will be required to report to the site office, and will be appropriately inducted and registered in the site log book.

1.2. Rubbish Removal

- Rubbish will be removed from site by a licensed waste contractor and taken to a transfer facility for separation.
- All excess earthworks & services spoil will be transported and stockpiled to agreed location with the School

1.3. Access / Egress

The primary vehicle access point for deliveries & drop offs will be provided through the front gate with a turn-around area at the opposite end of the site. There will also be an additional two entry/ exit points to provide alternate access points and to allow emergency service access. A strategy of low impact on Client operations through construction traffic and delivery traffic will be considered when using these access points. All deliveries are to be coordinated and agreed with the Site Manager 24-48hrs in advance of the delivery date. **No deliveries will be accepted between the hours of 8am - 9am & 2pm - 3.30pm**

Parking is to be restricted within the designated contractor parking within the site as indicated on the Site Plan (refer Appendix 1 of this Plan).

1.4. Site Accommodation & Amenities

The project shall have the following facilities for all workers, subcontractors, and visitors;

- Site Office/ Lunch room combination 12 x3m with a fridge, microwave, kettle & appropriate numbers for seating
- Porta-loo toilets
- Cold water drinking fountain on site;

Initial:

1.5. Public/ Worker Safety

Carsburg Civil understands the restrictions and requirements of managing construction projects in a live environment. Specific measures will be introduced to ensure that the project operations interface efficiently with the day-to-day operations of the Client.

Carsburg Civil Project Team members will liaise with the Client & Superintendent in all matters relating to the project operations. Regular internal meetings will be held, initially to establish a control plan, and then intermittently to monitor the progress of the project and its ongoing impact on daily operations. This plan will include an agreed procedure for handling any incidents that should occur. It is also understood that the Client will have its own HS&E plans, policies and procedures, aspects of which will be incorporated into the Carsburg HS&E plan as appropriate. Building evacuation plans will also be reviewed to ensure the site setup and ongoing project works do not any aspect of the exit paths and assembly points. In the planned site layout, specific measures are included to ensure minimum impact on the Client operations and to minimise any direct contact the public have with construction operations. These include:

- using temporary fencing and hoarding to fully enclose the site area including barrier mesh to serve as a visual barrier
- coordinating disruptive or intrusive works during quieter periods
- scheduling early morning plant and materials deliveries prior to peak times
- coordinated directional and information signage to manage pedestrian and vehicle flows
- inclusion of explicit 'code of conduct' standards in the site offices
- inclusion of the Client/Site Works interface as a specific area of responsibility of the full-time Carsburg Civil Site Manager

All site staff, subcontractors and visitors will be required to complete a site-specific induction before commencing work on site. The induction will cover aspects relating to safety and amenity; including access, emergency evacuation procedures, location of first aid facilities, location of amenities, site hours, material handling, noise and dust policies and environmental management etc.

Prior to commencing works on site, all subcontractors will be required to submit a project specific Safe Work Method Statement (hardcopy and electronic copy). This will be reviewed by Carsburg Civil for compliance with the overall Project Safety Plan.

1.6. Housekeeping

Housekeeping is an important aspect of project and site safety and productivity. All personnel shall be responsible for housekeeping and project cleanliness.

- The work areas and site are to be kept clean and tidy;
- Ablutions are to be kept clean and tidy;
- Bins will be provided to for all refuse and a separate bin for recycling materials.

Initial:

1.7. Emergency Equipment

Emergency equipment is for the protection of all personnel on the project. Carsburg will provide the following:

- Fire extinguisher is located on the outside wall of the project site office;
- First aid kit in the project site office.
- Fire extinguishers will be provided per floor or area

1.8. Materials Handling

1.8.1 Scaffold

Fixed scaffolding will be utilized to the building perimeter as required to provide sufficient access for external cladding works including blockwork, metal screens, rendering, painting etc. The scaffolding will also provide a working platform for works at roof level including structural steel & roofing.

Mobile scaffolds will be used across both sites for working at heights internally where required.

1.8.2 Horizontal & Vertical Lifts/ EWP

Scissor lifts will be used regularly throughout the duration of the works both internally and externally.

The following cranes will also be used for loading and installation of materials;

Mobile Crane for the following;

- Detention tanks
- Reinforcing steel
- Structural Steel
- Roofing
- Mechanical services plant

Crane sizes will be determined following a review with the Site Manager and consideration of site conditions and access at the time the crane is required.

1.8.3 Edge Protection

Edge protection will be installed to the full perimeter of the building (where scaffold is not installed) and the covered walkway structure to enable safe installation of the roof sheeting

Construction fencing will be installed around the perimeter retaining walls restricting access to any live edges

1.9. Traffic Management

All posted speed limits within the project must be observed. Speed limits on site will be as sign posted, and must be adhered to at all times. The speed limit within the Project construction site is 10 km/h at all times.

All construction personnel are limited to the parking in the existing car park within the Construction Site Compound

1.10. Smoking

1.10.1 No Smoking at any time on site.

If smoking is required, all personnel will need to leave the site by vehicle and be a minimum of 10m away from the campus.

1.11. Swearing

No Swearing at any time on site.

1.12. Conversing with school children

No Conversing at any time with school children on site.

2.0 OH&S Management

2.1. Project WHS Plan

Project WHS Plans are developed for each construction project where there are five or more people are likely to working simultaneously on site. The plans identify and detail key areas affecting the health and safety for the specific project and document the project safety management system that will be implemented to effectively satisfy Carsburg Civil, the Client and legislative requirements in the prevention and management of workplace accidents/incidents.

2.2. Project WHS Plan

Safe Work Method Statements and Job Safety Analysis' shall be used on the project to assist in the identification and satisfactory control of workplace hazards and risks. These plans may also make reference to any relevant Carsburg Civil procedures or forms.

Safe work method statements shall list the relevant legislation governing the task or tasks to be undertaken. The specific codes of practice and Australian Standards that are critical to an activity or task to be performed on the project should be referenced. This will act as a guide to the worker and provide a foundation for safe work and compliance.

All SWMS's are subject to a formal review by Carsburg Civil and are revised until all the minimum has been met.

activity or task to be performed on the project should be referenced. This will act as a guide to the worker and provide a foundation for safe work and compliance.

All SWMS's are subject to a formal review by Carsburg Civil and are revised until all the minimum criteria has been met.

2.3. Site Induction

Prior to undertaking construction work on the Project, all Carsburg Civil employees and subcontractors will be required to undertake the Project Specific Safety Induction. The induction will include elements of the WHS Plan, workplace specific hazards, and company policies, procedures, and rules.

It is at the point of induction that all supporting documentation for the worker is to be surrendered to the inductor. These items include but are not limited to:

- A photocopy of the White Card,
- A photocopy of all licences held,
- All applicable SWMS which will be signed by the relevant employees post the induction, and
- A photocopy of any prescribed medication that any employee or worker is under the influence of

2.4. Project WHS Expectations

All subcontractors & visitors on site shall;

- Work in a manner without risk to themselves, others or the environment;
- Comply with the Safety Management Plan including all Safe Work Method Statements;
- Report all incidents, injuries & illnesses to the Site Manager;
- Report all Occupational Health & Safety hazards to the Site Manager;
- Provide suggestions through agreed consultative methods on how to improve Occupational Health & Safety issues;
- Seek assistance if unsure of Occupational Health & Safety rules;
- Report any faulty tools to Site Manager;
- Comply with all project rules;
- Comply with all School Rules
- Correctly use and wear all personal protective equipment;
- Comply with emergency evacuation procedures;
- Participate in project toolbox meetings & programs.

2.5. WHS Management & Compliance

The Carsburg Civil Site Manager is responsible for monitoring the general health and safety compliance on the project and consulting with all workers regarding health and safety issues.

The Site Manager will:

- Inform all persons at the project, (including employees, contractors, suppliers or visitors) of the project rules;

- Hold regular pre-work meetings/discussions with subcontractors to discuss health and safety issues or concerns;
- Request and explain the risk assessment and job safety analysis expectations of Warrell;
- Do periodic, documented inspections of the project and subcontractor activities, and provide feedback and direction to subcontractors as a result;
- Respond to any query, incident, injury or emergency report as forwarded by any worker on the project or concerned member of the public;
- In conjunction with the Project Manager, maintain project consultation & communication records in accordance with Carsburg Civil procedures.

A record of subcontractors inducted on the project and certificates/licenses that they hold will be maintained by the Site Manager.

2.6. Disciplinary Actions

Carsburg will hold all employees and subcontractors accountable for noncompliance with Occupational Health, Safety and Rehabilitation Legislative requirements and the company safety policies.

Repeated non-compliance by an employee or subcontractor may result in suspension or termination of the employment or subcontract.

For any breach of the workplace/project health and safety procedure or plan the following applies:

- For minor issues the employee or subcontractor will be given verbal direction indicating what the issue is, what needs to occur and the level of safety that Carsburg Civil expects;
- For major health and safety breaches or situations where there is imminent risk to a worker or other person, the employee will stop work and be issued with a written warning detailing the issue and controls expected. Work will restart when adequate safety controls have been implemented; and
- For ongoing health and safety non-compliances of a significant or high-risk nature employees /subcontractors will be directed to cease work in accordance with a breach of employment or subcontract agreement.

2.7. Accident & Incident Management

First aid facilities and fully trained first aiders shall be provided for the Project as assessed during the project start-up assessment. These facilities will reflect the number of workers on the project, type of work to be performed, and the location of the project in relation to emergency services establishments and trained first aiders.

This is to ensure that Carsburg Civil workers or project subcontractors in the event of any injury have access to first aid equipment, treatment and resources. First aid facilities will be prominently located and clearly signed so all persons on site shall know where to access treatment and equipment.

2.8. Reporting Process

All accidents or incidents on the Project shall be immediately reported to the Site Manager who shall assess the situation and manage the following steps:

- Investigate the incident in conjunction with the Project Manager using the 'Accident Report & Investigation Form';
- Initiate corrective action and preventive action;
- Report to the Principles Superintendent.
- Report the incident to Carsburg Civil Management and the Work Health Authority as per the accident and incident reporting & investigation procedure.

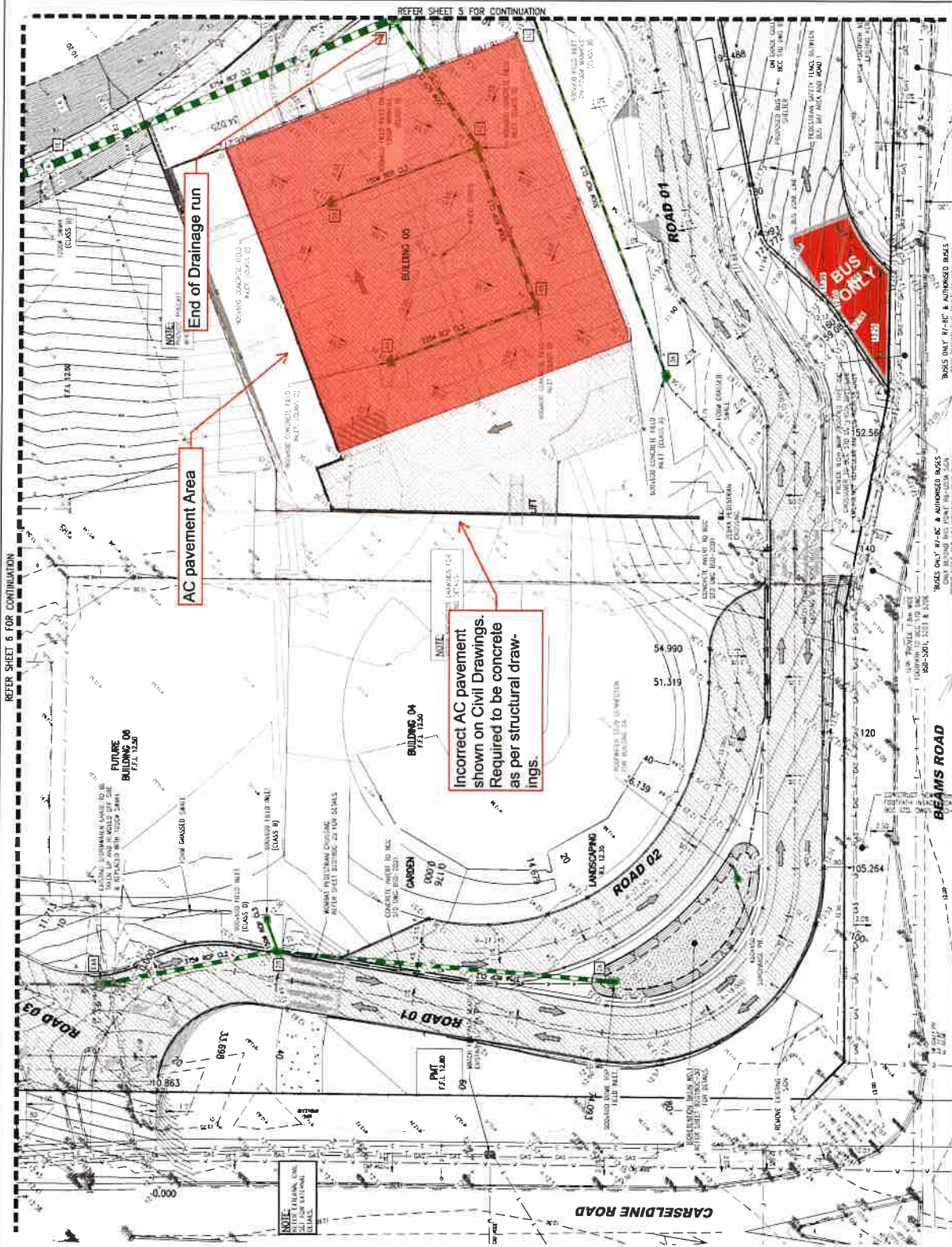
1.18.1 First Aid

Carsburg Civil will retain sufficient numbers of personnel trained in first aid throughout the course of the project or have suitable arrangements with other subcontractor's employees on the project should this not be possible.

1.18.2 Treatment & Medical Services

For injuries requiring further treatment by a doctor or external medical professional, the injured person is to be taken to the doctor or hospital by an employee of Warrell.

REFER SHEET 6 FOR CONTINUATION



NOTE: ALL WORK TO BE COMPLETED BY 15/01/2021.

* SURVEYOR'S NOTE: THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SITE AND HAS FOUND NO DISCREPANCIES BETWEEN THE SURVEY DATA AND THE AS-BUILT CONDITIONS.

NOTE: THE CLIENT HAS ADVISED THAT THE SITE IS TO BE USED FOR THE CONSTRUCTION OF A NEW BUILDING.

NOTE: THE CLIENT HAS ADVISED THAT THE SITE IS TO BE USED FOR THE CONSTRUCTION OF A NEW BUILDING.

CONSTRUCTION NOTE: THE CLIENT HAS ADVISED THAT THE SITE IS TO BE USED FOR THE CONSTRUCTION OF A NEW BUILDING.

CIVIL WORKS PLAN
SCALE: 1:200
DATE: 15/01/2021

FOR TENDER
NOT FOR CONSTRUCTION

WESTERA
PARTNERS
15/01/2021

REVISION	DATE	BY	APPROVED
4 OF 34	15/01/2021	EL	EL
REVISION A	15/01/2021	EL	EL
PROJECT NUMBER	820/180 C		
FILE NAME	820/180 C		

SHEET	PROJECT	LOCATION	CLIENT
CIVIL WORKS PLAN 1 OF 8	HOLY SPIRIT SECONDARY COLLEGE - STAGE 1	LOT 1 ON SP169098	BRISBANE CATHOLIC EDUCATION
DATE	15/01/2021		
BY	EL		
APPROVED	EL		

WESTERA
PARTNERS
15/01/2021

WORKPLACE HEALTH, SAFETY & ENVIRONMENTAL CONDITIONS

This document outlines safety requirements and other obligations that all subcontractors must comply With, to work on this project and meet Carsburg Civil legal and contractual obligations

The Subcontractor is responsible for following:-

1. The Subcontractor shall comply with all requirements of the current Workplace Health & Safety Legislation and also to Carsburg Civil WHS Management Plan, Policies and Procedures.
2. Inductions/ Employee Records:-
 - a) The Subcontractor's site employees and subcontractors must have a General Workplace Health and Safety Induction as required by the relevant State Authority before entry to site will be allowed. The Subcontractor shall ensure that its operatives take their General Induction Cards to site for inspection.
 - b) The Subcontractor's site employees and subcontractors must complete a Site Specific Workplace Health and Safety Induction. This is carried out by either the Safety Officer or Site Manager on site and involves completion of a Personnel Details and a Questionnaire relating to site safety. The Subcontractor shall ensure that its employees and subcontractors are aware of this.
3. The Subcontractor shall provide copies of Certificates of Competency for its employees and subcontractor's employees before commencing work on site for any task which requires a specific skill or qualification, eg. scaffolders ticket, power tool operators' certificate, etc
4. The Subcontractor must complete a Site Specific Safe Work Method Statement which includes detailed procedures relating to safe practices for carrying out its work on the site. This must be submitted to and approved by either our Site Safety Officer or our Site Manager prior to starting work on site. The Subcontractor must ensure training has been given to their employees in regards to their Site Safety Plan/Work Methods. The SWMS is to include any work that would be let to other parties.
5. The Subcontractor shall supply details of relevant Plant and Equipment Certificates before commencing work on site. All electrical tools and leads are to be checked and tagged as suitable. Plant and equipment is to be suitably maintained.
6. Ensure, so far as is reasonably practicable the health, safety and welfare of all persons who may be affected by its operations and activities undertaken at the workplaces under their direct control.
7. Observe all subcontract conditions regarding health and safety, cooperate fully and follow safety and emergency procedure instructions issued by the Site Management Team.
8. Adhere to all site safety project rules

Initial:

9. Provide and maintain personal protective equipment and instruct employees & subcontractors in the safe use of such equipment as per manufactures recommendation.
 10. Hazardous Substances and Dangerous Goods that are brought to site are to be recorded on a register and must provide a Australia MSDS dated within 5 years
 11. All Visitors must first report to the Site Office or be met at the site entry
 12. All site deliveries to be coordinated with the Site Manager team All incidents including injury, illness, dangerous events and near misses are to be reported immediately to the Site Management. Subcontractor must supply written reports for all the above occurrence
 13. Subcontractors to supply an Electrical Inspection Register
 14. When required external scaffolding will be erected for Subcontractors' use during construction. No person or Subcontractor will interfere with, alter or remove any part or section of this scaffold without the sole permission of Site Management.
 15. Subcontractors will be required to maintain workplaces in a clean and tidy condition with debris, waste materials and surplus equipment, removed and cleared as work progresses. Failure to comply may result in back-charging.
 16. All subcontractor employees and contractors are subject to the Carsburg Civil Commercial discipline procedures.
 17. It is the responsibility of all Subcontractors and their workers to ensure they are aware of the Carsburg Civil Workplace Bullying and Harassment Policy and ensure that they maintain a professional and courteous relationship with colleagues, supervisors and subordinates at all times while at work.
 18. Subcontractors has a responsibility to ensure that any plant provided for use in the workplace and at project sites is safe and without risk to workers and others at or near the workplace.
 19. Subcontractors are to install guard, mid rails and kickboards to all scaffolding, open sided work areas, floor openings, where persons can fall more than 2m. No person should work at any height without a risk assessment for fall prevention.
 20. Any Subcontractor wishing to wear a harness must obtain permission from Carsburg Civil WHSE Manager
 21. The following rules apply to all subcontractors and their workers when entering Carsburg Civil Pty Ltd Premises:
 - All persons working on site must have a current General Safety Induction Card and be able to produce it on request.
 - Work hours are to comply with the local Government and Environmental Protection Authority specified times and noise created must not exceed acceptable levels. Any fines imposed are the subcontractor's responsibility.
 - The subcontractor shall clean the site of debris resulting from his or her own trade and place in the rubbish compound provided for removal. This is also an important part of our workplace health and safety policy and must be adhered to at all times.
 - Access to site is limited to the approved crossings and entries. Sediment barriers must be maintained at all times and not be removed or damaged. Any damage to neighbouring properties or sediment barriers is the subcontractor's responsibility and any cost to reinstate shall be paid by the subcontractor.
- Initial: No dogs are allowed on site.
- Ensure no damage is caused to, or rubbish placed on neighbouring properties.

- Ensure no excessive noise from radios or foul language.
- All rubbish (including food scraps, food and drink containers and material waster etc) is to be placed in the designated rubbish compounds on a daily basis. This is also a part of our workplace health and safety policy and must be adhered to.
- Steel capped safety boots are to be worn at all times while on site.
- All electrical equipment must be tagged in accordance with AS3012
- Should the worker or subcontractor in his or her opinion find that they are unable to perform satisfactorily due to quality of previous works; the supervisor is to be notified prior to any work being carried out. An onsite meeting should be arranged for further action.
- All workplace health and safety issues, hazards, incidents, dangerous events or near misses must be reported to the Carsburg Civil supervisor or to the office immediately.
- Offensive language towards other trades, members of the public or loud behaviour is in breach of our workplace health and safety policy.

ANNEXURE to the
Subcontract
Conditions

ANNEXURE

F

DEED OF RELEASE

SUBCONTRACT DEED OF RELEASE – PRACTICAL COMPLETION

Main Contractor
ABN
Mailing Address

Carsburg Civil Pty Ltd
66 631 834 903
PO Box 8, Banyo, QLD 4014

Subcontractor
ABN
Mailing Address

Project
Contract
Contract Number
Date of Contract

Holy Spirit Secondary College

RECITALS

- A. The *Subcontractor* has performed *Works Under Subcontract (WUS)* for the *Main Contractor*.
- B. A *certificate of practical completion* has been issued in accordance with the *Subcontract*.
- C. The *Subcontractor* makes this deed for the benefit of the *Main Contractor*.

OPERATIVE PART

1. The *Subcontractor* acknowledges that the value of work carried out by the *Subcontractor* arising out of the *Subcontract Works* or the *Subcontract* up to and including the date of this Deed is as follows: -

Original Subcontract Sum	\$
Total of all adjustments & approved variations	\$
Subcontract Sum at Practical Completion	\$
Less previous net payments	(\$)
Final balance owing (inclusive of retention)	\$
Less retention / bank guarantee terms	(\$)

Balance owing at Practical Completion (exclusive of retention) \$

Value to be Retained until Final Certificate \$

2. The *Subcontractor* hereby releases and discharges the *Main Contractor* from and against all *Claims* (including claims based on statute, common law, unjust enrichment or equity) arising out of or in connection with *WUS*, except for:
- (a) any claim for payment in the amount shown above as payable to the *Subcontractor* for all works performed up to the date of this Deed (exclusive of retention);
 - (b) any claim for release of any retention or *security* which falls due for release after execution of this deed; and
 - (c) any claim which is the subject of a *dispute* notified in accordance with clause 25 of the *Subcontract*.
3. This deed may be relied upon and enforced by the *Main Contractor* in accordance with its terms even though the *Main Contractor* is not a party to it. This deed may be amended only by another deed approved in writing by the *Main Contractor*.
4. The *Subcontractor* warrants that:
- (a) all remuneration and other entitlements payable to or on behalf of the *Subcontractor's* employees for *WUS* have been paid;
 - (b) all amounts payable by the *Subcontractor* to any *secondary subcontractor* in respect of *WUS* have been paid;
 - (c) all relevant taxes, duties, statutory fees, charges and other amounts due in respect of the *Subcontract* and payable by the *Subcontractor* have been paid;
 - (d) any and all goods to be supplied or supplied by the *Subcontractor* pursuant to the *Subcontract* are released from any security interest (including a "security interest" as defined under the *Personal Property Securities Act 2009* (Cth) (**PPSA**)) held by the *Subcontractor* on the date of this deed; and
 - (e) if the security interest is registered on the Personal Property Securities Register established under the *PPSA*, undertakes to register a "financing change statement" (as defined under the *PPSA*) to reflect the release required by the above paragraph 4(d) within 10 days.

EXECUTED as a Deed Poll.

SIGNED SEALED AND DELIVERED

Dated: this day of 20

Initial:

EXECUTED by: ABN [status],)
in accordance with section 127 of the)
Corporations Act 2001 (Cth):)
)

.....
Director/Company Secretary

.....
Director

Name of Director/Company Secretary
(BLOCK LETTERS)

Name of Director (BLOCK LETTERS)

Initial: