

1. NATURE OF SUBCONTRACT

This subcontract (**Subcontract**), comprising Schedule 1, the subcontract terms and conditions, and Annexures 1 to 6, contains the entire agreement between parties relating to the Works. Any other term, condition, or requirement of the Subcontract relating to the Works is excluded.

2. WORKS

The Subcontractor shall complete the Works:

- a) in a proper and workmanlike manner in accordance with Contractor's directions and this Subcontract;
- b) in accordance with all relevant Legislative Requirements;
- c) so that the Works are fit for their intended purpose; and
- d) in accordance with the information and documents provided making up the definition of Works under Schedule 1 to the Agreement.
- e) In this Subcontract, 'Legislative Requirements' includes
- f) acts, ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth, the State or local government relevant to the matters the subject of this Subcontract, the Works or where any part of it is being performed;
- g) certificates, licences, consents, permits, codes, standards, approvals and requirements of organisations having jurisdiction in connection with the performance of the Works and this Subcontract; and
- h) fees and charges payable in connection with the foregoing.

3. COMMENCEMENT AND COMPLETION

- a) The Subcontractor shall commence the Works on the Date for Commencement and regularly and diligently continue with the Works so that they reach Completion by the Date for Completion.
- b) The Works shall have reached completion when they are in a state capable of being used for their stated purpose, determined by the Contractor, together with full satisfaction by the Subcontractor of any other requirements stated in this Subcontract (Completion).
- c) The Contractor may grant the Subcontractor an extension of time to the Date for Completion for any act, default or omission of the Contractor that delays the Subcontractor in bringing the Works to completion by the Date for Completion but for no other reason (unless otherwise expressly stated), provided the Subcontractor notified the Contractor within the earlier of 14 days or within 2 Business days less than the number of days prescribed under the Head Contract that the Contractor must notify the Principal of the delay event occurring. For the avoidance of doubt, any failure of the Contractor to grant the Subcontractor an extension of time where the Subcontractor is so entitled will not cause the Date for Completion to be set at large.
- d) The Contractor may, at its absolute discretion unilaterally extend the Date for Completion for any reason. This clause is for the Contractor's benefit and the Contractor will not be required to exercise its discretion under this clause for the benefit of the Subcontractor.
- e) The granting of an extension of time to the Date for Completion will be the Subcontractor's sole remedy for delays caused by the Contractor's acts, default or omissions. The Subcontractor will have no other claim against the Contractor, including a claim for any delay costs or damages that it may incur as a result of the delay.
- f) If the Subcontractor fails to complete the Works by the Date for Completion, the Subcontractor shall pay the Contractor liquidated damages calculated in accordance with the rate set

out in Schedule 1 for each day after the Date for Completion that the Works remain incomplete. Both the Contractor and the Subcontractor agree that any liquidated damages payable by the Subcontractor are a genuine pre-estimate of the damages likely to be suffered by the Contractor if the Subcontractor fails to complete the Works by the Date for Completion.

4. EXECUTION OF THE WORKS

- a) The Subcontractor shall:
 - i) promptly inform the Contractor if any information or document provided by the Contractor contains any error, ambiguity or inaccuracy;
 - ii) regularly consult with the Contractor regarding the execution of the Works and when requested by the Contractor;
 - iii) fully co-operate with, and co-ordinate its work with the work of, the Contractor, its other contractors and agents. Any work on Site shall be executed during ordinary Site working hours as provided in the Head Contract or as agreed in writing between the parties;
 - iv) ensure that each person who performs the Works:
 - A) holds all appropriate licenses, and certificates;
 - B) is experienced, competent and qualified; and
 - C) complies with the Contractor's Site requirements, including without limitation those relating to industrial relations, safety, site induction, environmental, and community relations.
 - v) keep the Works clean and tidy as they proceed and on completion remove all its plant and equipment and leave the Works ready for immediate use or occupation;
 - vi) remove from the Works when requested by the Contractor any person who in the opinion of the Contractor is incompetent or misconducts themselves;
 - vii) do all things necessary and incidental for the proper execution of Works; and
 - viii) at its cost comply with the Contractor's directions with regard to testing and inspection of the Works.
- b) If the Subcontractor fails to comply with any of its obligations under clause 4.a), the Contractor may, in its sole and absolute discretion and without notice to the Subcontractor carry out that obligation on the Subcontractor's behalf. Any costs that the Contractor incurs in carrying out that obligation will be a debt due and payable by the Subcontractor to the Contractor.
- c) Any comment, approval, consent or direction by the Contractor shall not relieve the Subcontractor from, or in any way diminish or affect, the Subcontractors' obligations under this Subcontract. Instructions to vary the Works will be provided in writing by the Contractor and, if deemed a variation to the Works, will be dealt with as a variation as per clause 11 of this Subcontract.

5. HEAD CONTRACT OBLIGATIONS

- a) The Subcontractor acknowledges that:
 - i) the Contractor has been engaged by the Principal under the Head Contract to perform particular works at the Site;
 - ii) the Subcontractor has been engaged by the Contractor to perform the Works, which forms part of the works under the Head Contract; and
 - iii) the Contractor is required to ensure that its subcontractors comply with the Head Contract and may be liable to the Principal for any breach of the Head Contract by its subcontractors.

- b) The Subcontractor warrants that it will, at all times comply with the terms set out in the Head Contract and not act in any way that will cause the Contractor to suffer loss or damage as a result of the Subcontractor's breach of the Head Contract.
- c) The Subcontractor agrees to fully indemnify the Contractor against any costs, losses, damages, expenses, liability or claim whatsoever that the Contractor incurs as a result of the Subcontractor failing to comply with the Head Contract.

6. CARE OF THE WORK

- a) The Subcontractor is responsible for the whole of the Works from and including the Date for Commencement to 4:00 pm on the day the Works reach Completion, at which time the responsibility for the care of the Works will pass to the Contractor.
- b) The Subcontractor will be responsible for the care of any unfixed items accounted for in a payment schedule and the care and preservation of things entrusted to the Subcontractor by the Contractor or brought onto the Site by the Subcontractor for carrying out the Works;
- c) If loss or damage occurs to the Works during the period of the Subcontractor's care, the Subcontractor must, at its cost rectify such loss or damage; and
- d) If any loss or damage is not rectified within 7 days of the event causing the loss or damage then the Contractor may make good the loss or damage and all costs incurred by the Contractor will be a debt due from the Subcontractor to the Contractor and capable of being deducted from the Subcontract Sum.

7. PROTECTION OF PEOPLE AND PROPERTY

- a) The Subcontractor must:
 - i) take all measures necessary to protect people and property;
 - ii) avoid unnecessary interference with the passage of people and vehicles; and
 - iii) prevent nuisance and unreasonable noise and disturbance.
- b) If the Subcontractor damages property, the Subcontractor must promptly rectify the damage and pay any costs and expenses which the Contractor may incur and pay any compensation which the law requires the Subcontractor to pay.
- c) If the Subcontractor fails to comply with an obligation under this clause, the Contractor may have the obligation performed itself or by others. The costs incurred by the Contractor in doing so will be a debt due from the Subcontractor to the Contractor.
- d) The Subcontractor hereby agrees to indemnify the Contractor against any loss or damage whatsoever to the Contractor's property.

8. LATENT CONDITIONS

- a) The Subcontractor acknowledges and accepts that it made satisfactory due diligence investigations into the Works and will only be entitled to a variation to the Subcontract Sum or any other remedy if it is delayed or caused to incur more costs in performing the Works because of a Latent Condition and only in the event the Contractor is entitled to a variation and extension of time under the Head Contract.
- b) In this clause 'Latent Conditions' means any physical conditions on the Site which differ materially from the physical conditions which should reasonably have been anticipated by a competent subcontractor at the time the

Subcontract was entered into and had the Subcontractor considered all information influencing risk allocation and reasonably obtainable by the making of reasonable enquiries.

9. REGULATIONS

- a) The Subcontractor shall give all notices, pay all fees, and obtain all licenses, required for the execution of the Works. If the Subcontractor fails to do so, the Contractor may, in its sole and absolute discretion and without notice to the Subcontractor carry out that obligation on the Subcontractor's behalf. Any costs that the Contractor incurs in carrying out that obligation will be a debt due and payable by the Subcontractor to the Contractor.
- b) The Subcontractor shall ensure that the Works, and the execution of the Works, comply with:
 - i) all requirements of this Subcontract, the National Construction Code, applicable Australian standards, Legislative Requirements, regulations, by-laws and codes of practice; and
 - ii) the requirements of all government, statutory, and regulatory authorities or bodies having jurisdiction with respect to the Works.

10. BASIC PURCHASING CONDITIONS

- a) Requirements:
 - i) The subcontractor must comply with all Laws including but not limited to the Disability Discrimination Act 1992(Cth), Modern Slavery Act 2018 (Cth), (where applicable to the Subcontractor) and the Human Rights Act 2019 (Qld) (where applicable to the Subcontractor)
- b) Modern Slavery:
 - i) The Subcontractor warrants that the Subcontractor and, to the best of it's knowledge and belief having made reasonable enquiries, it's supply chain have not been convicted of any offence involving modern slavery.
 - ii) The Subcontractor must immediately notify the Contractor if it becomes aware of any actual, potential or perceived modern slavery in its operation or its supply chain.
 - iii) The Subcontractor warrants that it and its supply chain will conduct their business in a manner so as to reduce the risk of modern slavery in their operations and supply chains.

11. PLANT AND EQUIPMENT

- a) The Subcontractor shall be responsible for the care of its plant and equipment. The Contractor shall have no liability for any loss of, or damage to, the Subcontractor's plant and equipment.
- b) To the extent permitted by law, no representation, warranty or other liability on the part of the Contractor is implied or created as to the condition or suitability of any plant or equipment made available to the Subcontractor by the Contractor. The Subcontractor uses such plant and equipment entirely at its own risk.

12. VARIATIONS

- a) The Subcontractor shall only vary the order, timing or scope of the Works (including by omission) as directed by the Contractor in writing. No payment will be made to the Subcontractor on any account for a change to the order, timing or scope of the Works not directed in writing by the Contractor.

- b) The price of any variation shall be added to or deducted from the Subcontract Sum. Should the parties not agree on the price for a variation within 7 days of a variation direction, the Contractor shall determine a reasonable rate or price for the variation or, at its option, the Contractor may have the variation carried out by others.
- c) Despite this clause 11, if a variation under this Subcontract arises from a variation directed under the Head Contract, the value of the variation for this Subcontract will be no greater than the value of the variation under the Head Contract. The Subcontractor will be bound by, and has no claim in connection with, the variation in excess of the valuation of the variation under the Head Contract.
- d) Without limiting the Contractor's rights, the Contractor may at any time omit all or any part of the Works and undertake those omitted works itself or engage others to do so and the Subcontractor will have no claim against the Contractor.
- iii) be in the joint names of the Contractor, the Principal (if any) and the Subcontractor; and
- iv) include a cross liability clause in which the insurer agrees to waive all rights of subrogation or action against any of the persons comprising the insured.
- d) The Subcontractor shall give the Contractor evidence that all insurances have been effected and that they are current prior to the commencement of the Works, and from time to time as requested by the Contractor.
- e) If the Subcontractor fails to produce evidence of compliance with its insurance obligations to the reasonable satisfaction of the Contractor, the Contractor may effect and maintain the insurance and pay the premiums. The amount paid will be a debt due from the Subcontractor to the Contractor.
- f) If a claim is to be made against the Contractor's contract works insurance policy due to an act or omission of the Subcontractor, then the Subcontractor must pay an excess determined by the Contractor at the time of and for each claim made under the Contractor's contracts works insurance policy.

13. WORKMANSHIP DEFECTS AND LIABILITY

- a) The Subcontractor is responsible for maintaining the quality of the Works until the completion of the Head Contract, signified by certification of the final claim to the Contractor and the receipt of off maintenance (or equivalent) from any governing authority. Following this, any shortcomings, omissions, or defects in the Works identified prior to the end of the completion of the Head Contract must be rectified by the Subcontractor.
- b) If any part of the Works is found to be inconsistent with the conditions in this Subcontract, along with any accompanying Schedule or Annexures during the Defects Liability Period and prior to the completion of the Head Contract, the Contractor may:
 - i) direct the Subcontractor to rectify, correct, or repair the defective works at its own expense;
 - ii) choose to rectify or repair the defective works itself (and engage third parties if necessary). The cost of such rectification or repairs will be a debt owed by the Subcontractor to the Contractor and can be deducted from any amount for which the Contractor might be liable to the Subcontractor;
 - iii) decide not to rectify the defective works, but instead require the Subcontractor to pay the Contractor an amount equivalent to the depreciation in the value of the Works caused by the defect, including any loss of use (as reasonably determined by the Contractor); or
 - iv) use any Security to rectify any defects if the Subcontractor fails to do so within the time directed by the Contractor.

14. INDEMNITY/INSURANCE

- a) The Subcontractor shall indemnify the Contractor from and against any liability, cost, loss, expense, damage or claim (including without limitation for death or personal injury) caused by any act, default or omission of the Subcontractor, its employees, contractors or agents.
- b) Before commencing the Works, the Subcontractor shall, until Completion of the Works (unless otherwise stated), effect and maintain the insurances specified in Schedule 1.
- c) The insurances specified in Schedule 1 must:
 - i) be on terms and with an insurer satisfactory to the Contractor;
 - ii) be for an amount not less than the sum stated in Schedule 1;

15. PAYMENT

- a) At the times required by Schedule 1, the Subcontractor shall submit payment claims in a form acceptable to the Contractor.
- b) Within fifteen Business Days of receiving the Subcontractor's payment claim, the Contractor will assess the payment claim and issue to the Subcontractor a payment schedule, setting out the amount that, in the Contractor's reasonable opinion is due to the Subcontractor.
- c) The Subcontractor shall provide the Contractor with an invoice for the amount set out in the payment schedule within the time stated in Schedule 1.
- d) The Contractor will pay the Subcontractor the amount set out in the payment schedule within the time stated in Schedule 1.
- e) The Subcontract Sum shall not be subject to rise and fall. Any payment shall be on account only and not evidence that the Works have been executed satisfactorily.
- f) The payment method shall be by either electronic funds transfer (EFT) to the Subcontractor's nominated bank account unless otherwise agreed. The Subcontractor must provide its BSB and account details in writing to the Contractor to facilitate payment.
- g) The Contractor may retain as Security, moneys becoming due under this Subcontract in accordance with Schedule 1 or the Subcontractor may provide a bank guarantee for the amount set out in Schedule 1 in a form acceptable to the Contractor. Security held by the Contractor shall be released in accordance with the times set out in Schedule 1.
- h) As a condition precedent to any obligation on the Contractor to make any payment to the Subcontractor on any account, the Subcontractor must not have breached this Subcontract and must give the Contractor a statutory declaration in a form acceptable to the Contractor (which form may be amended at any time by the Contractor to reflect changes in legislation after the date of the Subcontract) and evidence satisfactory to the Contractor that:
 - i) the insurances required by this Subcontract have been effected and maintained;

- ii) the Subcontractor has satisfied all of its statutory obligations with respect to the execution of the Works; and
- iii) all of the Subcontractor's employees and subcontractors have been paid in full.
- i) The Contractor may deduct from any moneys payable to the Subcontractor any moneys that are or may become payable by the Subcontractor to the Contractor.
- j) Following payment by the Contractor of the Subcontractor's final payment claim, the Subcontractor irrevocably releases and forever discharges the Contractor from any further payment obligation under the Subcontract or arising out of or in connection with the Works.
- k) Unless otherwise agreed, in this Subcontract, 'Business Days' has the meaning given to it by the Building Industry Fairness (Security of Payment) Act 2017 (Qld) ('BIF Act').
- ii) the Subcontractor stops or suspends payment of all or a class of its debts, or threatens to stop or suspend payment of all or a class of its debts;
- iii) a liquidator, receiver, receiver and manager, administrator, official manager or other controller (as defined in the *Corporations Act 2001* (Cth)), trustee or controlling trustee or similar official is appointed over any of the property or undertaking of the Subcontractor;
- iv) the Subcontractor or the Subcontractor's property or undertaking becomes subject to a personal insolvency arrangement under part X *Bankruptcy Act 1966* (Cth) or a debt agreement under part IX *Bankruptcy Act 1966* (Cth);
- v) the Subcontractor is, or becomes unable to, pay its debts when they are due or is or becomes unable to pay its debts within the meaning of the *Corporations Act 2001* (Cth), or is presumed to be insolvent under the *Corporations Act 2001* (Cth);

16. NOTICES

Any notice to be given under or in connection with this Subcontract shall be in writing and delivered by hand, post, facsimile or email at the address for the recipient stated above.

17. SUB-SUBCONTRACTING

The Subcontractor shall not:

- a) assign, charge or encumber this Subcontract, or any interest in it; or
- b) sub-subcontract the whole or any part of it, without the written consent of the Contractor.

If the Subcontractor subcontracts any of the Works, the Subcontractor remains fully responsible and liable for the Works and is liable to the Contractor for any acts or omissions of its subcontractors as if they were acts or omissions of the Subcontractor.

18. DEFAULT

- a) The Contractor may by written notice terminate this Subcontract if, in the reasonable opinion of the Contractor, the Subcontractor:
 - i) experiences an Insolvency Event;
 - ii) fails to proceed with the Works with due diligence and without delay or in a competent manner;
 - iii) fails to complete the Works by the Date for Completion;
 - iv) commits any breach of this Subcontract, which is not capable of remedy, or if capable of remedy, fails to remedy that breach within a reasonable time of being directed by the Contractor to do so.
- b) If the Contractor terminates this Subcontract, the Contractor shall only be liable to pay the Subcontractor for work already carried out by the Subcontractor, less any cost, loss, expense or damage the Contractor has or is likely to incur as a result of any breach of the Subcontract. The Subcontractor will have no other claim whatsoever against the Contractor, including a claim for any consequential, indirect, economic or special loss or damage of any kind.
- c) Termination shall not prejudice any right of the Contractor to recover from the Subcontractor damages for any breach of this Subcontract.
- d) In this clause an 'Insolvency Event' includes any of the following events occurring in relation to the Subcontractor:
 - i) the Subcontractor makes a statement, or conducts itself in a manner, from which it may reasonably be deduced that the Subcontractor is insolvent;

- vi) the Subcontractor is seeking, or makes a statement, or conducts itself in a manner, from which it may reasonably be deduced that it is seeking to take advantage of the safe harbour against insolvent trading available under Division 3, Part 57.B of the *Corporations Act 2001* (Cth);
- vii) the Subcontractor ceases to carry on business; or
- viii) an application or order is made for the liquidation of the Subcontractor, or a resolution is passed, or any steps are taken to liquidate or pass a resolution for the liquidation of the Subcontractor, otherwise than for the purpose of an amalgamation or reconstruction.

19. TERMINATION OF HEAD CONTRACT

If the Head Contract is terminated for any reason, the Contractor may by notice terminate this Subcontract and shall only be liable to pay the Subcontractor for work already carried out by the Subcontractor. For the avoidance of doubt, the Subcontractor will have no other claim against the Contractor, including a claim for consequential, indirect, economic or special loss or damage of any kind or other amounts.

20. GOVERNING LAW

This Subcontract is subject to the laws of the State of Queensland.

21. GST

- a) All capitalised terms in this clause 20 have the same meaning as define in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (GST Act).
- b) Unless provided otherwise in this Subcontract, the consideration for a Supply made under or in connection with this Subcontract does not include GST.
- c) If a Supply made under or in connection with this document is a Taxable Supply, then at or before the time the consideration for the Supply is payable the Supplier must give the recipient a Tax Invoice for the Supply.
- d) Where a Tax Invoice is given by the Subcontractor, the Subcontractor warrants that the Supply to which the Tax Invoice relates is a Taxable Supply, that it is registered for GST and that it will remit the GST (as stated on the Tax Invoice) to the Australian Tax Office.

22. LIABILITY

- a) Except where contrary timeframes are stated and required to be adhered to by the Subcontractor in Clauses 3.c), 6, 8 and 11.b) in the Subcontract, the Contractor shall not be liable for, and is released from, any claims of

any nature not notified to it in writing on the earlier of within 14 days of the occurrence of the event or circumstance giving rise to the claim, together with full particulars of the claim or the timeframes stated under the Head Contract relating to same.

- b) Upon the Subcontractor accepting the final payment from the Contractor, the Subcontractor releases and discharges the Contractor from any and all claims, demands, liability and causes of action which the Subcontractor has or may have under or relating to this Subcontract. Such release shall be provided by the Subcontractor to the Contractor in a form acceptable to the Contractor.
- c) A party's liability for loss or damages for breach of this Subcontract is reduced to the extent that an act or omission of the other party, its employees or agents contributed to the loss or damage.
- d) Despite any other clause of this Subcontract, the Contractor's aggregate liability to the Subcontractor arising out of or in connection with the Works (whether under contract, in tort (including negligence), under statute or otherwise at law or in equity) is limited to the value of the Subcontract Sum.

23. DISPUTES

- a) A party claiming that a dispute has arisen out of, in connection with, or relating to this Subcontract or the Works shall notify the other party in writing specifying in detail the dispute and its claim.
- b) Within 14 days of receipt of that notice, senior managers of the parties shall meet and negotiate in good faith in an attempt to resolve the dispute.
- c) If the dispute is not resolved within 28 days of the receipt of the notice the Contractor shall nominate a mediator recognised by the Resolution Institute to mediate the dispute.
- d) If the dispute is not resolved in the mediation in accordance with this clause, either party may by notice in writing commence litigation.

24. SUSPENSION

The Contractor may, at any time by notice in writing to the Subcontractor:

- a) suspend the performance of the Works; and
- b) direct the Subcontractor to recommence the performance of the Works.

The Subcontractor will have no claim of any kind against the Contractor arising out of any suspension.

25. TERMINATION FOR CONVENIENCE

The Contractor may, at any time by notice in writing to the Subcontractor, terminate the Subcontract for its sole convenience. If the Subcontract is terminated under this clause, the Contractor will pay the Subcontractor the reasonable costs necessarily incurred by the Subcontractor in performing the Works (to the Contractor's satisfaction) up to the date that the Subcontract is terminated, including where applicable, any reasonable demobilisation costs. The Subcontractor shall have no other claim whatsoever, including a claim for consequential, indirect, economic or special loss, damage of any kind or other amounts.

26. INCONSISTENCY

The parties agree to comply with the Subcontract Terms and Conditions. In the case of any discrepancy or inconsistency between these Subcontract terms and conditions and the Subcontractor's quote as detailed in Annexure 5, the

subcontract Terms and Conditions will take precedence to the extent of the discrepancy or inconsistency.

27. BIF ACT

- a) The Subcontractor must:
 - i) promptly and without delay give the Contractor a copy of any written communication of whatever nature in relation to the BIF Act (including, without limitation, a payment claim under the BIF Act) which the Subcontractor receives from a secondary subcontractor; and
 - ii) ensure that each secondary subcontractor promptly and without delay, gives the Contractor a copy of any written communication of whatever nature in relation to the BIF Act (including, without limitation, a payment claim under the BIF Act) which the secondary subcontractor receives from another party.
- b) If the Subcontractor suspends the whole or part of the Works pursuant to the BIF Act:
 - i) the Subcontractor may be granted an extension of time to the Date for Completion; and
 - ii) subject to any payment owed under the BIF Act, the Contractor shall not be liable for any costs, expenses, damages, losses or other liability or claim whatsoever suffered or incurred by the Subcontractor as a result of the suspension.

28. SUBCONTRACTOR'S WARRANTY AND GUARANTEE FOR GOODS/SERVICES

- a) In the event that goods or services or a combination of goods and services are supplied as part of the Works, in addition to any condition or warranty implied by law, the Subcontractor warrants that the Works:
 - i) shall be of new materials and sound workmanship and that the Subcontractor will make good or replace any defects or defective parts therein which, under proper use, may appear;
 - ii) in the case of custom manufactured Works, the Subcontractor will warrant the Works for 30 months from the date of dispatch or within 24 months of the date of commissioning (whichever is the earlier) and which are proved to be due solely to the use of defective materials or faulty workmanship;
 - iii) to the extent that it applies to the goods or services, not be 'Non-Conforming Building Products' as defined in the *Queensland Building and Construction Commission Act 1991* (Qld) (QBCC Act).
 - iv) are of merchantable quality, not defective and fit for the purpose for which the Contractor and /or the Principal requires them; and
 - v) are in accordance with the express requirements, if any, stated in this Agreement, including any Specifications and/or Drawings contained in Annexure 2. The Subcontractor shall also provide the Contractor, a written warranty and/or guarantee where such is required by the Contractor and/or Principal.
- b) The Subcontractor shall ensure that any warranty must run directly to and be enforceable by the principal so named under the Head Contract.
- c) The warranty is to be extended for a period equal to the period that the goods or materials cannot be operated as a result of a defect and/or deficiency.

- d) In respect of extended warranty, the Subcontractor must use reasonable efforts when requested by the Contractor to assist in enforcing such warranties.
- e) The Subcontractor warrants that it:
 - i) will fulfil their duties and obligations in undertaking the work within the requirements of the QBCC Act;
 - ii) holds the appropriate QBCC licence to perform the works under the Subcontract;
 - iii) acknowledges that a failure to hold a current and appropriate QBCC licence for building work performed will incur liability to the extent of damages lost;
 - iv) has a current licence to perform the works under the Subcontract; and
 - v) acknowledges that a failure to hold the current and appropriate licence for undertaking building is contrary to Legislative Requirements and the Contractor may terminate this Subcontract under clause 17.

29. DELAY

For the avoidance of doubt, if the supply of the goods and/or services forming part of the Works does not occur or is delayed for whatever reason, the Subcontractor will not be entitled for an extension of time to deliver the Works and will indemnify the Contractor for any loss suffered whatsoever by the Contractor for the delay or non-delivery.

30. DESIGN

30.1 Definitions and Amendments

Design Documentation means all design documentation (including drawings, specifications, models, samples and calculations) in computer readable and written forms necessary for the Subcontractor to complete any part of the Works which is not fully designed or documented in the documents supplied by the Contractor.

30.2 No Obligation to check

The Contractor owes no duty to the Subcontractor to check the Design Documentation submitted by the Subcontractor for errors, omissions or compliance with the requirement of this Subcontract. No check of, comments upon, or rejection of the Design Documentation, or any other direction by the Contractor about the Design Documentation will:

- a) relieve the Subcontractor from or alter or effect the Subcontractor's liabilities or responsibilities under this agreement or otherwise; or
- b) constitute a variation.

30.3 Warranties

a) Subcontract Warranties

These warranties are in addition to the warranties provided by the Subcontractor in accordance with this Subcontract. The Subcontractor warrants to the Contractor that the Subcontractor:

- i) shall exercise due skill, care and diligence in the preparation and completion of the Design Documentation;
- ii) has examined and checked the Design Documentation provided by the Contractor and that it is suitable and adequate for the preparation and completion of the Design Documentation; and
- iii) shall prepare and complete the Design Documentation so as that at completion of the works, the works shall to the extent they are designed by the Subcontractor, be

and will remain at all relevant times fit for their intended purpose.

b) Warranties Unaffected

The Subcontractor acknowledges the warranties in clause 29.3a) shall remain unaffected notwithstanding;

- i) That design work has been carried out by or on behalf of the Contractor and provided to the Subcontractor;
- ii) any check of the Design Documentation carried out by the Contractor; and
- iii) any variation agreed in accordance with this Sub-Contract.

30.4 Intellectual Property Rights

- a) Intellectual Property Rights (including copyright) and all other property in the Design Documentation vests in the Contractor upon its creation, and the Contractor grants to the Subcontractor and irrevocable license to use the Design Documents for the sole purpose of undertaking and completing the Works.
- b) In this clause, 'Intellectual Property Rights' means all industrial and intellectual property rights in and relating to copyright, registered or unregistered trademarks, patents, registered or unregistered design and any other like rights, including rights to registration of such rights to protect confidential information, know-how and trade secrets and includes moral rights.

30.5 Termination

If this Subcontract is terminated for any reason, the Subcontractor shall hand over to the Contractor (in hard copy & electronic form) the original and all sets and copies (including the latest copy) of all Drawings and Design Documentation, whether complete or not.

31. ENVIRONMENTAL

- a) The Subcontractor must comply with:
 - i) all Environmental Laws and Environmental Approvals;
 - ii) the Policies and Plans related to the environment; and
 - iii) any lawful direction of the Contractor or the Principal including any direction necessary to avoid a potential or perceived breach of Environmental Laws and Environmental Approvals.
- b) Without limiting clause 30.a), the Subcontractor must provide the Works and perform its other obligations under this Subcontract in a manner so as to avoid causing or contributing to any pollution at the site or its surroundings, except to the extent the same is a necessary and unavoidable consequence of the Works.
- c) Where the Subcontractor infringes any Environmental Approval or any Environmental Law and causes an infringement notice and fine to be levied on the Contractor, the Subcontractor must pay the Contractor the amount of the fine within 5 Business Days of the fine being levied.
- d) The Subcontractor must immediately notify the Contractor of any breach or non-compliance (or any potential breach or non-compliance) of this clause 30 or any breach or non-compliance of applicable Environmental Approval or Environmental Law.
- e) In this clause,
 - i) 'Environmental Approval' means an approval required by any Legislative Requirements in connection with the environment; and
 - ii) 'Environmental Laws' means any Legislative Requirements which have the protection of the

environment as their object, purpose or effect, including the *Environmental Protection Act 1994* (Qld).

32. HEAVY VEHICLE

- a) The Subcontractor must ensure that the Works are carried out in accordance with, and all heavy vehicles operated by the Subcontractor or its personnel in connection with the Works comply with, the Heavy Vehicle Laws and Heavy Vehicle Safety Requirements.
- b) The Contractor may at any time conduct its own audit of the Subcontractor's records for its Heavy Vehicles and compliance with Heavy Vehicle Safety Requirements (including any safety management systems of the Subcontractor) and the Subcontractor must:
 - i) cooperate fully with the Contractor in connection with that audit (including by providing all necessary access or other information); and
 - ii) immediately address any issues identified by the Contractor from their audit and notified to the Subcontractor.
- c) The Contractor may issue a direction at any time if it considers that the Subcontractor has not complied or may potentially not comply with the requirements in this clause 31. The Subcontractor shall have no claim due to the Contractor issuing, or failing to issue, any such direction.
- d) The Subcontractor must immediately notify the Contractor of:
 - i) any breach or potential breach by the Subcontractor of the Heavy Vehicle Safety Requirements; or
 - ii) any notice or direction received by the Subcontractor in connection with Heavy Vehicle Law (including by providing a copy of the notice or direction to the Contractor).
- e) In this clause,
 - i) 'Heavy Vehicle' has the meaning given in the *Heavy Vehicle National Law Act 2012* (Qld);
 - ii) 'Heavy Vehicle Law' means any Legislative Requirement, principals of law or equity established by decisions of Australian Courts or requirements of persons with obligations relating to Heavy Vehicles, including the *Heavy Vehicle National Law Act 2012* (Qld) and the *Heavy Vehicle National Law Regulation 2014* (Qld); and
 - iii) 'Heavy Vehicle Safety Requirements' means:
 - a. any Heavy Vehicle Law; and
 - b. the requirements of any policies or procedures of the Contractor; industry standards, codes, practices and guidelines; and any other provisions of the Subcontract, relating to the operation of Heavy Vehicles.

33. WORKPLACE HEALTH & SAFETY

All workers on site must:

- a) conduct works in a manner that shall comply with the *Workplace Health and Safety Act 2011* (Qld) ('WH&S Act'), associated regulations and within such relevant Federal, State and Local laws as are applicable to the work and shall have paid all relevant fees associated with the Works;
- b) not cause hazard or risk of injury or damage to the Principal; the Contractor; contractors; employees; proprietors or the general public;

- c) immediately comply with any safety direction of the Principal or Superintendent, their WH&S Representative and conform to the Contractor's safety policies, procedures and rules. No action by Principal or Superintendent, including the giving of any directive, shall relieve sub-contractors of any obligation under this Contract or at law;
- d) make available to the Superintendent a copy of the Subcontractor's Safe Work Method Statements for works that shall be deemed "high risk construction activity" as defined under the WH&S Act;
- e) at all times, wear mandatory and appropriate, personal protective equipment as deemed necessary by statutory requirements, the Principal or Superintendent;
- f) understand that any works that are carried out in any manner which does not comply with the requirements of the WH&S Act shall constitute a breach of Contract and shall constitute grounds for the Contract to be suspended or terminated by a Superintendent of the Contractor;
- g) understand that upon notification of a WH&S noncompliance, the Contractor's WH&S Representative has the right to enter a site under direction of the Superintendent to conduct a workplace health and safety inspection in consultation with the Principal, the Contractor, Subcontractor;
- h) should a dispute occur pertaining to work methods which cannot be solved to the mutual satisfaction of the Superintendent and the Subcontractor, either party may ask the regulator to appoint an inspector to attend the workplace to assist in resolving the issue; and

ensure that all on-site personnel have undertaken general induction training and shall undertake an on-site induction course where applicable.