



[Insert Details here - date]

Royal Hobart Hospital Redevelopment

Standard Subcontract

[Insert Package Description Here]

Work Package No. [Insert Details here – No.]

John Holland Pty Ltd (ABN 11 004 282 268) and Fairbrother Pty Ltd Ltd (ABN 51 009 510 561)
together the John Holland Fairbrother Joint Venture (ABN 37 234 024 467) (JHFJV)

[Insert details here - Subcontractor]



Table of Contents

Section 1 Conditions of Subcontract 4

S1.1 General Conditions of Subcontract 5

S1.2 Background 6

S1.3 Operative provisions 7

1. DEFINITIONS AND INTERPRETATION 7

2. NATURE OF SUBCONTRACT 12

3. PERSONNEL 13

4. RETENTION AND SECURITY 14

5. RISK AND INSURANCE 14

6. DESIGN, AND SUBCONTRACTOR DOCUMENTATION 16

7. THE SITE 18

8. CONSTRUCTION 19

9. QUALITY 23

10. TIME 26

11. VARIATIONS 29

12. PAYMENT 32

13. COMPLETION 39

14. TERMINATION 39

15. DISPUTES 42

16. NOTIFICATION OF CLAIMS 44

17. GENERAL 45

Schedule A - Particulars 49

Schedule B - Special Conditions 54

Schedule C - Approved Security 89

Schedule D - Deed of Guarantee & Indemnity 90

Schedule E - Final Account and Release 93

Schedule F - Performance Warranty from Suppliers or Manufacturers 95

Schedule G - Form of Warranty 96

Schedule H - Scope of Works Description 101

1. [Insert details here] 101

2. Specification 101

3. Drawings 102

4. Pricing Schedule (Bill of Quantities; Schedule of Prices or Rates) 103

5. Programming Requirements 104

6. Design Brief and Other Documents 106



Schedule I - Project Conditions	107
1. Preliminaries	107
2. Health & Safety Requirements.....	119
3. QUALITY SYSTEM AND QUALITY PLAN REQUIREMENTS	128
4. Environmental Requirements.....	132
5. Industrial.....	138
6. Requirements of Subcontractors	139
Schedule J - Expert Determination Agreement	141
1. Commencement.....	142
2. Submissions in respect of the deadlock	142
3. Conference.....	142
4. Determination.....	142
5. Procedural Rules.....	143
6. Termination	143
7. Costs	143
8. Conduct of Expert	143
Schedule K - RCTI Agreement	144
Schedule L - Building Code Compliance	146
Schedule M - Statutory Declaration by Subcontractor	150
Schedule N - Record of Payment Form	152
Section 2 Associated Documents	153

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



Section 1 Conditions of Subcontract



S1.1 General Conditions of Subcontract

Details

Date: [Insert Details Here]

Parties

Name: John Holland Pty Ltd and Fairbrother Pty Ltd together John Holland Fairbrother Joint Venture (JHFJV)

ABN: 37 234 024 467

Short form name: **JHFJV**

Notice details: John Holland Fairbrother
Joint Venture Level 2, 13-17 Castray Esplanade
Battery Point, TAS 7004

Attention: [Insert Details Here]

Facsimile: [Insert Details Here]

Name: [Insert Details Here]

ABN: [Insert Details Here]

Short form name: Subcontractor

Notice details: [Insert Details Here]

Attention: [Insert Details Here]

Facsimile: [Insert Details Here]

ABN [Insert Details Here]



S1.2 Background

1. JHFJV has entered into the Head Contract with the Principal for the completion and hand over to the Principal of the Head Contract Works.
2. The Subcontractor has tendered to perform the Works which form part of the Head Contract Works in accordance with the terms and conditions of this Subcontract.
3. The Subcontractor has represented that it has the expertise, capability and knowledge to perform all its obligations and to execute the Works in accordance with the terms and conditions of this Subcontract for the Subcontract Sum.
4. In reliance on the Subcontractor's representations JHFJV has agreed to engage the Subcontractor under this Subcontract to carry out the Works.



S1.3 Operative provisions

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless the context otherwise indicates, each word or phrase defined in this clause 1.1 and elsewhere has that meaning given to it whenever used in this Subcontract.

Acceleration Order means a written notice by JHFJV to the Subcontractor to accelerate the Works or a Stage or any part thereof (including by taking any measures necessary to achieve Completion in advance of the Date for Completion or to overcome or minimise the extent and effects of some or all of a delay and, if applicable, in order to achieve Completion by the Date for Completion.

Approved Security means the security required to be provided by the Subcontractor in the form of an unconditional undertaking it must be on the same terms as included in Section 28 Schedule C - and given by a financial institution approved by JHFJV with operating branches within the State or Territory in which the project is located.

Author means the person in whom copyright subsists in respect of any work or subject matter.

Building Code means the Building Code 2013.

Claim means any claim howsoever arising including:

- a. under, arising out of, or in connection with, this Subcontract or the Works; or
- b. at law or in equity including:
 - i. by statute;
 - ii. in tort for negligence or otherwise, including negligent misrepresentation; or
 - iii. for restitution including restitution based on unjust enrichment.

Completion means the stage when:

- c. the Works including Provisional Sum Works are or a Stage is complete except for minor Defects:
 - i. which do not prevent the Works or the Stage from being reasonably capable of being used for the intended purpose of the Works or the Stage; and
 - ii. correction of which will not prejudice or disrupt the lawful and convenient use of the Works or the Stage; and
- d. the Subcontractor has satisfied the following requirements:
 - i. the Subcontractor has provided JHFJV with copies of all documents evidencing compliance with sub paragraph (b) of the definition of Legislative Requirements relevant to the Works including those necessary to occupy and use the completed Works or Stage;
 - ii. the Works or Stage have been satisfactorily commissioned and tested and all services and installations perform as required by this Subcontract;
 - iii. the Subcontractor has provided JHFJV with all warranties, Maintenance manuals, as-built drawings and other technical information for the Works or Stage as required by this Subcontract; and



- iv. the Subcontractor otherwise has done everything which this Subcontract requires it to do prior to Completion.

Construction Programme is the programme prepared by JHFJV for the Head Contract Works and provided to the Subcontractor by JHFJV.

Date of Completion means the date or dates the Works or a Stage achieve Completion, as certified by JHFJV pursuant to clause 13.2.

Date for Completion means the date or dates for completion of the Works or a Stage identified in or from S1.3Schedule A -.

Deed means the deed described in, and required by, clause 6.7 (a).

Defects mean any defect, shrinkage or omission in the Works or a Stage or any other aspect of the Works or a Stage which is not in accordance with this Subcontract.

Defects Liability Period means the period or periods commencing on the Date of Completion and which continues for the period identified in S1.3Schedule A -, as extended by clause 9.7.

Direction means any decision, demand, determination, direction, instruction, notice, order, rejection, or requirement of JHFJV other than a Variation Order.

Effective Date is the date on which this Subcontract becomes operative, being the earlier of:

- a. execution of this Subcontract by all parties; or
- b. the issue of a written notice by JHFJV to the Subcontractor confirming award of this Subcontract.

Excepted Risks means those risks (if any) of the type described in the Head Contract, which may result in loss, damage or injury and for which the Principal bears the risk under the Head Contract.

Expert means the person named in S1.3Schedule A -, or appointed pursuant to clause 15.4(b).

Extension Event means:

- a. an act or omission by JHFJV that is not authorised by this Subcontract;
- b. a Variation Order issued by JHFJV (that is not for the convenience of the Subcontractor);
- c. a Suspension Order issued by JHFJV pursuant to clause 10.10(b); and
- d. any other event specified in S1.3Schedule A - (if any).

Final Payment Claim means the Payment Claim to be given by the Subcontractor to JHFJV strictly in accordance with clause 12.13.

Further Delay Period means each 5 day period from the date of the notice required under clause 10.6(a), until the cessation of the delay.

Head Contract means the agreement between JHFJV and the Principal for the Project.

Head Contract Works means the work to be performed by JHFJV for the Principal under the Head Contract.

Institute means the Chapter of the Institute of Arbitrators and Mediators, Australia in the State or Territory where the law applies, as provided in clause 17.1.

Instruction to Proceed means an instruction under clause 7.2 (a).



Key People means the people identified in S1.3Schedule A -.

Legislative Requirements includes:

- a. any applicable Commonwealth, State or local government legislation including regulations, by-laws, orders, awards and proclamations;
- b. the certificates, licences, permits, consents, approvals and determinations which are required from any organisation or authority which has jurisdiction in connection with the carrying out of the Works; and
- c. fees and charges payable in connection with the above.

Limits of Accuracy means the percentage specified in S1.3Schedule A - in relation to clause 12.5 (c).

Lump Sum Breakdown means, where the Subcontract Sum includes a lump sum component, a breakdown of that lump sum by the Subcontractor to a level of detail as required by JHFJV.

Other Contractor means any contractor (other than the Subcontractor and its subcontractors), consultant, artist, tradesperson or other person engaged by any person (including JHFJV, and the Principal) to do work on the Project.

Payment Claim means a claim for payment of the Subcontract Sum submitted by the Subcontractor to JHFJV strictly in accordance with the Subcontract.

Payment Schedule means the document (howsoever titled) that includes the matters described in clause 12.7.

Prescribed Notices means the notices described in 16.1.

Pricing Schedule means the bill of quantities or schedule of prices or rates described in Schedule H.

Principal means **The Crown in Right of Tasmania** represented by the Department of Health and Human Services

Prior Work means work carried out on or in relation to the Site by a party other than the Subcontractor prior to the Subcontractor's work.

Project means Royal Hobart Hospital Redevelopment.

Provisional Sum Work means any element of the Subcontract Sum which is a provisional sum.

Reference Date means the date when the Subcontractor may submit a Payment Claim to JHFJV in accordance with clause 12.6 and S1.3Schedule A -, and has the same meaning as defined in the Security of Payment Act.

Resubmission means amended Subcontractor Documentation as described in clause 6.1(b) and 6.2.

Scope of Works Description means the scope of works, specification, drawings, design brief and other documents (if any) as set out in Items 1, 2, 3 and 6 Schedule H respectively.

Security of Payment Act means legislation applying in the jurisdiction where the Works take place, that has amongst its objectives the creation of a statutory entitlement to progress payments for the performance of construction work or provides procedures for determining or securing payment of



that entitlement, pending any final assessment under the relevant construction contract including the Building and Construction Industry Security of Payment Act 1999 (NSW), the Building and Construction Industry Security of Payment Act 2002 (Vic), the Building and Construction Industry Payments Act 2004 (Qld), the Construction Contracts Act 2004 (WA), the Construction Contracts (Security for Payment) Act 2004 (NT), the Building and Construction Industry Security of Payment Act 2009 (SA), Building and Construction Industry Security of Payment Act 2009 (Tas) or the Building and Construction Industry Security of Payment Act 2009 (ACT).

Senior Executives are the persons named in S1.3Schedule A -..

Site means the place described in S1.3Schedule A -, being the site for the work under this Subcontract.

Stage means a part of the Works described in Schedule A as a separate stage.

Subcontract means the contractual relationship between JHFJV and the Subcontractor constituted by the documents described in S1.3Schedule A -.

Subcontractor documentation means the documents which the Works Description requires the Subcontractor to prepare.

Subcontractor's Representative means the person so identified in S1.3Schedule A -. or any other person from time to time appointed in writing as Subcontractor's Representative in accordance with clause 3.3 and 3.4.

Subcontract Sum means:

- a. the lump sum specified in S1.3Schedule A -. inclusive of the amounts specified as the price for Provisional Sum Work; and
- b. where the Pricing Schedule includes a schedule of rates, the amount calculated by multiplying the quantity of work performed to which the schedule of rates applies by the rate or price in the schedule of rates for that work,

adjusted from time to time by any additions or deductions required to be made under the Subcontract (unless elsewhere stated not subject to rise and fall in costs) to be paid to the Subcontractor's for compliance with its obligations under this Subcontract.

Submission means the submission of Subcontractor Documentation as described in clause 6.1 and 6.2.

Sub-subcontractor means a subcontractor, supplier or consultant engaged by the Subcontractor.

Suspension Order means a written notice by JHFJV to the Subcontractor to suspend or to recommence performance of all or part of the Works.

Variation means any change to the Works and includes any additions, increases, decreases, omissions and deletions to or from the Works.

Variation Order means a written instruction by JHFJV to the Subcontractor to carry out a Variation.

Variation Price Request means a written instruction by JHFJV to the Subcontractor requesting a proposed Variation.



Variation Price Proposal means a written notice by the Subcontractor to JHFJV setting out the effect (if any) which the proposed Variation will have on the Subcontract Sum and the Date for Completion.

Tasmanian Code means the Tasmanian Code of Practice for the Building and Construction Industry.

Tasmanian Guidelines means the Tasmanian Implementation Guidelines to the Code of Practice for the Building and Construction Industry.

Warranties means the warranties in the form of Schedule F required to be given by the Subcontractor in accordance with clause 8.4.

Works means all things or tasks necessary for the Subcontractor to do to comply with its Subcontract obligations including the physical works (including Provisional Sum Work and temporary work) which the Subcontractor must complete and handover to JHFJV in accordance with the terms and conditions of this Subcontract such physical works being briefly described in S1.3Schedule A -

Works Material means those things used by the Subcontractor to construct or perform the Works but which do not form part of the Works.

1.2 Interpretation

In this Subcontract unless the context indicates a contrary intention:

- a. words denoting the singular number include the plural and vice versa, individuals include corporations and vice versa and a gender includes all genders;
- b. headings are for convenience only and do not affect interpretation;
- c. references to any party to this Subcontract include its successors or permitted assigns;
- d. references to clauses, Parts, Annexures or Schedules are references to clauses, Parts, Annexures or Schedules of or to this Subcontract;
- e. references to this Subcontract and any deed, agreement or instrument are deemed to include that document as amended, novated, supplemented, varied or replaced from time to time;
- f. references to JHFJV include references to JHFJV's appointees;
- g. a reference to any legislation or to any section or provision of any legislation includes any statutory modification or re-enactment of or any statutory provision substituted for that legislation, section or provision and ordinances, by-laws, regulations and other statutory instruments issued under that legislation, section or provision;
- h. no rule of construction will apply to the disadvantage of JHFJV on the basis that JHFJV put forward the Subcontract or any part;
- i. a reference to "\$" is to Australian currency;
- j. references to "**day**" means calendar day except for the purposes of clauses 10.8 and 10.10 where any extension of time stated in days, or any reference to "**day**" will exclude public holidays and include only those days which are stated in the Construction Programme as working days;
- k. a reference to consent, approval, opinion, satisfaction (or words of similar effect) by JHFJV means a consent, approval, opinion, satisfaction by JHFJV in its sole and unfettered discretion unless expressly stated otherwise;
- l. unless otherwise expressly set out in this Subcontract, and to the extent permitted by law, all implied terms (whether implied by statute or operation of law) are hereby excluded from this Subcontract;
- m. where used in the Subcontract the words "including" and "includes" will be read to mean "including, without limitation", or "includes, without limitation," (as the case may be); and



- n. if there is any ambiguity, discrepancy or inconsistency in the documents which make up the Subcontract:
- i. the party discovering it must promptly give notice to the other;
 - ii. the order of precedence set out in S1.3Schedule A - will apply; and
 - iii. JHFJV must instruct the Subcontractor as to the course it must adopt within 7 days of the notice under paragraph 2(n) (i);
 - iv. if between the Works Description and any part of the Subcontractor Documentation (the use of which has not been rejected by JHFJV under clause 6.2), then, unless otherwise directed in writing by JHFJV, the Works Description will prevail.

2. NATURE OF SUBCONTRACT

2.1 Commencement

The Subcontractor acknowledges that:

- a. it has been engaged by JHFJV under the Subcontract for the performance of part of JHFJV's obligations under the Head Contract;
- b. JHFJV is responsible to the Principal for the performance of the Subcontract;
- c. the Subcontractor has been offered or provided with a copy of the Head Contract and has had the opportunity to review and familiarise itself with the Head Contract prior to executing the Subcontract;
- d. JHFJV and the Principal are relying upon the Subcontractor to properly perform its obligations in relation to the Works so that JHFJV can fully meet its obligations to the Principal; and
- e. it is deemed to have assessed all the costs relating to execution of the Works and all the risks and liabilities which it is assuming under the Subcontract and ensured that the Subcontract Sum contains complete allowances for those costs, risks and liabilities.

2.2 Discharge of Head Contract Obligations

The Subcontractor must in carrying out its obligations under this Subcontract:

- a. ensure that no act or omission of the Subcontractor constitutes, causes or contributes to any breach by JHFJV of its obligations to the Principal;
- b. act consistently with the terms of the Head Contract to enable JHFJV to comply with its obligations under the Head Contract; and
- c. must ensure that it does everything necessary, in performing the Works, to allow JHFJV to enforce all its associated rights under the Head Contract; and
- d. It will act in a manner consistent with JHFJV's Code of Business Conduct in all respects.

2.3 Subcontractor's Obligations

The Subcontractor must:

- a. immediately commence performance of its obligations under the Subcontract; and
- b. subject to clause 2.4:
 - i. commence construction of the Works on the Site by no later than the date specified in the Instruction to Proceed;



- ii. take all reasonable steps to expedite the performance of the Works to, if reasonably possible and at its own cost, complete the Works in a shorter period to that stated in S1.3Schedule A -; and
- iii. unless otherwise stated, do everything it is required to do under the Subcontract at its own cost.

2.4 JHFJV's Obligation to Provide Access

Subject to clauses 7.2 and 7.3 JHFJV must give the Subcontractor sufficient access to the Site to allow it to commence work on Site, by the later of satisfaction of the requirements set out in clause 5.5 and the date specified in the Instruction to Proceed given pursuant to clause 7.2.

3. PERSONNEL

3.1 Authority

The Subcontractor must comply with any Direction or Variation Order given or purported to be given by JHFJV under a provision of this Subcontract. Except where the Subcontract otherwise provides, JHFJV may give a Direction orally but will as soon as practicable confirm it in writing. A Direction or a Variation Order is deemed to be given to the Subcontractor if it is given to the Subcontractor's Representative.

3.2 Appointees of JHFJV

JHFJV may by written notice to the Subcontractor appoint or revoke the appointment of persons to exercise any of the functions of JHFJV under the Subcontract.

3.3 Subcontractor's Representative

The Subcontractor must appoint a person approved by JHFJV as the Subcontractors Representative and whilst any of the Works are taking place on the Site, the Subcontractor must ensure that the Subcontractor's Representative is present on the Site.

3.4 Key People

The Subcontractor must:

- a. employ the Key People;
- b. subject to clause 3.4(c), not replace the Key People without JHFJV's prior written approval; and
- c. if any Key People die, become seriously ill or resign from the employment of the Subcontractor, replace them with persons of at least equivalent experience, ability and expertise as approved by JHFJV.

3.5 Removal of Persons

JHFJV may by notice in writing instruct the Subcontractor to remove any of its personnel or its subcontractor's, consultants or suppliers personnel from the Site or the Works who:

- a. in the opinion of the JHFJV is guilty of misconduct or is incompetent or negligent; or
- b. the Principal requires to be so removed.



The Subcontractor must ensure that this person is not again employed in the Works.

4. RETENTION AND SECURITY

4.1 Form

- a. The Subcontractor must for the amount and in the manner specified in S1.3Schedule A - provide retention or security for performance of all and any of its obligations under this Subcontract. Where the security required to be provided by the Subcontractor is Approved Security:
 - i. the Subcontractor must provide JHFJV with 2 Approved Securities each for 50% of the required amount within 7 days of the Effective Date; and
 - ii. if the Subcontract Sum increases by more than the percentage specified in Schedule A, JHFJV may retain from payments under clause 12.8 such further amounts as are required to ensure the amount of security held continues to equal the amount required for security under this clause.
- b. JHFJV is entitled to convert the security into cash at any time and may utilise the security to pay for any costs, expenses or damages which JHFJV claims that it has incurred or might in the future incur as a consequence of any act or omission of the Subcontractor which JHFJV asserts constitutes a breach of the Subcontract.

4.2 Release

JHFJV must:

- a. within the period specified in S1.3Schedule A - after the issue of a Completion notice for the entire Works, release 50% of any retention or security held under clause 4.1 provided all Defects have been completed to the satisfaction of JHFJV; and
- b. release the balance of the retention or security held under clause 4.1 when the Subcontractor has, in JHFJV's opinion, complied with all its obligations under this Subcontract and the defects liability period under the Head Contract has expired, whichever is later.

4.3 Interest

JHFJV is not obliged to pay the Subcontractor interest on the retention or Approved Security, the proceeds of the Approved Security, if it is converted into cash, or any money retained under clause 4.1 and will not hold the proceeds or money referred to in this clause 4.3 on trust for the Subcontractor.

4.4 Parent Company Guarantee

The Subcontractor, unless otherwise agreed to in writing by JHFJV, must provide to JHFJV, on or before the Effective Date, third party security in the terms of the Deed of Guarantee and Indemnity as contained in Section 28Schedule D -, duly executed by a corporation approved by JHFJV.

5. RISK AND INSURANCE

5.1 Risk of Works, Damage and Injury



Except for an Excepted Risk, the Subcontractor will bear the risk of and indemnify JHFJV against:

- a. any loss of or damage to the Works, the Works Material and unfixed goods and materials (whether on or off Site) until a Completion notice is issued for the Works or for each and every Stage; and
- b. after the issue of a Completion notice for the Works or for each and every Stage, any loss of or damage to the Works or a Stage arising from any act or omission of the Subcontractor during the Defects Liability Period or from an event which occurred prior to the issue of a Completion notice for the Works or for each and every Stage.
- c. any loss of or damage to property of JHFJV or the Principal; and
- d. any liability to or claims by a third party (including under statute) in respect of loss of or damage to property or injury to or death of persons, caused by or arising out of or in connection with the Works.

5.2 Repairs

At any time until the expiration of the Defects Liability Period, the Subcontractor must if required by JHFJV:

- a. promptly replace or otherwise make good the loss of, or repair any and all damage to, the Works, including where the loss or damage occurs prior to Completion, the Works Material and/or unfixed goods and materials; and
- b. bear the cost of and associated with such replacement or repair unless the loss or damage arises from an Excepted Risk.

5.3 Insurance by Principal and JHFJV

JHFJV must provide, when reasonably requested by the Subcontractor, evidence of the insurance (if any) applying to the Subcontractor which:

- a. the Principal is obliged to effect and maintain under the Head Contract; and/or
- b. JHFJV is obliged to effect and maintain under the Head Contract or this Subcontract.

5.4 Subcontractor to Satisfy Itself

The Subcontractor acknowledges that it:

- a. has satisfied itself as to the nature and extent of the Principal's and JHFJV's insurance (including any exclusions, conditions and excesses noted on the policies);
- b. may if it requires, take out insurance to insure any risks not insured by the Principal's or JHFJV's insurance or to cover any exclusions, conditions or excesses in that insurance;
- c. must bear the cost of any excesses in the Principal's or JHFJV's insurance; and
- d. will have no Claim against JHFJV arising out of or in connection with the failure of the Principal to effect or maintain the relevant insurance policies in accordance with the terms of the Head Contract.

5.5 Insurance by Subcontractor

The Subcontractor must:

- a. from the Effective Date have in place the Subcontractor's insurance described in S1.3Schedule A - from insurers and on terms satisfactory to JHFJV;



- b. ensure that each of its subcontractors have workers' compensation insurance as required by law and at least to the extent of cover which the Subcontractor is required to have in place;
- c. provide JHFJV with a copy of any required insurance policy and any other evidence satisfactory to JHFJV of the policy and that the policy is current; and
- d. ensure that each required insurance policy includes provisions which require the insurer to inform JHFJV whenever:
 - i. it receives a notice or claim under or in connection with the insurance policy; and
 - ii. it gives any insured a notice under or in connection with the policy,

which in the case of a notice of cancellation must be given to JHFJV 30 days prior to the cancellation of the policy.

5.6 Failure to Insure

If the Subcontractor fails to comply with clause 5.5, JHFJV may provide the relevant insurance and the cost will be a debt due from the Subcontractor to JHFJV.

5.7 Period of Insurance

In the case of insurance which the Subcontractor is required to have in place under this clause 5, such insurance must be maintained:

- a. in the case of contractors' all risks insurance, until the issue of a Completion certificate for the Works or each and every Stage;
- b. in the case of public liability, motor vehicle third party liability and worker's compensation insurance, until the end of the last Defects Liability Period or until all notified Defects have been rectified in accordance with the Subcontract, whichever is the later; and
- c. in the case of professional indemnity insurance, until the expiration of the period specified in S1.3Schedule A - following expiry of the Defects Liability Period, or if there is more than one the expiry of the last Defects Liability Period.

5.8 Notice of Potential Claim

The Subcontractor must:

- a. as soon as possible inform JHFJV in writing of any occurrence that may give rise to a claim under either:
 - i. any insurance policy required by the Subcontract; or
 - ii. any insurance policy which must be provided and maintained by the Principal or JHFJV under the Head Contract;
- b. keep JHFJV informed of subsequent developments concerning the claim; and
- c. ensure that its subcontractors similarly inform the Subcontractor and JHFJV in respect of occurrences which may give rise to a claim by them.

6. DESIGN, AND SUBCONTRACTOR DOCUMENTATION

6.1 Subcontractor Documentation

The Subcontractor must:



- a. as part of the programme it is to prepare under clause 10.2, submit to JHFJV for approval a documentation programme setting out the manner in which and times by which it is to provide JHFJV with the Subcontractor Documentation; and
- b. submit to JHFJV for consideration Subcontractor Documentation prepared in accordance with the documentation programme approved by JHFJV under paragraph 6.1(a) and resubmit to JHFJV for consideration amended Subcontractor Documentation, where the documentation is rejected under clause 6.2.

6.2 Submission & Resubmission

On Submission or Resubmission, JHFJV may within the period identified in S1.3Schedule A -, reject the Subcontractor Documentation, in which event the provisions of clause 6.1(b) will apply. Subject to any other restrictions under this Subcontract, the Subcontractor must not commence construction of any part of the Works, unless:

- a. the Subcontractor Documentation which applies to that part has been the subject of a Submission or if rejected a Resubmission; and
- b. JHFJV has not rejected the Subcontractor Documentation within the period of time specified in Schedule A of that Submission or Resubmission, as the case may be.

6.3 No Obligation to Review

JHFJV owes no duty to the Subcontractor to review the Subcontractor Documentation submitted under clause 6.1, 6.2 or otherwise for errors, omissions or compliance with the Subcontract. No review of, comments upon or rejection of the Subcontractor Documentation in connection with a Submission, Resubmission or otherwise (including any failure to review, comment or approve) or any Direction by JHFJV about the Submission or a Resubmission will:

- a. relieve the Subcontractor from or alter or affect the Subcontractor's liabilities or responsibilities under the Subcontract or otherwise; or
- b. constitute a Variation;
- c. entitle the Subcontractor to make a Claim against JHFJV.

6.4 Fitness for Purpose

The Subcontractor warrants that:

- a. the Subcontractor Documentation will be fit for its intended purpose; and
- b. upon Completion the Works will, to the extent the Works are designed by the Subcontractor, be fit for its intended purpose.

6.5 Copyright

Copyright in the Works Description and Subcontractor Documentation vests in JHFJV upon their creation.

6.6 Intellectual Property Rights

The Subcontractor must ensure that the Works do not infringe any patent, registered design, trademark or name, copyright or other protected right, including any moral rights, and will procure as necessary any assignment or licence of such rights necessary to satisfy its obligations under this Subcontract.



6.7 Moral Rights

Without limiting any other provisions, where any materials or design documents (no matter when created) provided or produced by the Subcontractor to JHFJV (including the Subcontractor Documentation) include or make use of any work or other subject matter in which copyright subsists, the Subcontractor:

- a. must procure from every Author a Deed for the benefit of JHFJV;
- b. ensure that the Deed provides to the maximum extent permitted by law that the Author irrevocably and unconditionally consents to JHFJV using, disclosing, reproducing, transmitting, exhibiting, communicating, adapting or publishing that work or subject matter anywhere in the world in whatever form JHFJV thinks fit (including the making of any additions or alterations to or the destruction or change in location of that work or subject matter, or to any part of that work or subject matter) and as so used, disclosed, reproduced, transmitted, exhibited, communicated, adapted or published and without making any identification of the Author in relation thereto; and
- c. in procuring execution of the Deed, must not (and must ensure that no-one else does) apply any duress to any person or make a statement to any person knowing the statement is false and misleading in a material particular, or knowing that a matter or thing has been omitted from the statement without which the statement is false and misleading in a material particular.

6.8 Legislative Requirements

In carrying out the Works and its activities, the Subcontractor warrants that it will comply with all relevant Legislative Requirements, apply for, obtain, comply with and give JHFJV copies of all approvals, consents, authorizations, permits, licences, accreditations and certificates required to satisfy the Legislative Requirements.

7. THE SITE

7.1 Site Information

JHFJV does not warrant, guarantee or make any representation about the accuracy or adequacy of any information or data made available to the Subcontractor as to the existing conditions at, beneath or in relation to, the Site and that information or data does not form part of the Subcontract. The Subcontractor acknowledges that:

- a. clause 17.9 will apply to this information or data; and
- b. JHFJV will not be liable upon any Claim by the Subcontractor, and the Subcontractor has no Claim against JHFJV, about any fact, matter or thing arising out of or in any way connected with that information or data.

7.2 Nature of Site Access

The Subcontractor's right of access to the Site and to perform the Works on the Site is subject to the following conditions and limitations:

- a. the Subcontractor shall not access the Site unless it satisfies the requirements in this clause 7 and it receives an instruction from JHFJV specifying the date from which the Subcontractor can commence work on the Site before it commences work on the Site;
- b. as a condition of continued access to the Site, the Subcontractor must be able to demonstrate to JHFJV at any time and at all times that it is complying with its obligations under clause 5.5;



- c. access is subject to:
 - i. the rights of Other Contractors, or any persons nominated from time to time by JHFJV as having an interest in the Works or the Project, to carry out and complete works or other activities in their own right;
 - ii. any rights reserved under the Head Contract for any person, including the Principal and its consultants, to carry out inspections or exercise rights or powers in connection with the Site; and
 - iii. any other restriction or limitation specified in S1.3Schedule A -;
- d. JHFJV is not obliged to:
 - i. provide the Subcontractor with sole, uninterrupted or continuous access to the Site; or
 - ii. perform any work or provide any facilities to the Subcontractor (other than those required under clause 7.4) which may be necessary to enable the Subcontractor to perform the Works;
- e. JHFJV may from time to time discontinue the Subcontractor's use of or access to the Site as necessary to achieve the Construction Programme;
- f. JHFJV may, from time to time and for any reason, impose such restrictions upon the Subcontractor's right of access as may be necessary to facilitate the work being performed by Other Contractors; and
- g. access to the Site will confer on the Subcontractor a right only to such use and control as is necessary to enable it to carry out the Works.

7.3 Subcontractor's Exercise of Right of Access

In exercising its right of access to the Site the Subcontractor must at its own cost:

- a. fully co-operate and liaise with and carefully co-ordinate and interface the Works with all Other Contractors working on the Site or in the vicinity of the Site and permit them to execute their work, so as to avoid interference with or disruption to or delay of the work of Other Contractors;
- b. monitor the progress of work being performed by Other Contractors and notify JHFJV of any interface or sequence activities which may affect the commencement, progress or completion of any aspect of the Works; and
- c. give JHFJV, the Principal and any person authorised by them access to the Works, the Site or any areas off-Site where Works are being carried out as those persons may reasonably require from time to time and also provide them with every reasonable facility necessary for to carry out supervision, examination and testing of the Works.

7.4 Facilities

JHFJV must provide to the Subcontractor the facilities and services set out in Item 1 of Schedule H and the Subcontractor must provide all other facilities and services necessary for the proper performance of the Works.

8. CONSTRUCTION

8.1 Description of Works



The Subcontractor warrants that it will construct the Works in accordance with this Subcontract, including:

- a. the Works Description and any documents issued by JHFJV under clause 6;
- b. any Subcontractor Documentation which complies with the requirements of the Subcontract and the use of which has not been rejected by JHFJV under clause 6.2; and
- c. any Direction or Variation Order given or purported to be given under a provision of the Subcontract.

8.2 All Work Included

The Subcontractor has allowed for the provision of all work or materials necessary for the Works, whether or not expressly mentioned in the Works Description or any Subcontractor Documentation which complies with the requirements of the Subcontract and the use of which has not been rejected by JHFJV under clause 6.2. Any such works or materials:

- a. must be undertaken and provided by the Subcontractor at its own cost;
- b. form part of the Works and will not constitute a Variation; and
- c. will not otherwise entitle the Subcontractor to make a Claim for such work or materials.

8.3 Subcontracting

The Subcontractor:

- a. may only subcontract a part of the Works with the prior written consent of JHFJV;
- b. will be fully responsible for the Works notwithstanding the Subcontractor has subcontracted the performance of any part of the Works; and
- c. will be vicariously liable to JHFJV for all acts, omissions and defaults of its subcontractors relating to or in any way connected with the Works.

8.4 Subcontractor or Supplier Warranties

The Subcontractor must, as a condition precedent to Completion, provide the Warranties to JHFJV from the suppliers set out in Schedule A. The provision of the Warranties will not derogate from any rights which JHFJV may have against the Subcontractor in respect of the subject matter of the Warranties, whether under this Subcontract or at law. If no Warranty is provided by or required from suppliers then the Subcontractor is deemed to have provided to JHFJV and the Principal the warranties set out in the Warranty.

8.5 Provisional Sum Work

Provisional Sum Work (if any) is set out in Schedule A. Where applicable, JHFJV will give the Subcontractor a Variation Order either deleting the Provisional Sum Work from the Subcontract or requiring the Subcontractor to proceed with the Provisional Sum Work. If any Provisional Sum Work is deleted from the Subcontract:

- a. the Subcontract Sum will be reduced by the amount allowed for the Provisional Sum Work;
- b. JHFJV may carry out the Provisional Sum Work itself, or engage another Contractor to carry out the Provisional Sum Work; and
- c. the Subcontractor shall have no Claim against JHFJV as a result of the deletion and the carrying out by others of the Provisional Sum Work.



8.6 Provisional Sum Work with Design

If the Subcontractor is directed to proceed with Provisional Sum Work and that work includes an obligation that the Subcontractor must design the Provisional Sum Work, or any part thereof, the Subcontractor must:

- a. progressively prepare the documents which are to form part of the Works Description and which must define the nature and scope of the Provisional Sum Work;
- b. inform JHFJV when these documents are being discussed at design and other meetings and JHFJV may attend all such meetings; and
- c. comply with clause 6.

8.7 Provisional Sum Work without Design

If the Subcontract does not provide that the Subcontractor must design the Provisional Sum Work:

- a. JHFJV's designers or others will progressively prepare the documents which will define the nature and scope of the Provisional Sum Work; and
- b. the Subcontractor must attend such design and other meetings as required by JHFJV to assist these designers in completing these documents and to advise upon:

- i. build-ability issues and the choice of materials to be incorporated in the Works; and
- ii. the sufficiency and completeness of the proposed documents; and

and when finalised, JHFJV will provide these documents to the Subcontractor.

8.8 Letting Provisional Sum Work

Where the Subcontractor is instructed to proceed with Provisional Sum Work and that work is not performed by the Subcontractor itself, it must be performed under subcontracts or supply agreements entered into by the Subcontractor as follows:

- a. after the design for any Provisional Sum Work has been provided to the Subcontractor under clause 8.7, or if prepared by the Subcontractor after it has been reviewed and not been rejected by JHFJV under clause 6.2, the Subcontractor must either contract with a person as directed by JHFJV or invite tenders from at least 3 persons as either specified by JHFJV or otherwise nominated by the Subcontractor and approved by JHFJV; and
- b. If tenders are called for Provisional Sum Work the Subcontractor must:
 - i. do so on the terms of a subcontract or supply agreement containing similar terms to the Subcontract and approved by JHFJV;
 - ii. give JHFJV such details of each tender as JHFJV may require;
 - iii. recommend which tenderer it believes should be accepted and, if this tenderer is not the lowest priced tenderer, it must give reasons why the lowest priced tenderer is not recommended; and
 - iv. then enter into a subcontract or supply agreement with the tenderer instructed by JHFJV.

8.9 Adjustments of Subcontract Sum for Provisional Sum Work

After the Subcontractor is instructed to proceed with Provisional Sum Work the Subcontract Sum will be adjusted, if and only to the extent that the amount, as incurred by the Subcontractor directly and valued in accordance with clause 11.3 or tendered by the person with whom the Subcontractor is



instructed to enter into a subcontract or supply agreement, is more or less than the amount allowed in the Subcontract Sum for that Provisional Sum Work.

8.10 Setting Out

The Subcontractor must set out the Works and carry out any survey which may be necessary for this purpose.

8.11 Safety

The Subcontractor must perform the Works safely so as to protect persons and property and comply with the safety requirements set out in Item 2 of Schedule H. If JHFJV considers there is a risk of injury to people or damage to property arising from the Works, JHFJV may direct the Subcontractor to change its manner of working or to cease working. The Subcontractor must, at its cost, comply with any Direction by JHFJV under this clause 8.11.

8.12 Cleaning Up

The Subcontractor must in carrying out the Works keep the Site, its surroundings and the environment clean and tidy and not pollute or otherwise harm or damage the environment.

8.13 Urgent Protection

JHFJV may take any action necessary to protect the Works, other property, the environment or people that the Subcontractor must take in accordance with the Subcontract or otherwise but does not take in which event clause 17.5 will apply.

8.14 Valuable Objects Found on Site

Any things of value or archaeological or special interest found on or in the Site will, as between the parties, be the property of JHFJV. Where such an item is found the Subcontractor must:

- a. immediately notify JHFJV;
- b. protect it and not disturb it further; and
- c. comply with any instructions of JHFJV in relation to the item.

8.15 Survey

If required by JHFJV, the Subcontractor must as a condition precedent to Completion submit to JHFJV a certificate signed by a licensed surveyor, procured at its cost, stating that:

- a. the whole of the Works are within any particular boundaries as may be stipulated in this Subcontract except only for parts of the Works specifically required by this Subcontract to be outside those boundaries; and
- b. structural elements of the Works are within the dimensional tolerances specified.

8.16 Environmental Requirements

In addition to complying with all relevant environmental Legislative Requirements the Subcontractor must comply with the environmental requirements set out in Item 4 of Schedule I.



8.17 Industrial Relations

- a. Industrial relations on all projects undertaken by JHFJV are managed in compliance with all relevant industrial laws including the Building Code and where required the Tasmanian Code and Tasmanian Guidelines.
- b. The Subcontractor and any subcontractors engaged by the Subcontractor must comply at all times with all relevant legislative requirements including in relation to:
 - i. freedom of association;
 - ii. payment of strike pay;
 - iii. unlawful industrial action;
 - iv. the management of work health and safety related action;
 - v. coercion in respect of industrial instruments and superannuation;
 - vi. provision of personal information; and
 - vii. right of entry.
- c. The Subcontractor must allow JHFJV sufficient access and provide sufficient information to allow JHFJV to accurately assess the Subcontractor's compliance with regards to industrial relations matters.
- d. The Subcontractor must also comply with any directions made by JHFJV regarding industrial relations and bear any losses, costs, expenses or damages it incurs as a result. The Subcontractor will be responsible for any losses, costs, expenses or damages incurred by any person arising out of the Subcontractor's failure to comply with JHFJV's directions.
- e. Not less than seven (7) days prior to mobilisation of labour to Site, the Subcontractor must advise as to the following:
 - i. the names and classifications of employees to be engaged on the Project;
 - ii. confirm the details of the applicable industrial instrument and provide a copy upon request;
 - iii. identify any subcontractors, material suppliers (where required under the Tasmanian Code and Tasmanian Guidelines,) or consultants that are intended to be engaged on the Project.
- f. The Subcontractor undertakes to advise JHFJV of any new or amended industrial agreements proposed to be implemented through the course of the Works.
- g. As a condition precedent to the existence and effectiveness of this Subcontract the Subcontractor must have provided to JHFJV at the time of tender a Building Code Declaration of Compliance 2013 and have been issued with a compliant Building Code Assessment Report.
- h. Before allowing any of its sub-subcontractors to commence on site the Subcontractor must provide to JHFJV a Building Code Declaration of Compliance 2013 and a compliant Building Code Assessment Report pertaining to its subcontractor.
- i. The Subcontractor agrees to comply with the undertakings provided in the Building Code Declaration of Compliance 2013 and those set out in Schedule K - Building Code Compliance of this Subcontract.
- j. Failure to comply with this clause and the requirements of Item 3 of Schedule H, and those obligations set out in Schedule K – Building Code Compliance will constitute a substantial breach of the Subcontract by the Subcontractor and may, at JHFJV's absolute discretion, result in termination of the Subcontract in accordance with clause 14

9. QUALITY

9.1 Construction

The Subcontractor must in performing the Works:



- a. use workmanship which is:
 - i. of the standard prescribed in the Subcontract or to the extent it is not so prescribed, a standard consistent with the best industry standards for work of a nature similar to the Works and which is at least to the same standard as that found in the development identified in S1.3Schedule A -; and
 - ii. is fit for its purpose;
- b. use good new materials:
 - i. which comply with the requirements of the Subcontract or if not fully described in the Subcontract, are consistent with the best industry standards for work of a nature similar to the Works; and
 - ii. which are of merchantable quality and which are fit for their purpose and consistent with the nature and character of the Works; and
- c. comply with the requirements of the Subcontract and, to the extent they are not inconsistent, all relevant standards of Standards Australia.

9.2 Quality Assurance

The Subcontractor:

- a. must comply with the quality assurance requirements set out in Item 3 of Schedule H;
- b. must allow JHFJV and the Principal access to the quality system of the Subcontractor and its subcontractors so as to enable monitoring and quality auditing; and
- c. will not be relieved from compliance with any of its Subcontract obligations or any other matter for which it is responsible as a result of:
 - i. compliance with the quality assurance requirements of the Subcontract;
 - ii. any Direction by JHFJV concerning the Subcontractor's quality assurance system or its compliance or non-compliance with that system; or
 - iii. any audit or other monitoring by JHFJV of the Subcontractor's compliance with the quality assurance system.

9.3 Testing and Cost of Testing

The Subcontractor must carry out all tests required by the Subcontract or directed by JHFJV. If JHFJV directs the Subcontractor to carry out a test which is not otherwise required by the Subcontract or upon work in respect of which JHFJV gave an instruction under clause 9.4 and the results of which show the work is in accordance with the Subcontract, the Subcontractor will be entitled to be paid the reasonable costs incurred by it in carrying out the test as assessed by JHFJV.

9.4 Defects

If JHFJV discovers or believes there is a Defect, JHFJV may, without prejudice to any other rights which JHFJV may have under the Subcontract or otherwise, give the Subcontractor an instruction specifying the Defect and doing one of the following:

- a. requiring the Subcontractor to correct the Defect, or any part of it, at the Subcontractor's cost and specifying the time within which this must occur; or
- b. advising the Subcontractor that JHFJV will accept the work, or any part of it, despite the Defect.



9.5 Correction of Defect or Variation

If an instruction is given under clause 9.4(a) prior to the expiration of the Defects Liability Period the Subcontractor must correct the Defect within the time specified in JHFJV's instruction. If an instruction is given under clause 9.4 (a) after Completion, the Subcontractor must correct the Defect at times and in a manner which causes as little inconvenience to the occupants of the Works or a Stage as is reasonably possible. Failing correction by the Subcontractor JHFJV may have the Defect corrected, the cost of which will be a debt due from the Subcontractor to JHFJV.

9.6 Acceptance of Work

If an instruction is given under clause 9.4(b) prior to the expiration of the Defects Liability Period, the Subcontract Sum will be reduced by the amount determined by JHFJV to be the cost of JHFJV correcting the Defect or having the Defect corrected by others.

9.7 Extension of Defects Liability Period

If JHFJV gives the Subcontractor an instruction under clause 9.4(a) during the Defects Liability Period, the Defects Liability Period for the work the subject of the Defect will be extended by the original term, commencing upon completion of the correction of the Defect.

9.8 Notice of Defective Prior Work

- a. The Subcontractor must inspect any Prior Work as soon as is practicable and in any case within 7 days of JHFJV giving the Subcontractor access to the Site under clause 2.4.
- b. If the proper execution of the Works is dependent upon or appreciably affected by the quality or completeness of any Prior Work the Subcontractor must:
 - i. if it discovers any defects or matters in or connected with the Prior Work which in its opinion renders the Prior Work unsatisfactory for the proper execution of the Works, promptly notify JHFJV in writing providing:
 - A. full particulars of the defects or matters identified; and
 - B. the reasons for its opinion; and
 - ii. not commence or continue with the execution of any part of the Works dependent upon or appreciably affected by the Prior Work.

9.9 Direction about Prior Work

After receiving the Subcontractor's notice under clause 9.8 JHFJV must investigate the Prior Work and:

- a. if JHFJV agrees with the Subcontractor:
 - i. arrange for the Prior Work to be rectified by others and/or issue a Variation Order to the Subcontractor to rectify the Prior Work; and
 - ii. value any work carried out by the Subcontractor by reason of this instruction in accordance with clause 11.3; or
- b. if JHFJV disagrees with the Subcontractor, issue an instruction to the Subcontractor to commence or continue with the Works at the Subcontractor's expense.



9.10 Failure to Inspect Prior Work

If the Subcontractor fails to comply with clause 9.8:

- a. the Subcontractor will be deemed to be satisfied with the quality and completeness of the Prior Work performed; and
- b. if the Prior Work subsequently proves to be unsatisfactory for the proper execution of the Works, then any work which is required to be executed in order to render the Prior Work satisfactory must be performed by the Subcontractor at its own expense.

10. TIME

10.1 Progress and Time for Completion

- a. Time is of the essence under this Subcontract.
- b. The Subcontractor warrants that it will progress the Works in a manner and at a rate of progress:
 - i. satisfactory to JHFJV; and
 - ii. to achieve Completion by no later than the Date for Completion.

10.2 Programming

The Subcontractor must:

- a. within 14 days of the Effective Date prepare a programme of the Works which contains the details required by Item 5 of Schedule H and which is based upon the Construction Programme;
- b. update the programme from time to time to take account of changes to the programme or the Construction Programme or delays which may have occurred and for which the Subcontractor is granted an extension of time under clause 10.8; and
- c. give JHFJV copies of all programmes for its approval.

10.3 Subcontractor Not Relieved

Any review of, comments upon or approval of a programme by JHFJV (or any failure by JHFJV to review, comment or approve the programme) will not:

- a. relieve the Subcontractor from or alter its liabilities or obligations under the Subcontract, including (without limitation) the obligation to achieve Completion by no later than the Date for Completion;
- b. evidence or constitute the granting of an extension of time or an instruction by JHFJV to accelerate, disrupt, prolong or vary any, or all, of the Works;
- c. affect the time for performance of JHFJV's obligations; or
- d. affect JHFJV's right to vary any part of the Construction Programme.

10.4 Acceleration by Subcontractor

The Subcontractor shall have no Claim against JHFJV if the Subcontractor, without written Direction from JHFJV, accelerates progress of the Works, nor shall JHFJV be obliged to take any action to assist or enable the Subcontractor to reach Completion before the Date for Completion.

10.5 Delays Entitling Claim



If the Subcontractor is or will be delayed:

- a. prior to the Date for Completion by a Extension Event in a manner which will prevent it from achieving Completion of the Works or a Stage by the Date for Completion; or
- b. prior to the Date for Completion by Provisional Sum Work directed to be carried out and the value of the work when completed and valued under clause 8.9 exceeds by 20% or more the price allowed in the Subcontract Sum for that Provisional Sum Work in a manner which will prevent it from achieving Completion of the Works or a Stage by the Date for Completion; or
- c. after the Date for Completion by a breach of this Subcontract, a Variation Order, a Suspension Order by JHFJV which will delay the Subcontractor in reaching Completion of the Works or a Stage,

then, the Subcontractor may claim an extension of time strictly in accordance with clause 10.6.

10.6 Claim

To claim an extension of time the Subcontractor must:

- a. within 5 days of when the Subcontractor became aware, or ought reasonably to have become aware, of the delay it must submit a written claim to JHFJV for an extension to the Date for Completion which:
 - i. gives detailed particulars of the delay and the events or circumstances giving rise to the delay;
 - ii. states the number of days extension of time claimed together with the basis of calculating that period, including evidence that the delay will prevent it from achieving Completion by the Date for Completion; and
 - iii. includes any other information JHFJV specifies in S1.3Schedule A -.
- b. if the effects of the delay continue beyond 5 days after the first occurrence of the delay and the Subcontractor wishes to claim an extension of time in respect of any further delay, submit a further written claim to JHFJV:
 - i. for each Further Delay Period, within the time specified in S1.3Schedule A -;
 - ii. containing the information required by clause 10.6(a) in respect of the delay updated for each Further Delay Period; and
 - iii. advising whether the claim is for continuing delay or that the effects of delay have ceased.

10.7 Conditions Precedent to Extension

It is a condition precedent to the Subcontractor's entitlement to an extension of time that the Subcontractor:

- a. must not have caused, or contributed to, the delay;
- b. has taken all steps necessary both to either avoid or minimise the consequences of the delay;
- c. must not have been given an instruction under clause 10.11; and
- d. must have given the notices and must have made claim strictly as required by clause 10.6.

The Subcontractor shall have no Claim against JHFJV if it fails to comply with the requirements of this clause 10.7.

10.8 Extension of Time



If the conditions precedent in clause 10.7 have been satisfied, JHFJV will extend the Date for Completion as follows:

- a. if clause 10.6(b) applies, by a reasonable period to be notified in writing to the Subcontractor, within the period specified in S1.3Schedule A - after receipt, of:
 - i. the first claim under clause 10.6(b), by way of an interim determination on the Subcontractor's application for an extension of time; and
 - ii. the Subcontractor's last claim under clause 10.6(b) determined after reviewing all the circumstances and making a final determination on the Subcontractor's application for an extension of time with regard to the Extension Event; or
- b. if clause 10.6(b) does not apply, by a reasonable period determined by JHFJV and notified to the Subcontractor within the period specified in S1.3Schedule A - after receipt of the Subcontractor's claim under clause 10.6(a).

10.9 Unilateral Extensions

Whether or not the Subcontractor has made, or is entitled to make, a claim for an extension of time under this clause 10, JHFJV may, at any time in its absolute discretion and for its benefit only, by written notice to the Subcontractor unilaterally extend the Date for Completion and:

- a. is not required to exercise those rights for the benefit of the Subcontractor; and
- b. in exercising or not exercising those rights, will not invalidate any notice requirements or time limitations.

10.10 Suspension

JHFJV may give to the Subcontractor a Suspension Order. If the suspension arises as a result of:

- a. the Subcontractor's failure to perform its obligations in accordance with the Subcontract, the Subcontractor will have no right to any extension of time or be paid any costs, expenses or damages arising from the suspension; or
- b. a cause other than the Subcontractor's failure to perform its obligations in accordance with the Subcontract:
 - i. a Suspension Order will entitle the Subcontractor to claim an extension of time in accordance with this clause 10 and be paid by JHFJV the direct extra costs reasonably incurred by it as a result of the suspension;
 - ii. the Subcontractor must take all steps possible to mitigate the direct extra costs reasonably incurred by it as a result of the suspension; and
 - iii. the entitlement under sub paragraph 10.10(b)(i) will be the Subcontractor's only entitlement to payment of money arising from the instruction to suspend.

10.11 Acceleration by direction

JHFJV may give to the Subcontractor an Acceleration Order. If JHFJV gives an Acceleration Order the Subcontractor must accelerate the Works and:

- a. if and to the extent an Acceleration Order is or has the effect of overcoming or minimising the extent or effects of delays, where the Subcontractor is not entitled to an extension of time, the Subcontractor shall bear the costs of accelerating the Works;



- b. subject to paragraph 10.11(a), the Subcontractor will be entitled to be paid the extra costs reasonably incurred by it and directly attributable to accelerating the Works pursuant to an Acceleration Order together with the percentage specified in S1.3Schedule A - applied to that extra cost; and
- c. if the Subcontractor would, but for the Acceleration Order, have been entitled to an extension of time to the Date for Completion:
 - i. the Subcontractor's entitlement (if any) under paragraph 10.11(b) will be its only entitlement arising out of the Extension Event and/or the direction, including any claim for an extension of time to the Date for Completion, which the Subcontractor might have had but for the Acceleration Order; and
 - ii. the Subcontractor shall have no other Claim against JHFJV.

10.12 Time Not at Large

Any delay or failure by JHFJV to grant a reasonable extension of time as required by clause 10.8 will not cause the Date for Completion to be set at large.

10.13 Agreed Damages

The Subcontractor will only be entitled to be paid the amount specified in S1.3Schedule A - or Variation Order for each day by which the Date for Completion is extended:

- a. due to an event described in sub-clauses (a), (b) or (c) of the definition of Extension Event; and
- b. in accordance with clauses 10.7 and 10.8.

This amount:

- c. is the agreed damages which will be payable by JHFJV; and
- d. will be a limitation upon JHFJV's liability to the Subcontractor for any damages, delay or disruption which the Subcontractor encounters in performing the Works,

and the Subcontractor shall have no other Claim against JHFJV arising out of or in connection with the extension of time, or delay, or disruption.

11. VARIATIONS

11.1 Variation Orders

- a. JHFJV may give to the Subcontractor a Variation Order, and the Subcontractor shall carry out the Variation the subject of the Variation Order. A Variation Order will be dealt with in respect of adjustments to Provisional Sum Work, in accordance with clauses 8.5 to 8.9 inclusive, and in any other case, in accordance with the provisions of this clause 11. The Subcontractor warrants and represents to JHFJV that subject to clause 11.8:
 - i. no Variation can be executed and no Claim can be made for a Variation unless a Variation Order has been issued; and
 - ii. the Subcontractor has no Claim against JHFJV for a Variation unless it receives a Variation Order.
- b. Without limiting clause 11.7(b), no Variation instructed by JHFJV will be regarded as a repudiation of the Subcontract by JHFJV even if the Variation requires additional work outside



the general scope of the Works or omits substantial work for the purpose of it being carried out by JHFJV or another party engaged by JHFJV.

11.2 Variation Price Request

JHFJV may give to the Subcontractor a Variation Price Request, and:

- a. within 7 days of the receipt of which the Subcontractor must provide JHFJV with a Variation Price Response; and
- b. JHFJV may issue a Variation Order to require the Subcontractor to carry out a Variation which will state either that:
 - i. the Subcontract Sum and Date for Completion are adjusted as set out in the Variation Price Response; or
 - ii. the adjustment (if any) to the Subcontract Sum and the Date for Completion will be determined under clauses 10.8 and 11.3 (as the case may be).

11.3 Cost of Variation

Subject to clauses 8.5 to 8.9 inclusive and 16.3, the Subcontract Sum will be adjusted for all Variations which have been the subject of a Variation Order by:

- a. the amount (if any) stated in the Variation Order; or
- b. an amount determined by JHFJV using any rates or prices to the extent they are applicable to, or it is reasonable to use them for valuing the Variation and which appear in the Pricing Schedule; or
- c. to the extent paragraph 11.3(b) does not apply, a reasonable amount:
 - i. to be agreed between the parties; or
 - ii. failing agreement as determined by JHFJV; or
- d. the amount determined by JHFJV under clause 11.6.

11.4 Rates and Prices

Where any rates and prices in the Pricing Schedule are used for valuing a Variation under clause 11.3(b) the following provisions shall apply:

- a. subject to paragraph 11.4(b), the rates and prices will be deemed to be all inclusive and, without limitation, cover all costs, expenses, overheads and profits of and incidental to performing all work the subject of the Variation, complying with the Subcontractor's obligations under the Subcontract and arising out of or in connection with the Variation delaying the Subcontractor; and
- b. where the Subcontractor is entitled to be paid agreed damages, the rates and prices will be adjusted to the extent that the rates and prices have made allowance for costs, expenses and overheads covered by agreed damages.

11.5 Daywork

JHFJV may instruct the Subcontractor to carry out as daywork any Variation or any quantities of work greater or less than those determined by reference to the limits of accuracy referred to in clause 12.5. Any such instruction must be in writing. The Subcontractor must:



- a. perform all daywork in an efficient manner; and
- b. after the instruction, each day provide JHFJV with a written report (in duplicate) signed by the Subcontractor which:
 - i. records particulars of all resources used by the Subcontractor for the execution of the daywork;
 - ii. includes the particulars and copies of time sheets, wages sheets, invoices, receipts and other documents evidencing the cost of the daywork reasonably and properly incurred by the Subcontractor; and
 - iii. JHFJV will counter sign the report acknowledging receipt and return one copy to the Subcontractor. JHFJV may direct the manner in which these particulars are to be recorded.

11.6 Valuation of Daywork

In determining the value of work which JHFJV instructed was to be carried out as day work, JHFJV will have regard to:

- a. written reports submitted under clause 11.5;
- b. wages and allowances paid or payable by the Subcontractor at:
 - i. rates pertaining at the Site at the time as established by the Subcontractor to the satisfaction of JHFJV; or
 - ii. other rates approved by JHFJV;
- c. the amount paid or payable by the Subcontractor in accordance with any statute or award applicable to day labour additional to the wages paid or payable under paragraph 11.5(b);
- d. the amount of hire charges in respect of plant approved by JHFJV for use on the work in accordance with the hiring rates and conditions:
 - i. agreed between JHFJV and the Subcontractor; or
 - ii. failing agreement, determined by JHFJV;
- e. the amounts paid for services, subcontracts and professional fees;
- f. the actual cost to the Subcontractor at the Site of all materials supplied and required for the work; and
- g. a charge agreed between JHFJV and the Subcontractor to cover overheads, administrative costs, site supervision, establishment costs, attendance and profit, or, failing agreement, a reasonable charge determined by JHFJV.

11.7 Omissions

JHFJV may instruct a Variation omitting any part of the Works in which case:

- a. JHFJV may thereafter either perform this work itself or employ or engage another person to perform the omitted work;
- b. JHFJV will not be liable upon any Claim as a result of any part of the Works being omitted whether or not JHFJV thereafter performs this work itself or employs or engages other persons to carry out and execute the omitted work; and
- c. the work which has been omitted will be valued in accordance with clause 11.3.

11.8 Notice of Variation not by Variation Order



If the Subcontractor believes a Direction involves a change to the Works, which constitutes or involves a Variation, it must:

- a. within 7 days, unless otherwise specified in S1.3Schedule A - of receiving the Direction and before commencing work on the subject matter of the Direction, give notice to JHFJV that it considers the Direction constitutes or involves a Variation;
- b. within 7 days, unless otherwise specified in S1.3Schedule A -, of giving the notice under paragraph (a), submit a written Claim to JHFJV which provides the same details as required by clause 16.1(e); and
- c. continue to perform the Works, in accordance with the Subcontract, including any Direction in respect of which notice has been given under this clause.

The Subcontractor shall have no Claim against JHFJV (including under this clause 11 or clause 16) in relation to Works that the Subcontractor believes constitutes or involves a Variation if it fails to comply with this clause 11.8. To the extent that JHFJV determines that Claim by the Subcontractor is entitled under the Subcontract and that any such Claim is made in compliance with the Subcontract then JHFJV will issue a Variation Order valued in accordance with clause 11.3.

12. PAYMENT

12.1 Payment Obligation

Subject to clause 12.18 and to any other right to set off which JHFJV may have, JHFJV must pay the Subcontractor:

- a. the Subcontract Sum; and
- b. other amounts which are payable by JHFJV to the Subcontractor under the Subcontract.

12.2 Lump Sum

The Subcontractor will, within 7 days of the Effective Date, provide to JHFJV a Lump Sum Breakdown. JHFJV may by notice require the Subcontractor to amend the Lump Sum Breakdown at any time where it considers that the level of detail it requires has not been achieved or the Subcontract Sum has been adjusted. Any request to amend the Lump Sum Breakdown must be complied with within 14 days of such notice, unless otherwise extended by JHFJV.

12.3 Quantities

Subject to clause 12.18, where the Pricing Schedule includes quantities:

- a. unless those quantities are stated expressly and in writing by JHFJV to be guaranteed quantities, those quantities are estimated quantities only and are not to be taken as actual or correct quantities of work to be carried out and JHFJV does not warrant or make any representation as to the accuracy or adequacy of those quantities;
- b. the Subcontractor warrants that it placed no reliance on the accuracy or adequacy of the quantities in the Pricing Schedule and that it entered the Subcontract based on its own investigations, interpretations and information and is aware that JHFJV entered the Subcontract relying upon these warranties; and
- c. the Subcontractor will not be entitled to make a Claim against JHFJV if the items of work or quantities are incorrect in any way, including that they:



- i. contain an incorrect quantity;
- ii. contain an item which should not have been included; or
- iii. omit an item which should have been included.

12.4 Completion of Bill of Quantities

Where the Pricing Schedule is in whole or part in the form of a bill of quantities then, the Subcontractor must:

- a. complete all items included in the Pricing Schedule which are in the bill of quantities with rates and prices and extend them so, on addition, they equal the sum accepted by JHFJV for the execution of the whole or the part of the Works to which the bill of quantities relates;
- b. lodge the bill of quantities, so priced and extended, with JHFJV within 14 days of the Effective Date or such further time as may be directed by JHFJV from time to time; and
- c. modify the rates and prices if they are not approved by JHFJV until they are so approved.

12.5 Schedule of Rates and Limits of Accuracy

Where the Pricing Schedule is in the form of or includes a schedule of rates and:

- a. the actual quantity of an item required to perform the Works is greater or less than the quantity shown in the Pricing Schedule; and
- b. JHFJV has accepted a rate for the item referred to in paragraph 12.5(a); and
- c. the actual quantity of the item referred to in paragraph 12.5(a) is not greater or less than the quantity shown in the Pricing Schedule by the Limits of Accuracy,

then the scheduled rates will apply to the quantities within the Limits of Accuracy and only quantities outside the Limits of Accuracy will be:

- d. valued by agreement between the Subcontractor and JHFJV; or
- e. failing agreement, valued by JHFJV using reasonable rates.

12.6 Payment Claims

The Subcontractor may submit a Payment Claim to JHFJV only on each Reference Date. The Subcontractor warrants to JHFJV that Payment Claims will:

- a. be calculated for the periods and/or by the method and within the times required by S1.3Schedule A - and clause 12.13;
- b. be in the format JHFJV requires including the provision of a statutory declaration as required under clause 12.17;
- c. be delivered to the JHFJV Project Manager or such other nominated person;
- d. include the evidence reasonably required by JHFJV of the value of work completed in accordance with the Subcontract and the amount claimed;
- e. set out the total value of work completed in accordance with the Subcontract to the date of the Payment Claim, the amount previously paid to the Subcontractor and the amount then claimed;
- f. be delivered only if the conditions precedent to the Subcontractor's entitlement to make a Payment Claim are satisfied; and
- g. not include any claims which are barred by clause 16.3 or otherwise.

The Subcontractor warrants and represents that if a Payment Claim does not comply with the conditions set out in this clause 12.6:



- h. that Payment Claim is void; and
- i. the Reference Date for the purposes of the Security of Payment Act shall be the same day on the following month.

12.7 Payment Schedules

JHFJV will, within the time specified in S1.3Schedule A - of receiving a valid Payment Claim, give the Subcontractor a Payment Schedule which sets out:

- a. the value of each item of work completed in accordance with the Subcontract;
- b. the amount already paid to the Subcontractor;
- c. the amount JHFJV is entitled to retain under clause 4;
- d. the amount then payable by JHFJV to the Subcontractor or from the Subcontractor to JHFJV for the items of work referred to in clause 12.7(a); and
- e. the reasons for any difference in the amount set out as then payable from the amount in the Payment Claim.

12.8 Payment

Subject to clauses 12.12, 12.17 and 12.18, JHFJV must pay the Subcontractor or the Subcontractor must pay JHFJV the amount set out in the Payment Schedule, within the period specified in S1.3Schedule A -.

12.9 Payment on Account

The issue of a Payment Schedule or the payment of any moneys under clause 12.8 is not evidence of the value of work or that the work has been satisfactorily carried out in accordance with the Subcontract or an admission of liability or approval by JHFJV of the Subcontractor's performance or that the performance is in compliance with the Subcontract, but is only to be taken as payment on account of the Subcontract Sum.

12.10 Unfixed Goods and Materials

Unfixed goods and materials must not be included in the value of work in a Payment Claim unless:

- a. the parties have so agreed in writing prior to the Effective Date;
- b. the Subcontractor gives JHFJV with its Payment Claim:
 - i. additional Approved Security equal to the value of the unfixed goods and materials claimed in the Payment Claim; and
 - ii. such evidence as may be required by JHFJV that title to the unfixed goods and materials has vested in JHFJV upon the submission of the Payment Claim;
- c. the goods and materials are clearly marked as the property of JHFJV and are on Site or available for immediate delivery to the Site;
- d. the goods and materials are properly stored in a place approved by JHFJV; and
- e. all conditions specified in the agreement referred to in paragraph 12.10 (a) have been met.

12.11 Release of Additional Approved Security



If the Subcontractor gives additional Approved Security for payment for unfixed goods and materials, JHFJV must release it to the Subcontractor once those goods and materials are incorporated into the Works.

12.12 Conditions Precedent

The Subcontractor is not entitled to include an item of work, or the value of work, in a Payment Claim and JHFJV is not obliged to make a payment under clause 12.18, unless the Subcontractor has:

- a. provided JHFJV with and maintained the Approved Security for the amount required by clause 4.1;
- b. effected and maintained the insurance required by clause 5.5 and S1.3 Schedule B new clause 5A and (if requested) provided evidence of this to JHFJV;
- c. complied and is complying with its quality assurance and programming obligations under clauses 9.2 and 10.2;
- d. if applicable, complied with clauses 12.2 and 12.4 and this has been approved by JHFJV;
- e. produced to JHFJV prior to payment such evidence as JHFJV may require that all relevant taxes in respect of the Works have been paid or deducted;
- f. complied with clause 12.17; and
- g. executed the Subcontract.

12.13 Final Payment Claim

Within the time specified in S1.3 Schedule A - after the issue of a Completion notice the Subcontractor must give JHFJV a Final Payment Claim which:

- a. must include all amounts which the Subcontractor claims from JHFJV under the Subcontract or otherwise in respect of any fact, matter or thing arising out of or in connection with the Works or the Subcontract which occurred prior to the date of Completion;
- b. is in addition to the other notices which the Subcontractor must give to JHFJV under the Subcontract in order to preserve its entitlements to make any such claims; and
- c. includes a release in the form set out in Schedule E duly signed by the Subcontractor.

Without limiting clause 12.13(b), the Subcontractor cannot include in this Final Payment Claim any claims which are barred by clause 16.3 or otherwise.

12.14 Release after Final Payment Claim

After the date for submitting the Final Payment Claim has passed, the Subcontractor releases JHFJV from any Claim in respect of any fact, matter or thing arising out of or in connection with the Works or the Subcontract which occurred prior to the date of Completion except where:

- a. it has given JHFJV the Final Payment Claim within the time required; and
- b. the Claim is included in the Final Payment Claim.

12.15 Interest

JHFJV will pay simple interest calculated using the Westpac Indicator Lending Rate, as quoted from time to time, on any:

- a. amount which is payable by JHFJV but which is not paid by JHFJV within the time required by the Subcontract; and



- b. damages (excluding any agreed damages payable under clause 10.13).

Except as provided in this clause 12.15, the Subcontractor shall have no other Claim for interest or damages for loss of use of or the cost of borrowing money.

12.16 Correction of Payment Schedules

JHFJV may, in any Payment Schedule, correct any error in any previous Payment Schedule or modify any previous Payment Schedule.

12.17 Payment of Workers and Sub-Subcontractors

The Subcontract warrants it will not include in a Payment Claim amounts in respect of Sub-subcontractors, workers or employees unless it has provided to JHFJV:

- a. a statutory declaration (together with any supporting evidence which may be reasonably required by JHFJV) by the Subcontractor or, where the Subcontractor is a corporation, by a representative of the Subcontractor who is in a position to know the facts declared, that in connection with the Works up to the date of the declaration and for all periods prior to that date:
 - i. as to whether the Subcontractor is a principal contractor, in that it has engaged Sub-subcontractors to carry out some part of the Works on its behalf;
 - ii. all workers who have at any time been employed by the Subcontractor have been paid all moneys due and payable to them;
 - iii. all Sub-subcontractors have been paid all moneys due and payable to them;
 - iv. all payroll taxes due in respect of wages paid or payable to employees of the Subcontractor have been paid;
 - v. all workers compensation premiums in respect of employees of the Subcontractor have been paid;
 - vi. all Sub-subcontractors have provided the Subcontractor with a statutory declaration in the same form as required by this clause; and
 - vii. all contributions to any portable long service leave scheme has been paid; and
- b. documentary evidence that:
 - i. at the date of the claim all workers who have been employed by a Sub-subcontractor have been paid all moneys due and payable to them in respect of their employment on the Works;
 - ii. it has current certificates of currency in respect of relevant workers compensation policies; and
 - iii. that it is either exempt from or has a current registration for any payroll tax legislation; and
- c. any additional information, statements, certifications or evidentiary material in the form of a statutory declaration, as JHFJV may reasonably require or consider is desirable, to satisfy any Legislative Requirement applicable to JHFJV or the Works.

12.18 Right of Set-Off

JHFJV may deduct from moneys otherwise due to the Subcontractor under the Subcontract:

- a. any debt or other moneys due from the Subcontractor to JHFJV; or
- b. any claim to money which JHFJV may have against the Subcontractor whether for damages (including liquidated damages) or otherwise,



under or associated with the Subcontract.

12.19 Costs included in Subcontract Sum

Without limiting any other provision of this Subcontract, the Subcontractor is deemed to have allowed in the Subcontract Sum and must ensure the payment of:

- a. all customs duties, tariffs, and similar taxes (excluding GST to the extent dealt with under clause 12.21) and charges paid or payable on all items which are intended to be used for or which are to be incorporated into the Works;
- b. all royalties, licence fees and similar payments for intellectual property rights in respect of the items which are intended to be used for or which are to be incorporated into the Works and all design documentation; and
- c. all fluctuations in the value of the Australian dollar against other currencies.

12.20 Security of Payment

- a. The Subcontractor must ensure that JHFJV immediately receives a copy of any written (including electronic) communication the Subcontractor delivers or causes to be delivered to or which the Subcontractor receives from any other party in relation to the Security of Payment Act.
- b. If the Subcontractor makes an application under the Security of Payment Act for any form of adjudication and the parties are permitted to agree under their contract:
 - i. on the identity of the person or organisation to carry out or to nominate to carry out the adjudication, it is hereby agreed that such adjudicator or nominating person shall be the person or organisation specified in S1.3Schedule A -, and
 - ii. on the type of security to be given by a respondent to secure payment of a determination by an adjudicator in lieu of direct payment, it is hereby agreed that such security shall be of the type specified in Schedule A.
- c. Where the Subcontractor suspends the Works pursuant to the Security of Payment Act:
 - i. the Date for Completion shall not be effected and the entitlement to suspend shall not of itself be a Extension Event;
 - ii. the Subcontractor shall not be entitled to any Agreed Damages under clause 10.13; and
 - iii. JHFJV may in its sole discretion invoke its right to terminate the Subcontract pursuant to clause 14.8.
- d. In the event the Subcontractor refers a Payment Claim to adjudication under the Security of Payment Act, then:
 - i. the amount of any determination by an adjudicator appointed under the relevant Act in respect of that Payment Claim will be the maximum amount of the Subcontractor's entitlement in respect of the work, things or matters comprising the Payment Claim; and
 - ii. the Subcontractor shall be bound by the determination, and forever releases and holds harmless JHFJV in relation to any amount greater than that determined by the adjudicator.

12.21 GST

The following provisions shall apply in connection with GST, as defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) ("**GST Act**");

- a. For the purposes of this clause:



- i. “Adjustment Event”, “Adjustment Note”, “GST”, “Input Tax Credit”, “Recipient Created Tax Invoice” (also referred to in this clause as “RCTI”), “Tax Adjustment Event”, “Tax Invoice” and “Taxable Supply” respectively have the meaning given to those terms under the GST Act; and
 - ii. “RCTI Agreement” means an agreement entered into between JHFJV and the Subcontractor in the form of Schedule J;
- b. The parties acknowledge that all amounts payable under this Subcontract are expressed to be exclusive of GST. If GST is payable on a Taxable Supply the amount payable for that Taxable Supply will be the amount expressed in this Subcontract plus GST.
- c. Without limiting clause 12.21(b):
- i. if an amount payable under this Subcontract is calculated by reference to or relates to a cost, expense, liability or similar amount (“Liability”) incurred by a party, then the Liability must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Liability. The party will be assumed to be entitled to a full Input Tax Credit unless it demonstrates that its entitlement is otherwise prior to the date on which the payment must be made; and
 - ii. if an amount payable under this Contract is calculated by reference to or relates to price, value, sales, revenue or similar amount (“Revenue”), then the Revenue must be exclusive of GST.
- d. If there is a Tax Adjustment Amount:
- i. the Subcontractor must notify JHFJV in writing at least seven days before any payment is made to the Subcontractor under this Subcontract;
 - ii. the amounts payable by JHFJV to the Subcontractor under this Subcontract must be reduced by the amount of any Tax Adjustment Amount; and
 - iii. if the parties cannot agree on the Tax Adjustment Amount, the provisions of clause 15.1 will apply.
- e. Subject to clause 12.21(f), if GST is payable on a Taxable Supply made by one party (“Supplier”) to another (“Recipient”), then:
- i. the Recipient will not be required to pay any amount to the Supplier in respect of that Taxable Supply unless it has first received a valid Tax Invoice from the Supplier; and
 - ii. without limiting clause 12.21 (e)(i), the Supplier will provide the Recipient with an Adjustment Note within 7 days of the happening of an Adjustment Event in relation to this Contract.
- f. If the parties have entered into the RCTI Agreement:
- i. JHFJV will issue the RCTI in respect of the liability to pay in respect of such Taxable Supply;
 - ii. the RCTI will be issued by the Recipient on the date of determination of the value of the payment due under this Subcontract in connection with a Taxable Supply;
 - iii. the RCTI will not be payable before the due date for payment for the Taxable Supply under the Subcontract; and
 - iv. where the determination of the amount payable in respect of a Taxable Supply has been made in accordance with the Subcontract and JHFJV has not issued a RCTI within 28 days of that determination, the provisions of clause 12.21(e) will apply to payment of that amount for that Taxable Supply, but not otherwise and will not constitute a breach of the RCTI Agreement.



13. COMPLETION

13.1 Subcontractor to Notify

The Subcontractor:

- a. must give JHFJV written notice 28 days, and then again 14 days, before it anticipates reaching Completion; and
- b. acknowledges that Completion will be delayed for each day that the Subcontractor fails to comply with clause 13.1(a).

13.2 Completion Notice

No later than 14 days after receiving the Subcontractor's second written notice under clause 13.1, JHFJV must inspect the Works or the Stage and either:

- a. if satisfied that Completion has been achieved, issue a Completion notice stating the date Completion was achieved, together with any minor Defects of the type described in the definition of Completion in clause 1.1; or
- b. if not satisfied that Completion has been achieved, so advise the Subcontractor.

13.3 Take Over Upon Completion

Upon the issue of a Completion notice JHFJV may take over the Works or the Stage.

13.4 Part of the Works or Stage

JHFJV may use, and the Subcontractor, if instructed by JHFJV, must permit the Principal to use, a part of the Works or Stage although the whole of the Works has not reached Completion.

13.5 Effect of Completion Notice

A Completion notice will not:

- a. constitute approval by JHFJV of the Subcontractor's performance of its Subcontract obligations;
- b. be taken as an admission or evidence that the Works comply with the Subcontract; or
- c. prejudice any rights or powers of JHFJV.

13.6 Liquidated Damages

If the Subcontractor does not reach Completion of the Works or a Stage, as the case may be, by the Date for Completion, it must pay the amount specified in S1.3Schedule A - for every day after the Date for Completion that the Works or a Stage are not completed until the Works or a Stage reaches Completion or the Subcontract is terminated. This amount is an agreed genuine pre estimate of JHFJV's damages if Completion of the Works or a Stage, as the case may be, occurs after the Date for Completion excluding any loss which JHFJV may suffer and against which the Subcontractor separately indemnifies JHFJV under this Subcontract.

14. TERMINATION



14.1 Notice of Default

JHFJV may give a written notice to the Subcontractor if JHFJV is of the opinion that the Subcontractor is in breach of the Subcontract.

14.2 Contents of Notice

The notice must state that it is a notice under clause 14.1, the breach relied upon and that JHFJV requires the Subcontractor to remedy the breach within 7 days (or such longer period as JHFJV may determine in its sole discretion) of receipt of the notice.

14.3 Termination or Insolvency or Breach

JHFJV may, without prejudice to any other right which JHFJV may have, terminate the Subcontract by notice in writing to the Subcontractor with effect from the date appearing on the notice if the Subcontractor:

- a. being a person, has judgment entered against him or her in any court in any jurisdiction, becomes the subject of any bankruptcy petition, commits an act of bankruptcy, is made bankrupt or has communications with creditors with a view to entering into, or enters into, any form of compromise, arrangement or moratorium of debts whether formal or informal, with his or her creditors; or
- b. being a company:
 - i. in respect of which events have occurred or circumstances exist which, in the sole opinion of JHFJV, may result in or result in:
 - A. the company becoming an "externally-administered body corporate" (as that term is defined in section 9 of the Corporations Act); or
 - B. a person becoming a "controller" of the company's property or part of its property (as that term is defined in section 9 of the Corporations Act); or
 - ii. has communications with its creditors with a view to entering into, or enters into, any form of compromise, arrangement or moratorium of any debts whether formal or informal, with its creditors; or
- c. does not remedy a breach of the Subcontract the subject of a notice under clause 14.1 within 7 days (or such longer periods (as JH may determine in its sole discretion) of receiving the notice under clause 14.1.

14.4 JHFJV's Entitlements after Termination

After termination under clause 14.3 JHFJV will:

- a. be entitled to take over and use or have removed from the Site the Works Material;
- b. not be obliged to make any further payments to the Subcontractor, including (without limitation) any money the subject of a Payment Claim or a Payment Schedule; and
- c. be entitled to recover from the Subcontractor any costs, losses or damages suffered or incurred by it arising out of or in connection with such termination.

14.5 Repudiation by JHFJV



Except where clause 14.10 applies, if JHFJV repudiates the Subcontract and the Subcontractor terminates the Subcontract, the Subcontractor will:

- a. be entitled to claim damages; and
- b. not be entitled to:
 - i. make a claim in restitution; or
 - ii. *a quantum meruit*.

This clause 14.5 will survive the termination of the Subcontract.

14.6 Termination of Head Contract

If the Head Contract is terminated at any time for any reason:

- a. JHFJV may terminate the Subcontract by notice in writing to the Subcontractor; or
- b. the Subcontractor shall, if required by JHFJV, novate the Subcontract by assigning its rights and obligations under the Subcontract to the Principal or a person nominated by JHFJV or the Principal, and the Subcontractor must upon demand execute any instrument required by JHFJV to give effect to the novation.

14.7 Consequences following Head Contract Termination

If the Subcontract is terminated under clause 14.6(a), then to the extent such termination was not due to an act or omission of the Subcontractor or any breach of the Subcontract, the Subcontractor will be entitled to the payment of:

- a. any unpaid Subcontract value of the Works completed before the date of termination in accordance with the Subcontract; and
- b. all reasonable direct costs incurred by the Subcontractor caused by the termination (subject to the Subcontractor taking all reasonable steps to mitigate those costs).

The amount to which the Subcontractor is entitled under this clause 14.7 will be full compensation for the termination and the Subcontractor may not make a claim against JHFJV in respect of the termination other than for the amount payable under this clause 14.7 and in particular the Subcontractor will not be entitled to receive any amount on account of loss of profit or the inability to recover any of its off-site overheads

14.8 Termination for Convenience

Without prejudice to any of JHFJV's other rights under this Subcontract, JHFJV may:

- a. at any time for its sole convenience by written notice to the Subcontractor terminate the Subcontract; and
- b. either itself or by a third party complete the uncompleted part of the Works.

14.9 Costs

If JHFJV terminates the Subcontract under clause 14.8, the Subcontractor will be entitled to payment of the following amounts as determined by JHFJV:

- a. the unpaid Subcontract value of the Works completed in accordance with the Subcontract prior to the date of termination;



- b. the cost of goods or materials ordered by the Subcontractor for the Works and for which it is legally bound to pay;
- c. the reasonable cost of removing from the Site the Works Material; and
- d. the amount (if any) referred to in S1.3Schedule A -.

The Subcontractor must take all steps necessary to mitigate the costs referred to in clauses 14.9(b) and 14.9(c). Upon payment of the amount payable under clause 14.9(b) (c) title in the goods and materials referred to in clause 14.9 (b) will vest in JHFJV. The amount to which the Subcontractor is entitled under this clause 14.9 will be full compensation for the termination and the Subcontractor may not make any Claim against JHFJV in respect of the termination other than for the amount payable under this clause 14.9.

14.10 Deemed Termination

If JHFJV purports to or attempts to terminate the Subcontract, other than under clause 14.8, and it is subsequently agreed between the parties, admitted by JHFJV or found by any court or arbitrator that the purported or attempted termination constitutes repudiation:

- a. that purported or attempted termination will be deemed to have been a termination in accordance with clause 14.8; and
- b. the Subcontractor's sole rights will be those set out in clause 14.9.

15. DISPUTES

15.1 Application of Clause

If a dispute or difference arises between the Subcontractor and JHFJV in respect of any fact, matter or thing arising out of or in connection with the Works or the Subcontract, or either party's conduct before but related to or associated with the Subcontract, either party may give a notice in writing to the other party specifying:

- a. the dispute or difference;
- b. particulars of the party's reasons for being dissatisfied; and
- c. the position which the party believes is correct.

Where a dispute or difference relates to a Direction of JHFJV, the notice of dispute must be given to JHFJV within 7 days of the date of the Direction the subject of the dispute or difference otherwise the dispute or difference is barred.

15.2 Executive Negotiation

If the dispute or difference is not resolved within 14 days after a notice is given under clause 15.1, it must be referred to the Senior Executives who must:

- a. meet and undertake genuine and good faith negotiations with a view to resolving the dispute or difference; and
- b. if they cannot resolve the dispute or difference, endeavour to agree upon a procedure to resolve the dispute or difference.

15.3 Expert Determination



If the Senior Executives cannot resolve, or agree upon a procedure to resolve, the dispute or difference within 21 days after the giving of the notice under clause 15.1, or within such longer period of time as the Senior Executives may agree in writing, the dispute or difference must be submitted to an expert for his or her determination.

15.4 The Expert

The expert determination under clause 15.3 is to be conducted by:

- a. the Expert specified in S1.3Schedule A -; or
- b. where the Expert or a person appointed under this clause 15.4:
 - i. is unavailable;
 - ii. declines to act; or
 - iii. does not respond within 14 days to a request by one or both parties for advice as to whether he or she is able to conduct the determination,

a person appointed at the request of either party by the President for the time being of the branch of the Institute.

15.5 Not Arbitration

An expert determination conducted under this clause 15 is not an arbitration. The Expert may only reach a decision in accordance with this clause 15 and the terms of the Expert Determination Agreement in Schedule I.

15.6 Procedure for Determination

The parties will enter into an agreement in the form of Schedule I with the Expert, which:

- a. describes the procedure by which the Expert will determine the matter;
- b. entitles each party to lodge with the Expert a written submission setting out that party's position as to how the matter should be determined;
- c. requires the Expert to select which of the alternative submissions lodged by the parties best reflect the terms of this Subcontract;
- d. precludes the Expert from imposing on the parties a position other than one submitted by one of the parties; and
- e. requires each party to release the Expert from and against all claims, except in the case of fraud on the part of the Expert, which may be made against the Expert in connection with the Expert's appointment to determine the matter.

15.7 Disclosure of Interest

The Expert must disclose to the parties any interest he or she has in the outcome of the determination and not communicate with one party to the process without the knowledge of the other.

15.8 Costs

Each party will bear its own costs in respect of any expert determination.



15.9 Conclusion of Expert Determination

An expert determination conducted under this clause 15 must be concluded within 28 days from the acceptance by the Expert of his or her appointment, unless otherwise agreed between the parties.

15.10 Determination of Expert

The determination of the Expert must be in writing and will be final and binding upon the parties unless:

- a. the determination requires a party to pay an amount in excess of \$250,000; and
- b. a party gives a written notice of intention to appeal to the other within 21 days of the date of the determination, in which event clause 15.11 applies.

15.11 Arbitration or Litigation

If this clause 15.11 applies and the dispute or difference remains unresolved, the dispute or difference will be resolved by arbitration or litigation, as determined by JHFJV in its absolute discretion. JHFJV must within 28 days of the date of receipt by it or the other party of the notice of intention to appeal under clause 15.10(b) give written notice to the Subcontractor as to whether the dispute or difference is to be resolved by arbitration or litigation and if JHFJV determines that the dispute or difference is to be resolved by arbitration, the dispute or difference will thereby be referred to arbitration.

15.12 Arbitration

If the dispute or difference is to be referred to arbitration, the arbitration will be conducted before a person to be:

- a. agreed between the parties; or
- b. failing agreement within 28 days after the giving of the notice by JHFJV under clause 15.11, appointed by the President for the time being of the Institute.

The Rules for the Conduct of Commercial Arbitration of the Institute will apply to the arbitration. The arbitrator will have power to grant all legal, equitable and statutory remedies, including the power to open up and review a determination of an expert under this clause.

15.13 Survive Termination

This clause 15 will survive the termination of the Subcontract.

15.14 Continuation of Works

Despite the existence of a dispute or difference between the parties the Subcontractor must continue to carry out the Works and otherwise comply with its obligations under the Subcontract.

16. NOTIFICATION OF CLAIMS

16.1 Notices of Other Claims

Except for Claims for:



- a. an extension of time under clause 10.6;
- b. payment under clause 12.6 on account of the Subcontract Sum, or
- c. a Variation to which clause 11.8 applies,

the Subcontractor must give JHFJV the Prescribed Notices if it wishes to make a Claim against JHFJV in respect of any fact, matter or thing under, arising out of or in connection with the Works or the Subcontract.

The Prescribed Notices are:

- d. a written notice by the Subcontractor that it proposes to make a Claim and the events upon which the Claim will be based, to be given within 7 days of the first occurrence of the events on which the Claim is based, and
- e. a further written Claim by the Subcontractor including:
 - i. detailed particulars concerning the events on which the Claim is based;
 - ii. the legal basis for the Claim, whether based on a term of the Subcontract or otherwise, and if based on a term of the Subcontract, clearly identifying the specific term;
 - iii. the facts relied upon in support of the Claim in sufficient detail to permit verification; and
 - iv. details of the amount claimed and how it has been calculated, to be given within 7 days of giving the notice under paragraph 16.10.

16.2 Continuing Events

If the events upon which the Claim under clause 11.8 or clause 16.1 are based or the consequences of the events are continuing, the Subcontractor must continue to give the information required by clause 16.1(e) every 28 days after the written Claim under clause 11.8 or clause 16.1 (as the case may be) was submitted or given, until after the events or the consequences have ceased.

16.3 Bar

If the Subcontractor fails to comply with clauses 16.1 or 16.2, 16.1:

- a. the Subcontract Sum will not be adjusted as a result of; and
- b. JHFJV will not be liable upon any Claim by the Subcontractor arising out of or in connection with,

the relevant Direction or fact, matter or thing (as the case may be) to which clause 16.1 or 16.2 applies.

17. GENERAL

17.1 Law of Subcontract

This Subcontract is subject to and is to be construed in accordance with the laws of the Country, State and/or Territory specified in S1.3Schedule A -.

17.2 Waiver

The Subcontractor acknowledges and agrees that:

- a. JHFJV's failure or delay to exercise a power or rights does not operate as a waiver of that power or right;



- b. the exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right;
- c. a waiver is not effective by JHFJV unless it is in writing; and
- d. waiver of a power or right is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given.

17.3 Assignment

The Subcontractor may not assign its rights or liabilities under the Subcontract.

17.4 Indemnity

Without limiting any other clause of this Subcontract, the Subcontractor must indemnify JHFJV against:

- a. any liability to or Claim by the Principal, an Other Contractor or any other person; and
- b. all costs, losses and damages suffered or incurred by JHFJV, as a result of the Subcontractor's breach of a term of this Subcontract, or any other act or omission of the Subcontractor associated with or arising from the Works, or a Stage.

17.5 JHFJV may Act

JHFJV may, either itself or by a third party, perform any obligation under the Subcontract which the Subcontractor was obliged to perform but which it failed to perform within the time required in accordance with the Subcontract. The costs, expenses and damages suffered or incurred by JHFJV in so performing such a Subcontract obligation will be a debt due from the Subcontractor to JHFJV.

17.6 Working Hours

Unless otherwise specified by JHFJV, the hours of work applicable to the Works to be carried out on Site are as specified in S1.3Schedule A -.

17.7 Entire Agreement

- a. This Subcontract constitutes the entire agreement and understanding between the parties and will take effect according to its tenor despite:
- b. any prior agreement in conflict or at variance with the Subcontract; or

any correspondence or other documents relating to the subject matter of the Subcontract which may have passed between the parties prior to the execution of the Subcontract and which are not included in the Subcontract.

17.8 Service of Notices

Any notice to be given or served under or arising out of a provision of this Subcontract must be in writing and delivered by hand or sent by prepaid post or facsimile, as the case may be, and the following provisions apply:

- a. a notice must be, signed by the party giving the notice and forwarded to the other party to the attention of the person and at the address or facsimile number specified in S1.3Schedule A - or such other address or facsimile number as notified in writing from time to time by the other party;



- b. a notice sent by post is taken to have been received at the time when, in due course of the post, it would have been delivered at the address to which it is sent; and
- c. a notice sent by facsimile transmission is taken to have been received on the day shown on the transmission slip showing successful transmission to the facsimile number of the party to whom it is addressed in accordance with clause 17.8(a), which is not a Saturday, Sunday or public holiday in the place in which the Works are situated.

17.9 Non-Reliance

The Subcontractor:

- a. warrants that it did not in any way rely upon:
 - i. any information, data, representation, statement or document made by or provided to the Subcontractor by JHFJV or anyone on behalf of JHFJV; or
 - ii. the accuracy or adequacy of such information, data, representation, statement or document, for the purposes of entering into the Subcontract;
- b. warrants that it enters into this Subcontract based on its own investigations, interpretations, deductions, information and determinations; and
- c. acknowledges that it is aware that JHFJV has entered into the Subcontract relying upon the warranties in clauses 17.9(a) and 17.9(b).

17.10 Confidentiality

This Subcontract, the Works Description and all other documents or information provided to the Subcontractor in respect of the Head Contract Works are confidential. The Subcontractor may only communicate any of this information to a person if:

- a. the information is to be used by the person only for the purposes of designing (to the extent specified) or constructing the Works;
- b. the person has entered into a written agreement not to communicate the information except under the same terms as those under which it was provided; and
- c. to the extent applicable, the conditions applying to confidential information under the Head Contract are fully complied with.

The Subcontractor agrees to sign and also agrees to procure that any employee, advisor, subcontractor or any person that the Subcontractor is responsible for in connection with the Works, will sign a separate confidentiality agreement required by JHFJV, if the Subcontractor is requested in writing to do so.



Signing page

EXECUTED by the parties as an agreement.

Signed for and on behalf of
John Holland Fairbrother Joint Venture
in the presence of:

Signature of witness

Signature of Authorised Representative

Name of witness (print)

Name of Authorised Representative (print)

Signed for and on behalf of the
[Insert Details Here] in the presence of:

Signature of witness

Signature of Authorised Representative

Name of witness (print)

Name of Authorised Representative (print)

Schedule A - Particulars

<p>Completion (Clause 1.1)</p>	<p>Additional requirements to be satisfied by Subcontractor prior to Completion: [Insert details here]</p>									
<p>Date for Completion (Clause 1.1)</p>	<p>For the stages noted in Section 5.2 of Schedule H</p>									
<p>Defects Liability Period (Clause 1.1)</p>	<p>[Insert details here]</p>									
<p>Extension Event (Clause 1.1)</p>	<p>Additional Extension Events (if any) are: Any statewide or national industrial action affecting the building industry (providing that action does not originate on the site or any other site which the Subcontractor is contracted to.</p>									
<p>Key People (Clause 3.4)</p>	<table border="1"> <thead> <tr> <th data-bbox="842 958 1145 1010">Name</th> <th data-bbox="1145 958 1441 1010">Position</th> </tr> </thead> <tbody> <tr> <td data-bbox="842 1010 1145 1061">[Insert Details Here]</td> <td data-bbox="1145 1010 1441 1061">[Insert Details Here]</td> </tr> <tr> <td data-bbox="842 1061 1145 1113">[Insert Details Here]</td> <td data-bbox="1145 1061 1441 1113">[Insert Details Here]</td> </tr> <tr> <td data-bbox="842 1113 1145 1164">[Insert Details Here]</td> <td data-bbox="1145 1113 1441 1164">[Insert Details Here]</td> </tr> </tbody> </table>		Name	Position	[Insert Details Here]	[Insert Details Here]	[Insert Details Here]	[Insert Details Here]	[Insert Details Here]	[Insert Details Here]
	Name	Position								
	[Insert Details Here]	[Insert Details Here]								
[Insert Details Here]	[Insert Details Here]									
[Insert Details Here]	[Insert Details Here]									
[Insert Details Here]	[Insert Details Here]									
[Insert Details Here]	[Insert Details Here]									
<p>Reference date (Clause 1.1, 12.6, 12.13 and 13.2(a))</p>	<p>i. Up to Completion, on the 17th day of each month; ii. On the receipt of a Completion notice (clause 13.2(a)); and iii. On the submission of a Final Payment Claim (clause 12.13)</p>									
<p>Site (Clause 1.1)</p>	<p>Liverpool Street, Hobart, Tasmania.</p>									
<p>Stage (Clause 1.1)</p>	<p>[Insert details here – Stage(s)]</p>									
<p>Subcontract (Clauses 1.1 and 1.2(n)(ii))</p>	<p>The Subcontract is constituted by the following documents listed below in the order of precedence for the resolution of ambiguities under clause 1.2(n)(ii):</p> <ul style="list-style-type: none"> • Schedule B (Special Conditions) • Schedule A (Particulars) • General Conditions of Subcontract • Schedule H (Scope of Work Description) • Schedule I (Project Conditions) • Schedule F (Performance Warranty) • Schedule G (Form of Warranty) • Schedule C – (Approved Security) • Schedule D (Deed of Guarantee and 									



	Indemnity) <ul style="list-style-type: none"> • Schedule E (Final Account and Release) • Schedule J (Expert Determination Agreement) • Schedule K (RCTI Agreement) • Schedule M Statutory Declaration) • Schedule N (Record of Payment) • Schedule L (Building Code Compliance)
--	---

Subcontractor's Insurance

(Clause 5.5)

Insurance	Event	Amount of Cover and those Insured
Contractors' All Risk:	Loss of or damage to the Works	Refer Schedule B – Special Conditions Clause 5A
Public Liability:	Loss of or damage to any physical property (other than the Works) or injury to or death of any person (other than employees of the Subcontractor)	Minimum of \$ 20m in the joint names of John Holland Pty Ltd and Fairbrother Pty Ltd, together John Holland Fairbrother Joint Venture (JHFJV) and the Subcontractor, all subcontractors and with cross liability so that the insurance applies to each named insured as a separate insured.
Professional Indemnity:	Professional negligence for breach of professional duty (whether in contract or otherwise) by the Subcontractor, its employees, agents or consultants.	Refer Schedule B – Special Conditions Clause 5A
Workers' Compensation:	Injury to or death of employees	Refer Schedule B – Special Conditions Clause 5A (3.2) and 5B
Motor Vehicle Third Party Liability	Loss of or damage to any physical property (other than the Works)	Refer Schedule B – Special Conditions Clause 5A
Subcontractor's Plant & Equipment		Refer Schedule B – Special Conditions Clause 5A
Subcontractor's Goods in Transit		Refer Schedule B – Special Conditions Clause 5A

Subcontractor's Representative (Clause 1.1)	[Insert details here]
Subcontract Sum (Clause 1.1)	a. The Subcontract Sum is: b. a lump sum component of [Insert Details Here]; and c. a schedule of rates component of [Insert Details Here]; and d. a bill of quantities component of [Insert Details Here]; and

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



	<p>e. inclusive of [Insert Details Here] for Provisional Sum Work, if any</p> <p>f. Making a total Subcontract Sum of [Insert Details Here]</p>
<p>Warranties (Clause 1.1)</p>	<p>g. [Insert Details Here]</p> <p>h. [Insert Details Here]</p>
<p>Works (Clause 1.1)</p>	<p>[Insert Details Here]</p>
<p>Security (Clause 4.1)</p>	<p>a. The Subcontractor must provide security for 10% of the Subcontract Sum in the following manner:</p> <ul style="list-style-type: none"> i. Retention of 20% of each payment under clause 12.8 until 10% of the Subcontract Sum is retained. ii. Approved Security 10% of the Subcontract Sum; and <p>b. Retention of further amounts for security permitted if the Subcontract Sum increases by more than 10%.</p>
<p>Release (Clause 4.2)</p>	<p>JHFJV must release part of this Security within 28 days or after the receipt of a signed Final Account Agreement (if applicable), whichever is later, after issue of Completion notice.</p>
<p>Professional Indemnity: Period of Insurance (Clause 5.7(c))</p>	<p>[Where applicable] Professional indemnity insurance must be maintained, until the expiration of 7 years following expiry of the Defects Liability Period or, if there is more than one, the expiry of the last Defects Liability Period.</p>
<p>Submission and Resubmission (Clause 6.2)</p>	<p>The period within which JHFJV may reject Subcontractor Documentation is 21 days.</p>
<p>Access (Clause 7.2(c)(iii))</p>	<p>Other access restrictions applying to the Site are:</p> <p>Access only as per work permits for each area</p>
<p>Reference Development (Clause 9.1(a)(i))</p>	<p>The reference development is:</p> <p>MS2 Project 9-11 Liverpool Street. Hobart, Tasmania.</p>
<p>Extension of Time: Additional Information (Clause 10.6(a)(iii))</p>	<p>Additional information required to be submitted with a claim for an extension of time is:</p> <p>A written documentation evidence of the mitigations undertaken by the Subcontractor to avert and to minimise the delay and/or cause</p>

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



	thereof for each claim.
Extension of Time: Further Delay Period (Clause 10.6(b)(i))	Time to submit claims is within 2 days of each Further Delay Period.
Extension of Time: Notification by JHFJV (Clause 10.8)	a. pursuant to clause 10.8(a), within 21 days after receipt of the Subcontractor's claim. b. pursuant to clause 10.8(b), within 5 days after the receipt of the Principal's Representative's determination by the JHFJV.
Acceleration (Clause 10.11)	The percentage (if any) applicable to extra costs is 0%.
Agreed Damages (Clause 10.13)	The rate for Agreed Damages is limited to costs incurred.
Limits of Accuracy (Clause 12.5)	The Limits of Accuracy are not applicable.
Payment Claims (Clause 12.6(a))	Payment Claims shall be submitted by the 17th day of each month, for works carried out on site to the date of the Payment Claim.
Payment Schedules (Clause 12.7)	Payment Schedule is to be given within 10 business days of receiving a Payment Claim or of the due date for the Payment Claim, whichever is the later.
Payment (Clause 12.8)	Payment is to be made within 35 days after the end of the month to which the Payment Claim was received by the JHFJV.
Final Payment Claim (Clause 12.13)	Subcontractor must give Final Payment Claim within 28 days after the issue of a Completion notice.
Security of Payment (Clause 12.20)	a. the person or organisation to carry out or to nominate to carry out the adjudication, a nominee of the President of the Institute of Arbitrators and Mediators Australia (Tasmania Chapter); and b. the type of security to be given by a respondent is an unconditional undertaking from a Tier 1 Australian banking institute.
Liquidated Damages (Clause 13.6)	Liquidated Damages are as noted in Section 5.2 of Schedule H.
Termination for Convenience (Clause 14.8 (d))	The Subcontractor will be entitled to payment of 0% on the amounts otherwise payable under clause 14.9.
Executive Negotiation (Clause 15.2)	The Senior Executives are: JHFJV: [Insert Details Here]

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



	Subcontractor: [Insert Details Here]
Expert (Clause 15.4)	The Expert is to be agreed (If no agreement then the President for the time being of the Law Society of Tasmania or his nominee)
Law of Subcontract (Clause 17.1)	This Subcontract is subject to and is to be construed in accordance with the laws of Tasmania, Australia.
Working Hours (Clause 17.6)	The hours of work applicable to the Works to be carried out on Site are as set out in Clause 17.6.
Service of Notices (Clause 17.8)	<ul style="list-style-type: none"> a. for JHFJV, to: [Insert Details Here] via Aconex b. for the Subcontractor to: [Insert Details Here] via Aconex



Schedule B - Special Conditions

GENERAL

The following clauses have been either:

- (i) deleted from the Subcontract Conditions in JHFJV Standard Subcontract
- (ii) amended and differ from the corresponding clauses in JHFJV Standard Subcontract; or
- (iii) added to those of JHFJV Standard Subcontract.

ITEM 1 - DEFINITIONS & INTERPRETATIONS

1.1 Definitions – Insert or amend the following Definitions

Aconex means the document management system supplied by Aconex Pty Ltd.

Asset Management and Maintenance Database means the asset management and maintenance database required by the Head Contract to be provided by the Subcontractor to the JHFJV.

Completion – delete Item (b) (iii) in its entirety and replace with with the following:

- (b) (iii) the Subcontractor has provided JHFJV with all warranties, guarantees, shop drawings, operating manuals, Maintenance manuals, as-built drawings and other technical information for the Works or Stage as required by this Subcontract; and

add item (b) (v) with the following:

- (b) (v) all other necessary permits, registrations, approvals, certifications, consents or licenses have been provided to the Main Contractor's Representative, including without limitation occupancy and completion certificates as required by the Building Act 2000.

Moral Rights are the moral rights granted to creators under the Copyright Act 1968 (Cwlth) and any similar rights existing under foreign laws.

Principal's Representative means the person stated in Schedule A as the Principal's Representative or other person from time to time appointed in writing by the Principal to be the Principal's Representative and notified as such in writing to the JHFJV by the Principal and, so far as concerns the functions exercisable by a Site Representative, includes a Site Representative.

1.2 Interpretations – Insert the following interpretations:

Insert new items under 1.2 (n) (iv)

- (v) If there is an ambiguity or inconsistency between any standard required by the Subcontract documentation, then the standard to be achieved shall be the higher of the standards prescribed.



- (vi) If the Subcontract documentation does not specify the standard of workmanship, material, finish or any other aspect of the Works then the standard of such workmanship, material, finish, or other aspect shall be fit for its intended purpose as determined by the JHFJV and the Principal's Representative.
- (vii) The Subcontractor acknowledges that it assumes the risk of all delays and increased costs, losses and expenses caused or resulting from any such ambiguity, discrepancy or inconsistency and that any direction given pursuant to this clause shall in no event, constitute an approved Variation.

Insert new items under 1.2

- (o) The words JHFJV, Main Contractor, John Holland, Fairbrother, John Holland Fairbrother Joint Venture (JHFJV) shall, for the purpose of this Subcontract have the same meaning.
- (p) The words JHFJV's Representative, Main Contractor's Representative and JHFJV's Representative shall, for the purpose of this Subcontract have the same meaning.
- (q) The words "Main Contract" and "Head Contract" shall, for the purpose of this Subcontract have the same meaning.

ITEM 2 - NATURE OF SUBCONTRACT

New Clause 2.5 - "Custom Tariff (Anti-Dumping) Legislation"

- (a) The Subcontractor shall be responsible for payment of duties (if any) under the Customs Tariff (Anti-Dumping) Act 1975 (Cth) and any security under the Customs Act in respect of any duty that might become due under the Custom Tariff (Anti-dumping) Act 1975.
- (b) The Subcontract Sum will include all amounts due under this clause 2.5 and the Subcontractor will not be entitled to any additional remuneration whatsoever in respect of any such amounts that are due or that may become due.
- (c) The Subcontractor will indemnify the JHFJV in respect of any payments that are due or that may become due under the Custom Tariff (Anti-Dumping) Act 1975 (Cth) or in respect of any security that is due or may become due under the Customs Act for duty that might become due under the Customs Tariff (Anti-Dumping) legislation."

ITEM 4 – RETENTION AND SECURITIES

Clause 4.1 Form – Insert new clause 4.1 (c)

If the JHFJV calls upon any security or retention moneys, the JHFJV may, by notice in writing directed to the Subcontractor, require the Subcontractor to provide further security or retention, in an amount equivalent to the amount called by the JHFJV.

Clause 4.2 Release - Delete the existing 4.2 (a) in its entirety and replace with the following:

The JHFJV may, at any time after issuing a Certificate of Completion in respect of the Works or a Separable Portion of the Works and receipt of a Certificate of Practical Completion under the Head Contract or Certificate of Practical Completion of a Separable Portion under the Head Contract, and receipt of a duly executed Final Account and Release (Schedule E), make or allow a reduction of the amount of the security or retention moneys by an amount which the JHFJV's opinion reasonably held is just and equitable provided however that the reduction shall not reduce the amount of the security and retention moneys below fifty percent of the amount of the security and retention moneys



held by the JHFJV at the time the reduction is made or allowed by it the JHFJV. Any such reduction shall not operate so as to waive, prejudice, release or discharge any of the conditions of the subcontract or any of the obligations imposed on the Subcontractor by the Subcontract.

ITEM 5 – RISK AND INSURANCE

Clause 5.1 - Risk of Works, Damage and Injury

In the first line insert, “the Principal and” before “the JHFJV” throughout the rest of the clause.

New Clause 5A -Insurance

For the purposes of this Clause 5A, unless the context otherwise requires, a reference to the JHFJV means the JHFJV and its Subcontractors, directors, officers, representatives, agents and employees;

- (a) the Principal means Department of Health and Human Service, and its respective directors, officers, representatives, agents and employees; and
- (b) the JHFJV means John Holland Fairbrother Joint Venture, and its respective directors, officers, representatives, agents and employees; and
- (c) Subcontractor means a subcontractor of the JHFJV, including a consultant, for the performance of the Subcontractor's obligations under the Subcontract.
- (d) Contract means Head Contract and Subcontract.

(1) Principal Controlled Insurance Program – Contract Works Insurance and Combined General Liability Insurance

(1.1) *Principal Controlled Insurance Program*

The Principal Controlled Insurance Program Policies will be constituted by the Contract Works Insurance Policy ("CWI Policy") and Combined General Liability Insurance Policy ("CGLI Policy"), as set out below.

(1.2) *Contract Works Insurance Policy*

The Principal shall maintain or effect and maintain a CWI Policy for the work under the Contract.

(1.3) *Combined General Liability Insurance Policy*

The Principal shall maintain or effect and maintain a CGLI Policy for the work under the Contract.

(1.4) *Coverage*

The CWI and CGLI Policies shall name the Principal, the JHFJV and all Subcontractors of the JHFJV as insured parties for their respective rights, interests and liabilities.

(1.5) *Period of Cover*

The CWI and CGLI Policies must be effected by the Principal from a date no later than 30 days after the date of the Head Contract and maintained until the expiry of the Defects Liability Period.

(2) CWI and CGLI Policies – General Issues

(2.1) *Provision and Interpretation of CWI and CGLI Policies*

- (i) Within a reasonable time after the date of this Contract and a written



requested by the Subcontractor, the JHFJV will provide to the Subcontractor with a copy of the CWI and CGLI Policies.

- (ii) Once the JHFJV provides the Subcontractor with the CWI and CGLI Policies under paragraph (a), that the Subcontractor acknowledges and agrees that it will satisfy itself as to the provisions, terms, conditions, sub-limits, exclusions, deductibles and excesses of the CWI and CGLI Policies and that it accepts the same in full satisfaction of the JHFJV's obligations under Clause 5A(1).
- (c) The JHFJV does not hold out or make any representation as to the adequacy, interpretation or application of any CWI and CGLI Policies.
- (d) If the Subcontractor considers that the CWI and CGLI Policies taken out by the Principal are not sufficient to cover the Subcontractor's liabilities then the Subcontractor shall take out and pay for such additional insurances as the Subcontractor considers necessary.

(2.2) Breach of CWI and CGLI Policies

In the performance of its obligations under this Contract, the JHFJV will not be required to do any act or thing which may constitute a breach of the CWI and CGLI Policies.

(2.3) Subcontractor to Comply with CWI and CGLI Policies

- (a) The Subcontractor must, and must ensure that each of its respective Sub-Subcontractors, comply with the terms and conditions of the CWI and CGLI Policies and the requirements of the relevant insurers and must not do or permit any act or permit any circumstance by which any of the CWI and CGLI Policies may, at any time, become void or voidable or the rights of the insured thereunder are prejudiced or the continued effectiveness of such policies are derogated from.
- (b) The Subcontractor must indemnify and keep indemnified the JHFJV from and against any cost, loss, expense or damage incurred or suffered by the JHFJV as a consequence of non-compliance by the Subcontractor with the requirements of Clause 5A(2.3)(a). This indemnity survives the termination of this Contract.

(2.4) Subcontractor' Liability Unaffected

- (a) Nothing in Clause 5A(1) or this Clause 5A(2) limits the obligations, liabilities or responsibilities of the Subcontractor, whether under this Subcontract or otherwise.
- (b) Without limiting the generality of Clause 5A(2.4)(a), the Subcontractor will remain responsible and liable for any cost, loss, damage or expense that it is otherwise responsible or liable for under this Subcontract or at law.

(2.5) Incidents and Claims

- (a) All claims by the Subcontractor under the CWI and CGLI Policies must be made in accordance with the following procedures and any other requirements of this Subcontract.
- (b) The Subcontractor must at all times fully co-operate with the JHFJV in



pursuing recovery of any insurance claim from the insurers under the CWI and CGLI Policies including, without limiting the generality of this Clause, by providing reports, information and other matters or assistance required by the JHFJV from time to time, which includes assisting with the conduct of any litigation.

- (c) Upon the happening of any incident likely to give rise to a claim under any CWI and CGLI Policy the Subcontractor must, as soon as practicable, but not later than 24 hours thereafter or as might otherwise be required sooner by an insurer under a CWI and CGLI Policy, give written notice of the incident to the JHFJV's Representative.
- (d) Not later than nine days, or as might otherwise be required sooner by an insurer under a CWI and CGLI Policy, after any incident referred to in Clause 5A(2.5)(c), the Subcontractor must deliver to the JHFJV's Representative written advice in the form prescribed by the JHFJV and provide any further particulars, information, proofs and explanations as may be reasonably required by the JHFJV or the insurers.
- (e) The Subcontractor must take all reasonable steps to limit, reduce and otherwise mitigate any loss or damage and the Subcontractor must, unless the JHFJV's Representative otherwise directs, take such emergency action as may be required to mitigate the loss or damage.
- (f) All dealings of the Subcontractor with the insurers under the CWI and CGLI Policies must be conducted through the JHFJV and all claims under a CWI and CGLI Policy must be submitted to the JHFJV for lodgement with the relevant insurer.
- (g) The JHFJV will, at its option and acting reasonably have the sole authority to negotiate any settlement or effect a compromise in respect of any claim (which includes any claim of the Subcontractor) against underwriters or insurers under the CWI and CGLI Policies, without being in any way liable to the Subcontractor for any losses suffered thereby.
- (h) Money recovered under the CWI and CGLI Policies in respect of a claim of the Subcontractor submitted in accordance with this Clause 2 will be received by the JHFJV. The JHFJV will, subject to Clauses 5A(2.5)(i), 5A(2.5)(j) and 5A(5.7), within 20 days after receipt from the relevant insurer pay such money (to the extent that such money is in respect of loss or damage suffered by the Subcontractor to the Subcontractor.
- (i) The Subcontractor will be responsible for the payment of any excess or deductible relating to the CWI and CGLI Policies where:
 - (i) it makes a claim under any such policy; or
 - (ii) The JHFJV makes a claim under such policy, to the extent that the JHFJV determines that the Subcontractor was responsible or liable for the relevant loss or damage.
- (j) Where the Subcontractor fails to pay an excess or deductible referred to in Clause 5A(2.5)(i)(ii), the Subcontractor will be liable to the JHFJV in respect of such excess or deductible, and such amount will be a debt due and payable by the Subcontractor to the JHFJV.

(3) Subcontractor' Insurances



(3.1) Subcontractor' Plant & Equipment

- (a) The Subcontractor must maintain, or effect and maintain a policy that provides cover in respect of the plant and equipment under the ownership or control of the Subcontractor (not otherwise being the property of the JHFJV) for which the Subcontractor is responsible (whether located on or off Site) that is not otherwise covered under the CWI Policy or motor vehicle insurance policy required under Clause 5A(3.3).
- (b) The Subcontractor must, from the time of commencement of this Contract, maintain continuous cover under the policy referred to in Clause 5A(3.1)(a) or a replacement policy in the same material terms until (and including) the end of the Defects Liability Period.

(3.2) Workers Compensation Insurance

- (a) The Subcontractor must maintain or effect and maintain, and ensure that each of its Sub-Subcontractor maintains or effects and maintains, a policy that provides or policies that together provide cover:
 - (i) in respect of any injury, damage, expense, loss or liability suffered or incurred by any person engaged in carrying out the Subcontractor' obligations under this Contract (or their dependents) giving rise to a claim:
 - (A) under any statute relating to workers' or accident compensation; or
 - (B) for employer's liability at common law; and
 - (ii) in Tasmania, in every State or Territory or other jurisdiction where the Subcontractor' obligations under this Contract will be carried out, as well as in each State or Territory or other jurisdiction where the Subcontractor' employees normally reside or where their respective contracts of employment were made including any such coverage as may be necessary to cover liability in respect of expatriate personnel under the laws of the state or country of their origin for the benefits required to be covered by insurance at that point in time.
- (b) The Subcontractor must, from the date of this Contract, maintain continuous cover under the policy referred to in Clause 5A(3.2)(a) until the end of the Defects Liability Period.

(3.3) Motor Vehicle Insurance

- (a) The Subcontractor must maintain or effect and maintain, and ensure that each of its Sub-Subcontractor maintains or effects and maintains insurance cover in relation to motor vehicles in respect of all liability to third parties for personal injury, death, disease or illness (including mental illness) and all liability to third parties for loss of or damage to property.
- (b) The Subcontractor must, from the date of this Contract, maintain continuous insurance cover in relation to motor vehicles in the terms referred to in Clause 5A(3.3)(a) until the expiration of all defects correction periods under this Contract.



- (c) The insurance cover referred to in this Clause 5A(3.3) must have a limit of cover at least equal to \$20 million
- (d) It is noted that a motor vehicle when being used as a tool of trade and if compulsory legislation for personal injury does not apply, is covered under CGLI policy.

(3.4) Professional Indemnity Insurance

- (a) The Subcontractor in providing professional services as part of the work under the Contract including but not limited to Design Work and Documentation Work, must maintain or effect and maintain a professional indemnity insurance policy that covers liability of the Sub-Subcontractor in respect of a breach of a duty owed by the Subcontractor in the course of the performance of the Subcontractor' respective business or profession, whether owed in contract or otherwise, arising out of any act or omission of the Subcontractor in relation to the performance of its professional services and the carrying out of the Subcontractor's Obligations.
- (b) The professional indemnity policy must have limits of indemnity at least equal or equivalent to \$10,000,000 (ten million dollars) for each and every claim.
- (c) The Subcontractor must, from the date of the Subcontract, either:
 - (i) maintain the professional indemnity insurance policy or a replacement policy in similar terms until at least six years have expired after the expiration of all defects correction periods under this Contract; or
 - (ii) maintain the professional indemnity insurance policy or a replacement policy in similar terms until the expiration of all defects correction periods under this Contract, and from that date effect and maintain a run off professional indemnity insurance policy that provides similar cover for a period of at least six years.

(3.5) Goods in Transit

The Subcontractor must maintain or effect and maintain a suitable insurance policy that covers loss or damage to the transport of any goods whilst such property is in course of overseas ocean marine shipment regardless of whether the JHFJV has paid for those goods. Intrastate transits will be insured under CWI policy subject to a limit of liability any one transit as specified in the insurance policy.

(4) Requirements of Subcontractor' Insurance

The Subcontractor must ensure that the policies referred to in Clauses 5A(3.1)(a), 5A(3.2)(a), 5A(3.3)(a), 5A(3.4)(a) and 5A(3.5) are effected with reputable insurers and be endorsed:

- (a) in relation to the motor vehicle policy referred to in Clause 5A(3.3), name the Principal and the JHFJV in respect of the Principal and JHFJVs vicarious liability of the Principal and JHFJV for third party liability arising from the Subcontractor's act or omission.



- (b) in relation to the overseas ocean marine transit policy referred to in Clause 5A(3.5), name the Principal, the JHFJV and the Subcontractor as insured parties for their respective rights interests and liabilities and provide that a breach of a condition or term of the insurance policy by one insured will not adversely affect or prejudice the cover provided to another insured under the policy (to the extent such provision is available on commercially reasonable terms);

(5) Subcontractor' Insurance – Other Rights and Obligations

(5.1) JHFJV's Right to Approve Policies

- (a) The Subcontractor must as soon as practicable after the applicable commencement dates specified in Clause 5A(3), secure the JHFJV's Representative's approval in writing of:
 - (i) the proposed terms and conditions of each policy required to be effected under Clause 5A(3) and the JHFJV's Representative must act reasonably in determining whether or not to give such approval; and
 - (ii) the identity of the insurer or insurers.
- (b) Before the Subcontractor renews any of the policies of insurance approved by the JHFJV's Representative pursuant to Clause 5A(5.1)(a), the Subcontractor must secure the JHFJV's Representative's approval in writing of:
 - (i) the proposed terms and conditions of each renewal policy and the JHFJV's Representative must act reasonably in determining whether or not to give such approval; and
 - (ii) the identity of the insurer or insurers of the renewal policy.

(5.2) Evidence of Policies

The Subcontractor must, in respect of each policy of insurance it is required to effect or maintain, give the JHFJV's Representative:

- (a) proof, to the JHFJV's Representative reasonable satisfaction, of currency and coverage of each policy of insurance before the relevant commencement date specified in this Schedule;
- (b) on request, certified copies of all cover notes, policies, certificates of currency, renewal certificates and endorsement slips within a reasonable time after the Subcontractor receives such request; and
- (c) on request, other evidence of the insurances that the JHFJV's Representative reasonably requires.

(5.3) Premiums

Without limitation to other obligations set out in this Contract, the Subcontractor must punctually pay all premiums in respect of all insurance policies the Subcontractor is required to effect and maintain.

(5.4) Notice of Cancellation etc

The Subcontractor must notify the JHFJV (in writing) whenever the insurer gives



the Subcontractor a notice of cancellation or any other notice in respect of any policy required under this Contract to be maintained or effected and maintained by the Subcontractor.

(5.5) JHFJV's Right to Effect Insurance

If the Subcontractor does not comply with Clauses 5A(5.2) or 5A(5.3), or fails to maintain or effect and maintain any policy required under this Contract to be maintained or effected and maintained (other than those forming part of the CWI and CGLI Policies), the JHFJV may, but is not obliged to, effect or renew the relevant insurance policy, or pay the premium due in respect of that policy, and may recover the cost of doing so as a debt due from the Subcontractor.

(5.6) No limitation

The failure of the Subcontractor to comply with the insurance requirements set out in this Schedule will in no way affect:

- (a) its obligations or liabilities under this Subcontract; or
- (b) the rights of the JHFJV under this Subcontract against the Subcontractor, nor will the failure of any insurance company for any reason to pay claims accruing with respect to such insurance affect, negate or release a party from any of the provisions of this Subcontract, including the indemnity obligations of the party. The insurances coverage to be provided by the Subcontractor pursuant to this Schedule are not intended to and will not in any manner limit or qualify the obligations of the Subcontractor under this Subcontract, except to the extent any proceeds of such insurance are applied in satisfaction of the Subcontractor's obligations under this Subcontract.

(5.7) Application of Insurance Proceeds

Unless the JHFJV's Representative otherwise directs, if the Subcontractor damages or destroys any works under the Subcontract or the property of the Principal or JHFJV

:

- (a) all insurance proceeds in respect of that damage or destruction must be applied towards repair or reinstatement; and
- (b) if the JHFJV has carried out the repair or reinstatement, all insurance proceeds in respect of that damage or destruction must be paid to the JHFJV.

(5.8) No Waiver by JHFJV

The JHFJV is not to be taken to have waived any rights or any breaches by the Subcontractor merely because it has not exercised or sought to enforce any of its rights under Clauses 5.1 to 5.6 (inclusive).

(5.9) General

Nothing contained in Clauses 5A(3) and 5A(4) above relating to coverage and the amounts set out in those Clauses will operate as a limitation of the Subcontractor's liability in tort or obligations contracted for under the terms of



this Contract.

(6.0) Cover and deductibles

Cover and deductibles for the CWI and CGLI policies are as follows:

Insurance Type	Cover/limit of Liability	Deductible / Excess
Contract Works	To cover the Works	\$200,000 each and every claim for storm, tempest, flood, earthquake and \$150,000 each and every claim for testing and commissioning, arising out of faulty design, materials and workmanship (DE4/95 Design Exclusion to apply). All other claims \$100,000 each and every claim.
Public Liability	\$200 million in any one occurrence	\$50,000 each and every claim other than 'worker to worker' where the deductible will be \$200,000.
Marine Transit	Covering all property in transit with a limit of \$10 million any one transit.	\$25,000 any one loss.

New Clause 5B – Insurance Of Employees

Before commencing work the Subcontractor shall insure against liability for death of or injury to persons employed by the Subcontractor including liability by statute and at common law. The insurance cover shall be maintained until all work including remedial work is completed.

The insurance shall be extended to indemnify the Principal and the Main Contractor for their respective statutory liabilities to persons employed by the Subcontractor.

The Subcontractor shall ensure that every secondary subcontractor to the Subcontractor is similarly insured.

The Subcontractor shall comply with the Tasmanian Work Health and Safety Act 2012 , Work Health and Safety Regulations 2012, Workers Rehabilitation and Compensation Act 1988 and the Workers Rehabilitation and Compensation Regulations 2001 where amended.

Evidence is required to be produced by the Subcontractor of insurances for the purposes of this clause (and any other clause of the Subcontract) shall include evidence that the Subcontractor and all their subcontractors have complied with all requirements imposed on them by the above Acts or any successors of those Acts and the requirements of this Subcontract and shall include evidence in a form satisfactory to the Principal that either:-

- (a) (i) identify that insurance policies have been effected by the Subcontractor and all subcontractors; and
- (ii) that all levy payments or premiums required to be paid in relation to these policies have been paid up to date during currency of the Subcontract by the Subcontractor and all subcontractors; or
- (b) during the currency of the Subcontract, the Subcontractor and the relevant subcontractor were approved self-insurers as defined in the Acts.

The words “the currency for the Subcontract” includes the period from the date of acceptance of Tender up to the end of the Defects Liability Period of the Head Contract.



Without limiting the generality of any other part of clause 5B if the Subcontractor or any Sub-subcontractor defaults in relations to the requirements of clause 5B regarding the requirements of the Tasmanian Work Health and Safety Act 2012 , Work Health and Safety Regulations 2012, Workers Rehabilitation and Compensation Act 1988 and the Workers Rehabilitation and Compensation Regulations 2001 or any successors thereof and as a result the JHFJV incurs any of such cost, loss, expense or damage it may treat such cost, loss, expense or damage as if it were a debt due from the Subcontractor to the JHFJV.

ITEM 6 – DESIGN AND SUBCONTRACTOR DOCUMENTATION

Clause 6.5 Copyright - Delete Clause 6.5 in its entirety and replace with the following:

The ownership of and copyright in all Subcontract Documentation shall vest absolutely in the JHFJV and Principal upon their creation.

Should the Subcontractor not own the copyright, the Subcontractor shall ensure that ownership of and copyright in all Subcontract Documentation is assigned or transferred to the JHFJV and Principal unconditionally but where that is not reasonably possible shall ensure that the JHFJV and Principal are irrevocably and unconditionally licensed to use the relevant Subcontract Documentation.

Clause 6.6 Intellectual Property Rights - Delete Clause 6.6 in its entirety and replace with the following:

The Subcontractor warrants to the JHFJV and Principal that the Subcontract Documentation and methods of working will not infringe any patent, copyright, moral right, registered design, trademark or name, or other protected right and the Subcontractor indemnifies the JHFJV in respect of any such infringement. In the event should any actions be brought against the JHFJV and Principal as a result of the breach then the Subcontractor shall bear all costs associated with the actions.

Clause 6.7 Moral Rights - Delete Clause 6.7 in its entirety and replace with the following:

- (a) To the extent the Subcontractor has Moral Rights in the Subcontractor Documentation, the Subcontractor consents to:
 - (i) the JHFJV and/or Principal;
 - (ii) any third party to whom the JHFJV and/or Principal expressly or impliedly licenses, or grants any other right to use or possess, any Subcontractor Documentation ('licensee'); or
 - (iii) any third party to whom the JHFJV and/or Principal assigns copyright in any part of the Subcontractor Documentation ('assignee'), doing any of the following for purposes connected with this Contract or the Works;
 - (iv) acknowledging in any manner or failing to acknowledge the Subcontractor's or any other person's authorship of any Subcontractor Documentation;
 - (v) modifying, varying or amending any Subcontract Documentation; or
 - (vi) altering any Subcontractor Documentation by adding to, or removing elements from, any Subcontractor Documentation, including by combining elements of any Subcontractor Documentation with any other material.
- (b) The Subcontractor must use its best endeavours to obtain a signed, written consent from all individuals who create or may create any Subcontractor Documentation to



enable the JHFJV and/or Principal or any licensee or assignee to use the Subcontractor Documentation as provided for in clause 6.7 (a).

- (c) Upon request by the JHFJV's Representative, the Subcontractor will produce to the JHFJV's Representative the written consents obtained pursuant to clause 6.7.

ITEM 7 – THE SITE

New Clause 7.5 – Latent Conditions

The Subcontractor has allowed for all Site Conditions including latent conditions. The effect of the Site including latent condition shall not be a deemed variation and no claim may be made by the Subcontractor in relation to variations and extension of time.

Latent conditions are all conditions (including Site Conditions) and other characteristics of the site and its surrounds including below ground conditions, all natural and artificial things, Hazardous Materials, concrete cracking and spalling, facilities, utilities and services on and within the surface and, if the Site includes a building then all of these matters on and within the building (including those things obscured behind walls, ceilings and beneath the floor) and including the condition of the base work whether or not those conditions were known to or capable of being known to the Subcontractor.

Site Conditions means all conditions upon, at, beneath, surrounding or otherwise relating to the Site (whether or not the conditions were ascertainable) and includes without limitation:

- (a) physical conditions above, upon and below the surface of the Site;
- (b) surface and sub-surface conditions and geology including rock or other materials encountered at the Site;
- (c) availability and condition of roads and all utility services servicing, or required to service, the Site;
- (d) climatic and weather conditions, rain, surface water runoff and drainage, water seepage, wind, windblown dust and sand;
- (e) the existing condition of any existing building or other structure on the Site which is to be demolished or altered or with or to which the Works are to be integrated or connected;
- (f) all existing systems and services above or below the surface of the Site and the location of all facilities with which such systems and services are connected; and
- (g) all other physical conditions and characteristics of the Site above, on or below the surface which may affect the performance by the Subcontractor of its obligations under the Subcontract;

Notification

The Subcontractor, upon becoming aware of a latent condition or a condition which an experienced and competent Subcontractor could reasonably be expected to recognise as a potential latent condition while carrying out the Works, shall promptly, and where possible before the latent condition or potential latent condition is disturbed, give the JHFJV a written notice of the general nature thereof.

If required by the JHFJV promptly after receiving that notice, the Subcontractor shall, as soon as practicable, give the JHFJV a written statement of:



- (a) the latent condition or potential latent condition encountered and the respects in which it differs materially;
- (b) the additional work, resources, time and cost which the Subcontractor estimates to be necessary to deal with the latent condition or potential latent condition, to which the Subcontractor will have no claim to; and
- (c) other details reasonably required by the JHFJV.

New Clause 7.6 - Extra Land Required by Subcontractor

The Subcontractor shall procure for themselves and at their own cost the right to the occupation or use of any land in addition to the Site which they may deem necessary for the execution of the work under the Subcontract or for the purposes of the Subcontract and shall, as a condition precedent to the issue of the Final Certificate, if so required by the JHFJV's representative, provide a properly executed release from all claims or demands (whether for damages or otherwise howsoever) from the owner or occupier of and from other persons having an interest in such land. Any such release shall be in a form approved by the JHFJV."

ITEM 8 – CONSTRUCTION

Clause 8.3 Subcontracting- Insert New Clauses 8.3 (d) and 8.3 (e) as follows:

- (d) a provision whereby the employment of the Sub-subcontractor pursuant to the Subcontract shall be terminated promptly by the Subcontractor if the JHFJV's Representative is not satisfied with the manner in which the work comprises therein is being or may be carried out and the JHFJV's Representative directs the employment of the Sub-subcontractor be terminated by the Subcontractor, and provision that the Sub-subcontractor shall afford access to the JHFJV's Representative or any Subcontractor's Representative at all reasonable times to the Site and other places where work under the Sub-subcontract is being carried out and such other terms as the JHFJV's Representative considers reasonable or necessary."
- (e) The JHFJV's Representative may, in its absolute discretion (the exercise of which is not subject to the provisions of Clause 15) withdraw permission to the use of any Sub-subcontractor and may direct the Subcontractor to remove or exclude any Sub-subcontractor or other person employed in work under the Subcontract from the Site or from any activity connected with work under the Subcontract. The Subcontractor shall not be entitled to any extension of time for delays or for any costs arising out of the exercise by the JHFJV's Representative of power pursuant to this clause to withdraw permission or direct the removal of or require the termination of the employment of a Sub-subcontractor if the need for the exercise of such power or the issue of such direction by the JHFJV's Representative was caused by a breach or default or omission on the part of the Subcontractor or Sub-Subcontractor.

Clause 8.4 Subcontractor or Supplier Warranties - Delete existing Clause 8.4 in its entirety and replace with the following:

The Subcontractor shall procure a warranty for each of the items listed Schedule F Performance Warranty from Suppliers or Manufacturers which are to form part of the Works from the supplier or manufacturer of the materials, goods, plant or equipment and give an executed copy to the JHFJV's Representative. The warranty shall be in the form of that contained in Schedule F Performance Warranty from Suppliers or Manufacturers.

The warranties which are required by the preceding paragraph shall not be construed in any



way to modify or limit any of the rights, powers or remedies of the JHFJV against the Subcontractor whether under the Subcontract or otherwise in respect of the materials, goods, plant and equipment the subject of a warranty and the Subcontractor must discharge the Subcontractor's obligations under the Subcontract in respect of any defective work in respect of materials or goods for which such a warranty has been obtained despite the JHFJV having the benefit of the warranty.

Without limiting the obligations of the Subcontractor under the Subcontract, during the currency of the warranties referred to in this clause 8.4, the Subcontractor must, at its own cost:

- i) if required by the JHFJV, arrange and coordinate any necessary inspections, tests, replacements or rectification work under such warranties; and
- ii) assist the JHFJV in the pursuit of any warranty claims.

The JHFJV's Representative may at any time by notice in writing to the Subcontractor direct that a performance trial or trials be carried out to verify that the Works or any part of the Works (as the case requires) complies with a performance warranty or specification. Such performance trial or trials shall thereafter be carried out in accordance with the provisions of clause 9.3 as soon as practicable.

Performance trials shall be carried out in accordance with the relevant Australian Standard or if there is no relevant Australian or overseas standard in accordance with the recognised industry practice. The Subcontractor shall supply all equipment and suitably qualified and experienced technical staff necessary to conduct the performance trials. In the event of varying standards, the highest standard will apply.

The cost of all performance trials shall be borne in accordance with the provisions of clause 9.3. In the event that any performance trial shows that the Works or any part of the Works fails to comply with the performance warranty or specification, the Subcontractor shall at the Subcontractor's own expense arrange for such modifications or additional work as may be necessary to enable the Works to comply with the performance warranty or specification and conduct a further formal performance trial to verify that the Works or such relevant part of the Works complies with that performance warranty and/or specification. The cost of this and any subsequent performance trials necessary to verify that the Works comply with the performance warranty or specification shall be borne by the Subcontractor.

The Subcontractor shall at the Subcontractor's own cost arrange for a team of suitably qualified and equipped personnel to maintain, monitor and adjust the Works or any part of the Works to comply with the Subcontract during a period of twelve (12) weeks commencing on the Date of Completion or Date of Practical Completion of the Head Contract, whichever is later.. The Subcontractor shall arrange for the provision of all replacement parts and labour necessary and required for the performance of the Works during this period including without limitation all consumable maintenance parts (including filters and lubricants).

Clause 8.12 - Cleaning Up -Add new paragraph at end of existing Clause 8.12 as follows:

Seven (7) days prior to or as instructed by the JHFJV before the Date of Completion the Subcontractor shall remove temporary works and construction plant off Site.

ITEM 9 - QUALITY

Clause 9.2 Quality Assurance - Insert New Clause 9.2 (d) as follows:

- (d) The Subcontractor shall develop and comply with a quality system and quality plan in



accordance with the Subcontract and to the JHFJV's Representative's satisfaction, failing which the JHFJV's Representative may, without prejudice to any other remedies available to the JHFJV's Representative, suspend the whole of or any part of the work under the Subcontract until such time as the JHFJV's Representative directs the suspension is to cease."

Clause 9.6 - Acceptance of Work - Add new paragraph at end of clause.

"The Subcontractor is not entitled to any extension of time or any extra payment as a result of the application of this Clause."

New Clause 9.11 - Off Site Inspection and Tests

The JHFJV's Representative and the Principal's Representative must be granted access at all times to the Subcontractor's premises and those of its Subcontractors or suppliers for the purpose of inspecting work in progress and materials and components required for the Works, including all relevant documentation and certification. Access to subcontractors' or suppliers' premises by the JHFJV's Representative and the Principal's Representative shall be preceded by notification by the JHFJV's Representative to the Subcontractor.

New Clause 9.12 - Further Tests

The inspection and examination of materials and work by the JHFJV's Representative, and any consent to proceed resulting from such inspections, shall not be taken as preventing the JHFJV's Representative from making further inspection and examination of the materials and work, and subsequently rejecting the materials and work if showing by such further inspection and examination to be in non-compliance with the Subcontract.

New Clause 9.13 - Subcontractor Remains Responsible

The Subcontractor remains responsible for quality of the work carried out under this Subcontract even though the JHFJV's Representative may have had work tested or otherwise indicated that work is in accordance with the Subcontract or otherwise acceptable.

New Clause 9.14 – Maintenance Period

In addition to the obligations of the Subcontract during the Defects Liability Period, the Subcontractor shall at the Subcontractor's own cost arrange for a team of suitably qualified and equipped personnel to maintain, monitor and adjust the Works or any part of the Works to comply with the Subcontract during a period of twelve (12) weeks commencing on the Date of Practical Completion of the Head Contract. The Subcontractor shall arrange for the provision of all replacement parts and labour necessary and required for the performance of the Works during this period including without limitation all consumable maintenance parts (including filters and lubricants).

If any remedial work is of such a character as may affect the use of the Works for the purpose for which they are intended the JHFJV's Representative may, within one calendar month after completion of that remedial work, notify the Subcontractor that further tests are to be made in accordance with Clause 9. The costs of such further tests shall be borne by the Subcontractor.

ITEM 10 – TIME

Clause 10.1 Progress and Time for Completion - Insert New Clause 10.1 (c) as follows:

- (c) The JHFJV's Representative may direct in what order and at what time the various stages or parts of the work under the Subcontract shall be performed and the Subcontractor shall comply with the direction. The subcontractor is not entitled to



any extension of time or any extra payment as a result of the application of this clause.

Clause 10.5 Delays Entitling Claim – Delete Clause 10.5 (b) in its entirety.

Clause 10.7 Conditions Precedent to Extension – Insert the following paragraph at the end of Clause 10.7

For the avoidance of doubt, nothing in this Subcontract shall oblige the JHFJV's Representative to grant an extension of time for delay or disruption caused by the an event described in the Extension Event except only to the extent to which the delay or disruption suffered by the Subcontractor has been the subject of an extension of time for practical completion under the Head Contract by reason of delay in the progress of the work under the Head Contract.

New Clause 10.14 - Delay in Supply of Documentation.

If the Subcontractor fails to supply documentation in accordance with clauses 6.1 and 6.2 then the Subcontractor shall be indebted to the JHFJV for the amount deemed as fair and reasonable in the as calculated by the JHFJV for this delay.

ITEM 12 - PAYMENT

12.12 Conditions Precedent

New 12.12 (h):

- (h) For the avoidance of doubt it is a precondition of all progress payments by the JHFJV to the Subcontractor that the following documentary evidence is attached to each progress / payment claim by the Subcontractor:
 - (iii) Workcover Certificate of Currency; and
 - (iv) Public Liability Insurance Certificate of Currency; and
 - (v) Motor Vehicle Insurance Certificate of Currency; and
 - (vi) Plant and Equipment Insurance Certificate of Currency; and
 - (vii) Professional Indemnity Insurance Certificate of Currency (if applicable); and
 - (viii) Statutory Declaration By Subcontractor as per attachment in (Schedule M); and
 - (ix) Record of Payment Form as per attachment in (Schedule N); and
 - (x) Site Personnel Register as per attachment in (Schedule B Special Conditions); and
 - (xi) Superannuation Proof of Payment; and
 - (xii) Long Service Leave Proof of Payment; and
 - (xiii) Redundancy Proof of Payment; and
 - (xiv) Documentary evidence of the participation of employment of apprentices, trainees and indigenous people of 20% of the Company's total labour hours (which includes up to 2 percentage points of indigenous people)



(Schedule I Section 8); and

- (xv) OH&S Requirements as per attachment in (Schedule I Section 4); and
- (xvi) QA Requirements as per attachment in (Schedule I Section 5); and
- (xvii) A revised Cash Flow; and
- (xviii) Others applicable under the Subcontract.

Clause 12.18 Right of Set-Off - Delete existing Clause 12.18 in its entirety and replace with the following:

Without limiting the JHFJV's rights under any other provision in the subcontract and notwithstanding the provisions of or the issue of a certificate by the JHFJV's representative under clause 12.1, the JHFJV may deduct from any monies due to the Subcontractor any sum which is payable by the Subcontractor to the JHFJV whether or not the JHFJV's right to payment arises by way of damages debt restitution or otherwise and whether or not the factual basis giving rise to the JHFJV's right to payment arises out of this Subcontract, any other contract, or is independent of any contract. If the monies payable to the Subcontractor are insufficient to discharge the liability of the Subcontractor to pay such sum to the JHFJV, the JHFJV may have recourse to retention monies, and if they are insufficient, to any security provided under clause 4.1 of the Subcontract and if that security is insufficient, to any security provided under the Subcontract but in respect thereof only after satisfaction of all Subcontractors Charges. Nothing in this clause shall affect the right of the JHFJV to recover from the Subcontractor the whole of such monies or any balance that remains owing.

ITEM 14 - TERMINATION

Clause 14.3 Termination or Insolvency or Breach - Insert after Clause 14.3 (c) the following:

- (d) Failing to comply with the Tasmanian Government Building and Construction Training Policy; or
- (e) Failing to comply with Special Conditions clause 17.18; or
- (f) persistent failure to provide and comply with the quality system and plan required by Clause 9.2; or;
- (g) any other material breach of Subcontract."

Clause 14.4 JHFJV's Entitlements after Termination - Insert after Clause 14.4 (c) the following:

- (d) be entitled to recover from the Subcontractor any property of the JHFJV and Principal in the possession of the Subcontractor, its servants, agents or subcontractors
- (e) Will be entitled to take work out of the hands of the Subcontractor under clause 14.4 the JHFJV shall complete that work and the JHFJV may without payment of compensation take possession of such of the constructional plant and other things on or in the vicinity of the Site or on or in the vicinity of any land in addition to the Site procured by the Subcontractor pursuant to clause 7.6 as are owned by the Subcontractor and are reasonably required by the JHFJV to facilitate completion of the work.
If the JHFJV takes possession of constructional plant or other things, the JHFJV shall maintain the constructional plant, and subject to clause 14.4, on completion



of the work the JHFJV shall return to the Subcontractor the constructional plant and any things taken under this clause which are surplus.”

ITEM 15 - DISPUTES

New Clause 15.15 - Appointment of Same Arbitrator as Under Head Contract

In Clauses 15.16, 'Head Contract Dispute' means a claim or dispute the subject of Clauses 57 and 58 of the Head Contract. If a notice of dispute is given under Clause 58 of the Head Contract before the giving:-

- (a) by the JHFJV of a notice under Clause 15.16; and
- (b) by the Subcontractor of a notice under Clause 15.17, and the subject matter of the notice of dispute touches or concerns any Head Contract Dispute, then the arbitrator to be appointed pursuant to Clause 15.12 shall be the same arbitrator appointed or to be appointed, as the case may be, under the Head Contract to resolve the Head Contract Dispute, unless
- (c) no arbitrator is appointed in the Head Contract Dispute within 35 days of the giving of the notice of dispute under the Subcontract; or
- (d) the arbitrator in the Head Contract Dispute is unwilling or unable so to act, in which case the arbitrator shall be the arbitrator appointed under Clause 15.12.

If the same arbitrator as in the Head Contract Dispute is appointed under this Clause 15.15, the Subcontractor irrevocably consents to any order pursuant to Section 26(1) of the Commercial Arbitration Act of the State of Tasmania.

New Clause 15.16 - Head Contract Disputes Affecting the Subcontract

When the JHFJV becomes aware of a Head Contract Dispute and the subject matter of the Head Contract Dispute, touches or concerns work, material or the performance of work under the Subcontract, and provided that the JHFJV has:-

- (a) promptly (and prior to the giving of a notice of dispute under Clause 15.1) given to the Subcontractor a notice setting out adequate details of the Head Contract Dispute; and
- (b) when complying with Clause 15.16(a) or previously, provided to the Subcontractor a written copy of the relevant provisions of the Head Contract relating to notification of claims and the resolution of disputes,

the JHFJV, by written notice promptly given to the Subcontractor, may require any claim or dispute to be made by the Subcontractor (hereafter called 'the Subcontract Claim') which touches or concerns the Head Contract Dispute to be resolved pursuant to the following provisions of this Clause 15.16.

The Subcontractor, when given the latter notice by the JHFJV, shall promptly notify the JHFJV in writing whether or not the Subcontractor requires the JHFJV on behalf of the Subcontractor, to include the Subcontract Claim in the Head Contract Dispute. If the JHFJV is so required, the Subcontractor shall, within a reasonable time to enable the JHFJV to comply with the provisions of the Head Contract, provide in writing sufficient details of the Subcontract Claim and request the JHFJV to include the Subcontract Claim in the Head Contract Dispute.



If so requested, the JHFJV shall then take such steps as are reasonably necessary to proceed with the Head Contract Dispute.

The Subcontractor shall indemnify the JHFJV, to the extent of the Subcontractor's interest in respect of the Head Contract Dispute, against all costs and expenses that may reasonably be incurred by the JHFJV by reason of complying with the request of the Subcontractor. The Subcontractor shall, with the request, provide the JHFJV with reasonable cash or other security against such costs and expenses (as distinct from security under Clause 4). Any moneys the JHFJV may recover shall be for the benefit of the Subcontractor to the extent of the Subcontractor's interest in the Head Contract Dispute.

The failure of the Subcontractor to comply with the foregoing provisions of this Clause 15.16 shall, except to the extent that the Subcontractor is barred from proceeding with the Subcontract Claim as part of the Head Contract Dispute, entitle the JHFJV to damages for breach of contract, but shall not be grounds for invalidating the Subcontract Claim.

If the JHFJV is in breach of any provision of the Head Contract or of this Clause 15.16 relating to the notification of the dispute or in proceeding with the dispute, and if the breach was not due to any act or omission of the Subcontractor, nothing in this Clause 15.16 shall prevent the Subcontractor from thereafter proceeding pursuant to Clauses 15.1 and 15.2 as if the Subcontract Claim was not one to which the provisions of this Clause 15.16 apply.

The JHFJV shall regularly give the Subcontractor details of the Head Contract Dispute to the extent that the details relate to the Subcontract Claim

New Clause 15.17 - Subcontract Claims Affecting the Head Contract

If the Subcontractor gives a written notice requiring the JHFJV to include a Subcontract Claim in a claim under the Head Contract (hereafter called 'the Head Contract Claim'), the Subcontractor shall:-

- (a) give sufficient details to enable the Subcontract Claim to be so prosecuted; and
- (b) indemnify the JHFJV, to the extent of the Subcontractor's interest therein, against all costs and expenses that may reasonably be incurred by the JHFJV by reason of complying with the request of the Subcontractor given under this Clause 15.17.

The Subcontractor shall, from time to time as reasonably required by the JHFJV, provide the JHFJV with cash or other security against such costs and expenses (as distinct from security under Clause 4). Any moneys the JHFJV may recover shall be for the benefit of the Subcontractor to the extent of the Subcontractor's interest therein.

The JHFJV when given the Subcontractor's notice under this Clause 15.17, shall take such steps as are reasonably necessary to proceed with the Head Contract Claim provided the Subcontractor's notice is received by the JHFJV prior to the giving of a notice of dispute under Clause 15.1. The Subcontractor shall comply with the JHFJV's reasonable requirements to give details of the Subcontract Claim.

The JHFJV shall regularly give the Subcontractor details of the Head Contract Claim to the extent that the details relate to the Subcontract Claim.



ITEM 16 - NOTIFICATION OF CLAIMS

Clause 16.1 – Notices of Other Claims - Delete 16.1(d) in its entirety and replace with the following;

- (d) a written notice by the Subcontractor that it proposes to make a Claim and the events upon which the Claim will be based, to be given within 7 days of the first occurrence of the events on which the Claim is based, or which a competent and experienced Subcontractor could reasonably have been aware of the breach, and

ITEM 17 - GENERAL

Clause 17.6 – Working Hours - Delete existing Clause 17.6 and replace with the following:

The working hours and working days shall be 7.00a.m. to 7.00p.m. Monday to Saturday excluding public holidays, industry rostered days off and industry Christmas Closedown period or as otherwise stated in the Schedule and shall not be varied without the prior approval of the JHFJV's Representative except when in the interests of safety of the work under the Subcontract or to protect life or property the Subcontractor finds it necessary to carry out work outside the working hours or on other than the working days stated in the contract. In such cases the Subcontractor shall notify the JHFJV's representative in writing of the circumstances as early as possible.

Notwithstanding any approval by the JHFJV to otherwise vary the working hours or working days events occurring outside of the working hours or working days stated in clause 17.6 in respect of which delays is limited to non- working days will not be grounds for an extension of time

In approving a variation to the hours or days prescribed in the first paragraph the JHFJV's Representative may attach conditions. Such conditions may include but are not limited to a prohibition of or restriction on the performance of work which requires inspection and may also include a requirement that the Subcontractor meets the costs of Contract Administration including but not limited to costs of inspections by or on behalf of the JHFJV, or work during times approved by the JHFJV's Representative that are outside of the hours prescribed in the first paragraph of this clause.

New Clause 17.11 – “Application of Civil Liability Act 2002”

The Subcontractor and the JHFJV agree that:

- (a) Part 9A of the Civil Liability Act 2002 (Tas) does not apply; and
- (b) their rights, obligations and liabilities (whether such rights, obligations or liabilities are sought to be enforced as a claim in Subcontract, in tort or otherwise) in connection with the Works (including, without limitation, all rights, obligations and liabilities under the Contract) will be those which would exist if Part 9A of the Civil Liability Act 2002 (Tas) did not apply

New Clause 17.12 – “Application of Tasmanian Health Organisation Act 2011”

The Subcontractor and the JHFJV acknowledge and agree that:

- (a) this Subcontract is a building contract for the purposes of section 81A of the Tasmanian Health Organisation Act 2011 (the Act); and
- (b) without limiting the effect of clause 17.12 (a), as a consequence:
 - (i) the work under the Subcontract is building work for the purposes of section 81A of



- the Act;
- (ii) the work under the Subcontract relates to a building that is occupied wholly or in part by Tasmanian Health Organisation South;
- (iii) this Subcontract is a building contract for the purposes of section 81A of the Act; and
- (iv) the Subcontractor and the JHFJV are subcontractor and contractor, respectively, for the purposes of section 81A of the Act.

New Clause 17.13 – Collusive Arrangements

The Subcontractor warrants and represents to the JHFJV that:

- (a) it had no knowledge of the Tender price of any other Tenderer, nor did it communicate with any other Tenderer in relation to its Tender price, or a price above or below which a Tenderer may Tender (excluding any pricing advised by the JHFJV), nor had it entered into any contract, arrangement or understanding with another Tenderer to the effect that the Subcontractor or another Tenderer would Tender a non-competitive price, for the work under the Subcontract, at the time of submission of its Tender;
- (b) except as disclosed in its Tender, it has not entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to a trade, industry or other association (above the published standard fee) relating in any way to its Tender or this Subcontract, nor paid or allowed any such money, nor will it pay or allow any such money;
- (c) except by prior agreement with the JHFJV, it has not paid or allowed any money or entered into any contract, arrangement or understanding to pay or allow any money directly or indirectly to or on behalf of any other Tenderer for the work under the Subcontract, nor received any money or allowance from or on behalf of any other Tenderer relating in any way to its Tender or this Subcontract, nor will it pay or allow or receive any money as aforesaid.

In the event of the Subcontractor paying or allowing any money in breach of this Clause, the JHFJV may deduct from payments to the Subcontractor an equivalent sum as an amount due from the Subcontractor to the JHFJV, in addition to any other claim, demand, action or proceeding the JHFJV may have against the Subcontractor (whether for damages or otherwise).

Without limitation, if the Subcontractor commits a breach of this clause, the JHFJV may at its discretion terminate the Subcontract and claim damages for breach of contract.

New Clause 17.14 – Service of Notices

Notwithstanding anywhere else in the Subcontract, all served notices must also be transmitted via Aconex except in circumstances which are allowed and approved by the JHFJV's Project Manager.

A notice shall be deemed to have been given or served on the party to whom it was sent:

- (a) at the time of dispatch if dispatched after midnight and before 5.00pm Monday to Friday inclusive, provided that day is a working day, or
- (b) on the next day which is a working day after dispatch, if dispatched after 5.00pm or on a weekend or on a day which is not a working day;

provided that following transmission, the sender receives a transmission confirmation report.



For the purpose of this Clause 17.14, 'working day' means calendar days exclusive of Saturdays, Sundays or any day that has been gazetted or proclaimed to be a Public Holiday and any day on which the Banks are closed for business in the place where the Site is located.

New Clause 17.15 – Asset Management System

- (a) The Subcontractor must prepare and maintain, on a daily basis, an accurate record of all Assets forming part of the Project.
- (b) As a precondition to any entitlement to payment under this Subcontract or for carrying out the Works, the Subcontractor must submit with any payment claim (including, without limitation, a payment claim submitted pursuant to the Subcontract) the records described in Clause 17.15 (a) above.
- (c) The Subcontractor acknowledges and agrees that the Subcontractor must, as a precondition to the issue by the JHFJV's Representative of a Final Certificate, provide a schedule of Assets suitable for input into the Principal's asset management system. The schedule of Assets must be provided to the entire satisfaction of the JHFJV and the Principal and in accordance with the Subcontract. Unless stated otherwise in this Subcontract, the schedule of Assets must comply with the **The Crown in Right of Tasmania** represented by the Department of Health and Human Services' requirement.

New Clause 17.16 – Aconex Document Management System

- (a) The JHFJV maintains the Aconex document management system and pays the software license costs associated with Aconex, including trainings in Melbourne.
- (b) Prior to commencing the Works, the Subcontractor shall register to use Aconex. The Subcontractor is responsible for payment for all other costs and charges necessary to facilitate full use of the Aconex by the Subcontractor, its Sub- Subcontractors, Suppliers and Consultants (including without limitation, the cost of providing all required computer terminals, internet connections, printers, modems and other required equipment, connections, installation, software, and the costs resulting from any upgrades or changes to Aconex).
- (c) Prior to commencing the Works, the Subcontractor shall ensure that all personnel (including personnel of its Sub-Subcontractors, Suppliers, Consultants and other person for whom the Subcontractor is responsible for) who may be required to use Aconex in relation to the performance of the Works have been suitably trained to use Aconex.
- (d) Unless otherwise directed by the JHFJV in writing, the Subcontractor shall use Aconex for the issue and receipt of all documents associated with or relevant to or arising from the Subcontract, the Project or the performance of the Works including, without limitation, all correspondence, transmittals, drawings, documentation, notices and directions.
- (e) The Subcontractor acknowledges and agrees that:
 - (i) Aconex is provided for the convenience of the all parties; and
 - (ii) Transmission of a document through Aconex does constitute a valid delivery or notification pursuant to the Subcontract; and
 - (iii) The JHFJV may elect not to use Aconex at any time, and may permit any third party to not use Aconex; and
 - (iv) The JHFJV may upgrade or modify Aconex at any time; and
 - (v) The JHFJV may replace Aconex with an alternative document management system at any time; and



- (vi) Aconex may be unavailable for use from time to time and the Subcontractor will not have any entitlement as a consequence of any of the matters contemplated by Clause 17.16 (e) occurring.

- (f) If Aconex is unavailable for any reason, the Subcontractor shall at its cost use alternative methods to transmit all documents (including, without limitation, email, facsimile, courier or register post as appropriate) until such time as Aconex is available again. If Aconex becomes available after a period of unavailability, the Subcontractor shall, unless otherwise directed by the JHFJV in writing, immediately re-transmit by Aconex all documents transmitted by alternative methods during the period of unavailability.

New Clause 17.17 - Media Releases

The Subcontractor shall not issue any information, publication, document or article for publication concerning the Project in any media. The Subcontractor shall refer to the JHFJV's Representative any enquiries concerning the Project from any media.

New Clause 17.18 – Noise, Disturbance, Nuisance Control and Operating Hospital Provisions

17.18.1 Noise, Disturbance and Nuisance Control

The Subcontractor shall:

- (a) minimise noise, dust and other nuisances;
- (b) prevent the escape of any material from the Site onto property and roads near the Site;
- (c) comply with all standards of Standards Australia relevant to minimisation of noise, dust and other nuisances on building construction sites, infection control standards and any standards relevant to construction work within the confines of an operating hospital;
- (d) comply with the following requirements :
 - (i) **Operating Hospital**
The Subcontractor shall efficiently manage the Site on a day to day basis with a particular regard to minimisation of the impact of the work under the Subcontract on the continuing operation of the Royal Hobart Hospital.

In minimising the impact of the work under the Subcontract on the operation of the Royal Hobart Hospital the Subcontractor shall limit noise disturbance to within working hours of 7.00a.m. to 7.00p.m. Monday to Saturday or otherwise as directed by the JHFJV's Representative.

The Subcontractor must ensure that at all times it does not impede ingress and egress to those parts of the Royal Hobart Hospital not comprising the Site.

The Subcontractor shall provide before commencement of any work at the Site for approval by the JHFJV a separate detailed program for work which may disrupt the operation of the Royal Hobart Hospital including but not limited to the following:

Section 2 demolition;

Section 3 cutting of services to occupied buildings

- (a) interruptions to the Royal Hobart Hospital functions including particularly critical procedures;

Section 4 interruptions to ingress and egress to the Royal Hobart Hospital;



- (b) Section 5 work outside the JHFJV's fence at the Site;
program of noisy work to be carried out to occur when critical procedures at the Royal Hobart Hospital are not being carried out;

Section 6 working hours for work under the Subcontract;

Section 7 jackhammering compressor work, scabbling or grit blasting.

Work methods for work which may affect the use of or ingress and egress to the Royal Hobart Hospital must be agreed with the JHFJV's Representative in advance of carrying out the work.

(ii) **Disruption Plan**

The Subcontractor must prepare and submit for approval to the JHFJV a disruption plan for planning and notification of any event that may affect or disrupt hospital, clinical or other operations.

Any works that may affect or disrupt hospital, clinical or other operations must not be carried out except in accordance with the disruption plan approved by the JHFJV.

Works that may affect or disrupt hospital, clinical or other operations must be carried out at times and using all reasonable methodologies to minimise clinical and operational impact upon the hospital.

No works under Stage Two of the Subcontract must be commenced unless and until the disruption plan required by this Schedule is approved by the JHFJV.

The Subcontractor acknowledges that not less than 5 weeks written notice must be given to the JHFJV's Representative before any service interruption can be effected.

(iii) **Continuity of Services**

The following requirements are additional to those set out in the approved disruption plan:

Where it is necessary to temporarily interrupt services to adjacent occupied premises for the purposes of diversion or disconnection of inter-linked services, the Subcontractor shall give not less than 5 weeks' notice to the JHFJV and provide an estimate of the duration of disruption. Keep disruption of services to a minimum. Submit copies of notices.

Advise the JHFJV's Representative at least 5 weeks before shut down of any reticulated building services (such as main electrical power, natural gas, cold water supply, and fire services).

Disconnect services at nearest stop valve, or switchboard, before cutting or opening service pipes and conduits. Provide temporary or permanent sealing as required where fittings are removed.

Provide required warning signs and carry out appropriate safety procedures when working on services.

(iv) **Noise and Airborne Dust Management**

The following requirements are additional to those set out in the approved disruption plan:



General

Minimise nuisance to the public and adjacent properties from noise and dust from the Works.

If directed, submit proposed procedures to minimise and control such nuisance and carry out approved procedures. Re-submit progressively any proposed changes to the approved procedures.

Limit noise-producing activities and vibration to normal working hours unless otherwise approved by the JHFJV's Representative.

All constructional plant and equipment shall be fitted with noise suppressors, acoustic linings or screens. Sirens and loud hailers shall not be used except in an emergency.

Use suitable equipment and procedures, screens and water spraying to reduce dust nuisance.

Spray dust-producing materials before loading in trucks or open containers. Use trucks with suitable covers for transporting dust-producing materials or materials that could be dislodged by wind.

The JHFJV's Representative has the authority to direct the Subcontractor to undertake works that are causing unacceptable noise and dust to alternative hours. The Subcontractor has no right to claim cost associated with having to reschedule noisy or dusty works.

The Subcontractor must accommodate and minimise adverse effects on, address and manage the following in carrying out the Works, in liaison with key representatives of the Royal Hobart Hospital including addressing the issues at the start-up workshop(s):

Section 8 presence and needs of patients, operating theatres, imaging and other services;

Section 9 particular need for quiet during certain times of the day, such as patient rest periods;

Section 10 presence of other contractors for other works and the need for a consistent approach for the management of noise and vibration; and

Section 11 the nature of the structure and the fact that vibrations will travel readily through a concrete structure to the other floors.

The above will be agenda items at regular meetings with the JHFJV.

Examples of noisy activities include:

Section 12 all forms of demolition;

Section 13 drilling into concrete columns and slabs; and

Section 14 drilling into masonry and plasterboard walls.

The Subcontractor must consult with the JHFJV and affected users when planning noisy activities to minimise adverse impacts on hospital and building services continuity. Noisy work may be required to be carried out outside of the Subcontractor's normal work hours to accommodate the needs of the affected users.

The Program must identify the areas of work that may cause significant



disturbance to nearby departments and the Subcontractor must allow for the needs of the Royal Hobart Hospital users in the Program.

The required approach for the management of noise and vibration by the Subcontractor must include:

Section 15 obtaining the agreement of the JHFJV as to acceptable noise levels and durations;

Section 16 obtaining the agreement by the JHFJV of the times for undertaking noisy works;

Section 17 devising demolition and construction methodologies which will minimise the impact of noise, dust and vibration;

Section 18 using live noise levels to help plan and manage construction activities; and

Section 19 maintaining noise levels below agreed limits and durations.

The Subcontractor must ensure that excessive dust is not generated by its works to the extent that it may interrupt the normal operations, place at risk or diminish the amenity of patients, staff or visitors of the Royal Hobart Hospital. In doing so the Subcontractor shall as a minimum consider the following:

Section 20 implement measures which prevent the generation of dust during demolition and construction work; and

Section 21 implement measures to prevent the ingress of dust to the existing Royal Hobart Hospital buildings during demolition and construction.

Such measures may include the provision of suitable screens, additional filtration on air intakes or other suitable provisions.

The Subcontractor acknowledges that, and must allow for the possibility that, the progress of some of the works will be interrupted or reorganised if the generation of noise, dust, vibration or the like generated by carrying out the works unduly disrupts the provision of the desired hospital and building services. Compliance with such a requirement will not give grounds for additional payment for additional costs or grounds for extending times for Completion under the Subcontract.

Internal

Dust Screens, Hoardings and Sealing

It is a special condition of this Subcontract that the occurrence of airborne dust arising from the works is minimised and that measures be implemented to prevent movement of dust from the works area into occupied and functioning areas of the facility adjacent to the works.

It is a specified requirement to effectively seal and screen off the internal works areas with 50mm thick colourbond finished interlocking coolroom panels to a minimum height of 2700mm. above hoarding panels to underside of floor slab and provide heavy gauge building plastic sheeting adhesive taped top, bottom and sides and protected against penetration. Dust screens shall be so erected to isolate the works area from staff and patient area, corridors and air intake grilles or doorways.

Seal all Air-Conditioning registers, ducts vents and other penetrations in



ceilings and walls together with doors

The Subcontractor shall include for the supply and installation of all necessary hoardings and screens. The requirement to supply and erect and maintain dust and hoarding screens shall be strictly enforced and shall be the Subcontractor's responsibility to ensure that they are maintained throughout this contract.

Negative Pressure Fans

The Subcontractor shall supply, install and maintain 2no. Negative Pressure Fans for the duration of the Project. Fans to be provided with changeover HEPA filters and flexible ducting within the works area and are to be operated at all times.

Negative pressure fans shall be located to provide a negative air pressure on the works side of the specified Airborne Dust Screens erected and the occupied areas of the facility.

Negative pressure air shall be ducted to the outside and shall discharge to an approved area free from ventilation intake grills, open windows, doors etc that may permit the reintroduction of dust back into the facility.

Removal of Dust

All dust shall be removed from the works area by vacuuming after bulk debris has been removed and before commencing finishing trades or installation of fitments. Vacuum appliances shall be fitted with removable filters and regularly cleaned. HEPA filters are to be used at all times

It is a requirement of this Project for the Subcontractor to use a suitable HEPA filtered Vacuum Cleaner

Protection

All persons engaged in works within the works area shall be adequately protected and shall use filter masks, respirators and the like to prevent inhalation of dust particles arising from the works.

(v) *Infection Prevention and Control During Construction Policy*

(1) Infection Control Activities

Infection Control induction of all Subcontractors shall be carried out as part of the site induction process. Induction will be documented and signed off by each person involved

Subcontractor compliance shall be monitored by the "Infection Prevention and Control Unit" in conjunction with the Facilities Management Engineering Services Project Officer of Royal Hobart Hospital.

(2) Requirements of the Subcontractor in Infection Prevention and Control during Construction.

1. Isolate HVAC systems in areas where work is being performed.



2. Complete all construction barriers/ screens and hoardings prior to commencement of works.
3. Maintain negative air pressure (Refer Clause 17.18.1(iv) “Noise and Airborne Dust Management”) within the work Site. Cease work immediately if negative pressure is lost.
4. Seal all holes, pipes, conduits and punctures appropriately.
5. When performing internal works, construct an ante-room and require all personnel to pass through the room. Wet mop or HEPA vacuum the ante-room daily.
6. Do not remove barriers/ screens or hoardings from work area until completed Project is inspected by Infection Control and cleaning has been completed.
7. Remove barriers/ screens and hoardings materials carefully to minimise spreading of dirt and debris associated with construction activity.
8. Contain construction waste before transporting in tightly covered containers.
9. Place dust mats at entrance and exit points of the work Site and replace or clean when no longer effective.
10. Keep work area clear of debris by removing daily.
11. At completion of Project wet mop hard surface areas using disinfectant and vacuum with HEPA filtered vacuum.
12. Wipe thoroughly casework and horizontal surfaces at completion of Project.

Barriers including hoardings, screens and seals erected during construction renovations and maintenance shall be regularly inspected and reported on by the Infection Prevention and Control Unit or a nominated representative.

All infection control measures described in the policy are to be verified by inspection.

(3) *Site Management*

Movement in and out of the Site will be controlled restricting access to only those who have undergone the direct supervision of those who have undergone site induction.

Inspections for non-conformance with the policy will be undertaken at regular intervals during the works. Where non-conformance is found, corrective and preventative actions will be documented by the JHFJV's Representative for action by the Subcontractor.

1. comply (except to the extent of any inconsistency) with the Australasian Health Facility Guidelines Part D Infection Prevention and Control;
 2. efficiently manage the Site on a day to day basis with particular regard to the establishment and maintenance of Site preliminaries and minimisation of the impact of the work under the Contract on the continuing operation of the Royal Hobart Hospital;
 3. limit noise disturbance to the working hours of 7.00a.m. to 7.00p.m Monday to Saturday inclusive but in any event subject to the provisions of paragraph (iv); and
- (h) not impede ingress and egress to those parts of the Royal Hobart Hospital not comprising the Site.



17.18.2 Noise, Disturbance and Nuisance Control

The Subcontractor warrants that it has assessed the potential for delays, disruption, suspension and extra costs in the performance of the work under the Subcontract because of potential noise, dust and all other nuisances and made due allowance in its Tender, including taking into account any operational requirements of the Site included in the Tender Documents and the Subcontract. The Subcontractor further acknowledges that in making its assessment it has taken into account that the Royal Hobart Hospital operates 24 hours per day 7 days per week including public holidays.

If there are delays, disruption, suspension or extra costs (including a requirement to alter Working Hours and methods) caused by the Subcontractor's non-compliance with this clause then:

1. the Subcontractor may not claim and warrants to the JHFJV that it shall not claim any extra amount or extension of time from the JHFJV ; and
2. this Subcontract shall not be frustrated.

17.18.3 Noise, Disturbance and Nuisance Control

The Subcontractor shall indemnify the JHFJV against all costs, damages and expenses the JHFJV may sustain as a result of neglect or default of the Subcontractor in complying with this clause.

New Clause 17.19 - Care of the Work in the Absence of the Subcontractor

In the absence of the Subcontractor or the Subcontractor's Representative, the JHFJV's Representative may take such action as it considers necessary to prevent loss of or damage to the Works or any part of the Works or to any property or to prevent personal injury to any person. If the JHFJV's Representative determines that the action is in respect of a matter for which the Subcontractor is, under this Subcontract responsible, and is of a kind the Subcontractor would have been liable to take at its own expense if the Subcontractor or the Subcontractor's Representative had not been absent, the reasonable cost incurred by the JHFJV in taking such action shall be a debt due and payable by the Subcontractor to the JHFJV."

New Clause 17.20 - JHFJV's Direction

The JHFJV shall not be liable for any expenses, losses, damages and costs claimed by the Subcontractor either pursuant to, for breach of or outside of the Subcontract directly or indirectly as a result of a direction by the JHFJV's Representative to the Subcontract or a failure to issue a direction by the JHFJV's Representative unless the claim together with particulars thereof is lodged in writing with the JHFJV within six (6) days after the date on which that direction was given or failed to be given. It is a condition precedent to the entitlement of the Subcontractor to any amount so claimed that the claim is lodged in writing with the JHFJV within that period, failing which the Subcontractor shall not be entitled to any amount as a result of that direction.

Other than as provided in the first paragraph of this Clause, the Subcontractor shall not be entitled to recover any expenses, losses, damages and costs from the JHFJV or the JHFJV's Representative in respect of any, neglect, omission or conduct on the part of the JHFJV's Representative.

New Clause 17.21 - Severance of Terms

Each clause, term, provision or part thereof in the Subcontract shall be construed so as not to



infringe the provisions of any act, rule, regulation, by-law, ordinance or the like whether Local Government, State or Federal.

If any clause, term provision or part thereof on its true interpretation does infringe the provision of any Act, rule, regulation, by-law, ordinance and the like, whether Local Government, State or Federal then that clause, term provision or part thereof shall be read down to the minimum necessary so as to give it a valid operation of a partial character.

If the infringing clause, term, provision or part thereof cannot be so read down it shall be deemed to be void and severable, and shall thereupon be severed in such manner that the remaining part from which such clause, term or provision was severed shall not be affected thereby and the remainder of the Subcontract shall be enforceable to the greatest extent permitted by law.

Notwithstanding the above, if any part of this Subcontract is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the Subcontract will not be affected and the Subcontract will read as if the part had been deleted.

New Clause 17.22 - Records and Access to Records

The Subcontractor shall make and keep and shall ensure all Sub-Subcontractors make and keep accurate records of its Tender and of the work under the Subcontract including but not limited to all documents referred to in these Subcontract Conditions, and the Specifications, design calculations, Tender estimates, calculations and make ups, records as to progress of the works, diary records of daily tasks, complete photographic records, quality system documents and records, manning and equipment records, results of the examination and testing of any work or materials, quality assurance records and reports, cost to date records, costs to complete calculations, time records, all cost records relating in any way to delays, variations and day works, all consultants reports and opinions obtained by the Subcontractor in relation to the matters referred to in this clause and all necessary supporting documents, invoices, records and related financial statements, whether in writing or stored on any other medium whatsoever.

Subject to the Subcontractor's right to claim legal professional privilege in respect of any record, which is hereby maintained, the JHFJV or JHFJV's representative shall have the right to inspect and to copy at any time any record referred to in clause 17.22, notwithstanding anything to the contrary contained herein, the JHFJV's representative may defer any determination direction or certification under clauses 12.6, 12.13 and 14.4 or any decision of the JHFJV's representative under clause 15 until after such inspection is permitted by the Subcontractor. In the case of any records referred to in clause 17.22 stored on a medium other than in writing the Subcontractor shall make available forthwith upon request such facilities as may be necessary to enable reproduction thereof to be provided to the JHFJV.

The Subcontractor shall not be entitled to refuse inspection of any record referred to in clause 17.22 on any basis whatsoever other than on the basis that legal professional privilege attaches to the record.

The records referred to in clause 17.22 shall not be destroyed without the prior written approval of the JHFJV and shall, if so required by the JHFJV's representative, be handed over to the JHFJV at the end of the defects liability period.

The JHFJV shall not without the consent of the Subcontractor divulge the contents of any record inspected or copied pursuant to this clause to any other person other than an employee or agent of the JHFJV, or use them for any purpose except with respect to the resolution of any dispute between the parties."

New Clause 17.23 - Environmental Policy



The Subcontractor shall make itself aware of and comply fully with the JHFJV's Environmental Policy.

Should the Subcontractor fail to comply with the requirements of the JHFJV's Environmental Policy, then the Subcontractor shall be deemed to be in default of these conditions and the JHFJV may

- (a) withhold payment of moneys which are or may become payable to the Subcontractor under this Subcontract until such default is rectified; or
- (b) arrange to have the requirements of the Environmental Policy fulfilled by others and deduct all costs incurred from moneys that are or may become payable to the Subcontractor under this Subcontract.

New Clause 17.24 - Monitoring and Evaluation by the Principal

The Subcontractor agrees:

- (a) that the performance of the work under the Subcontract will be monitored and evaluated by the Principal and the JHFJV;
- (b) to provide such assistance as is required by the Principal and the JHFJV in relation to the abovementioned monitoring and evaluation;
- (c) that all information provided to the Principal and the JHFJV for the purposes of the abovementioned monitoring or evaluation will not be regarded as confidential; and
- (d) that all information gathered by the Principal and the JHFJV for the purposes of the abovementioned monitoring or evaluation may be used by all areas of the Tasmanian Government for the purpose of evaluating future Tender offers by the Subcontractor to perform other works.

New Clause 17.25 - Commissioning Work

The Subcontractor shall, with skill care and diligence, in accordance with best engineering practice:

- (a) provide the JHFJV, the Principal and the Principal's employees assistance with the initial occupation and operation of the Works;
- (b) assist the JHFJV, the Principal or the nominated agents of the Principal in understanding the performance of the Works;
- (c) ensure the satisfactory operation of all building components, equipment and contents;
- (d) record and submit to the JHFJV's Representative details of all results;
- (e) give the JHFJV's Representative reasonable prior notice of the carrying out of any part of the Commissioning required by the Program; and
- (f) immediately notify the JHFJV's Representative if any portion of the work under the subcontract fails to pass a Commissioning requirement, make good that work and after completion of the remedial work promptly carry out Commissioning of that work.

The Subcontractor will at the Subcontractor's own cost arrange for a team of suitably qualified and equipped personnel to maintain, monitor and adjust the Works or any part of the Works to comply with the Subcontract during a period of four (4) weeks commencing on the Date of



Completion. The Subcontractor will arrange for the provision of all replacement parts and labour for the performance of the Works during this period including without limitation all consumable maintenance parts (including filters and lubricants).

**New Clause 17.26 - New Clause - National Code of Practice
Compliance with National Code of Practice for Construction Industry and its
Implementation Guidelines**

The Subcontractor must comply with Building Code 2013 and the Australian Government Implementation Guidelines for the National Code of Practice for the Construction Industry, May 2012 (Guidelines). Copies of the Code and Guidelines are available at www.deewr.gov.au/building.

Compliance with the Code and Guidelines shall not relieve the Subcontractor from responsibility to perform the Subcontract, or from liability for any defect in the works arising from compliance with the Code and Guidelines.

Where a change in the Subcontract is proposed and that change would affect compliance with the Code and Guidelines, the Subcontractor must submit a report to the Commonwealth specifying the extent to which the Subcontractor's compliance with the Code and Guidelines will be affected.

The Subcontractor must maintain adequate records of the compliance with the Code and Guidelines by:

- (a) the Subcontractor;
- (b) its Sub-Subcontractors;
- (c) its Consultants; and
- (d) its Related Entities (see Guidelines for meaning including Section 3.5 of the Guidelines).

If the Subcontractor does not comply with the requirements of the Code or the Guidelines in the performance of this Subcontract such that a sanction is applied by the Minister for Employment and Workplace Relations, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future Tenders that may be lodged by the Subcontractor or a related entity in respect of work funded by the Commonwealth or its agencies.

While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing Tenders, the Subcontractor may give preference to Sub-Subcontractors and Consultants that have a demonstrated commitment to:

- (e) adding and/or retaining trainees and apprentices;
- (f) increasing the participation of women in all aspects of the industry; or
- (g) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.

The Subcontractor must not appoint a Sub-Subcontractor or Consultant in relation to the Project where:



- (h) the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or
- (i) the Sub-Subcontractor or Consultant has had a judicial decision against them relating to employee entitlements, not including decisions under appeal, and has not paid the claim.

The Subcontractor agrees to require that it and its Subcontractors or Consultants and its related entities provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to :

- (j) inspect any work, material, machinery, appliance, article or facility;
- (k) inspect and copy any record relevant to the Project the subject of this Contract; and
- (l) interview any person

as is necessary to demonstrate its compliance with the Code and Guidelines.

Additionally, the Subcontractor agrees that the Subcontractor and its related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.

The Subcontractor must ensure that all subcontracts impose obligations on Sub-Subcontractors equivalent to the obligations under these Subcontract clauses.

Industrial relations on all projects undertaken by the JHFJV are managed in compliance with the objectives of the Commonwealth industrial law and the Building Code 2013 (“the Code”). The Subcontractor and any subcontractors engaged by the Subcontractor must also manage industrial relations in compliance with the Code and must allow the JHFJV sufficient access and provide sufficient information to allow the JHFJV to accurately assess the Subcontractor’s compliance. Failure to comply with this clause will constitute a substantial breach of the Subcontract by the Subcontractor and may result in termination of the Subcontract.

Code compliance means that the Subcontractor must follow all relevant legislative requirements and the Code in relation to:

- Section 22 freedom of association;
- Section 23 payment of strike pay;
- Section 24 unlawful industrial action
- Section 25 the management of occupational health and safety related action;
- Section 26 coercion in respect of industrial instruments and superannuation;
- Section 27 provision of personal information; and
- Section 28 right of entry.

Not less than seven (7) days prior to mobilisation of labour to Site, the Subcontractor must provide a copy of the applicable industrial instrument and any unregistered agreement for review in order to demonstrate the Code compliance, including copies of any new or amended industrial agreement proposed to be implemented through the course of the Works.

New Clause 17.27 - Personal Information Protection

Clause 17.27a - Application of Clause

This clause 65 applies only if the Subcontractor deals with Personal Information in the course of



delivering the work under the Subcontract.

Clause 17.27b - Personal Information Custodian

If the Subcontractor is a Personal Information Custodian then the Subcontractor must:

- (i) notify the JHFJV's Representative immediately if the Subcontractor becomes aware of a breach, or possible breach, of the PIP Act; and
- (ii) ensure that the Subcontractor's employees, agents or sub-subcontractors who are required to deal with Personal Information in the course of delivering the work under the Subcontract are aware of, and comply with, the Subcontractor's obligations under this clause.

Clause 17.27c - Breach of PIP Act

A breach of the PIP Act by the Subcontractor is a breach of this Subcontract that entitles the JHFJV to terminate the Subcontract.

Clause 17.27d - Terms Defined in PIP Act

In this clause "Personal Information" and "Personal Information Custodian" have the same meanings as in the Personal Information Protection Act 2004 PIP Act").

New Clause 17.28 - Site Personnel Register

- (a) From the commencement of work under the Subcontract until Practical Completion of the Head Contract, the Subcontractor must maintain a register in the form ('Site Personnel Register') of all individuals who carry out work under the Subcontract on Site.
- (b) The Site Personnel Register must be available for inspection at all times by the JHFJV's Representative.
- (c) The Subcontractor must provide statistical information in the form ('Site Personal Register Summary') to the JHFJV's Representative every 13 weeks and at such other times as the JHFJV's Representative may direct.

New Clause 17.29 – Personal Property Securities Act (PPSA)

17.29.1 For the purposes of this clause 17.29:

- (a) "JHFJV's Personal Property" means all personal property the subject of a security interest granted under this Subcontract; and
- (b) words and phrases used in this clause 17.29 that have defined meanings in the PPS Law have the same meaning as in the PPS Law unless the context otherwise indicates.

17.29.2 If JHFJV determines that this Subcontract (or a transaction in connection with it) is or contains a security interest for the purposes of the PPS Law, the Subcontractor agrees to do anything (including obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) that JHFJV asks and considers necessary for the purposes of:

- (a) ensuring that the security interest is enforceable, perfected and otherwise effective; and/or
- (b) enabling JHFJV to apply for any registration, complete any financing statement or give any notification, in connection with the security interest; and/or
- (c) enabling JHFJV to exercise rights in connection with the security interest.

17.29.3 JHFJV need not give any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA to be given.



17.29.4 The Subcontractor must notify JHFJV as soon as the Subcontractor becomes aware of any of the following:

- (a) if any personal property that does not form part of JHFJV's Personal Property becomes an accession to JHFJV's Personal Property and is subject to a security interest in favour of a third party, that has attached at the time it becomes an accession; or
- (b) if any of JHFJV's Personal Property is located or situated outside Australia or, upon request by JHFJV, of the present location or situation of any of JHFJV's Personal Property.

17.29.5 The Subcontractor must not:

- (a) create any security interest or lien over any of JHFJV's Personal Property whatsoever (other than security interests granted in favour of JHFJV);
- (b) sell, lease or dispose of its interest in JHFJV's Personal Property;
- (c) give possession of JHFJV's Personal Property to another person except where JHFJV expressly authorises it to do so;
- (d) permit any of JHFJV's Personal Property to become an accession to or commingled with any asset that is not part of the Works; or
- (e) change its name without first giving JHFJV 15 business days notice of the new name or relocate its principal place of business outside Australia.

17.29.6 Everything the Subcontractor is required to do under this clause 17.29 is at the Subcontractor's expense.

17.29.7 Neither JHFJV nor the Subcontractor will disclose information of the kind mentioned in section 275(1) of the PPSA and the Subcontractor will not authorise, and will ensure that no other party authorises, the disclosure of such information. This clause 17.29.7 does not prevent disclosure where such disclosure is required under section 275 of the PPSA because of the operation of section 275(7) of the PPSA.



Schedule C - Approved Security

APPROVED FORM OF UNCONDITIONAL UNDERTAKING

At the request of [Insert Details Here] (ABN [Insert Details Here]) (“the Subcontractor”) and in consideration of John Holland Pty Ltd (ABN 11 004 282 268) and Fairbrother Pty Ltd Ltd (ABN 51 009 510 561) together the John Holland Fairbrother Joint Venture (ABN 37 234 024 467) (“JHFJV”) accepting this undertaking in respect of the contract for [insert identification of work], [insert name of Financial Institution] unconditionally undertakes to pay on demand any sum or sums which may from time to time be demanded by JHFJV to a maximum aggregate sum of \$ [insert \$ and amount in words].

The undertaking is to continue until notification has been received from JHFJV that the sum is no longer required by JHFJV or until this undertaking is returned to the Financial Institution or until payment to JHFJV by the Financial Institution of the whole of the sum or such part as JHFJV may require.

Should the Financial Institution be notified in writing, purporting to be signed by or for and on behalf of JHFJV that JHFJV desires payment to be made of the whole or any part or parts of the sum, it is unconditionally agreed that the Financial Institution will make the payment or payments to JHFJV forthwith without reference to the Subcontractor and notwithstanding any notice given by the Subcontractor not to pay same.

Provided always that the Financial Institution may at any time without being required so to do pay to JHFJV the sum of \$ [insert \$ and amount in words] less any amount or amounts it may previously have paid under this undertaking or such lesser sum as may be required and specified by JHFJV and thereupon the liability of the Financial Institution hereunder shall immediately cease.

DATED at [insert details here] this [insert details here]



Schedule D - Deed of Guarantee & Indemnity

THIS DEED is made on the [insert] of [insert] 20[insert].

BETWEEN	John Holland Pty Ltd (ABN 11 004 282 268) and Fairbrother Pty Ltd Ltd (ABN 51 009 510 561) together the John Holland Fairbrother Joint Venture (ABN 37 234 024 467) (" JHFJV ")
AND	[insert Parent Company name and ABN] (" Guarantor ")
AND	[Insert Details Here] ABN [Insert Details Here] (" Subcontractor ")

RECITALS:

- C. By the contract [insert short description of subcontract and date] ("Subcontract") the Subcontractor agreed to carry out the work described in the Subcontract ("Works").
- D. JHFJV required the Subcontractor to provide this Deed to JHFJV as a condition of entering into the Subcontract.

OPERATIVE:

1. Guarantee

- a. The Guarantor unconditionally and irrevocably guarantees to the JHFJV that the Subcontractor will perform and observe all of the Subcontractor's obligations under the Subcontract and will discharge all of its liabilities under the Subcontract.
- b. In the event of default by the Subcontractor, the Guarantor covenants with JHFJV to perform and observe all of the Subcontractor's obligations under the Subcontract and to discharge all of the Subcontractor's liabilities under the Subcontract or to cause those obligations to be performed and observed or liabilities to be discharged.

2. Indemnity

The Guarantor, as a separate, additional and primary liability, unconditionally and irrevocably will indemnify and keep indemnified JHFJV from and against all losses, damages, costs and expenses of any kind which may be suffered or incurred by JHFJV by reason or in consequence of:

- a. default by the Subcontractor in performing or observing its obligations or discharging its liabilities under the Subcontract;
- b. JHFJV attempting to enforce any of the Subcontractor's obligations under the Subcontract; or
- c. JHFJV attempting to enforce or preserve any of its rights under this Deed.

3. Absolute Liability

The liability of the Guarantor under this Deed will be absolute and will not be subject to the execution of this Deed or any other instrument or document by any person other than the Guarantor, and will not be subject to the performance of any condition precedent or subsequent.

4. No Reduction or Release



- a. The liability of the Guarantor under this Deed will not be affected by any act, omission, matter or thing that would otherwise operate in law or in equity to reduce or release the Guarantor from that liability.
- b. Without limitation, that liability will not be affected by:
 - i. the granting by JHFJV to the Subcontractor of time, waiver, indulgence or concession or the making of any composition or compromise with the Subcontractor;
 - ii. JHFJV forbearing to enforce or neglecting to exercise any right against the Subcontractor;
 - iii. any laches, acquiescence or other act, neglect, default, omission or mistake by JHFJV;
 - iv. any variation of any of the obligations and liabilities under the Subcontract, made either with or without the knowledge of the Guarantor;
 - v. the release of any of the obligations and liabilities under the Subcontract; or
 - vi. any failure by JHFJV to disclose to the Guarantor any fact, circumstance or event relating to the Subcontractor at any time prior to or during the currency of this Deed.

5. Payments Without Deduction

All payments by the Guarantor under this Deed are to be free of any set-off or counterclaim and without deduction or withholding.

6. Insolvency of Subcontractor

The Guarantor will not prove in the insolvency of the Subcontractor for any amount owing by the Subcontractor other than upon the basis that it irrevocably directs the payment of the proceeds of any such proof to JHFJV to the full extent of the amount then required to satisfy the obligations and liabilities under the Subcontract.

7. Claim on the Guarantor

JHFJV will not be required to make any claim or demand upon the Subcontractor or to enforce any right, power or remedy against the Subcontractor in respect of its obligations and liabilities under the Subcontract before making any claim or demand on the Guarantor under this Deed.

8. Severability

Any provision of this Deed which is illegal, void or unenforceable will be ineffective to the extent only of the illegality, voidness or unenforceability without invalidating the remaining provisions of this Deed.

9. Settlement Conditional

- a. Any settlement between the Guarantor and JHFJV will be conditional upon any security or payment given or made to JHFJV by the Subcontractor, the Guarantor or any other person in relation to the obligations and liabilities under the Subcontract not being avoided, repaid or reduced by virtue of any provision or enactment relating to bankruptcy, insolvency or liquidation for the time being in force.
- b. In the event of any avoidance, repayment or reduction, JHFJV may recover the value or amount of the security or payment avoided, repaid or reduced from the Guarantor subsequently, as if the settlement or discharge had not occurred.

10. Governing Law

This Deed is to be governed by and construed in accordance with the laws of the State or Territory which governs the Subcontract.

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



SIGNED as a deed.

THE COMMON SEAL of [insert name of Parent Company and ABN];

.....
was affixed by the authority of a resolution of the Board of Directors in the presence of a Director and the Secretary who certify that they are the proper officers to affix the Seal and in the presence of:

.....
(Signature of Secretary/Director)

.....
(Signature of Director)

.....
(Name of Secretary/Director in Full)

.....
(Name of Director in Full)



Schedule E - Final Account and Release

TO: John Holland Pty Ltd (ABN 11 004 282 268) and Fairbrother Pty Ltd Ltd (ABN 51 009 510 561) together the John Holland Fairbrother Joint Venture (ABN 37 234 024 467) (“**JHFJV**”)

FROM: [Insert Details Here] ABN [Insert Details Here] "Subcontractor")

PROJECT: Royal Hobart Hospital Redevelopment]

SUBCONTRACT NUMBER/REFERENCE: [Insert Details Here]

NOW IT IS HEREBY AGREED as follows:

1. Reconciliation of Account:

Original Subcontract Sum	\$	-----
Variations to the Subcontract Sum	\$	-----
Adjusted Final Subcontract Sum	\$	-----
Less Cash Retention	\$	
Less Previous Payments	\$	
(Excluding Retention but including any Statutory Tax Deductions)	\$	-----
BALANCE OWING	\$	-----

2. Security:

Cash Retention held	\$	-----
Value of Bank Guarantees/Bonds held:	\$	-----

3. The Subcontractor agrees that [Insert appropriate value of Cash Retention and/or details of relevant Bank Guarantees/Bonds] (in words) (\$[insert]) representing 50% of the Security as described in clause 2 above is due for release upon Completion of the project.
4. The Subcontractor agrees that [Insert appropriate value of Cash Retention and/or details of relevant Bank Guarantees/Bonds] (in words) (\$[insert]) representing 50% of the Security as described in clause 2 above is due for release upon the Subcontractor having complied with its obligations under the Subcontract or expiration of the Defects Liability Period of the Head Contract, whichever is later.
5. The Subcontractor hereby:
 - a. acknowledges [insert] dollars (in words) (\$[insert]) (being the Balance Owing) as being the final payment (apart from the release of any Cash Retention as per clauses 3 and 4 above) due to the Subcontractor in full and final settlement of all claims of any nature, whether past, present or future, arising in any way out of the Subcontract;
 - b. to the extent permitted by law, releases and holds harmless JHFJV from all claims of any nature arising out of, or in any way associated with, the Subcontract;
 - c. indemnifies and agrees to keep indemnified JHFJV from and against all claims of any nature arising out of, or in any way associated with, the Subcontract;

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



- d. confirms that all wages and allowances due and payable to any and all employees of the Subcontractor who were at any time engaged by the Subcontractor on the works under the Subcontract have been paid in full;
- e. confirms that all its statutory requirements, including but not limited to superannuation, long service leave provisions, public liability and workers compensation insurance premiums, payroll tax and tax remittance requirements, have been paid in full;
- f. declares that it has provided to JHFJV all warranties, guarantees, operating manuals, maintenance manuals, as-built drawings, quality assurance documentation and other documentation required under the Subcontract or as reasonably required by JHFJV; and
- g. if required by JHFJV it will furnish a statutory declaration at any time hereafter in the form required by clause 12.17 of the Subcontract notwithstanding the signing of this agreement.

Signed as a duly authorised Representative of the Subcontractor:

(Signature)

(Position)

(Print Name)

(Date)



Schedule G - Form of Warranty

THIS DEED is made the _____ day of _____ Month YYYY

BETWEEN:

1. The Crown in Right of Tasmania represented by the Department of Health and Human Services (the “Principal”)
2. John Holland Pty Ltd and Fairbrother Pty Ltd together the John Holland Fairbrother Joint Venture (JHFJV) in the State of Tasmania (hereinafter with its successors, substitutes and permitted assigns called the “JHFJV”), and
3. The party described in Item 1 of the Annexure (hereinafter with its successors, substitutes and permitted assigns called the “Warrantor”)

RECITALS:

- E. The Principal and the JHFJV have entered into the Contract described in Item 2 of the Annexure (the “Contract”) pursuant to which the JHFJV has agreed to perform the work described in Item 3 of the Annexure (the “Works”).
- F. The Warrantor has agreed to supply or to supply and install the goods described in Item 4 of the Annexure (the “Equipment”) for the Works.
- G. The Warrantor has agreed to give the warranties and indemnity herein contained to the Principal and the JHFJV.

OPERATIVE:

1. The Warrantor hereby warrants to the Principal and the JHFJV:
 - a. that the Equipment shall be in accordance with the quality and/or standard stipulated by the specification described at Item 8 of the Annexure and to the extent that the quality and/or standard is not so stipulated, shall be of merchantable quality and be fit for the purpose or purposes for which it is required; and
 - b. on the terms more particularly set out in Item 5 of the Annexure with respect to the Equipment.

The above warranties shall be in addition to and shall not derogate from any warranty implied by law in respect of the Equipment.

2. The Warrantor covenants with the Principal and the JHFJV to replace and/or make good to the reasonable satisfaction of the Principal and the JHFJV but at the expense of the Warrantor, so much of the Equipment as within the period described in Item 6 of the Annexure shall be found to be of a lower quality or standard than that referred to in clause 1 or shall show deterioration to such extent that in the opinion of the Principal or the JHFJV the Equipment ought to be made good or replaced in order to achieve fitness for the purpose or purposes for which it is required and whether this is on account of utility, performance, appearance or otherwise.
3. The Warrantor further covenants with the Principal and the JHFJV to meet the cost of any work necessary to any part of the Works to enable the requirements of clause 2 of this Deed to be carried out and/or necessary to make good the Works afterwards.
4. The decision of the Principal as to:
 - a. the Equipment failing to comply with quality or standard as abovementioned or otherwise failing to comply with the foregoing warranties;

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



- b. as to the extent of replacement and/or making good which shall be necessary to properly remedy the defects; or
 - c. as to the extent of any work required under clause 2 of this Deed; shall be notified in writing to the Warrantor and shall be final and binding upon the parties.
5. The Warrantor further covenants that, within a reasonable time after written notification to the Warrantor of a decision of the Principal or the JHFJV as to work required as aforesaid, the Warrantor will replace and/or make good the Equipment or parts thereof and/or meet the cost of any work required by clause 2 of this Deed, whether or not any dispute or difference exists between the parties hereto, and the Warrantor hereby agrees to indemnify and keep indemnified the Principal and the JHFJV against any direct loss or damages of any nature whatsoever sustained by them or either of them, directly or indirectly arising out of any breach of the warranties, covenants or other conditions hereby given by the Warrantor howsoever arising.
 6. If, within the time prescribed in clause 5 (and the Principal's decision as to what is a reasonable time in any case shall be final and binding upon the parties), the Warrantor shall fail to fully and properly carry out the work, the JHFJV or the Principal may carry out such work, or cause the same to be carried out, and the Warrantor hereby agrees to indemnify and keep indemnified the JHFJV and the Principal against all the costs and expenses of and incidental to the carrying out of the work and also against any direct loss or damages sustained by the JHFJV or the Principal as a result of the Warrantor's failure as aforesaid.
 7. The provisions of this Deed shall come into operation in favour of the Principal and the JHFJV as soon as it has been executed by the Warrantor, notwithstanding that it may not have been or may not thereafter be executed by the Principal or the JHFJV.
 8. Nothing contained in this Deed is intended to nor shall render the Principal in any way liable to the Warrantor in relation to any matters arising out of the JHFJV or otherwise.
 9. **Governing Law and Jurisdiction**
This Deed shall be construed in accordance with the law of the State or Territory in which the Works are situated and the parties irrevocably submit to the jurisdiction of the Courts of that State or Territory.
 10. **Notices**
 - a. A party may give a notice required under this Deed by delivering such notice to the address provided in Item 7 of this Annexure. Such notice may be delivered by hand.
 - b. If a party gives the notice by post the notice will be taken as given on the second business day in the place of delivery after the notice is posted.
 - c. The parties may give notice of another address (within Australia) to the other party and the new address shall be the address for service of the party for the purpose of this clause.
 11. **Non-Revocation of Power of Attorney**
Each of the Attorneys executing this Deed states that at the time of execution of this Deed, he has received no notice of revocation of the Power of Attorney pursuant to which he has executed this Deed.
 12. **Execution as a Deed**
The parties agree that this instrument is and shall operate as a Deed.



ANNEXURE

- ITEM 1: The Warrantor: **[Insert Details Here - Subcontractor]**
- ITEM 2: The Contract: **[Insert Details Here – contract reference]**
(Recital A)
- ITEM 3: The Works: **[Insert Details Here – scope description]**
- ITEM 4: The Equipment: **[Insert Details Here]**
(Recital B)
- ITEM 5: Detailed Warranty of Warrantor: **[Insert Details Here]**
(Clause 1)
- ITEM 6: Period of Years: **[Insert Details Here]** years from the Completion of the Works as defined in the JHFJV Contract
(Clause 2)
- ITEM 7: Address for notices: **[Insert Details Here]**
- ITEM 8: Details of Specification **[Insert Details Here]**
(Clause 1.1):

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



EXECUTED AS A DEED:

SIGNED, SEALED AND DELIVERED

on the _____ day of _____ Month YYYY

for and on behalf of the Principal by an authorised officer in the presence of:

(Name of Witness)

(Signature of authorised officer)

(Signature of Witness)

(Name of authorised officer)

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

by **JOHN HOLLAND PTY LTD (JHFJV)**

ACN 004 282 268

by its duly appointed attorney

(Name of attorney in Full)

(signature of Attorney)

who is duly authorised to sign by Power of Attorney dated [Click here to enter a date.](#) In the presence of:

(Name of witness in Full)

(signature of Witness)

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

By **FAIRBROTHER PTY LTD**

(JHFJV)

ACN 009 510 561

In accordance with s.127 of the Corporations Act 2001

(Signature of Director)

(Signature of Director / Secretary)

(Name of Director in full)

(Name of Director / Secretary in full)

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



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

By [Insert Details Here] (Warrantor)

ACN _____

in accordance with s.127 of the Corporations Act 2001

(Signature of Director)

(Signature of Director / Secretary)

(Name of Director in full)

(Name of Director / Secretary in full)



Schedule H - Scope of Works Description

1. [Insert details here]

2. Specification

[Insert Details Here]



3. Drawings

[Insert Details Here]



4. Pricing Schedule (Bill of Quantities; Schedule of Prices or Rates)

a. [insert details here]



5. Programming Requirements

5.1 PROGRAMMING

- a. A program of the Subcontractor's activities shall conform to the details and the requirements John Holland Fairbrother Joint Venture (JHFJV) Head Contract Construction Programme and shall include such items as shop drawings, approvals and off-site manufacturing activities, lead times, shop testing and the like as well as all on-site activities.
- b. A program of the Subcontractor's Activities shall identify:
 - i. each discrete component of the work under the Subcontract;
 - ii. each item of work or activity, including its planned commencement dates and completion dates;
 - iii. all the interdependencies existing between on and off site activities including testing and commissioning;
 - iv. the sequence of all major activities;
 - v. the net time and float time of all activities;
 - vi. the sequence and duration of activities constituting the critical path and the interrelation ship between such activities;
 - vii. procurement times required for key elements of work under the Subcontract
 - viii. completion or procurement of manuals, as built drawings, shop drawings, records, certificates and other like documents;
 - ix. any other information requested in writing by JHFJV;
- c. The Subcontractor shall allow to regularly update this program as required by JHFJV.
- d. Should the Subcontractor falls behind his programme or otherwise becomes late and, in JHFJV's opinion, may not complete the works by his Completion date, the Subcontractor shall increase his manpower, etc. and or work overtime to catch up on lost time at his own cost



5.2 Date for Completion and Liquidated Damages

Stage	Completion Date	JHFJV's Delay for Damages for late completion	Principal's liquidated damages for the period 0 days after the Date for Completion to the date 60 days thereafter:	Principal's liquidated damages for the period from 60 days after the Date for Completion:
[Insert Details Here]	[Insert Details Here]	[Insert Details Here]	[Insert Details Here]	[Insert Details Here]

Note:

- a. All amounts are exclusive of GST.



6. Design Brief and Other Documents

6.1 [Insert Details Here]

6.2



Schedule I - Project Conditions

1. Preliminaries

1.1 Facilities

Facilities and services to be provided, if required

NOTE: EVERY LINE IN THE SCHEDULE MUST BE COMPLETED. IF A LINE IS NOT COMPLETED THE OBLIGATION WILL BE ON THE SUBCONTRACTOR.

Item	Description	Supplied By the JHFJV	Supplied by Subcontractor
A - Temporary Services		[Insert 'x' in each box to reflect scope of works obligations]	[Insert 'x' in each box to reflect scope of works obligations]
1	Electricity – 240v	<input type="checkbox"/>	<input type="checkbox"/>
2	Electricity – 415v – 3 phase	<input type="checkbox"/>	<input type="checkbox"/>
3	Distribution Sub-boards	<input type="checkbox"/>	<input type="checkbox"/>
4	Access Lighting	<input type="checkbox"/>	<input type="checkbox"/>
5	Other lighting, leads, etc.	<input type="checkbox"/>	<input type="checkbox"/>
6	Water at fixed points	<input type="checkbox"/>	<input type="checkbox"/>
7	Temporary Access	<input type="checkbox"/>	<input type="checkbox"/>
B – Scaffolding			
1	Perimeter Scaffolding	<input type="checkbox"/>	<input type="checkbox"/>
2	Bird Cage	<input type="checkbox"/>	<input type="checkbox"/>
3	Mobile Scaffold	<input type="checkbox"/>	<input type="checkbox"/>
4	Temporary handrails	<input type="checkbox"/>	<input type="checkbox"/>
5	Elevated Work Platforms	<input type="checkbox"/>	<input type="checkbox"/>
6	Boom Lifts	<input type="checkbox"/>	<input type="checkbox"/>
C – Hoisting			
1	Tower Cranes	<input type="checkbox"/>	<input type="checkbox"/>
2	Hoist	<input type="checkbox"/>	<input type="checkbox"/>
3	Goods Lift	<input type="checkbox"/>	<input type="checkbox"/>
4	Mobile Crane	<input type="checkbox"/>	<input type="checkbox"/>
5	Loading and Unloading	<input type="checkbox"/>	<input type="checkbox"/>
D – Construction Plant			
1	All construction plant and	<input type="checkbox"/>	<input type="checkbox"/>

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



	equipment		
E – Telephones			
1	Telephone	<input type="checkbox"/>	<input type="checkbox"/>
2	ADSL/Modem	<input type="checkbox"/>	<input type="checkbox"/>
3	Fascimile	<input type="checkbox"/>	<input type="checkbox"/>
F – General			
1	Lunch Room	<input type="checkbox"/>	<input type="checkbox"/>
2	Toilets	<input type="checkbox"/>	<input type="checkbox"/>
3	Storerooms and Sheds	<input type="checkbox"/>	<input type="checkbox"/>
4	Cleaning of above facilities	<input type="checkbox"/>	<input type="checkbox"/>
5	Shower rooms	<input type="checkbox"/>	<input type="checkbox"/>
6	Hand wash facilities	<input type="checkbox"/>	<input type="checkbox"/>
7	Storerooms	<input type="checkbox"/>	<input type="checkbox"/>
8	First aid stations/kits	<input type="checkbox"/>	<input type="checkbox"/>
9	Prototypes and Samples	<input type="checkbox"/>	<input type="checkbox"/>
10	Set Out	<input type="checkbox"/>	<input type="checkbox"/>
11	Shop Drawings	<input type="checkbox"/>	<input type="checkbox"/>
12	Daily clean-up of Subcontract Works	<input type="checkbox"/>	<input type="checkbox"/>
13	Rubbish Bins	<input type="checkbox"/>	<input type="checkbox"/>
14	Final clean of Subcontract works	<input type="checkbox"/>	<input type="checkbox"/>
15	Protection of Subcontract Works	<input type="checkbox"/>	<input type="checkbox"/>
16	Consumables eg tea, coffee, sugar, milk, disposal cups and spoons, hand towels, toilet papers, deodorants, etc	<input type="checkbox"/>	<input type="checkbox"/>
17	Temporary fencing/hoarding of Subcontract Works	<input type="checkbox"/>	<input type="checkbox"/>
18	Site Induction - Subcontractor to make direct payment to Master Builder of Tasmania (MBT)	<input type="checkbox"/>	<input type="checkbox"/>
19	Personal protection equipment	<input type="checkbox"/>	<input type="checkbox"/>
20	State Government Levy	<input type="checkbox"/>	<input type="checkbox"/>
21	Local Authority Permits	<input type="checkbox"/>	<input type="checkbox"/>
22	Traffic Management	<input type="checkbox"/>	<input type="checkbox"/>



1.2 THE SITE

The site for the new building is at Royal Hobart Hospital - rear of Building B, Campbell Street, Hobart.

1.3 SITE LIMITATIONS

Site access shall be via the of Campbell Street's entrance.

1.4 UTILITIES

All utility requirements shall be arranged and installed by the Subcontractors.

1.5 SCAFFOLDING

The Subcontractor is required to provide and erect, at their own cost, whatever scaffolding is necessary for the execution of their Works. Such scaffolding is to be constructed in accordance with all applicable Regulations and Standards and all certification obtained as may be required.

Ladder access to scaffold working platforms and temporary access to floors or formwork decks will not be permitted. Access to scaffold working platforms and temporary access to floors or formwork decks shall be via a scaffold stair access only, unless otherwise agreed by the JHFJV.

1.6 HOISTING AND CRANAGE

All other hoisting equipment and crange required shall be provided by the Subcontractor.

Loading and unloading on site shall be by the Subcontractor. It is also the Subcontractor's responsibility for packing and /or crating of goods for hoisting. Wherever possible, loose or materials in small packages for hoisting with a crane, shall be palletised or otherwise consolidated for hoisting.

All horizontal movement of goods shall be the responsibility of the Subcontractor.

1.7 STORAGE

a. Materials

Storage is limited on the site. Storage areas will be made available on site at different locations and at different times during the construction. Any storage requirements will be agreed and will be at the discretion of the JHFJV. The Subcontractor must arrange site deliveries with the JHFJV.

b. Tools

The JHFJV takes no responsibility for the Subcontractor's tools. The Subcontractor must arrange for a lockable toolbox to be held on site or remove his tools daily from the site. The cost of these requirements is deemed to be included in the subcontract price.

1.8 SITE VEHICLES / TRAFFIC MANAGEMENT

The Subcontractor's vehicles will not be allowed to be parked on Site. Vehicles will be allowed access to the site to unload and load. The cost of these requirements is deemed to be included in the Subcontract Price.



The JHFJV has developed a Traffic Management Plan for the works. The Subcontractor shall ensure all vehicle movements are carried out in accordance with this plan. The plan is included in the Subcontract management plan.

1.9 SITE OFFICES, MESSING AND TOILETS

The Subcontractor shall provide amenities, ablution facilities and change sheds as required by the relevant awards for the housing of employees, including the cost of installing electric power, water and drainage to these facilities.

The Subcontractor provide all site consumables eg tea, coffee, sugar, milk, disposal cups and spoons, hand towels, toilet papers, deodorants, for their own employees.

1.10 SITE HOURS, OVERTIME AND WORKING DAYS

Site Hours, Overtime and Working Days are in accordance with that specified in Schedule B.

If it is necessary for the Subcontractor to work on other than ordinary working days or outside normal working hours, the Subcontractor shall give 3 days' notice of the intention to do so and obtain prior approval.

1.11 NUISANCE

The Works are to be carried out in and around existing buildings in a manner so as to cause the least possible inconvenience to the public and to adjacent owners/occupiers and in accordance with the Planning Permit.

1.12 DISRUPTION OF SERVICES

The Subcontractor shall give at least four (4) weeks' notice of disruptions to services (e.g. power, water, telephone, gas etc).

The Subcontractor shall only modify or remove existing structures or services within the site in accordance with the construction program and the scope of work. The Subcontractor shall notify the JHFJV of any connection, disconnection or interference with existing services within and outside the site.

Should it be necessary for the Subcontractor to provide temporary services or to disconnect or re-locate services, then the Subcontractor shall seek prior approval, setting out the nature of the work and the duration of the disconnection and/or re-location.

Where work is associated with an existing service, whether it is;

- i. within the site or outside of the site,
- ii. shown on the approved construction documents or should have been shown on the approved construction documents, and
- iii. evident on the site or has been pointed out by the JHFJV, all costs associated with these Works shall be at the Subcontractor's expense.

1.13 PUBLICITY AND CONFIDENTIALITY



The Subcontractor is not authorised to; furnish any information, issue any document or other written or printed material concerning the Work under the Subcontract, for publication in the media without the prior written approval. The Subcontractor must refer any enquiries from the media concerning the Works to the JHFJV.

1.14 SHOP DRAWINGS, PROCESS AND PROCEDURES

The minimum requirements for information to be shown on all shop drawings to be submitted for review and approval will be referred to in the relevant Design Consultant's Technical Specification.

For the initial shop drawing submission, the Subcontractor shall supply 3 prints and 1 electronic copy with commentary, if required.

Upon review, where it is determined that the shop drawings require additional information or where sufficient detail is not provided for the co-ordination and construction of the Works, then the JHFJV may return such documents and require re-submission. In this event, the Subcontractor shall not be entitled to any additional time and/or cost connected with any delay in the execution of the Works by reason of the return of the document for redrafting.

Where in the circumstance, the shop drawings are deemed fit for purpose, the JHFJV may provide comments for possible inclusion into the final drawings. The final shop drawings marked accordingly, will then be submitted for approval. Approval by the JHFJV, will consist of a marked up and dated drawing annotated 'For Construction'.

1.15 DOCUMENTS TO BE SUPPLIED BY THE SUBCONTRACTOR

Where required by the Specifications or elsewhere under this Subcontract, not less than five (5) days prior to when, in the opinion of the JHFJV, completion shall be achieved, the Subcontractor shall supply in draft format, three (3) hard copies and one (1) electronic copy of the following documents:

- a. 'As constructed' drawings – AutoCAD or as required by the Principal; and
- b. Operation Manuals - Microsoft Word or in a format acceptable to the Principal
- c. Maintenance Manuals containing the information requested in the Specification- Microsoft Word or in a format acceptable to the Principal; and
- d. All guarantees and warranties required by the Subcontract; and
- e. Site Personnel Register (Clause 66.1) required by the Subcontract; and
- f. Authority Approvals and Certificates; and
- g. Test Certificates; and
- h. Asset Management System (if applicable) – "in a format acceptable to the Principal; and
- i. Building Information requirements- compatible to "Revit or in a format acceptable to the Principal.

for review and comment.

Following approval of the draft submission, the Subcontractor shall provide three (3) hard copies and one (1) electronic copy of the final documentation. For the purposes of clarity, 'as constructed' drawings shall include all aspects of the Works in accordance with the requirements set out in the Specification or as a minimum, the following:

- Details of all in ground services, indicating alignment, depth from finished surface and materials used.
- Details of all services, with particular attention to those services 'built-in' or covered up.



- Locations of valves, isolating mechanisms and the like.

Prior to Completion of the whole of the subcontract Works or, if applicable, of each separable part, the Subcontractor shall carry out all inspections, testing and commissioning and shall provide a Statement of Verification that certifies that the work, 'as constructed' conforms to the Subcontract.

1.16 MAINTENANCE MANUALS

The maintenance manuals must include proper and adequate instructions for the maintenance of the relevant plant or equipment, including but not limited to:

- i. a general description of the plant, equipment or building element;
- ii. emergency procedures;
- iii. a fully detailed preventative maintenance procedure and maintenance schedule;
- iv. operating instructions;
- v. relevant manufacturer's maintenance information;
- vi. recommended spare parts and contracts for supply;
- vii. as-installed drawings; and
- viii. methods for fault identification.

The Subcontractor must submit draft maintenance manuals for review prior to and as a condition of, Completion.

Draft maintenance manuals must identify those required activities in respect of the relevant plant and equipment within the first month following completion and identify who is responsible for the performance of the maintenance. Final maintenance manuals must be in compliance with the Principal's requirements and the requirements of the JHFJV relating to both form and content.

This requirement is to be read in conjunction with the Specifications and where there is a conflict, the Specifications shall take precedence.

1.17 TRAINING

All employees working on the Works shall be properly trained for the work they are engaged to undertake. Where, for example, a requirement for specialist training and/or certification or licensing exist, such training, certification and/or licensing must be completed prior to undertaking the work. Evidence of accomplishment shall be produced on request.

Where personnel are not certified or trained for the Works those personnel may be removed to undertake other Works that they are qualified to do.

1.18 OTHER INFORMATION TO BE SUPPLIED BY THE SUBCONTRACTOR

The Subcontractor shall record workforce details on site, by trade, on a daily basis. A register shall also record lost time due to any cause including; sickness, accident, industrial relations activities, absenteeism or due to inclement weather.

These reports shall be submitted to the JHFJV on a daily basis.

The Subcontractor shall advise the number and type of resources required, in a manpower program required to complete their work in accordance with the construction program.



1.19 INFORMATION SUPPLIED BY THE JHFJV

The following documents are available for inspection at the office of the JHFJV.

- a. Planning Permit
The Principal has obtained a Planning Permit which is included as Associated Documents. The Subcontractor shall ensure that all Works are carried out in accordance with the conditions of the Planning Permit.
- b. Project Management Plan and Associated Sub-Plans
The JHFJV has developed a Project Management Plan (PMP) and Associated Sub-Plans for the Works. The Subcontractor shall ensure that all works are carried out in accordance with the PMP and Associated Sub-Plans. In the event that any part of the Subcontract Works is not addressed in the PMP and Associated Sub-Plans, the Subcontractor shall submit a Process Procedure for approval and incorporation into the PMP and Associated Sub-Plans, prior to commencement of the Works.
- c. Geotechnical Information
Where applicable for the particular subcontract work package, the geotechnical information detailed in Section 3 Associated Documents, represents all the information currently available to the JHFJV. The Subcontractor may use this information but any interpretation and assessment is the Subcontractor's responsibility. The Subcontractor shall be responsible for any further geotechnical investigations that may be required. Tenderers may undertake their own investigations on site but will need to coordinate site access with the JHFJV.
- d. Contamination Management
A Contamination Management Plan has been prepared for this Project. The Subcontractor shall ensure that all Works are carried out in accordance with the conditions of Contamination Management Plan.
- e. Existing As Built Services
The JHFJV will ensure that design information of all existing as built services on the site are clearly shown on the drawings and/or available to the subcontractor.

1.20 INTERPRETATION OF DRAWINGS

The Subcontractor must check all relevant dimensions on site before proceeding with their activities.

The layout of plant, equipment, ductwork, pipework and cabling as shown on the drawings and specifications is to be interpreted as diagrammatic purposes only. All measurements and other information concerning the Works which are required to effectively carry out the Subcontractor's activities must be obtained by the Subcontractor.

The JHFJV will not be liable for any claim by the Subcontractor for any costs, expenses or damages that it suffers or incurs resulting from its failure to obtain measurements and other information concerning the Works.

1.21 Not used

1.22 Not used

1.23 PENETRATIONS

The Subcontractor is to note that all lift core panels, walls associated with fire rated exits and columns will generally be in precast concrete or core filled blockwork. Any penetrations required by



the Subcontractor shall be shown on shop drawings or otherwise communicated to the precast concrete supplier in advance of their manufacturing schedule.

The Subcontractor shall have no claims under this contract for penetrations required to be provided on site as a failure to communicate their requirements in advance.

a. General

Accurately set out the work, position and install permanent sleeves and embedments of conduit and pipe sections in floors, walls, beams and columns in conjunction with the fixing of formwork and placing of concrete.

Supply with clear accurate dimensions the locations of penetrations in the insitu structure and in masonry elements for; ductwork, dampers, louvres and openings

required by this Subcontract for incorporation by other trades. Check all penetrations and openings prior to placing of concrete.

b. Tolerances

From set out points given by others, set out; core holes, sleeves and embedments to maintain a maximum tolerance as nominated within the technical specification, design documents or Australian Standards from the true position relative to; walls, beams and columns. Provide all necessary; set out points, survey equipment, plumb bobs, lines, etc., and firmly secure all sleeves and embedments to prevent movement during the pouring of concrete or installation in plasterboard walls and ceilings.

c. Embedments

Conduits and pipes shall be cast into the concrete floor slab position as noted on the drawings, to the specified tolerances, appropriately braced and secured to minimise any movement which may take place during construction.

Where conduits and pipes pass across movement joints, provision will be made for movements in the slabs by means of sleeves or otherwise, to the approval of the JHFJV.

d. Making Good

Where conduits, pipes and/or ducts, etc., penetrate; walls, beams, slabs, columns and the like through openings provided in the structure, either by this Subcontract or by other trades to suit the requirements of this Subcontract, all making good, and filling between pipes and sleeves, core holes or penetrations will be carried out by this Subcontractor to the JHFJV's approval and in accordance with the Specifications.

e. Sequence

In the event that any sleeves; penetration blockouts, cast-ins, embedments, etc., are not provided and installed, when and as required, or are not adequately supported in the manner and to the accepted tolerances required, then this Subcontract will, after receipt of approval to proceed from the JHFJV, be required to rectify the deficiency. This includes; protection of adjacent Works, coring, cutting, chasing and making good on completion without any additional cost or time to the Subcontract.

f. Protection



In addition to the provisions elsewhere in this document, the Subcontractor will be required to provide and maintain in position at all times; secure and adequate covers to all penetrations, corings or sleeves and the like provided to suit their work under the subcontract. This applies to concrete slabs in trafficable areas and areas where any member of the construction workforce could be injured by the lack of an adequate and secure cover.

The Subcontractor will provide, in addition to the requirements of the General and Special Conditions of Contract and the Specification; safety fencing, signage, signage lighting, etc., to open excavations as required by the relevant Acts and Regulations.

1.24 FIRE RATING

Penetrations, openings, chases, blockouts and the like made for the use by this Subcontract or by other subcontracts, or made by this Subcontractor for the proper installation of their work within the building, shall be treated by the Subcontractor to maintain the fire resistance level of; walls, floors, ceilings, columns, roofs, shafts, etc. in accordance with the requirements of the B.C.A. and Specifications.

Where the Subcontractor treats any surface or encloses any part of their Works so as to provide or maintain fire integrity or fire isolation the requirements of the B.C.A. must be met.

This Subcontractor shall, prior to commencement of work on site, submit their proposed methods for fire rating all components of this installation, including penetrations, and shall submit full details for approval.

Following approval in principle of the methods by the Subcontractor shall carry out all treatments and arrange certificate of the Works confirming compliance with the B.C.A.

The Subcontractor shall provide evidence of such certification prior to Completion.

1.25 ACOUSTICS

Penetrations, openings, chases, blockouts and the like made for the use of this Subcontract by others, or made by this Subcontractor for the proper installation of their work within the building, shall be treated by this Subcontractor to maintain the acoustic integrity of elements (walls, floors, ceilings, columns roofs, shafts, etc.) as nominated in the drawing specification and/or required by Part F5 of the B.C.A.

Where the Subcontractor treats any surface, installs any dampening or encloses any part of their work so as to maintain acoustic integrity, the requirements of the; B.C.A., contract drawings and specification shall be met.

The Subcontractor shall submit full details of all proposed methods of acoustic treatment. Following acceptance in principal of the method for treatment the Subcontractor shall carry out all treatments and provide all acoustic measurements, testing or data to verify that the sound transmission rating (STC) and noise reduction co-efficient (NRC) ratings have been achieved.

This Clause shall be read in conjunction with the acoustic report as may be applicable to this trade.

1.26 POWER DRIVEN FIXINGS



The Subcontractor shall ensure that any tool using controlled explosives to project or propel fixings, whether in the form of a gun or otherwise shall be operated and used only with the prior approval and shall be operated and used:

- a. by a qualified or licensed operator.
- b. employing all necessary safety precautions and in accordance with the manufacturer's recommendations, and
- c. in compliance with all Legislation and Regulations governing their use and storage.

1.27 CUTTING AND CHASING

Wherever possible, all rough in or built in works shall be so coordinated to avoid cutting and chasing at a later stage.

Where necessary all; cutting, chasing and where applicable cutting in of switch blocks and associated making good, including fire rating and acoustic rating, shall be the responsibility of each Subcontractor, taking due consideration to the trade involved.

Under no circumstances shall cutting and chasing be performed without the prior written approval.

1.28 ASBESTOS AND MDF

Under no circumstances shall these materials or materials containing such products be introduced to the site. Alternatives free of these materials are to be substituted at no additional cost to the subcontract price.

If any of these materials are encountered during the execution of the works, the JHFJV shall be informed immediately.

1.29 NOTIFICATION BY SUBCONTRACTOR

A minimum of forty-eight (48) hours notice is required for all inspections by consultants, and local authorities, etc. A minimum of twenty-four (24) hours notice is required for all concrete pours, deliveries of plant, permanent materials, and equipment, etc.

1.30 DIMENSIONAL CONTROL

The JHFJV will establish master survey control. The Subcontractor shall use the services of a professional surveyor to establish and maintain all other set out points during the progress of the Works and provide all assistance and attendance required by the JHFJV for checking of set out points and the Works.

Survey results shall be submitted to the JHFJV as required. Where the Subcontractor elects to use subsidiary datum, bench marks or survey marks established by the JHFJV, the Subcontractor indemnifies the JHFJV against all claims or actions that may arise due to an error in the accuracy of these marks.

The Subcontractor shall check all dimensions before setting out and draw any anomalies to the attention of the JHFJV immediately, so that remedial action may be taken.

The Subcontractor shall check all actual dimensions of openings, etc., on site prior to manufacture of relevant items and shall be responsible for any corrective adjustment to obtain the necessary dimensional control.



1.31 ADMINISTRATION CHARGES

Notwithstanding the General Conditions of Subcontract where the JHFJV carries out any work or purchases any material on the Subcontractor's behalf then the Subcontractor shall be charged at cost, plus an administration fee of 15%.

This also applies on contra-charges for items of work not completed by the Subcontractor.

1.32 CO OPERATION, CO ORDINATION AND PROTECTION

The Subcontractor shall co-operate and co-ordinate his activities with the activities of other subcontractors who's Works are related to those of this Subcontract.

The Subcontractor shall be responsible for any damage to the Works of others occasioned as a consequence of any act or omission by the Subcontractor, its employees or agents. The Subcontractor shall protect all adjacent works as necessary.

Where damage is caused the Subcontractor shall be responsible for the costs of repair which may be recovered as a debt due and owing under the Subcontract.

1.33 CONSTRUCTION LOADS

The Subcontractor shall ensure that no excessive loads are placed on any part of the structure. The JHFJV upon request, will supply to the Subcontractor details of loads for which the various parts of the structure were designed.

The Subcontractor, where requiring to load the structure shall provide; competent, certified, temporary support systems to transfer the excess loads to safe bearing supports. Such details shall be provided to the JHFJV for approval.

1.34 OWNERSHIP OF GOODS MATERIALS AND EQUIPMENT INCORPORATED IN OR TO BE INCORPORATED IN THE PERMANENT WORKS

Upon the receipt of a claim for payment, ownership of the goods shall pass to the JHFJV and thereafter the Subcontractor or his Subcontractor or supplier shall not remove the goods from the custody of the JHFJV.

In addition, the Subcontractor shall provide one of the following:

- a. An Undertaking that the Subcontractor has not and will not enter into a Subcontract for the supply of the goods which contains a "Romalpa" clause, i.e. a clause which allows the supplier to retain ownership of the goods until payment for same is received from the Subcontractor, or
- b. Proof that the goods have been paid for by the Subcontractor

In addition the JHFJV may at their discretion require additional security for the goods in the way of a Bank Guarantee or security retention.

1.35 ABORIGINAL HERITAGE

In the event that an Aboriginal site of cultural significance is located during any surface, subsurface or general landscape disturbance, the Subcontractor shall immediately halt any such works and advise the JHFJV of the discovery. Work shall only recommence at the direction of the JHFJV.



1.36 MEETINGS AND REPORTING

The subcontractor is required to attend site and other meetings as required in order to ensure that; operational and administrative aspects of the Subcontract are complied with, to manage progress against the planned construction timetable and to report on the Subcontract in general.

The subcontractor is required to provide a report on work under the subcontract in sufficient detail commensurate with the complexity of the trade subcontract package



2. Health & Safety Requirements

Definitions:

'Act' means the State and or as applicable Federal parliamentary act (including associated regulations) relating to work health and safety applicable to the relevant State or Territory jurisdictions of Australia in which the Subcontractor carries out the work under the Subcontract.

2.1 Legislation, Regulations, Codes and the JHFJV Policies

Without limiting the generality of any other provision of this Subcontract, the Subcontractor must comply with the provisions of the Act and any Regulations made under the Act, Codes and Draft Codes of Practice including industry standards issued which are relevant to any part of the work under the Subcontract.

In performing the work under the Subcontract, the Subcontractor shall comply with:

- a. all Laws (which shall include the provisions of any Health or Safety Act, regulation or approved Code of Practice) including the harmonised Work Health and Safety (WHS) laws effective from their date of commencement by Government proclamation) ; and
- b. the JHFJV Workplace Safety Management Plan; and
- c. the JHFJV WHS Policy; and
- d. the JHFJV Safety, Quality Environment Risk Management procedures; and
- e. agreed fatigue management guidelines or procedures; and
- f. any policy or procedures of the Principal (communicated to the Subcontractor via the JHFJV or otherwise) relating to safety and public health (including, without limitation, work health and safety); and
- g. any other requirements that the JHFJV may reasonably prescribe with respect to health and safety or related matters, including site safety rules; and
- h. consultation requirements established on the Site for health and safety consultation

2.2 The Subcontractor is for the purposes only of the Act:

- a. the PCBU engaging workers (whether under a contract of employment or otherwise) for the work under the Subcontract; and
- b. an occupier (to the exclusion of Principal and the JHFJV) of the Site and all parts of the Project required to undertake the Works,
- c. and shall undertake all the duties and responsibilities of a PCBU and the occupier of a workplace as set out in the Act or any other legislation or authority requirements relating to occupational health and/or safety or welfare.

2.3 Incident Notification and Reports

In carrying out the Works, or performing any work under the Subcontract, the Subcontractor, in addition to, and not in derogation of the requirements of the Subcontract must:

- a. verbally notify the JHFJV immediately of all injuries, property damage and incidents (including dangerous occurrences or dangerous incidents as defined in health and safety legislation) that may occur (whether to property or persons of the Subcontractor, the JHFJV, the Principal, or members of the public or any other third party);



- b. ensure that the scene of any notifiable incident (as defined in health and safety legislation) is not disturbed until notified by the JHFJV (unless to the extent allowable pursuant to that health and safety legislation)
- c. notify the relevant State authority of any workplace incidents involving serious injury to workers or the public in accordance with any Act or regulation and provide a copy of that notification to the JHFJV;
- d. provide to the JHFJV, reports of:
 - i. all injuries and incidents involving Subcontractor workers engaged on work at the Site;
 - ii. any injuries and incidents involving members of the public;
 - iii. any damage to property occurring on the Site; and/or
 - iv. any dangerous occurrences or dangerous incidents,

arising from or associated with the carrying out of the Works by the Subcontractor or any other activities on the Site, including steps taken or to be taken to prevent recurrence.

2.4 Health and Safety Planning

Risk Assessment

- a. The Subcontractor shall document and submit for acceptance by the JHFJV and/or the Principal, Work Method Statements and/or Process Procedures and high level Risk Assessment's for review in accordance with section 3.3 Risk Management in the Subcontractor Safety Manual/Pack -.
- b. As a minimum, the documents required under 4a. shall be submitted 5 working days prior to commencing work and shall state the following: Note: Activity methodology information required for the development of an Activity Methods Statement (AMS) must be provided at least 10 days prior to commencement of work,
 - i. the Subcontractor's representative and Supervisor for the purpose of the Act;
 - ii. the tasks and activities to be performed;
 - iii. methodology on how the tasks and activities are to be conducted;
 - iv. the hazards associated the with tasks/activity;
 - v. the proposed method of controlling the hazards identified;
 - vi. the training (including required licenses, accreditations, permits, certification and the like), experience and any particular attributes required of workers performing the tasks/activities;
 - vii. The Codes and Regulations the tasks/activities are covered by.
- c. The Subcontractor shall ensure all direct and indirect workers are suitably supervised, trained and instructed in the work under the Subcontract performed by the Subcontractor and how the tasks and activities are to be conducted safely, including through:
 - i. Convening and facilitating, or participation in Task Risk Assessments (TRA) or their equivalent risk assessments formats in accordance with section 3.3 Risk Management in the Subcontractor Safety Manual/Pack, to assess and document the hazards and risks of tasks and activities and develop methods to eliminate or control the hazards and risks.
 - ii. Participation in risk workshops that assess the proposed work methodology (referred to Activity Method Statements).
 - iii. Co-operative participation in regular safety onsite inspections at times nominated by the JHFJV.



- iv. Immediate discontinuance of any practice (including removal of equipment) considered by the JHFJV to be dangerous, notwithstanding that the relevant practice, or equipment may have previously be approved.
 - v. Being subjected to and cooperating with TRA or equivalent reviews and/or audit by the JHFJV to determine the suitability of these risk assessments.
- d. The Subcontractor will review each TRA or its equivalent risk assessment against the the JHFJV TRA Review as indicated in section 3.3 Risk Management in the Subcontractor Safety Manual/Pack, before works commence and provide a copy of those reviews to the JHFJV and/or the principal as required.
- e. The Subcontractor will ensure that every Subcontractor worker (and any sub-Subcontractor workers) conduct daily or start of new task the JHFJV Start Card situation awareness risk assessments in accordance with section 3.3 Risk Management in the Subcontractor Safety Manual/Pack;

A failure by the Subcontractor to comply with the provisions of these requirements shall constitute a fundamental breach of the Subcontract.

Housekeeping

- f. The Subcontractor shall not, at any time, leave work in an unsafe condition or any condition that might cause damage to existing work, plant or equipment or injury to persons but shall continue that work until it is at a safe stage. The cost of any such continuation of work shall be borne by the Subcontractor.

Hazardous Materials and Dangerous Goods

- g. Prior to bringing any substance onto this site, whether for incorporation into the Works or otherwise, the Subcontractor shall provide the JHFJV and/or the principal with a Safety Data Sheet and a completed Hazard Identification and Risk Assessment Sheet in accordance with Subcontractor Pack – Materials Control and Hazardous Substances/Dangerous Goods for the handling and/or application of the substance.
- h. the JHFJV and/or the principal may reject any Safety Data Sheet which does not provide adequate information to make an assessment of the health or safety risk of the substance.
- i. Notwithstanding the JHFJV's or the principal's approval for the use or incorporation of a substance, the Subcontractor shall remain wholly responsible and liable for the work under the Subcontract and for the Works.
- j. the JHFJV's or the principal's failure or refusal to approve of any substance for use or incorporation into the Works shall not entitle the Subcontractor to an extension of time or to claim cost, loss expense or damage for delay, disruption, breach of Contract, or in tort, including negligence, misrepresentation or otherwise, or to claim on any other basis whatsoever whether under the Subcontract, arising out of it, in relation to it or otherwise.
- k. The Subcontractor shall establish and maintain a Register of Hazardous Materials retained on Site, and obtain, for each hazardous substance, a Safety Data Sheet, copies of which should be made available to users, and other workers upon request.
- l. The Subcontractor's attention is specifically drawn to and the Subcontractor shall comply with the provisions of the Act which prohibit the manufacture, supply, storage, transport, sale, use, re-use, installation and replacement of all forms of asbestos and asbestos-containing material with some limited exceptions.
- m. The storage and handling of flammable and combustible liquids shall be carried out in accordance with all relevant Australian Standards (including AS1940 and AS1988). The



Subcontractor shall advise the JHFJV and/or the principal before flammable materials are brought to the Site for storage.

- n. Storage of oxyacetylene, when not in use, shall be in a locked store. Bottles shall not be left freestanding. Any storage trolleys used for this purpose shall have an appropriate fire extinguisher attached.

Confined Spaces

- o. Entry to confined spaces shall be in accordance with the Act, AS/NZS 2865-2001 Safe Working in a Confined Space and with Subcontractor Pack – Confined Space.
- p. The Subcontractor is required to submit to the JHFJV and/or the principal, a request for approval of a Confined Space Entry Permit and to receive confirmation of approval and issue of same before entering any confined space

Protective Clothing and Equipment (PPE)

- q. The subcontractor shall ensure that each of its workers or personnel in attendance on the Site wears, as a condition of entrance to the Site, the following mandatory personal protective equipment (PPE) (and provides such PPE to its workers at the Subcontractor's own cost):
 - i. high visibility clothing;
 - ii. long sleeve shirt;
 - iii. long pants;
 - iv. gloves;
 - v. safety glasses;
 - vi. hard hat; and
 - vii. safety boots;
 - viii. hearing protection in signposted areas;
 - ix. other personal protective equipment relevant to the task being undertaken

Electrical Tools and Equipment Safety

- r. The Subcontractor shall comply with the 'relevant Industry Standard for Electrical Installations on Construction Sites'.
- s. Where the Subcontractor proposes not to adopt the 'relevant Industry Standard for Electrical Installations on Construction Sites' it shall advise the JHFJV and/or the principal of the proposed alternative procedure or practice and the reason for not wanting to comply with the industry guidelines. Any such alternative procedure must be demonstrated to be to a higher safety standard than industry guidelines.
- t. In any event, the Subcontractor accepts the full liability in it choosing not to comply with any provision of the industry guidelines regardless of any discussions with or advice it may have provided to or received from the JHFJV and/or the Principal on alternative practices.
- u. All electrical equipment and tools shall be checked and tagged in accordance with industry guidelines.
- v. The Subcontractor is required to provide adequate facilities to ensure that electrical leads are elevated in accordance with industry guidelines.
- w. Where tools or equipment fail to meet the requirements of the applicable electrical safety acts and AS 3000 the tools and equipment shall be immediately repaired, checked and tagged at the Subcontractor's expense or removed from the site and replaced with compliant tagged tools or equipment as is necessary to carry out the work under the Subcontract.

Alcohol and Drugs

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



- x. Under no circumstances is alcohol or non-prescribed drugs to be taken on to the Site or consumed on the Site by the Subcontractor or its workers. Persons found to be under the influence of alcohol or non-prescribed drugs shall immediately cease work and either be removed from the Site or be confined to a safe non-working area of the Site. All Subcontractor workers will be subject to and comply with the JHFJV and applicable principal Drug and Alcohol Policies and Procedures which include prescription medication that can impair fitness for duty.

Work at Height

- y. Any work performed where there is a potential to fall from one level to another shall be carried out in accordance with the relevant WHS legislation and Subcontractor Pack – Work at Heights.

Plant and Equipment

- z. Prior to bringing any plant or equipment to the Site, the Subcontractor must carry out and provide to the JHFJV and/or the principal, copies of Plant Hazard Identification Risk Assessments in accordance with Subcontractor Pack – Plant and Equipment Control for the work to be undertaken, up to date Maintenance Records, Log Books, and copies of any plant certification (Crane Industry certification or equivalent) where relevant.
- aa. Each item of plant brought onto Site must be approved by the JHFJV and/or the principal in accordance with Subcontractor Pack – Plant and Equipment Control. Such approval shall not relieve the Subcontractor of its sole and absolute responsibility for that plant and to execute the Works safely.

Excavation and Trenching

- bb. Any excavation and trenching work shall be carried out in accordance with the Act and Subcontractor Pack – Excavation and Trenching.
- cc. The Subcontractor will be required to submit to the JHFJV and/or the principal a request for approval an Excavation and Trenching Permit in accordance with Subcontractor Pack – Excavation and Trenching and to receive said approval before breaking ground.

Communication and Safety Meetings

- dd. The Subcontractor shall meet regularly (nominally monthly) with the JHFJV and/or the principal's Site management team to discuss Health & Safety activities and safety interface requirements and to review incident reports and trends. It is anticipated that the Subcontractor (depending on the number of workers) would be represented by a Safety Representative from the workforce and one from the management staff.
- ee. The Subcontractor shall conduct Daily Pre Start meetings in accordance with Subcontractor Pack – Communication and provided a copy of those Daily Pre Start meeting records to the JHFJV and/or the principal [insert frequency of record submission].
- ff. The Subcontractor shall conduct weekly Toolbox meetings in accordance with Subcontractor Pack - Communication with their workers to promote and discuss WH&S matters or attend toolbox meetings as directed by the JHFJV and/or the principal and provide a copy of those Pre Start meeting records to the JHFJV and/or the principal [insert frequency of record submission].
- gg. The Subcontractor shall participate in Safety Education Programs that are provided monthly for workers of the Subcontractor at times to be nominated by the JHFJV and/or the principal. The Subcontractor will allow his personnel to attend such Safety Education Programs and shall pay the costs of his worker's time with no reimbursement of such costs from the JHFJV and/or the principal.

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



- i. The Subcontractor shall display on notice boards pamphlets, posters and notices in respect of work safety, as directed by the JHFJV and/or the principal.

Training and Certificate of Competencies

hh. The Subcontractor shall carry out the Subcontractor's Activities in such a manner as to avoid injury or damage to any person or property. Notwithstanding the foregoing, the Subcontractor shall:

- i. Ensure that prior to commencing work on the Site; the Subcontractor's personnel (including invitees) and sub-Subcontractor personnel have the appropriate construction industry induction and will attend a Site Induction Course conducted by Master Builder of Tasmania. As such Subcontractor shall make direct payment to Master Builder of Tasmania (MBT). These are to be included in the Subcontract sum;
- ii. Provide to the JHFJV and/or the principal on the commencement of work at the workplace, all relevant licenses to operate high risk plant and equipment (Refer JH-APP-PAE-005-03 VOC Requirement Schedule), verification of competency for operators of plant and equipment and records of training;
- iii. Allow any member of their workforce elected to a Health and Safety Committee (HSC) time to attend to their duties as a member of such a committee or Work Group. The cost of this shall be borne by the Subcontractor.
- iv. Attend JHFJV's Global Mandatory Requirements (GMR) awareness on- line training.

Vaccinations

- ii. For persons whom may come into contact with wastewater and or blood it is strongly recommended that personnel have the following vaccinations:
 - i. Hepatitis A
 - ii. Hepatitis B
 - iii. Polio
 - iv. Tetanus.

An example of such personnel would be a peggie or first aider. When the work Site is within a Treatment Plant it is strongly recommended that vaccinations are given to all personnel.

- jj. It should be noted that these vaccinations can take time to provide the maximum protection against infection and the Subcontractor is advised that to pre-plan accordingly. Advice should be obtained from a Medical Practitioner in these regards.
- kk. The cost of vaccinations and related Medical advice shall be borne by the Subcontractor.

Summary of Health and Safety Deliverables

- ll. Pursuant to the requirements in this Subcontract, the following is a summary of the Health and Safety deliverables:

No	Requirement	When	Documents submitted to JH	How	*Pac k Ref
1.	Nominate a person responsible for WHS&R.	Before start of work	5 days prior to commencement	[insert how this is to be provided]	3.2
2.	Nominate a qualified RTW Coordinator.	Before start of work	5 days prior to commencement	[insert how this is to be provided]	3.2

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



3.	Not used				
4.	Work Activity Method Statement or Works Methodology. (AMS)	Before start of work	10 days prior to commencement	[insert how this is to be provided]	3.3
5.	Notify JH of workers attending site safety induction	Before start of work	5 days prior to commencement	[insert how this is to be provided]	4.4
6.	Inspection & maintenance records and registration details for all static plant	Before using plant	5 days prior to commencement	[insert how this is to be provided]	3.8
7.	Plant Hazard Assessments (PHA) or equivalent	Before using plant	5 days prior to commencement	[insert how this is to be provided]	3.8
8.	Plant pre-start check sheets	Before using plant	Weekly basis [insert day]	[insert how this is to be provided]	3.8
9.	Conduct a JH situational awareness Start Card/equivalent	Daily	Not required to be submitted	[insert how this is to be provided]	3.3
10.	Pre-Start Meeting Records	Daily	Weekly basis [insert day]	[insert how this is to be provided]	4.3
11.	Ensure subcontractor workers are fit for work	Daily	NA		3.9
12.	Report any incident notification or investigations to JH	Immediately	Immediately	[insert how this is to be provided]	3.4
13.	Subcontractor to attend all medical appointments and provide related paperwork to JH such as WC medical certificates and RTW plans.	N/A	Med certificates & RTW Plans to JH	Within 2 days	3.9
14.	Notify JH of any Improvement or Prohibition Notices	Immediately	Immediately	[insert how JH will be notified]	3.4
15.	Notify the [insert relevant authority] of notifiable incidents	Immediately	Immediately	[insert how JH will be notified]	3.4
16.	Copies of worker's license to operate high risk plant and equipment and verification of their competency	On start	Prior to commencing	[insert how this is to be provided]	4.4
17.	Copies of Task Risk Assessments (TRA) or equivalent for works	On start & developed	On start and as developed	[insert how this is to be provided]	3.3
18.	Provide subcontractor workers with PPE requirements	On start & fair wear	N/A	N/A	3.12
19.	Copies of Material Safety Data Sheets (MSDS) and register	Prior to use	Prior to commencing activity	Submitting to site engineer	3.7
20.	Complete JH Excavation and Trench Permits	Prior to activity	Prior to commencing	[insert how this is to be	3.17

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



			activity	provided]	
21.	Complete JH Isolation Permits	Prior to activity	Prior to commencing activity	[insert how this is to be provided]	3.10
22.	Complete JH Confined Space Permits	Prior to activity	Prior to commencing activity	[insert how this is to be provided]	3.13
23.	Complete JH Work at Heights Permits	Prior to activity	Prior to commencing activity	[insert how this is to be provided]	3.14
24A.	Toolbox Talk Records	Weekly	Weekly	[insert how this is to be provided]	4.3
24B	Manual Handling Risk Assessment	Prior to activity	Prior to commencing activity	[insert how this is to be provided]	
25.	Plant daily inspections checklists	Daily	Weekly	[insert how this is to be provided]	3.8
26.	Plant & Equipment Register	Weekly	Weekly	[insert how this is to be provided]	3.8
27.	Attend weekly Observations and conduct in-situ audits of own TRAs.	Weekly	Weekly	[insert how coordinated]	3.5
28.	Inspection & maintenance records for all static/mobile plant controlled	Monthly	Monthly	[insert how this is to be provided]	3.8
29.	Inspections of scaffolding, lifting and rigging equipment	Monthly	Monthly	[insert how this is to be provided]	3.14
30.	Monthly WH&S statistical reports	Monthly	Monthly	[insert how this is to be provided]	4.5
31	Fall Prevention equipment inspections & tagging records	Quarterly	Prior to start & then Quarterly	[insert how this is to be provided]	3.11
32	Electrical tools & RCD inspections & tagging records	Monthly	Prior to commencement & Monthly	[insert how this is to be provided]	3.11
33	Provide monthly records of lifting gear inspections	Monthly	Monthly record	[insert how this is to be provided]	
34	Provide copies of licenses for demolition and/or asbestos removal	Prior to activity	License	[insert how this is to be provided]	
35	Manage fatigue in accordance with JH guidelines and procedures	Prior to activity and when requested	Rosters and fatigue calculations	[insert how this is to be provided]	
36	Crane lift studies	5 days Prior to lifting	Lift study based on JH procedure or equivalent	[insert how this is to be provided]	

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



* Denotes available in the [Insert details here] Subcontractor Manual/Pack

Attachments:

- [Insert details here]



3. QUALITY SYSTEM AND QUALITY PLAN REQUIREMENTS

The Subcontractor shall, subject to the provisions of paragraph (b) below, develop and implement a Quality Management Plan under a Quality System for the work under the subcontract, which complies with AS/NZS ISO 9001:2008:

- a. If the Subcontractor cannot comply with the requirements of paragraph (a) above then it must demonstrate to JHFJV that it has a similar or other appropriate system in place. Details of the Subcontractor's similar or other appropriate system and quality plan shall be submitted to John Holland Fairbrother Joint Venture (JHFJV) in accordance with paragraph (e) below.
- b. If following receipt of information from the Subcontractor in accordance with paragraphs (b) and (e), JHFJV considers the Subcontractor has not been able to demonstrate that the Subcontractor has a similar, or other appropriate system and quality plan in place, the Subcontractor shall undertake the reasonable Quality Management Plan requirements for the Suppliers Activities as directed from time to time by JHFJV, under JHFJV's Project Management Plan (PMP). Without limiting the generality of any other provision of the Subcontract, the Subcontractor shall undertake, as a minimum, the requirements set out under Clauses 2 to 11 below.
- c. Unless otherwise approved, the Subcontractor shall engage a person experienced in the development of quality systems and plans to formulate and set up and implement the Subcontractors Quality Plan.
- d. The Subcontractor shall submit to JHFJV for approval within 28 days of the Date of Award, its Quality Management Plan which sets out the specific practices, resources and sequence of activities relevant to the work under the Subcontract. If the Quality Management Plan fails to meet the approval of JHFJV then the Subcontractor shall rectify such failings and re-submit the quality plan for approval within 7 days of the date of JHFJV's non-approval. The Subcontractor's failure to obtain JHFJV's approval of the quality plan within 42 days of the Date of Award shall be deemed to be a substantial breach of the Subcontract.
- e. The Subcontractor shall ensure that any sub-subcontractor it engages complies with the requirements of the Subcontractor's approved Quality System and Quality Management Plan.

3.1 Monitoring and Testing

The Subcontractor shall, throughout the duration of the Subcontract carry out monitoring and testing in accordance with the approved Quality Management Plan. In the event of any non-conformance to the requirements of this Subcontract, the Subcontractor shall immediately advise JHFJV the details of such non-conformance, including its location in the Works, and proposed corrective actions prior to such corrective actions being taken.

3.2 INSPECTIONS AND TESTS

3.2.1 General

- i. The Subcontractor shall, as part of its Quality Management Plan under the Quality System, carry out inspections and tests including, but not limited to, the requirements of this Clause.
- ii. All inspections and tests shall be carried out in accordance with the requirements of this Subcontract and the requirements of the relevant Standards and Codes issued by the Standards Association of Australia, or in their absence those issued by the British Standards Institution or the American Society for Testing and Materials, in that order of precedence.



- iii. The Subcontractor shall notify JHFJV not less than 7 days prior to commencing any inspection or test or to enable JHFJV, the Principal's Representative, or other authorised representative to be present during such inspection or test.
- iv. The Subcontractor shall provide and maintain all documentary information or evidence pertaining to all inspections and tests.
- v. The results of all inspection and testing carried out in accordance with the Quality Plan shall be submitted to JHFJV within 3 days of any inspection and testing being carried out.

3.2.2 Rework

- a. In the event that repairs or remedial work to any part of the Works are found to be necessary as a result of inspections and tests, the Subcontractor shall carry out repairs generally in accordance with the requirements of this Subcontract.
- b. The Subcontractor shall allow sufficient time in its Program to enable any necessary repairs or remedial work to be carried out prior to the Date for Completion.

3.3 DOCUMENTATION TO BE ACCESSIBLE

The Subcontractor shall maintain, in a readily accessible manner, all documentation and records as are necessary to provide objective information or evidence in support of the Works meeting the various requirements of the Subcontract and shall upon request or within an agreed period of time, make them immediately available for inspection by JHFJV. On completion of the Works, the Subcontractor shall supply all, or such portion as may otherwise be directed, of the documentation and records to JHFJV.

3.4 INSPECTION AND TEST PLANS AND PROCEDURES

Inspection and Test Plans (ITPs), Checklists and Inspection Procedures shall be submitted to JHFJV for acceptance not less than 14 days prior to their being required for any part of the Works.

- a. Inspection and Test plans (ITPs), Checklists, or other suitable equivalent records of inspection, testing and verification shall be generated for all phases of the work to be performed under the Subcontract. Such records shall list all inspection, testing and verification activities to be undertaken for a particular operation in a sequential manner.
- b. Each relevant activity on ITPs and Checklists shall be signed off by the Subcontractor, when compliance to the requirement has been achieved.
- c. The Subcontractor shall provide effective quality verification practices to ensure that the Subcontractor's Activities meet the requirements set out in the Subcontract document.

3.5 INSPECTION, MEASURING AND TESTING EQUIPMENT

If requested by JHFJV evidence of current calibration status of inspection testing and measuring equipment to be used for the Subcontractor's Activities shall be made available. Such evidence shall consist of relevant calibration certificates/checklists which can be readily traced to the equipment.

3.6 DESIGN

Quality requirements for design include but are not limited to:



- Design Control: Design performed as part of the Subcontractor's Activities or any other design requirements specified in the Subcontract shall be verified in accordance with the Design Control System Element of AN/NZS ISO 9001:2008.
- Design Verification: The Subcontractor shall ensure that appropriate methods of design verification are included in the quality plan including, where appropriate, independent verification by suitably qualified personnel.
- Design Records and Qualifications: The Subcontractor shall hold all design records relating to the Subcontract that demonstrate conformance with the Subcontract requirements. This will include details of qualifications of persons undertaking design and design verification.

3.7 AUDITS

JHFJV, the Principal or the Principal's Representative may carry out such quality audits as they deem necessary to ensure that the Subcontractor is conforming to the approved Quality Management Plan and Quality System and to the various requirements of this Subcontract.

3.8 QUALITY AUDIT CERTIFICATION

The Subcontractor shall carry out audits of its Quality Management Plan, Test & Inspection Procedures under the Quality System on a regular basis. Subcontractors' quality plans and systems shall be deemed to be part of the Head Contractor's Project Management Plan and Quality System.

3.9 NON CONFORMANCES

In the event of any non-conformance in accordance with the Quality System the Subcontractor shall immediately supply JHFJV with a copy of the non-conformance which will identify its location in the Works and shall provide details of the corrective or preventative action taken or to be taken to eliminate the non-conformance.

3.10 MATERIALS AND EQUIPMENT SPECIFIED BY NAME

- a. Whenever any material or equipment is specified by patent, proprietary or trade name, or by the name of a manufacturer, such specification shall be considered as used for the purpose of describing the material or equipment desired but does not imply that such material or equipment automatically complies with any further requirements of the Specifications. Such name shall be considered as if followed by the words "or approved equal" whether or not such words appear.
- b. The Subcontractor may offer material or equipment with equal or better quality performance in substitution for those specified. If material or equipment with equal or better quality performance is substituted for those specified then it will be at no extra cost to JHFJV or the Principal.
- c. The Subcontractor shall make such offer as in paragraph (b) above in writing to JHFJV for consideration at least 28 days in advance of time at which the Subcontractor wishes to order the material or equipment for use in the Works. The Subcontractor shall include in its offer sufficient data which, together with any other data JHFJV may require, will enable JHFJV to assess the acceptability of the material or equipment. It shall be solely the Subcontractor's responsibility to prove that any alternative item offered is equal or superior to the item as specified. Where the substitute material or equipment necessitates changes to or co-ordination with any other portion of the Works, the data submitted shall include drawings and details showing all such changes and the Subcontractor shall perform these changes as part of any acceptance of substitute material or equipment at no extra cost to JHFJV or the Principal.



3.11 The use of any material or equipment so offered will be permitted only after written acceptance of the offer by JHFJV. Such acceptance shall not relieve the Subcontractor from full responsibility for the efficiency, sufficiency, quality and performance of the substitute material or equipment in the same manner and degree as the material and equipment specified by name.

3.12 Not used



4. Environmental Requirements

4.1 General

The Subcontractor must not do anything that will put the JHFJV in breach of its obligations under Legislative Requirements relating to:

- Acts or omissions that may cause harm to the environment;
- Meeting any reporting requirements; and/or
- Notification of incidents or near miss incidents which directly result in, or may cause, harm to the environment.

The Subcontractor must do those things necessary to comply with Legislative Requirements and the JHFJV environmental policy and procedure, including the Environmental Management Plan(s) for the Project.

4.2 Environmental Management System

The subcontractor shall adopt and implement the the JHFJV Project Environmental Management Plan (PEMP) for the Works.

4.2.1 Objectives, Measures and Procedures

The subcontractor shall implement and comply with measures and procedures addressing environmental aspects, which are necessary to effect compliance with environmental legislative requirements and the objectives set out in the Project Environmental Management Plan, and in accordance with the requirements listed below.

4.2.2 Incident Management & Investigation

The subcontractor shall immediately report all environmental incidents and near miss environmental incidents to the JHFJV Project Environmental Representative or Supervisor.

4.2.3 Monitoring and Reporting

The subcontractor shall submit an updated report monthly in a format directed by the JHFJV and at any intervening occasions if so directed by the JHFJV.

4.2.4 Environmental Control

The Subcontractor must observe and comply with all environmental requirements that apply to the area in which the Subcontractor's activities are to be carried out, including (without limitation) the following:

Site Control

a. General

The Subcontractor shall at all times:

- Comply with the regulations, specification and restrictions imposed by the JHFJV relating to the transport, storage, handling and use of materials (especially hazardous materials), the routing of



construction traffic, the interruption of existing services and facilities and any other Regulations in force on the site;

- Comply with all Statutes, Regulations and By-Laws relating to the protection of the Environment;
- Store hazardous materials on site (where approved by the JHFJV) in adequate storage Bunds;
- Ensure that materials, plant and equipment shall be stored in lay down area(s) approved by the JHFJV when not in use;
- Obtain written approval from the JHFJV for the erection of temporary structures not specifically documented;
- Not light fire without the written approval of the the JHFJV;
- Store flammable or explosive products in accordance with the relevant Statutes and to the approval of the JHFJV.

b. Responsibility for Environmental Management

The Subcontractor shall nominate an Environmental Representative with responsibility for management of all environmental aspects of the subcontracted works. The subcontractor must provide details of the nominated Environmental Representative.

It is the Subcontractors responsibility to ensure that prior to commencing works:

- Requirements specified in the PEMP have been reviewed; and
- Controls related to the subcontracted works as specified in the PEMP are implemented.

Delivery of the Subcontracted Works

a. Permits & Authorisations

The Subcontractor shall ensure that it has obtained all necessary permits/authorisations prior to commencing any aspect of the subcontracted works that must be conducted under an authorisation or permit.

b. Noise & Vibration

The Subcontractor shall, at all times, take adequate measures to control noise & vibration associated with the delivery of the subcontracted works. This includes:

- complying with the nominated hours of work
- ensuring all guards and noise suppression devices are fitted and used as per manufacturer specifications; and
- ensuring sound levels and vibration levels as specified in the PEMP or in relevant legislation.

No appliance shall be used if the noise emitted by the appliance exceeds the maximum sound levels:

- listed in the JHFJV PEMP;
- noted in manufacturer documentation; and/or
- described in relevant legislation.

Measurements shall be made in accordance with AS1217 (Methods of Measurement of Airborne Sound Emitted by Machines), or where applicable for pneumatic driven appliances, the measurement procedures set out in the Cagi-Pneurop Test Code For the Measurement of Sound from Pneumatic Machines 1969 may be used.



The JHFJV may require the Subcontractor to produce a Certificate of Acoustic Performance issued by a Laboratory registered with the N.A.T.A. for any appliance before permitting its use, or continued use, on the site.

On occasions, for emergency reasons, the JHFJV may direct that all noise on the site ceases or be reduced. The Subcontractor shall direct all his subcontractors on site to meet these requirements.

c. Dust & Air Quality

The Subcontractor must take all practical steps to prevent nuisance caused by dust. This includes ensuring that airborne dust is not a nuisance to residents or users of adjacent roads and recreational areas, and that any ambient air quality criteria specified in the PEMP are not exceeded.

d. Water Quality, Erosion and Sedimentation

Subcontractor must take all practical steps to retain all rainfall falling on the work under the subcontract within the site boundary, and to ensure that any uncontrolled discharge during severe storm events will not cause a nuisance to residents, or result in negative environmental impact to any areas or body of water offsite.

No water is to be discharged/pumped offsite without the prior approval of the JHFJV. This includes water collected in excavations, concrete washout bins and sedimentation ponds. Any water quality criteria specified in the PEMP must be complied with during any approved discharge of waters offsite.

e. Light Escape

The Subcontractor must take all practical steps to ensure that light escaping from the work under the subcontract within the site boundary outside of daylight hours does not impact on the community or sensitive fauna habitat.

This may include participating in a lighting assessment and planning activity to determine site lighting requirements and control measures to be implemented to avoid or minimise light escape from the site.

f. Contaminated and Acid Sulfate Soils

The Subcontractor must ensure that at all times it complies with any requirements specified in the PEMP regarding contaminated and/or (Potential) Acid Sulfate Soils

The subcontractor must notify the JHFJV immediately if it discovers suspected contaminated or (Potential) Acid Sulfate Soils that have not been previously identified during delivery of the subcontracted works.

g. Weeds, Pests & Pathogens

The Subcontractor must ensure that at all times it complies with any requirements specified in the PEMP regarding weeds, pests & pathogens.

The subcontractor must notify the JHFJV immediately if it discovers suspected weed or pest infestations that have not been previously identified during delivery of the subcontracted works.

h. Wastes



The Subcontractor is responsible for the proper disposal of all solid, liquid and gaseous wastes arising from the execution of work under the subcontract in accordance with all statutory requirements, and will comply with the JHFJV policy to maximise reuse or recycling of construction waste including but limited to paper, metal, timber, glass, asphalt, clay based products, cement based masonry, other material identified by the JHFJV for reuse or recycling.

Subcontractor shall ensure that waste disposal is only undertaken by a licensed waste contractor, to approved waste facilities.

Refuse arising from the execution of work under the Subcontract (including food scraps and the like) must be removed from the site. Refuse must not be dropped uncontrolled, but bins and shutters, chutes or refuse buckets must be used. All bins, chutes or buckets for refuse must be covered or be of such design as to fully confine the material and prevent dissemination of dust, materials and odours.

Records for all materials (including asphalt and concrete) removed by the subcontractor will be submitted to the JHFJV on a monthly basis, including quantities, disposal methods, disposal locations and costs.

All prescribed/classified industrial wastes such as asbestos must be stored, handled, transported and disposed of in accordance with local Regulations.

All concrete wastes and washout waters must either be returned to the batching plant for recycling or disposed of in the site concrete washout facilities specified in the PEMP.

Sanitary wastes and sewage shall be collected and stored in accordance with local regulations. Disposal of sewage waste shall be by a licensed waste contractor and records shall be maintained by the Subcontractor and included in the monthly report.

i. Preservation of Flora & Fauna

The Subcontractor must not destroy, remove or clear trees or shrubs from any lands used or occupied by the Subcontractor in the execution of the Works without the prior approval of the JHFJV. In addition, the Subcontractor must not enter any designated 'No Go Zone' areas without approval from the JHFJV except in the event of an emergency as defined in the local Emergency Management Act.

The Subcontractor shall not harm, feed or interfere with any fauna encountered on site, and shall immediately notify the JHFJV if the presence of fauna on site is interfering with conduct of the works. The Subcontractor must immediately notify the JHFJV of any fauna injured during delivery of the subcontracted works.

j. Cultural & Indigenous Heritage

The Subcontractor must not destroy, remove or clear any identified cultural or indigenous heritage items encountered by the Subcontractor in the execution of the Works without the prior approval of the JHFJV.

The Subcontractor must immediately notify the JHFJV of any previously unidentified cultural or indigenous heritage items encountered during delivery of the subcontracted works (e.g. aboriginal artefacts, suspected scar trees, homestead foundations, etc.)

k. Traffic Management



No motor vehicles will leave the site laden with any material unless it is loaded in a manner that will prevent the discharge or dropping of any of the materials. All trucks exiting the site must have their tailgates secured and loads covered for all trips.

All vehicles entering or exiting the site must use the defined entry and exit points, including a wheel wash facility or shaker where provided.

No fuel is to be stored on site, except in approved fuel bunds.

I. Emergency Preparedness & Response

The Subcontractor is responsible for identifying any potential environmental emergencies that could occur during the execution of the work under the subcontract (e.g. spills). In addition, the Subcontractor is responsible for identifying and implementing preventative measures (e.g. bunded dangerous goods storage) and response measures (e.g. spill kits).

In the event of an emergency, the Subcontractor must immediately notify the JHFJV. In responding to an environmental emergency, the Subcontractor must comply with any lawful directions given by the JHFJV whilst taking due regard for the safety of all persons responding to the emergency.

4.3 Environmental Reporting

a. General

The JHFJV requires the Subcontractor to supply environmental monitoring data on a monthly basis. The information to be provided monthly by the Subcontractor includes the following:

- Details of all environmental incidents;
- Details of environmental inspections/audits and any actions raised as a result;
- Fuel usage by plant type (diesel/biodiesel/petrol/LPG/ethanol/etc);
- Explosives usage (ANFO/Heavy ANFO/Emulsion);
- Electricity usage (non-renewable/renewable) – only where the Subcontractor is billed separately for electricity usage on the Project;
- Electricity generation (where the generator is => 500 kVA maximum capacity);
- Waste re-used/re-cycled/dumped to landfill;
- Water usage – potable (drinking water) and non-potable (i.e. re-use, dams, and creeks) separately.

b. Incident Management and Reporting

Should any non-conforming environmental work practices, spills, pollution, harm to the environment or other incidents be detected or environmental controls be observed to be ineffective or fail to operate, the Subcontractor must immediately notify the JHFJV, and promptly apply controls and corrective action(s) to address any environmental management deficiencies.

The Subcontractor must ensure prompt and thorough containment measures, clean-up and restoration of the environment as well as rectification of deficient environmental protection measures to prevent recurrence.

c. Requirements of the National Greenhouse & Energy Reporting Act 2007

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



The JHFJV and its Subcontractors have responsibilities under the National Greenhouse & Energy Reporting Act 2007 (“NGER”) to report on greenhouse gas (“GHG”) emissions, energy production and energy usage.

In particular, the Act requires the JHFJV to report on the GHG emissions and energy usage associated with all activities at facilities where the JHFJV has day to day managerial control.

The information to be provided monthly by the Subcontractor must meet the JHFJV’s standard environmental reporting requirements at 2.5 a) above.

In accordance with Section 20 of the Act, if the Subcontractor is not willing to provide the information required under the Act, the JHFJV is legally bound to notify the Greenhouse & Energy Data Officer (“GEDO”) of the non-compliance. The GEDO may then issue a binding determination in regard to the required information. Failure to comply with a determination under the Act may result in penalties being applied to the Subcontractor.

Reporting for NGER purposes is to be as per the the JHFJV form JHG-3F-29A Subcontractor Energy, Water & Waste Report. This will be available to the Subcontractor in an electronic format.



5. Industrial

Subcontractors will be contractually prohibited from any activity that may place the subcontractor or the Project in a position of being in breach of the Building Code 2013, Fair Work Act 2009, the National Code of Practice or the Tasmanian Code. Such activities include but are not limited to:

- The provision of subcontractors or prospective subcontractors and their employees' or prospective employees' details to unions
- The display of 'no-ticket, no start' signs or any other poster or sticker that implies union membership is anything other than a matter for individual choice
- 'Show card' days, or the like
- Encouraging or discouraging employees to become or remain union members
- The employment of any person for the purpose of being a full-time or substantially full-time union delegate or shop-steward
- The use of employment application or induction forms that seek to identify the status of employees as union members or not
- Providing Right of Entry which is not in accordance with legislation
- Not reporting any actual or threatened industrial action to the Fair Work Building and Construction
- Sub-contractors will also need to ensure any employee grievances are promptly addressed; and

Any industrial issues are promptly addressed via the Dispute Procedures contained within their employer's industrial agreement.



6. Requirements of Subcontractors

Apprentices, Trainees, and Indigenous People

It is an objective of this contract to increase the employment and up-skilling of apprentices, trainees, and indigenous people.

The target for the employment of apprentices, trainees and indigenous people is 20% of total labour hours (which includes up to 2 percentage points indigenous people).

JHFJV, with the support of the Subcontractor, will partner with the government in meeting this target by employing and training people from the abovementioned groups. Project Training Plan (JHF-PLN-GL-HRT-0001) is provided for reference.

Before the commencement of work on the subcontract, the Subcontractor must provide an estimate of the total number of workforce hours for the duration of the contract.

The Subcontractor shall seek to use indigenous owned/managed enterprises where possible, refer to the following link for further detail;

<http://www.iba.gov.au/corporate/supply-nation/>

The Subcontractor shall report on performance against targets at monthly intervals.

Induction Requirements

All personnel working on the Project are required to undertake a 4 hour induction at JHFJV's purpose built interactive induction centre located at the Master Builders Australia Tasmanian (MBAT) office in Hobart.

Subcontractors will be required to pay a fee directly to the MBAT for the induction. Currently this is set at \$140.00 + GST per person.

Activity Method Statement Workshops

Key Subcontractor personnel (minimum Subcontractor Project Manager & Supervisor) shall attend Activity Method Statement Workshops (up to 8 hours) prior to commencing works on the Project. Subcontractors are required to cover their own costs associated with attendance and travel to the workshops.

Training Requirements

Subcontractors shall comply with the requirements of the Project Training Plan (JHF-PLN-GL-HRT-0001). All Subcontractors shall be required to undertake the following training program over the duration of the Project;

Course	Course Duration	Training fees	Who
PSEP Safety Risk Leadership	3 days	\$1,500 per person	Subcontractor Project Manager & Supervisor
E-Learning - GMR's	As required	Nil Charge	All Subcontract Employees
JHFJV Procedural Training	4 days	Nil Charge	Subcontractor Project Manager & Supervisor

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



JHFJV HSE Behaviours Training	8 hours	Nil Charge	All Subcontract Employees
-------------------------------	---------	------------	---------------------------

Training courses shall be conducted in Hobart only. Training fees shall be paid directly to John Holland Pty Ltd. Subcontractors are required to cover their own costs associated with attendance and travel to the training courses.

In addition to the training specified above Subcontractors shall comply with JHF-PLN-GL-HRT-0001 Project Training Plan, Appendix 2 – RHHRP WHS&R Training Matrix. Prior to commencing on the project, all Subcontract personnel shall provide evidence that the following training has been completed by a Registered Training Organisation;

- White Card or equivalent
- Working at Height Training
- Manual Handling Training



Schedule J - Expert Determination Agreement

To: [Name of expert].

By a Subcontract dated [insert date] (**the Subcontract**) between John Holland Pty Ltd and Fairbrother Pty Ltd, the John Holland Fairbrother Joint Venture (JHFJV) and [Insert Details Here], JHFJV and “Subcontractor” agreed to submit disputes that might arise between them to an expert for determination through an expert determination process, as established by the deed and the Rules for Expert Determination which are attached to this letter (**Expert Determination**).

A dispute has arisen between the parties. A short summary of the dispute is attached to this letter.

The parties agree to appoint you [Name of expert] of [address] as the sole expert to determine the dispute in accordance with the above procedures. The parties agree to pay you [\$ insert] an hour.

The determination of the dispute must be completed within [insert] days of the date of your acceptance of this appointment.

The parties agree that you are not liable for anything you do which is *bona fide* and in the exercise of purported exercise of your functions as expert.

Dated

For

.....
For the Expert



Rules for Expert Determination

1. Commencement

- a. The Expert Determination will commence with the acceptance by the Expert of the appointment to make a determination in accordance with these Rules.

2. Submissions in respect of the deadlock

- a. Within seven days of the date of the commencement of the Expert Determination, the party issuing the notice identifying the particulars of the dispute (Referrer) must provide to the Expert a copy of the Subcontract, a written submission on the dispute and at the same time must provide a copy of its submission to the other party (Respondent).
- b. Within seven days after the provision of the above submissions, the Respondent must provide to the Expert and to the Referrer a written response to the Referrer's written submission.
- c. If the Expert decides that further information or documentation is required to determine the dispute the Expert may:
 - i. require a further written submission or documents from either or both parties, giving each party a reasonable opportunity to make a written response to the other's submission; and
 - ii. call a conference between the parties and the Expert in accordance with clause 3.

3. Conference

- a. If the Expert decides that a conference between the parties is necessary the Expert must arrange for a conference at a venue and time convenient for the parties and must notify them accordingly.
- b. At least five days prior to the conference the Expert must inform the parties in writing of any specific matters he wishes to be addressed at the conference.
- c. At the time and place notified for the conference the parties must appear before the Expert and may make oral representations in respect of the matters notified to them in accordance with clause 3.2.
- d. At the conference the Expert may permit the making of further submission and the provision of further information as may be fair and expedient in the circumstances.
- e. Transcripts of the conference must be taken and made available to the Expert and the parties.

4. Determination

- a. As expeditiously as possible, but not later than 28 days after the commencement of the Process, unless the time has been extended by agreement between the parties, the Expert must advise the parties in writing of his determination of the dispute.
- b. In making a determination the Expert is only entitled to adopt one of the written submissions lodged by one of the parties and is not entitled to impose upon the parties a position other than one submitted by one of the parties. The submission selected by the Expert must be the one the Expert considers best reflects the terms of the Subcontract.
- c. The determination of the Expert will be binding on the parties, unless appealed pursuant to clause 15.11(b) of the Subcontract.



5. Procedural Rules

- a. Neither party may communicate directly or indirectly with the Expert in respect of any matter relating to the dispute or the Subcontract other than in accordance with these Rules.
- b. At any conference the parties may have legal or other representation.
- c. The conference must be held in private.
- d. All proceedings and submissions relating to the Expert Determination must be kept confidential between the parties and the Expert. No information may be divulged to any other person, except with the prior written consent of the parties.

6. Termination

- a. The Process will terminate upon the first to occur of the following:
 - i. the notification by the Expert of his determination;
 - ii. the death of the Expert;
 - iii. by agreement of the parties upon the failure of the Expert to act through illness or other cause; or
 - iv. the expiration of 28 days after the commencement of the Expert Determination (unless extended by agreement of the parties).
- b. If the Expert Determination terminates prior to the notification of the Expert's determination then the dispute will be determined by a further expert appointed under clause 15 of the Subcontract.

7. Costs

- a. Each party will bear its own costs and the parties will share equally the fees and costs of the Expert and the Expert Determination (such as cost of rooms and transcript services) unless otherwise determined by the Expert. Security for costs must be deposited by both parties at the commencement of the Expert Determination at the direction of the Expert.

8. Conduct of Expert

- a. The function of the Expert is to make a determination on the dispute as submitted by the parties, in accordance with these Rules.
- b. The Expert must conduct the Expert Determination in accordance with the requirements of procedural fairness.
- c. The Expert must make the determination on the basis of information received from the parties and the Expert's own expertise. The determination will be made as an expert and not as an arbitrator.
- d. The Expert is not bound by the rules of evidence.
- e. The Expert must disclose all information and documents received from a party to the other party. The Expert must not consult with a party except in the presence of the other party except where a party fails to make a written submission or appear at any conference after having received due notice.
- f. If the Expert becomes aware of circumstances that might reasonably be considered to adversely affect his capacity to act independently or impartially he must immediately inform the parties.



Schedule K - RCTI Agreement

Project : Royal Hobart Hospital Redevelopment Project (RHHR)
Subcontract
Work Package
No: [Insert Details Here]
Name of Subcontractor: [Insert Details Here]
Address: [Insert Details Here]
ABN 37 234 024 467
JHFJV John Holland Pty Ltd and Fairbrother Pty Ltd, the John Holland Fairbrother Joint Venture (ABN 37 234 024 467)
Supplies (Supply) Has the same meaning as in the A New Tax System (Goods and Services Tax) Act 1999

I/We agree to the following:

- a. JHFJV will issue RCTI's in respect of all Supplies provided by the Subcontractor;
- b. the Subcontractor will not issue tax invoices in respect of the Supplies;
- c. the Subcontractor acknowledges that it is registered for GST when it enters into the agreement and that it will notify JHFJV if it ceases to be registered or fails to register;
- d. JHFJV acknowledges that it is registered for GST, and that it will notify the Subcontractor if it ceases to be registered for GST or if it ceases to satisfy any of the requirements for raising RCTI's under taxation legislation or rulings ("RCTI Requirements");
- e. JHFJV will not issue a document that would otherwise be an RCTI, on or after the date when JHFJV or the Subcontractor has failed to comply with any of the RCTI Requirements;
- f. The Subcontractor acknowledges that JHFJV is not obliged to and will not issue an RCTI in respect of a Supply until:
 - i. a Payment Schedule has been issued and JHFJV is obligated to pay an amount to the Subcontractor under clause 12.7 of the Contract;
 - ii. the Subcontractor has provided the necessary documentation to allow an RCTI to be raised.
- g. The Subcontractor's ABN is [Insert Details Here].
- h. JHFJV may at its sole discretion, by written notice to the Subcontractor, terminate this agreement and from the date of the notice of termination the Subcontractor will be responsible for issuing any and all tax invoices in respect of Supplies to JHFJV.
- i. The Subcontractor shall be liable for and indemnifies JHFJV against any cost, expense, loss or damage that JHFJV and / or the Subcontractor may incur or suffer as a result of or in any way relating to termination of this agreement.

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



Signature of duly authorized person

Signature of witness

Name of authorized person in full

Name of witness in full

Date -----

Date -----

Schedule L - Building Code Compliance

1. The Subcontractor must comply with the Building Code 2013 (Building Code). Copies of the Building Code are available at www.deewr.gov.au/BuildingCode.
2. Compliance with the Building Code shall not relieve the Subcontractor from responsibility to perform the Contract, or from liability for any defect in the works arising from compliance with the Building Code.
3. Where a change in the Contract is proposed and that change would affect compliance with the Building Code, the Subcontractor must submit a report to JHFJV specifying the extent to which the Subcontractor's compliance with the Building Code will be affected.
4. The Subcontractor must maintain adequate records of the compliance with the Building Code by:
 - a. the Subcontractor;
 - b. its Subcontractors;
 - c. consultants; and
 - d. its Related Entities (refer Section 8 of the Building Code).
5. If the Subcontractor does not comply with the requirements of the Building Code in the performance of this Contract such that a sanction is applied by the Minister for Employment and Workplace Relations, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Subcontractor or a related entity in respect of work funded by the Commonwealth or its agencies.
6. While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, JHFJV may give preference to subcontractors and consultants that have a demonstrated commitment to:
 - a. adding and/or retaining trainees and apprentices;
 - b. increasing the participation of women in all aspects of the industry; or
 - c. promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
7. The Subcontractor must not appoint a subcontractor or consultant in relation to the Project where:
 - a. the appointment would breach a sanction imposed by the Minister for Employment and Workplace Relations; or
 - b. the subcontractor or consultant has had an adverse Court or Tribunal decision (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law and the tenderer has not fully complied, or is not fully complying, with the order.
8. The Subcontractor agrees to require that it and its subcontractors or consultants and its related entities provide the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
 - a. inspect any work, material, machinery, appliance, article or facility;
 - b. inspect and copy any record relevant to the Project the subject of this Contract; and
 - c. interview any personas is necessary to demonstrate its compliance with the Building Code.

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



9. Additionally, the Subcontractor agrees that the Subcontractor and its related entities will agree to a request from the Commonwealth or any person authorised by the Commonwealth, including a person occupying a position in the fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
10. The Subcontractor must ensure that all subcontracts impose obligations on subcontractor's equivalent to the obligations under these Contract Clauses.

By signing this declaration on behalf of the Subcontractor, the authorised representative declares that they have full authority to execute it and have obtained any necessary consents and approvals to do so.

Signature of authorised representative

Print name of authorised representative

Date

For Use Where the Tasmanian Government's Code of Practice for the Building and Construction Industry (Tasmanian Code) and the Tasmanian Government's Implementation Guidelines to the Tasmanian Code of Practice for the Building and Construction Industry (Tasmanian Guidelines) Apply to the Project

1. Terms used in this schedule, have the same meaning as is attributed to them in the Tasmanian Government's Implementation Guidelines to the Tasmanian Code of Practice for the Building and Construction Industry (Tasmanian Guidelines) (as published by the Department of Treasury and Finance, April 2012).
2. The Subcontractor must comply with, and meet any obligations imposed by, the Tasmanian Government's Code of Practice for the Building and Construction Industry (Tasmanian Code) and Tasmanian Guidelines.
3. The Subcontractor must notify the Construction Code Compliance Unit (CCCU) (or nominee) and the Principal and JHFJV of any alleged breaches of the Tasmanian Code and Tasmanian Guidelines and of voluntary remedial action taken, within 24 hours of becoming aware of the alleged breach.
4. Where the Subcontractor is authorised to engage a subcontractor or consultant, and it does so, the Subcontractor must ensure that any secondary contract imposes on the subcontractor or consultant equivalent obligations to those in this schedule, including that the subcontractor or consultant must comply with, and meet any obligations imposed by, the Tasmanian Code and the Tasmanian Guidelines.
5. The Subcontractor must not appoint or engage another party in relation to the project where that appointment or engagement would breach a sanction imposed on the other party in relation to the Tasmanian Code or Tasmanian Guidelines.
6. The Subcontractor must maintain adequate records of compliance with the Tasmanian Code and Tasmanian Guidelines by, its subcontractors, consultants and related entities.
7. The Subcontractor must allow, and take reasonable steps to facilitate, Tasmanian Government authorised personnel (including personnel of the CCCU) to:
 - a. enter and have access to sites and premises controlled by the Subcontractor, including the project site;
 - b. inspect any work, material, machinery, appliance, article or facility;
 - c. access information and documents;
 - d. inspect and copy any record relevant to the project;

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



- e. have access to personnel; and
 - f. interview any person as is necessary for the authorised personnel to monitor and investigate compliance with the Tasmanian Code and Tasmanian Guidelines, by the Subcontractor, its subcontractors, consultants and related entities.
8. The Subcontractor, and its related entities, must agree to, and comply with, a request from Tasmanian Government authorised personnel (including personnel of the CCCU) for the production of specified documents by a certain date, whether in person, by post or electronic means.
 9. The Subcontractor warrants that at the time of entering into this contract, neither it, nor any of its related entities, are subject to a sanction in connection with the Tasmanian Code or Tasmanian Guidelines that would have precluded it from tendering for work to which the Tasmanian Code and Tasmanian Guidelines apply.
 10. If the Subcontractor does not comply with, or fails to meet any obligation imposed by, the Tasmanian Code or Tasmanian Guidelines, a sanction may be imposed against it in connection with the Tasmanian Code or Tasmanian Guidelines.
 11. Where a sanction is imposed:
 - a. it is without prejudice to any rights that would otherwise accrue to the parties; and
 - b. the State of Victoria (through its agencies, Ministers and the CCCU) is entitled to:
 - i. record and disclose details of non-compliance with the Tasmanian Code or Tasmanian Guidelines and the sanction; and
 - ii. take them into account in the evaluation of future expressions of interest or tender responses that may be lodged by the contractor, or its related entities, in respect of work to which the Tasmanian Code and Tasmanian Guidelines apply.
 12. The Subcontractor bears the cost of ensuring its compliance with the Tasmanian Code and Tasmanian Guidelines, including in respect of any positive steps it is obliged to take to meet its obligations under the Tasmanian Guidelines. The Subcontractor is not entitled to make a claim for reimbursement or an extension of time from the Principal, the State of Victoria or JHFJV for such costs.
 13. Compliance with the Tasmanian Code and Tasmanian Guidelines does not relieve the Subcontractor from responsibility to perform the works and any other obligation under the contract, or from liability for any defect in the works or from any other legal liability, whether or not arising from its compliance with the Tasmanian Code and Tasmanian Guidelines.
 14. Where a change in the contract or works is proposed, and that change would, or would be likely to, affect compliance with the Tasmanian Code and Tasmanian Guidelines, the Subcontractor must immediately notify the Principal (or nominee) of the change, or likely change and specify:
 - a. the circumstances of the proposed change;
 - b. the extent to which compliance with the Tasmanian Code and Tasmanian Guidelines will, or is likely to be, affected by the change;
 - c. what steps the Subcontractor proposes to take to mitigate any adverse impact of the change (including any amendments it proposes to a Workplace Relations Management Plan or Health and Safety Management Plan); and
 - d. the Principal will direct the subcontractor as to the course it must adopt within five (5) Business Days of receiving notice.

By signing this declaration on behalf of the Contractor, the authorised representative declares that they have full authority to execute it and have obtained any necessary consents and approvals to do so.

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



Signature of authorised representative

Print name of authorised representative

Date



Schedule M - Statutory Declaration by Subcontractor

OATHS ACT 2001

STATUTORY DECLARATION (S3.8)

I

of

in the State of Tasmania, do solemnly and sincerely declare that, in relation to the Contract between **The Crown in Right of Tasmania represented by the Department of Health and Human Services** “the Principal” and John Holland Pty Ltd and Fairbrother Pty Ltd together the John Holland Fairbrother Joint Venture “the JHFJV” for the **Royal Hobart Hospital Redevelopment Project (RHHR)** “the Contract” [Insert Details Here] (“the Subcontractor”) is a Subcontractor to the JHFJV for part of the work under the Contract, namely:

1. I hold the position of

I am in a position to know the facts contained herein and to bind the Subcontractor by the terms of this declaration, and I am duly authorised by the Subcontractor to make this declaration on its/his behalf.

2. All the Subcontractor's workers who at any time have been engaged on work under the Subcontract by the Subcontractor have been paid in accordance with the relevant Award or Industrial Instrument all moneys due and payable to them up to the date of submission by the Subcontractor of Progress Claim No _____

3. All Subcontractors of the Subcontractor have been paid all that is due and payable to them up to the date of submission by the JHFJV of Progress Claim No _____ respect of their part of the work under the Subcontract.

4. The Site Personnel Register maintained in accordance with clause 66.1 of the Subcontract is current and correct.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the **Oaths Act 2001**.

Declared at

TAKEN AND DECLARED before me (Name in full)

ROYAL HOBART HOSPITAL REDEVELOPMENT PROJECT

[Insert Package Description Here]

WORKS PACKAGE No. – [Insert No. here]



At _____ In the State of _____

this day of 20

Subcontractor

A Justice of the Peace / Legal Practitioner / Commissioner for Declarations



Schedule N - Record of Payment Form

(To be submitted to the JHFJV by the Subcontractor)

- a. Contract Description: Royal Hobart Hospital Redevelopment Project (RHHR)
- b. Main Contractor: John Holland Pty Ltd and Fairbrother Pty Ltd together the John Holland Fairbrother Joint Venture (JHFJV)
- c. Subcontractor: [Insert Details Here]
Address: [Insert Details Here]
Subcontract Description: [Insert Details Here]

SUBCONTRACTOR'S DECLARATION

It is hereby declared that the Subcontractor has received all monies due and payable from the JHFJV up to and including _____ (Insert date on which payment received was due and payable.)

Further payment to the Subcontractor from the JHFJV is not anticipated to be due until

_____ (Insert date on which the next subcontract progress payment is anticipated to become due. If no further payment is anticipated to become due insert "N.A".)

A further Record of Payment Form will be signed by the subcontractor in respect of the anticipated payment when it is received from the JHFJV.

Signed

(Signature of Subcontractor or its representative)

Name of signatory

(Please print)

Date

Instructions:

Upon receipt of payment from the JHFJV by the Subcontractor the Subcontractor is to:

- *complete Section 2 and sign the "Subcontractor's Declaration" as appropriate, and*
- *return this Record of Payment form to the JHFJV.*



Section 2 Associated Documents

[Insert details here]