

**12. SETTLEMENT OF DISPUTES**

If any dispute or difference arises between the Builder and the Subcontractor in connection with the Works or with this Agreement either party may give notice to the other in writing of the dispute or difference which may (unless settled within 5 working days) be referred to Arbitration under the provisions of the Commercial Arbitration Act 1985 as amended. If a dispute is referred to arbitration or a payment dispute is referred to adjudication under the Construction Contracts Act 2004, the arbitrator or adjudicator will be nominated by the Master Builders Association of WA.

**13. REMOVAL OF WORKMEN**

The Builder may require removal from the Works of any person employed by the Subcontractor for incompetence or misconduct.

**14. PERFORMANCE**

If the Subcontractor wholly suspends or neglects to proceed with the Works with due diligence, the Builder may give notice in writing to the Subcontractor and if the Subcontractor does not properly proceed with the Works within 3 working days then the Builder may employ others to complete the Works. The Builder may deduct from monies due to the Subcontractor or charge the Subcontractor the costs incurred in completion of the Works and the Subcontractor must not do or cause to be done any thing to prevent others from completing the Works.

**15. CLEANING**

The Subcontractor must keep the Works clean and tidy and on completion will remove all its plant and equipment and leave the Works ready for immediate use or occupation. If the Subcontractor fails to do so then the Builder may do so and deduct the cost from any monies due or becoming due to the Subcontractor.

**16. DAMAGE**

The Subcontractor will pay to the Builder the cost of making good any damage done by the Subcontractor or its employees or subcontractors to the Work of the Builder or of any other subcontractor.

**17. DEFECTS LIABILITY PERIOD**

The Subcontractor will upon written notice make good any defects that may appear in the Works prior to the expiration of the Defects Liability Period stated in the Schedule. This Clause does not have the effect of limiting the Subcontractor's liability for defective work.

**18. NOTICES**

Any notices to be given under this Agreement are sufficiently given if served personally or sent by prepaid post addressed to the person to be given the notice at the address appearing in this Agreement or at the last known place of abode or business.

**19. INTERPRETATION**

- a) Reference to persons includes limited companies and the singular includes the plural and vice versa.
- b) This Agreement is the entire agreement between the parties.

**20. SPECIAL CONDITIONS**

(Insert any special provisions.)

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JOB REFERENCE:

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BUILDER:

.....

SUBCONTRACTOR:

.....

# Subcontract Works Contract

# SCW



While you're working, we're working for you



## AGREEMENT

THIS AGREEMENT is made the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

BETWEEN \_\_\_\_\_

of \_\_\_\_\_ (Builder)

AND \_\_\_\_\_

of \_\_\_\_\_ (Subcontractor)

## SCHEDULE

### Clause 1. THE WORKS

The Works comprise: \_\_\_\_\_

and are described in the following contract documents: \_\_\_\_\_

### Clause 4. CONTRACT SUM

The amount payable for all work executed under Clause 4 hereof shall be \$ \_\_\_\_\_

(inclusive of GST) to be paid progressively as follows: \_\_\_\_\_

Payment within \_\_\_\_\_ days of receipt of claim.

Clause 5. **COMMENCEMENT DATE** \_\_\_\_\_ / \_\_\_\_ / 20\_\_\_\_  
**COMPLETION DATE** \_\_\_\_\_ / \_\_\_\_ / 20\_\_\_\_

#### OR If in stages

Stage 1: Commencement Date \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_ Completion Date \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_

Stage 2: Commencement Date \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_ Completion Date \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_

Stage 3: Commencement Date \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_ Completion Date \_\_\_\_ / \_\_\_\_ / 20\_\_\_\_

**LIQUIDATED DAMAGES:** \$ \_\_\_\_\_ per week or part

Clause 17. **DEFECTS LIABILITY PERIOD** \_\_\_\_\_ calendar weeks

## EXECUTED AS AN AGREEMENT:

SIGNED by the Builder

SIGNED by the Subcontractor

\_\_\_\_\_  
(Builder)

\_\_\_\_\_  
(Subcontractor)

## CONDITIONS

### 1. SUBCONTRACTOR'S OBLIGATIONS

The Subcontractor will execute and complete the Works for the Builder in a proper and tradesmanlike manner and strictly in accordance with the Specifications and the contract drawings. The Subcontractor will indemnify the Builder from and against any liability arising under S12A of the Builders' Registration Act in relation to the Works.

### 2. HEAD CONTRACT

The Subcontractor assumes all of the Builder's obligations and responsibilities in the Head Contract between the Builder and the owner of the Works. In construing the Head Contract, reference to the owner (or principal or proprietor) means the Builder, and reference to the builder (or contractor) means the Subcontractor.

### 3. PLANT, EQUIPMENT AND TOOLS OF TRADE

- a) The Subcontractor must provide all plant, equipment and tools of trade necessary to complete the Works;
- b) The Subcontractor must ensure that all plant, equipment and tools of trade used to complete the Works are mechanically sound and in good, clean and safe condition, both internally and externally and otherwise comply with any relevant licensing or other legislation.

### 4. PAYMENT

- a) The Builder agrees to pay the Subcontractor the Contract Sum stated in the Schedule.
- b) Progress payments must be made as provided for in the Schedule. Progress claims must be submitted in the form of a tax invoice.
- c) Before becoming entitled to any payment, the Subcontractor must give the Builder if so required, a statement signed by the Subcontractor that no wages are due and owing by it in respect of the Works at the date of payment and that all necessary payments and premiums required by Clauses 7 and 9 have been paid.
- d) The Builder must pay progress claims within the time stated in the Schedule.
- e) The Builder is entitled to deduct from any payment to the Subcontractor any amounts owing by the Subcontractor to the Builder under the Contract.
- f) If the Head Contract provides for retention then the Builder may keep retention on like terms.

### 5. COMMENCEMENT AND COMPLETION

- a) The Subcontractor must commence the Works on the date specified in the Schedule.
- b) If the Subcontractor fails to complete the Works or any stage by the dates in the Schedule or within any extended time approved in writing by the Builder, the Subcontractor must pay or allow by way of liquidated damages, the sum stated in the Schedule for each week or part of a week during which the Works remain incomplete.
- c) The Subcontractor may claim and the Builder may approve reasonable extensions of time for any delay not caused or contributed to by the Subcontractor including delays caused by any act or omission or breach of contract on the part of the Builder.
- d) Any extension of time claimed or granted under (c) shall be the Subcontractor's sole remedy for delay and the Subcontractor shall not be entitled to claim or to be paid any increase in the Contract Sum, costs and expenses or damages arising out of or in connection with the delay.

### 6. VARIATIONS

- a) The Subcontractor must vary the Works if required by the Builder in writing.
- b) The price of any variation will be added to or deducted from the Contract Sum provided that the Subcontractor gives written notice of the price prior to carrying out the Works that relate to the variation.

### 7. STATUTORY REQUIREMENTS AND FEES

The Subcontractor must comply with all statutory requirements regarding superannuation contributions, income tax and payroll tax and with all terms of any appropriate Industrial Commission award in respect of the Subcontractor and all others employed by it. The Subcontractor must give all necessary notices and pay all necessary fees and must comply with all provisions and requirements statutory or otherwise relevant to the Works. The Subcontractor must comply with the lawful directions of any authority having jurisdiction over the Works.

### 8. SUBCONTRACTING AND ASSIGNMENT

- a) The Subcontractor must not assign this Agreement without the written consent of the Builder which shall not be unreasonably withheld.
- b) The Subcontractor, by subcontracting any part or parts of the Works is not relieved of any liabilities or obligations under this Agreement.

### 9. INSURANCE

The Subcontractor must insure against any liability at common law under the Workers' Compensation Act in respect of any person employed by it in or about the execution of the Works or in respect of whom it may be or become liable whether employed by it or not. The Subcontractor must also insure against liability to third persons or in respect of the property of third persons in an amount satisfactory to the Builder and must lodge with the Builder on request evidence that all insurances specified have been effected and that they are current from time to time

### 10. DEFAULT

If the Subcontractor becomes bankrupt or goes into liquidation or is in default or in breach of this Agreement, then the Builder, without prejudice to any other rights or remedies may by notice in writing terminate this Agreement.

### 11. SCAFFOLDING

If the Subcontractor or its employees or subcontractors are permitted to use any scaffolding or equipment belonging to or provided by the Builder then that use will be on the express condition that no warranty or other liability on the part of the Builder will be created or implied as to the condition or suitability of the scaffolding or equipment or otherwise.