

AGREEMENT DETAILS			
Contract No		Award Date	
Client		Submission due date	
Contract Name / Type	Australian Standard AS4300-1995 (Design and Construct) – amended.	Review Date	21 May 2018
Client Tender ID	TBA	Contract Value	Lump Sum fee of \$
Location / Site	Kogarah RSL mixed use development at Railway Parade, NSW.	On Site Duration / Term of Engagement	Not clear. No program provided, no start date mentioned.
Scope Of Work	Refer Part B. to review and advise.		

Checks	Client Position	Clause	Agree or Depart Suggestion	TCR Item
1. Limitation of liability	Silent		Depart Request cap on liability	
2. Consequential losses	Silent		Depart Request for a broad exclusion for consequential loss	
3. Liquidated damages	<p>LD's are applicable at the following nominated amounts:</p> <ul style="list-style-type: none"> \$ per day; and \$ per day (equates to circa % of the Subcontract Sum per day) under the Main Contract Unlimited <p>Additionally, will also be liable to general damages.</p> <p>Clarification included on the premise that will accept LD's (but not the nominated amounts). If not, to amend clarification.</p>	<p>Annex. Part A Item 40, 41</p> <p>GC 35.6</p>	<p>Depart</p> <p>Should FLFP accept LD's, suggest nominated amounts of \$ (equates to circa % per day) per day as opposed to \$ per day and \$ of the Subcontract Sum.</p> <p>Request a cap of % of the Subcontract Sum.</p> <p>Request deletion of clause 35.8(b) in entirety.</p>	
4. Insurance	<p>General Public and Products Liability = \$</p> <p>Professional Indemnity = \$ with a 7 year run off period</p> <p>Motor vehicle = \$</p>	GC 20-22	to advise.	

Checks	Client Position	Clause	Agree or Depart Suggestion	TCR Item
	Workers Comp			
5. Indemnity obligations	<p>█████ to indemnify against loss of or damage to property, claims in respect of personal injury, death, disease or illness.</p> <p>No proportionate reduction.</p>	GC 17.1	<p>Depart</p> <p>Request a proportionate reduction, i.e. █████ will only indemnify to the extent it contributed to the loss.</p>	
6. Defects liability	<p>Item 44 of Annexure Part A provides a DLP of 52 weeks.</p> <p>However, Item 3 of the Agreement Details refers to a 12 month Warranty Period.</p>	<p>Annex. Part A Item 44</p> <p>GC 37</p>	Agree	
7. Security and retention	<p>Item 17 of Annexure Part A provides cash retention of █ % of the Subcontract Sum.</p> <p>Some onerous security provisions exist, i.e. the release of securities.</p> <p>Clarification included on the premise that █████ will accept securities. If not, █████ to amend clarification.</p>	GC 5	<p>Depart</p> <p>Request option to provide bank guarantees or surety bonds as an approved form of security. The Subcontractor to nominate which option it intends on using.</p> <p>Delete clause 5.8(a)(i)(B),(C), (ii) and (iii), and 5.8(b)</p>	
8. Payment terms	<p>Payment claim to be submitted on 25th of each month.</p> <p>Client will assess claim within 10 Business Days and advise of its assessment.</p> <p>Within 30 Business Days from the serving of a payment claim, client must pay.</p> <p>█████ are not entitled to claim for unfixed goods and materials.</p>	<p>Annex. Part A Item 46, 47</p> <p>GC 42</p>	Agree	
9. Rights and liabilities upon termination	Reasonable entitlements should the Subcontract be terminated for convenience.	GC 45	Agree	
10. Variations	<p><u>Client directions</u></p> <p>Variation notification to be provided within 10 Business Days.</p> <p><u>Proposed Variations</u></p> <p>Variation notification to be</p>	GC 40	Agree	



(Tenderer)

Checks	Client Position		Clause	Agree or Depart Suggestion	TCR Item
	provided within 5 Business Days.				
11. Design responsibility	█ is responsible for design under the Subcontract				
12. Milestone / Key dates and durations	Date for Practical Completion is 17/11/18			█ to confirm that such date is acceptable. No review of a program has been conducted.	
13. Dispute resolution	A stepped dispute resolution process is provided, which consists of: <ul style="list-style-type: none"> - Notice (hand or certified mail) - 5 Business Days of notice to meet and agree on resolution method - If unresolved within 20 Business Days from issuance of initial notice, the dispute may be referred to expert determination. 		GC 47	Agree	
14. Delay Time Bars	EOT claim to be submitted within 5 Business Days after a delay first occurs.		GC 35.5 GC 36	Depart Request 10 Business Days notice as opposed to 5 Business Days	
15. Delay entitlements	Time	Cost	<div> <div>✓</div> <div>✗</div> </div>		
• Delays in Access by client	✓	✓	GC 35.5	Agree	
• Suspension by client	✓	✓	GC 34.4	Agree	
• Cyclones	Silent	Silent		Agree	
• Force Majeure	✓	✗		Agree	
• Inclement Weather	Silent	Silent		Agree	
• Latent Conditions (site only)	✓	✓	GC 12.3	Depart Request deletion of 12.1(a)(C) – inspection of Site Request extension of 3 Business Days notice	
• Errors/ delays in client's documents	✓	✓	GC 35.5	Agree	
• Delays by client's other contractors	✓	✓	GC 35.5	Agree	

Checks	Client Position		Clause	Agree or Depart Suggestion	TCR Item
• Delays in client's free issued equipment	✓	✓	GC 35.5	Agree	
• Acceleration	✓	✗	GC 35.9	Agree Claim variation	
• Disruption	✓	✗	GC 35.5	Agree	
• Variations	✓	✓	GC 40	Agree	
• Contaminated Material	✗	✗			
16. Other					

Commercial/Risk Observations, Recommendations and General Notes

- Clause 33.1A refers to the Clients program, provided at Annexure Part Q. Note: such program has not been included in the Subcontract. Subcontractor to provide its program within 10 Business Days of execution of the Subcontract.
- █ to review clause 56 'Subcontractor's Design Obligations, upon first glance, such clause appears onerous in nature and should be considered a commercial risk. Additionally, the Design Documents are not finalised and it is the responsibility of █ to ensure the completion of the Design Documents. █ to confirm it agrees with the design obligations outlined in this clause 56, if not, an additional clarification will be required.
- █ to review clause 57 'Building Services' – █ to familiarise itself with the requirements set out in clause 57, i.e. █ to maintain the building services and communication connections required for the efficient performance of the WUS. Upon first glance, this clause appears onerous. At this stage, a clarification has been included requesting deletion of such clause in its entirety. If █ have made the necessary allowances, please delete clarification.
- █ to review clause 71 'Demolition' – █ to familiarise itself with the requirements set out in clause 71, i.e. █ to demolish existing structures on the Site and undertake any earthworks and/or excavations. At this stage, a clarification has been included requesting deletion of such clause in its entirety. If █ have made the necessary allowances, please delete clarification.
- █ to review clause 72 'Sales Contracts' – █ to familiarise itself with the requirements set out in clause 72. Upon first glance, this clause appears onerous. At this stage, a clarification has been included requesting deletion of such clause in its entirety. If █ have made the necessary allowances, please delete clarification.
- █ to review the scope of work (Part B) to ensure the content is correct.
- Request deletion of Part H – Additional Requirements for PC. Such requirements are onerous and not applicable to █
- █ to review the warranties provided as Part I. The table forming part of Part I is not legible.
- █ to review the Principal's Project Requirements (Part P) to ensure the content is correct.