

CONTRACT DETAILS			
Quote No	█	Award Date	
Client	█ █	Submission due date	
Contract Name	NBN – MIMA Subcontractor Panel Agreement		Review Date
Client Tender ID		On site duration	
Location / Site		█ Department	
EPCM		Estimator	
Tender Value		Contract Type	
Total direct hours		Project type	
Scope Of Work			

Checks	Client Position	Clause	Agree or Depart █ Position	TCR Item
1. Limitation of liability	█% of the amounts paid	GC11.4	Agree	
2. Consequential losses	Knock for knock exclusion for consequential losses with carve-outs	GC11.5	Agree	
3. Liquidated damages	Not addressed; will be set out in each of the separate Purchase Orders		Agree	
4. Insurance	There appear to be standard suite of insurances required, as follows: <ul style="list-style-type: none"> Motor Vehicle / Equip - \$█m Workers Comp – Law 	GC 12 Section 3 Item 7	Agree	
5. Indemnity obligations	Standard indemnity obligations including, breach, wilful or reckless default, injury, death, damage to property etc.	GC 11.3	Agree	
6. Defects liability	The DLP is 12 months.	GC 13.2 Section 3 Item 9	Agree	
7. Security and retention	Retention monies █% off each payment █% to be released upon issuance of a Completion Certificate, █% expiry of DLP	GC 10 Section 3 Item 5	Depart Request the option of providing surety bonds or bank guarantees	
8. Payment terms	Time for making progress claims = 14 th and 28 th of each month.	GC 5	Agree	

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	<p>Contractor will provide payment schedule within 10 Business Days after receiving valid payment claim.</p> <p>Payment will be received within 10 Business Days of the issue of the payment schedule.</p>			
<p>9. Rights and liabilities upon termination</p>	<p>If Contractor terminates for convenience, entitlement exists for:</p> <ul style="list-style-type: none"> (i) The amount due for WUC carried out up to the date of termination. (ii) Cost of materials and equipment reasonably ordered. (iii) The costs reasonably incurred for removing plant and equipment off site of engagement 	<p>GC 29.7</p>	<p>Agree</p>	
<p>10. Variations</p>	<p>Clause 3.4 – Quantity Changes. Where the Subcontractor as exceeded or will exceed the quantities expressed in the BOQ, written notice (entitled Proposed Quantity Change) must be provided to the Contractor. Upon receiving, the Contractor may prove written notice within 5 Business Days, accepting, rejecting or requesting additional information in regards to the Proposed Quantity Change.</p> <p>Clause 6.1 – Change Requests. Contractor may issue a Change Request to the Subcontractor and within 5 Business Days of receipt, the Subcontractor must provide notice setting out:</p> <ul style="list-style-type: none"> (a) Whether that a Schedule of Rates Change is required in respect of a proposed Change Direction, and if so, the rates or prices that need adjusting, adding or removal. 	<p>GC 3.4 GC 6.3</p>	<p>Depart Request extension of 1 Business Day to 3 (or 5) Business Days</p>	

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	<p>(b) The effect the proposed Change Direction will have on the timing.</p> <p>Clause 6.3 – Notifiable Changes Subcontractor must notify within 1 Business Day of encountering a Notifiable Change. Contractor to respond within 10 Business Days.</p> <p>Clause 31 – a residual claims provision exists.</p>			
11. Design responsibility	will be set out in each of the separate Purchase Orders		Agree	
12. Subcontractors and suppliers	<p>The sub-subcontractor:</p> <p>(a) Grant a license to the Contractor in relation to the Pre-Existing Material;</p> <p>(b) Assignability of all existing and future rights, title, interest and property (including IP Rights) in all Contract Material produced by the sub-subcontractor.</p> <p>No written approval required.</p>	GC 23.3	Agree	
13. Milestone / Key dates and durations	<p>The Term of Contract is two years</p> <p>The Contractor may extend the Term by an additional 12 month period</p>	2.1		
14. Dispute resolution	<ol style="list-style-type: none"> Resolved by “Discussions between the parties” or Arbitration 	GC 31	<p>Arbitration is not suitable for minor works.</p> <p>Include a stepped process of negotiation then litigation.</p>	
15. Documents / drawings available, defective or missing	Will be set out in each of the separate Purchase Orders			
16. Delay Time Bars	<p>If the Subcontractor is delayed for an event beyond the reasonable control of the Subcontractor, it must:</p> <p>(a) Notify the Contractor of:</p>	GC 4.2	<p>Depart</p> <p>Request for delay costs for all events beyond reasonable control</p>	

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	(i)	The relevant work package;		Delete the word negligence	
	(ii)	Reasons as-to why it is unable to promptly commence the activities in the entire Work Package;			
	(b)	The Contractor may, at its discretion, extend the Time for Completion			
17. Delay entitlements	Time	Cost		✓ ✗	
• Delays in Access by client	✗	✗	GC 8	Depart	
• Suspension by client				<p>The way the contract has been drafted is that the Subcontractor has entitlement to request an extension to the Time for Completion for all events beyond the reasonable control of the Subcontractor. However, there is no mention of entitlement to any additional costs incurred. Suggest we qualify this and to provide a discrete set of daywork rates for all labour classifications, plant and equipment.</p>	
• Cyclones					
• Force Majeure					
• Inclement Weather					
• Latent Conditions (site only)					
• Errors/ delays in client's documents					
• Delays by client's other contractors					
• Delays in client's free issued equipment					
• Acceleration					
• Disruption					
• Variations					
• Contaminated Material					
18. Other					

Commercial/Risk Observations and Recommendations (please note I have reviewed the Subcontract terms and conditions only):

1. This is a "Periodic" form of engagement to undertake unknown quantities of work over a 2-year period. That is to say, [REDACTED] will be given PO's to that will be separate contracts but governed by these terms.
2. There is an emphasis on the quantity (BOQ) reconciliation, i.e. the Subcontractor has an obligation to diligently track the quantities and to provide Quantity Changes.
3. When the Subcontractor is of the opinion that completion of a Work Package has been reached, the Subcontractor must provide to the Contractor:
 - A final BOQ setting out the quantities used in reaching completion of the Work Package, reconciled against the BOQ, as adjusted for any Quantity Changes agreed in accordance with clause 3.4. Should the final BOQ exceed the allowances made in the Work Package and such additional quantities have not been accepted as As-Built Quantity Changes, the Subcontractor has not entitlement. Refer clause 4.3.

Contracts Department Signoff		
Senior Contracts Specialist Name	Senior Contracts Specialist Signature	Date
Chris Thompson		17-05-2017