

Tender Clarification Register - Commercial

Subcontract No: [REDACTED]	Tenderer: [REDACTED]
Project: Optus Belrose Exchange – Fire Upgrade	Rev: 0
Title: Optus Belrose Exchange – Fire Upgrade	Date: 21/01/2021

Item No.	Section / Clause	Date	Comment By	Exception / Clarification	Status (Open/Closed)
COMMERCIAL CLARIFICATIONS					
1.	Limitation of Liability and Consequential Loss New clause	21/01/21	[REDACTED]	<p>[REDACTED] requires the insertion of a provision that provides [REDACTED] with an exclusion for consequential loss and an overall cap on liability.</p> <p>[REDACTED] proposes the insertion of the following wording:</p> <p><i>“(a) Consequential Loss</i> <i>The Contractor and Hirotec will not be liable to each other for any Consequential Loss suffered by the Contractor or Hirotec arising out of or in connection with the Contract.</i></p> <p><i>(b) Loss Limitation</i> <i>Notwithstanding any other provision of this Contract, the maximum liability of the Contractor to all persons or entities (including but not limited to Hirotec or Hirotec’s Customer and their respective personnel) listed under the Contract is limited to 50% of the Contract Sum.</i></p> <p><i>(c) Consequential Loss means loss of profits, loss of production, loss of revenue, and loss of business opportunities, or any special, contingent or penal damages.”</i></p>	OPEN
			CLIENT		

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2.	Liquidated Damages	21/01/21	[REDACTED]	[REDACTED] requests the insertion of “Nil” in lieu of “\$ [REDACTED] per day” under Schedule 3.8.	OPEN
	Clause 2.1		CLIENT		
	Schedule 3.8				
3.	Commencement, Completion & Defects Liability Period	21/01/21	[REDACTED]	[REDACTED] requests the following amendment to clause 2.1; “If the Contractor is delayed in the completion of the Works by an act or omission of the Principal or its agents which is not permitted by this Contract Hirotec shall give the Contractor a reasonable extension to the date for completion <u>and assessment of delay costs</u> subject to it receiving written notice of the delay within 14 days of its occurrence.”	OPEN
	Clause 2.1		CLIENT		
4.	Price and Payment	21/01/21	[REDACTED]	[REDACTED] requests the following amendment to the payment terms under Schedule 3.9; “ 45 Days from the end of the month in which <u>20 days from when the invoice was received by</u> [REDACTED] <u>Example of these terms:</u> <i>Invoice issued on the 23rd on the month January xx</i> <i>Payment Scheduled for Payment 15th day of March xx</i> ”	OPEN
	Clause 2.3				

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			CLIENT		
5.	Security Clause 2.3.1	21/01/21	[REDACTED]	[REDACTED] requests the insertion of “Not Used” in lieu of the existing wording under clause 2.3.1.	OPEN
			CLIENT		
6.	Indemnities and Insurance Clause 2.6	21/01/21	[REDACTED]	[REDACTED] requests the following new paragraph under clause 2.6; “Any indemnity provided by the Contractor under the Contract will be reduced proportionately to the extent any loss, liability, damage or cost etc is caused or contributed by Hirotec, its agents, other contractors, employees.”	OPEN
			CLIENT		
7.	Dispute Resolution Clause 2.14	21/01/21	[REDACTED]	[REDACTED] requests deletion of the first paragraph of clause 2.14, as follows: “Notwithstanding any other provision, where any claim by the Contractor for extensions of time, additional payment or otherwise, (whether in relation to variations, delay and disruption to the works or services, or otherwise) has been assessed or determined for the purposes of the Head Contract, then that assessment or determination shall be binding on the Contractor.”	OPEN

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			CLIENT		
8.					