

AGREEMENT DETAILS			
Contract No	████	Award Date	████
Client	████████████████████	Submission due date	████
Contract Name / Type	Kindalin Early Learning Centre	Review Date	05/4/2021
Nature of Contract	Lump Sum	Contract Value	\$4████ excluding GST
Location / Site	████████████████████ ████████	On Site Duration / Term of Engagement	
Scope Of Work	Supply & Install of Formwork, Fixing of Reinforcement, Pour & Place of Concrete and associated works		

Checks	Client Position	Clause	Agree or Depart Suggestion	TCR Item
1. Limitation of liability	Silent		Depart Request cap	2
2. Consequential losses	Silent		Depart Request exclusion	1
3. Liquidated damages	<p>If the Subcontractor fails to achieve Practical Completion by the Date for Practical Completion, the Subcontractor must pay to Zadro the liquidated damages amount set at \$████ per day.</p> <p>There is no expressed cap on LD's.</p> <p>Additionally, the Subcontractor is also required to indemnify against any LD's under the Head Contract.</p>	GC 20 Annex.A	<p>Depart Request cap of █████% of the Subcontract Sum</p> <p>Request deletion of GC 20.2</p> <p>Please advise if Precision does not agree with the daily amount of \$████ per day</p>	4
4. Guarantor/Personal Guarantees	Silent		Agree	
5. Insurance	<p>████ will maintain contract works insurance covering the Work under the Subcontract.</p> <p>Standard insurances required to be provided by the Subcontract, viz;</p> <ul style="list-style-type: none"> Public Liability: \$████m (default position) Workers Comp: as required by Law Constructional Plant: replacement cost Asbestos: Only where the Work involves the disturbance, removal or 	GC 13	Note Precision Civil and its insurance advisors to confirm acceptance.	

	disposal of asbestos.			
6. Indemnity obligations	<p>The Subcontractor indemnifies ██████ against:</p> <p>(a) loss or damage to property of ██████ or of the Principal (in or upon which Work under the Subcontract is being carried out);</p> <p>(b) claims against ██████ by any person in respect of illness, injury or death; and</p> <p>(c) claims against ██████ by any person in respect of loss or damage to any property, arising out of or as a consequence of executing the Work under the Subcontract (or negligent acts or omissions of any secondary subcontractor engaged in the execution of the Work under the Subcontract).</p> <p>The above indemnities will not be reduced proportionately.</p>	GC 13.1	<p>Depart</p> <p>Request for all indemnities to be reduced proportionately</p>	5
7. Defects liability	<p>The Defects Liability Period will commence on the Date of Practical Completion and will expire on expiry of the last defects liability period under the Head Contract.</p>	GC 21.2	<p>Depart</p> <p>Request deletion of reference to Head Contract and request DLP of 12 months</p>	6
8. Security and retention	<p>█████% from each payment due to the Subcontractor until ██████% of the Subcontract Sum is reached.</p> <p>█████ entitlement to Security will be reduced by ██████% and ██████ will return the reduction in Security within 20 Business Days after the later of:</p> <p>(i) the issue of a certificate of practical completion for the Head Contract Works; and</p> <p>(ii) receipt by ██████ of an executed Deed of Release; and</p> <p>within 20 Business Days after the later of:</p> <p>(i) the performance by the Subcontractor of all obligations under the Subcontract, including the rectification and making good of all Defects;</p> <p>(ii) issue of a final certificate</p>	GC 5.1 Annex.A	<p>Depart</p> <p>Delete reference to the Head Contract Works</p>	7

	<p>under the Head Contract; and</p> <p>(iii) receipt by [REDACTED] of a written request from the Subcontractor for release of remaining Security, [REDACTED] will release and return to the Subcontractor any remaining Security held by [REDACTED]</p> <p>If the Subcontractor is a related or subsidiary corporation the Subcontractor must procure, from a guarantor acceptable to [REDACTED] the execution of the deed of parent company guarantee set out at Annexure Part C.</p>			
9. Payment terms	<p>The Subcontractor may submit a Payment Claim once every month on the 25th day of each month.</p> <p>Within 10 Business Days of receipt of a Payment Claim [REDACTED] will issue a payment schedule.</p> <p>[REDACTED] will pay the Subcontractor the amount indicated in the RCTI 20 Business Days after [REDACTED] receives a Payment Claim submitted in accordance with the Subcontract.</p>	GC 22 Annex.A	Agree	
10. Rights and liabilities upon termination	<p>If [REDACTED] terminates the Subcontract for an event of Default, [REDACTED] may, without payment of compensation to the Subcontractor, take possession of the Subcontractor's Constructional Plant and other equipment and materials as necessary to complete the Works.</p> <p>If [REDACTED] terminates the Subcontract under this clause [REDACTED] may in its absolute discretion engage another subcontractor to complete the Work under the Subcontract (or it may complete itself) and must pay to the Subcontractor:</p> <p>(i) the amount due to the Subcontractor for the Works performed in the relevant period up to the date of termination (as well as any amount for works directed after the date of termination);</p>	GC 23	<p>Depart Request deletion of GC 23.1(c).C</p> <p>Request amendment "release or any security" in lieu of clause 23.2(c)(iv)</p>	8

	<p>(ii) the cost of materials (necessarily and reasonably) ordered prior to the date of termination and for which Zadro is legally bound to pay provided those materials are thereafter the property of [REDACTED]</p> <p>(iii) the Subcontractor's reasonable costs of demobilisation; and</p> <p>(iv) a reasonable amount for Constructional Plant left on site at [REDACTED] direction</p>			
11. Variations	<p>Within 10 Business Days of receipt of a Variation Proposal the Subcontractor must provide:</p> <p>(i) the estimated cost of the Variation Proposal; and</p> <p>(ii) its likely effect on the Subcontractor's Program.</p> <p>If [REDACTED] accepts the Subcontractor's estimate the Subcontractor's estimate will become the Agreed Variation Price.</p> <p>Where the Subcontractor considers a direction given by [REDACTED] to constitute a Variation, the Subcontractor must notify [REDACTED] representative within five (5) Business Days of receiving that direction.</p>	GC 18	Agree	
12. Design responsibility	Nil			
13. Milestone / Key dates and durations	23 November 2021		Precision Civil to advise	
14. Dispute resolution	<p>If a dispute between the Subcontractor and [REDACTED] arises out of or in connection with the Subcontract either party may issue to the other party a notice of dispute outlining the details of the dispute and the following procedure will apply:</p> <p>(i) within five (5) Business Days (or such other time as agreed) after issue of</p>	GC 24.2	<p>Agree</p> <p>Precision Civil may wish to change litigation to mediation or arbitration?</p>	

	<p>the notice of dispute the Subcontractor's representative and [REDACTED] representative (or nominee) must meet and attempt (in good faith) to resolve the dispute;</p> <p>(ii) if the dispute has not been resolved in accordance with paragraph (a) (i), a senior executive of each party must meet within 10 Business Day after issue of the notice of dispute (or such other time as agreed) and attempt (in good faith) to resolve the dispute; and</p> <p>(iii) if a dispute has not been resolved within 15 Business Days after issue of the notice of dispute (or such other time as agreed) either party may refer the dispute to litigation.</p> <p>It is a condition precedent to the referral of a dispute to litigation that the parties follow the procedure set out at paragraph (a).</p>			
15. Delays / EOT	<p>First Notice The Subcontractor must, upon becoming aware of anything which could delay any part of the work under the Subcontract, within two (2) Business Days, notify [REDACTED] in writing of the nature of the event, the likely extent of delay and impact on the Date for Practical Completion.</p> <p>Second Notice / EOT The Subcontractor must give written notice to [REDACTED] within 20 Business Days after the Subcontractor became aware, or should have reasonably become aware, of the event or circumstance giving rise to the claim unless another clause of this Subcontract specifies an earlier time.</p>	<p>GC 19 GC 24 Annex.A</p>	<p>Depart Request 7 Business Days as opposed to 2 Business Days.</p> <p>Request removal of sole remedy clause.</p> <p>Include additional delaying events, i.e. latent conditions, covid, force majeure etc</p>	3

	GC 19.3 provides a sole remedy clause – entitlement to time and no cost.				
	Failure to comply with the notification periods will likely result in time barring.				
16. Delay entitlements	Time	Cost	<div style="display: flex; justify-content: space-around;"> ✓ ✗ </div>		
• Delays in Access by client	✓	✗	GC 14.1	Depart Request removal of sole remedy clause	3
• Suspension by client	✓	✗	GC 17.4	Depart	9
• Cyclones			Silent	Depart	3
• Force Majeure			Silent	Depart	3
• Inclement Weather				Precision Civil to make sufficient allowances for inclement weather, or advise if it wishes to clarify	3
• COVID			Silent	Depart	3
• Change in Law			Silent		
• Latent Conditions (site only)	✗	✗	GC 14.2	Depart	3
• Errors/ delays in client's documents	✗	✗	GC 7.1(c)	Agree	
• Delays by client's other contractors	✓	✗	GC 2.4	Depart Request removal of sole remedy clause	3
• Delays in client's free issued equipment	✓	✗	GC 19	Depart Request removal of sole remedy clause	3
• Acceleration	n/a	✓	GC 19.5	Agree	
• Rise and Fall	✗	✗	Item 100 of SOW	Precision Civil have accepted	
• Variations	✓	✓	GC 18	See above	
• Contaminated Material	✗	✗	GC 14.2	Depart	
• Minerals, fossils, relics	✗	✗	GC 14.2 GC 14.3	Depart	

17. Other				
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Commercial/Risk Observations, Recommendations and General Notes

1. Clarification suggested: Clause 6(b) (Service of Documents)
The Subcontractor may not give a notice by email under clause 19 [Delays, EOTS and Delay Costs] or clause 24 [Claims and Disputes]. Request this clause is deleted.
 2. Clarification suggested: Clause 17.3(c) (Re-sequencing)
The Subcontractor is not entitled to any claim in relation to a re-sequencing direction by [REDACTED] under paragraph (a). Request this clause is amended.
 3. Note for consideration: Clause 17.2(d) (Subcontractor's Program)
Notwithstanding [REDACTED] approval of the Subcontractor's Program, [REDACTED] will not be required to do anything or supply any item (including free issue material) other than as contemplated by the Subcontract – Should [REDACTED] be required to supply any free issue materials, an exhaustive list of free issue materials needs to be provided in the scope of work.
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