

Tender Clarification Register - Commercial

Subcontract No: [REDACTED]	Tenderer: [REDACTED]
Project: Kindalin Early Learning Centre	Rev: 0
Title: Kindalin Early Learning Centre - Supply & Install of Formwork, Fixing of Reinforcement, Pour & Place of Concrete and associated works	Date: 05/04/2021

Item No.	Section / Clause	Date	Comment By	Exception / Clarification	Status (Open/Closed)
COMMERCIAL CLARIFICATIONS					
1.	Consequential Loss New Clause	05/04/21	[REDACTED]	<p>[REDACTED] requests the insertion of the following new clause:</p> <p><i>“Consequential Loss</i></p> <p><i>The Subcontractor and [REDACTED] will not be liable to each other for any Consequential Loss suffered by [REDACTED] arising out of or in connection with the Subcontract.</i></p> <p><i>Consequential Loss means loss of profits, loss of production, loss of revenue, and loss of business opportunities, or any indirect, special, contingent or penal damages.”</i></p>	OPEN
			CLIENT		
2.	Direct Loss Limitation New Clause	05/04/21	[REDACTED]	<p>[REDACTED] requests the insertion of the following new clause:</p> <p><i>“Direct Loss Limitation</i></p> <p><i>Notwithstanding any other provision of this Subcontract, the maximum liability of the Subcontractor to all persons or entities (including but not limited to the [REDACTED] or [REDACTED] personnel) listed or referred under the Subcontract is limited to [REDACTED] % of the Subcontract Sum”</i></p>	OPEN
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3.	Delays, EOTS and Delay Costs Clause 19	05/04/21	[REDACTED] [REDACTED]	<p>[REDACTED] [REDACTED] requests the insertion of “seven (7) Business Days” in lieu of “two (2) Business Days” under clause 19.1(a).</p> <p>[REDACTED] [REDACTED] requests the insertion of the following new events under Annexure Part A (clause 19.2(a)(iii)):</p> <ul style="list-style-type: none"> i. <i>Force Majeure events (meaning war, civil war, armed conflict or terrorism, nuclear, chemical or biological contamination unless the source or the cause of the contamination is the result of the conduct of the affected party or its personnel, riot, commotion, epidemic, disorder, strike or lockout by persons other than the Affected Party or its Personnel, natural catastrophes such as a cyclone, earthquake, hurricane, fires, typhoon or volcanic activity, storm, floods etc);</i> ii. <i>Delays caused by inclement weather;</i> iii. <i>Delays caused by adverse Site conditions (including any adverse conditions above or below ground and around the Site); and</i> iv. <i>Delays caused by COVID</i> <p>[REDACTED] [REDACTED] requests the following clause in lieu of clause 19.3:</p> <p><i>“Where the Subcontract Works is delayed by an event listed under clause 19.2(a), in addition to an extension of time, the Subcontractor will be entitled to reimbursement of additional costs directly and solely attributable to the delay”</i></p>	OPEN
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4.	Liquidated Damages Clause 20	05/04/21	[REDACTED] [REDACTED]	<p>[REDACTED] [REDACTED] requests the following amendment to the liquidated damages amounts under Annexure Part A:</p> <p><i>“\$ [REDACTED] per day, capped at [REDACTED] % of the Subcontract Sum”</i></p> <p>Precision Civil requests deletion of clause 20.2 in its entirety.</p> <p>The above amounts shall be [REDACTED] sole remedy for the Subcontractor’s failure to complete the Works by the Date for Practical Completion.</p>	OPEN
			CLIENT		
5.	Indemnity Clause 13.1	05/04/21	[REDACTED] [REDACTED]	<p>[REDACTED] [REDACTED] requests the following additional wording under clause 13.1:</p> <p><i>“The indemnities provided by the Subcontractor under the Subcontract will be reduced proportionately to the extent any loss, cost or expense is caused by [REDACTED] its employees or any third party”.</i></p>	OPEN
			CLIENT		
6.	Defects Liability Period Clause 21.2	05/04/21	[REDACTED] [REDACTED]	<p>[REDACTED] [REDACTED] requests the following amendment to clause 21.2(a):</p> <p><i>“The Defects Liability Period will commence on the Date of Practical Completion and will expire twelve (12) months thereafter on expiry of the last defects liability period under the Head Contract.”</i></p>	OPEN

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				<p>[REDACTED] requests the following amendment to clause 21.2(b)(ii):</p> <p><i>"If there will be a separate defects liability period applicable to the rectification works (not exceeding 12 months from the expiry of the last defects liability period under the Head Contract)"</i></p>	
			CLIENT		
7.	Security Clause 5	05/04/21	[REDACTED]	<p>[REDACTED] requests the following amendment to clause 5.3:</p> <p><i>"(a) [REDACTED] entitlement to Security will be reduced by [REDACTED] % and [REDACTED] will return the reduction in Security within 20 Business Days after the later of:</i></p> <p><i>(i) the issue of a certificate of practical completion for the Head Contract Works; and</i></p> <p><i>(ii) receipt by [REDACTED] of an executed Deed of Release; and</i></p> <p><i>(b) within 20 Business Days after the later of:</i></p> <p><i>(i) the performance by the Subcontractor of all obligations under the Subcontract, including the rectification and making good of all Defects;</i></p> <p><i>(ii) issue of a final certificate under the Head Contract; and</i></p> <p><i>(iii) receipt by [REDACTED] of a written request from the Subcontractor for release of remaining Security..."</i></p>	OPEN
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8.	Termination Clause 23	05/04/21	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] requests deletion of clause 23.1(c)C. [REDACTED] [REDACTED] requests the insertion of “ <i>release of any security</i> ” in lieu of “ <i>a reasonable amount for Constructional Plant left on Site at [REDACTED] direction</i> ”.	OPEN
			CLIENT		
9.	Suspension Clause 17.4	05/04/21	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] requests the following amendment to clause 17.4(c): “ <i>Subject to paragraph (d), if the Subcontractor suffers a delay to the Date for Practical Completion as a result of a suspension direction under paragraph (a), it will be entitled to an extension of time under clause 19 [Delays, EOT's and Delay Costs], and reimbursement of additional costs directly and solely attributable to the suspension.</i> ”	OPEN
			CLIENT		
10.	Service of Documents Clause 6	05/04/21	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] requests deletion of clause 6(b) – [REDACTED] [REDACTED] requires the ability to submit notifications of delay, EOT etc as an attachment to an email.	OPEN
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11.	Re-sequencing Clause 17.3	05/04/21	[REDACTED] [REDACTED]	[REDACTED] [REDACTED] requests the following amendment to clause 17.3(c): <i><u>"The Subcontractor is not entitled to any claim in relation to a re-sequencing direction by [REDACTED] under paragraph (a), unless the Subcontractor can demonstrate that it will require an additional time and/or, will incur additional costs, as a direct consequence to the direction to re-sequence"</u></i>	OPEN
			CLIENT		
12.					