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Contract No	████████████████	**Award Date**	███
Client	████████████████	**Submission due date**	████
Contract Name / Type	Project 56-60 Burwood Road Fire Services (Wet)	**Review Date**	9 November 2018
Client Tender ID	███	**Contract Value**	Lump Sum fee of $████████
Location / Site	56-60 Burwood Road	**On Site Duration / Term of Engagement**	Not clear. No program provided, no start date mentioned (will require clarification)
Scope Of Work	Tenderer to review and advise on all scope related items.		

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	LD's are applicable at the following nominated amounts: o $████ per day; and o Unlimited (no expressed cap is provided). Based on a contract sum of $████ per day, the amount equated to ██% per day, which is high. Clause 10.4 entitles the client to general damages over-and-above the currently provided amount.	Subcontract Particulars Item 3 GC 10	**Depart** Request reduction to the daily amounts to something more palatable. i.e. $████ per week as opposed to per day. Request an expressed cap, suggest to an amount equal to █% of the Sub-contract Sum. Request deletion of the general damages provision.	
4. Insurance	General Public and Products Liability = $amount not provided Contract Works = $reinstatement value of the works Professional Indemnity = $no amounts provided	GC 28	████ to advise.	

Checks	Client Position	Clause	Agree or Depart Suggestion	TCR Item
	Workers Comp = $amount not provided Home Warranty Cover = required by law			
5. Indemnity and Warranty obligations	████ to indemnify against loss of or damage to property, claims in respect of personal injury, death, disease or illness. A proportionate reduction exists. An extensive warranty provision exists which prevents ████ from making any claim for damages (cost or time) from the information provided by the client, including any incompleteness, adequacy issues, anomalies, discrepancies etc with the documentation provided by the client. Similarly, ████ have no entitlement to make a claim (cost or time) arising from any physical conditions on Site and its near surroundings. ████ ought to have thoroughly completed a Site investigation prior to accepting any such warranty.	GC 3 GC 28	**Depart** Request amendment to the wording provided under clause 3.	
6. Defects liability	Default position is 104 weeks from completion Defects to be rectified within 2 Business Days, failure of which may result in client completing the defect and backcharging ████	GC 13 GC 27	**Depart** Request 52 weeks from completion Amend wording to rectify defect within a reasonable time and not 2 Business Days.	
7. Security and retention	Item 7 of the Particulars and clause 20.2 confirms █% of each Payment Claim until █% of the contract sum is retained. █% of retention retained shall be released upon achieving PC. The remaining █% shall be released 12 months following	GC 3.16 GC 20	**Depart** Request █% retention of each payment claim until █% of the contract sum is retained. All retention to be returned upon PC. Request deletion of all reference to Personal Guarantors being required.	

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	expiry of the DLP (currently 2 years), therefore, 3 years following PC. Clarification included on the premise that ████ will accept securities. If not, ████ to amend clarification. Clause 3.16 and Item C of particulars provides ████ ████ (Director) as a Personal Guarantor. The Personal Guarantor may be held personally liable for ████ performance.			
8. Payment terms	Payment claim to be submitted on 23rd of each month. Client will assess claim within 10 Business Days and advise of its determination. Payment shall be made on the last working day of the month following the month the payment claim was submitted	GC 14	Agree	
9. Default and Rights and liabilities upon termination	Should ████ commit a breach, the client may issue a show cause notice for ████ to remedy the breach. The breach must be rectified/remedied within 2 Business Days – such period is not reasonable If ████ fail to rectify/remedy the breach, significant consequences may arise, i.e. the client can take possession of ████ plant, equipment, tools etc, also, the works that remain completing, the client can backcharge ████ Any such notice shall be taken very seriously.	GC 36	**Depart** Request a period of 15 Business Days to remedy the breach and amendments to the wording.	
10. Variations	Extensive variation provision exists.	GC 12	**Depart** Request extension to the 2 Business Days.	

Checks	Client Position	Clause	Agree or Depart Suggestion	TCR Item
	If the parties agree to the variation, but the variation isn't signed or dated, the subcontractor will not be entitled to make a claim for additional cost or time. Suggest additional wording is included to protect ████ from proceeding with the variation, i.e. *"The Subcontractor is not obliged to proceed with the variation work in circumstances where the Contractor has not signed the variation"* An onerous time barring provision exists – clause 12.9. **Client directions** Variation notification to be provided within 2 Business Days.		Request wording amending to provide ████ with the necessary protection.	
11. Design responsibility	████ is responsible for design under the Subcontract.		████ to refer to clause 21 and confirm it aligns with its obligations as-to the design required under the contract.	
12. Milestone / Key dates and durations	TBC		TBC	
13. Dispute resolution	A stepped dispute resolution process is provided, which consists of: - Notice (hand or certified mail) - Written response to be provided within 14 days. - Within 7 of service of notice, or 14 days of receipt of written response, the client shall give each party written decision on the dispute. - If either party is dissatisfied with clients written decision, the parties shall within 14 days confer.	GC 38	Agree	

Checks	Client Position		Clause	Agree or Depart Suggestion	TCR Item
	- If no resolution within a further 7 days, the dispute can be referred to expert determination.				
14. Delay Time Bars	Delay/EOT notice: as soon as possible (in any event, within 2 Business Days). There is no requirement for a follow-up notice (containing all detailed particulars – such detail is expected to be included in the initial notice). Client is obligated to provide its determination within 10 Business Days. The granting of an EOT is contingent on: • Whether the client has been granted an extension of time under the Head Contract. • Whether ▮▮▮▮ can make up the time lost by committing extra resources and incurring extra expenditure. No mention of delay costs being permitted. ▮▮▮▮ sole remedy is additional time only.		GC 11	**Depart** Request an initial delay notice to be provided within 7 Business Days and the detailed notice to be provided within 14 Business Day. Request deletion of pass-through provision. ▮▮▮▮ should not accept a pass-through pass through provision. Request deletion of the acceleration provision. ▮▮▮▮ shall not be obligated to accelerate and incur additional costs as part of the mitigation. Acceleration shall entitle ▮▮▮▮ to additional cost. Request insertion of delay cost provision.	
15. Delay entitlements	**Time**	**Cost**		✓ ✗	
• Delays in Access by client	✗	✗	GC 29.4	**Depart** Request deletion of clause 29.4 in its entirety.	
• Suspension by client	✓	✓✗	GC 23.1	**Depart** Clause 23.1 confirms entitlement to cost but clause 23.6 prevents the Subcontractor from claiming additional cost. Request wording amendment	
• Force Majeure	✗	✗	GC 46	**Depart** Request clause amendment to entitle the Subcontractor with additional time and cost	

Checks	Client Position		Clause	Agree or Depart Suggestion	TCR Item
• Inclement Weather	✗	✗	GC 46	**Depart** Request clause amendment to entitle the Subcontractor with additional time and cost	
• Latent Conditions (site only)	✗	✗	GC 5	**Depart** Request entitlement	
• Errors/ delays in client's documents	✗	✗	GC 34.3	**Depart** Should █████ be disrupted or delayed due to issues with client provided documents, entitlement to time and cost should exist	
• Delays by client's other contractors	✗	✗	GC 32.2	**Depart** Should █████ be disrupted or delayed by other contractors, entitlement to time and cost should exist	
• Acceleration	✗	✗	GC 30	**Depart** Request amendment to Clause 30.2 which confirms that no entitlement to additional costs exists, unless the parties agree	
• Disruption	✗	✗		Agree	
• Variations	✓	✓	GC 12	Agree	
16. Other					

Commercial/Risk Observations, Recommendations and General Notes

1. Very onerous personal property collateral clause – refer clause 40. This clause must be deleted.
2. Very onerous real property clause – refer clause 41. This clause must be deleted.