

idec Minor Works Terms and Conditions

1. DEFINITIONS

Business day means a day that is not:

- (i) a Saturday or a Sunday; or
- (ii) a public holiday, or a block-out period under the relevant state Security of Payment legislation in which the Subcontract Works are being carried out.

Defects Liability Period means the period stated in item 2 of idec's Minor Works Purchase Order which commences on the date of practical completion under the head contract.

Head contract means the contract between the principal and idec for the execution of the project.

Item means an item on idec's Minor Works Purchase Order.

Project means the whole of the work to be carried out under the head contract.

QBCC Act means the Queensland Building and Construction Commission Act 1991 (Qld).

Site means the address of the project on the Order.

Subcontract means the combination of these T&Cs, the Purchase Order and any attached schedules or Scope of Work (SOW), collectively forming the Subcontract.

Subcontract Price means the amount payable to the subcontractor by the contractor, as adjusted under this subcontract, as set out in the Order.

Substantial Completion means the stage when the works are complete except for minor defects and/or omissions that do not prevent the works from being used for their usual purpose. See item 1. of the Order.

Variation means to vary the works by changing the SOW as described in App: 829 or otherwise adding to or omitting from the SOW.

Works means the whole of the work to be carried out by the subcontractor, as described in App:829, subject to variations.

2. SUBCONTRACTOR TO COMPLETE WORKS

(a) the subcontractor must carry out and complete the works:

- (i) in a proper and tradesperson-like manner;
- (ii) in accordance with the subcontract and idec's directions;
- (iii) in accordance with all legislative requirements, including any relevant Australian standards applicable to the works;
- (iv) using materials that are new and free of defects; and
- (v) by the date for substantial completion.

(b) the subcontractor must:

- (i) attend all site meetings as requested by idec;
- (ii) understands and will comply with safety, quality and environmental requirements including but not limited to PPE, site safety / quality / environmental plans, safety / quality / environmental instructions, house-keeping and toolbox talks.
- (iii) co-operate with all other workers and contractors on the site; and
- (iv) satisfy itself that the site is suitable.

(c) the subcontractor is responsible for:

- (i) any damage caused by the subcontractor and its agents and employees;
- (ii) keeping the subcontractor's area clear at all times; and

3. DIRECTIONS

(a) idec may issue a direction to the subcontractor regarding carrying out the works, and the subcontractor must comply with idec's reasonable directions.

(b) a direction may be given orally, however, where a direction is given orally, idec must give the subcontractor written confirmation of the direction within five (5) business days.

4. VARIATIONS

(a) the subcontractor must not vary the works unless in accordance with a **written** direction from idec.

(b) the price of a variation is to be agreed by the parties. failing agreement, the price will be reasonably decided by idec. If the subcontractor disagrees with idec's price the subcontractor may refer the issue to dispute resolution within five (5) business days of receiving written notice of idec's price.

5. INDEMNITY AND INSURANCE

(a) the subcontractor indemnifies idec against:

- (i) loss or damage to property; and
- (ii) claims in respect of personal injury, death, or loss or damage to any property arising out of, connected to, or as a consequence of, the subcontractor:
 - (a) carrying out or failing to carry out the works; or
 - (b) breaching this subcontract.

(b) the subcontractor must have and maintain the insurance policies specified in item 4 of the Order, and each policy of insurance is to be on terms satisfactory to idec.

(c) when idec requests the subcontractor must prove to idec that the policies of insurance are current.

6. TIME AND PROGRESS

(a) the subcontractor is entitled to an extension of time to complete the works as idec reasonably decides if:

- (i) the works are delayed by any cause outside the control of a competent subcontractor; and
- (ii) the subcontractor gives idec **written notice** claiming the extension of time within two (2) business days of when the subcontractor becomes, or should have become, aware of the delay.

7. DEFECTS

(a) as soon as possible after the date of substantial completion the subcontractor shall rectify all defects existing at the date of substantial completion.

(b) at any time prior to the expiry of the defects liability period, idec may give to the subcontractor a written direction to remedy the defects. Should the subcontractor fail to comply with the written direction, idec may have the defects remedied by others and the costs of the rectification will be payable by the Subcontractor to idec.

(c) notwithstanding the expiry of the defects liability period the subcontractor must rectify any part of the works which is the subject of a direction to rectify issued under section 72 of the QBCC Act. This obligation does not purge on the completion of this subcontract.

8. LIQUIDATED DAMAGES

If the works do not reach substantial completion by the date for substantial completion, idec is entitled to liquidated damages as specified in item 3 of the Order as a debt due and payable to idec.

9. PAYMENT

(a) the subcontractor is entitled to make a monthly progress claim. The *reference date* is the penultimate working day of the month.

(b) all progress claims, including a final progress claim, must:

- (i) contain details of the actual cost of work carried out by the subcontractor up to and including the date of the claim;
- (ii) provide copies of tax invoices for any outlays claimed.

(c) on receipt of a progress claim, idec will:

- (i) determine the amount owing and give the subcontractor a written payment schedule; and
 - (ii) pay that amount to the subcontractor within the period specified on the Purchase Order.
- (d) payment is a payment on account only.

(e) if idec does not pay the subcontractor by the due date, interest accrues at the rate stated in section 67p of the QBCC Act.

10. COMPLIANCE WITH STATUTES

(a) the subcontractor must comply with all legislative requirements relating to the works, including any direction from a local authority or other body having jurisdiction over the carrying out of the works.

(b) the subcontractor must comply with the Heavy Vehicle National Law (HVNL).

(c) the subcontract is subject to the provisions of the Queensland Building and Construction Commission Act 1991 (QBCC Act) and the Building Industry Fairness (Security of Payment) Act 2017.

(d) the subcontractor warrants it holds and will retain all licences required under the QBCC Act to carry out the works.

11. DEFAULT AND TERMINATION

(a) if either party:

- (i) being a company, suffers the appointment of an administrator, liquidator or provisional liquidator in respect of it because it is or may be insolvent; or
- (ii) being an individual, becomes an insolvent under administration as defined in section 9 of the corporations law, then:
the other party may, by giving a written notice, terminate this subcontract.

(b) if either party commits a substantial breach of this subcontract, the other party may issue a notice to show cause to the party in breach requiring that party to rectify the breach. If that party fails to rectify the breach set out in the show cause notice within seven (7) business days of receipt of the notice, the other party may terminate the subcontract by giving a further written notice.

(c) if the head contract is terminated for any reason, idec may terminate this subcontract. The subcontractor is entitled to claim loss of profit and overheads unless the termination is due to the principal's default.

12. SUSPENSION

(a) if work under the head contract has been suspended, idec may suspend the works.

(b) if idec fails to make a payment by the due date, the subcontractor may suspend the works on giving five (5) business days prior notice.

13. DOCUMENTS

(a) documents provided by idec to the subcontractor under this subcontract remain idec's property and shall be returned to idec on written demand.

(b) the subcontractor must not use, copy or reproduce documents provided by idec for any other purpose other than the works.

14. DISPUTE RESOLUTION

(a) if a dispute arises out of or in connection with this subcontract, the aggrieved party shall, within two(2) business days of this dispute arising, give to the other party a written notice of the dispute stating the details of the dispute.

(b) the parties shall meet within five (5) business days of the notice of dispute being received by the other party and make reasonable endeavours to resolve the dispute.

(c) nothing in this clause prevents a party from seeking urgent injunctive, or declaratory, relief.