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Commercial Terms & Conditions – Subject to Contract

We confirm that we would be pleased to discuss the terms and conditions based on your proposed form of contract subject to the agreement of mutually acceptable amendments to reflect our risk concerns, tendered scope of works, programme and price.

In particular, but without limitation, such amendments should address; payment terms, performance bonds, damages for delay and warranty provisions which should reflect progressed completion of our own works and the setting of limitations of liability proportional to our subcontract price.

Should we be selected as preferred subcontractor, we would be pleased to review and produce appropriate amendments for your consideration. If we have not had the opportunity to review the Main Contract, then the Subcontractor reserves the right to review the Main Contract conditions and subsequently amend their offer and the terms and conditions as appropriate.

In the mean time please find detailed below the typical amendments which we would generally seek in respect of any contract award based on your proposed terms and conditions. We intend to use these references in our negotiations of the Subcontract:-

Title	Comments
Parent Company Guarantee	Shall not apply as there is no Parent Company.
Bonds	If a Bond is required then the Subcontractor is willing to provide a Bond, subject to mutually agreed wording with our Surety.
Collateral Warranties	If Collateral Warranties are required then the Subcontractor is willing to provide such Warranties, subject to mutually agreed wording. All costs to be borne by yourselves.

Liquidated & Unliquidated Damages	<p>The Subcontractor proposes that the amount of Liquidated or Unliquidated Damages should be limited to 1% per week or part thereof up to a maximum of 10% of the Sub-contract value at the time of award. Liquidated or Unliquidated Damages shall be in full and final satisfaction of the Sub-Contractor's liability for delay and are included in the aggregate of Limitations of Liability.</p>
Insurances	<p>The Subcontractor will provide the insurances below. The Subcontractors insurances cover the company's legal liability to third parties for claims and compensation in respect of Property Damage and Personal Injury arising out of or during the course of the Subcontractors business activities, subject to per event and annual aggregate caps.</p> <p>The Subcontractor propose that the Contractor's liability for loss or damage to Property shall be limited to a maximum of £2 million pounds for any one period of insurance and included in aggregate of the Limitations of Liability under the contract.</p> <ul style="list-style-type: none"> • Employers Liability Insurance £10M in line with UK statutory requirements, extended to include indemnity to principal; • Public and Product liability insurance, up to a maximum limit of £5M in respect of any one occurrence and in the aggregate in any one period of insurance, extended to include indemnity to principal; <p>As these insurances are part of the general suite of insurance that the Subcontractor employ, no premium receipts can or will be provided, certificates can be provided.</p>
Professional Indemnity Insurance	<p>The Subcontractor will provide professional indemnity the insurances below. The insurance covers the company's legal liability for claims and arising out of or during the course of the Subcontractors business activities, subject to per event and annual aggregate caps.</p> <ul style="list-style-type: none"> • Professional Indemnity Insurance, up to a maximum of £0.1M in respect of any one occurrence and in the aggregate in any one period of insurance, extended to include indemnity to principal; <p>As this insurance is part of the general suite of insurance that the Subcontractor employ, no premium receipts can or will be provided, certificates can be provided.</p>
Indemnities	<p>The Subcontractor will indemnify the Client for the following:</p> <ol style="list-style-type: none"> 1) Property Damage to the extent directly resulting from the Subcontractors sole negligence up to a maximum of £2 million pounds;

	<p>2) Actual infringement of 3rd party Intellectual Property Rights caused solely by the Subcontractors negligence up to and included within the aggregate on the Limitations of Liability under the Contract.</p>
<p>Intellectual Property Rights</p>	<p>The Subcontractor will grant a non-exclusive royalty free licence to allow the Client to complete the subcontracted works in order to allow it to fulfil its main contract obligations with the right to grant a licence to the ultimate employer, purchaser or first tenant for operating, training, maintaining, repair, security and backup.</p> <p>Such licence shall not carry the right to grant sub-licences or to transfer the licence to third parties without the Subcontractors' written consent. All Intellectual Property Rights subsisting in or in anyway relating to the Sub-Contract works remains vested in the Subcontractors' and their sub-Subcontractors and / or their Suppliers.</p>
<p>Limitations of Liability</p>	<p>1. The Subcontractor's liability for any delayed completion shall be limited to the liquidated and / or unliquidated damages payable by the Sub-Contractor of 1% per week or part therefore up to an aggregate of 10% of the Sub-Contract Value at the time of the award of the Contract and such liquidated damages shall be the exclusive remedy for any delayed completion.</p> <p>2. Notwithstanding any other provision of this Contract, the Sub-Contractor shall not be liable in contract, tort or otherwise howsoever for any claim (including without limitation a claim pursuant to an indemnity), damage, loss or costs in respect of:-</p> <p style="padding-left: 40px;">2.1 any direct loss of profit;</p> <p style="padding-left: 40px;">2.2 any direct loss of anticipated savings; or</p> <p style="padding-left: 40px;">2.3 any indirect loss or damage howsoever caused including, without limitation:-</p> <p style="padding-left: 80px;">(a) any indirect loss of profit;</p> <p style="padding-left: 80px;">(b) loss of anticipated profit including loss of profit on contracts;</p> <p style="padding-left: 80px;">(c) loss of the use of money;</p> <p style="padding-left: 80px;">(d) loss of anticipated savings;</p> <p style="padding-left: 80px;">(e) loss of business;</p> <p style="padding-left: 80px;">(f) loss of opportunity;</p> <p style="padding-left: 80px;">(g) loss of good will;</p> <p style="padding-left: 80px;">(h) loss of revenue,</p> <p style="padding-left: 80px;">(i) loss of reputation; and/or</p> <p style="padding-left: 80px;">(j) loss of data</p> <p>and the parties hereto agree that the sub clauses of this Clause 2 shall be severable.</p> <p>3. (Subject to Clause 4 below) The Sub-Contractors' aggregate liability (including liability for liquidated and / or unliquidated damages) under or in connection with this contract (whether for breach of contract, in negligence or in any other tort, under statute or otherwise) will be limited to 10% of the Contract Sum at the time of award of this Contract.</p> <p>4. Nothing contained in this Contract shall limit either party's liability for death or personal injury resulting from any act, omission or negligence of that party or its officers, agents, employees or sub-contractors.</p>

Liability for Defects	The Subcontract liability for defects in or damage to the Subcontract materials, Subcontract plant or Subcontract works shall take effect when Practical Completion is achieved or when the Client takes beneficial use of the Works, whichever is sooner, and shall be in lieu of any warranty, condition or liability implied by law all of which are hereby expressly excluded.
Termination	If the client is to have the right to terminate for convenience (i.e. not due to failure by the Subcontractor) the Subcontractor will require compensation for such termination.
Assignment & Subletting	The Subcontractor propose that either party may assign the benefits of the contract in whole or in part up to a maximum of two occasions and the Subcontractor shall have the right to sublet any part of its works without the consent of the client.