

COMPILATION OF PPP TERMS AND CONDITIONS OF CONTRACT

PUBLIC SECTOR VERSION

CLAUSE 7: HEALTH, SAFETY AND SECURITY

DBFOM CONTRACT

CONCESSION CONTRACT

DBFM CONTRACT

DBF CONTRACT

DBOM CONTRACT

DBM CONTRACT

INTRODUCTION

These provisions would apply to any construction contract and deal with health and safety and security at the site during construction.

Note: The Safety, Health and Welfare at Work Act 2005 now applies.

CORE CONTRACT DRAFTING

7. HEALTH, SAFETY AND SECURITY

7.1 Responsibility for Safety and Security

The PPP Co shall be responsible for the safety and security of the Project including, without limitation, the Works and the [Project Facility]. In particular, the PPP Co shall, throughout the Contract Period, have full regard for the safety of all persons affected by the carrying out of the Project or otherwise on the Site [and Off-Site Areas] from the Commencement Date until the expiry of the Contract Period, whether lawfully or not, and shall keep such parts of the Site [and the Off-Site Areas] in an orderly state appropriate to the avoidance of danger to such persons.

7.2 Prevent Trespass

Without limitation to Clause 31 (Protestors and Trespassers), the PPP Co shall take such measures as are reasonably required to prevent trespass onto the Site [or the Off-Site Areas] from the Commencement Date until the expiry of the Contract Period of any persons or livestock not entitled to be there including, without limitation, fencing of the Site [or the Off-Site Areas], where appropriate.

7.3 Compliance with Agreement

The PPP Co shall comply (and secure compliance) with the requirements of this Agreement

and, in particular, the User Requirements in relation to health, safety and security.

7.4 Safety of Users

In carrying out the Project, the PPP Co shall, insofar as is within the control of the PPP Co, take all reasonably practicable measures necessary to secure the health, safety and security of Users of the [Project Facility].

7.5 Construction Regulations

Without prejudice to the generality of this Clause 7 (Health, Safety and Security), the PPP Co shall observe, perform and discharge and shall procure the observance, performance and discharge of:

- (a) all the obligations, requirements and duties arising under the Construction Regulations in connection with the Project; and
- (b) any Code of Practice applicable to the Project for the time being approved or to be approved by the Health and Safety Authority pursuant to the Safety, Health and Welfare at Work Act, 2005 and any regulations made thereunder.

7.6 Project Supervisors

- (a) The PPP Co shall nominate competent persons or organisations Approved by the Authority:
 - (i) to act as Project Supervisor for the Design Process;
 - (ii) to act as Project Supervisor for the Construction Stage; and
 - (iii) to act as competent person pursuant to Section 17(1) of the Safety, Health and Welfare at Work Act, 2005,

of the Project pursuant to the Construction Regulations for the Design and Construct Period. The PPP Co shall procure that the Project Supervisor for the Design Process and the Project Supervisor for the Construction Process enter into an appointment with the Authority in a form required and Approved by the Authority (the **“Appointment”**). The PPP Co undertakes that the Project Supervisor for the Design Process and the Project Supervisor for the Construction Stage so nominated shall be competent to, and shall, perform the duties detailed in the Construction Regulations. If the Appointment terminates at any time before the expiry of the Design and Construct Period, the PPP Co shall procure that a replacement Project Supervisor enters into an Appointment in accordance with the provisions of this Clause 7.6. Not more than one Project Supervisor for the Design Process and one Project Supervisor for the Construction Stage shall be appointed in respect of the Project at any one time. For the avoidance of doubt, the Authority accepts no responsibility for delays or disruptions caused to the Project by the Project Supervisor for the Design Process or the Project Supervisor for the Construction Stage.

- (b) The PPP Co shall, subject to Clause 48.9 (Risks that become Uninsurable), procure that its Insurances shall provide indemnity in respect of any Claim for bodily injury and/or property damage and/or professional negligence incurred by reason of the performance and/or non-performance of the functions and duties of both Project Supervisor for the Design Process and Project Supervisor for the Construction Stage of the Project.

CROSS REFERENCES

This clause is referred to in the following clause of the Compendium:

- Clause 3 (Effectiveness of this Agreement)

This clause is relevant to the following entry in the Risk Matrix:

- C14 (Site Safety)