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Attention: Richard Walford

Via ACONEX: Richard.Walford@cpbcon.com.au

Project: P-0510513
Our Ref: 1005-0091
Your Ref: CPB-1005-LET-0202

04 August 2023

Dear Richard,

**RIO TINTO PROJECTS – IRON ORE
WESTERN RANGE PROJECT
CONTRACT: WR/C/CC/1005 - MAIN INFRASTRUCTURE BULK EARTHWORKS
ENGINEER'S RESPONSE TO LET-0202 EOT 004 – CLAUSE 56 EXTENSION OF TIME –
PERMANENT ACCOMMODATION**

The Engineer refers to the Contract, the various relevant correspondence listed in Attachment 1 and the Contractor's letter referenced CPB-1005-LET-0202 dated 14 July 2023, from the Contractor issued via Aconex correspondence CPB Con-PRCO-000199 (**LET-0202 or EOT-4**).

Non-Compliance With Notice Provisions Under Clause 56

The Contractor's Claim in LET-0202 does not meet the requirements set out in Clause 56 (Extension of Time) of the General Conditions, as follows:

- i) the Claim is made under Clause 56.2(f) which is incorrect. Clause 56.2(f) provides for an Engineer's determination following its receipt of all information relating to an extension of time Claim;
- ii) the Contractor failed to submit the relevant compliant notices, pursuant to Clause 56.2(c)(i), which are required to be submitted every 20 Working Days following occurrence of the alleged Delay Event, for delays lasting longer than 14 days; and
- iii) the Contractor failed to submit its Claim for extension of time within 15 Working Days following cessation of the alleged Delay Event pursuant to Clause 56.2(c)(ii), noting that the Contractor appears to confirm that the Delay Event ceased on 28 April 2023.



Clause 56.2(g) provides that unless the Contractor has strictly complied with the procedure in this Clause 56.2, the Contractor will not be entitled to an extension to the Completion Date. The Engineer may therefore reject the Contractor's Claim for extension of time on the basis of the above findings and specifically reserves its right to do so.

Delay Analysis

Quantum of Daily Site Working Hours

The Engineer notes that the Contractor has not provided a detailed analysis of the impact of change in accommodation on the Contractor's working hours at Site but observes that the Contractor makes reference, in LET-0202, to Schedule C, Table C.2.2 as containing the relevant Site working hours and advises that the normal working hours at Site are contained in Schedule C, Table C.2.1 instead.

The Engineer provides, in Table 1 below, its analysis of the actual daily Site working hours while the Contractor's Personnel were accommodated at Punurunha (Marandoo) Village from 04 April 2023 until 28 April 2023 (inclusive). The Engineer derived the actual hours from an analysis submitted by the Contractor for a separate but similar Claim submitted in Contractor's letter referenced CPB-1005-LET-0062 dated 26 April 2023. The Contractor is required to confirm its acceptance of the Engineer's analysis of working hours in Table 1 below.

Table 1 – Comparison of Working Hours in Schedule C, Table C.2.1 v Actual Hours

Day of week	Contract Schedule C, Table C.2.1			Hours made available to the Contractor on Site		
	From (AM)	To (PM)	Number of working hours (after deduction of meal breaks) [A]	From (AM)	To (PM)	Number of working hours (after deduction of meal breaks) [B]
Monday	6:00	17:00	10.50	7:10	16:00	8.33
Tuesday	6:00	17:00	10.50	7:00	16:00	8.50
Wednesday	6:00	17:00	10.50	7:00	16:00	8.50
Thursday	6:00	17:00	10.50	7:00	16:00	8.50
Friday	6:00	17:00	10.50	7:00	16:00	8.50
Saturday	6:00	13:30	7.00	7:00	13:00	5.50
Sunday	6:00	17:00	10.50	7:00	16:00	8.50
Total per week			70.00			56.33

Programme

The Engineer observes that the Contractor has utilised a version of the Programme for its delay analysis, which was not the Approved Programme, at the time the Claim was due to be made under the Contract. Clause 47 states that Schedule G is the Approved Programme unless another Programme is approved. The Engineer may therefore reject the Contractor's Claim for extension of time on this basis and specifically reserves its right to do so.

Concurrent delays

The Engineer observes that, there are concurrent delays, such as Contractor's own delays and Contractor's failure to provide the planned Direct Manual Workforce resources at Site, noting that Clauses 56.2 (e) (ii) disentitles the Contractor to an extension of time to the extent a concurrent delay is present.



Presentation of Extension of Time Claim

The Engineer has identified some shortcomings in the IAP delay analysis files submitted as part of EOT-004. For example, the Engineer observes that the Contractor extended some activity durations within its IAP analysis in EOT-004 without providing a detailed calculation to show how the extended durations were derived for each activity.

The Engineer believes the shortcomings in the EOT-004 delay analysis could be addressed by either:

- a) the Contractor providing the detailed calculations of the activity durations and by following the guidance issued by the Engineer in section titled "Presentation of Extension of Time Claim" and Attachment 1 (IAP Delay Inputs Template) both contained in the Engineer's letter 1005-0085 dated 19 July 2023; or
- b) the Contractor following the guidance outlined below in its preparation of IAP delay analysis XER file:
 - develop separate uniquely labelled delay calendar/s e.g., "EoT-004-Delay Calendar", reflecting the revised working hours as shown in Table 1 above, during the relevant delay period/s;
 - assign the new delay calendar/s to the impacted activities;
 - keep all existing logic and all program attributes within the Approved Programme;
 - verify that none of the Level of Effort (LoE) activities are part of the critical path;
 - do the schedule quality check and ensure that the Approved Programme is only affected by the assigned delay calendars;
 - save the modified program as EoT4 claim XER file for submission as the delay analysis file;
 - undertake a schedule quality check, e.g., no negative total floats, no open-end etc.; and
 - submit an excel file showing the Contractor's calculations of the revised working hours used in the delay calendar/s.

In this specific instance, due to the fact that the Delay Event affects all the activities carried out during the relevant delay period, the Engineer prefers that the Contractor carries out its delay analysis by following the guidance in b) above, i.e., delay analysis using the calendar assignments.

Conclusion

The Engineer considers the Claim for extension of time in LET-0202 to be inconsistent with the process prescribed in the Contract given the above reasons and may be rejected on these grounds, which the Engineer specifically reserves its right to do so. Notwithstanding the foregoing, Clause 56.4 (a) enables the Engineer to, in its absolute discretion (including where a Claim has not been submitted in accordance with the Contract), to extend a Completion Date.



The Engineer is reviewing the Contractor's Claim so that it can consider whether or not to use its discretion in this instance and requests the Contractor to review and revise its Claim in LET-0202, considering all the above comments, and resubmit to the Engineer, by no later than 11 August 2023.

Yours sincerely,

A handwritten signature in black ink, appearing to read "C. Ramm".

CRAIG RAMM
Engineer's representative

Author: GJM
cc: CDR, DDS, MLT, SNA, AXT, KXH, GJM
Attachment 1: List of Relevant Correspondence



Attachment 1 – List of Relevant Correspondence

- 1) the Contractor's letter referenced CPB-1005-LET-0052 dated 7 April 2023, from the Contractor issued via Aconex correspondence CPB Con-PRCO-000039;
- 2) the Contractor's letter referenced CPB-1005-LET-0073 dated 28 April 2023 issued via Aconex reference CPB Con-PRCO-000061 (LET-0073);
- 3) the Engineer's letter referenced 1005-0059 dated 25 May 2023 transmitted via Aconex reference WR-LETTER-000146 on 25 May 2023 (1005-0059);
- 4) the Contractor's letter referenced CPB-1005-LET-0088 dated 09 May 2023, issued via Aconex correspondence CPB Con-PRCO-000080;
- 5) the Engineer's letter referenced 1005-0075 dated 09 June 2023, issued via Aconex correspondence WR-LETTER-000075;
- 6) the Contractor's letter referenced CPB-1005-LET-0143 dated 09 June 2023 transmitted via Aconex reference CPB Con-GCOR-000322 on 10 June 2023 (LET-0143);
- 7) Programme BAS-04 approval, issued from the Engineer 20 June 2023 via Aconex correspondence WR-TRANSMIT-007163;
- 8) the Engineer's letter referenced 1005-0083 dated 11 July 2023 transmitted via Aconex reference WR-PRCO-001046 on 11 July 2023 (1005-0083), and
- 9) the Contractor's letter referenced CPB-1005-LET-0202 dated 14 July 2023, from the Contractor issued via Aconex correspondence CPB Con-PRCO-000199 (**LET-0202 or EOT-4**)