



**SECURITIES AND  
FUTURES COMMISSION**  
證券及期貨事務監察委員會

## **Invitation to Tender**

### **Main Works (Phase 2) for SFC Office Relocation Project**

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20 January 2020

## Timetable

A tentative time-table of the Project is as follows:

<b>Milestone</b>	<b>Target Completion Date</b>
Issue Invitation to Tender	20 January 2020
Deadline of Issue of Tender Queries from Tenderer	7 February 2020, 2:00 p.m.
Tender close	14 February 2020, 2:00 p.m.
Tender Interview	20 – 21 February 2020 (Tentative)
Appointment	9 March 2020 (Tentative)
Site Possession (L47, L48, L50 – L53) (Tender A)	1 April 2020
Site Possession (L54) (Tender B)	1 April 2020
Site Setting Out Walk-Through	8 April 2020
Mock-up Rooms Ready (Based on the Issued Technical Specifications and Drawing)	[To be confirmed]
Handover of the Large Hub Room and Hub Rooms on L47, L48, L50 – L54	20 April 2020
Remaining Works Such as Cabling Containment outside Hub Rooms and MVAC Works that Serves Hub Rooms	3 May 2020
Sectional Completion Date (L47 & L51) (Tender A)	29 May 2020
Sectional Completion Date (L50 & L52 & L53) (Tender A)	5 June 2020
Sectional Completion Date (L48) (Tender A)	12 June 2020
Practical Completion Date (L54) (Tender B)	19 June 2020
Expiry of Defects Liability Period (L47, L48, L50 – L53) (Tender A)	11 June 2021
Expiry of Defects Liability Period (L54) (Tender B)	18 June 2021

Tender should be marked with the reference “**Main Works (Phase 2) for SFC Office Relocation Project**” and must be submitted in four sealed envelopes marked with the tender title and the words “**Tender Price Submission (Tender A / Tender B)**” and “**Technical Submission (Tender A / Tender B)**” and deposited to a TENDER BOX at the following address before Tender Close:

**Securities and Futures Commission  
30th Floor, Cheung Kong Centre  
2 Queen’s Road Central  
Hong Kong**

TENDER DOCUMENTS

FOR

MAIN WORKS (PHASE 2)

FOR

SFC OFFICE RELOCATION PROJECT

AT

ONE ISLAND EAST

SECURITIES AND FUTURES COMMISSION  
EMPLOYER

CBRE LIMITED  
PROJECT MANAGER

M MOSER ASSOCIATES LIMITED  
DESIGNER

CCL INTERNATIONAL LTD  
MEP CONSULTANT

TURNER & TOWNSEND LIMITED  
QUANTITY SURVEYOR

JANUARY 2020

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Total 22 pages

## CONDITIONS OF TENDERING



## **CONDITIONS OF TENDERING**

1. The tender documents issued consist of a copy of the following :

- (a) One copy of the document containing :
  - (i) Conditions of Tendering and its appendices
  - (ii) Form of Tender (for both Tender A and Tender B) and Appendix 'A'
  - (iii) Articles of Agreement
  - (iv) Conditions of Contract
  - (v) Employer's Requirements
    - Specification Preliminaries and its Appendices
    - Technical Specifications
  - (vi) Schedule of Quantities and Rates (for both Tender A and Tender B)
  - (vii) Summary of Tender (for both Tender A and Tender B)
- (b) One set of tender drawings as listed in Schedule of Drawings

Please note that item (a)(v) to (a)(vii) and item (b) above will only be released upon completed, signed, witnessed and dated Appendix A to C of Conditions of Tendering are returned.

2a. The tender is to consist of three (3) hard copies and one (1) soft copy (in CD-ROM) of the submissions as listed in items (1)(i),(ii),(iv) & (v) below shall be enclosed in two envelopes clearly marked with the tender title and the words “**Tender Price Submission (for both Tender A and Tender B)**”:-

- (1) One copy of the booklet referred to in 1(a) above chopped with company chop at the bottom right hand corner of every page and with :-
  - (i) The Form of Tender (for both Tender A and Tender B) completed, signed, witnessed and dated.
  - (ii) The Summary of Tender (for both Tender A and Tender B) completed, signed, witnessed and dated.
  - (iii) The sum shown in the Form of Tender must agree with the total of the Summary of Tender.
  - (iv) The Schedule of Quantities and Rates (for both Tender A and Tender B) fully priced with each item, extended, cast and totalled as appropriate. The sums shown in the Summary of Tender must agree with the total of the Schedule of Rates.
  - (v) Completed M&E Cost Summary and M&E Schedule of Rates (for both Tender A and Tender B) under Technical Specifications for M&E Works.
  - (vi) The total of the priced Specification Preliminaries must agree with the same in the Summary of Tender.

2b. The tender is to consist of three (3) hard copies and one (1) soft copy (in CD-ROM) of the submissions as listed in items (a) to (k) below shall be enclosed in two envelopes clearly marked with the tender title and the words “**Technical Submission (for both Tender A and Tender B)**”:-

- (a) A covering letter. Price information must not be specified in the Technical Submission and/or the covering letter.
- (b) An outline programme showing the proposed milestone activities, deliverables sequence and durations of the Works.
- (c) Methodology of carrying out the Works including the site planning, site traffic arrangement, site logistics, the associated works, sequence of work, project risk and mitigation measures, etc. during the various stages of the Works.
- (d) Project organization chart with specifying the project in-charge and their degree of involvement.
- (e) C. V. of key members of the site team.
- (f) A list of current and past projects of similar nature;
- (g) Business Registration certificates and Building Department’s registration certificates;
- (h) Completed, Signed, Dated Appendix A to Conditions of Tendering – Declarations of Interests.
- (i) Completed, Signed, Dated Appendix B to Conditions of Tendering – Declarations of Anti-Collusion.
- (j) Completed, Signed, Dated, Witnessed Appendix C to Conditions of Tendering – Confidentiality Acknowledgement.
- (k) Any other details and information required by the tender document.

All outline programmes, method statement and any of the proposals submitted under this clause are for the Architect’s information only, and acceptance of the tender shall not imply acceptance or approval of the said documents submitted and shall not relieve the Contractor from any of his obligations and liabilities under the Contract.

- 3. The Tender is to be enclosed in four sealed envelopes labeled “**Tender for Main Works (Phase 2) for SFC Office Relocation Project at One Island East (Tender A / Tender B)**” and addressed and deposited in the manner, place and time as stated in the Letter of Invitation to tender.
- 4. No unauthorized alteration or erasure to the text of the tender documents will be permitted. Any tender containing such alteration or erasure may not be considered.
- 5. The Tenderer shall be deemed to be in possession of a valid business registration certificate and be registered with the relevant Authority authorising him to carry out the Works of the category of this Contract.

6. The Tenderer shall be required to check the numbers of the pages of the Tender Document against the page numbers given in the Content, and should he find any missing, in duplicate, or indistinct, he must inform the Employer and the Quantity Surveyor at once and have the same rectified.
7. Should the Tenderer for any reason whatsoever be in doubt as to the precise meaning of any item or description, he must inform the Employer in order that the correct meaning may be decided before the date for submission of tenders.
8. No liability will be admitted, nor claim allowed, in respect of errors in the Contractor's tender due to mistakes in the Tender Documents which should have been rectified in the manner described above.
9. In the event of a Tenderer discovering a genuine error in his tender after it has been deposited, attention in writing may be drawn to the error and an amendment submitted which, provided that the amendment shall have been deposited at or before the time fixed for receipt of tenders, may be accepted.
10. The tendered sum will not be amended for errors found in the examination of tenders.

The following errors should they occur in the tendered priced Schedule of Items will be rectified and altered in red ink :

- (a) The rate amended to agree with the quantity and the extension in the cash column or the extension amended to agree with the quantity and the rate;
- (b) Errors in totalling of cash columns;
- (c) Errors in carrying forward totals to collections or summaries.

The total error will be calculated as a plus or minus percentage of the corrected tendered sum minus the correct totals of preliminary items, dayworks and prime cost elements within tendered rates based on prime cost rates and will be applied to the tendered rates for the purposes of pricing variations. If the percentage error is  $\pm 0.50\%$ , no adjustment will be made.

For the purpose of clarification, where a tendered rate is based on a prime cost rate (e.g. tiling where a prime cost rate is specified), the percentage error calculated in the manner described above shall only be applied to that portion of the rate remaining after the deduction of the prime cost rate.

11. Should examination of a tender reveal errors of such magnitude as in the opinion of the Employer would involve the Contractor in serious loss then the nature and amount of such errors will be communicated to the Tenderer and he will be asked to confirm in writing that he is prepared to abide by his tender.

12. The Employer is not bound to accept the lowest or any tender he may receive and reserves the right to accept or omit any individual item or whole section of a tender without price alteration to the items or sections accepted.
13. All tenders shall be in Hong Kong dollars and no adjustment will be made for fluctuations in exchange rates of currencies.
14. Tenderers shall inspect the Site and make themselves thoroughly acquainted with the existing condition of the premises, location, the existing provisions of the building services, the existing structures, accessibility, storage, working space, restrictions for loading and unloading materials, and all other aspects which may affect the carrying out of the Works. Site visit can be arranged with the Employer, contact details as follows :

Mr. Kenneth Tang  
Project Director  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Kenneth.Tang@cbre.com.hk

Mr. Kit Chan  
Senior Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Kit.chan@cbre.com.hk

Ms. Christine Chan  
Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Christine.chan@cbre.com

Mr. Alex Lui  
Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Alex.lui@cbre.com

Mr. Kelvin Lai  
Assistant Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Kelvin.lai@cbre.com

15. Any qualification of Tender may cause the tender to be disqualified.
16. Tenderers are warned that offering or giving any gratuity, bonus, discount, bribe, loan or any other gift or consideration as an inducement or reward to any employee of the Securities and Futures Commission in relation to this or any other Securities and Futures Commission contracts could constitute an offence contrary to the Prevention of Bribery Ordinance Cap. 201, and that if the Tenderer were found to have made such an offer, the Securities and Futures Commission shall be at liberty to cancel the contract and shall hold the Contractor liable for any losses or damages which the Securities and Futures Commission may thereby sustain.

17. The Tenderer shall treat all documents or information supplied to him by the Quantity Surveyor on behalf of the Securities and Futures Commission as the owner of the property for the purpose of submitting a Tender private and confidential.
18. A tender may not be considered valid unless all Conditions of Tendering are complied with and the tender is submitted on or before the time set for tender return. A late tender will not be considered.

APPENDIX A TO CONDITIONS OF TENDERING  
DECLARATIONS OF INTEREST

### **Declaration of Interests**

To: Securities and Futures Commission:

I hereby declare that <sup>(1)</sup> :

☐ I, associated persons, group companies and each member of the my professional staff (and their associates and associated persons) have no pecuniary or other personal interest, direct or indirect, in any matter that raises or may raise a conflict with my duties under this Tender.

☐ I, associated persons, group companies and each member of the my professional staff (and their associates and associated persons) have / potentially<sup>(2)</sup> have pecuniary or other personal interest, direct or indirect, in certain matter that raises or may raise a conflict with my duties under this Tender. The particulars of such matter are stated below:

(a) Persons/companies with whom/which I have official dealings and/or private interests:

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(b) Brief description of my duties which involved the persons/companies mentioned in item (a) above:

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Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

**Note:**

1. Please put a “✓” in the appropriate box
2. Delete as appropriate

APPENDIX B TO CONDITIONS OF TENDERING  
DECLARATIONS OF ANTI-COLLUSION



### **Declaration of anti-collusion**

To: The Securities and Futures Commission:

“Main Works (Phase 2) for SFC Office Relocation Project at One Island East”

I / We<sup>(1)</sup>, confirm that as at the time of submission of this Tender and other than the Excepted Communications referred to in the last paragraph below, I / We<sup>(1)</sup> had not communicated to any person other than the SFC the amount of any tender, adjusted the amount of any tender by arrangement with any other person, made any arrangement with any other person about whether or not I / We<sup>(1)</sup> or that other person should tender, or otherwise colluded with any other person in any manner whatsoever, and undertake that at any time thereafter in the tendering process for the above Project until the tenderer is notified by the SFC of the outcome of the tender exercise and other than the Excepted Communications, I / We<sup>(1)</sup> will not communicate to any person other than the SFC the amount of any tender, adjust the amount of any tender by arrangement with any other person, make any arrangement with any other person about whether or not I / We<sup>(1)</sup> or that other person should tender, or otherwise collude with any other person in any manner whatsoever.

The expression “Excepted Communications” means our communications in strict confidence with our own insurers or brokers to obtain an insurance quotation for computation of tender price and communications in strict confidence with our consultants or sub-contractors to solicit their assistance in preparation of tender submission.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

**Note:**

1. Delete as appropriate.

APPENDIX C TO CONDITIONS OF TENDERING  
CONFIDENTIALITY ACKNOWLEDGEMENT

## **Confidentiality Acknowledgement**

### **Acknowledgement and Undertaking**

Acknowledgment in relation to the preservation of secrecy pursuant to section 378 of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) ("SFO") and avoidance of conflict of interests pursuant to section 379 of the SFO.

Terms in this acknowledgement shall have the same meaning as defined in the SFO, unless otherwise defined herein.

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To: \_\_\_\_\_

**Section 378 of the SFO binds you and in particular subsection (1) of that section which provides as follows:**

- (1) Subject to subsection 13(A), except in the performance of a function under, or for the purpose of carrying into effect or doing anything required or authorized under, any of the relevant provisions, a specified person -
  - (a) shall preserve and aid in preserving secrecy with regard to any matter coming to his knowledge by virtue of his appointment under any of the relevant provisions, or in the performance of any function under or in carrying into effect any of the relevant provisions, or in the course of assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions;
  - (b) shall not communicate any such matter to any other person; and
  - (c) shall not suffer or permit any other person to have access to any record or document which is in his possession by virtue of the appointment, or the performance of any such function under or the carrying into effect of any such provisions, or the assistance to the other person in the performance of any such function under or in carrying into effect any such provisions.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 378(1) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 378(10) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 378(10) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

**Section 379 of the SFO binds you and in particular subsections (1), (2) and (3) of that section which provide as follows:**

- (1) Subject to subsection (2), any member of the Commission or any person performing any function under any of the relevant provisions shall not directly or indirectly effect or cause to be effected, on his own account or for the benefit of any other person, a transaction regarding any securities, structured product, futures contract, leveraged foreign exchange contract, or an interest in any securities, structured product, futures contract, leveraged foreign exchange contract or collective investment scheme -
  - (a) which transaction he knows is or is connected with a transaction or a person that is the subject of any investigation or proceedings by the Commission under any of the relevant provisions or the subject of other proceedings under any provision of the SFO; or
  - (b) which transaction he knows is otherwise being considered by the Commission.
- (2) Subsection (1) does not apply to any transaction which a holder of securities or a structured product effects or causes to be effected by reference to any of his rights as such holder -
  - (a) to exchange the securities or structured product or to convert the securities or structured product to another form of securities or structured product;
  - (b) to participate in a scheme of arrangement sanctioned by the Court of First Instance under the Companies Ordinance (Cap. 622) or the relevant Ordinance;
  - (c) to subscribe for other securities or another structured product or dispose of a right to subscribe for other securities or another structured product;
  - (d) to charge or pledge the securities or structured product to secure the repayment of money;
  - (e) to realize the securities or structured product for the purpose of repaying money secured under paragraph (d); or
  - (f) to realize the securities or structured product in the course of performing a duty imposed by law.

- (3) Any member of the Commission or any person performing any function under any of the relevant provisions shall forthwith inform the Commission if, in the course of performing any function under any such provisions, he is required to consider any matter relating to -
- (a) any securities, futures contract, leveraged foreign exchange contract, structured product, or an interest in any securities, futures contract, leveraged foreign exchange contract, collective investment scheme or structured product -
    - (i) in which he has an interest;
    - (ii) in which a corporation, in the shares of which he has an interest, has an interest; or
    - (iii) which -
      - (A) in the case of securities, is of or issued by the same issuer, and of the same class, as those in which he has an interest;
      - (B) in the case of a futures contract, is interests, rights or property based upon securities of or issued by the same issuer, and of the same class, as those in which he has an interest; or
      - (C) in the case of a structured product, is interests, rights or property based on a structured product of or issued by the same issuer, and of the same class, as that in which he has an interest; or
  - (b) a person -
    - (i) by whom he is or was employed;
    - (ii) of whom he is or was a client;
    - (iii) who is or was his associate; or
    - (iv) whom he knows is or was a client of a person with whom he is or was employed or who is or was his associate.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 379(1) AND/OR SECTION 379(3) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 379(4) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 379(4) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

The term “specified person” is defined in section 378(15) of the SFO and means-

- (a) the Commission;
- (b) any person who is or was a member, an employee, or a consultant, agent or adviser, of the Commission; or
- (c) any person who is or was -
  - (i) a person appointed under any of the relevant provisions;
  - (ii) a person performing any function under or carrying into effect any of the relevant provisions; or
  - (iii) a person assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions.

The term “person” has the meaning attributed to it in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) which provides that “person” includes any public body and any body of persons, corporate or unincorporated, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation.

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I/We acknowledge that I/we have received and read carefully a copy of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571), and understand that these sections (in particular, sections 378(1) and 379(1), (2) and (3)) impose statutory obligations on me/us. I/We further confirm that I/we understand and agree to be bound by the provisions of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571).

---

Signature

---

Name / Entity name (as applicable)

---

Name of authorized signatory (in the case of an entity)

---

Title of authorized signatory (in the case of an entity)

---

Date

Witnessed by:

---

Signature

---

Name

---

Title

---

Date

FORM OF TENDER (TENDER A)



**MAIN WORKS (PHASE 2)**  
**FOR**  
**SFC OFFICE RELOCATION PROJECT AT ONE ISLAND EAST**

**FORM OF TENDER (TENDER A)**

*NOTES :*

- (1) If the tenderer is a sole proprietorship or a partnership, the name(s) and residential address(es) of the sole proprietor or all the partners shall be given in the spaces provided below.
- (2) In all cases, the tenderer must give the number and expiry date of the business registration certificate here :-

Number : .....

Expiry Date : .....

To: The Securities and Futures Commission

1. Having inspected the Site, examined the Articles of Agreement, the Conditions of Contract with Appendix, the Employer's Requirements (including Specification Preliminaries & Appendices thereto and Specifications), and Drawings, and addenda thereto (if any) for the above named Works, I/we offer to design all the Works to the extent as required in the Tender Documents, carry out, complete and maintain the whole of the said Works in conformity with the said Articles of Agreement, the Conditions of the Contract with Appendix, the Employer's Requirements (including Specification Preliminaries & Appendices thereto and Specifications), and Drawings and the addenda thereto (if any) for the sum of Hong Kong Dollars .....

..... (HK\$ )  
or such sum as may be ascertained in accordance with the Conditions of the Contract (hereinafter referred to as "the said Conditions").

2. I/We undertake if my/our tender is accepted to carry out and complete the whole of the Works in this Contract within the calendar days as set out below; or within any extended time which may be authorized under the terms of the Conditions of Contract :-

Section	Location	Duration
1	L47 & L51	59 calendar days including Sundays and Public Holidays from the Date of Possession
2	L50, L52 & L53	66 calendar days including Sundays and Public Holidays from the Date of Possession
3	L48	73 calendar days including Sundays and Public Holidays from the Date of Possession

3. I/We agree to abide by this tender for a period of 90 days from the date fixed for receiving the same and it shall remain binding upon me/us and may be accepted at any time before the expiry of that period.
4. Unless and until the Articles of Agreement are prepared and executed this tender together with the written acceptance thereof by the Employer subject to the provisions of Clause 3 hereof shall constitute a binding Contract.
5. I/We understand that the Employer is not bound to accept the lowest or any Tender which may be received.

Signature .....

in the capacity of .....

duly authorised to sign tenders for and on behalf of \* .....

.....

Registered address of firm .....

.....

Witness .....

Address .....

.....

Tel: ..... Fax : .....

E-Mail Address .....

Occupation / Position .....

Date .....

Company Chop .....

If a tender is being made by a partnership or an unincorporated body, the names and residential addresses of all partners shall be given in the spaces provided below.

Names of Partners	Residential Addresses of Partners

\* In the case of a limited Company, insert the name of the Company.

FORM OF TENDER (TENDER B)

**MAIN WORKS (PHASE 2)**  
**FOR**  
**SFC OFFICE RELOCATION PROJECT AT ONE ISLAND EAST**

**FORM OF TENDER (TENDER B)**

*NOTES :*

- (1) If the tenderer is a sole proprietorship or a partnership, the name(s) and residential address(es) of the sole proprietor or all the partners shall be given in the spaces provided below.
- (2) In all cases, the tenderer must give the number and expiry date of the business registration certificate here :-

Number : .....

Expiry Date : .....

To: The Securities and Futures Commission

1. Having inspected the Site, examined the Articles of Agreement, the Conditions of Contract with Appendix, the Employer's Requirements (including Specification Preliminaries & Appendices thereto and Specifications), and Drawings, and addenda thereto (if any) for the above named Works, I/we offer to design all the Works to the extent as required in the Tender Documents, carry out, complete and maintain the whole of the said Works in conformity with the said Articles of Agreement, the Conditions of the Contract with Appendix, the Employer's Requirements (including Specification Preliminaries & Appendices thereto and Specifications), and Drawings and the addenda thereto (if any) for the sum of Hong Kong Dollars .....

..... (HK\$ )  
or such sum as may be ascertained in accordance with the Conditions of the Contract (hereinafter referred to as "the said Conditions").

2. I/We undertake if my/our tender is accepted to carry out and complete the whole of the Works in this Contract within 80 calendar days including Sundays and Public Holidays from the Date of Possession; or within any extended time which may be authorized under the terms of the Conditions of Contract.
3. I/We agree to abide by this tender for a period of 90 days from the date fixed for receiving the same and it shall remain binding upon me/us and may be accepted at any time before the expiry of that period.
4. Unless and until the Articles of Agreement are prepared and executed this tender together with the written acceptance thereof by the Employer subject to the provisions of Clause 3 hereof shall constitute a binding Contract.
5. I/We understand that the Employer is not bound to accept the lowest or any Tender which may be received.

Signature .....

in the capacity of .....

duly authorised to sign tenders for and on behalf of \* .....

.....

Registered address of firm .....

.....

Witness .....

Address .....

.....

Tel: ..... Fax : .....

E-Mail Address .....

Occupation / Position .....

Date .....

Company Chop .....

If a tender is being made by a partnership or an unincorporated body, the names and residential addresses of all partners shall be given in the spaces provided below.

Names of Partners	Residential Addresses of Partners

\* In the case of a limited Company, insert the name of the Company.

## ARTICLES OF AGREEMENT



## ARTICLES OF AGREEMENT

This Agreement is made on the ..... day of ..... 20 .....

between

.....  
of .....

.....  
(‘the Employer’) and

of .....

.....  
(‘the Contractor’)

**(1) Whereas** the Employer wishes to have work carried out comprising :

.....  
(the ‘Works’)

at .....

.....  
and has had Tender Documents comprising :

- (a) a form of tender (‘The Form of Tender’);
- (b) drawings (‘the Contract Drawings’); and
- (c) a specification (‘the Specification’)

showing and describing the work to be carried out prepared by or under the direction of or at the request of the Architect;

**(2A) and whereas** the Contractor has, based on the Tender Documents, made in the Form of Tender his calculation of the sum that he will require for carrying out the Works by preparing and pricing the Schedule of Quantities and Rates;<sup>1</sup>

<sup>1</sup> Delete 2A if the Quantity Surveyor prepared the Schedule of Quantities and Rates

**(2B) and whereas** the Contractor has accepted a schedule or quantities and rates prepared by the Quantity Surveyor as the Schedule of Quantities prepared by himself;<sup>2</sup>

**(2C) and whereas** the Contractor has, based on the Tender Documents, made in the Form of Tender his calculation of the sum that he will require for carrying out the Works by pricing the Schedule of Quantities and Rates;<sup>3</sup>

**(3) and whereas** the Contractor has given to the Employer the Schedule of Quantities and Rates setting out the build up of the Contract Sum;

**(4) and whereas** the Architect has given each party one copy of the Articles of Agreement, the Appendix, the Conditions, the Contract Drawings, the Specification and the Schedule of Quantities and Rates each signed by or on behalf of the parties.

### **Now it is agreed as follows**

#### **Article 1**

The Contractor will carry out and complete the Works in accordance with and subject to the Contract for the consideration stated in Article 2.

#### **Article 2**

The Employer will pay to the Contractor the sum of Hong Kong Dollars

.....  
.....  
(HK\$.....)

(‘the Contract Sum’) or such other sum that becomes payable in accordance with and subject to the Contract.

#### **Article 3**

The Architect will be

.....  
of .....

#### **Article 4**

The Quantity Surveyor will be

.....  
of .....

<sup>2</sup> Delete 2B if the Contractor prepared the Schedule of Quantities and Rates

<sup>3</sup> Delete 2C if the Contractor prepared the Schedule of Quantities and Rates

#### **Article 5**

- (1) In the event of the person appointed to act as either the Architect or the Quantity Surveyor ceasing to act, the Employer shall appoint a replacement as soon as practicable.
- (2) If the Contractor objects to the person appointed to succeed either the Architect or the Quantity Surveyor, the Contractor has the right to refer his objection to an arbitrator under the Contract provided the reference to arbitration is made within 14 days of the appointment.
- (3) The person appointed as the replacement to the Architect or the Quantity Surveyor shall continue to act pending the award of the arbitrator appointed under Article 5(2) but shall immediately cease to act if so directed by the arbitrator's award. In which case the Employer shall appoint a further replacement as soon as practicable.
- (4) The Contractor shall have the right of objection under Article 5(2) to a further appointment of either the Architect or the Quantity Surveyor.
- (5) A person appointed as the replacement to the Architect or the Quantity Surveyor shall not be entitled to disregard or overrule any agreement, approval, certificate, confirmation, consent, decision, direction, dissent, instruction, notice, notification, opinion, request or requirement given or made by the person previously appointed save insofar as the Contract permits.

#### **Article 6**

If a dispute arises under or in connection with the Contract, the parties agree to resolve the dispute in accordance with the dispute settlement procedures in clause 41.

#### **Article 7**

The said parties hereto accept the Amendments to the said Conditions as listed in the Special Conditions of Contract and acknowledge and accept the Contract Correspondences attached hereto as forming part of the Contract.

#### **Article 8**

The term "the Architect" in the said Conditions shall mean "the Project Manager".

## Attestation

**\*SIGNED AND SEALED as a deed/SIGNED** by the Employer

-----

(signature of signatory for the Employer)

-----

(signature of witness)

-----

-----

-----

-----

(name and office held by signatory for the Employer)

(name and occupation of witness)

(company seal to be impressed here if executed as a deed by a limited company)

**\*SIGNED AND SEALED as a deed/SIGNED** by the Contractor

-----

(signature of signatory for the Contractor)

-----

(signature of witness)

-----

-----

-----

-----

(name and office held by signatory for the Contractor)

(name and occupation of witness)

(company seal to be impressed here if executed as a deed by a limited company)

\* delete as applicable

## GENERAL CONDITIONS OF CONTRACT

## **GENERAL CONDITIONS OF CONTRACT**

The Conditions of Contract shall be the "Agreement and Schedule of Conditions of Building Contract for use in the Hong Kong Special Administrative Region, Private Edition – Without Quantities, 2006 Edition" published by the Hong Kong Institute of Architects, the Hong Kong Institute of Construction Managers and the Hong Kong Institute of Surveyors (hereinafter “the General Conditions”).

Wherever the term “General Conditions of Contract (GCC)” is used, it refers to the “General Conditions of Building Contract” annexed to the Articles of Agreement” as described above.

Although a copy of the General Conditions of Contract is not issued with these Tender Documents, the Tenderer is advised to arrange for themselves a copy of such contract for their reference and use.

The General Conditions of Contract may be purchased from the Hong Kong Institute of Surveyors of Room 1205, 12/F, Wing On Centre, 111 Connaught Road Central, Hong Kong.

APPENDIX TO CONDITIONS OF CONTRACT

APPENDIX TO CONDITIONS OF CONTRACT

Clause No.

- |      |   |   |  |
|------|---|---|--|
| 3.1  | Time for submission of master programme   | - | Within seven (7) days of acceptance of the Contractor's tender   |
| 17.3 | Defects Liability Period  | - | Tender A : Twelve (12) months commencing from Substantial Completion of the last section of the Works<br><br>Tender B : Twelve (12) months commencing from Substantial Completion of the Works |
| 21.2 | Limit of indemnity to third party liability insurance against injury or death to any person                 | - | HK\$30,000,000.00 but unlimited in the aggregate amount for the period of the insurance  |
| 21.2 | Limit of indemnity to third party liability insurance against injury or damage to real or personal property | - | HK\$30,000,000.00 but unlimited in the aggregate amount for the period of the insurance  |
| 22.1 | Insurance of the Works  | - | Clause 22A applies   |
| 22.2 | Percentage to cover professional fees   | - | 4%   |
| 23.1 | Date for Possession of the Site   | - | Within seven (7) days from Architect's written notification  |
| 23.2 | Commencement Date   | - | Within seven (7) days from Architect's written notification  |



APPENDIX TO CONDITIONS OF CONTRACT  
(Cont'd)

Clause No. (Cont'd)

- |      |  |   |   |
|------|--|---|---|
| 23.2 | Completion Date                            | : | <p>Tender A – Section 1: As per Form of Tender</p> <p>Tender A – Section 2: As per Form of Tender</p> <p>Tender A – Section 3: As per Form of Tender</p> <p>Tender B: As per Form of Tender</p>   |
| 24.2 | Liquidated and ascertained damages         | : | <p>Tender A – Section 1 : HK\$50,000.00 per calendar day for the Works</p> <p>Tender A – Section 2 : HK\$75,000.00 per calendar day for the Works</p> <p>Tender A – Section 3 : HK\$25,000.00 per calendar day for the Works</p> <p>Tender B : HK\$25,000.00 per calendar day for the Works</p> |
| 32.1 | Period of Interim Certificates             | - | Stage Payment   |
| 32.1 | Period for payment of certificates         | - | Thirty (30) calendar days upon the Contractor's presentation of the Certificate   |
| 32.4 | Retention Percentage                       | - | 10 % of gross value of certified payment (rounded up the nearest thousand dollars)  |
| 32.4 | Limit of Retention                         | - | 5 % of Contract Sum (rounded up the nearest thousand dollars)   |
| 32.6 | Period for completion of the final account | - | Twelve (12) months from Substantial Completion of the whole of the Works  |
| 33.1 | Amount of surety bond                      | - | 10 % of Contract Sum (rounded up the nearest thousand dollars)  |
| 33.2 | Release of insurance company - or bank     | - | Clause 33.2B applies  |
| 38   | Fluctuations                               | - | N/A   |

SPECIAL CONDITIONS OF CONTRACT

**SPECIAL CONDITIONS OF CONTRACT**

-	General
SCC-1	Interpretation and definitions
SCC-2	Contractor's obligations
SCC-3	Master programme
SCC-4	Architect's instructions
SCC-5	Documents forming the Contract and other documents
SCC-6	Statutory obligations
SCC-7	Not used
SCC-8	Materials, goods, workmanship and work
SCC-9	Not used
SCC-10	Not used
SCC-11	Not used
SCC-12	Architect's representative
SCC-13	Variations, Provisional Quantities, Provisional Items and Provisional Sums
SCC-14	Not used
SCC-15	Not used
SCC-16	Not used
SCC-17	Substantial Completion and defects liability
SCC-18	Partial possession by Employer
SCC-19	Assignment and sub-letting
SCC-20	Not used
SCC-21	Insurance against injury to persons or property
SCC-22	Insurance of the Works
SCC-23	Possession, commencement and completion
SCC-24	Damages for non-completion
SCC-25	Extension of time

**SPECIAL CONDITIONS OF CONTRACT**

SCC-26	Not used
SCC-27	Direct loss and/or expense
SCC-28	Not used
SCC-29	Nominated Sub-Contractors and Nominated Suppliers
SCC-30	Not used
SCC-31	Not used
SCC-32	Certificates and payments
SCC-33	Surety bond
SCC-34	Not used
SCC-35	Determination by Employer
SCC-36	Not used
SCC-37	Not used
SCC-38	Fluctuations
SCC-39	Notices, certificates and other communications
SCC-40	Not used
SCC-41	Settlement of disputes
SCC-42	Domestic Sub-Contractor's Warranty
SCC-43	Protection of existing services
SCC-44	Specialist Sub-Contractor
SCC-45	Stop work instruction
SCC-46	Contractor's design responsibility
SCC-47	Urgent work by person other than the Contractor
SCC-48	Contracts (Rights of Third Parties) Ordinance

## **SPECIAL CONDITIONS OF CONTRACT**

### **Context**

#### **General**

These Special Conditions of Contract are to be read in conjunction with the Conditions of Contract which shall be the General Conditions contained in the “Agreement and Schedule of Conditions of Building Contract for use in the Hong Kong Special Administrative Region, Private Edition – Without Quantities, 2006 Edition” published by the Hong Kong Institute of Architects, the Hong Kong Institute of Construction Managers and the Hong Kong Institute of Surveyors (hereinafter “the General Conditions”). Wherever these Special Conditions vary from the General Conditions the terms of the Special Conditions shall take precedence.

Any cost effects resulting from the Special Conditions of Contract hereunder shall be taken into account in the pricing of Schedule No. 1 – Specification Preliminaries.

The Contract shall be signed by the parties as a simple contract on the “Attestation” page of the Standard Conditions of Contract.

### **Amendment to Articles of Agreement**

Add the following as Article 7 to the Articles of Agreement

Article 7 “The said parties hereto accept the Amendments to the said Conditions as listed in the Special Conditions of Contract and acknowledge and accept the Contract Correspondences attached hereto as forming part of the Contract.”

Article 8 “The term “the Architect” in the said Conditions shall mean “the Project Manager”.”

### **Typographical Errors**

The following typographical errors in the Conditions shall be corrected :-

- (a) clause 13.4(1)(a), add the word “or” at the end of the clause.
- (b) clause 35.4(8) first line, the comma after the word “equipment” shall be deleted.
- (c) clause 40(2) second line “40.1(1)” shall be changed to “40(1)”.

### **clause Numbering**

Each SCC clause number matches the clause number of the General Conditions clause to be amended.

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-1  
Interpretation and  
definitions

Delete sub-clause (vii) in clause 1.6 under the “Variation” sub-heading and replace with the following sub-clause :-

“(vii) the sequence or timing of carrying out or completing work;”

SCC-2  
Contractor’s  
obligations

Delete lines 1 and 2 of clause 2.4(1) and replace with the following :-

“(1) The Contractor shall as soon as practicable but in any event within 14 days after his receipt of any of the following documents carefully check and inform the Architect if the Contractor finds any ambiguity or discrepancy in or divergence between the following documents:”

Add the following new clause 2.4(3) after clause 2.4(2) :-

“(3) If in the opinion of the Architect (which shall not be exercised unreasonably) any discrepancy or divergence is one which should have been apparent to a reasonably competent contractor and notified by the Contractor in compliance with clause 2.4(1) and if such discrepancy or divergence was not in fact notified by the Contractor; then, in determining the entitlement of the Contractor to any extension of time or any direct loss and/or expense to which the Contractor would otherwise be entitled in consequence of an instruction issued by the Architect under this clause, the Architect shall exclude from such extension or direct loss and/or expense (as applicable) any delay or direct loss and/or expense which could reasonably have been avoided had the discrepancy or divergence been notified in accordance with clause 2.4(1) and the Contractor’s entitlements shall be limited accordingly.”

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-2  
Contractor's  
obligations  
(Cont'd)

Add the following as new clause 2.4(4) :-

- “(4)(a) The Contractor shall in the course of carrying out the Works take full responsibility for the adequate stability and safety of all operations on the Site other than those of persons for whom the Employer is responsible under clause 30.1 and have full regard for the safety of all persons on the Site.
- (b) The Contractor shall comply with the Building Ordinance, the Construction Site (Safety) Regulations, all Labour Department Regulations, all Electrical and Mechanical Services Department Regulations, the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations and all other statutory requirements regarding safety on construction sites.
- (c) The Contractor shall employ at least the number of safety officers and safety supervisors prescribed by the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations for the time being in force as at the date of the Contract. The Safety Officers shall be registered by the Commissioner for Labour under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations and shall be employed on a full-time basis to undertake all duties entailed by the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations and any additional duties as specified in the Contract.

None of the requirements of this clause shall in any way relieve the Contractor of his obligations under clause 6 of the Conditions. In particular, the Contractor shall not be relieved of his obligations to employ Safety Supervisors, any additional Safety Officers and/or any other safety personnel in excess of the number required by this clause as may be separately required by any Act or Ordinance of Government, instrument, rule, order, regulation or by-law as may be in force at any time during the progress and continuance of the Works.”

Add the following new clause 2.5 after clause 2.4 :-

- “2.5 Should the Contract require the Contractor to carry out the design, the Contractor shall carry out, and be responsible for, the design of the Works. Design shall be prepared by qualified designers who are engineers or other professionals who comply with the criteria stated in the Contract Documents. Unless otherwise stated in the Contract, the Contractor shall submit to the Architect for consent the name and particulars of each proposed designer and design Sub-Contractor.

The Contractor warrants that he, his designers and design Sub-Contractor have the experience and capability necessary for the design. The Contractor undertakes that he has exercised due care to the Employer such that the Contractor's design or amendment to any of such design shall fit for the purpose and meet all Employer's requirements and statutory requirements.

Any act or omission by the Employer or the Architect in respect of the Contractor's submission shall not relieve the Contractor or any duty or responsibility under the Contract. The Contractor shall take the full responsibility of the ultimate design for the Works.”

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-3  
Master programme

Renumber existing clause 3.3 as clause 3.4 and insert the following new clause 3.3 :-

“3.3 If the Contractor does not comply with the provisions of clauses 3.1 or 3.2 to the satisfaction of the Architect, the Employer may employ and pay others to carry out such programming activities as, in the Architect’s opinion, are sufficient for the Architect to monitor, update and forecast the Contractor’s progress on site. All costs incurred in connection therewith shall be recoverable from the Contractor by the Employer as a debt or may be deducted by the Employer from any monies due or to become due to the Contractor under the Contract.”

SCC-4  
Architect’s  
instructions

Add the following new clause 4.4(3) after clause 4.4(2) :-

“(3) Notwithstanding clause 4.4(1) and (2), the Contractor shall immediately comply with the Architect’s instruction which are of emergency nature and if the Contractor has refused to comply or shows no positive response or action to comply or fails to comply with any time specified in the instruction, if not stated, fourteen (14) days from the date of the instruction, the Employer may employ and pay other persons to carry out the instructed works and shall recover all costs incurred from the Contractor under clause 40 or as a debt. For the purpose of this clause, an emergency shall be any situation or event which in the opinion of the Architect, affects or is likely to affect, the security or safety of the Works, or the safety, health and welfare of any persons employed on or likely to be affected by the carrying out of the Works.”

SCC-5  
Documents forming  
the Contract and other  
documents

Delete clause 5.12(1) and replace with the following :-

“(1) The Contractor shall submit to the Architect 2 copies of the as-built drawings which are required by the Contract, Nominated Sub-Contracts or Nominated Supply Contracts within 1 month of the date when, in the Architect’s opinion, substantial completion of any particular trade or portion of the Works occurred.”



## **SPECIAL CONDITIONS OF CONTRACT**

SCC-6  
Statutory obligations

Delete clause 6.1 and replace with the following :-

“6.1 The Contractor shall comply with and give the notices required by any Ordinance, regulation, rule, order or by-law applicable to the Works and any changes thereto upto and including the Date of Substantial Completion of the Works (“the Statutory Requirements”)

Delete clause 6.3(1) and replace with the following :-

“(1) The Contractor shall pay and indemnify the Employer against liability in respect of all fees or charges legally demandable or which shall become legally demandable during the course of the Works under the Statutory Requirements.”

Delete clause 6.3(2).

On the sixth line of clause 6.4(1) after “legally demandable” insert “or which shall become legally demandable”.

SCC-7

Not used

SCC-8  
Materials, goods,  
workmanship and work

Add the following as new clause 8.1(7) to clause 8.1 :-

“(7) Without prejudice to the generality of the foregoing, the Contractor shall carry out the Works :

- (a) using materials which are new, free of defects and of good quality; and
- (b) using methods of construction which are in accordance with sound practice and which are not likely to endanger any existing structures or finishes, adjacent property or the safety of the public.”

Add the following as new clause 8.2(4) to clause 8.2 :-

“(4) Where the Specification requires any item of work to be inspected prior to being covered up, then the Contractor shall notify the Architect in writing before work is covered up and give him at least 2 full working days’ notice to inspect. Should any work be covered up without the required notice being given then, whether or not the work is in accordance with the Contract, the Contractor will be responsible for all costs of the testing, opening up for inspection, and any consequential making good and the Contractor shall not be entitled to any extensions of time or to any adjustment of the Contract Sum or other additional monetary compensation in respect of any delay or disruption caused thereby any such entitlement being hereby irrevocably waived.”

**SPECIAL CONDITIONS OF CONTRACT**

SCC-9 Not used

SCC-10 Not used

SCC-11 Not used

SCC-12  
Architect's  
representative

Delete the words "to be resident on the Site" in the second line of the first paragraph of clause 12.1 and replace with "who may or may not be resident on the Site".

Add the following as new clause 12.4 to clause 12 :-

"12.4 No act or omission by the Architect's representative in the performance of any of his duties or exercise of any of his powers under the Contract shall in any way operate to relieve the Contractor of any of the duties, responsibilities, obligations or liabilities imposed upon him by any of the provisions of the Contract."

**SPECIAL CONDITIONS OF CONTRACT**

SCC-13 Variations, Provisional Quantities, Provisional Items and Provisional Sums	<p>Delete clause 13.1(1) and replace with the following :-</p> <p>“(1) The Architect may issue an instruction requiring a Variation.”</p> <p>Add the following clause 13.4(1)(v) after clause 13.4(1)(iv) :-</p> <p>“(v) For work which is to be the subject of a fair valuation under clause 13.4(1)(iii), the Contractor shall obtain, if so requested by the Quantity Surveyor, three competitive tenders, and the fair valuation shall be based upon the most competitive tender so received by the Contractor together with an adjustment for the Contractor’s profit and overheads as may be agreed with the Quantity Surveyor.”</p> <p>Add the following to the end of clause 13.4(3)(b) :-</p> <p>“Provided that no such adjustments shall be made if the omission of work is due to omission of work which is included in or covered by any Provisional Quantities, Provisional Items or Provisional Sums.”</p> <p>Add the following new clause at the end of clause 13.4 :-</p> <p>“(10) If required by the Architect the Contractor shall within seven (7) days of the Architect’s written request submit a detailed estimate of the value of any variation.”</p>
SCC-14	Not used
SCC-15	Not used
SCC-16	Not used

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-17  
Substantial  
Completion and  
defects liability

Delete clause 17.1 and replace with the following :-

- “17.1 The Architect shall issue the Substantial Completion Certificate for the Works when he is satisfied that the Works have been substantially completed (subject to the conditions as expressed in clause 5.10 of the Specification Preliminaries) and have passed the inspections and tests that are required by the Contract to be carried out and completed before Substantial Completion and that any approvals, permits or temporary permits required by the Contract have been issued by the relevant authorities or, if any such approval, permit or temporary permit, remains unissued it is not as a consequence of any default if the Contractor and that (subject to any written undertaking the Architect may require) all unfinished items of work shall be completed as soon as practicable after the issue of the Substantial Completion Certificate, or as instructed by the Architect, and in any case before the expiry of the Defects Liability Period.”

Replace the whole of clause 17.3(3) by the following :-

- “(3) The Contractor shall rectify the defects specified in the schedules of defects to the Architect’s satisfaction within reasonable time, but in any case within 60 days, after issuance of those schedules by the Architect.”

Replace the words “within a reasonable time” in clause 17.3(4) with “within 60 days”.

Add the following to the end of clause 17.3(4) :-

“If the Employer engages other persons to rectify the defects under clause 4.3(3), the Employer shall be entitled to recover from the Contractor all costs incurred in connection therewith. The defects shall be considered as having been rectified by the Contractor and the Contractor’s liabilities under the Contract for the defective works shall not be relieved by the operation of this clause.”

Delete clause 17.3(5) and replace with the following :-

- “(5) The Architect may instruct the Contractor not to rectify some or all of the defects specified in the schedules of defects, in which case the Quantity Surveyor shall assess a fair value for defects not rectified and reduce the Contract Sum accordingly.”

Add the following new clause 17.3(6) after clause 17.3(5) :-

- “(6) If in the opinion of the Architect it is more suitable and beneficial that unfinished items of work or remedial work in rectifying defects remaining after the issuance of the Substantial Completion Certificate is carried out by others, the Contractor shall undertake to reimburse the Employer the cost of carrying out such outstanding or remedial work by others or the Employer has the right to deduct such cost from payments due to the Contractor.”

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-17  
Substantial  
Completion and  
defects liability  
(Cont'd)

Delete the word “and” at the end of clause 17.4(b).

Delete “.” at the end of clause 17.4(c) and add “; and” at the end of clause 17.4(c).

Add the following sub-clause to the end of clause 17.4 :-

“(d) the Contractor (or the relevant Nominated Sub-Contractors/Suppliers) has submitted all specified guarantees and warranties as required by the Contract and all such guarantees and warranties have been approved by the Architect.”

Add the following new clauses 17.8, 17.9 and 17.10 to clause 17 :-

“17.8 The Works are scheduled for completion in Sections. Substantial Completion Certificates for respective sections shall be issued.

17.9 For the purpose of this Contract, the Defects Liability Period for all sections of the works shall be expired upon the end of twelve calendar months commencing from and including the Date of Substantial Completion of the whole of the Works, notwithstanding that earlier completed section may have been certified by the Architect as substantially completed and handed over to the Employer. The payment of one-half of the Retention shall also be released only upon the issuance of Substantial Completion Certificate for the whole of the Works.

17.10 For the avoidance of doubt, the Contract shall always be read and construed as if all necessary amendments had been made to the documents to allow for completion of the Works in Sections.”

SCC-18  
Partial possession by  
Employer

Delete clause 18.1(1) and replace with the following :-

“(1) The Employer may take possession of a part of the Works or where sectional completion is provided for in the Contract a part of a Section before Substantial Completion if the Architect considers such part of the Works or part of a Section is capable of occupation or use by the Employer and that part of the Works or part of a Section shall be referred to as a Relevant Part.”

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-19  
Assignment and  
sub-letting

Delete the word “and” at the end of clause 19.2(e).

Delete “ . ” at the end of clause 19.2(f) and replace with “ ; and”.

Add the following as new clause 19.2(g) to clause 19.2 :-

“(g) it shall be a condition in any sub-letting which may occur that the employment of the Sub-Contractor under the Sub-Contract shall determine immediately upon the determination (for any reason) of the Contractor’s employment under this Contract.”

SCC-20

Not used

SCC-21  
Insurance against  
injury to persons or  
property

Insert the words “the Employer,” after the words “names of” in the third line of clause 21.1(1).

Add the following new sub-clause at the end of clause 21.1 :-

“(4) The Contractor shall be responsible to ensure that the persons, who are not covered in clause 21.1(1) such as self-employed persons working in connection with the Contract, shall effect and maintain employees’ compensation insurance in compliance with the provisions of the Employees Compensation Ordinance by themselves.”

Add the following new sub-clause at the end of clause 21.2 :-

“(4) The Contractor’s attention is drawn to clause 20 which sets out his contractual obligations to indemnify the Employer against certain damage, expense, liability or loss in respect of any claim or proceedings. If the Contractor considers the limit of indemnity referred to in clause 21.2(3)(c) for any one occurrence or series of occurrence of loss or damage to be inadequate to cover these contractual obligations he is at liberty to take out a policy with an increased limit of indemnity but any additional premium or differential in premium shall be at his own expense.”

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-22  
Insurance of the  
Works

Add the following words at the beginning of the second sentence of clause 22.4(1) :-

“Subject to clause 22.4(4),”

and the following word “The” shall be replaced by the word “the”.

Add the following as new sub-clause 22.4(4) to clause 22.4 :-

“(4) The Contractors’ All Risks Insurance Policy shall be extended beyond the period of 14 days after the issue of the Substantial Completion Certificate required under clause 22.4(1) above to extend the period of cover to include the carrying out of unfinished items of work and works of repair or maintenance etc. by the Contractor, his sub-contractors and their sub-contractors of all tiers during the Defects Liability Period”.

Add the words “(less only any amount included for the professional fee as stated in clause 22.2(b))” after the words “of the Works” in the third line of clause 22.6.

It is expressly agreed that clause 22A is applicable to the Contract.

It is expressly agreed that clause 22B shall be deleted from the Contract.

It is expressly agreed that clause 22C shall be deleted from the Contract.

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-23  
Possession,  
commencement and  
completion

Add the following new clause 23.4 to clause 23 :-

“The Architect, or the Architect’s representative with the express delegation of authority from the Architect may issue instructions suspending or stopping all work or any part of the Works for such time or times and in such manner as he may consider necessary, by reason of :-

- (a) weather conditions affecting the safety or quality of the Works or any part thereof;
- (b) default on the part of the Contractor in not complying with the Specification, Contract Drawings, Architect’s instructions, and/or statutory or relevant government authorities’ requirements;
- (c) the carrying out of the Works by the Contractor and/or his sub-contractors which in the opinion of the Architect endangers or undermines the safety of adjoining or other buildings, streets or structures, either totally or partially; or
- (d) insufficient measures being taken by the Contractor to abate noise pollution during the carrying out of the Works so as to avoid unreasonable nuisance to the occupants of neighbouring and adjoining buildings.

The Contractor shall upon such written instruction suspend and/or stop the progress of the Works or any part thereof for such time and in the manner as contained in such instruction, and shall during such suspension or stoppage properly protect and secure the Works to the Architect’s reasonable satisfaction.

All costs incurred in connection with the suspension or stoppage shall be borne by the Contractor and no extension of time will be granted in this respect unless provided for elsewhere in the Contract. No claim for losses/expenses will be entertained in connection with such suspension or stop work instruction.”

SCC-24  
Damages for  
non-completion

In clause 24.2(1) at Page 45 delete the words “between the Completion Date and the Date of Substantial Completion” in the last line and replace with the words “commencing from the date by which the Architect certified the Works or Section ought to have been completed under clause 24.1(1) upto and including the date by which they were ultimately completed as certified under the Substantial Completion Certificate”.

SCC-25  
Extension of time

Delete clauses 25.1(3)(b), 25.1(3)(f), 25.1(3)(m), 25.1(3)(n) and 25.1(3)(t) and replace with “not used”.

Delete the word “Drawings” at the end of clause 25.1(3)(i) and 25.3(5)(b).



**SPECIAL CONDITIONS OF CONTRACT**

SCC-26	Not used
SCC-27 Direct loss and/or expense	Delete clauses 27.1(2)(a), 27.1(2)(d) and 27.1(2)(h) and replace with “not used”.
SCC-28	Not used
SCC-29 Nominated Sub-Contractors and Nominated Suppliers	Delete clause 29.2(1)(c).  Delete clause 29.2(7).
SCC-30	Not used
SCC-31	Not used

## **SPECIAL CONDITIONS OF CONTRACT**

### SCC-32 Certificates and payments

“It is expressly agreed that clause 32.1 is not applicable and is deleted from the Contract and replace with the following:-

Unless otherwise agreed, payments will be made upon the Architect's certification as set out below :

- (1) 20% of the Contract Sum upon execution of Contract.
- (2) 20% of the Contract Sum upon shop drawing approval.
- (3) 25% of the Contract Sum upon Completion of the E&M works including all the T&C for E&M items.
- (4) 25% of the Contract Sum upon Substantial Completion of the Works including handover of the Works to the Employer.
- (5) 5% of the Contract Sum upon Compliance with the KPI for performance guarantee to the satisfaction of the SFC. The satisfaction shall be at the sole discretion of the SFC.
- (6) The remaining 5% of the Contract Sum upon Expiry of the Maintenance Period or issue of the Maintenance Certificate whichever the latest.

All cost adjustment to Contract Sum under clause 13, clause 15 and clause 27 shall be certified upon Substantial Completion of the Works including handover of the Works to the Employer.”

Delete clause 32.3 and replace with the following :-

“32.3 For the avoidance of doubt it is confirmed that clause 32.3 shall not be applicable to this Contract.”

Delete the words “14 days after Substantial Completion” in the third line of clause 32.5 (2) and replace with the words “within 14 days after the issue of the Substantial Completion Certificate”.

In clause 32.6 (5) at line 1 insert the words “the Architect,” before the words “the Quantity Surveyor”.

Delete clause 32.7(3)(h)(i) and replace with “not used”.

Insert the word “within” before the words “28 days” in the third line of clause 32.8(4).

## **SPECIAL CONDITIONS OF CONTRACT**

### **SCC-33 Surety bond**

It is expressly agreed the following shall be added to the end of clause 33.1(1):

“The Architect may not approve the nomination of any Insurance Company or Bank having associated company connections with the Contractor. The Contractor may be required to furnish evidence that no such association exists.

The Surety Bond shall be extended at the Contractor’s expense if the Contract Period is extended for reasons other than delay through causes set out in the Condition of Contract clause 25.”

It is expressly agreed that clause 33.2B is not applicable and is deleted from the Contract.

Add the word “or the issue of the Substantial Completion for the whole of the Works” between the words “Employer” and “, at” in line 3 of sub-clause 33.3 of the General Conditions of Contract.

Add the following immediately after sub-clause 33.3 of the General Conditions of Contract :-

“The amount so withheld shall be held upon trust by the Employer for the Contractor (without obligation to invest) subject to the rights of the Employer to have recourse to it for payment of any amount which he is entitled to under the Contract or at law or to deduct from it any sum owed to him by the Contractor, provided that the Employer gives notice to the Contractor in accordance with clause 32.1(6).”

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-34

Not used

SCC-35

Determination by  
Employer

Add the following as new sub-clause 35.1(f) to clause 35.1 :-

“(f) persistently or significantly breaching his obligations under this Contract to the material detriment of the Employer.”

Delete the word “or” from clause 35.1(d) and at the end of clause 35.1(e) “.” shall be deleted and replaced by “; or”.

Renumber clause 35.8 as clause 35.9 and the following shall be inserted as new sub-clause 35.8 :-

“35.8 In addition to the grounds for determination given in clause 35 of the Conditions, the Employer shall be entitled to immediately, determine the employment of the Contractor under this Contract and the Contractor shall be liable to pay to the Employer the amount of any loss to the Employer resulting from such determination, if the Contractor has offered, given or agreed to give to any person any bribe, gift, loan or advantage of any kind as defined in the Prevention of Bribery Ordinance, Cap 201 as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of this Contract or any other contract with the Employer, or for showing or any forbearing to show favour or disfavour to any person in relation to this Contract or other contract with the Employer, or if the like acts shall have been done by any person employed by the Contractor or acting on his behalf whether with or without the knowledge of the Contractor.”

In the first line of the renumbered clause 35.9 delete the clause reference “35.7” and replace with the clause reference “35.8”.

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-36 Not used

SCC-37 Not used

SCC-38  
Fluctuations For the avoidance of doubt it is confirmed that clause 38 shall not be applicable to this Contract. No adjustment to the Contract Sum shall be made for any rises or falls in the cost of labour or materials, fluctuations in exchange rates, freight charges, insurance premium or for any other reasons whatsoever.

SCC-39  
Notices, certificates  
and other  
communications Delete clause 39(3) and replace with the following :-

“(3) Any notice, certificate or other communication to be given or made under the Contract shall be deemed to have been delivered :

- in the case of delivery by electronic mail immediately following transmission (provided that the correct response is received by the sender); or,
- in the case of delivery by facsimile machine immediately following transmission; or,
- in the case of a document sent by post two days after the document has been posted in the case of a recipient in Hong Kong (irrespective of whether ordinary or registered post or recorded delivery is used) or seven days after the document has been posted in the case of an overseas recipient (irrespective of whether standard airmail, speedpost or any other form of airmail is used); or,
- in the case of a document delivered by hand or courier, at the time of delivery (provided receipt is obtained noting the time of delivery).”

**SPECIAL CONDITIONS OF CONTRACT**

SCC-40	Not used
SCC-41 Settlement of disputes	<p>In clauses 41.3(2) and 41.4(2) at Page 86 delete the words :-</p> <p>“the Hong Kong Institute of Architects co-jointly with the”.</p> <p>Delete clause 41.4(3) and replace with the following :-</p> <p>“The President or Vice-President referred to in clause 41.4(2) may, at his discretion, request the Hong Kong International Arbitration Centre to appoint the arbitrator, by letter to the Chairman of that organization.”</p> <p>Delete clause 41.4 (4).</p>
SCC-42 Domestic Sub-Contractor’s Warranty	<p>The Contractor shall, within 21 days of the date of entering into a Sub-Contract with a Domestic Sub-Contractor, submit a Domestic Sub-Contractor’s warranty executed by the Domestic Sub-Contractor in the format set out in the Appendix SCC.A to the Special Conditions of Contract with only such amendments thereto as may have been approved by the Architect as required in Technical Specification and Drawings.</p>

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-43  
Protection of  
existing services

It is agreed that the Contractor shall have full responsibility for the protection of existing works, in particular the building services within the site area or locations in connection with this Contract. For any isolating, disconnecting or making inoperative in any way, any part of the utilities or the building services, the Contractor must seek for prior written approval from the Architect.

SCC-44  
Specialist  
Sub-Contractor

- (1) 'Specialist Sub-Contractor' means and includes all specialists, merchants, tradesmen and the like executing any part of the Works and/or carrying out any part of the design of the Works or supplying materials or services for the Works who shall have been or shall be selected in accordance with the provisions of the Contract and employed by the Contractor.
- (2)(a) Within 28 days after the date of acceptance of the Tender, the Contractor shall resubmit for the Architect's approval the Tender Equipment Schedule. The Tender Equipment Schedule submitted under this sub-clause shall include, in respect of each of the items indicated in the Tender Equipment Schedule, either one proposal selected from the proposals made for each of the items in the Tender Equipment Schedule submitted with the Tender and which are not found to be unacceptable by the Employer or a new proposal if the proposals made for the item in the Tender Equipment Schedule submitted with the Tender are all found to be unacceptable by the Employer. The Architect shall give his approval provided always that the items proposed are fully in compliance with the Specification and the Drawings and the other requirements of the Contract and that such approval shall not impose any additional contractual and/or financial liabilities whatsoever on the Employer.
- (b) The list so approved by the Architect in accordance with sub-clause (2)(a) of this clause shall become the Agreed Equipment Schedule and shall not be amended by the Contractor without prior approval of the Architect.
- (c) If the Contractor, on the request of the Specialist Sub-Contractor, wishes to amend the Agreed Equipment Schedule or to propose substituting an item with one of the other items not found to be unacceptable by the Employer, then the Contractor shall ensure that the Specialist Sub-Contractor will provide the Architect with a detailed explanation justifying the proposed change. Provided the proposed items fully comply with the Specification and the Drawings and other requirements of the Contract and that no additional cost whatsoever is imposed on the Employer by reason of such change and that no delay to the progress of the Works or any Section thereof will be caused then the Architect shall not unreasonably withhold his approval of the change which approval should be given within 21 days of the Contractor submitting his proposal to change.

## **SPECIAL CONDITIONS OF CONTRACT**

SCC-44  
Specialist  
Sub-Contractor  
(Cont'd)

- (d) The Contractor shall indicate in the programme submitted to the Architect pursuant to clause 3 of the General Conditions of Contract the timing and sequence of submission of his proposals for the equipment and materials as required in the equipment schedules included in the particular specifications for the Specialist Sub-Contract works. The Contractor shall then, in accordance with the programme, submit for the approval of the Architect in writing the manufacturer, brand name, model number and detailed technical information for such items of equipment and materials to be offered by the Specialist Sub-Contractors. Such equipment and materials shall not be delivered to site without the prior approval of the Architect.
- (e) Notwithstanding any direct dealing with and/or submissions made by the Specialist Sub-Contractor to the Architect under this clause, the Contractor shall not in any way be relieved of his obligations and responsibilities under the Contract.
- (f) Approval or order by the Architect under this clause shall not in any way relieve the Specialist Sub-Contractor of his obligations and responsibilities under the Specialist Sub-Contract nor the obligations and responsibilities of the Contractor under the Contract.

SCC-45  
Stop work  
instruction

The Architect may issue instructions suspending or stopping the Works or any part of the works for such time or times and in such manner as the Architect may consider necessary.

- (i) by reason of weather conditions affecting the safety or quality of the Works or any part thereof, or
- (ii) by reason of default on the part of the Contractor for not complying with the Architect's Specifications, Drawings and Instructions, and/or Statutory or relevant Government Authorities' requirement, or
- (iii) by reason of the noise level/nuisance produced during the course of work as complained by the Employer.

The Contractor shall upon the written instruction of the Architect suspend and stop the progress of the Works or any part thereof for such time and in the manner as contained in such instruction, and shall during such suspension or stop work properly protect and secure the Works to the Architect's reasonable satisfaction.

All costs incurred in connection with the suspension or stop work instruction shall be borne by the Contractor and no extension of time will be granted in this respect. No claim for loss and/or expenses will be entertained in connection with such stop work instruction.



## **SPECIAL CONDITIONS OF CONTRACT**

**SCC-46**  
**Contractor's design**  
**responsibility**

Further to clause 2.1(2), any design work for which the Contractor is responsible shall be submitted to the Architect prior to execution of such work for his written confirmation that the requirements of the Employer appear to have been met, and after the Architect's confirmation the Contractor shall not vary such design without the written consent of the Architect.

All the Contractor's structural design submissions including all temporary works design shall be carried out and endorsed by a qualified engineer with the qualification of Registered Structural Engineer under the Building Ordinance.

Should the Architect make any variation of the Works, the Contractor shall amend, if necessary, any design for which he is responsible, and shall obtain the Architect's written confirmation prior to execution of the varied work that such amendment appears to meet the Employer's requirements.

Without prejudice to the generality of the foregoing, the Contractor warrants that the design of the Works and the resultant work including the solution of any specification any kind or standard of materials or workmanship shall be exercised with all reasonable skill and care.

The submission to the Architect of such design or amendment and the confirmation from the Architect shall not relieve the Contractor of any duty or responsibility under the Contract.

**SCC-47**  
**Urgent work by**  
**person other than**  
**the Contractor**

If by reasons of any accident or failure or other event occurring to, in or in connection with the Works or any part thereof either during the course of the Works or during the Defects Liability Period any remedial or repair or other work shall in the opinion of the Architect be urgently necessary and the Contractor is unable or unwilling at once to do such remedial or repair or other work, the Architect may authorize the carrying out of such remedial or repair or other work by a person other than the Contractor. If the remedial or repair or other work so authorized by the Architect's work which in the Architect's opinion the Contractor was liable to do under the Contract, all expenses properly incurred in carrying out the same shall be recoverable from the Contractor by the Employer as a debt or may be deducted by him from any monies due or to become due to the Contractor under this Contract. Provided that the Architect shall as soon after the occurrence of any such emergency as may be reasonably practicable notify the Contractor thereof in writing.

Notwithstanding the requirements of sub-clause (1) of this clause, the Contractor shall not be relieved of his liabilities and obligations under the Contract.

**SCC-48**  
**Contracts (Rights**  
**of Third Parties)**  
**Ordinance**

Nothing in this Contract confers or purports to confer on any third party any benefit or any right pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce any term of the Contract.