

SPECIAL CONDITIONS OF CONTRACT

SPECIAL CONDITIONS OF CONTRACT

Clause No.

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SCC19	Technician apprentices and building or civil engineering graduates
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Clause No.

SCC45	Assessment of liquidated damages
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SCC53	Valuing Variations
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SCC58	(Not used)
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Clause No.

SCC69	(Not used)
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SCC79	Ethical commitment
SCC80	Contractor's interim statements
SCC81	Acknowledgement of being notified of the ethical requirements
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SCC83B	(Not used)
SCC84	Extension of time for unforeseen utility work
SCC85	Voluntary Sub-contractor Registration Scheme
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SCC89	(Not used)
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

Clause No.

SCC93	Reimbursement of Contractor's contribution to the Mandatory Provident Fund for his Site Personnel
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SCC95	Limiting the tiers of sub-contracting
SCC96	Contractor's Management Team
SCC97	Sub-contract conditions
SCC98	Use of ultra low sulphur diesel
SCC99	(Not used)
SCC100	Payment for Sub-contractor Management Plan
SCC101	(Not used)
SCC102	(Not used)
SCC103	Disposal Grounds
SCC104	(Not used)
SCC105A	(Not used)
SCC105B	Release of Retention Money (Contract with Landscape Softworks and Establishment Works)
SCC106	(Not used)
SCC107	Uniform
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

Appendices to Special Conditions of Contract

- Appendix SCC.A - Form of Sub-contractor's Warranty for Roofing System
- Appendix SCC.B - Form of Joint Venture Guarantee
- Appendix SCC.C - Guidelines on Scope and Contents of Sub-contractor Management Plan
- Appendix SCC.D - Form of Check Certificate
- Appendix SCC.E - Notice of Consent to be the Nominated Permittee and Agreement to Comply with Conditions in the Permit
- Appendix SCC.F - Articles of Agreement for Use with a Partnership or an Unincorporated Joint Venture
- Appendix SCC.G - Declaration Form by Contractor on Compliance with Ethical Commitments Requirements
- Appendix SCC.H - List of Enactments
- Appendix SCC.I - Specimen Employment Contract for Site Personnel
- Appendix SCC.J - Specimen Personal Accident Insurance Policy for Self-employed Workers
- Appendix SCC.K - Guidelines on Documentary Proof to Demonstrate the Compliance of the Provisions in the Sub-contractor Management Plan

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC1	The following typographical error in the General Conditions of Contract shall be corrected:- (a) Clause 12(a) last line “of he Contract” change to “of the Contract”.	Typographical error
SCC2	(Not used)	
SCC3A	(1) General Conditions of Contract Clause 1(1) is amended by replacing the definitions of the following words and expressions with the following: “Architect” means the person, company or firm appointed from time to time by the Employer and notified in writing to the Contractor to act as the Architect for the purposes of the Contract. The person appointed may be described by name or as the holder for the time being of a Public Office. “Architect’s Representative” means any person, company or firm appointed from time to time by the Architect and notified in writing to the Contractor to perform the duties set forth in Clause 2(2). The person appointed may be described by name or as the holder for the time being of a Public Office. “Surveyor” means the person, company or firm appointed from time to time by the Employer and notified in writing to the Contractor to act as the Surveyor for the purposes of the Contract. The person appointed may be described by name or as the holder for the time being of a Public Office. “Surveyor’s Representative” means any person, company or firm appointed from time to time by the Surveyor and notified in writing to the Contractor to perform the duties set forth in Clause 2(6). The person appointed may be described by name or as the holder for the time being of a Public Office. “Section” means a part of the Works identified as such and more particularly described in the Specification or Schedule of Rates for which a time for completion is stipulated in the Appendix to the Form of Tender. (2) General Conditions of Contract Clause 1(1) is amended by adding the following: “Government” means the Government of the Hong Kong Special Administrative Region. “Public Office” means an office of emolument under the Government of the Hong Kong Special Administrative Region, whether such office be permanent or temporary.	Definitions

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

“utility undertaking” means any person, undertaking, company, organization or government department and includes any office, division, sub-division, section, sub-section, unit or group within a government department which engages in or is so engaged in supplying or providing utilities (including electricity, lighting, traffic control, telecommunications, cable television, gas, water, drainage, sewerage and tramway) and any associated work and the supply or provision of which does not form part of the Works under the Contract, including the contractors and sub-contractors of any tier of such person, undertaking, company, organization or government department.

“Site Personnel” means all workers and staff employed by the Contractor or his sub-contractor of all tiers including Specialist Sub-contractors and Nominated Sub-contractors, except self-employed workers, engaged for the execution of the Works on the Site and includes those drivers and lorry drivers who are not self-employed persons engaged for the Works.

“Intellectual Property Rights” means patents, trade marks, service marks, trade names, design rights, copyright, domain names, databases rights, rights in know-how, new inventions, designs or processes and other intellectual property rights of whatever nature and whatsoever arising, whether now known or hereafter created, and in each case whether registered or unregistered and including applications for grant of such rights.

“Labour Relations Officer” means any person, or persons appointed from time to time by the Architect and notified in writing to the Contractor to perform the duties specified in the Contract.”

SCC3B (Not Used)

SCC4 General Conditions of Contract Clause 1 is amended by adding the following as sub-clause (6): Gender

- (6) Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC5 | General Conditions of Contract Clause 2 is amended by adding the following:

(9) Where a person is appointed to be the Architect, the Surveyor, the Architect's Representative or the Surveyor's Representative as the case may be and is described as the holder for the time being of a Public Office it is declared that any person for the time being lawfully discharging the functions of that Public Office or any part of such functions and any person appointed to act in or perform the duties of such Public Office or any part of such duties for the time being may carry out the duties and may exercise the powers of the Architect, the Surveyor, the Architect's Representative or the Surveyor's Representative as the case may be. | Duties and powers of the Architect, the Surveyor, the Architect's Representative and the Surveyor's Representative |
| SCC6 | General Conditions of Contract Clause 4 is amended by adding the following:

(6) If the Contractor is not included in the List of Specialist Sub-contractors maintained by the Employer and attached as Appendices SCT.C to the Special Conditions of Tender for : -

(i) Landscaping

then he shall enter into written Specialist Sub-contract with the listed Specialist Sub-contractor, in the relevant List, for the execution of the respective part of the Works in accordance with Special Condition of Contract Clause SCC7(3).

(7) Provided that the Contractor shall not without the written consent of the Architect enter into a Specialist Sub-contract with a listed Specialist Sub-contractor who is then suspended from tendering (whether by way of mandatory suspension, voluntary suspension or automatic suspension) in respect of the works in the relevant List, Group, Category and, where appropriate, Class.

(8) The Contractor shall notify the Architect in writing the engagement of a listed Specialist Sub-contractor within 7 days of the date of the relevant Specialist Sub-contract. | Sub-contracting |

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC6 (8A) If the Contractor is not included in the “List of Approved Suppliers of Materials and Specialist Contractors for Public Works” maintained by the Employer for :- Sub-Contracting (Cont'd)

- (i) Arboricultural work to trees within the Site, including but not limited to planting, replanting, transplanting, tree surgery work and control of pest and disease under the category of “Landscaping: Class I – General Landscape Work Group I or Group II”;

then he shall enter into written sub-contract(s) with the approved listed contractor(s), in the relevant Group(s), Category(ies) and where appropriate, Class(es), for the execution of the respective part(s) of the Works. Provided that the Contractor shall not without the written consent of the Architect enter into a sub-contract with an approved listed contractor who is then suspended from tendering (whether by way of mandatory suspension, voluntary suspension or automatic suspension) in respect of the works in the relevant Group, Category and, where appropriate, Class,

The Contractor shall submit details of the approved listed contractor proposed to carry out the arboricultural work to trees within the Site to the Architect for checking compliance with this Sub-clause at least 7 days prior to entering into a written sub-contract with this approved listed contractor.

The Contractor shall notify the Architect in writing the engagement of an approved listed contractor within 7 days of the date of the relevant sub-contract.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- SCC7 (1) (a) The General Conditions of Contract Clause 1(1) is amended by: Specialist Sub-contractor
- (i) adding the definition of “Specialist Sub-contractor”
- ““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.”.
- (ii) adding the definition of “Specialist Sub-contract”
- ““Specialist Sub-contract’ means the sub-contract made between the Contractor and the Specialist Sub-contractor.”.
- (iii) amending the definition of “Works” by adding “and/or Specialist Sub-contractors” after “Nominated Sub-contractors”.
- (b) General Conditions of Contract Clause 50(1) (c) is amended by replacing the full stop at the end of sub-subclause (ii) by “, or” and adding the following as sub-subclause (iii)
- “delay on the part of or caused by or related to any Specialist Sub-contractor including but not limited to delay arising from termination of any Specialist Sub-contract due to any reason whatsoever.”.
- (c) General Conditions of Contract Clause 78 is amended by inserting the following sub-clause (1A) between sub-clause (1) and sub-clause (2) :-
- (1A) The Contractor shall also deliver to the Surveyor at the end of each period of interim certificates stated in the Appendix to the Form of Tender a statement showing the estimated contract value of the work done by any Specialist Sub-contractor up to the end of such period. Such estimated contract value shall be supported by a written statement by any Specialist Sub-contractor on the percentage of work confirmed to have been done to date and a schedule of materials on the Site for inclusion in the permanent works made on the headed paper of the Specialist Sub-contractor concerned.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

(d) General Conditions of Contract Clause 79(1) is amended by inserting the following sub-clause (1)(di) between sub-clause (1)(d) and sub-clause (1)(e) :-

(1)(di) the estimated sum payable in respect of any Specialist Sub-contractor provided always that such estimated sum shall not be included unless supported by a written statement by the Specialist Sub-contractor concerned as specified in Clause 78(1A).

(e) General Conditions of Contract Clause 79 is further amended by adding the following as sub-clauses (6) and (7) :-

(6) Within 7 days of receiving payment from the Employer in accordance with sub-clauses (1) and (3) above the Contractor shall submit to the Surveyor a certificate stating that the sum payable to the Specialist Sub-contractor under the terms of the Specialist Sub-contract has been paid. Such certificate shall be supported by written acknowledgment of payment from the Specialist Sub-contractor made on headed paper of the Specialist Sub-contractor concerned.

(7) In the event of failure by the Contractor to submit the certificate in sub-clause (6) above, the Surveyor may, in writing, demand from the Contractor a written statement explaining the reason for failure to make such submission to be submitted to the Surveyor within 14 days of the written demand.

(2) Any obligations stipulated in the Special Conditions of Tender related to Specialist Sub-contractor which have not been completed at the end of the tender stage are hereby incorporated as Special Conditions of Contract.

(3) Where the Contract specifies that certain work is to be executed by a Specialist Sub-contractor, the Contractor shall enter into a sub-contract with the Specialist Sub-contractor using the Standard Form of Domestic Sub-contract (2008) published by The Hong Kong Construction Association as amended by the Special Conditions of Sub-contract set out in Appendix SCT.F to the Special Conditions of Tender.

(4) The Contractor shall not permit the Specialist Sub-contractor to sub-let the whole of the Specialist Sub-contract Works (as defined in the Standard Form of Domestic Sub-contract (2008) published by the Hong Kong Construction Association) without the written consent of the Architect.

(5) (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (6) The Contractor shall procure the attendance of the Specialist Sub-contractor at meetings with the Architect in respect of discussions on technical matters and allow the Specialist Sub-contractor to discuss technical matters with the Architect in his presence from the date for commencement of the Works up to and including the date of issue of the maintenance certificate pursuant to General Conditions of Contract Clause 80.
- (7) Any payment by the Contractor to the Specialist Sub-contractor under the Standard Form of Domestic Sub-contract Clause 6.9 shall not be refunded or reimbursed by the Employer to the Contractor in any manner whatsoever under the terms of the Contract.
- (8) Further to General Conditions of Contract Clause 4(4), the Contractor shall be responsible for the acts, defaults and neglects of any Specialist Sub-contractor or the agents, employees or workers of any Specialist Sub-contractor as fully as if they were the acts, defaults or neglects of the Contractor, his agents, employees or workers.

SCC8

The Contractor shall, within 21 days of the date of entering into a sub-contract with a sub-contractor, submit a sub-contractor's warranty executed by the sub-contractor, in the form appearing in Appendix SCC.A to these Special Conditions of Contract with only such amendments thereto as may have been previously approved by the Employer in writing in respect of the following :-

Sub-contractor's warranty

- (i) Roofing system

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC9	(1)	The Contractor shall be fully responsible for the design, supply and installation of the Roofing System, whether or not such works are carried out by himself or by his sub-contractor. Without prejudice to the generality of the foregoing, the Contractor warrants :-	Contractor's liabilities (Roofing system)
		(a) that the Roofing System shall remain in a watertight condition for a period of ten years from the date of completion stated in the certificate of completion with respect to the Works issued pursuant to General Conditions of Contract Clause 53; and	
		(b) the suitability of the Roofing System for application and bonding to the roof structure and any finishes applied thereto and the compatibility and bonding between each of the elements of the Roofing System so as to ensure that the Roofing System is watertight.	
		(c) that the Roofing System shall conform to any performance specification or requirement applicable to the Roofing System included or referred to in the Contract.	
	(2)	In the event of different certificates of completion having been issued for different Sections or parts of the Works pursuant to General Conditions of Contract Clause 53, the expression "certificate of completion" shall, for the purpose of sub-clause (1) of this Clause, mean the last of such certificates.	
SCC10	(Not used)		
SCC11	(Not used)		

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC12	(1)	Within three months of the acceptance of the Tender, the Contractor shall book with a certification body acceptable to the Employer the date of audit for the ISO 9001:2008 certification; with detailed documented quality system procedures ready at the time of booking. If the Contractor is a joint venture, the date of audit for the ISO 9001:2008 certification shall mean that of the specified participant or shareholder in the statement submitted in accordance with Special Conditions of Tender Clause SCT 6.	ISO 9000 certification for the Contractor
	(2)	Notwithstanding any other provisions in the Contract, compliance with sub-clause (1) of this Clause shall be a condition precedent to the Contractor's entitlement to any payment or any further payment as the case may be under the Contract.	
	(3)	Sub-clauses (1) and (2) of this Clause are not applicable if the Contractor or, where the Contractor is a joint venture, his specified participant or shareholder has already obtained the ISO 9001:2008 certification on or before the date of acceptance of the Tender.	
SCC13	(Not used)		
SCC14	(1)	Further to General Conditions of Contract Clause 7, the Contractor's responsibility for providing Drawings and other documents in connection with the Works shall include but shall not be limited to the following :- (a) the acquisition and checking of all Drawings and other documents from the Architect, and those to be provided by the sub-contractors, Nominated Sub-contractors, Specialist Sub-contractors, Specialist Contractors and utility undertakings which are necessary to enable the Contractor to comply with his obligations under this Special Condition of Contract. (b) the preparation of all Drawings or other documents which the Contractor is required to provide for the Works including the procurement of such Drawings or documents from the sub-contractors, Nominated Sub-contractors and Specialist Sub-contractors.	Drawings provided by the Contractor for the Works

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (c) the design and preparation of combined co-ordinated building services installation drawings whether such services installations are to be carried out by the Contractor, the sub-contractors, Nominated Sub-contractors, Specialist Sub-contractors, Specialist Contractors or utility undertakings. Such drawings shall be fully dimensioned and shall indicate the precise locations, route, layout and level of each and every building services installation, whether in co-ordination with other building services installations or with the structural and architectural works.
- (d) subsequent to satisfactory completion of building services installations the preparation of drawings in accordance with the requirements of sub-clause (1)(c) of this Special Condition of Contract, such drawings shall include but shall not be limited to the following :-
 - (i) updated and amended combined co-ordinated building services installation drawings;
 - (ii) combined builder's work drawings; and
 - (iii) combined reflected ceiling plans.
- (e) the recommendation of design solutions to eliminate conflict between the positioning of any work and to provide adequate space for the routing of all the building services and for access for future maintenance.
- (f) the updating and amending of all drawings forming the subject of sub-clause (1)(b), (1)(c) and (1)(d) of this Special Condition of Contract to reflect changes due to further drawings, instructions or the like issued by the Architect.
- (g) the preparation of a detailed schedule showing the proposed dates of submission to the Architect of combined co-ordinated building services installation drawings, product data and samples for the Works, the submission of the schedule to the Architect for approval and the preparation of a revised schedule incorporating any amendment required by the Architect.
- (h) the preparation of "as built" drawings for each building services installation and "as built" combined co-ordinated building services installation drawings fully detailing all the building services installations, plant and equipment forming part of the Works or installed by utility undertakings showing the inter-relationship of all the building services installations, plant and equipment.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC15	<p>(1) Notwithstanding the General Conditions of Contract Clause 8(2) but subject to (3) below, any contract rates or related information provided by the Contractor in connection with the Contract may be used by the Employer for the sole purpose of cost estimation or cost analysis for his other works which may or may not be connected with the Contract.</p> <p>(2) Subject to (3) below, the Employer may also furnish such information to any third party engaged by the Employer for the sole purpose of cost estimation or cost analysis provided that he shall obtain from such third party an undertaking to maintain the confidentiality of the same and not to use it for any other purpose.</p> <p>(3) In connection with the use and/or furnishing of the contract rates and related information under (1) and/or (2) above, the Employer shall ensure that the Contract number, title and the Contractor's name are not used or furnished.</p>	<p>Contract information to be used for cost estimation or cost analysis for the Employer's other works</p>
SCC16	(Not used)	
SCC17	(Not used)	
SCC18	(Not used)	
SCC19	<p>(1) The Contractor shall employ at least the minimum number of technician apprentices and building or civil engineering graduates as specified in the Contract.</p> <p>(2) Where the Contractor employs the technician apprentice(s) pursuant to sub-clause (1) of this Clause, the Contractor shall ensure that all employed technician apprentice(s) attend a course of instruction at an approved technical institution leading to the award of either a Higher Certificate in Building Studies, Civil Engineering, Building Services or other comparable alternative qualification.</p> <p>(3) Where the Contractor employs the building or civil engineering graduate(s) pursuant to sub-clause (1) of this Clause, the Contractor shall ensure that all employed graduate(s) are provided with practical training on site for a minimum of 12 months or 70% of the time for completion of the Works as stipulated in the Appendix to the Form of Tender, whichever is longer, and follow established training guidelines for the relevant disciplines as far as possible.</p>	<p>Technician apprentices and building or civil engineering graduates</p>

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC20	General Conditions of Contract Clause 8 is amended by adding the following as sub-clause (3):	Permissible disclosure of information related to dispute settlement
	<p>“(3) Notwithstanding sub-clause (2) of this Clause, but subject to the following provisions, the Employer may disclose the outline of any dispute and the terms of settlement for which a settlement agreement has been reached with the Contractor or the outcome of the arbitration or any other means of resolution of dispute to the Public Accounts Committee of the Legislative Council upon its request. Before disclosures are made to the said Committee, the Employer shall inform the Contractor. Disclosures shall not be made to the said Committee before expiry of the first 6 months from the date of the settlement agreement, arbitration award or, as the case may be, outcome of other means of resolution of dispute without the written consent of the Contractor but such consent shall not be unreasonably withheld. The Contractor shall be deemed to have given his consent to disclosures on the expiry of the first 6 months from the date of the settlement agreement, arbitration award or, as the case may be, outcome of other means of resolution of dispute. The Contractor may, if he considers necessary to protect the sensitive nature of certain information relating to him, request the Employer to disclose such specified information to the said Committee strictly on a confidential basis. If the Employer considers that there are legitimate grounds to accede to the Contractor’s request, the Employer shall convey the request to the said Committee for its consideration.”</p>	
SCC21	(Not used)	
SCC22	The Contractor shall properly co-ordinate the execution and interface of the Works and Specialist Works, whether carried out by the Contractor, the sub-contractors, Nominated Sub-contractors, Specialist Sub-contractors, Specialist Contractors or utility undertakings, and in particular shall ensure that any building services installation is installed within the space designed to house it without affecting other building services installations, the building structure or architectural work and in such position and sequence that a neat, logical and tidy appearance of all building services installations is achieved with adequate space for future maintenance.	Co-ordination

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC23 | (1) | General Conditions of Contract Clause 1(1) is amended by adding the following:

“Intermediate Tradesman/ Qualified Semi-skilled Workers” means:

(i) a worker who has obtained the relevant intermediate trade test certificate issued either by the Construction Industry Council or Vocational Training Council; or

(ii) a registered semi-skilled worker or registered semi-skilled worker (provisional) as respectively defined in section 2(1) of the Construction Workers Registration Ordinance (Cap. 583).

“Qualified Tradesman/ Qualified Skilled Workers” means :

(i) a worker who has obtained the relevant trade test certificate issued either jointly or separately by the Construction Industry Council and the Vocational Training Council; or

(ii) a worker who has obtained the relevant certificate of completion of apprenticeship issued under the Apprenticeship Ordinance (Cap. 47); or

(iii) a worker who has obtained the relevant certificate of completion of apprenticeship issued by the Government of the Hong Kong Special Administrative Region; or

(iv) an electrician or electrical fitter who is a registered electrical worker registered under Section 30 of the Electricity Ordinance (Cap. 406); or

(v) a registered skilled worker or registered skilled worker (provisional) as respectively defined in section 2 (1) of the Construction Workers Registration Ordinance (Cap. 583). | Qualified Tradesmen and Intermediate Tradesmen |
| | (2) | Further to General Conditions of Contract Clauses 18(1) and 39(1), the Contractor shall employ at least the minimum number of Qualified Tradesmen/ Qualified Skilled Workers and Intermediate Tradesmen/ Qualified Semi-skilled Workers of each of the specified trades as specified in the Contract. | |

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC24 (Not used)

SCC25 (Not used)

SCC26 (Not used)

SCC27 (Not used)

SCC28 (Not used)

SCC29 (Not used)

SCC30A (1) General Conditions of Contract Clause 1(1) is amended by :-

Contractor's
Design

(a) adding the following:

“Independent Design Checker” means the person, firm or company employed by the Contractor and responsible for the independent checking of the Contractor’s Design whose qualifications, skill and experience are specified in the Contract and who shall be independent of the Designer and the Contractor.

“Designer” means the person, firm or company responsible for the design of the Contractor’s Design whose qualifications, skill and experience are specified in the Contract.

“Contractor’s Design” means that part or those parts of the design of the permanent works for which the Contractor designs and for which the Contractor has elected or is required in accordance with the tender documents to prepare design calculations and drawings and which has been accepted by the Employer.

“Check Certificate” means a certificate, in the form specified in Appendix SCC.D to these Special Conditions of Contract, issued by the Independent Design Checker certifying that the Contractor’s Design has been independently checked and complies in all respects with the terms and conditions of the Contract.

“Certified Working Drawing” means a drawing prepared by the Designer and endorsed as being checked and approved by the Independent Design Checker.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (2) Contractor's Design is classified into the following three categories:
- (a) Contractor's Design requiring a Designer and an Independent Design Checker;
 - (b) Contractor's Design requiring a Designer only; and
 - (c) Contractor's Design with no requirement for any Designer and/or Independent Design Checker.

The extent of Contractor's Design and the requirement of a Designer and/or an Independent Design Checker (and their respective qualifications, skill and experience) are stated in the Specification Preliminaries of the Contract.

- (3) Further to the General Conditions of Contract Clause 23 :
- (a) The Contractor shall be responsible for the Contractor's Design including but not limited to the design provided by the Nominated Sub-contractors, Specialist Sub-contractors or sub-contractors selected by the Contractor.
 - (b) The Contractor shall be liable for any defect or insufficiency in the Contractor's Design and any inadequacy in the performance of the resultant work. In addition to the Contractor's responsibilities under the Contract, the Contractor shall warrant that :
 - (i) all reasonable skill, care and diligence have been and will be exercised in connection with the Contractor's Design,
 - (ii) the materials and goods in connection with the Contractor's Design will be reasonably fit for the purpose for which they are intended and of good quality,
 - (iii) the Contractor's Design conforms to any performance specification or requirement referred to in the Contract, and
 - (iv) without prejudice to the generality of General Conditions of Contract Clause 30 in respect of the Works, the provisions of General Conditions of Contract Clause 30 are complied with in respect of the Contractor's Design and the resultant work.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

Such warranty shall apply independent of any question of fault on the part of the Contractor, or any Nominated Sub-contractors, Specialist Sub-contractors or any sub-contractors and shall not be invalidated in any respect by any error made by the Contractor, Nominated Sub-contractors, Specialist Sub-contractors or sub-contractors in the Contractor's Design or any submission to the Architect for checking and/or approval.

- (c) The Contractor shall not be obliged to ensure that the Contractor's Design is fit for the purpose for which it is intended.
- (4) The Contractor's Design shall be compatible with the provisions of the Specification and the Drawings, provided that the Contractor may propose modifications to the Specification in respect of particular methods of construction or materials not included in the Specification or shown on the Drawings. In such cases, the Contractor shall immediately advise the Employer of such proposals through the Architect. The Employer's decision shall be conveyed to the Contractor in writing by the Architect within a reasonable period, and neither the acceptance nor rejection by the Employer of such proposals shall vitiate the Contract. Acceptance or rejection by the Employer of such proposals shall not entitle the Contractor to extra payment arising from any additional cost of the Works or extension of time arising therefrom.
- (5) For Contractor's Design requiring a Designer and an Independent Design Checker:
 - (a) The Designer shall prepare all calculations and drawings relating to the Contractor's Design.
 - (b) Within a reasonable period prior to the commencement of that part of the Works to be constructed in accordance with the Contractor's Design, and from time to time as required by the Architect, the Contractor shall submit to the Architect:
 - (i) two certified copies of the Contractor's Design,
 - (ii) Check Certificates, and
 - (iii) Certified Working Drawings.
 - (c) The Architect shall, within a reasonable period after receipt of the Contractor's submission, notify the Contractor in writing whether or not the documents submitted meet the requirements of the Contract. The Contractor shall not commence the construction of such works until receipt of confirmative notification in writing from the Architect.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (d) Notwithstanding General Conditions of Contract Clause 7, and prior to the commencement of that part of the Works of the Contractor's Design, the Contractor shall supply to the Architect three copies of the Certified Working Drawings together with one reproducible print of each drawing and, where specified in the Contract, the soft copy of the drawings prepared in accordance with the CAD standard as specified. All drawings shall be fully figured copies with black lines on a white background of a size specified in the Contract and shall be detailed in S.I. units.
 - (e) If at any time it becomes apparent to the Architect that any drawings and/or documents submitted by the Contractor does not comply with the requirements of the Contract in any respect whatsoever, then all amendments deemed necessary by the Architect shall be made therein by the Contractor, and such amended drawings and/or documents shall be reviewed by the Designer and shall be subject to a further Check Certificate. The Contractor shall bear the full cost of complying with this sub-clause, and shall reimburse the Employer the cost of any work or design done by the Employer which has been rendered abortive by any such amendments.
 - (f) If at any time the Architect has substantial cause for dissatisfaction with the conduct or performance of the Independent Design Checker, he shall notify the Employer accordingly. The Contractor shall, upon receiving written notice from the Employer, cease to employ such person, firm or company and shall immediately replace him by another whose qualifications, skill and experience are satisfactory to the Employer.
- (6) For Contractor's Design requiring a Designer only with no requirement for an Independent Design Checker:
- (a) The Designer shall prepare all calculations and drawings relating to the Contractor's Design.
 - (b) Within a reasonable period prior to the commencement of that part of the Works to be constructed in accordance with the Contractor's Design, and from time to time as required by the Architect, the Contractor shall submit to the Architect the Contractor's Design.
 - (c) The Architect shall, within a reasonable period after receipt of the Contractor's submission, notify the Contractor in writing whether or not the documents submitted meet the requirements of the Contract. The Contractor shall not commence the construction of such works until receipt of confirmative notification in writing from the Architect.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (d) Notwithstanding General Conditions of Contract Clause 7, and prior to the commencement of that part of the Works of the Contractor's Design, the Contractor shall supply to the Architect three copies of the working drawings together with one reproducible print of each drawing and, where specified in the Contract, the soft copy of the drawings prepared in accordance with the CAD standard so specified. All drawings shall be fully figured copies with black lines on a white background of a size specified in the Contract and shall be detailed in S.I. units.
 - (e) If at any time it becomes apparent to the Architect that any drawings and/or documents submitted by the Contractor does not comply with the requirements of the Contract in any respect whatsoever, then all amendments deemed necessary by the Architect shall be made therein by the Contractor, and such amended drawings and/or documents shall be reviewed by the Designer. The Contractor shall bear the full cost of complying with this sub-clause, and shall reimburse the Employer the cost of any work or design done by the Employer which has been rendered abortive by any such amendments.
- (7) For Contractor's Design with no requirement for any Designer and/or Independent Design Checker:
- (a) The Contractor shall prepare all calculations and drawings relating to the Contractor's Design.
 - (b) Within a reasonable period prior to the commencement of that part of the Works to be constructed in accordance with the Contractor's Design, and from time to time as required by the Architect, the Contractor shall submit to the Architect the Contractor's Design.
 - (c) The Architect shall, within a reasonable period after receipt of the Contractor's submission, notify the Contractor in writing whether or not the documents submitted meet the requirements of the Contract. The Contractor shall not commence the construction of such works until receipt of confirmative notification in writing from the Architect.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (d) Notwithstanding General Conditions of Contract Clause 7, and prior to the commencement of that part of the Works of the Contractor's Design, the Contractor shall supply to the Architect three copies of the working drawings together with one reproducible print of each drawing and, where specified in the Contract, the soft copy of the drawings prepared in accordance with the CAD standard so specified. All drawings shall be fully figured copies with black lines on a white background of a size specified in the Contract and shall be detailed in S.I. units.
 - (e) If at any time it becomes apparent to the Architect that any drawings and/or documents submitted by the Contractor does not comply with the requirements of the Contract in any respect whatsoever, then all amendments deemed necessary by the Architect shall be made therein by the Contractor, and such amended drawings and/or documents shall be reviewed by the Contractor. The Contractor shall bear the full cost of complying with this sub-clause, and shall reimburse the Employer the cost of any work or design done by the Employer which has been rendered abortive by any such amendments.
- (8) If at any time it becomes apparent to the Contractor that an amendment to the Contractor's Design is required for the proper completion of that part of the Works involved in such design, then he shall:
- (a) immediately advise the Architect of the proposed amendment,
 - (b) resubmit documents to the Architect in accordance with sub-clause (5)(b), (6)(b) and (7)(b), where applicable, of this Clause, provided that:
 - (i) the finished appearance of the Works shall remain substantially unaltered,
 - (ii) there shall be no additional payment made nor any extension of time granted to Contractor, and
 - (iii) the Contractor shall bear the full cost of complying with this sub-clause, and shall reimburse the Employer the cost of any work or design done by the Employer which has been rendered abortive by any such amendments.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (9) On completion of that part of the work constructed in accordance with the Contractor's Design, the Contractor shall prepare and submit to the Architect the 'as constructed' drawings of such work and shall supply to the Architect two copies and one reproducible print of each of such drawings and, where specified in the Contract, the soft copy of the drawings prepared in accordance with the CAD standard so specified.
- (10) For the avoidance of doubt, any change in the quantities in the Work as shown on the Drawings or described in the Specification resulting from the acceptance by the Employer of the Contractor's Design shall not entitle the Contractor to any adjustment of the rates in the Specification Preliminaries, Schedule of Rates and Summary of Tender notwithstanding any other provisions in the Contract.
- (11) Variations to the works for the Contractor's Design ordered by the Architect shall be measured and valued at the rates ascertained in accordance with the principles of General Conditions of Contract Clause 61, or based on the rates in the Schedule of Rates submitted with the tender. For the avoidance of doubt, amendments under sub-clause 5(e), 6(e), (7)(e) or (8) of this Clause shall not be variations within the meaning of this sub-clause.
- (12) (a) Except in respect of those intellectual property rights referred to in sub-clause (12)(c) of this Clause, the Contractor hereby undertakes and warrants to the Employer that the Contractor is the sole legal and beneficial owner of all intellectual property rights subsisting in the Contractor's Design.
- (b) Upon the issue of the certificate of completion of the Works or after termination, abandonment or breach of Contract, the Contractor shall be deemed to have granted to the Employer and the subsequent owners or occupiers of the Works free of all fee a transferable, non-exclusive and irrevocable licence (carrying the right to grant sub-licences) to utilize the Contractor's Design in connection with the execution of the Works and/or the subsequent alteration, extension and maintenance thereof and for no other purpose whatsoever without the prior written agreement of the Contractor. In the event of different certificates of completion having been issued for different Sections or parts of the Works pursuant to General Conditions of Contract Clause 53, the expression "certificate of completion" shall, for the purpose of this sub-clause, mean the last of such certificates.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (c) To the extent that the beneficial ownership of any intellectual property rights in the Contractor's Design is vested in anyone other than the Contractor, the Contractor shall procure that the relevant beneficial owners shall grant a licence together with an indemnity to the Employer and the subsequent owner or occupiers of the Works upon the same terms mutatis mutandis as those set out in sub-clauses (12)(b) and (12)(f) of this Clause respectively. Contractor's Design
- (d) For the avoidance of doubt, any licence and indemnity granted pursuant to this Clause shall not be determined if the Contractor shall for any reason cease to be employed in connection with the Works.
- (e) The Contractor shall at the request of the Employer, do such acts and execute all such deeds and documents (or procure that the same be done or executed) as the Employer or the subsequent owners or occupiers of the Works may require for vesting in the Employer and the subsequent owners or occupiers of the Works all or any of the rights referred to in this Clause. The Contractor shall bear his all costs and expenses in relation thereto.
- (f) The Contractor hereby indemnifies the Employer against all claims, proceedings, actions, damages and losses incurred or sustained by the Employer in respect of infringement of intellectual property rights arising from the use of the Contractor's Design (irrespective of whether the intellectual property rights therein are owned by the Contractor or other parties) by the Employer for the purposes referred to in sub-clause (12)(b) of this Clause. For avoidance of doubt, the indemnity herein applies where the proceedings concerned are subsequently withdrawn or settled or in the event that the allegations of infringement are subsequently found to be unsubstantiated. The Contractor shall at his own cost grant a like indemnity to the subsequent owners or occupiers of the Works upon request of the Employer.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC30B (A) (1) General Conditions of Contract Clause 1(1) is amended by:-

Cost Savings
Design
submitted at
contract stage

(a) adding the following:

"Independent Design Checker of Cost Savings Design" means the person, firm or company employed by the Contractor and responsible for the independent checking of the Cost Savings Design whose qualifications, skill and experience are deemed satisfactory by the Employer and who shall be independent of the Designer of Cost Savings Design and the Contractor.

"Designer of Cost Savings Design" means the person, firm or company responsible for the design of the Cost Savings Design whose qualifications, skill and experience are deemed satisfactory by the Employer.

"Cost Savings Design" means the design proposal to any part of the Works submitted by the Contractor under this Special Condition of Contract sub-clause (B)(1) and any amplification or amendment thereto and accepted by the Employer with or without amendments.

"Check Certificate of Cost Savings Design" means a certificate, in the form specified in Appendix SCC.D to these Special Conditions of Contract, issued by the Independent Design Checker of Cost Savings Design certifying that the Cost Savings Design has been independently checked and complies in all respects with the terms and conditions of the Contract.

"Certified Working Drawing of Cost Savings Design" means a drawing prepared by the Designer of Cost Savings Design and endorsed as being checked and approved by the Independent Design Checker of Cost Savings Design.

(b) by adding the following at the end of the definition for "Works":

"and the resultant work of the Contractor's Design and the Cost Savings Design".

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC30B (B) Designs by the Contractor

- (1) (a) The Contractor may at any time during the continuance of the Works submit to the Architect in writing a Cost Savings Design proposal in respect of a part of the Works with sufficient details and justifications to show:
- (i) the time for completion of the Works or any Section thereof can be reduced, and/or
 - (ii) the future maintenance or operation cost of the Works can be reduced, and/or
 - (iii) the efficiency or value to the Employer of the completed Works can be improved, and/or
 - (iv) the Contract Sum can be reduced by an amount of a lump sum, and/or
 - (v) social benefits such as but not limited to less disturbance to the public.

In any event, the Contractor's liability for the construction of the Works is not prejudiced and the proposal shall be of benefit to the Employer.

- (b) Any proposal shall clearly state that it is submitted for consideration under this sub-clause and shall include (i) an estimate for consideration by the Employer of the amount to which the cost of carrying out the Works, as determined in accordance with Clause 61 of the General Conditions of Contract, that may be saved and (ii) a fully priced and detailed Schedule of Rates as referred to in sub-clause (B)(11) of this Clause. In assessing the overall cost savings, the Employer will take into account the additional cost incurred for considering the Contractor's proposal including the Architect and Surveyor's cost. The Cost Savings Design shall be subject to the Architect's confirmation that it is compatible with the provisions of the Specification and the Drawings. The Contractor may propose modifications to the Specification in respect of particular methods of construction or materials not included in the Specification or shown on the Drawings.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (c) Subject to acceptance of the Cost Savings Design, (i) the overall cost savings as assessed by the Employer and (ii) any revision (on the basis of the change in value as assessed by the Employer and change in time for completion of the Works or, as the case may be, the relevant Section to which the Cost Savings Design belongs) to the daily rate of liquidated damages and/or minimum liquidated damages for the Works or, as the case may be, the relevant Section to which the Cost Savings Design belongs shall be agreed with the Contractor. Before acceptance of the Cost Savings Design, the Architect shall obtain confirmation from the Employer that the proposal is acceptable to the Employer and confirmation from both the Contractor and the Employer that (i) the overall cost savings and (ii) any revision as aforesaid to the daily rate of liquidated damages and/or minimum liquidated damages arising from the proposal are agreed to by both parties.
- (d) The Employer's decision to accept or reject the Cost Savings Design shall be conveyed to the Contractor in writing by the Architect within a reasonable period, and neither the acceptance nor rejection of such proposal shall vitiate the Contract.
- (e) If the Cost Savings Design is accepted, the agreed overall cost savings in lump sum for the part of the Works shall be equally shared between the Employer and the Contractor. For the avoidance of doubt, the acceptance of the Cost Savings Design shall not entitle the Contractor to claim additional costs or extension of time. If the proposal is rejected, the Contractor shall not be entitled to any payment or extension of time arising from his submission to the Architect of the proposal and the Employer shall bear his own cost for considering the proposal submitted by the Contractor under this sub-clause except that the Contractor shall reimburse the Employer for the Architect and the Surveyor's cost in doing the same. The Employer shall be entitled to deduct such cost from any sums due to the Contractor under the Contract and/or to recover such cost as a debt from the Contractor.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (2) (a) Further to the General Conditions of Contract Clause 23, the Contractor shall be liable for any defect or insufficiency in the Cost Savings Design and any inadequacy in the performance of the resultant work. In addition to the Contractor's responsibilities under the Contract, the Contractor shall warrant that :
- (i) all reasonable skill, care and diligence has been and will be exercised in connection with the Cost Savings Design,
 - (ii) the materials and goods in connection with the Cost Savings Design will be reasonably fit for the purpose for which they are intended and of good quality, and
 - (iii) the Cost Savings Design conforms to any performance specification or requirement referred to in the Contract, and
 - (iv) without prejudice to the generality of General Conditions of Contract Clause 30 in respect of the Works, the provisions of General Conditions of Contract Clause 30 are complied with in respect of the Cost Savings Design and the resultant work.

Such warranty shall apply independent of any question of fault on the part of the Contractor or any sub-contractor and shall not be invalidated in any respect by any error made by the Contractor or sub-contractor in the Cost Savings Design or any submission to the Architect for checking and/or approval.

- (b) The Contractor shall not be obliged to ensure that the Cost Savings Design is fit for the purpose for which it is intended.
- (c) The Designer of Cost Savings Design shall prepare all calculations and drawings relating to the Cost Savings Design which shall be subject to a Check Certificate of Cost Savings Design.
- (d) If at any time the Architect has substantial cause for dissatisfaction with the conduct or performance of the Independent Design Checker of Cost Savings Design, he shall notify the Employer accordingly. The Contractor shall, upon receiving written notice from the Employer, cease to employ such person, firm or company and shall immediately replace him by another whose qualifications, skill and experience are satisfactory to the Employer.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (3) Within a reasonable period prior to the commencement of that part of the Works to be constructed in accordance with the Cost Savings Design, and from time to time as required by the Architect, the Contractor shall submit to the Architect :
 - (a) two certified copies of the Cost Savings Design,
 - (b) Check Certificates of Cost Savings Design, and
 - (c) Certified Working Drawings of Cost Savings Design
- (4) The Architect shall, within a reasonable period, notify the Contractor in writing whether or not the documents submitted meet the requirements of the Contract. The Contractor shall not commence the construction of such works until receipt of confirmative notification in writing from the Architect.
- (5) Notwithstanding General Conditions of Contract Clause 7, and prior to the commencement of the part of the Works of the Cost Savings Design, the Contractor shall supply to the Architect three copies of the Certified Working Drawings of Cost Savings Design together with one reproducible print of each drawing and where specified in the Contract, the soft copy of the drawings prepared in accordance with the CAD standard so specified. All drawings shall be fully figured copies with black lines on a white background of a size specified in the Contract and shall be detailed in S.I. units.
- (6) If at any time it becomes apparent to the Architect that any drawing and/or document submitted by the Contractor does not comply with the Contract in any respect whatsoever, then all amendments deemed necessary by the Architect shall be made therein by the Contractor, and such amended drawing and/or document shall be reviewed by the Designer of Cost Savings Design and shall be subject to a further Check Certificate of Cost Savings Design. The Contractor shall bear the full cost of complying with this sub-clause, and shall reimburse the Employer the cost of any work or design done by the Employer which has been rendered abortive by any such amendments.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (7) If at any time it becomes apparent to the Contractor that an amendment to the Cost Savings Design is required for the proper completion of that part of the Works involved in such design, then he shall :
- (a) immediately advise the Architect of the proposed amendment,
 - (b) resubmit documents to the Architect in accordance with sub-clause (B)(3) of this Clause, provided that :
 - (i) the finished appearance of the Works shall remain substantially unaltered,
 - (ii) there shall be no additional payment made nor any extension of time granted to the Contractor, and
 - (iii) the Contractor shall bear the full cost of complying with this sub-clause, and shall reimburse the Employer the cost of any work or design done by the Employer which has been rendered abortive by any such amendments.
- (8) On completion of the work constructed in accordance with the Cost Savings Design, the Contractor shall prepare and submit to the Architect the 'as constructed' drawings of such work and shall supply to the Architect two copies and one reproducible print of each of such drawings and where specified in the Contract, the soft copy of the drawings prepared in accordance with the CAD standard so specified.
- (9) Notwithstanding General Conditions of Contract Clause 59, the work to be constructed in accordance with the Cost Savings Design shall be a lump sum item accompanied by a fully priced and detailed Schedule of Rates. The lump sum item shall include :
- (a) the cost of producing the Cost Savings Design,
 - (b) the cost and fees for obtaining the Check Certificates of Cost Savings Design,
 - (c) the cost of providing the Architect with all calculations, documents (including maintenance manuals), and drawings in connection with the Cost Savings Design,

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (d) the full value of the work (including without limitation, spare parts) constructed in accordance with the Cost Savings Design and all the risks, liabilities and obligations of the Contractor under the Contract, and
 - (e) the cost of all samples and testing thereof and testing of the work constructed in accordance with the Cost Savings Design.
- (10) For the avoidance of doubt, any change in the quantities in the Works as shown on Drawings or described in the Specification resulting from the acceptance by the Employer of the Cost Savings Design shall not entitle the Contractor to any adjustment of the rates in the Specification Preliminaries, Schedule of Rates and Summary of Tender notwithstanding any other provisions in the Contract.
- (11) Variations to the works for the Cost Savings Design ordered by the Architect shall be measured and valued at the rates ascertained in accordance with the principles of General Conditions of Contract Clause 61, at or based on the rates in the Schedule of Rates submitted with the Contractor's Cost Savings Design proposal. For the avoidance of doubt, amendments under sub-clause (B)(6) of this Clause shall not be considered as variations within the meaning of this sub-clause.
- (12) (a) Except in respect of those intellectual property rights referred to in sub-clause (B)(12)(c) of this Clause, the Contractor hereby undertakes and warrants to the Employer that the Contractor is the sole legal and beneficial owner of all intellectual property rights subsisting in the Cost Savings Design.
- (b) Upon the issue of the certificate of completion of the Works or after termination, abandonment or breach of Contract, the Contractor shall be deemed to have granted to the Employer and the subsequent owners or occupiers of the Works free of all fee a transferable, non-exclusive and irrevocable licence (carrying the right to grant sub-licences) to utilize the Cost Savings Design in connection with the execution of the Works and/or the subsequent alteration, extension and maintenance thereof and for no other purpose whatsoever without the prior written agreement of the Contractor. In the event of different certificates of completion having been issued for different Sections or parts of the Works pursuant to General Conditions of Contract Clause 53, the expression "certificate of completion" shall, for the purpose of this sub-clause, mean the last of such certificates.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (c) To the extent that beneficial ownership of any intellectual property rights in the Cost Savings Design is vested in anyone other than the Contractor, the Contractor shall procure that the relevant beneficial owner shall grant a licence together with an indemnity to the Employer and the subsequent owners or occupiers of the Works upon the same terms mutatis mutandis as those set out in sub-clauses (B)(12)(b) and (B)(12)(f) of this Clause respectively.
- (d) For the avoidance of doubt, any licence and indemnity granted pursuant to this Clause shall not be determined if the Contractor shall for any reason cease to be employed in connection with the Works.
- (e) The Contractor shall at the request of the Employer, do such acts and execute all such deeds and documents (or procure that the same be done or executed) as the Employer or the subsequent owners or occupiers of the Works may require for vesting in the Employer and the subsequent owners or occupiers of the Works all or any of the rights referred to in this Clause. The Contractor shall bear his own costs and expenses in relation thereto.
- (f) The Contractor hereby indemnifies the Employer against all claims, proceedings, actions, damages and losses incurred or sustained by the Employer in respect of infringement of intellectual property rights arising from the use of the Cost Savings Design (irrespective of whether the intellectual property rights therein are owned by the Contractor or other parties) by the Employer for purposes referred to in sub-clause (B)(12)(b) of this Clause. For avoidance of doubt, the indemnity herein applies where the proceedings concerned are subsequently withdrawn or settled or in the event that the allegations of infringement are subsequently found to be unsubstantiated. The Contractor shall at its own cost grant a like indemnity to the subsequent owners or occupiers of the Works upon request of the Employer.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC30B (C) The following amendments to the General Conditions of Contract shall be made:-

- (a) Clause 49(1)
add “or such revised time for completion agreed under Special Conditions of Contract Clause SCC30B, sub-clause (B).” to the end of the sub-clause.
- (b) Clause 51(1)
replace “too slow to ensure completion by the prescribed time or extended time for completion,” by “too slow to ensure completion by the time for completion prescribed by Clause 49 or extended or revised time for completion prescribed by Clause 50 and Special Conditions of Contract Clause SCC30(B), sub-clause (B) as the case may be,”.
- (c) Clause 52(1)
add “or such revised time as may be agreed in accordance with Special Conditions of Contract Clause SCC30B, sub-clause (B)” immediately after “Clause 50” at the third line of this sub-clause.
- (d) Clause 89
replace “(or extended date)” in sub-clause (3)(c)(i) by “(or, as the case may be, extended or revised date)” and to replace “(or extended date)” where it twice appears in the last paragraph of sub-clause (3) of this clause by “(or, as the case may be, extended or revised date)”.

SCC30B (D) (Not used)

SCC30C (Not used)

SCC31 (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC32	(1)	"Public Cleaning Areas" means those public areas of the Site where no work is to be carried out other than cleaning by the Contractor and which have to be maintained open to the general public throughout the progress of the Works, the extent of which is specified in the Particular Specification for Daily Cleaning and Weekly Tidying Clause No. [1](a) "Site Cleanliness and Tidiness – Daily Cleaning and Weekly Tidying". For the avoidance of doubt, Site includes Public Cleaning Areas.	Public Cleaning Areas
	(2)	"Daily Cleaning" means daily cleaning and tidying up of the Site in accordance with Particular Specification for Daily Cleaning and Weekly Tidying Clause No. [1](c) "Daily Cleaning".	Daily Cleaning
	(3)	"Weekly Tidying" means weekly overall cleaning and tidying up of the Site in accordance with Particular Specification for Daily Cleaning and Weekly Tidying Clause No. [1](d) "Weekly Tidying".	Weekly Tidying
	(4)	"Cleaning Day" means a day on which "Daily Cleaning" is to be carried out.	Cleaning Day
	(5)	"Cleaning Week Day" means a day on which "Weekly Tidying" is to be carried out.	Cleaning Week Day
	(6)	From the date for commencement of the Works to the date for completion of the Works, or the relevant Section, as the case may be, the Contractor shall, unless otherwise instructed by the Architect (except on a General Holiday) carry out either Daily Cleaning or Weekly Tidying. The time for commencing Weekly Tidying and the day of every week for the Cleaning Week Day shall be agreed with the Architect's Representative within seven days after the date for commencement of the Works. If a day on which the Weekly Tidying is scheduled falls on a General Holiday, then it shall be carried out on the day following which is not a General Holiday.	Site Cleanliness and Tidiness
	(7)	The Architect has absolute discretion to instruct the Contractor to cease or suspend all or part of the Daily Cleaning and/or Weekly Tidying of the Site at any time during the Contract. Such instruction shall not constitute a variation under Clause 60 of the General Conditions of Contract and the Contractor shall not be entitled to be reimbursed of any expenses arising out of or in relation thereto the instruction.	

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (8) The Architect's Representative has the power to instruct the Contractor to clean and tidy up the areas around the Site if to the judgment of the Architect's Representative, the rubbish and debris are likely connected with the Works or disposed of by the persons working on the Site, and the Contractor shall not be entitled to claim for any additional cost due to such cleaning and tidying up work performed outside the Site boundary.
- (9) The Contractor shall only be entitled to payment for only one day of "Daily Cleaning" or "Weekly Tidying", but not more of either, for the cleaning and tidying up work carried out by the Contractor on any one Cleaning Day or Cleaning Week Day.
- (10) The Contractor shall not be entitled to any payment for Daily Cleaning or Weekly Tidying carried out if in the opinion of the Architect, such work has not been satisfactorily performed on the relevant working day.

SCC33 (Not used)

SCC34 Add the following sub-clauses to General Conditions of Contract Clause 42 :-

Concreting works at Night or on General Holidays

- (8) Where any concreting work has been carried out by the Contractor during the Night or on any General Holiday, all costs and expenses relating to any tests ordered by the Architect on the quality of materials and workmanship on such concreting work shall, notwithstanding the above sub-clauses, be borne by the Contractor irrespective of the result of such tests.
- (9) Nothing in sub-clause (8) shall exonerate the Contractor from his obligations and responsibilities under Clause 30.
- (10) Sub-clause (8) is without prejudice to any other rights or remedies available to the Employer under the Contract or otherwise.
- (11) In this Clause "Night" means the period between the hours of 7 p.m. and 7 a.m..

SCC35 (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- | | | |
|-------|--|---------------------------------|
| SCC36 | <p>(1) Notwithstanding General Conditions of Contract Clause 42, the phrase “or alternative products or materials having equivalent functions or performance” is deemed to be included wherever products or materials are specified by proprietary brand names in the Contract. The tendered rates are deemed to include for the provision of the specified proprietary brand of products or materials but alternative products or materials of different brands or manufacture having equivalent functions or performance may be submitted for the consideration of the Architect. The Contractor shall submit full details to the Architect of any proposed alternative products or materials together with supporting information on the price of the alternative products or materials and of the specified proprietary brand of products or materials.</p> <p>(2) In the event that the proposed alternative product or material is approved by the Architect and where the approved alternative product or material is lower in price than the specified product or material, the Surveyor shall determine the sum to be deducted from the Contract Sum by multiplying the net difference in price between the specified product or material and the approved alternative product or material with the executed quantities of the relevant work item. The Contract Sum, however, shall not be adjusted where the approved alternative product or material is higher in price than the specified product or material.</p> <p>(3) For the avoidance of doubt, where acceptable alternative products or materials are given in the Specification, the Contractor is free to choose any such specified acceptable alternative products or materials instead of the specified brand name products or materials and there shall be no adjustment (plus or minus) to the Contract Sum if specified acceptable alternative products or materials are chosen.</p> | Alternative product or material |
| SCC37 | (Not used) | |

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC38 General Conditions of Contract Clause 46(3) is deleted and replaced by the following: Power to accept unremedied defects

(3) Where the rectification of any work or replacement of any material by the Contractor which does not comply with the Contract would involve the removal and re-execution of the original permanent work the Architect may but shall not be obliged to either:

(a) give directions for a variation of the Works in lieu of such removal and re-execution at no additional expense to the Employer provided that if in the opinion of the Surveyor such variation has involved the Contractor in expense in excess of that which would have been involved in the removal and re-execution of the original permanent work then the Surveyor shall value such excess in accordance with Clause 61 and shall certify in accordance with Clause 79; or

(b) with the prior agreement in writing of the Employer, accept any work which, in respect of materials or workmanship, is not in accordance with the Contract and without requiring rectification and replacement or removal and re-execution, in which event the Contract Sum shall be reduced by such amount as may be determined by the Surveyor in respect of any loss or damage suffered or likely to be suffered by the Employer or any saving in Cost to the Contractor in carrying out the work which is not in accordance with the Contract, whichever is the greater.

Provided that the amount of reduction referred to in (b) above shall be agreed between the Surveyor and the Contractor. In the event of the Surveyor and the Contractor failing to reach agreement then the Surveyor shall determine the amount of such reduction but in no event shall the amount of such reduction exceed the cost of removal and re-execution of the original permanent work.

SCC39 (Not used)

SCC40 (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC41	<p>General Conditions of Contract Clause 48 is amended by adding the following;</p> <p>(4) Notwithstanding sub-clause (2) of this Clause, with respect to prescribed Portions of the Site of which the Contractor is to be given possession from time to time, if the Contractor suffers delay from the failure on the part of the Employer to give possession of any Portion in accordance with the terms of the Contract and the Architect grants an extension of time for completion in accordance with General Conditions of Contract Clause 50 in respect thereof, the Surveyor shall certify payment to the Contractor a sum calculated the rate per day inserted by the Contractor in the Schedule of Rates (hereinafter referred to as “the specified rate”), the number of days for which payment is certified being equal to the number of days granted as an extension of time. If possession of part of any Portion is delayed the Surveyor shall reduce the specified rate for the effected Portion as he considers fair and reasonable having regard to all the circumstances.</p> <p>(5) Any extension of time granted in accordance with General Conditions of Contract Clause 50 and any payment made in accordance with sub-clause (4) of this Clause will be deemed to be in full compensation to the Contractor for any time lost and any expenditure incurred as a result of failure on the part of the Employer to give possession of any Portion or any part of any Portion.</p>	<p>Delayed possession of Portions of the Site</p>
SCC42	<p>(1) For the purpose of this Clause and except when the context otherwise requires,</p> <p>“Authority” means the Authority referred to in the Ordinance.</p> <p>“Economic Cost” means the economic costs referred to in Schedule 3 of the Ordinance.</p> <p>“Excavation Permit” means any excavation permit issued by the Authority in respect of the Works or any part thereof under the Ordinance, including any extension and amendment of the excavation permit.</p> <p>“Nominated Permittee” has the same meaning as “nominated permittee” defined in the Ordinance.</p> <p>“Ordinance” means the Land (Miscellaneous Provisions) Ordinance, Cap. 28.</p> <p>“Permittee” has the same meaning as “permittee” defined in the Ordinance.</p> <p>“Street Maintained by the Highways Department” has the same meaning as “street maintained by the Highways Department” defined in the Ordinance.</p>	<p>Permit for excavation works under Land (Miscellaneous Provisions) Ordinance, Cap. 28</p>

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC42
(Cont'd)

- (2)(a) Where excavation in Street Maintained by the Highways Department that requires Excavation Permit under the Ordinance is required for execution of the Works or any part thereof, the Contractor shall request the Employer to apply for an Excavation Permit from the Authority. The Employer shall be the Permittee and the Contractor shall be nominated by the Employer as the Nominated Permittee of the Excavation Permit. The Contractor shall not withhold his consent to the nomination and agreement to comply with the conditions in the Excavation Permit or, in the case where such consent and agreement have been given, shall not withdraw his consent to the nomination and agreement to comply with the conditions in the Excavation Permit. The Contractor shall take all necessary actions to comply with the conditions stipulated in the Excavation Permit including those conditions applicable to the Permittee and shall use his best endeavours to assist the Employer and his agents, employees or workers to comply with the same.
- (b) Where excavation in land other than Street Maintained by the Highways Department that requires Excavation Permit under the Ordinance is required for execution of the Works or any part thereof, the Contractor shall apply to the Authority for an Excavation Permit or for an exemption under section 10B of the Ordinance as the case may be for the Works or the relevant part and, where an Excavation Permit has been applied for, the Contractor shall be the Permittee.
- (3) General Conditions of Contract Clause 81(1) is amended by adding “or” at the end of item (g) and adding the following after item (g):
- (h) has unreasonably withheld or withdrawn his consent to be the Nominated Permittee of and his agreement to comply with the conditions in any Excavation Permit for excavation in Street Maintained by the Highways Department required for execution of the Works or any part thereof, or
 - (i) has failed to obtain the approval to be a Nominated Permittee from or has his approval withdrawn by the Authority in relation to any Excavation Permit for excavation in Street Maintained by the Highways Department required for the execution of the Works or any part thereof,

Permit for excavation works under Land (Miscellaneous Provisions) Ordinance, Cap. 28 (Cont'd)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (3A) Notwithstanding sub-clause (3) of this Clause, if the Contractor shall have unreasonably withheld or withdrawn his consent to be the Nominated Permittee of and his agreement to comply with the conditions in any Excavation Permit for excavation in Street Maintained by the Highways Department required for execution of any part of the Works, or if the Contractor shall have failed to obtain the approval to be a Nominated Permittee from or have his approval withdrawn by the Authority in relation to any Excavation Permit for excavation in Street Maintained by the Highways Department required for the execution of any part of the Works, the Architect may give the Contractor 14 days' notice to rectify such situation. If the Contractor fails to comply with such notice, the Employer may but shall not be obliged to carry out such works by its own workers or to nominate other contractors to be the Nominated Permittee and shall have such works carried out by those other contractors. Without prejudice to any other remedy, all additional expenditure properly incurred by the Employer in having such works carried out shall be recoverable by the Employer from the Contractor.
- (4) In relation to any Excavation Permit referred to in sub-clause 2(a) of this Clause or any extension in respect thereof,
- (a) save as expressly provided elsewhere in the Contract, the Employer shall pay all prescribed fees under the Ordinance except that the Employer shall be entitled to recover from the Contractor the prescribed fees for such Excavation Permit as may be required for carrying out any maintenance work including any work of repair or rectification, or making good any defect, imperfection, shrinkage, settlement or other fault and the necessity for such work is, in the Architect's opinion, due to the use of materials or workmanship not in accordance with the Contract or due to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied on the Contractor's part under the Contract as specified in the General Conditions of Contract Clause 56(3);
 - (b) the Architect shall notify the Contractor when an Excavation Permit has been obtained. If during the course of the Works or during the continuance of the Contract a revision to an Excavation Permit has become necessary, the Contractor shall notify the Architect immediately;

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (c) the Contractor shall, when required by the Architect in writing and before the commencement of any part of the Works covered by the Excavation Permit, send to the Authority pursuant to section 10I of the Ordinance a notice in writing using the prescribed form enclosed in Appendix SCC.E to these Special Conditions of Contract or, if so required by the Architect, using such other form as may be required by the Architect, giving his consent to be the Nominated Permittee of the Excavation Permit and agreement to comply with the conditions in the Excavation Permit;
- (d) the Contractor shall advise the Architect promptly the need for an extension to an Excavation Permit and request the Employer to apply for such extension for the satisfactory completion of the Works;
- (e) the Contractor shall render all necessary assistance to the Employer in the process of any application for an Excavation Permit or any extension in respect thereof, including supply of all necessary information to the Architect;
- (f) the Employer shall not be liable in any way for failing to submit application for any Excavation Permit and/or any extension in respect thereof unless the Contractor shall have complied with his obligation under sub-clause (2)(a) and sub-clause 4(a), (b), (c), (d) and (e) of this Clause and shall have allowed the Employer sufficient time to prepare the application; and
- (g) the Employer shall be entitled to recover from the Contractor any fees including Economic Cost paid by the Employer for an extension in respect of a permit referred to in sections 10A(3) and 10D(4) of the Ordinance and may but shall not be bound to deduct the amount either in whole or in part in accordance with the provisions of Clause 83 of the General Conditions of Contract.

Provided that the Employer shall return any refund from the Authority of any fees including Economic Cost so recovered or deducted. The Contractor shall provide all necessary assistance or information to the Employer to assist him in applying to the Authority for any review under the Ordinance for the purpose of refund of fees including Economic Cost.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

Provided further that on application of the Contractor, the Architect is of the opinion that the need for such extension is partly or wholly caused by :

- (i) the progress of the Works or any part thereof being materially affected by variation orders issued under Clause 60 of the General Conditions of Contract; or
- (ii) an instruction issued under Clause 5 of the General Conditions of Contract; or
- (iii) a disturbance for which the Employer, the Architect or a person or company, not being a utility undertaking, engaged by the Employer in supplying materials or in executing work directly connected with but not forming part of the Works is responsible,

the Architect shall determine a fair share of the fees including Economic Cost to be borne by the Employer who shall return such share to the Contractor.

For the avoidance of doubt, the opening up for inspection in accordance with General Conditions of Contract Clause 45 of any work covered up or put out of view after compliance with the requirements of General Conditions of Contract Clause 44, or the testing of materials or workmanship not required by the Contract but directed by the Architect or the Architect's Representative in accordance with General Conditions of Contract Clause 42(1) shall not be regarded as disturbance within the meaning of paragraph (iii) in the last proviso to this sub-clause (4)(g) unless the inspection or test showed that the work, materials or workmanship were in accordance with the Contract.

- (5) In relation to any Excavation Permit under sub-clause 2(b) of this Clause or any extension in respect thereof, the Contractor shall pay all prescribed fees under the Ordinance.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (5A) In relation to any Excavation Permit under sub-clause (2)(a) or (2)(b) of this Clause and without prejudice to Clause 30 of the General Conditions of Contract, the Contractor shall conform in all respects with the conditions stipulated in any Excavation Permit which are applicable to any Works to the extent that such conditions are to be observed by the Contractor under the Ordinance or under the Contract and shall indemnify and keep indemnified the Employer, his agents, employees and workers against all penalties or liabilities of every kind for breach of any such conditions stipulated in any Excavation Permit, whether such conditions are stipulated in the Excavation Permit to be observed by the Permittee, the Nominated Permittee or both the Permittee and the Nominated Permittee if and to the extent that such breach is attributable to the act, default or neglect of the Contractor, his agents, employees or workers, his sub-contractors at all tiers, or the agents, employees or workers of his sub-contractors at all tiers.
- (6) The Contractor shall continue to be responsible for liaising with utility undertakings and other relevant parties identified in the Contract in connection with the execution of the Works, including without limitation coordinating and agreeing a programme with the relevant utility undertakings or other parties where such is applicable.
- (7) It is incumbent upon the Contractor to plan and programme his Works to cater for any restrictions imposed by the Authority.
- (8) The Contractor shall allow for in his plan and programme his obligation to comply with this Clause (including without limitation sub-clause (2)(a) and (b) and sub-clause (4)(a), (b), (c), (d) and (e) and sub-clauses (5A), (6) and (7) of this Clause) and the time that may be taken by the Authority to process the application for an Excavation Permit and any extension in respect thereof.
- (9) Notwithstanding sub-clause (2)(a) of this Clause, the Employer may apply for an Excavation Permit for the execution of the Works in the absence of a request to do so from the Contractor. For the avoidance of doubt, the obligations of the Contractor under this Clause remain unchanged (with the exception of making request to the Employer in respect of application for the Excavation Permit) if the Employer chooses to apply for an Excavation Permit out of his own volition whether before, on, or after the date of acceptance of the Tender.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC43	(Not used)	
SCC44A	(Not used)	
SCC44B	(Not used)	
SCC45	General Conditions of Contract Clause 52 is amended by adding the following as sub-clause (5) : (5) Notwithstanding the proviso to General Conditions of Contract Clause 52(2) the resulting rate per day of liquidated damages for the Works or any Section after reduction in accordance with that sub-clause shall not be less than the minimum rate per day of liquidated damages for the Works or, as the case may be, the relevant Section as stated in the Appendix to the Form of Tender.	Assessment of liquidated damages
SCC46	(Not used)	
SCC47	(1) General Conditions of Contract Clause 1(1) is amended by adding the following: “Establishment Works” means the regular inspections, cultivation and other operations specified to be performed during the period for Establishment Works referred to in Sub-clause (3) of Special Conditions of Contract Clause SCC47 for such inspections, cultivations and other operations.. “Landscape Hardworks” means paving, tree grilles, tree guards and tree rings and any other items identified as such in the Drawings. “Landscape Softworks” means all works of a horticultural nature and shall include placing, cultivation and preparation of topsoil and subsoil layer, supply and planting of trees, shrubs, grass and other plant materials and any work essentially associated with it. “Landscape Works” means Landscape Softworks, Landscape Hardworks and Establishment Works.	Landscape Softworks and Establishment Works (Definitions)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (2) Notwithstanding the provisions of General Conditions of Contract Clause 53(5)(b), no certificate of completion will be given in respect of any part of the Landscape Softworks or in respect of any part of the Establishment Works. Completion of Landscape Softworks and Establishment Works
- (3) As soon as in the opinion of the Architect the Landscape Softworks shall have been completed, the Architect shall, notwithstanding the provisions of General Conditions of Contract Clause 47, notify the Contractor in writing of the date for commencement of the Establishment Works which shall be undertaken, notwithstanding the provisions of Sub-clause (1) of General Conditions of Contract Clause 49, for the duration of the period for Establishment Works stated in the Appendix to the Form of Tender. Such date for commencement shall be the day immediately following the date of completion of the Landscape Softworks. Commencement of Establishment Works
- (4) General Conditions of Contract Clause 80(1) is amended by inserting “and upon the expiry of the period for Establishment Works referred to in Sub-clause (3) of Special Conditions of Contract Clause SCC47, or where there is more than one such period, upon the expiry of the latest period” before “the Architect shall issue” on line 4.
- (5) For the avoidance of doubt, the Contractor shall note that the following General Conditions of Contract are not applicable to Establishment Works:
- (a) Clause 47 – Commencement of the Works;
 - (b) Clause 49(1) – Time for completion;
 - (c) Clause 52 – Liquidated damages for delay;
 - (d) Clause 53 – Completion of the Works; and
 - (e) Clause 79(2) – Minimum interim payments.

For the further avoidance of doubt, there shall be no Maintenance Period for Establishment Works and all provisions relating to and in connection with Maintenance Period under the Contract shall have no application to Establishment Works.

SCC48 (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC49 | <ol style="list-style-type: none">(1) "Safety Plan" means the Safety Plan referred to in sub-clause (4) of this Special Conditions of Contract, including any revised or updated version, setting out details of the safety management system that the Contractor will implement on the Site, together with any other measures and information required by the Contract to ensure safety and health in the execution of the Works.(2) The Contractor shall submit within 14 days of the date of the Employer's letter of acceptance of the Tender three copies of a draft Safety Plan to the Architect.(3) Within 7 days from the submission of the draft Safety Plan, the Contractor shall arrange and hold an ad hoc meeting (or meetings if necessary) with the Architect's Representative to discuss the draft Safety Plan. Where the Architect is of the opinion that the draft Safety Plan does not meet the requirements of the Contract he shall request that the Contractor remedy the deficiency prior to submitting the Safety Plan to the Architect in accordance with sub-clause (4) of this Special Condition of Contract.(4) The Contractor shall submit within 35 days of the date of the Employer's letter of acceptance of the Tender six copies of the Safety Plan to the Architect.(5) The Contractor shall review the Safety Plan at monthly intervals and shall revise and update the Safety Plan if necessary.(6) The Contractor shall comply with the Safety Plan in the execution of the Works and ensure his employees and sub-contractors of all tiers comply with the Safety Plan. The Contractor shall provide any other party working on the Site including Specialist Contractors and utility undertakings with a copy of the Safety Plan and shall request those parties comply with it. The Contractor shall report any person who fails to comply with the Safety Plan to the Architect.(7) If the Architect is of the opinion that the Safety Plan does not meet the requirements of the Contract, the Architect may by notice in writing require the Contractor to revise or update the Safety Plan and the Contractor shall comply with that requirement within 7 days of the date of the notice. | Safety Plan |
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (8) The Contractor shall provide all facilities, access and assistance to the Architect to periodically verify that the Safety Plan is being properly and fully implemented. If the Architect is of the opinion that the Safety Plan is not being properly and fully implemented and the failure may adversely affect the safety and health of any person or the safety of any property on or adjacent to the Site, the Architect may notify the Contractor in writing of such failure and the Contractor shall then take all necessary steps to rectify that failure immediately. For the avoidance of doubt, this Special Condition of Contract does not limit or take away from the Architect any power under the Contract including the power to suspend the progress of the Works or any part thereof pursuant to General Conditions of Contract Clause 54(1).
- (9) This Special Condition of Contract shall not relieve the Contractor from any of his obligations or responsibilities under the Contract.
- (10) The Contractor shall be entitled to the sums set out in the Site Safety section of the Annex I to Summary of Tender provided that the Contractor shall have complied to the extent Specified for each item.

SCC50 (Not used)

SCC51 General Conditions of Contract Clause 60 is deleted and replaced by the following: Ordering variations

- 60 (1) The Architect shall order any variation to any part of the Works that is necessary for the completion of the Works and shall have the power to order any variation that for any other reason shall in his opinion be desirable for or to achieve the satisfactory completion and functioning of the Works. Such variations may include:
- (a) additions, omissions, substitutions, alterations, changes in quality, form, character, kind, position, dimension, level or line;
 - (b) changes in any specified sequence, method or timing of construction required by the Contract; and
 - (c) changes to the Site or entrance to and exit from the Site.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (2) The Architect may order a variation to any part of the outstanding work referred to in Clause 53 during the Maintenance Period if such a variation shall in the opinion of the Architect be desirable for or to achieve the satisfactory completion and functioning of the Works.
- (3) No variation shall be made by the Contractor without an order in writing by the Architect. No variation shall in any way vitiate or invalidate the Contract but the value of all such variations shall be taken into account in ascertaining the Final Contract Sum.

SCC52	(Not used)	
SCC53	General Conditions of Contract Clause 61(1)(a) is deleted and replaced by the following :	Valuing Variations
	(a) Any item of work omitted shall be valued at the rate set out in the Contract for such work or, in the absence of such a rate, at the rate agreed between the Surveyor and the Contractor.	
SCC54	General Conditions of Contract Clause 63 is amended by replacing paragraph (c) with the following:	Disturbance to the progress of the Works
	(c) the opening up for inspection in accordance with Clause 45 of any work covered up or put out of view after compliance with the requirements of Clause 44, or the testing of materials or workmanship not required by the Contract but directed by the Architect or the Architect's Representative in accordance with Clause 42(1) unless the inspection or test showed that the work, materials or workmanship were not in accordance with the Contract, or	
SCC55	Notwithstanding proviso (i) to General Conditions of Contract Clause 79(1), retention of money in respect of works carried out by Nominated Sub-contracts ("NSC works") shall not be subject to the limit of Retention Money stated in the Contract, which limit shall only apply to money retained in respect of non-NSC works. In respect of NSC works, payment shall be retained separately using the retention percentage and limit of Retention Money in accordance with the terms of the Nominated Sub-contract and shall continue to be retained despite the limit of the Retention Money for non-NSC works has been reached.	Interim payment (Retention calculation for NSC works)
SCC56	(Not used)	

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC57	General Conditions of Contract Clause 74 is deleted and replaced by the following:	Hire and hire-purchase Constructional Plant
	“74 (1)	In respect of any item or items of Constructional Plant brought onto the Site, the Contractor shall upon written request by the Architect (which may be issued by the Architect from time to time or at any time during the continuance of the Works) produce to the Architect proof of ownership of such item or items of Constructional Plant to the satisfaction of the Architect or, where any item of Constructional Plant is not solely owned by the Contractor, a written undertaking, in a form approved by the Employer, from the owner of the relevant item of Constructional Plant to the Employer that: <ul style="list-style-type: none">(a) the owner of the Constructional Plant will consent to the assignment by the Contractor to the Employer of the benefit of any hiring or hire-purchase or other agreement made with the Contractor in respect of the relevant Constructional Plant in the event of either the determination of the Contractor’s employment or termination of the Contract by the Employer in accordance with the provisions of the Contract or the abandonment of the Contract by the Contractor before completion of the Works; and(b) subject to any assignment under paragraph (a) of this sub-clause, the owner of the Constructional Plant will permit the Employer, or any other contractor employed by the Employer, to use the relevant Constructional Plant for the purpose of completion of the Works. <p>The Architect may make as many separate written requests as he thinks fit during the continuance of the Works.</p>

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (2) In the event that the Architect shall certify in writing to the Employer that the Contractor has failed to comply with any written request referred to in sub-clause (1) of this Clause within 28 days of the date of issue of the written request and without prejudice to any other rights or remedies available to the Employer, the Employer may, subject to the proviso to this sub-clause, withhold a sum equal to 5 percent of the total certified sum referred to in the first proviso to Clause 79(1) from each interim payment otherwise due to the Contractor in accordance with the Contract until such time as such failure to comply with the relevant written request is rectified to the satisfaction of the Architect or until the item or, as the case may be, all the items of Constructional Plant specified in the relevant written request shall be removed from the Site by the Contractor in accordance with the provisions of the Contract, whichever is the earlier and upon such time the total sum withheld by the Employer shall be returned to the Contractor without interest in the next interim payment. Provided that the total sum withheld by the Employer on the ground of failure to comply with any written request referred to in sub-clause (1) of this Clause shall not exceed an amount equal to the market value or as the case may be the total market value of the relevant item or items of Constructional Plant as determined by the Architect and notified in writing by the Architect to the Employer and the Contractor.
- (3) The application of sub-clauses (1) and (2) of this Clause is limited to items of Constructional Plant which, in the Architect's opinion, are essential to the completion of the Works and are difficult to replace in the event of determination of the Contractor's employment under Clause 81.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC58	(Not used)	
SCC59	(Not used)	
SCC60	General Conditions of Contract Clause 81 is amended by replacing sub-clauses (4) and (5) with the following:	Interim certification after determination
	(4) (a) If the Employer enters and expels the Contractor in accordance with this Clause, the Employer shall not be liable to pay the Contractor any money under the Contract (whether in respect of amounts certified by the Surveyor or otherwise) unless and until the Surveyor certifies that an amount is due to the Contractor under sub-clause (4)(b) of this Clause.	
	(b) The Surveyor shall certify the difference between:	
	(i) such sum as would have been due to the Contractor if he had duly completed the Works together with any proceeds of sale under sub-clause (1) of this Clause; and	
	(ii) the costs of completing the Works (whether or not the Works are completed under a separate contract), damages for delay (if any) and all other expenses properly incurred by the Employer.	
	(c) Such difference as is certified by the Surveyor under sub-clause (4)(b) of this Clause, subject to adjustment by the Surveyor to take account of the amount (if any) certified by the Surveyor under sub-clause (5) of this Clause, shall be a debt due to the Employer or the Contractor as the case may be and shall be paid by or to the Contractor as the case may be within 21 days of the date of certification by the Surveyor.	
	(5) If the Surveyor is satisfied at any time prior to the completion of the Works that the whole or part of the costs, damages and other expenses referred to in sub-clause (4)(b)(ii) of this Clause exceeds such sum as calculated under sub-clause 4(b)(i) of this Clause, he may issue an interim certificate to that effect and the amount of such excess as is certified by the Surveyor in the interim certificate shall be considered as a debt due from the Contractor to the Employer and shall be paid by the Contractor within 21 days of the date of interim certification by the Surveyor.	
SCC61A	(Not Used)	

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC61B	General Conditions of Contract Clause 89 is amended as follows:-	Contract price fluctuation
	<p>(1) The “Index Numbers of the Cost of Labour and Materials used in Public Sector Construction Projects” in lines 3 and 4 of GCC Clause 89(1) shall be deleted and replaced by the “Index Numbers of the Costs of Labour and Materials used in Public Sector Construction Projects (April 2003 = 100)”.</p>	
SCC62	(Not Used)	
SCC63	<p>(1) Notwithstanding the provisions of Clause 89(3)(d)(i) of the General Conditions of Contract the sum payable in any interim or final payment certificate certified by the Surveyor as being due in respect of the Nominated Sub-contractor for Electrical Installations shall include fluctuation in the cost of labour in accordance with this Clause.</p> <p>(2) For the purposes of this Clause the rates contained in the Schedule of Rates forming part of the Nominated Sub-contract are deemed to have been based upon the rates of wages ascertainable from the Average Daily Wages of Workers Engaged in Public Sector Construction Projects as Reported by Main Contractors (hereinafter called the "Wage Schedule") compiled by the Census and Statistics Department of the Government of Hong Kong for the month in which the date for the return of the Sub-contract Tender falls.</p> <p>(3) If at any time after the commencement of the Sub-contract Works and before the certified date of completion of the Works a Wage Schedule shall be published and shall contain in respect of any trade which may be applicable to the Sub-contract Works an Average Daily Wage which differs from the corresponding Average Daily Wage for the month in which the date for the return of the Sub-contract Tender falls, then such difference in such Average Daily Wage shall be dealt with as follows :-</p> <p>(a) If the increase or decrease represented by the difference in the Average Daily Wage Index figure hereinbefore referred to shall not exceed five per cent (such percentage being calculated on the figures for the month in which the date for the return of the Sub-contract Tender falls) then no adjustment of the interim payments for the Sub-contract and final Sub-contract Sum shall be made.</p>	Fluctuation in the cost of labour for Nominated Sub-contractor for electrical installation

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (b) If the increase or decrease represented by the difference in Average Daily Wage Index figure hereinbefore referred to shall exceed five per cent (calculated in the manner aforesaid) the Employer shall pay to the Contractor or the Contractor shall allow to the Employer, as the case may be, in respect of each and every workman properly and necessarily employed by the Nominated Sub-contractors on the Site or in connection with the Sub-contract Works, for each day during the period to which the new Wage Schedule relates in which the workman was so employed, that part of the difference in the Average Daily Wage hereinbefore referred to which exceeds five per cent.

Provided that :-

- (i) In addition to the return of labour employed on the Site which the Contractor may be required to deliver to the office of the Architect's Representative for the purposes of Clause 32 of the General Conditions of Contract, the Contractor shall deliver to the Architect's Representative on each working day a return showing the number (and names if the Architect's Representative shall so require) and the trades of persons employed by the Nominated Sub-contractor elsewhere than on the Site in the preparation of work or materials for incorporation in the Sub-contract Works and shall furnish to the Architect's Representative satisfactory proof that such persons are properly and necessarily engaged in the preparation of such work or materials for incorporation in the Sub-contract Works. If the Contractor shall for any reason whatsoever have failed to provide such returns and proof to the Architect's Representative and if, in the opinion of the Surveyor, an allowance is due to be made by the Contractor to the Employer under this Clause, the Surveyor shall be entitled to value such allowance from such information available to him and the sum so valued may be deducted by the Employer.
- (ii) No payment under this Clause shall be payable or deductible to the Contractor in respect of workmen engaged by the Nominated Sub-contractor in the transportation of materials or finished or partially finished work to or from the Site.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC64	<p>All structural concrete for incorporation into the Works shall be produced at a certified plant and supplied by a concrete supplier certified under the Quality Scheme for the Production and Supply of Concrete by Hong Kong Quality Assurance Agency or other certification bodies accredited by the Hong Kong Accreditation Service.</p>	Quality assurance for structural concrete
SCC65	<p>(1) When considered necessary by the Contractor or specified in the Contract or subsequently ordered by the Architect, the design of any Temporary Works shall be checked and certified by an engineer independent of the Contractor and not associated with the design of the Temporary Works.</p> <p>(2) The design so certified shall be referred to as the certified design. The independent checking engineer shall be a professionally qualified engineer and a member of the Hong Kong Institution of Engineers or the Institution of Civil Engineers, UK or equivalent, whom the Contractor considers has suitable experience and be acceptable to the Architect.</p> <p>(3) The independent checking engineer before certifying the design of any Temporary Works in the checking certificate shall :</p> <ul style="list-style-type: none">(a) examine the Contractor's detailed design and method statements concerning the design, erection, use and removal of the Temporary Works, and(b) consider the ground conditions, the adequacy of foundations and support of the Temporary Works and any other factors which may affect the stability and safety of such Temporary Works during their erection, use and removal <p style="padding-left: 40px;">so that he shall be able to certify that the Temporary Works are properly and safely designed using all reasonable skill and care.</p> <p>(4) Before commencing construction of any such Temporary Works identified as requiring independent certification, the Contractor shall submit to the Architect in sufficient time for the Architect to comply with sub-clause (5) of this Clause :</p> <ul style="list-style-type: none">(a) design details and method statements concerning the design, erection, use and removal of the Temporary Works, and(b) the original checking certificate signed by both the independent checking engineer and by or on behalf of the Contractor.	Independent checking of the design, erection, use and removal of Temporary Works

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (5) Further to the provisions of the General Conditions of Contract Clause 7, the Architect shall examine the documentation referred to in sub-clause (4) of this Clause and shall satisfy himself that it contains no obvious deficiency and that the independent checking engineer has carried out his duties set out in sub-clause (3) of this Clause. Upon being so satisfied the Architect shall issue his consent in writing for such work to commence, which shall be issued with due regard to the Contractor's programme and the Contractor's actions under sub-clause (4) of this Clause.
- (6) The Contractor shall ensure that such Temporary Works are erected, used and removed in accordance with the certified design and method statements. If the Contractor wishes to deviate from the certified design, the Contractor shall submit to the Architect further certification that any change has been properly and safely designed and has been checked and found satisfactory by the independent checking engineer, in accordance with his duties set out in sub-clause (3) of this Clause, prior to the commencement of construction of such Temporary Works in accordance with sub-clause (4) of this Clause.
- (7) In all cases where the loading of such Temporary Works is applied as a separate operation after completion of their construction, before such loading is applied, the Contractor shall submit to the Architect a further certificate signed by or on behalf of the Contractor and by the independent checking engineer confirming that the same has been constructed in accordance with the certified design. In all cases where the loading is an integral part of the construction of such Temporary Works, the Contractor shall submit to the Architect such a certificate as soon after the construction of the same as is reasonably possible.
- (8) No checking certificate certified by the independent checking engineer, with or without amendment, shall absolve the Contractor from his liability under the Contract for the design, erection, use or removal of the Temporary Works.
- (9) Where any Temporary Works are specified in the Contract or considered necessary by the Contractor to be independently checked, the Contractor shall bear the cost of such independent checking. However, should the Architect subsequently order any Temporary Works to be independently checked, then the Surveyor shall ascertain the additional Cost incurred and shall certify such Cost in accordance with General Condition of Contract Clause 79.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (10) Where the Architect requires, the Contractor shall provide a method statement for any Temporary Works not subject to an independent check and including but not limited to excavation and temporary access structures.
- (11) If at any time and for any reason related to the work of the independent checking engineer, the Architect is dissatisfied with the performance of the independent checking engineer, the Architect shall notify the Contractor in writing giving reasons for such dissatisfaction. If the independent checking engineer does not remedy the situation within a reasonable time, the Architect may, by a further notice in writing, require the Contractor to dismiss the independent checking engineer and the Contractor shall do so with immediate effect and not re-employing him again in connection with the Works and shall replace the independent checking engineer with a replacement selected in accordance with sub-clause (2) of this Clause.

- SCC66
- (1) Where the Contractor is an incorporated joint venture it shall within fourteen (14) days of the acceptance of the Tender provide to the Employer a joint venture guarantee in the form set out in Appendix SCC.B executed by all the shareholders of the Contractor. For the purposes of this Clause, the expressions “incorporated joint venture” and “shareholder” appearing herein shall bear the same meanings as those given in paragraph 6 of the Environment, Transport and Works Bureau Technical Circular (Works) No. 50/2002 on Contractors’ Joint Venture. Contractors’ joint venture
- (2) Notwithstanding any other provisions of the Contract, failure by the Contractor to provide a joint venture guarantee in strict accordance with sub-clause (1) of this Clause shall constitute a breach of the Contract entitling the Employer to damages and shall entitle the Employer to terminate the Contract forthwith by notice in writing to that effect and the Contractor shall not be entitled to any compensation whatsoever as a consequence of such termination.
- (3) The Contractor shall not make any changes to the following during the continuance of the Contract unless prior written consent from the Employer is obtained in accordance with sub-clause (4) of this Clause:-
- (a) The percentage participation of each participant or shareholder in a joint venture; and
 - (b) The portion of the Works for which each participant or shareholder in a joint venture is responsible.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

(4) In the event that the Contractor considers a change to the details referred to in sub-clause (3)(a) or (b) of this Clause is necessary because

(a) any participant or shareholder in a joint venture shall become bankrupt or have a receiving order made against him or shall present his petition in bankruptcy or shall make an arrangement with or assignment in favour of his creditors or shall agree to carry out the Contract under a committee of inspection of his creditors or (being a corporation) shall go into liquidation (other than a voluntary liquidation for the purposes of amalgamation or reconstruction); and

(b) satisfactory completion of the Works,

the Contractor shall write to the Employer with detailed substantiation requesting the Employer's consent before any changes are made. The Employer may in his absolute discretion accept or reject the request but shall within 14 days from the date of receipt of such request inform the Contractor in writing whether consent is given.

SCC67 (Not used)

SCC68 (1) For the purpose of this Special Condition of Contract :-

- (a) "Contract Computer Facilities" means the Contract Computer Facilities defined in Clause A of the Particular Specification referenced 'PS.G11';
- (b) "Commencement Date" means the date on which the Contract Computer Facilities are delivered to the Architect's office;
- (c) "End Date" means the expiry of the Maintenance Period or if there is more than one such period, the expiry of the latest Maintenance Period.

(2) The Contractor shall warrant that the Contract Computer Facilities are Year 2000 compliant as specified in Clause D of the Particular Specification referenced PS.G11. The period of the warranty (the "warranty period") shall commence on the Commencement Date and shall subsist until the End Date.

Year 2000
warranty for
Contract
Computer
Facilities

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (3) Notwithstanding any provisions of the General Conditions of Contract, the Contractor shall during the warranty period and upon a notice regarding Year 2000 non-compliance given by the Architect promptly carry out necessary work to the Contract Computer Facilities so as to render the Contract Computer Facilities Year 2000 compliant. If the Contractor shall fail to carry out rectification work to render the Contract Computer Facilities Year 2000 compliant promptly, the Employer shall be entitled to engage his employees or agents or other contractors to carry out such work. Without prejudice to any other remedy, all additional expenditure properly incurred by the Employer in having such work carried out shall be recoverable by the Employer from the Contractor.
- (4) The liability of the Contractor under this Special Condition of Contract shall not in any way be affected by an independent inquiry or investigation into the Year 2000 compliance of the Contract Computer Facilities or any matter related thereto whether carried out by or on behalf of the Employer or any liability or right of action which may arise out of such inquiry or investigation.
- (5) For the avoidance of doubt, the Contractor shall indemnify and keep indemnified the Employer against all losses, claims, costs, demands and expenses that may arise out of or in consequence of any breach of this Special Condition of Contract.

SCC69 (Not used)

- SCC70
- (1) "Environmental Management Plan" means the Environmental Management Plan (EMP) referred to in this Special Condition of Contract, including any revised or updated version thereof, prepared by the Contractor in accordance with the Particular Specification. Environmental Management Plan
 - (2) The Contractor shall prepare a draft EMP in accordance with the Particular Specification and submit three copies of the draft EMP to the Architect for comments within 21 days of the date of the Employer's letter of acceptance of the Tender.
 - (3) If the Architect is of the opinion that the draft EMP does not meet the requirements of the Contract, he shall request the Contractor to revise the draft EMP by notice in writing and the Contractor shall revise the draft EMP and re-submit within 7 days of the date of the notice.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (4) The Contractor shall finalize the EMP within 45 days of the date of the Employer's letter of acceptance of the Tender and submit three hard copies of the EMP and a soft copy in Microsoft Word format to the Architect.
- (5) The Contractor shall review and update the EMP monthly and submit three hard copies of the updated part of the EMP and a soft copy in Microsoft Word format to the Architect.
- (6) The Contractor shall provide all facilities, access and assistance to the Architect or his Representative to periodically verify the implementation of EMP. If the Architect or his Representative is of the opinion that the EMP is not being properly implemented, the Architect or his Representative shall notify the Contractor in writing of such failure and the Contractor shall take all necessary steps promptly to rectify that failure.
- (7) The submission of the EMP shall not relieve the Contractor from any of his obligations or responsibilities under the Contract.
- (8) The Contractor shall comply with the EMP to ensure the provision of the necessary environmental measures as specified in the Contract in the execution of the Works, including compliance by his employees and sub-contractors of all tiers. The Contractor shall provide any other parties working on the Site, including the Specialist Contractors and utility undertakings with a copy of EMP and shall request those parties to comply with it. The Architect or his Representative shall have the power to order any person who, or plant or equipment which, fails to comply with the EMP to be removed from the Site.
- (9) (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC71 | <p>(1) “Site Aspect Schedule” means the Site Aspect Schedule referred to in the sub-clause (4) of this Special Condition of Contract, including any revised or updated version, setting out details of the pollution control measures that the Contractor will implement on the Site, together with any other measures and information required by the Contract to ensure compliance with the Contract provisions as well as the environmental ordinance, enactments and their regulations or bye-laws in the execution of the Works.</p> <p>(2) The Contractor shall submit within 14 days of the date of the Employer’s letter of acceptance of the Tender three copies of a draft Site Aspect Schedule to the Architect.</p> <p>(3) Within 7 days from the submission of the draft Site Aspect Schedule, the Contractor shall arrange and hold an ad hoc meeting (or meetings if necessary) with the Architect’s Representatives to discuss the draft Site Aspect Schedule. When the Architect is of the opinion that the draft Site Aspect Schedule does not meet the requirements of the Contract he shall request that the Contractor remedy the deficiency prior to submitting the Site Aspect Schedule to the Architect in accordance with sub-clause (4) of this Special Condition of Contract.</p> <p>(4) The Contractor shall submit within 35 days of the date of the Employer’s letter of acceptance of the Tender six copies of the Site Aspect Schedule to the Architect.</p> <p>(5) The Contractor shall review the Site Aspect Schedule at bi-monthly intervals and shall revise and update the Site Aspect Schedule if necessary and shall submit six copies of such revised or updated Site Aspect Schedule to the Architect within 7 days after the revision or updating.</p> <p>(6) The Contractor shall comply with the Site Aspect Schedule in the execution of the Works and ensure his employees and sub-contractors of all tiers comply with the Site Aspect Schedule. The Contractor shall provide any other party working on the Site including Specialist Contractors and utility undertakings with a copy of the Site Aspect Schedule and shall request those parties comply with it.</p> <p>(7) If the Architect is of the opinion that the Site Aspect Schedule does not meet the requirements of the Contract, the Architect may by notice in writing require the Contractor to revise or update the Site Aspect Schedule and the Contractor shall comply with that requirement within 7 days of the date of the notice.</p> | Site Aspect Schedule |
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (8) The Contractor shall provide all facilities, access and assistance to the Architect to periodically verify that the Site Aspect Schedule is being properly and fully implemented. If the Architect is of the opinion that the Site Aspect Schedule is not being properly and fully implemented and the failure may adversely affect the compliance with the Contract provisions as well as the environmental ordinances, enactments and their regulations or bye-laws, the Architect may notify the Contractor in writing of such failure and the Contractor shall then take all necessary steps to rectify that failure immediately. For the avoidance of doubt, this Special Condition of Contract does not limit or take away from the Architect any power under the Contract including the power to suspend the progress of the Works or any part thereof pursuant to General Conditions of Contract Clause 54(1).
- (9) This Special Condition of Contract shall be without prejudice to any other obligations or responsibilities of the Contractor under the Contract and shall not in any event relieve the Contractor of such obligations or responsibilities.

SCC72 (Not used)

SCC73 General Conditions of Contract Clause 8, sub-clause (1) shall be replaced by the following sub-clause:

Information not to be divulged

- (1) The Contractor shall not use or divulge, except for the purpose of the Contract, any information provided by the Employer, the Architect, the Surveyor, the Architect's Representative or the Surveyor's Representative in the Contract or in any subsequent correspondence or documentation. Any disclosure to any person, agent, consultant or sub-contractor for the purpose of the Contract shall be in strict confidence and shall be on a "need to know" basis and extend only so far as may be necessary for the purpose of this Contract. The Contractor shall take all necessary measures (including by way of contractual provisions where appropriate) to ensure that information is not divulged for purposes other than that of this Contract by such person, agent, consultant or sub-contractor. The Contractor shall indemnify and keep indemnified the Employer against all loss, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever the Employer may suffer, sustain or incur, whether direct or consequential, arising out of or in connection with any breach of the aforesaid non-disclosure provision by the Contractor or his employees, agents, consultants or sub-contractors.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC74	(Not used)	
SCC75	Computer-Aided-Drafting (CAD) drawings shall be prepared conforming to the CAD Standard for Works Projects (CSWP) version 1.02.00 (or later versions as agreed between the Architect and the Contractor from time to time) as posted on the Development Bureau's web site http://www.devb.gov.hk/cswp and in accordance with the Drawing Manuals issued by the Architectural Services Department. In case of discrepancies between the CSWP and the Drawing Manuals, the CSWP shall take precedence.	Computer-Aided-Drafting standard for works projects
SCC76	<p>(1) The General Conditions of Contract Clause 1 is amended by adding the definition of "Adjustment Item" :</p> <p style="padding-left: 40px;">"Adjustment Item" means a lump sum (which may be positive or negative) entered by the Contractor in the Summary of Tender as an adjustment to the unadjusted tender sum, i.e. the tender sum prior to application of such lump sum, or the corrected sum, i.e. the lump sum corrected by the Employer during tender examination in accordance with Special Conditions of Tender Clause SCT 21 and the principles and rules contained in Environment, Transport and Works Bureau Technical Circular (Works) No. 41/2002, where the lump sum has been corrected in the manner aforesaid.</p> <p>(2) General Conditions of Contract Clause 79(1) is amended by replacing the "." at the end of Clause 79(1)(e) with ", and" and adding the following Clause 79(1)(f) after Clause 79(1)(e) :</p> <p style="padding-left: 40px;">"(f) the adjustment on account made, if any, for the Adjustment Item in the proportion that the total amount referred to in Clause 79(1)(a) to (e) bears to the Contract Sum excluding the Contingency Sum and the Adjustment Item. The aggregate of the adjustment on account shall not exceed the Adjustment Item."</p>	Adjustment Item

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC77 General Conditions of Contract Clause 4 is amended by adding the following: Management of Sub-contractors

- (9)(a) Notwithstanding the foregoing sub-clauses of this Clause, the Contractor shall within 30 days of the Employer's letter of acceptance of the Tender submit a Sub-contractor Management Plan (SMP) to the Architect for information and comments, if any.
- (b) The Contractor shall then submit quarterly the updated SMP till the issuance of the certificate of completion or where there is more than one such certificate, the issuance of the last certificate of completion to the Architect for information and comments, if any. Should there be any major changes in the Contractor's sub-contracting arrangement during the period before the next quarterly reporting, the Contractor should notify immediately such changes to the Architect in writing. The quarterly updated SMP required under this paragraph (b) shall be submitted within one month from each quarterly period. For the avoidance of doubt, the first quarterly period shall commence from the date of submission of the SMP by the Contractor pursuant to paragraph (a) of this sub-clause. Any interim notification of changes by the Contractor shall not affect his obligation to submit the quarterly updated SMP. In case there is no change to the previous SMP, the contractor shall declare such status in writing instead of submitting the same SMP again.
- (c) The SMP submitted under paragraphs (a) and (b) of this sub-clause shall contain detailed information as required by the Guidelines on Scope and Contents of the Sub-contractor Management Plan at Appendix SCC.C to these Special Conditions of Contract.
- (d) The Architect may upon receipt of the SMP comment on the SMP and notify the Contractor of such comments in writing. If the Architect is of the opinion that the SMP submitted under paragraphs (a) and (b) of this sub-clause does not meet the requirements of the Contract, the Architect may, by written notice, require the Contractor to revise or update the SMP and the Contractor shall comply with that requirement within 14 days of the date of the notice. No approval of the SMP is required from the Architect.
- (e) Subject to the provisions of other Special Conditions of Contract stating to the contrary, the Contractor shall ensure that his sub-contractors shall not sub-contract the whole of the works sub-contracted to them.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (f) The Contractor shall employ his own staff to manage and supervise his sub-contractors.
- (g) For the purpose of this clause and the Guidelines on Scope and Contents of the Sub-contractor Management Plan at Appendix SCC.C to these Special Conditions of Contract, the term 'sub-contractor' means all types of sub-contractor including without limitation Nominated Sub-contractor and Specialist Sub-contractor.
- (h) The Contractor shall, upon written request by the Architect (which may be issued by the Architect from time to time or at any time), produce to the Architect documentary proof to demonstrate to the satisfaction of the Architect that the Contractor has complied with all the provisions in the latest SMP submitted under paragraphs (a) and (b) of this sub-clause. Such documentary proof includes, but is not limited to, documents of sub-contracts, reports from sub-contractors on their further sub-contracting arrangement and daily attendance records of site workers. For the purpose of determining the extent of documentary proof, the Architect shall made reference to the Guidelines on documentary proof to demonstrate the compliance of the provisions in the SMP at Appendix SCC.K to these Special Conditions of Contract. The Architect may make as many separate written requests as he thinks fit. The provisions of this sub-clause shall be without prejudice to sub-clause (5) of this Clause.

SCC78	<ul style="list-style-type: none">(1) Where the Contractor is a partnership or an unincorporated joint venture, the liability of each partner of the partnership or participant of the unincorporated joint venture under the Contract shall be joint and several.(2) In relation to such Contractor only, the Articles of Agreement referred to in General Conditions of Contract Clause 11 shall mean the Articles of Agreement as attached at Appendix SCC.F to these Special Conditions of Contract, with such modification as may be necessary.(3) For the purpose of this Clause, the expression “unincorporated joint venture” and “participant” shall bear the same meanings as those given in paragraph 6(a) of the Environment, Transport and Works Bureau Technical Circular (Works) No. 50/2002 on Contractors’ Joint Venture.	Joint and several liability of partners and Unincorporated Joint Venture participants
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC79	<p>General Conditions of Contract Clause 37 shall be re-numbered as “37(1)” and the following sub-clauses shall be added at the end of the Clause:</p> <ol style="list-style-type: none">(2) The Contractor shall prohibit his employees, agents, consultants and sub-contractors who are involved in this Contract from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance, Cap 201 when conducting business in connection with this Contract.(3) The Contractor shall require his employees, agents, consultants and sub-contractors who are involved in this Contract to declare in writing to the Contractor any conflict or potential conflict between their personal/financial interests and their duties in connection with this Contract. In the event that such conflict or potential conflict is disclosed in a declaration, the Contractor shall forthwith take such reasonable measures as are necessary to mitigate as far as possible or remove the conflict or potential conflict so disclosed.(4) The Contractor shall prohibit his employees who are involved in this Contract from engaging in any work or employment other than in the performance of this Contract, with or without remuneration, which could create or potentially give rise to a conflict between their personal/financial interests and their duties in connection with this Contract. The Contractor shall also require their consultants, sub-contractors and agents to impose similar restriction on their employees by way of a contractual provision.(5) The Contractor shall take all necessary measures (including by way of contractual provisions and/or providing training workshops where appropriate) to ensure that his employees, agents, consultants and sub-contractors are aware of the prohibitions in this clause.	Ethical commitment
SCC80	<p>General Conditions of Contract Clause 78 shall be amended by adding the following sub-clause:</p> <ol style="list-style-type: none">(3) The Contractor shall also submit a signed declaration in a form prescribed in Appendix SCC.G to these Special Conditions of Contract or approved by the Employer to confirm compliance with the provisions on ethical commitment and confidentiality as stated in Special Conditions of Contract Clauses SCC73 and SCC79 upon commencement of the Works and, subsequently, submit a declaration in the form as prescribed in the Contract, as part of the Contractor's interim statements. If the Contractor fails to submit the declaration as required, the Employer shall be entitled to withhold payment until such declaration is submitted and the Contractor shall not be entitled to interest as provided for under General Conditions of Contract Clause 79(4)(a) in that period.	Contractor's interim statements

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC81	<p>The Contractor acknowledges that he has been reminded that dishonesty, theft and corruption on his part or those of his employees, agents, consultants or sub-contractor who are involved in the Contract may lead to prosecution under, without limitation, section 9 of the Prevention and Bribery Ordinance, Cap 201; section 17, section 18D or section 19 of the Theft Ordinance, Cap 210 and section 161 of the Crimes Ordinance, Cap 200. These offences commonly carry upon conviction terms of imprisonment.</p>	Acknowledgement of being notified of the ethical requirements
SCC82	<p>(1) General Conditions of Contract Clause 59(8) is deleted and replaced by the following:</p> <p style="padding-left: 40px;">“Within 90 days from the date of service of the priced Bills of Variations, the Contractor shall submit to the Surveyor any written representations he may wish to make in respect of the priced Bills of Variations and all information reasonably required for verification by the Surveyor of any such representations. Within 90 days after receipt of such representations and of all information required for verification, the Surveyor shall issue a final payment certificate in accordance with Clause 79.”</p> <p>(2) General Conditions of Contract Clause 79 is amended by inserting the following sub-clause (4A) between sub-clause (4) and sub-clause (5) :</p> <p style="padding-left: 40px;">“(4A) Within the time period as described in Clause 59(8), the Surveyor shall issue a final payment certificate stating the sum which in his opinion is due under the Contract up to the date of such certificate, and after giving credit to the Employer for all sums previously paid by the Employer and for all sums to which the Employer is entitled under the Contract the Surveyor shall state the balance (if any) due from the Employer to the Contractor or from the Contractor to the Employer as the case may be. Such balance shall be paid to or by the Contractor as the case may require within 28 days of the date of the certificate.”</p>	Final payment certificate

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC83A General Conditions of Contract Clause 86 is deleted and replaced by Settlement of
the following: disputes

- 86.**(1) If any dispute or difference of any kind whatsoever shall arise between the Employer and the Contractor in connection with or arising out of the Contract or the carrying out of the Works including any dispute as to any decision, instruction, order, direction, certificate of the Architect or certificate or valuation by the Surveyor whether during the progress of the Works or after their completion and whether before or after the termination, abandonment or breach of the Contract, it shall be referred to and settled by the Architect who shall state his decision in writing and give notice of the same to the Employer and the Contractor. Unless the Contract shall have been already terminated or abandoned the Contractor shall in every case continue to proceed with the Works with all due diligence and he shall give effect forthwith to every such decision of the Architect unless and until the same shall be revised in mediation or arbitration as hereinafter provided. Such decision shall be final and binding upon the Contractor and the Employer unless either of them shall require that the matter be referred to mediation or arbitration as hereinafter provided. If the Architect shall fail to give such decision for a period of 28 days after being requested to do so or if either the Employer or the Contractor be dissatisfied with any such decision of the Architect then either the Employer or the Contractor may within 28 days after receiving notice of such decision, or within 28 days after expiry of the said decision period of 28 days, as the case may be, request that the matter be referred to mediation in accordance with and subject to The Government of the Hong Kong Special Administrative Region Construction Mediation Rules or any modification thereof being in force at the date of such request.
- (2) If the matter cannot be resolved by mediation, or if either the Employer or the Contractor do not wish the matter to be referred to mediation then either the Employer or the Contractor may within the time specified herein required that the matter shall be referred to arbitration in accordance with and subject to the provisions of the Arbitration Ordinance and any such reference shall be deemed to be a submission to arbitration within the meaning of such Ordinance.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC83A | <p>(3) Any reference to arbitration shall be made within 90 days of:</p> <ul style="list-style-type: none">(a) the receipt of a request for mediation and subsequently the recipient of such request having failed to respond, or(b) the refusal to mediate; or(c) the failure of the mediation proceedings to produce a settlement acceptance to the Employer and the Contractor, or(d) the abandonment of the mediation; or(e) where the Architect has failed to give a decision within the 28 days allowed under sub-clause (1) of this Clause after being requested to do so, the expiry of the subsequent period 28 days for the Employer and the Contractor to request that the matter be referred to mediation, and neither the Employer nor the Contractor having requested mediation within that subsequent period of 28 days; or(f) where the Architect has given a decision within the 28 days allowed under sub-clause (1) of this Clause, the expiry of the period of 28 days after receipt of the notice of the Architect's decision for the Employer or the Contractor to request that the matter be referred to mediation, and neither the Employer nor the Contractor having requested mediation with that period of 28 days. <p>(4) The arbitrator appointed shall have full power to open up, review and revise any decision (other than a decision under Clause 46(3) not to vary the Works), instruction, order, direction, certificate of the Architect or certificate or valuation by the Surveyor and neither party shall be limited in the proceedings before such arbitrator to the evidence or arguments put before the Architect for the purpose of the obtaining his decision above referred to. Save as provided for in sub-clause (5) and (6) of this Clause no steps shall be taken in the reference to the arbitrator until after the completion or alleged completion of the Works unless with the written consent of the Employer and the Contractor.</p> | Settlement of disputes
(Cont'd) |
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC83A

Provided that:

Settlement of
disputes
(Cont'd)

- (a) the giving of a certificate of completion in accordance with Clause 53 shall not be a condition precedent to the taking of any step in such reference;
- (b) no decision given by the Architect in accordance with the foregoing provisions shall disqualify him from being called as a witness and giving evidence before the arbitrator on any matter whatsoever relevant to the dispute or difference so referred to the arbitrator as aforesaid.
- (5) In the case of any dispute or difference as to the exercise of the Architect's powers under Clause 81(1) the reference to the arbitrator may proceed notwithstanding that the Works shall not then be or be alleged to be complete.
- (6) In the case where the Contract has been terminated or abandoned, the reference to the arbitrator may proceed notwithstanding that the Works shall not then be or be alleged to be complete.
- (7)
 - (a) Subject to paragraph (b) and (c) of this sub-clause, the Hong Kong International Arbitration Centre Domestic Arbitration Rules (the Arbitration Rules) shall apply to any arbitration instituted in accordance with this Clause.
 - (b) Notwithstanding Article 8.2 and Article 13 of the Arbitration Rules, the place of meetings and hearings in the arbitration shall be Hong Kong unless the parties otherwise agree.
 - (c) Article 26 of the Arbitration Rules shall be deleted and replaced by:

“26.1 The arbitration proceedings are private and confidential between the parties and the arbitrator. No information relating to the arbitration shall be disclosed by any person without the written consent of each and every party to the arbitration. Disclosures are permissible where disclosures –

 - (a) are necessary for implementation or enforcement;
 - (b) are required by the parties' auditors or for some other legitimate business reason;
 - (c) are required by any other of the courts of Hong Kong or other judicial tribunal;
 - (d) are necessary for the making of claims against any third party or to defend a claim brought by any third party.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC83A (7) Cont'd

Settlement of
disputes
(Cont'd)

26.2 Notwithstanding Article 26.1 and subject to the following provisions, the party comprising the Government of the Hong Kong Special Administrative Region (the Government party) may disclose the outline of any dispute with the other party and outcome of the arbitration to the Public Accounts Committee of the Legislative Council upon its request. Before disclosures are made to the said Committee, the Government party shall inform the other party. Disclosures shall not be made to the said Committee before expiry of the first 6 months from the date of the outcome of the arbitration without the written consent of the other party but such consent shall not be unreasonably withheld. The other party shall be deemed to have given his consent to disclosures on the expiry of the first 6 months from the date of the outcome of the arbitration. The other party may, if he considers necessary to protect the sensitive nature of certain information relating to him, request the Government party to disclose such specified information to the said Committee strictly on a confidential basis. If the Government party considers that there are legitimate grounds to accede to the other party's request, the Government party shall convey the request to the said Committee for its consideration."

- (8) All the provisions in Schedule 2 to the Arbitration Ordinance shall apply to any arbitration instituted in accordance with this Clause.
- (9) For the purpose of this Clause. "Arbitration Ordinance" means the Arbitration Ordinance (Cap. 609) or any statutory modification thereof for the time being in force."

SCC83B (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC84 | (1) | General Conditions of Contract Clause 50 is amended by adding following after sub-clause (1)(b)(ix): | Extension of time for unforeseen utility work |
| | | “(ixa) Any utility work directly connected with but not forming part of the Works and which in the opinion of the Architect could not have been foreseen by an experienced contractor based on the information available as at the tender closing date, or” | |
| | (2) | General Conditions of Contract Clause 50(1)(b)(x) is deleted and replaced by the following: | |
| | | “(x) delay on the part of any Nominated Sub-contractor for any reason specified in sub-clause (b)(i) to (ixb) of this clause and which the Contractor has taken all reasonable steps to avoid or reduce, or” | |

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC85 General Conditions of Contract Clause 4 is amended by adding the following: Voluntary Sub-contractor Registration Scheme

(10)(a) Where the Contractor is to sub-contract part of the Works execution of which involves trades available under the Primary Register of the Voluntary Sub-contractor Registration Scheme, the Contractor shall engage, for the purposes of execution of such part of the Works, sub-contractors as stated in the Contractor's latest updated submission of the Sub-contractor Management Plan and who have completed their registration under the relevant trades available in such Primary Register before the commencement of the works under the relevant sub-contracts. Provided that the Contractor shall not engage a sub-contractor who is suspended or in the process of an appeal against his suspension from registration under such Primary Register unless the suspension is lifted before the commencement of the works under the relevant sub-contracts. The foregoing shall also apply to the Contractor's engagement of Nominated Sub-contractors and Specialist Sub-contractors.

(b) The Contractor shall ensure that where any part of the part of the Works sub-contracted to :-

- (i) a sub-contractor engaged under sub-clause 10(a) of this Clause;
- (ii) a Nominated Sub-contractor; or
- (iii) a Specialist Sub-contractor.

execution of which involves trades available under the Primary Register of the Voluntary Sub-contractor Registration Scheme is further sub-contracted (irrespective of any tier), sub-contractors (irrespective of any tier) as stated in the Contractor's latest updated submission of the Sub-contractor Management Plan and who have completed their registration under the relevant trades available in such Primary Register before the commencement of the works under the relevant further sub-contracts are engaged for the purposes of execution of such part of the part of the Works. The Contractor shall also ensure that a sub-contractor (irrespective of any tier) who is suspended or in the process of an appeal against his suspension from registration under such Primary Register shall not be engaged for the aforesaid further sub-contracting (irrespective of any tier) unless the suspension is lifted before the commencement of the works under the relevant further sub-contracts.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (c) For the purposes of this sub-clause, “Voluntary Sub-contractor Registration Scheme” and “Primary Register of the Voluntary Sub-contractor Registration Scheme” respectively means the Voluntary Sub-contractor Registration Scheme and the Primary Register of the Voluntary Sub-contractor Registration Scheme as referred to in Environment, Transport and Works Bureau Technical Circular (Works) No. 13/2004.

SCC86 (Not used)

- SCC87
- (1) Notwithstanding the provisions of any other clause in the Contract, the Employer shall, in addition to any other power enabling it to terminate the Contract, have power to terminate the Contract at any time by notice in writing to the Contractor and the termination shall take effect on a date specified in the notice but without prejudice to the claims of either party in respect of any antecedent breach thereof. Upon receipt of the notice of termination the Contractor shall, unless directed by the Architect pursuant to sub-clause (4) hereunder, suspend all the work and stop incurring further expenditure with respect to any work under the Contract except for work which is necessary for the protection of life or property or for the safety of the Works.
- (2) Except as provided in sub-clause (3) of this Clause, the Employer shall not terminate the Contract under this Clause in order to execute the Works himself or to arrange for the Works to be executed by another contractor.
- (3) The Employer is entitled to terminate the Contract under this Clause and thereafter to execute the Works himself or to arrange for the Works to be executed by another contractor if the Architect shall certify in writing to the Employer that in his opinion the completion of the Works will be delayed by a period of not less than one year due to interfacing problems or programme slippages of associated works outside the scope of the Contract.
- Right of Government to terminate for convenience

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (4) After the issue of the notice of termination to the Contractor under sub-clause (1), the Architect shall as soon as practicable and in any case not later than the date of termination specified in the notice give directions with which the Contractor shall comply with all reasonable despatch as to all or any of the following matters:
- (a) the performance of further work in accordance with the provisions of the Contract, where such further work is necessary for the protection of life or property or for the safety of the Works;
 - (b) the protection of work executed under the Contract or any work required to leave the Site in a clean and safe condition;
 - (c) the removal of all Constructional Plant, Temporary Works and temporary buildings from the Site;
 - (d) the removal of materials placed on the Site;
 - (e) the removal of any debris or rubbish and the clearing and making good of the Site;
 - (f) the termination or assignment of any sub-contracts and contracts, including those for the hire of plant, services and insurance, entered into by the Contractor for the purposes of or in connection with the Contract;
 - (g) the assignment of warranties for materials placed on the Site ; and
 - (h) any other matter arising out of the Contract with regard to which the Employer may decide that directions are necessary or expedient.
- (5) All Constructional Plant, Temporary Works, temporary buildings and materials properly brought on to the Site shall be removed by the Contractor as and when they cease to be required in accordance with directions given by the Architect under sub-clause (4). The Constructional Plant, Temporary Works, temporary buildings and materials which have become the property of the Employer under Clauses 71 and 72 of the General Conditions of Contract shall upon such removal re-vest in the Contractor. If the Contractor shall fail to remove any such Constructional Plant, Temporary Works, temporary buildings or materials as aforesaid, the Employer may

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (a) sell any such Constructional Plant, Temporary Works, temporary buildings or materials which has become the property of the Employer under Clauses 71 and 72 of the General Conditions of Contract and after deducting from any proceeds of sale the costs, charges and expenses of and in connection with such sale shall pay the balance, if any, to the Contractor but to the extent that the proceeds of sale are insufficient to meet all such costs, charges and expenses the excess shall be a debt due from the Contractor to the Employer and may be deducted by the Employer from any money due or which may become due to the Contractor whether under this or any other contract with the Employer in accordance with the provisions of Clause 83 of the General Conditions of Contract; or
- (b) dispose the same in a manner which the Employer considers most appropriate and any costs, charges and expenses so incurred shall be recoverable by the Employer from the Contractor in the manner aforesaid.

Provided that in the event of any such Constructional Plant not solely owned by the Contractor and the Contractor fails to remove such Constructional Plant, the Employer may return such Constructional Plant at the expense of the Contractor to the person, firm or company from whom such Constructional Plant was held by the Contractor and any expense so incurred may be recovered by the Employer from the Contractor in the manner aforesaid.

Provided further that the Employer shall not at any time be liable for the loss of or damage to any Constructional Plant, Temporary Works, temporary buildings or materials which the Contractor shall fail to remove from the Site under this sub-clause.

- (6) If –
 - (a) the Contractor is unable or unwilling with all reasonable despatch to carry out any work or other matter specified in directions given to him by the Architect in terms of sub-clause (4), or
 - (b) the Employer considers that any other urgent work not specified in directions given to the Contractor under sub-clause (4) shall be carried out by a person other than the Contractor,

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

the Architect may authorize the carrying out of such work or such other urgent work by a person other than the Contractor and if such work or other work is work which, in the opinion of the Architect, the Contractor was liable to do at his own expense under the Contract, all costs, charges and expenses properly incurred in carrying out the same shall on demand be paid by the Contractor to the Employer or may be deducted by the Employer from any money due or which may become due to the Contractor whether under this or any other contract with the Employer in accordance with the provisions of Clause 83 of the General Conditions of Contract.

- (7) In the event of termination of the Contract under this Clause the Contractor shall be paid by the Employer, in so far as such items have not already been covered by payment on account made to the Contractor, for all work executed prior to the date of termination to be valued in accordance with the Contract and in addition, subject to sub-clause (8) :
- (a) the sums payable in respect of preliminary items in so far as the work or service comprised therein has been carried out or performed and a proper proportion, as certified by the Surveyor, of all such items the work or service comprised therein has been partially carried out or performed;
 - (b) the cost of materials ordered for the Works which have been delivered to the Contractor or of which the Contractor is liable to accept delivery or any advanced payment made for materials ordered for the Works, such materials becoming the property of the Employer upon such payment being made by the Employer;
 - (c) a sum to be certified by the Surveyor being any Cost reasonably incurred by the Contractor for the purpose of completing the Works in so far as such Cost shall not have been paid in accordance with any other sub-clause of this Clause or any other Clause under the Contract.
 - (d) the additional cost of removal, as compare to removal if the contract had been performed to completion, under sub-clause (5) of all Constructional Plant, Temporary Works, temporary buildings and materials from the Site and, if required by the Contractor, return thereof to the Contractor's country of origin or to any other destination at no greater cost and certified by the Surveyor as reasonable;

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (e) a sum to be certified by the Surveyor being any reasonable sum expended by the Contractor because of the termination of the Contract in respect of
 - (i) the uncompleted part of any sub-contract and other contracts (including those for the hire of plant, services and insurance), and
 - (ii) the curtailment of any contract of employment,entered into exclusively in connection with the Contract.

Provided always that against any payments due from the Employer under this sub-clause the Employer shall be entitled to be credited with rebates from insurance, credit value of plant/equipment for the Architect's use prematurely re-delivered to the Contractor and any outstanding balances due from the Contractor for advances in respect of plant and materials and any sum paid in advance by the Employer to the Contractor in respect of the execution of the Works.

- (8) The Contractor shall, in any sub-contract or contract made by him in connection with or for the purposes of the Contract, reserve the power to determine such sub-contract or contract in the event of the termination of the Contract by the Employer in accordance with the provisions of this Clause upon terms similar to the terms of this Clause. The Contractor shall not be entitled to compensation of any expenditure resulting from non-compliance with this requirement.
- (9) Within 90 days after the date of issue of the notice of termination under sub-clause (1), the Contractor shall submit to the Surveyor a statement of account and supporting documentation showing in detail the value in accordance with the Contract of the work done as of the date of termination together with all further sums which the Contractor considers to be due to him under this Clause. Within 90 days after receipt of the final account and of all information reasonably required for its verification, the Surveyor shall issue a payment certificate stating the sum which in his opinion is finally due to the Contractor on termination under this Clause. The sum shall be paid to the Contractor by the Employer within 21 days of the date of the certification.
- (10) Payment to the Contractor under sub-clause (7) shall be in full and final settlement of all claims, costs and charges incurred by the Contractor as a result of the Contract under this Clause.
- (11) This Clause shall survive and remain in force after termination of the Contract in accordance with this Clause.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (3) General Conditions of Contract Clause 30 shall be amended by replacing “and any additions or amendments thereto any such enactment, regulations, bye-laws or rules” by the following :

“and any additions or amendments thereto or any new enactment, regulations, bye-laws or rules made during the continuance of the Works, which are applicable to the Works, and shall be responsible for the payment of all penalties and fines and discharge of all liabilities under such enactment, regulations, bye-laws or rules and shall keep the Employer indemnified against all penalties and fines and liabilities of every kind for breach of any such enactment, regulations, bye-laws or rules. For the avoidance of doubt, the Contractor shall, under no circumstances, be paid by the Employer for any penalties, fines and liabilities under such enactment, regulations, bye-laws or rules nor shall the Final Contract Sum be adjusted for that purpose.”

- (4) The following shall be added as Clause 30A after General Conditions of Contract Clause 30:

“30A(1) The Final Contract Sum shall, subject to sub-clause (2) of this Clause, be adjusted to take account of any increase or decrease in Cost (but excluding overheads whether on or off the Site) to the Contractor in the execution of the Contract resulting from any Change in Law.

(2) If the Surveyor is of the opinion the Contractor has been or is likely to be involved in decrease in Cost (but excluding overheads whether on or off the Site) to the Contractor in the execution of the Contract resulting from any Change in Law or upon written application by the Contractor to the Surveyor the Surveyor is of the opinion that the Contractor has been or is likely to be involved in increase in Cost (but excluding overheads whether on or off the Site) to the Contractor in the execution of the Contract for which the Contractor would not be reimbursed by a payment made under any other provision of the Contract resulting from any Change in Law, the Surveyor shall value the decrease or, as the case may be, ascertain the increase and shall certify in accordance with Clause 79.”

- (5) General Conditions of Contract Clause 50 is amended by:-

- (a) adding the following as sub-clause (1)(b)(ixb) before sub-clause (1)(b)(x):

“ (ixb) any Change in Law , or”

- (b) replacing “(ix)” on line 2 of sub-clause (1)(b)(x) by “(ixb)”.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC89 (Not used)

SCC90 (Not used)

SCC91 (Not used)

SCC92 (Not used)

SCC93	<p>(1) Subject to sub-clause (2) of this Clause, the Surveyor shall ascertain and certify for payment in accordance with General Conditions of Contract Clause 79, the amount of the Contractor's mandatory contribution under the Mandatory Provident Fund Schemes Ordinance (Cap. 485), including contribution by sub-contractors of all tiers including Specialist Sub-contractors and Nominated Sub-contractors, to the employer's mandatory provident fund for the Site Personnel under this Contract, based on the designated bank's instruction records as specified in Particular Specification PS.G13 Section X.</p> <p>(2) The Employer shall not be liable to reimburse the Contractor, or sub-contractors of all tiers including Specialist Sub-contractors and Nominated Sub-contractors, any amount of the contribution to the employer's mandatory provident fund for the Site Personnel under the Contract other than the amount certified by the Surveyor pursuant to sub-clause (1) of this Clause. For the avoidance of doubt, the Employer shall not be liable to pay the Contractor any of the part of Contractor's contribution, including contribution by sub-contractors of all tiers including Specialist Sub-contractors and Nominated Sub-contractors, to the employer's mandatory provident fund for any Site Personnel under the Contract which exceeds the Provisional Sum for mandatory provident fund contributions allowed for in the Contract.</p> <p>(3) Notwithstanding General Conditions of Contract Clause 68, the Contractor and his sub-contractors of all tiers including Specialist Sub-contractors and Nominated Sub-contractors are not entitled to any profit and administration cost including overheads cost, whether on or off the Site, for the reimbursement made under this Clause.</p>	<p>Reimbursement of Contractor's contribution to the Mandatory Provident Fund for his Site Personnel</p>
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC94 | <p>(1) Subject to those Casual Workers referred to in Clause Z.1 (1) of Particular Specification PS.G13 "Section Z" on "Casual Workers", all Site Personnel shall be engaged in accordance with Clauses X.2 to X.5 of Particular Specification PS.G13 "Section X" on "Payment of Wages of Site Personnel". Such Site Personnel shall be engaged with a written employment contract with their respective employers who shall be either the Contractor or any of his sub-contractors as submitted in the Sub-contractors' Management Plan required under Clause SCC 77 of these Special Conditions of Contract. The terms of the employment contract shall be not less favourable to the terms provided in the Specimen Employment Contract which may as necessary be revised by the Architect from time to time at Appendix SCC.I to these Special Conditions of Contract as far as the Site Personnel are concerned. Payment of wages shall be made at least once per month. Employment contracts which stipulate a payment cycle in less frequent than once per month will not be permitted under this Contract.</p> <p>(2) The Contractor shall ensure that all workers who are self-employed persons engaged to work on the Site shall each be covered by a personal accident insurance plan with a minimum coverage of HK \$ 1,000,000 by extending either the Contractor's employee compensation insurance policy or his third party liability and all risks insurance policy. Alternatively the Contractor shall arrange a separate personal accident insurance plan for all self-employed workers for a minimum cover of HK\$1,000,000 in the form specified in Appendix SCC.J to these Special Conditions of Contract and shall maintain such policy for the duration of the self-employed workers being engaged in the Contract. The Contractor shall produce evidence of such insurance before the self-employed workers are issued a smart-card as described in Particular Specification PS.G13 "Section X" on "Payment of Wages of Site Personnel". The Contractor shall inform the Architect immediately when the insurance policy of a self-employed worker has expired together with evidence showing its renewal as appropriate.</p> <p>(3) Lorry drivers engaged for the Works (excluding those lorry drivers engaged by suppliers to deliver material to the Site) may be either a Site Personnel or a self-employed person.</p> <p>(4) The Contractor shall provide and maintain an attendance recording system comprising smart-card cum biometric authentication to record and verify the information of all Site Personnel entering and leaving the Site in accordance with Particular Specification PS.G13 "Section X" on "Payment of Wages of Site Personnel".</p> | Payment of wages of Site Personnel |
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (5) Within 14 days of the commencement of the Contract, the Contractor shall make necessary arrangements with a bank to implement the arrangement on payment of wages to Site Personnel in accordance with Particular Specification PS.G13 "Section X" on "Payment of Wages of Site Personnel". The Contractor shall submit a written declaration that all Site Personnel's wages payable have been paid when the Contractor submits the instruction records as specified in Particular Specification PS.G13 "Section X" to the Architect. Site Personnel who are not able to open a personal bank account in Hong Kong shall be paid by personal cash cheques in accordance with Particular Specification PS.G13 "Section X".
- (6) Pursuant to General Conditions of Contract Clause 4(3), failure to comply with Section X of the Particular Specification PS.G13 by any of the sub-contractors may render the removal of the sub-contractor from the Site and/or the Works.
- (7) (a) Without prejudice to any of the provision under General Conditions of Contract Clause 40 and in the event of default being made in the payment of any wages of any Site Personnel employed by the Contractor or any of the sub-contractors in and for carrying out this Contract and if a claim therefore is filed in the office of the Labour Department and proof thereof (including, where the claim is disputed by the Contractor or by any of the responsible sub-contractors, as the case may be, or it is found necessary by the Commissioner for Labour, proof of final determination of the claim by an award or order of the Labour Tribunal or as the case may be the Minor Employment Claims Adjudication Board or a judgment of the District Court or, where the matter is subsequently further disputed by way of appeal, by a judgment of the Court of First Instance or the Court of Appeal) is furnished to the satisfaction of the Commissioner for Labour; provided that the subject incident of default in payment of wages is reported to the Labour Relations Officer within 7 working days (Sundays and public holidays excluded) of the final due date for payment as prescribed under section 23 of the Employment Ordinance (Cap 57), the Employer may, after the Contractor or the sub-contractor, as the case may be, who is in default of paying any wages to the Site Personnel, make payment of such wages or claim for wages on behalf of the Contractor or the subcontractor to the Site Personnel and any sums so paid shall be recoverable by the Employer as a debt from the Contractor.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (b) For the avoidance of doubt, Site Personnel employed by the Contractor are not subject to the reporting requirement to the Labour Relations Officer under sub-clause 7(a) of this Clause.
- (c) For the further avoidance of doubt, where any self-employed worker is found by the Labour Tribunal or as the case may be the Minor Employment Claims Adjudication Board or a judgment of the District Court or, where the matter is subsequently further disputed by way of appeal, by a judgment of the Court of First Instance or the Court of Appeal to be an employee instead of a self-employed worker, sub-clause 7(a) of this clause shall apply to that self-employed worker provided that the subject incident of default in payment of wages is similarly reported to the Labour Relations Officer within 7 working days (Sundays and public holidays excluded) of the final date for payment under section 23 of the Employment Ordinance (Cap 57).
- (8) For the purpose of this Clause, "sub-contractors" means sub-contractors, irrespective of tiers, including Specialist Sub-contractors and Nominated Sub-contractors.
- SCC95 (1) For the purpose of this Clause, the first tier of sub-contracting means the contracts between the Contractor and his sub-contractors. The second tier means the sub-contracts between any of the sub-contractors of the first tier and his sub-contractors. The foregoing shall apply with necessary modifications to subsequent tiers of sub-contracting. Limiting the tiers of sub-contracting
- (2) Notwithstanding General Conditions of Contract Clause 4 on sub-contracting a part of the Works and subject to sub-clauses (3) to (5) of this Clause and compliance with other provisions of the Contract, the sub-contracting of a part of the Works by the Contractor shall be limited to two tiers of sub-contracting.
- (3) Where any part of the Works has been sub-contracted out under sub-clause (2) of this Clause, the sub-contractor of the first or the second tier of sub-contracting (as the case may be) may, subject to sub-clause (4) of this Clause and compliance with other provisions of the Contract, engage in two additional tiers of sub-contracting with respect to a Relevant Portion of such part of the Works, except (i) where the Relevant Portion involves work or services to be carried out in any confined space, or (ii) where the Relevant Portion involves demolition or scaffolding work. For situations as stated in (i) or (ii), sub-contracting of the Relevant Portion by the sub-contractor of the first or the second tier (as the case may be) shall be limited to one additional tier of sub-contracting.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (4) Notwithstanding sub-clauses (2) and (3) of this Clause, sub-contracting of any part of the Works requiring entry of human beings into confined space that form part of a sewerage or drainage system shall be limited to the first tier of sub-contracting and further sub-contracting by the first tier sub-contractor shall not be permitted.

- (5)
 - (a) Notwithstanding sub-clauses (3) and (4) of this Clause, the Architect may upon request by the Contractor permit the Contractor to introduce an extra tier of sub-contracting for a part of the Works or a Relevant Portion which has been sub-contracted out in accordance with the provisions of the Contract (including without limitation on the foregoing provisions).

 - (b) The Architect shall not be obliged to consider a request for an extra tier of sub-contracting unless the request is made in writing to the Architect at least 14 days before the sub-contractor of the relevant tier of sub-contracting enters into any sub-contract for the extra tier of sub-contracting and the request is accompanied by an explanation with supporting evidence on the need for the extra tier of sub-contracting.

 - (c) A request which has been made in strict compliance with paragraph (b) above is taken to have been permitted by the Architect if it is not expressly rejected by the Architect in writing within 14 days from the date of receipt by the Architect of the request from the Contractor.

- (6) The Contractor shall comply with and shall ensure that all sub-contractors (irrespective of any tier) shall comply with the provisions of this Clause, General Conditions of Contract Clause 4 and other relevant provisions of the Contract (“Sub-contractor Provisions”). If the Contractor or any of the sub-contractors (irrespective of any tier) fails to comply with the Sub-contractor Provisions, the Architect shall, without prejudice to any other rights and remedies, have full power to order the removal of any sub-contractor which has been engaged in contravention of any of the Sub-contractor Provisions from the Site and/or the Works.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

(7) In this Clause, unless the context otherwise requires -

"confined space" has the same meaning as that adopted in the Factories and Industrial Undertakings (Confined Spaces) Regulation (Cap. 59AE);

"Relevant Portion" means a portion of any part of the Works which has been sub-contracted out to a sub-contractor of the first or the second tier of sub-contracting under sub-clause (2) of this Clause, and such portion comprises only work or services falling within the description of one or more of the "Construction Trades" which are listed under the trade classification of the Voluntary Sub-contractor Registration Scheme;

"Voluntary Sub-contractor Registration Scheme" means the Voluntary Sub-contractor Registration Scheme as referred to in Environment, Transport and Works Bureau Technical Circular (Works) No. 13/2004.

- SCC96 (1) Without prejudice to the generality of General Conditions of Contract Clause 17, the Contractor shall provide a team of suitably qualified and experienced staff to manage and supervise the Contract throughout the execution of the Works. All members of staff on the management/site supervision team (refer to as "the Team" in this Clause) must be under the direct employment of the Contractor. The Team shall comprise sufficient number of suitably qualified and experienced staff in the following disciplines :-
- Contractor's Management Team
- (a) Site agent in accordance with General Conditions of Contract Clause 17;
 - (b) Building services co-ordinator;
 - (c) A foreman for concrete work;
 - (d) Site superintendent;
 - (e) Site foremen (other than foreman for concrete work); and
 - (f) Technically Competent Persons as described in Clause (8) hereinafter.

The qualification and experience requirement of the site agent, building services co-ordinator and the foreman for concrete work shall comply with Particular Specification for Contractor's Management Team.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (2) Members of staff on the Team are prohibited to be given a sub-contract to any part of the Works or to have a vested interest in any of the sub-contractors irrespective of tiers including Specialist Sub-contractors and Nominated Sub-contractors under this Contract.
- (3) Within 14 days of the commencement of the Contract, the Contractor shall submit to the Architect a list of staff with all necessary details which comprised the Team referred to in sub-clause (1) of this Clause.
- (4) The Contractor shall either provide documentary proof on the employment status of the staff on the Team, such as employment contracts, tax returns, payment of salaries and the like upon request by the Architect or provide a formal declaration to the effect that such a staff is indeed under the direct employment of the Contractor. The declaration shall be signed by a person authorized to sign contracts on behalf of the Contractor.
- (5) The building services co-ordinator shall be engaged on the Site at all times when building services works are in progress. The building services co-ordinator shall also be responsible for co-ordinating building services installations which involve structural and architectural works at all stages of the Contract.
- (6) The foreman for concrete work shall be engaged on the Site at all times when concreting is in progress. All other members of staff in the Team shall be full time on Site during site working hours.
- (7) The Contractor shall inform the Architect forthwith of any changes made to any of the staff on the Team.
- (8) The Contractor shall deploy suitable Technically Competent Persons to carry out and comply with the Quality Supervision and Site Safety Supervision requirements as stipulated in the “Code of Practice for Site Supervision 2009” and “Technical Memorandum for Supervision Plans 2009” issued by the Buildings Department. Technically Competent Persons shall mean the “technically competent person” as defined in the “Technical Memorandum for Supervision Plans 2009”.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- SCC97 (1) Without prejudice to the generality of General Conditions of Contract Clause 4, the Contractor shall ensure that the following provisions of this Contract shall be similarly and appropriately included into each and every sub-contract of all tiers including Specialist Sub-contracts and Nominated Sub-contracts for the carrying out of the Works under this Contract and the Contractor shall be responsible for the observance of these provisions by the sub-contractors (irrespective of any tier), including Specialist Sub-contractors and Nominated Sub-contractors employed in the carrying out of the Works :-
- Sub-contract conditions
- (1) General Conditions of Contract Clause 40;
 - (1) Special Conditions of Contract Clause SCC3A
 - (3) Special Conditions of Contract Clause SCC77
 - (4) Special Conditions of Contract Clause SCC79
 - (5) Special Conditions of Contract Clause SCC81
 - (6) Special Conditions of Contract Clause SCC85
 - (7) Special Conditions of Contract Clause SCC93
 - (8) Special Conditions of Contract Clause SCC94
 - (9) Special Conditions of Contract Clause SCC95
 - (10) Special Conditions of Contract Clause SCC96
 - (11) Special Conditions of Contract Clause SCC98
 - (12) Special Conditions of Contract Clause SCC107
 - (13) Particular Specification 'PS.G05' - Employment of Qualified Tradesmen and Intermediate Tradesmen by Contractors
 - (14) Particular Specification 'PS.G13' – Monitoring of Wages of Site Personnel
 - (15) Particular Specification 'PS.G14' – Control of Dogs on Construction Sites
- (2) Upon request by the Architect, the Contractor shall provide copies of the relevant sub-contracts with the sub-contract provisions referred to in sub-clause (1) of this Clause to the Architect for his record and provide the original documents of the relevant sub-contracts for inspection by the Architect.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- (3) The Contractor shall comply with and shall ensure that all sub-contractors (irrespective of any tier) shall comply with the provisions of this Clause; and shall, if necessary, within reasonable time enter into a supplemental agreement with his sub-contractor to ensure that the sub-contract complies with the requirements in sub-clauses (1) and (2) of this Clause and to ensure that his sub-contractor will do the same in the lower tier sub-contracts.
- (4) If the Contractor or any of the sub-contractors (irrespective of any tier) fails to comply with the provisions of this Clause, the Architect shall, without prejudice to any other rights and remedies, have full power to order the removal of the sub-contractor from the Site and/or the Works.

SCC98	<ul style="list-style-type: none">(1) All Constructional Plant powered by diesel fuel, whether they belong to the Contractor or his sub-contractors, must only be replenished with ultra low sulphur diesel (ULSD) (defined as diesel fuel containing not more than 0.005% by weight of sulphur) when working on the Site. The Contractor shall maintain a summary record of <u>all</u> the delivery notes of ULSD delivered to the Site, including those ordered by his sub-contractors, together with the details of consumption of such fuel by the individual Constructional Plant on the Site and the date of arrival and departure of the Constructional Plant to and from the Site. The record of fuel deliveries shall be supported by the original receipts of the delivery notes of the oil companies. Both the record and the delivery notes shall be kept on the Site for ready inspection by the Architect or his site supervisory staff upon request.(2) The Architect or his Representative may order any number of fuel samples to be taken from any diesel-operated Constructional Plant, fuel tank and/or container on the Site, except those which the Contractor can substantiate that the Constructional Plant, fuel tank and container concerned has/have been brought to the Site recently according to the summary record maintained pursuant to sub-clause (1), and has/have never been replenished with any fuel since its arrival. The sulphur content of the fuel samples shall be tested by a HOKLAS accredited laboratory using internationally recognized testing method such as ASTM D2622, ISO 14596 and ISO 20884. The laboratory to carry out the test shall be proposed by the Contractor and agreed by the Architect.	Use of ultra low sulphur diesel
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SCC99 (Not used)

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC100	The Contractor shall be entitled to the sums set out in the Sub-contractor Management Plan section of the Schedule of Rates provided that the Contractor has complied with the requirements specified in the Contract.	Payment for Sub-contractor Management Plan
SCC101	(Not used)	
SCC102	(Not used)	
SCC103	<p>The Contractor shall not dispose of construction and demolition materials generated by the Site at any place other than the disposal grounds designated in the Contract or directed by the Architect or such alternative disposal grounds as proposed by the Contractor and approved by the Architect in accordance with Clause (3) of Particular Specification for Trip Ticket System contained in Appendix B to Particular Specification PS.G02.</p> <p>Notwithstanding any other provisions in the Contract, the Architect's approval or disapproval of any alternative disposal ground proposed by the Contractor shall not in any way relieve the Contractor of any duty or responsibility under the Contract nor entitle the Contractor to any additional payment or extension of time.</p>	Disposal Grounds
SCC104	(Not used)	
SCC105A	(Not used)	

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC105B	<p>General Conditions of Contract Clause 79(3) is deleted and replaced by the following :</p> <p>“(3)(a) The Surveyor shall, within 14 days of the date of issue of the certificate of completion in respect of the Works in accordance with Clause 53(1), issue a certificate for the payment of not more than 50% of the Retention Money giving due account to the cost of the outstanding work referred to in Clause 53 and all work of maintenance, repair, rectification and making good any defects, imperfection, shrinkage, settlement and other fault referred to in Clause 56 which have been notified in writing to the Contractor and, which certificate shall state any Retention Money due to any Nominated Sub-contractor and, subject to Clause 83, the Employer shall pay such portion of Retention Money to the Contractor within 21 days of such certificate. In the event of different Sections or parts of the Works pursuant to Clause 53, the expression “certificate of completion’ shall, for the purpose of this sub-clause, mean the last of such certificates.</p> <p>(b) Further to paragraph (a) of this sub-clause and within 14 days after the date of the expiry of the Maintenance Period, or where there is more than one such Period, the latest Period, the Surveyor shall issue a certificate for the payment of a further portion of the Retention Money and such further portion shall be equal to the Relevant Percentage of the Retention Money less, where applicable, an amount which, in the opinion of the Surveyor, represents, in respect of the Works except Establishment Works, the cost of the outstanding work referred to in Clause 53 and all work of maintenance, repair, rectification and making good any defects, imperfection, shrinkage, settlement and other fault referred to in Clause 56 then remaining to be carried out, which certificate shall state any Retention Money due to any Nominated Sub-contractor and, subject to Clause 83, the Employer shall pay such further portion of Retention Money to the Contractor within 21 days of the date of such certificate. For the purpose of this sub-clause, “Relevant Percentage” means 5% minus the percentage of the Retention Money certified under paragraph (a) of this sub-clause.</p> <p>(c) Further to paragraphs (a) and (b) of this sub-clause, the Surveyor shall, with 14 days of the date of issue by the Architect of the maintenance certificate in accordance with Clause 80, issue a certificate for the payment of the remaining portion of Retention Money, which certificate shall state any Retention Money due to any Nominated Sub-contractor and, subject to Clause 83, the Employer shall pay such remaining portion of Retention Money to the Contractor within 21 days of the date of such certificate.”</p>	Release of Retention Money (Contract with Landscape Softworks and Establishment Works)
SCC106	(Not used)	

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

- SCC107
- Uniform
- (1) (a) The Contractor shall provide the Architect, the Surveyor and their staff, the Site Personnel and self-employed workers engaged for the execution of the Works on the Site (such self-employed workers are hereinafter referred to in this Clause as “self-employed works”) with uniform items and ensure that the Site Personnel and self-employed workers wear such uniform items when they are on the Site in accordance with the provisions of Particular Specification PS.G19 for Uniform.
- (b) The Contractor shall give at least 7 days advance notice to the Architect of the date on which the Site Personnel and self-employed workers begin to wear the uniform items approved by the Architect in accordance with Particular Specification PS.G19 for Uniform Clause X.3 (such uniform items are hereinafter referred to as “approved uniform items”) when they are on the Site.
- (2) Subject to sub-clause (1) and (3) to (7) of this Clause, the Contractor shall be entitled to the following parts of the lump sum inserted in Specification Preliminaries in respect of uniform for Site Personnel and self-employed workers (such lump sum is hereinafter referred to in this Clause as “the lump sum”) –
- (a) 10% if the lump sum upon the Architect’s approval of the design of uniform items;
- (b) Subject to sub-clause (3) of this Clause, 80% of the lump sum in instalments in respect of monthly instalment periods falling within the period from and including the day following the expiry of 3 months beginning on the Material Date to the date of completion of the Works as stated in the certificate of completion, or where the Works are divided into Sections, the date of completion of the Section last completed as determined by reference to the respective dates of completion of the Sections as stated in the certificates of completion (such period is hereinafter referred to in this Clause as the “Initial Period”); and

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

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| SCC107
(Cont'd) | <p>(2) (c) 10 % of the lump sum in instalments in respect of monthly instalment period falling within the period from and including the day following the date of completion of the Works as stated in the completion certificate, or where the Works are divided into Sections, from and including the day following the date of completion of the Section last completed as determined by reference to the respective dates of completion of the Sections as stated in the certificates of completion, to the date as stated in the maintenance certificate issued in accordance with General Conditions of Contract Clause GCT 80, on which the Contractor shall have completed his obligation to execute the Works (such period is hereinafter referred to in this Clause as the "Subsequent Period").</p> <p>(3) (a) The Contractor may submit in writing to the Architect before the date for commencement of the Initial Period as referred to in sub-clause (2)(b) of this Clause a proposal to advance the date for commencement of the Initial Period. The Architect shall within a reasonable time consider the proposal and notify the Contractor in writing whether the proposal is approved or rejected.</p> <p>(b) The date to which the date for commencement of the Initial Period shall be advanced in accordance with this sub-clause (3) shall not be earlier than the Material Date.</p> <p>(c) The decision of the Architect under sub-clause (3)(a) of this Clause to approve or reject the Contractor's proposal to advance the date for commencement of the Initial Period shall not relieve the Contractor from any of his obligations or liabilities under the Contract.</p> | Uniform
(Cont'd) |
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SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC107
(Cont'd)

Uniform (Cont'd)

- (4) (a) The first monthly instalment period under sub-clause (2)(b) of this Clause shall commence on the first day of the Initial Period. The last monthly instalment period under sub-clause (2)(b) of this Clause shall end on the date of completion of the Works as stated in the certificate of completion, or where the Works are divided into Sections, the date of completion of the Section last completed as determined by reference to the respective dates of completion of the Sections as stated in the certificates of completion, and such last monthly instalment period may be less than a month.
- (b) The first monthly instalment period under sub-clause (2)(c) of this Clause shall commence on the first day of the Subsequent Period. The last monthly instalment period under sub-clause (2)(c) of this Clause shall end on the date as stated in the maintenance certificate issued in accordance with General Conditions of Contract Clause GCT 80, on which the Contractor shall have completed his obligation to execute the Works, and such last monthly instalment period may be less than a month.
- (5) Subject to sub-clause (6) of this Clause, the amount of the instalment for each of the monthly instalment periods under sub-clause (2)(b) and (2)(c) of this Clause shall be calculated by dividing the stated percentage of the lump sum by the number of monthly instalment periods under sub-clause (2)(b) or (2)(c) of this Clause, as the case may be.
- (6) (a) The amount of the instalment for each of the monthly instalment periods under sub-clause (2)(b) and (2)(c) of this Clause shall be adjusted by multiplying a Factor X according to the Non-compliance Rate for Uniform as determined in accordance with Particular Specification PS.G19 for Uniform Clause X.4 for the monthly instalment period, as follows:

- (i) where any day of the monthly instalment period falls on or before 22 May 2013 –

Non-compliance Rate for Uniform	Factor X
Up to 10%	100%
more than 10% and up to 20%	90%
more than 20% and up to 30%	70%
more than 30%	0%

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC107
(Cont'd)

(6) (a) Cont'd

Uniform (Cont'd)

(ii) where the whole monthly instalment period falls after 22 May 2013 –

Non-compliance Rate for Uniform	Factor X
Up to 5%	100%
more than 5% and up to 10%	95%
more than 10% and up to 20%	75%
more than 20% and up to 30%	60%
more than 30%	0%

- (b) Without prejudice to the power of the Surveyor under General Conditions of Contract Clause 79(5) to delete, correct or modify any sum previously certified by him, the Surveyor shall calculate the difference between the amount of each instalment under sub-clause (2)(b) or (2)(c) of this Clause, as the case may be, and the adjusted amount of such instalment (such difference is hereinafter referred to in this Clause as “ the said difference”), and deduct the aggregate total of the said difference of all instalments under sub-clause (2)(b) and (2)(c) of this Clause from the Contract Sum.
- (c) Any adjustment made under this sub-clause (6) shall not relieve the Contractor from any liability to the Employer for damages, costs, charges, expenses, debts, or other sums for which he is liable under any provisions of the Contract save that the amount of such liability shall be reduced by the amount of the said difference in respect of the particular, relevant non-compliance.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC107
(Cont'd)

(7) For the purpose of this Clause:

Uniform (Cont'd)

“certificate of completion” means a certificate of completion issued in accordance with General Conditions of Contract Clause GCT 53.

“date for commencement of the Works” means the date for commencement of the Works as notified by the Architect in accordance with General Conditions of Contract Clause GCT 47.

“Material Date” means

- (i) the date as notified by the Contractor in accordance with sub-clause (1)(b) of this Clause if such date falls within the period of 2 months after the date for commencement of the Works; or
- (ii) the date of expiry of 2 months after the date for commencement of the Works (such date of expiry is hereinafter referred to as “the said date for expiry”) if the Contractor fails to give notice in accordance with sub-clause (1)(b) of this Clause or if the date notified by the Contractor in accordance with sub-clause (1)(b) of this Clause falls after the said date of expiry.

“Section last completed” excludes the Section for Establishment Works.

SPECIAL CONDITIONS OF CONTRACT (Cont'd)

SCC108

- (1) The Contractor warrants to the Employer that:
- (a) the design (other than any logo specified by the Employer or the Architect), manufacture and supply of the uniform (hereinafter collectively referred to in this Clause as “design of the uniform”) in accordance with Particular Specification PS.G19 for Uniform Clause X.3 does not and will not infringe any Intellectual Property Rights of any party; and
 - (b) in respect of the design of the uniform including but not limited to the supply or use of any materials or articles by the Contractor, the Intellectual Property Rights of which are vested in a third party:
 - (i) the Contractor has or shall have obtained a valid and continuing license under which the Contractor is entitled to sub-license the third party Intellectual Property Rights for himself and for the Employer, its authorized users, assigns and successors-in-title; or
 - (ii) the Contractor has or shall have obtained the grant of all necessary clearances for himself and for the Employer, its authorized users assigns and successors-in-title prior to the supply of use of any materials or articles.
- (2) Without prejudice to General Conditions of Contract Clause GCT 28, the Contractor shall indemnify the Employer and keep the Employer fully and effectively indemnified against all actions, costs, claims, demands, damages, expenses (including without limitation the fees and disbursements of lawyers, agents and expert witnesses) and any awards and costs which may be agreed to be paid in settlement of any proceedings (where the settlement has first been proposed or approved in writing by/on behalf of the Contractor) and liabilities of whatsoever nature arising out of or in connection with any allegation and/or claim that the design of the uniform, its possession or use infringes any Intellectual Property Rights of any party.
- (3) The provisions of this Clause shall survive the completion or termination of the Contract or determination of the employment of the Contractor (howsoever occasioned) and shall continue in full force and effect notwithstanding such completion, termination or determination.

Intellectual
Property Rights
relating to
uniform