

Agreement & Schedule of Conditions of

# NOMINATED SUB-CONTRACT

for use in the Hong Kong Special Administrative Region



2005 EDITION

# Contents

	<i>PAGE</i>		<i>PAGE</i>
<b>ARTICLES OF AGREEMENT</b>	5	<b>5 Contractor's instructions</b>	19
<b>ATTESTATION</b>	8	5.1 Contractor's instructions	
<b>THE SUB-CONTRACT GENERAL CONDITIONS</b>	9	5.2 Architect to issue instructions to the Sub-Contractor through the Contractor	
<b>1 Interpretation and definitions</b>	9	5.3 Compliance with Contractor's instructions	
1.1 Governing law		<b>6 Documents forming the Sub-Contract and other documents</b>	20
1.2 Singular, plural, masculine and feminine		6.1 The documents forming the Sub-Contract	
1.3 Method of reference to clauses and Articles		6.2 Copies of documents for Sub-Contractor	
1.4 Articles of Agreement, Sub-Contract Conditions and Appendix to be read as a whole		6.3 Further drawings, details, descriptive schedules and similar documents	
1.5 Clauses divided into sub-clauses to be read as a whole		6.4 Documents to be provided to Sub-Contractor on time	
1.6 Definitions		6.5 Electronic copies of drawings	
1.7 Tenders based on Sub-Contract Bills or Schedules of Quantities and Rates		6.6 Return of drawings	
1.8 The role of the Engineer		6.7 Submission of manuals and assignment of warranties	
1.9 Sectional completion of the Works		6.8 Submission of as-built drawings	
1.10 Communications		6.9 Limit to use of documents	
1.11 All communications between the Architect and the Sub-Contractor to be through the Contractor		6.10 Issue of Architect's certificates	
1.12 Notices of default or determination to be sent by special delivery		6.11 Copy of notice to be given to Architect	
1.13 Parties to act reasonably		<b>7 Statutory obligations</b>	23
<b>2 Sub-Contractor to comply with the provisions of the Main Contract that relate to the Sub-Contract</b>	17	7.1 Statutory Requirements	
Sub-Contractor to comply with the provisions of the Main Contract that relate to the Sub-Contract		7.2 Compliance with the Statutory Requirements	
<b>3 Sub-Contractor's obligations</b>	17	<b>8 Materials, goods, workmanship and work</b>	23
3.1 Sub-Contractor's obligations		8.1 Types, standards and quality	
3.2 Sub-Contractor's responsibility		8.2 Inspection and tests	
3.3 Sub-Contractor's skill and care		8.3 Materials, goods, workmanship or work not in accordance with Sub-Contract	
3.4 Sub-Contractor to notify Contractor if he finds ambiguities in documents		8.4 Sub-Contractor to be reimbursed by Contractor for abortive work	
3.5 Sub-Contractor to provide information to the Contractor regarding the master programme		8.5 Sub-Contractor to reimburse Contractor for costs caused by Sub-Contractor	
<b>4 Care of Sub-Contract Works</b>	19	8.6 Rectifying defects	
Contractor to be responsible for the care of the Sub-Contract Works		8.7 Dismissal from the Sub-Contract Works	
		<b>9 Intellectual property rights</b>	25
		9.1 Treatment of royalties	
		9.2 Payment of royalties included in Valuation	

	<i>PAGE</i>		<i>PAGE</i>
<b>10 Sub-Contractor's site management team</b>	26	<b>18 Partial possession by Employer</b>	33
Sub-Contractor's site management team		Partial possession	
<b>11 Access for Contractor and Architect to the Sub-Contract Works</b>	26	<b>19 Assignment and sub-letting</b>	34
Sub-Contractor to give access		19.1 Sub-Contractor not to assign the Sub-Contract without consent	
<b>12 Architect's representative</b>	26	19.2 Sub-letting	
Architect's representative		19.3 Sub-Contractor not to object to assignment of Sub-Contract to Employer	
<b>13 Variations, Provisional Quantities, Provisional Items and Provisional Sums</b>	27	<b>20 Injury to persons and property and indemnity to Contractor</b>	35
13.1 Architect's authority to issue instructions requiring a Variation		Sub-Contractor to indemnify Contractor	
13.2 Instructions for Provisional Quantities and Provisional Sums		<b>21 Insurance against injury to persons or property</b>	35
13.3 Valuation of Sub-Contractor's work		21.1 Employees' Compensation Insurance	
13.4 Valuation rules		21.2 Third party liability insurance	
13.5 Adjustment of Sub-Contract Sum		21.3 Insurance without prejudice to Sub-Contractor's obligation to indemnify Contractor	
13.6 Sub-Contractor's right to be present during measurement on Site		<b>22 Insurance of the Works</b>	37
13.7 Variation necessitated by fault of Sub-Contractor		22.1 The Contractors' All Risks Insurance of the Works	
<b>14 Sub-Contract Bills</b>	30	22.2 Responsibility of Sub-Contractor for restoration of Sub-Contract Works	
14.1 Quality and quantity of work included in Sub-Contract Sum		22.3 Parties' obligations if loss or damage occurs	
14.2 Standard Method of Measurement of Building Works		22.4 Contractor's payment not more than insurance proceeds	
14.3 Errors in Sub-Contract Bills		<b>23 Possession, commencement and completion</b>	38
<b>15 Sub-Contract Sum</b>	31	23.1 Date for Possession of the Site and the Commencement Date	
Adjustment of Sub-Contract Sum		23.2 Commencement and completion of Sub-Contract Works	
<b>16 Materials and goods for the Sub-Contract Works on or off-site</b>	31	23.3 Postponement or suspension	
Materials and goods on or off-site		<b>24 Failure of Sub-Contractor to complete on time</b>	39
<b>17 Substantial Completion and defects liability</b>	31	24.1 Failure of Sub-Contractor to complete on Sub-Contract Completion Date	
17.1 Substantial Completion of Sub-Contract Works to be completed by the Sub-Contract Completion Date		24.2 Failure of Sub-Contractor to complete on time where the Sub-Contract Works are to be completed at the same time as the Works	
17.2 Substantial Completion of Sub-Contract Works to be completed at the same time as the Works		24.3 Contractor to give notice that loss and/or expense and/or liquidated damages are being or will be incurred	
17.3 Sub-Contractor to leave Sub-Contract Works clean and tidy		24.4 Refund if Main Contract Completion Date revised	
17.4 Rectifying defects			
17.5 Defects Rectification Certificate for the Works			
17.6 Damage by a Specified Peril			
17.7 Other rights and remedies			

	<i>PAGE</i>		<i>PAGE</i>
<b>25</b>		<b>25</b>	
		<b>Other sub-contractors, statutory undertakers, utility companies and Specialist Contractors</b>	
		Sub-Contractor to fully co-operate with other sub-contractors etc.	51
	40		
25.1		<b>32</b>	
25.2		<b>General attendance</b>	52
25.3		32.1	General attendance
25.4		32.2	Clearance of rubbish during Sub-Contract Works
25.5		32.3	Provision of services for the Sub-Contract Works
		32.4	Sub-Contractor's workshops
		32.5	Use of the Contractor's or the Sub-Contractor's erected scaffolding
		32.6	Contractor and Sub-Contractor not to make wrongful use of or interfere with the property of the other
<b>26</b>		<b>33</b>	
		<b>Certificates and payments</b>	52
		33.1	Interim Certificates and interim valuations
	46	33.2	Estimate of amount due to the Sub-Contractor in Interim Certificate
26.1		33.3	Off-site materials or goods
26.2		33.4	Calculation of Sub-Contract Retention
		33.5	Retention rules
		33.6	Quantity Surveyor to prepare final account
<b>27</b>		33.7	Adjustment of the Sub-Contract Sum
		33.8	Issue of Final Certificate
	46	33.9	Effect of Final Certificate
27.1		33.10	Proceedings commenced before Final Certificate
27.2		33.11	Proceedings commenced after Final Certificate
27.3		33.12	Effect of Architect's certificates
		33.13	Late payment
		33.14	Right to Sub-Contractor to suspend the carrying out of the Sub-Contract Works
<b>28</b>		<b>34</b>	
		<b>Surety bond</b>	59
		Sub-Contractor to obtain guarantee from insurance company or bank	
	47	<b>35</b>	
28.1		<b>Benefits under Main Contract</b>	60
28.2		Contractor to obtain rights and benefits under Main Contract for Sub-Contractor	
28.3			
28.4			
28.5			
<b>29</b>			
	50		
29.1			
29.2			
29.3			
<b>30</b>			
	51		
<b>Nominated Suppliers</b>			
Prime Cost Sums			

	<i>PAGE</i>		<i>PAGE</i>
<b>36 Determination by Contractor</b>	60	42.8 The place of arbitration	
36.1 Default by Sub-Contractor		42.9 Related dispute between parties to Main Contract	
36.2 Insolvency of Sub-Contractor		42.10 Sub-Contractor to continue to proceed diligently	
36.3 Contractor's rights upon notice of default or determination			
36.4 Consequences of determination		<b>43 Contractor to join with the Sub-Contractor in arbitration proceedings</b>	71
36.5 Quantity Surveyor to prepare final account		Contractor to join with the Sub-Contractor in arbitration proceedings	
36.6 The final settlement			
36.7 Other rights and remedies			
<b>37 Determination by Sub-Contractor</b>	64	<b>Appendix</b>	72
37.1 Default by Contractor		<b>Appendix to the Main Contract Conditions</b>	73
37.2 Insolvency of Contractor		<b>Schedule 1</b>	74
37.3 Consequences of determination		Form of Surety Bond to be given by the Nominated Sub-Contractor to the Contractor	
37.4 Sub-Contractor to submit final account			
37.5 The Quantity Surveyor to check final account		<b>Schedule 2</b>	78
37.6 The final settlement		Form of Warranty to be given by the Nominated Sub-Contractor to the Employer in consideration of Nomination	
37.7 Other rights and remedies			
<b>38 Determination of the Contractor's employment under the Main Contract</b>	67	<b>Index to the Sub-Contract General Conditions</b>	
38.1 Determination of Contractor's employment by Employer			
38.2 Determination of Contractor's employment by Contractor			
<b>39 Fluctuations</b>	67		
39.1 Fluctuation provisions only applicable if expressly stated to be			
39.2 Adjustment for fluctuations occurring after the Completion Date			
<b>40 Notices, certificates and other communications</b>	67		
Submission of notices, certificates and other communications			
<b>41 Recovery of money due to the Contractor</b>	68		
Contractor's power to recover damages etc.			
<b>42 Settlement of disputes</b>	68		
42.1 Procedures and Designated Representatives			
42.2 Reference to Designated Representatives			
42.3 Reference to mediation			
42.4 Reference to arbitration			
42.5 Timing of arbitration			
42.6 Architect's decision			
42.7 Arbitrator's powers			