

Candidate Number:
Seat Number:

Section II

Essay Questions

The HKIA/ARB Professional Assessment 2021

Paper 2

Building Contracts, Professional Practice, Professional Conduct & Conditions of Agreement

16 November 2021

9:00 am – 1:00 pm (4 hours, whole paper)

Venue

Rotunda 3, 6/F

Kowloonbay International Trade & Exhibition Centre (KITEC)

Kowloon Bay

Section II (45 marks) :

Essay Questions (pages 1 – 6)

A total of *three* questions are to be answered.

Question 1 is compulsory (15 marks).

Answer *two* out of Questions 2, 3 and 4 (15 marks each).

Time recommended for this section : 1 hour 45 minutes

Notes:

1. The answer scripts will only be collected at the end of the whole paper. Please place them in the **top right-hand corner** of your desk for collection.
2. Three answer books are provided. You should use a **blue/black** ink pen, a felt pen or a ball pen to write your answers.
3. Please use a **separate** answer book for **each essay question** with mark the relevant question number on the cover of the answer book. For essay question number 1, please answer **each part** on a **separate** answer book.
4. Remember to write your **candidate number and room/seat number** on the answer books, including all the appendices forming parts of your answers, and also on the question paper.
DO NOT write your name on the answer books.

PAPER 2 SECTION II – ESSAY QUESTIONS

PART A : Question 1 (Compulsory Question – 15 marks)

Question 1a (5 marks)

Architect X is working on a new school development and has just completed Work Stage D – Project Design. However, he needs to resign from the project due to illness, and the Client approaches Architect Y to carry out the remaining works.

- (i) In terms of appointment of consultancy services, what will be the course of action for Architect Y to take over the project? (3 marks)
- (ii) Architect Y is now engaged in the project. After he has obtained the approval of General Building Plans (GBP), the Client has new thoughts on the building design and requests for another GBP submission to test the new design scheme. Architect Y wants to ask for reimbursement for the new GBP submission. (2 marks)

Explain briefly on what basis should Architect Y charge the Client for the works related to the new GBP submission.

Question 1b (5 marks)

The Developer of a single-block residential project is dissatisfied with the performance of the Authorized Person - Architect, who is a member of the HKIA. The Developer alleges that: (5 marks)

- The Architect recommended a list of contractors, whom he had worked with in other projects, for the main building contract. He did not check the financial background and past performance of these contractors. Because of such, the Contractor appointed was incompetent;
- Only an architectural graduate from the Architect's firm attended regular project / site meetings, and the Contractor's requests for information and submissions of shop drawings were not promptly and competently handled.

As a result, the project was seriously delayed and the budget was exceeded due to the Contractor's claims for extension of time and additional costs.

Explain how you would consider whether the Architect may have acted improperly, by referring to relevant rules and clauses of the HKIA Code of Professional Conduct.

Question 1c (5 marks)

Architects F and G have been working in the same architectural firm. In a recent residential building project, F crosschecked all the related procurement documents and the background of Contractor A. It was found that G, who took charge of the tendering exercise through which Contractor A was engaged, was in fact one of the proprietors of the company.

F revealed her findings to G, who admitted that she had fabricated quotations of other tenderers so that Contractor A could get the business at the lowest bid in disguise. G claimed that the contract had already been awarded and she pleaded F to turn a blind eye to it. G subsequently transferred 2% rebate of the contract sum to the bank account of F, who later found out the money but took no further action.

- (i) Under what offence and which ordinance may have F and G committed? Why? (3 marks)
- (ii) Elaborate the major factors that F should have considered ethically when handling the whole incident. (2 marks)

PART B : Answer TWO out of THREE questions (Questions 2, 3 & 4) – 30 marks

Question 2 (15 marks)

- (i) You are the Architect of a 3-storey single family house. After the design has been agreed, the project team proceeds to tender stage of the Main Contract.

Your Client asks for your recommendation in the form of contracts to be adopted. Please advise which of the following will be suitable for this project, and elaborate with reasons.

- a) Tailor-made contract conditions, compared with Standard Form of Contract (4 marks)
- b) Remeasurement Contract, compared with Lump Sum Contract (4 marks)
- (ii) Eventually, it is agreed to adopt Lump Sum Contract without Quantities. During tender documentation stage, the Client requests you to reduce the length of an architectural feature to half. You have amended the tender drawings but the Schedule of Quantities and Rates reflects the old design. The Contract is finally awarded and signed with discrepancy between the tender drawings and the Schedule of Quantities and Rates.
- a) Your client insists that half of the value of the architectural feature shown in the Schedule of Quantities and Rates should be deducted. What should you do? Please explain to your Client on your decision. (3 marks)
- b) Will your answer in (ii)(a) above be different if Lump Sum Contract with Bills of Quantities is adopted for this Contract? Discuss what you would advise the Client in this case. (3 marks)
- c) If the discrepancy between the Bills of Quantities and the tender drawings is discovered before tender return, what is your suggested action? (1 mark)

Question 3 (15 marks)

You are the Architect of a redevelopment project which is situated on a site with a lot of existing underground utilities. Diversion of these underground utilities is within the scope of the Contractor. During submission of the master programme at contract commencement in early 2019, in order to allow more buffer time, you commented that the diversion works should be started earlier and finished by end 2019. Despite your repeated reminders, the Contractor ignored your comment and insisted this was not on the critical path of the overall Works.

The Contractor finally finished the diversion works in end 2020 when unfortunately there was an outbreak of COVID-19 pandemic. Inspection of the completed diversion works was delayed for 3 months because of work-from-home arrangement of the government authorities in end 2020. If the Contractor had followed your comment, the diversion works would have been completed before the pandemic. This delay had a knock-on effect to the subsequent site activities and led to an overall delay of 3 months to the Contract.

The Contractor now claims for an Extension of Time (EOT) for 3 months, arguing that the extra time of 3 months for inspection by the government authorities was not reasonably foreseen.

- (i) Discuss the Contractor's obligation in following the Architect's comment on the submitted master programme. (4 marks)
- (ii) Do you consider the delay to be a default of the Contractor or not? Please give reasons. (4 marks)
- (iii) Apart from (ii) above, discuss two other important factors that you will consider in the assessment of the Contractor's EOT claim. (4 marks)
- (iv) If the work-from-home arrangement has been occurring a few months before the commencement of the utility diversion works, would you consider granting EOT to the Contractor? Why? (3 marks)

Question 4 (15 marks)

A contract for A&A works at various locations in a shopping mall based on the Standard Form of Building Contract without Quantities (2006 Edition) has been awarded. The Contractor reports to the Architect that the following discrepancy is found:-

- The Ground Floor Layout Plan indicates replacement of granite flooring at an area of the arcade (hereafter called "the subject area"), showing paving pattern and setting out of new granite floor tiles and an annotation that reads "new granite tiles to replace existing".
- It is stated in the scope of work of the contract that the sites of the Works are indicated on a Phasing Plan and the possession of site shall be given in phases as indicated. In the Phasing Plan, the subject area is not highlighted as a site to be given possession.

The Architect admits that the subject area has been missed out in the Phasing Plan. The Contractor claims that granite flooring replacement works at the subject area is a variation to the contract since it is not included in the Phasing Plan.

- (i) Discuss whether the Contractor's claim that the granite flooring works at the subject area is a variation is sound and state your reasons. (6 marks)
- (ii) Under the Contract, is the Architect empowered to revise a Phasing Plan and the phasing of the Works? Would such revision incur any implication to the Contract in this case? (5 marks)
- (iii) Following your opinion on (i) & (ii) above, what are the Architect's actions to resolve the matter? Which condition(s) of the Contract would be relevant? (4 marks)

END OF PAPER