

Candidate Number:
Seat No.:

<h2>Section II</h2> <p>Short Essay Questions</p>
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The HKIA/ARB Professional Assessment 2013

Paper 2

Building Contracts & Professional Practice, Professional Conduct & Conditions of Agreement and Scale of Charges

20 November 2013

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

11:15 am – 1:00 pm (Section II only)

Venue

Rotunda 2, 3/F

Kowloonbay International Trade & Exhibition Centre (KITEC)

Kowloon Bay

Section II (45 marks):

Short Essay Questions (pages 1 – 4)

A total of 3 questions are to be answered.

Part A Compulsory Question, answer Question 1 (15 marks).

Part B Answer 2 questions out of 3 (Questions 2, 3 & 4) (15 marks each).

Time allowed: 1 hour 45 minutes

Notes:

1. 3 answer books are provided for you.
2. Please attempt each question on a **separate** answer book and mark the question numbers you attempt on the answer book.
3. Remember to write your candidate number and room/seat number on the answer book and question paper. DO NOT write your name on the question paper and answer books.

Paper 2 Section II – Short Essay Questions (Compulsory Question – 15 marks)

PART A: Question 1

1a. CONDITIONS OF ENGAGEMENT

Architect X has made four GBP submissions to BD for approval but still could not get the first approval. The client was so upset and decided to terminate the services with Architect X. The client is going to engage Architect Y to carry out the remaining works.

- i. Please advise up to what stage of works can Architect X claim for his professional fee and why. (2 marks)
- ii. What else does the client need to observe and do if he is going to engage Architect Y for the remaining works? (3 marks)

1b. CODE OF PROFESSIONAL CONDUCT

A developer invited Architect Mr K to submit a fee proposal and Mr K gave a figure which would barely cover staff's salaries and administration cost because he eagerly wanted to cultivate relations with a new client. Afterwards, Mr K received a call from the developer, saying that another firm, BBA Design Ltd, had submitted a lump-sum fee equal to 70% of what he had proposed and asked him to consider a discount.

In the end Mr K revised his fee to 10% below that of BBA, made possible by cutting down on professional staff while outsourcing production of working drawings, and was awarded the project. Later, he also succeeded in convincing the developer to include CCD Ltd, a construction firm headed by his wife's cousin, in the list of tenderers for the main contract without declaring possible conflict of interest.

Please comment on Mr K's behaviour by referring to principles in the HKIA Code of Professional Conduct. (5 marks)

1c. CORRUPTION PREVENTION

Peter was an architect of a consultant firm responsible for selecting contractor to conduct the renovation project for a residential estate. A contractor, John, offered \$10k to Peter for his assistance in awarding the contract to John's company. Is there any breach of the Prevention of Bribery Ordinance by Peter and John? Please use the four major elements of a corruption offence to support and explain your answer. (5 marks)

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

PART B: Question 2 ARCHITECT'S INSTRUCTION

You are the Architect of a 3-storey single family house.

At a site inspection with your client, your client wanted to add a skylight at the roof.

Upon your finalization of the schematic design, you will issue an Architect's Instruction (A.I.) to the Contractor for the design-and-build of the skylight.

2a. Please draft the content of the said A.I. (3 marks)

2b. Scenario A (2 marks)

After the A.I. in (1) above was issued, the Contractor informed you that all the roof finishes of the original design under contract had been completed. The client confirmed that the skylight had to be built.

What further instruction will you give to the Contractor?

2c. Scenario B (10 marks)

The A.I. mentioned in (1) above was issued at 2 months before Completion Date. The client confirmed that the skylight had to be built.

Discuss and outline the cost and time considerations related to the following options for your client's review:

- (i) Option 1: Do it now
- (ii) Option 2: Do it after Substantial Completion of the original works as A&A works.

PART B: Question 3 EXTENSION OF TIME

The Employer is unhappy with the performance of the Architect because:

- (1) The Employer disagrees with an EOT of 20 days which the Architect intends to grant to the Contractor. The Contractor has claimed 60 days EOT while the Employer wrote privately to the Architect demanding that no EOT should be granted.
 - (2) In the opinion of the Employer the Contract has been seriously delayed due to very poor progress by the Contractor. The Employer has made several requests for the Architect to issue a Notice of Default under GCC 35.1.1 but the Architect is unwilling to do so saying that while the Contractor's progress is poor a Notice of Default is not appropriate. Even if the 20 days EOT is granted to the Contractor it is likely that completion will still be delayed by 110 days.
- 3a. Is the Employer entitled to write to the Architect concerning EOT? (1 mark)
- 3b. If both parties have provided different opinions to the Architect concerning EOT how should the Architect proceed? (2 marks)
- 3c. What important issues arise for the Architect to consider concerning the Employer's request that a Notice of Default be issued? (10 marks)
- 3d. If the Architect does **not** issue a Notice of Default: (2 marks)
- (i) can the Employer do so?
 - (ii) can the Employer proceed to issue a Notice of Determination under GCC 35.1.3 which determines the employment of the Contractor?

PART B: Question 4 MATERIALS, GOODS, WORKMANSHIP AND WORK/SUBSTANTIAL COMPLETION AND DEFECTS LIABILITY

You are the Architect responsible for an interior fitting out project to upgrade all the guest rooms and public areas of a hotel from three star to five star standard. The client wishes the whole project to be completed as soon as possible. Even though the detail design has been almost completed, you have only been able to obtain the client's approval on about half of the wall and floor finishing materials.

- 4a. If the tender is to be issued in two weeks' time and the quantity surveyor is preparing the bills of quantities at the same time based on whatever information available from you, advise how you will deal with those materials not yet approved by the clients in bills of quantities and explain why. (3 marks)
- 4b. During the construction of the project, you discovered several issues as follows. Advise how you will handle them. (6 marks)
- (i) The floor tile at the toilet is of very poor quality and a different colour from that specified by you.
 - (ii) The water-closet you specified is not manufactured anymore and the contractor cannot get it from any supplier.
 - (iii) You suspected that the contractor had not put on any spatter dash behind the wall tiles to the toilet.
- 4c. The clerk of works reported to you that the stone floor at the main entrance is only 20mm thick instead of 30mm as specified. You require the contractor to rectify immediately otherwise the value of such work will be deducted in the interim payment certificate. The Contractor replied that the making good of defects shall be carried out during the Defects Liability Period and that the deduction for this defect work shall have been covered in the retention already and therefore it is a double deduction. Explain how you will respond. (3 marks)
- 4d. During the Defects Liability Period, the Contractor is still reluctant to rectify this defect. Advise what you will do. (3 marks)

END OF PAPER