

Candidate Number:

Room No.:

Seat No.:

<p style="text-align: center;">Section II Short Essay Questions</p>
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HKIA/ARB Professional Assessment 2005

Paper 2 – Part B

Building Contracts and Professional Practice

14 December 2005
10:45 pm to 1:45 pm

Venue

Rooms 102 and 402
Hong Kong Examinations and Assessment Authority
17 Tseuk Luk Street
San Po Kong, Kowloon

Section II Short Essay Questions (pages 1 to 4)

Answer 3 out of the 4 questions (10 marks each, total 30 marks)

Time allowed: 1 hour

THIS SECTION IS COMPULSORY

Notes:

1. *In all cases, the term “Building Contract” shall mean the “Agreement and Schedule of Conditions of Building Contract” and “Standard Form of Building Contract” unless stated otherwise. The characters and circumstances in each question are independent of and should not be correlated to those in other questions.*
2. *Answer each question in a separate answer book and mark the question number on its cover page.*
3. *Write all your answers on the right page. Use the left page only for drafts, or neatly cross out any drafts.*

Answer any THREE (3) questions from Question 1, Question 2, Question 3 and Question 4.

10 marks each

Total 30 marks

Question 1

1 Tender Documents

- 1.1 State the composition of the tender documents for a superstructure contract for a (2 marks) single block office building adopting lump sum Contract without Quantities.
- 1.2 The Architect has sent a set of tender drawings to the Quantity Surveyor for their preparation of Schedule of Quantities and Rates for the tender described in Para. 1.1. A last minute instruction from the Employer requested the Architect to reduce the glass canopy to half of its original length as part of the cost saving exercise. The Architect managed to revise the tender drawings but not the Schedule of Quantities and Rates before the tender was issued. Eventually the contract was signed with full length of canopy worth \$500,000 included in the Schedule of Quantities and Rates.
- A. What is the value of the canopy the Architect shall include in his payment (3 marks) certificates if the Main Contractor has proceeded to construct the canopy in accordance with the contract documents? What is your reasoning behind.
- B. If the above discrepancy between the Schedule of Quantities and Rates and (3 marks) the tender drawings is discovered before the award of the superstructure contract, what is your suggested action?
- C. Discuss the implication if lump sum Contract with Quantities is adopted for this (2 marks) Contract instead and the quantities for the canopy have been inserted in the Bills of Quantities by the Quantity Surveyor for its original length.
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Question 2

2 Practical Completion

- 2.1 What is the meaning of "Practical Completion" under the Standard Form of Building Contract? (2 marks)
- 2.2 What are the contractual implications upon certification of Practical Completion by the Architect? (2 marks)
- 2.3 You were the Architect of a School Extension project for the construction of a new assembly hall with Contract Completion Date set in late August, you had applied an Occupation Permit for the new assembly hall in late July despite the fact that due to Contractor's late ordering of materials, installation of the flooring for the stage and ceiling system had not yet been completed, which remained incomplete even on the date of issue of O.P. by Buildings Department in end August. The Main Contractor urged you to certify Practical Completion and treat the outstanding works as defects since the O.P. had been issued and there was nothing under the Buildings Ordinance to stop the Employer from occupying the new assembly hall. The Employer was also anxious to take possession of the new assembly hall for the new school term which would start in early September.

Under the above circumstances, please discuss the following:

- A. whether you as the Architect should certify Practical Completion under the Standard Form of Building Contract and why? (2 marks)
- B. your advice to the Employer if he intends to occupy the assembly hall and fence off the area to allow the contractor to complete the outstanding works. (2 marks)
- C. your suggested course of action(s) to facilitate the Employer to enable them to occupy the assembly hall at the earliest possible. (2 marks)

Question 3

3 Extension of Time

3.1 It is common to include a Supplementary Condition in the Contract requiring the Main Contractor to submit notices of delay within a specified time as a condition precedent to consideration of their claim for extension of time.

A. What is the purpose of the inclusion of such a term? (3 marks)

B. What would be the practical difficulties encountered when implementing such a term from the respective point of view of both contracting parties? (4 marks)

3.2 It is understood that Clause 23 regarding "Extension of Time" is for the protection of the Employer. The Employer wishes to delete as many neutral events as possible from this Clause of the Conditions of Contract. What would be the implications? (3 marks)

Question 4

4 Programme & Liquidated and Ascertained Damages

4.1 The Lift Sub-Contract has to be tendered out before the Main Contract due to its long lead time required.

In the Lift Sub-Contract tender documents, the lift tenderers are asked to advise the installation period required after the handover of lift shafts and lift machine rooms. This information is subsequently incorporated into the Lift Sub-Contract. However, when the Main Contractor is asked to accept this Sub-Contract, he objects to the nomination due to the fact that with such installation period, the Main Contractor will not be able to complete the Contract Works within the Contract Period.

- A. Can the Main Contractor object the above nomination under this situation? (2 marks)
- B. Advise what the Architect shall respond under this situation. (2 marks)
- C. Suggest alternative contract arrangements to avoid similar situation in future (2 marks) projects.

4.2 Your Client wishes to deduct Liquidated and Ascertained Damages under Clause 22 (2 marks) of the Standard Form of Building Contract based on your verbal report that the work has not been completed on the Date for Completion. What course of action is required from the Architect to enable the Client to exercise his right to deduct Liquidated and Ascertained Damages?

4.3 The Main Contractor alleged that the delay was solely due to the Nominated (2 marks) Sub-Contractor's fault and hence he deducted the Liquidated and Ascertained Damages from the Nominated Sub-Contractor's payment. What is the Architect's duty under the Contract in this situation?

End of Paper 2B