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9. GENERAL OBLIGATIONS 一般責任

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9.1 Statutory obligations 法定責任

9.1.1 The Sub-Contractor shall comply with, give all notices and make all applications required by, any ordinance, regulation, rule or order of the Government or statutory undertakers or utility companies (not falling within the meaning of Specialist Sub-Contractors) applicable to the Sub-Contract Works and shall pay any fees, charges or taxes legally demandable except for those fees, charges or taxes for which the Client-Contractor is legally responsible.

9.1.1 分包商必須遵從政府、法定承辦機構或公用事業公司（不屬於其他承包商者）的、適用於本分包工程的、任何法條、規例、規則或命令，提交所需的所有通知和申請，並繳交法定的任何費用、收費或稅款，但上家承包商有法定責任繳交的費用、收費或稅款除外。

9.1.2 If either of the Contract Parties pay fees, charges or taxes on behalf of the other party, then the paying party may recover from the liable party the amount paid plus 10% for administrative charges, without further adjustment to the prices allowed in this Sub-Contract for the like liability.

9.1.2 如合同任何一方代另一方繳交了費用、收費或稅款，付款方可從責任方取回有關款項另加10%行政費，而本分包合同內履行有關責任的價款不變。

9.1.3 If the Sub-Contractor considers that a change to the Sub-Contract Works is necessary to comply with any statutory requirement, he shall give a written notice specifying the change to the Client-Contractor. If the Sub-Contractor does not receive any instructions from the Client-

Contractor within 7 days of having given such a written notice, he shall proceed with the change, which shall be deemed to be a Variation.

9.1.3 如分包商認為有需要改動分包工程以符合任何法例規定，則須書面說明改動的地方，通知上家承包商。如分包商在發出該書面通知7日內仍未收到上家承包商發出的任何指示，則須進行改動，此舉視為變更。

9.2 Intellectual property 知識產權

The prices for all work shall be deemed to include for all royalties, license fees or other sums legally demandable for the use of intellectual property in respect of the design or design development for which the Sub-Contractor is responsible, materials, plant, methods or anything whatsoever used in carrying out the Sub-Contract Works. The Sub-Contractor shall indemnify the Client-Contractor against any claim involving an infringement or alleged infringement of intellectual property rights.

所有工作的價款皆視為已包括，執行分包工程需要的設計或深化設計(分包商負責的)、物料、機械、方法或任何其他事物，而使用到的知識產權所涉及的合法要求的專利權使用費、特許費用或其他款項。分包商須保障上家承包商免受侵犯或涉嫌侵犯知識產權的任何申索。

9.3 Assignment 轉讓

The Sub-Contractor shall not assign this Sub-Contract without the written consent of the Client-Contractor.

未得上家承包商書面同意，分包商不可轉讓本分包合同。

9.4 Care of Works 工程的保護

The Sub-Contractor shall take responsibility for the care of the work within a Sub-Contract Works Section, materials supplied by him or persons for whom he is responsible for incorporation into the work, and materials supplied by the Client-Contractor and handed over to the Sub-Contractor or persons for whom his is responsible for incorporation into the work, except for loss or damage arising from the Excepted Risks, from commencement of the Sub-Contract Works Section until the work or materials are incorporated into the Client-Contract Works or 14 days after the determination of the employment of the Sub-Contractor, whether valid or not, whichever is the earlier.

除了免責風險所引致的損失或破壞外，從開展分包工程分部，直至工作或物料結合於上家承包工程時或終止僱用本分包商已滿14天(不論是否有效)，以較早者為準，分包商須就分包工程分部、由分包商或他負責的人士供應予以結合於工作的物料、及上家承包商供應並交付給分包商或他負責的人士予以結合於工作的物料，承擔保護責任。

9.5 Injury to persons and property and indemnity 人身財產的損傷和保障

Without prejudice to Clause 9.4, the Sub-Contractor shall be liable for and shall indemnify the Ultimate Client, Upper-tier Contractors, Client-Contractor and their respective sub-contractors against any damage, expense, liability or loss in respect of any claims or proceedings for:

在不影響第9.4條的同時，分包商須負責，及保障最終項目委托方、再上層承包商、上家承包商及其各自分包商免受，下列事宜有關的，任何申索或法律程序引起的任何破壞、支出、責任或損失：

- (a) bodily injury to, disease contracted by or the death of any person arising out of, or in the course of, or by reason of the carrying out of the Sub-Contract Works and whether arising on or off the Site, except for those due to any act or neglect of the Client-Contractor or any person for whom the Client-Contractor is responsible; and

(a) 因執行本分包工程而引起、或期間發生、或導致的任何人身損傷、疾病或死亡，不論發生於工地內或外，但上家承包商或他負責的任何人的行為或疏忽所引致的除外；及

(b) loss or damage to real or personal property arising out of, or in the course of, or by reason of the carrying out of the Sub-Contract Works and whether arising on or off the Site, due to a breach of contract or other default of the Sub-Contractor or any person for whom the Sub-Contractor is responsible.

(b) 因執行本分包工程而引起、或期間發生、或導致的任何物業或個人財產損失或破壞，不論發生於工地內或外，只要是分包商或他負責的任何人的違約或其他過失所引致的。

9.6 Provision of all things necessary 提供一切必需的

The Sub-Contractor shall provide all labour, materials, temporary site facilities, site and head office management necessary for the completion of the Sub-Contract Works.

分包商須提供完成本分包工程所需的所有人力、物料、現場臨時設施及工地和公司的管理服務。

9.7 Labour and site management team 人力及現場管理班子

9.7.1 The labour provided by the Sub-Contractor shall be adequate in number, of the appropriate trades, skillful and competent in their respective callings, and managed by a site management team consisting of foremen, supervisors, co-ordinators, safety officers, etc. and headed by a site manager full-time on site authorized and able to communicate and attend meetings with and take instructions from the Client-Contractor and capable of managing the Sub-Contract Works and making decisions. The personnel of the site management team shall be approved by the Client-Contractor and shall not be replaced without the consent of the Client-Contractor.

9.7.1 分包商提供的人力須有足夠數量、從事適當工種、熟練和勝任各自的職務，由包括有管工、監工、統籌員、安全主任等人士的現場管理班子所管理，並由全職派駐現場、獲授權及能夠與上家承包商溝通、開會、接受指示、及有能力管理本分包工程及做決定的工地經理所領導。現場管理班子的人員須得上家承包商批准，未得上家承包商同意不能更換。

9.7.2 The Sub-Contractor shall employ upon the Sub-Contract Works only those persons legally employable in Hong Kong. If the Sub-Contractor employs in whatever manner illegal immigrants, he shall be liable for any consequences of such offence at law so caused to himself, the Client-Contractor, the Upper-tier Contractors, the Ultimate Client and his consultants.

9.7.2 分包商只可聘用可合法在香港工作的人士於本分包工程。如分包商用任何形式聘用非法勞工，他須承擔因此觸犯法例而對他自己、上家承包商、再上層承包商、最終委託方及其顧問所引起的一切後果。

9.7.3 The persons employed upon the Sub-Contract Works shall not live on the Site, except for watchmen approved by the Client-Contractor. They shall be properly equipped with tools, safety belts, safety helmets, safety appliances, and shall wear proper uniforms and bear identification cards. Illegal immigrants shall not be allowed to enter the Site.

9.7.3 受僱於本分包工程的人士，除得到上家承包商認可的看守員外，他們不可在工地居住。他們須獲得妥善配備各項工具、安全帶、安全帽、安全用具，並須穿著合適制服和配戴證件。不可容許非法入境人士進入工地。

9.7.4 The Client-Contractor may require the replacement of any person employed upon the Sub-Contract Works who in the opinion of the Client-Contractor misconducts himself or is incompetent or negligent in the proper performance of his duties with a suitable substitute at no extra cost and time to this Sub-Contract.

9.7.4 上家承包商可要求以合適的替補人士取代他認為行為失當、不勝任或疏於職守的受僱於本分包工程的任何人士，而無須對本分包合同給予額外費用及時間。

9.8 Payment management to employees of all tiers 各層僱員的付款管理

The Sub-Contractor shall himself and ensure his sub-sub-contractors of all tiers pay to the employees all wages, subsidies and reimbursable according to the employment contracts, and require both parties to contribute to the mandatory provident funds. If the Sub-Contractor fails to comply with these requirements, the Client-Contractor is entitled to pay on his behalf the amounts in arrear and recover the same from the Sub-Contractor. The Sub-Contractor shall comply with the requirements of the Client-Contractor in connection with the keeping and submission of daily labour records, wage payment records, mandatory provident fund contribution records, etc.

分包商須自己及確保他各層再分包商按聘用合同按時支付工人工資、補貼及墊支費用，並要求雙方按法例按時繳交強積金供款。如分包商未能完全執行這些要求，上家承包商有權代為支付拖欠的金額，並向分包商討回。分包商遵從上家承包商關於保存及提交每天的工人出勤記錄、發薪記錄、繳交強積金供款記錄的規定。

9.9 Temporary site facilities 現場臨時設施

The temporary site facilities provided by the Sub-Contractor shall be adequate and appropriate for the intended purposes, safe and secured, causing minimum nuisance, placed at positions approved by the Client-Contractor, up-kept and maintained regularly in good conditions with minimum downtime, relocated as necessary to suit the progress and need of the Sub-Contract Works, and removed from the Site when no longer required.

分包商提供的現場臨時設施必須充足和合乎意向用途、安全穩固、構成最小滋擾、放置於上家承包商批准的位置、以最少停工時間進行定期保養及維修至良好狀態、配合分包工程進度和要求而作需要的遷移、及在不再需要時移離地盤。

9.10 Setting out 開線定位

The Sub-Contractor shall ensure that the Sub-Contract Works are constructed at the correct positions as shown on the Sub-Contract Drawings or further drawings issued by the Client-Contractor after the award of this Sub-Contract. The Client-Contractor shall provide principal setting out points and lines to the Sub-Contractor. The Sub-Contractor shall properly set out further lines and levels for the Sub-Contract Works, and provide instruments for the Client-Contractor to verify the setting out lines and levels or as-constructed positions if so required by the Client-Contractor. Such verification shall not relieve the Sub-Contractor of his obligation to construct at the correct positions.

分包商須確保分包工程建於分包合同圖紙或上家承包商定本分包合同後發出的附加圖紙所示的正確位置上。上家承包商須向分包商提供主要定位基準點和綫。分包商須為本分包工程適當正確地定出附加墨綫及平水，並在上家承包商提出時，向上家承包商提供器械以驗證定出的墨綫平水或竣工位置。此驗證工作將不會免除分包商於正確位置進行構築工作的責任。

9.11 Cleanliness and tidiness 清潔及整齊

The Sub-Contractor shall keep his working areas and the Sub-Contract Works clean and tidy with minimum accumulated rubbish at all times.

分包商須時刻保持他的施工區域及分包工程清潔和整齊，盡少積聚垃圾。

9.12 Protection 保護

Without prejudice to Clauses 9.4 and 9.5, the Sub-Contractor shall take every care and safety precaution necessary to protect all persons and properties, including but not limited to the

following, from injury, disease, death, loss, damage, nuisance, fire hazard, etc. caused by reason of the carrying out of the Sub-Contract Works:

在不影響第9.4及9.5條的同時，分包商須採取每一謹慎及安全防範措施，去保護（包括但不限於下列之）所有人士及財產，免受就執行本分包工程所引致損傷、疾病、死亡、損失、破壞、滋擾、火災危險、等：

- (a) all workers or other persons on the Site;
(a) 工地內所有工人或其他人士；
- (b) all occupiers or users in the vicinity of the Site;
(b) 工地鄰近所有佔用人或使用人；
- (c) the public;
(c) 公眾人士；
- (d) the Sub-Contract Works, materials for incorporation into the Sub-Contract Works, construction plant or temporary buildings used for the Sub-Contract Works;
(d) 分包工程、準備結合於本分包工程之物料、用於本分包工程之施工機械或臨時建築物；
- (e) existing building construction, finishes, fittings, services within the Site which are not to be modified under this Sub-Contract;
(e) 工地內不受本分包合同改動之原有建築物、裝飾、裝置、機電系統；
- (f) roads, loading and unloading points, temporary parking spaces, footpaths, corridors, staircases and lifts;
(f) 道路、裝卸地點、臨時泊車位、行人路、走廊、樓梯及升降機；
- (g) the premises where the Site is situated;
(g) 工地座落之處所；
- (h) adjoining properties;
(h) 毗鄰財產；
- (i) public properties, public roads and footpaths;
(i) 公眾財產、公用道路及行人路；
- (j) properties of the Public Utility Service Companies; and
(j) 公用事業公司之財產；及
- (k) existing trees and shrubs.
(k) 原有樹木及灌木。

9.13 Safety measures 安全措施

The Sub-Contractor shall implement safety measures in compliance with statutory requirements or as may be specified in the Sub-Contract.

分包商須實施法定要求的或本分包合同規定的安全措施。

9.14 Environmental protection measures 環保措施

The Sub-Contractor shall implement environmental protection measures in compliance with statutory requirements or as may be specified in the Sub-Contract.

分包商須實施法定要求的或本分包合同規定的環保措施。

9.15 Visitors 訪客

The Sub-Contractor shall not allow any unauthorized visitors on the Site. He shall require his authorized visitors to register on the visitors' book upon entering and leaving the Site and provide safety helmets and other necessary safety devices for such visitors.

分包商不可容許任何未獲授權的訪客進入工地。分包商須要求獲授權的訪客在進入和離開工地時在訪客登記冊登記，並為該等訪客提供安全帽及其他適當的安全配置。

9.16 Prevention of bribery offences 保密資料

The Sub-Contractor shall not use or divulge, except for the purpose of the Sub-Contract, any information provided by the Client-Contractor under the Sub-Contract or in any subsequent correspondence or documentation. Any disclosure to any person or agent or sub-sub-contractor for the purpose of the Sub-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 Sub-Contract. The Sub-Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that information is not divulged for purposes other than that of this Sub-Contract by such person, agent or sub-sub-contractor.

除為本分包合同目的外，分包商不得使用或洩露上家承包商在本分包合同或任何隨後通訊或文件中提供的任何資料。就本分包合同而言，向任何人士或代理人或再分包商所披露的任何資料須嚴格保密，並須按“需要知道”的基準披露，且在為本分包合同的目的而必需的範圍內披露。分包商須採取所有必要措施（包括在適當情況下透過紀律守則或合同條款），確保該等人士、代理人或再分包商不會就本分包合同以外的目的而洩露該等資料。

9.17 Prevention of bribery 防止賄賂

The Sub-Contractor shall prohibit his employees, agents, and sub-sub-contractors who are involved in this Sub-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 Sub-Contract.

在開展與本分包合同有關的業務時，分包商須禁止其參與本分包合同的僱員、代理人及再分包商提供、索取或接受《防止賄賂條例》（香港法例第201章）所定義的任何利益。

9.18 Declaration of Interest 申報利益

9.18.1 The Sub-Contractor shall require his employees, agents and sub-contractors who are involved in this Sub-Contract to declare in writing to the Sub-Contractor any conflict or potential conflict between their personal/financial interests and their duties in connection with this Sub-Contract. In the event that such conflict or potential conflict is disclosed in a declaration, the Sub-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.

9.18.1 分包商須要求其參與本分包合同的僱員、代理人及再分包商以書面方式向分包商申報其個人 / 財務利益與他們與本分包合同有關的職責之間的任何衝突或潛在衝突。若該等衝突或潛在衝突已在申報中披露，則分包商須立即採取必要的合理措施，盡可能緩解或消除所申報的衝突或潛在衝突。

9.18.2 The Sub-Contractor shall prohibit his employees who are involved in this Sub-Contract from engaging in any work or employment other than in the performance of this Sub-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 Sub-Contract. The Sub-Contractor shall also require their sub-contractors and agents to impose similar restriction on their employees by way of a code of conduct or contractual provisions.

9.18.2 分包商須禁止其參與本分包合同的僱員參與本分包合同外的任何工程或工作（無論有無薪酬），如該等工程或工作會造成或可能引起其個人 / 財務利益與其職責間的

衝突。分包商亦須要求其再分包商及代理人以紀律守則或合同條款的方式對其僱員施加類似限制。

9.18.3 The Sub-Contractor shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that his employees, agents and sub-contractors are aware of the prohibitions in this clause.

9.18.3 分包商須採取所有必要措施（在適當情況下包括以紀律守則或合同條款的方式）確保其僱員、代理人及再分包商了解本條款中的規限。

一般責任 (last edited 2011-06-03 08:51:02 by KCTang)