

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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SUB-CONTRACT AGREEMENT 分包合同協議

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This Agreement 本協議

read in conjunction with the Particulars of Agreement hereto is made on the Sub-Contract Signing Date between the Client-Contractor of the one part and the Sub-Contractor of the other part.

須與後附的“協議特定事項”一併閱讀，乃由一方的“上家承包商”與另一方的“分包商”於“合同簽訂日”訂立。

Recitals 引言

Whereas: 鑒於:

Recital 1: The Client-Contractor has obtained a contract to execute the whole or part of the Project ("Client-Contract Works") invested by the Ultimate Client on the Project Site.

引言1: 上家承包商承包了“最終委託方”在“項目地址”投資的項目的全部或部份 (“上家承包工程”)。

Recital 2: The Client-Contractor wishes to sub-contract out part of the Client-Contract Works ("the Sub-Contract Works").

引言2: 上家承包商希望將“上家承包工程”的一部份 (“分包工程”) 分包出去。

Recital 3: The Client-Contractor has provided the Sub-Contractor with the Tender Documents showing and describing the whole of the Sub-Contract Works to be done.

引言3: 上家承包商已向分包商提供繪述及說明要造的整個分包工程的“招標文件”。

Recital 4: The Sub-Contractor has submitted a tender ("the Tender") based on the Tender Documents (as may be modified by any tender addenda issued by the Client-Contractor to the Sub-Contractor prior to the submission of the Tender).

引言4: 分包商按照招標文件 (或經上家承包商在回標前發給分包商的任何“招標文件修改通知”修訂) 提交了投標 (“投標”)。

Recital 5: To the extent that the Client-Contractor and the Sub-Contractor ("the Contract Parties") have after the submission of and before the acceptance of the Tender further clarified or adjusted the

requirements of the Tender Documents and the proposals in the Tender, such clarifications or adjustments have been exchanged in writing.

引言5: 上家承包商及分包商 (“合同雙方”) 於投標之後定標之前需要進一步澄清或調整招標文件的要求及投標內的建議的, 該等澄清或調整已進行了書面交換。

Now現在

the Contract Parties hereby agree as follows:

合同雙方僅此同意如下:

Article 1: Object of this Sub-Contract 約章一:本分包合同的標的

The Sub-Contractor will carry out and complete the Sub-Contract Works shown or described in the Sub-Contract Documents defined in Article 4.1 hereof for the consideration hereinafter provided.

分包商會以後述的代價進行及完成約章4.1所指的合同文件所繪述或說明的本分包工程。

Article 2: Sub-Contract Price 約章二:分包合同價款

The Client-Contractor will pay to the Sub-Contractor the Sub-Contract Price stated at Item 20 of the [Particulars of Agreement](#), or such other sum as shall become payable at the times and in the manner stated in this Sub-Contract.

上家承包商會付給分包商協議特定事項第20項注明的“分包合同價款”, 或按本分包合同規定的時間及方式而應支付的其他金額。

Article 3: Sub-Contract Periods 約章三:分包合同工期

The Sub-Contractor will complete the Sub-Contract Works Sections within the respective Sub-Contract Period or Periods or such extended period or periods as may be authorized under this Sub-Contract.

分包商會在每個“分包工程分部”各自的“分包合同工期”內或按本分包合同授權延長的工期內完成每個“分包工程分部”。

Article 4: Sub-Contract Documents 約章四:分包合同文件

4.1 The documents constituting this Sub-Contract (“the Sub-Contract Documents”) consist of the following:

4.1 構成本分包合同的文件(“分包合同文件”)包括以下的:

- (a) this Sub-Contract Agreement (including the [Particulars of Agreement](#));
- (a) 本分包合同協議(包括協議特定事項);
- (b) the Tender Correspondence;

(b) 投標來往函件；

(c) the Sub-Contract Conditions and Appendix A both annexed hereto as may be modified by the Special Sub-Contract Conditions included in the Tender Documents; and

(c) 後附的分包合同條款及附件A（或經招標文件內的“特殊分包合同條款”修訂）；及

(d) the Tender Documents as completed by the Sub-Contractor when submitting the Tender.

(d) 分包商提交投標時填妥的招標文件。

4.2 Three sets of the Sub-Contract Documents are signed. One set contains the originals and the two sets are duplicates. The original is to be kept by the Client-Contractor and the duplicates are to be kept each by the Client-Contractor and the Sub-Contractor.

4.2 簽署的分包合同文件两套。壹套含正本，壹套乃副本。正本由上家承包商保存。副本由分包商保存。

4.3 This Sub-Contract shall be deemed to have taken effect from the Sub-Contract Award Date.

4.3 本分包合同視為於“分包定標日”生效。

Attestation 簽認

Signed by both Contract Parties before witness(es):

合同雙方於見證人前簽署：

The Client-Contractor 上家承包商 _____

Company Chop (if company) 公司印鑒(若是公司) _____

Signature of legal or authorized representative 法定或獲授權代表簽署 _____

Name 名稱 _____ Position 職位 _____

Signature of witness 見證人簽署 _____

Name 名稱 _____ Position 職位 _____

The Sub-Contractor 分包商 _____

Company Chop (if company) 公司印鑒(若是公司) _____

Signature of legal or authorized representative 法定或獲授權代表簽署 _____

Name 名稱 _____ Position 職位 _____

Signature of witness 見證人簽署 _____

Name 名稱 _____ Position 職位 _____

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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Particulars of Agreement 協議特定事項

Item 項	Entities or Defined Terms 事項或界定的術語	Particulars or Definitions 特定內容或定義
	Project 項目	
1	Project Title 項目名稱	
2	Project Address 項目地址	
3	Ultimate Client 最終委託方	
4	Main Contractor 總承包商	
5	Client-Contract Works (Brief Description) 上家承包工程 (簡要說明)	
	Sub-Contract 分包合同	
6	Sub-Contract Signing Date 分包合同簽訂日	
7	Sub-Contract Award Date (being the date of the letter issued by or on behalf of the Client-Contractor awarding this Sub-Contract to the Sub-Contractor) 分包定標日 (即由或代表上家承包商發出的把本分包合同給予分包商的函件的日期)	
8	Sub-Contract Title 分包合同名稱	
9	Sub-Contract Works (Brief Description) 本分包工程 (簡要說明)	
10	Locations of Site (same as the Project Address if not stated)	

	工地的位置(如沒填寫, 即項目地址)		
	Contract Parties 合同雙方	The Client-Contractor and the Sub-Contractor 上家承包商及分包商	
11	Name of the Client-Contractor 上家承包商名稱		
12	Registered Address of the Client-Contractor 上家承包商註冊地址		
13	Name of the Sub-Contractor 分包商名稱		
14	Registered Address of the Sub-Contractor 分包商註冊地址		
	Ultimate Client's Consultants 最終委託方的顧問		
15	Name of the Contract Administrator 合同監理名稱		
16	Name of the Quantity Surveyor 工料測量師名稱		
	Contract Type and Price 合同類型及價款		
17	Contract Type (select only one Yes from the three choices on the right, delete the other choices) 合同類型 (右方三個選擇中選取一個“是”, 刪掉其他的)	Lump Sum Contract 總價承包合同	Yes 是
		Remeasurement Contract 重新計量合同	Yes 是
		Rates Only Contract 純單價承包合同	Yes 是
18	Sub-Contract Price (for Lump Sum Contract or Remeasurement Contract only, leave it blank for Rates Only Contract, Sub-Contract Price for Rates Only Contract to be determined from time to time according to the Sub-Contract Conditions) 分包合同價款 (只適用於總價承包合同或重新計量合同; 純單價承包合同則留空, 純單價承包合同的合同價款按合同條款不時予以確定)	(HK\$_____)	

	Time 時間				
19	Date for Access to the Site 進入工地日期	Portions of the Site 工地的部份		Date 日期	
		:			
		:			
		:			
		:			
		:			
20	Names of Sub-Contract Works Sections 分包工程分部的名稱	Phase / Section / Stage 期 / 部分 / 階段		Description 說明	
		:			
		:			
		:			
		:			
		:			
21	Sub-Contract Periods 分包合同工期	Sub-Contract Works Sections 分包工程分部		Commencement Date (or a mechanism to determine the Commencement Date) 開工日 (或定開工日的機制)	
		Completion Date (or a mechanism to determine the Completion Date) 竣工日 (或定日的機制)		Durations in Calendar Days 日歷天計的工期	
		:			
		:			
		:			
		:			
22	Rate of Liquidated Damages for Delayed Completion (If none or "N/A" stated, general damages apply)	Sub-Contract Works Sections 分包工程分部		Rate HK\$/calendar day 每誤期一日歷天HK\$	

	誤期完工的預定賠償率 (如沒說明或注明“不適用”或“N/A”，則採用非預定賠償額)	:	
		:	
		:	
		:	
		:	
		:	
	Documents 文件		
23	Tender Documents comprising 投標文件包含	(delete “Yes” if not applicable) (如不適用，刪掉“是”)	
	(a) Conditions of Tendering 投標須知	Attached hereto 附於此	Yes 是
		Bound separately and signed 分開釘裝及已簽署	Yes 是
		Not provided 沒提供	Yes 是
	(b) Form of Tender 投標表格	Attached hereto 附於此	Yes 是
		Bound separately and signed 分開釘裝及已簽署	Yes 是
		Not provided 沒提供	Yes 是
	(c) Special Sub-Contract Conditions 特殊分包合同條款	Attached hereto 附於此	Yes 是
		Bound separately and signed 分開釘裝及已簽署	Yes 是
		Not provided 沒提供	Yes 是
	(d) Specification 規範	Attached hereto 附於此	Yes 是
		Bound separately and signed 分開釘裝及已簽署	Yes 是
		Not provided 沒提供	Yes 是
	(e) Pricing Schedules 價目表	Attached hereto 附於此	Yes 是
		Bound separately and signed 分開釘裝及已簽署	Yes 是
		Not provided 沒提供	Yes 是

	(f) Schedule of Drawings 圖紙目錄	Attached hereto 附於此						Yes 是
		Bound separately and signed 分開釘裝及已簽署						Yes 是
		Not provided 沒提供						Yes 是
	(g) Tender Drawings 招標圖紙	As listed in the Schedule of Drawings 如圖紙目錄所列						Yes 是
		Attached hereto 附於此						Yes 是
		Bound separately and signed 分開釘裝及已簽署						Yes 是
		Not provided 沒提供						Yes 是
	(h) Other documents (e.g. tender addenda) 其他文件 (例如招標文件修改通知)							
24	Tender Correspondence (being documents submitted by the Sub-Contractor with the Tender in addition to the Tender Documents and further written exchanges referred to in Recital 4, and accepted by the Contract Parties to form part of this Sub-Contract) 投標來往函件 (即引言4所指及經分包合同雙方接納為本分包合同一部份的分包商投標時已提交的招標文件以外的文件及進一步的書面交換)	Date 日期	Ref. 參考編號	Media 媒介	Type 類型	From 發自	To 致	With Attachments 含附件
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否
								Yes 是 / No 否

						否
		Abbreviations 簡稱:				
	Payment terms 付款辦法					
25	Amount of advance payment 預付款金額					
26	Method of recovery of advance payment 預付款退回的方法					
27	Retention Percentage 保修金的百份率					
28	Maximum Retention 保修金上限					
29	Period for Honouring Payment 付款寬限期					
	Insurances and bond 保險及履約保證					
30	Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險					
	(a) Percentage of professional fees in case of reinstatement 重建時顧問費的百份率	___ %				
	(b) Amount for the removal of debris 殘礫清理保額	\$_____				
	(c) Percentage for escalation clause 工程費上漲百份率	___ %				
	(d) Material Damage insurance excess in respect of each and every occurrence of loss or damage 物質損害保險的每次損失和/或破壞事故的免賠額					
	.. (i) Generally 一般	\$_____				
	.. (ii) Loss of or damage to scaffolding, shuttering, formwork, timbering, screens, fencing and hoardings 棚架 (腳手架)、模板、圍幕、	損失或破壞的___ % of loss or damage				

	圍欄及圍街板的損失或破壞	
	<p>.. (iii) Loss of or damage to the Insured Property caused by water 因水被保險財產受到損失或破壞</p>	<p>___ % of loss or damage 損失或破壞的___ %</p>
	<p>(e) Limit of indemnity for third party liability 第三者責任險的賠償限額</p>	
	<p>.. (i) Generally 一般</p>	<p>\$_____ maximum for any one occurrence but unlimited in the aggregate amount for the period of insurance 每次事故\$_____，但保險期內無限</p>
	<p>.. (ii) Loss or damage arising from subsidence, collapse, vibration, or the weakening or removal of support to any property, land or building 因沉降、倒塌、震動或任何財產或建築物的支撐減弱或移除所引致的損失或破壞</p>	<p>\$_____ maximum for any one occurrence and any one period of insurance 每次事故\$_____，但保險期內無限</p>
	<p>.. (iii) Loss or damage to Principals' properties which are not covered by the Materials Damage section of the insurance 保險單內物質損害保險不保的工程委託方的財產的損失或破壞</p>	<p>\$_____ maximum for any one occurrence and any one period of insurance 每次事故\$_____，但保險期內無限</p>
	<p>(f) Third party liability insurance excess in respect of each and every occurrence of loss or damage 第三者責任保險的每次損失或破壞事故的免賠額</p>	
	<p>.. (i) Generally 一般</p>	<p>\$_____</p>
	<p>.. (ii) Loss or damage arising from subsidence, collapse, vibration, or the weakening or removal of support to any property, land or building 因沉降、倒塌、震動或任何財產或建築物的支撐減弱或移除所引致的損失或破壞</p>	<p>___ % of loss or damage 損失或破壞的___ %</p>
	<p>.. (iii) Loss or damage to Principals' properties which are not covered by the Materials</p>	

	Damage section of the insurance 保險單內物質損害保險不保的工程委託方的財產的損失或破壞	___ % of loss or damage 損失或破壞的___ %
	.. (iv) Loss of or damage caused by water 因水被保險財產受到損失或破壞	___ % of loss or damage 損失或破壞的___ %
	.. (v) Loss of or damage to existing underground services 現存地下管線的損失或破壞	___ % of loss or damage 損失或破壞的___ %
	.. (vi) Loss of or damage to oil filled cable, fibre-optic cable or telephone cable of 4,000 pairs or more 充油電纜、光纖纜或損失或破壞或4000雙或以上的電話幹綫	___ % of loss or damage 損失或破壞的___ %
31	Amount of surety bond (consideration should be given to the amount of advance payment when fixing the amount of surety bond) 履約保證的金額 (確定履約保證的金額時應考慮預付款的金額)	\$_____
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合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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SUB-CONTRACT CONDITIONS 分包合同條款

1. INTERPRETATIONS 釋義

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28. 1.27 Money recoverable from Sub-Contractor 可從分包商取回的款項

1.1 Client-Contractor 上家承包商

"the Client-Contractor" means the person named in the Sub-Contract Agreement who has appointed the Sub-Contractor to carry out and complete the Sub-Contract Works required under this Sub-Contract and who has undertaken to pay the Sub-Contractor for executing the Sub-Contract Works.

“上家承包商”指分包合同協議所點名的，委託分包商按本分包合同執行及完成本分包工程，及支付分包商執行本分包工程的人士。

1.2 Sub-Contractor 分包商

"the Sub-Contractor" means the person named in the Sub-Contract Agreement who has been appointed

by the Client-Contractor to carry out and complete the Sub-Contract Works required under this Sub-Contract.

“分包商”指分包合同協議所點名的，被上家承包商委託按本分包合同執行及完成本分包工程的人士。

1.3 Ultimate Client 最終委託方

"the Ultimate Client" means the person named in the Sub-Contract Agreement who invests and desires to have the construction Project carried out and completed on the Project Site.

“最終委託方”指分包合同協議所點名的，投資希望在“項目地址”的建設項目獲得執行及完成的人士。

1.4 Contract Administrator 合同監理

"the Contract Administrator" means the person appointed by the Ultimate Client and named in the Sub-Contract Agreement, or if he ceases to have authority or capability to act, such other person as may be appointed by the Ultimate Client to administer, on behalf of the Ultimate Client, the execution of the Main Contract between the Main Contractor and the Ultimate Client.

“合同監理”指由最終委託方委託並在分包合同協議點名的，或在他不再有權利或能力辦事時最終委託方另行委託的，代表最終委託方監理最終委託方與總承包商之間的總包合同的執行的人士。

1.5 Quantity Surveyor 工料測量師

"the Quantity Surveyor" means the person appointed by the Ultimate Client and named in the Sub-Contract Agreement, or if he ceases to have authority or capability to act, such other person as may be appointed by the Ultimate Client to value the Main Contract Works.

“工料測量師”指由最終委託方委託並在分包合同協議點名的，或在他不再有權利或能力辦事時最終委託方另行委託的，為總承包工程估值的人士。

1.6 Clerk of Works 工程監督

"the Clerk of Works" means the person or persons appointed by the Ultimate Client or the Contract Administrator on site and acting under the direction of the Contract Administrator to watch, inspect, check, and record the Main Contract Works, any resources, facilities and activities on the Site.

“工程監督”指由最終委託方或合同監理委託，派駐在工地，在合同監理指導下，巡視、檢查、核對及記錄總承包程及工地上任何資源、設施及活動的一個人士或多個人士。

1.7 Main Contractor 總承包商

"the Main Contractor" means the person named in the Sub-Contract Agreement who has been appointed directly by the Ultimate Client to carry out and complete the majority and main portion of the construction Project.

“總承包商”指分包合同協議所點名的，被最終委託方直接委託，執行及完成建設項目的大部份及主要部份人士。

1.8 Upper-tier Contractors 再上層承包商

"Upper-tier Contractors" means contractors at the various tiers of contracting above the Client-Contractor upto and including the Main Contractor.

“再上層承包商”指上家承包商之上直至及包括總承包商的多層承包的承包商。

1.9 Sub-sub-contractors 再分包商

"sub-sub-contractors" means contractors at the various tiers of contracting below the Sub-Contractor.

“再分包商”指分包商之下的多層承包的再分包商。

1.10 Separate Contractors 其他承包商

"Separate Contractor" means persons appointed by the Ultimate Client or Upper-tier Contractors to carry out work, supply materials or provide services in connection with but not forming part of the Client-Contract Works, but excludes any statutory undertaker or utility company carrying out work in pursuance of its statutory obligations and not having a contractual relationship with the Ultimate Client, Upper-tier Contractors or any person for whom Ultimate Client or Upper-tier Contractors is responsible.

“其他承包商”指由發包方或再上層承包商委託，進行或提供與上家承包工程有關但不屬於上家承包工程一部份的工作、物料或服務的人士，但不包括按法定責任進行工作，并與發包方、再上層承包商或任何發包方或再上層承包商應負責的人士沒有合同關係的任何法定承辦機構或公用事業公司。

1.11 Property Manager 物業管理人

"the Property Manager" means the person providing estate, property or facility management services to the premises where the Site is.

“物業管理人”指向工地所在的場所提供屋邨、物業或設施管理的人士。

1.11 Headings 標題

Headings to articles in the Sub-Contract Agreement or headings to clauses in the Sub-Contract Conditions shall be for identification purposes only and shall not be read to restrict or enlarge the scope of application of the articles or clauses under the headings.

分包合同協議內約章的標題或分包合同條款內條款的標題，只給辨認用，而不能解讀為限制或擴大標題下有關的約章或條款的範圍。

1.12 Day and counting of periods 日及期間的計算

A day means a calendar day unless otherwise stated. When counting days, 1 day means 24 hours. Within 1 day means within 24 hours, not within the same day. "Commencing or starting from a certain day" means that certain day is day 1 for counting. "Commencing or starting after a certain day" means the day following that certain day is day 1 for counting.

除另有說明外，“天”或“日”指日曆天。在計算天數時，1天指24小時。在1天內指24小時內，不是指在當天內。“由某天開始”指以該天為第1天起計。“由某天後開始”指以該天之後一天為第1天起計。

1.13 Site 工地

"the Site" means one or more areas or spaces, whether contiguous or not, on plan or on elevation as described in the Sub-Contract Agreement as to be made available by the Client-Contractor to the Sub-Contractor for the Sub-Contractor to carry out and complete the permanent portion of the Sub-Contract Works or for the Sub-Contractor to place his materials and temporary site facilities.

“工地”指在分包合同協議說明會由上家承包商提供，給分包商執行及完成本分包工程永久部份，或給分包商放置他的物料及現場臨時設施的一個或多個地方或空間，無論是否連接的，在平面或在立面的。

1.14 Materials 物料

"Materials" means materials and goods, and includes equipment or machinery for incorporation into the Sub-Contract Works.

“物料”指材料及貨物，並包括結合入本分包工程內的設備或機器。

1.15 Plant 機械

"Plant" means construction plant, equipment or machinery used for carrying out the Sub-Contract Works.

“機械”指為本分包工程施工用的施工機械、設備或機器。

1.16 Temporary site facilities 現場臨時設施

"Temporary site facilities" includes construction plant, tools, implements, safety belts, safety helmets, safety appliances, roads and footpaths, gangways, ladders, working platforms, scaffolding, catch fans, gondola, hoardings, covered walkways, screens, gates, gantries, enclosures, barriers, tarpaulins, safety nets, safety screens, site offices, workshops and storage sheds, sanitary convenience, drainage, telephone, water and electricity supply, lighting, directory and warning signs, planking and strutting, shoring, props, falsework, formwork, refuse bins, etc. all provided on site temporarily for the purpose of execution of the Sub-Contract Works.

“現場臨時設施”包括為執行本分包工程，而在工地臨時提供的，所有施工機械、工具、用品、安全帶、安全帽、安全器械、道路及行人路、跳板、爬梯、工作臺、棚架、挑篷、吊船、圍板、有蓋走道、圍網、閘口、龍門、封板、圍欄、油布、安全水平網、安全圍網，工地辦公室、工房及儲存間、衛生設施、排污、電話、水及電力供應、照明、指示及警告標志、檔板及支撐、支架、支柱、承托架、摸板、垃圾箱、等。

1.17 Sub-Contract Drawings 分包合同圖紙

"the Sub-Contract Drawings" means the Tender Drawings included in the Tender Documents, and any other drawings as may be prepared by the Sub-Contractor and submitted with his Tender and expressly accepted in the Tender Correspondence by the Client-Contractor to form part of this Sub-Contract.

“分包合同圖紙”指包括在招標文件內的“投標圖紙”，及由分包商製備、在投標時一起提交及獲上家承包商在“投標來往函件”中明確接受為本分包合同一部份的其他任何圖紙。

1.18 Sub-Contract Specification 分包合同規範

"the Sub-Contract Specification" means the Specification included in the Tender Documents, and any other specification as may be prepared by the Sub-Contractor and submitted with his Tender and expressly accepted in the Tender Correspondence by the Client-Contractor to form part of this Sub-Contract.

“分包合同規範”指包括在招標文件內的“規範”，及由分包商製備、在投標時一起提交及獲上家承包商在“投標來往函件”中明確接受為本分包合同一部份的其他任何規範。

1.19 Pricing Schedules 價目表

"the Pricing Schedules" means a document (whether it may be called schedule of works, bills of quantities, schedule of quantities and rates, schedule of rates, quotations or other names) included in the Sub-Contract Documents and showing the Sub-Contractor's rates and prices for the execution of the Sub-Contract. “價目表”指包括在分包合同文件內，表示分包商執行分包合同的單價及價款的文件(不論它名叫工程項目清單、工程量清單、數量及單價表、單價表、報價單或是其他名稱)。

1.20 Sub-Contract Rates 分包合同單價

1.20.1 "Sub-Contract Rates" means the rates inserted in the Pricing Schedules as may be modified by the Tender Correspondence.

1.20.1 “分包合同單價”指工程項清單填寫的或經投標來往函件修訂的單價。

1.20.2 A Sub-Contract Rate shall be deemed to include for all labour costs, material costs, plant costs, indirect costs, management costs, overheads, profits, taxes, and costs of all ancillary work and liability indispensably necessary for the item of work to which the Sub-Contract Rate applies, and shall not be adjusted for error made by the Sub-Contractor in building up the Sub-Contract Rate.

1.20.2 分包合同單價被視為包括所有人工費、物料費、機械費、間接費、管理費、營運經費、利潤、稅金及包括為完成分包合同單價適用項目不可或缺的所有附屬工作及責任的費用，並且不會因分包商計算組成合同單價有錯誤而調整。

1.21 Variation 變更

A "Variation" means a change (addition, omission, substitution, alteration, modification, etc.) as instructed

by the Client-Contractor to the design, quality or quantity of the Sub-Contract Works or to the time or manner for carrying out the Sub-Contract Works from that provided for in this Sub-Contract, and includes other events deemed by the Sub-Contract Conditions to be a Variation.

“工程變更”指上家承包商指示的，对本分包合同原来规定的本分包工程的設計、質量或数量或本分包工程施工的時間或方式的变更(增加、減少、代替、修改、更改、等)，包括分包合同條款视为工程變更的其他事件。

1.22 Substantial Completion Certificate 充份竣工證書

"Substantial Completion Certificate" means a certificate issued by the Contract Administrator signifying the completion to his satisfaction of such works section of the Main Contract which includes a Sub-Contract Works Section. It may be called "Practical Completion Certificate" depending on the term used in the Main Contract. In that case, the terms "Substantial Completion Certificate", "substantial completion" and "substantially completed" in this Sub-Contract shall be read as "Practical Completion Certificate", "practical completion" and "practically completed" respectively.

“充分竣工證書”指由合同監理發出的，表示包括分包工程分部的總包工程分部已在他滿意的情況下完成了的證書。視乎總包合同的用詞，它可能稱為“實效竣工證書”。若是如此，本分包合同內“充分竣工證書”及“充分竣工”等詞應分別讀作“實效竣工證書”及“實效竣工”。

1.23 Defects Rectification Certificate 保修完成證書

"Defects Rectification Certificate" means a certificate issued by the Contract Administrator signifying the completion to his satisfaction of rectification of all defects notified by him to be rectified in such works section of the Main Contract which includes a Sub-Contract Works Section. It may be called "Certificate of Completion of Making Good Defects" or "Maintenance Certificate" depending on the term used in the Main Contract. In that case, the term "Defects Rectification Certificate" in this Sub-Contract shall be read as "Certificate of Completion of Making Good Defects" or "Maintenance Certificate", as the case may be.

“保修完成證書”指由合同監理發出的，表示包括分包工程分部的總包工程分部，已在他滿意的情況下完成修補了被他通知修補的缺陷的證書。視乎總包合同的用詞，它的中英文名稱可能有另外的叫法。若是如此，本分包合同內“保修完成證書”一詞應讀作相應的叫法。

1.24 Excepted Risks 免責風險

"Excepted Risks" means:

“免責風險”指：

(a) any consequence of war (whether war be declared or not) in which Hong Kong is actively engaged, the invasion of Hong Kong, acts of terrorists in Hong Kong, civil war, rebellion, revolution or military or usurped power in Hong Kong, riot, commotion or disorder in Hong Kong other than amongst the employees of the Sub-Contractor or any person for whom the Sub-Contractor is responsible;

(a) 香港積極投入戰爭（無論是否已宣戰）、香港被入侵、恐怖份子在香港行動、香港發生內戰、叛亂、革命或軍事或奪權力量，香港發生暴動、騷亂或混亂（分包商或分包商應負責的任何人士的僱員

之間的除外) 的任何後果;

(b) any direct consequence of the faulty design provided by the Contract Administrator or other designers engaged by the Ultimate Client or the Client-Contractor;

(b) 合同監理提供或最終委託方或上家承包商僱用的其他設計師提供的錯誤設計的任何直接後果;

(c) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; and

(c) 電離輻射或來自任何核燃料或來自核燃料燃燒產生的核廢料的放射性、放射性有毒爆炸物或任何爆炸核裝置或其中核部件的其他危險性質造成的污染; 及

(d) pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds.

(d) 飛機或其他飛行物體以音速或超音速飛行引致的壓力波。

1.25 Excusable and Compensable Events 可延期及可賠償事件

1.25.1 "Excusable Events" are events the occurrence of which are at the risk of the Client-Contractor in so far as the time to complete the Sub-Contract Works is concerned. "Compensable Events" are events the occurrence of which are at the risks of the Client-Contractor in so far as the price of the Sub-Contract Works is concerned. "Excusable Events" and "Compensable Events" are respectively defined as follows:

1.25.1 “可延期事件”乃指就完成本分包工程的時間而言，其發生的風險歸上家承包商的事件。“可賠償事件”乃指就本分包工程的價款而言，其發生的風險歸上家承包商的事件。“可延期事件”及“可賠償事件”分別定義如下：

Event Code 事件編號	Delays or disruptions by reason of 由於下列原因引致有延誤或干擾	Excusable Events 可延期事件	Compensable Events 可賠償事件
A	Force majeure 不可抗力	Yes 是	No 否
B	Inclement weather conditions, being rainfall in excess of twenty millimetres in a twenty-four hour period (midnight to midnight) as recorded by the Hong Kong Observatory station nearest to the Site, and/or their consequences adversely affecting the progress of the Sub-Contract Works 嚴重影響本分包工程進度的惡劣天氣情況，即香港天文臺最接近工地的監測站在24小時（零時到零時）內錄得超過20mm的降雨量，及/或其後果	Yes 是	No 否
C	The hoisting of tropical cyclone warning signal No. 8 or above or the announcement of a Black Rainstorm Warning, and/or its consequences adversely affecting the progress of the Sub-Contract Works 嚴重影響本分包工程進度的8號或以上的熱帶氣旋警告信號發出，及/或其後果	Yes 是	No 否

D	An Excepted Risk 免責風險	Yes 是	Yes 是
E	Fire, lightning, explosion, flood, bursting or overflowing of water tanks, apparatus or pipes, earthquake, aircraft and other aerial devices or articles dropped from them, not caused by the Sub-Contractor or people for whom the Sub-Contractor is responsible 非由分包商或他應負責的人士造成的火災、閃電、洪水、水箱、儀器及水管爆破或溢出、地震、飛機及其他飛行物體或從它墜下的物件	Yes 是	No 否
F	Late provision of Client-Contractor's instructions expressly required by this Sub-Contract to be provided by a specific time or before implementation of the matter being instructed 上家承包商的指示未能按時於本分包合同明確要求的時間前或在所指示的事情實施前提供	Yes 是	Yes 是
G	Late provision by the Client-Contractor of instructions or information (including clarification of any ambiguity, discrepancy in or divergence between documents provided by the Client-Contractor, and including outstanding or new information) required for the progressing of the Sub-Contract Works, after taking into account any mitigating effect which could have been afforded if the Sub-Contractor had requested for such instructions or information reasonably in advance of the occurrence of the delays or disruptions 上家承包商未能按時提供本分包工程持續進行所需的指示或資料(包括對上家承包商所提供的文件內的任何不清楚、差異或分歧作出澄清, 並包括尚欠或新增的資料), 但可扣除若分包商合理地提早要求該指示或資料時對延誤或干擾所造成的減輕影響	Yes 是	Yes 是
H	The opening up for inspection of work covered up or the testing of materials or work and the consequential making good which are additional to the ontract requirements, were instructed by the Client-Contractor, and proved that the materials and work are in accordance with this Sub-Contract 原合同要求以外的、並經上家承包商指示的、並證明到物料或工作乃符合本分包合同的, 對已掩蔽的工作進行打開檢查或對物料或工作進行測試和其後的修復	Yes 是	Yes 是
I	The carrying out of a Variation or the happening of an event deemed to be a Variation 工程變更的執行或視為工程變更的事件發生了	Yes 是	Yes 是
J	Increase in the work to be carried out pursuant to provisional items in this Sub-Contract of sufficient magnitude that the increase could not have been apparent from this Sub-Contract 按本分包合同內暫定款執行的工作大幅度增加而不可能從本分包合同預見的	Yes 是	Yes 是
K	A postponement of the Date for Access to any portion of the Site unless this Sub-Contract has provided for such occurrence 進入工地任何部份的日期有延遲, 除非本分包合同對此已有規定	Yes 是	Yes 是
	A postponement of the Commencement Date of a Sub-Contract		

L	<p>Works Section unless this Sub-Contract has provided for such occurrence 分包工程分部的開工有延遲，除非本分包合同對此已有規定</p>	Yes 是	Yes 是
M	<p>A suspension of the provision of the whole or a portion of the Site as instructed by the Client-Contractor beyond any provided for in this Sub-Contract and not being due to a breach of contract or other default by the Sub-Contractor or any person for whom the Sub-Contractor is responsible 按上家承包商的要求，工地的全部或部份暫緩提供，超過本分包合同規定的程度，而且不是分包商或他應負責的人士的違約行為或其他過失造成的</p>	Yes 是	Yes 是
N	<p>A suspension of the progress of the whole or a part of a Sub-Contract Works Section as instructed by the Client-Contractor beyond any provided for in this Sub-Contract and not being due to a breach of contract or other default by the Sub-Contractor or any person for whom the Sub-Contractor is responsible 按上家承包商的要求，分包工程分部的全部或部份暫緩進行，超過本分包合同規定的程度，而且不是分包商或他應負責的人士的違約行為或其他過失造成的</p>	Yes 是	Yes 是
O	<p>A delay or disruption caused by a Separate Contractor 其他承包商造成的延誤或干擾</p>	Yes 是	Yes 是
P	<p>A delay caused by a statutory undertaker or utility company carrying out work in pursuance of its statutory obligations rather than a commercial contract, and failing to commence or to carry out its work in due time provided that the Sub-Contractor has taken all practicable measures to cause it to commence, carry out and complete its work on time 法定承辦機構或公用事業公司在非商業合同的情況下履行其法定工作，但未能按時開工或進行其工作，而分包商已採取使其能按時開始、進行及完成其工作的一切可行的措施</p>	Yes 是	No 否
Q	<p>A failure of the Client-Contractor to supply or supply on time materials that he agreed to provide for the Sub-Contract Works 就他同意供應給本分包工程用的物料，上家承包商未能供應或未能按時供應</p>	Yes 是	Yes 是
R	<p>A delay by a Government department in giving an approval or a consent which is not the Sub-Contractor's responsibility to obtain 政府部門延誤發出不屬於分包商責任取得的批准或許可</p>	Yes 是	Yes 是
S	<p>An unreasonable delay by a Government department in giving an approval or a consent which is the Sub-Contractor's responsibility to obtain, provided that any disallowance of approval or consent attributable to the Sub-Contractor's lack of adequate submission shall not be considered as unreasonable 政府部門不合理地延誤發出屬於分包商責任取得的批准或許可，但若因分包商不充份的報批資料造成拒絕批准或許可則不能視為不合理</p>	Yes 是	No 否
T	<p>A special circumstance considered by the Client-Contractor as sufficient grounds to fairly entitle the Sub-Contractor to an</p>	Yes 是	No 否

	extension of time 上家承包商認為有充份的理由給予分包商合理地延長工期的特殊情況		
U	An act of prevention, a breach of contract or other default by the Client-Contractor or any person for whom the Client-Contractor is responsible 上家承包商或任何他應負責的人士造成的妨礙行為、違約行為或其他過失	Yes 是	Yes 是

1.25.2 The scope of each of the above event definitions is mutually exclusive. Any deletion or scope reduction of an event definition above shall not expand the scope of the remaining unchanged event definitions.

1.25.2 以上每類事件定義的範圍乃互不重疊。每類事件定義的整個刪除或縮減範圍皆不會擴大其餘未經修改的事件定義的範圍。

1.26 Money recoverable from Client-Contractor 可從上家承包商取回的款項

When money is stated to be recoverable from the Client-Contractor by the Sub-Contractor, the amount shall be added to the Sub-Contract Price and added to the next or further Payment Certificates issued after the amount is ascertained, unless the Client-Contractor requests to settle and settles the payment separately without adjustment to the Sub-Contract Price.

若有說明為分包商可從上家承包商取回的款項，該款項可加在分包合同價款上，並在該款項確定後加入下期或以後發出的付款證書內，除非上家承包商要求不調整分包合同價款，而分開辦理，並予以辦理。

1.27 Money recoverable from Sub-Contractor 可從分包商取回的款項

When money is stated to be recoverable from the Sub-Contractor by the Client-Contractor, the amount shall be deducted from the Sub-Contract Price and deducted from the next or further Payment Certificates issued after the amount is ascertained until the amount is fully deducted. If the balance of the Final Sub-Contract Price less retention fund is inadequate to cover the amount not yet deducted, the residue amount may be recovered from the Sub-Contractor by the Client-Contractor as a debt which may be set-off against any payment which the Client-Contractor is liable to pay to the Sub-Contractor under other contracts.

若有說明為上家承包商可從分包商取回的款項，該款項可在分包合同價款扣除，並可從該款項確定後從下期或以後發出的付款證書中扣除直至扣除全額為止。若分包合同結算總價扣除保修金後的餘額不足以抵扣尚未扣除的款項，則未扣金額可作為分包商拖欠上家承包商的債項般從上家承包商在其他合同下應付給分包商的任何付款中扣除。

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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2. SITE 工地

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2.1 Provision of Site 工地的提供

2.1.1 The Client-Contractor shall provide such portions of the Site to the Sub-Contractor on such access dates as may be stipulated in the Sub-Contract Agreement. Provision of the Site shall entail the sustained use, but not exclusive possession of the portions of the Site by the Sub-Contractor for the carrying out and completion of the Sub-Contract Works. The Sub-Contractor shall allow and protect legitimate occupiers and users for the time being on the Site to have continued use of such portions of the Site not immediately required by the Sub-Contractor for carrying out the Sub-Contract Works.

2.1.1 上家承包商須分包合同協議規定的進入日期提供相關的工地部份給分包商。工地提供乃指可讓分包商持續使用但不是絕對佔有工地的部份，使他能進行及完成本分包工程。分包商須容許及保護工地上當時合法的佔用者及使用者持續地使用工地上分包商不是即時需要進行本分包工程的地方。

2.1.2 The Sub-Contractor shall not obstruct the lawful and continued use by anyone of the land and premises outside but in the vicinity of the Site.

2.1.2 分包商不能妨礙任何人士合法地及持續地使用工地以外鄰近的土地或物業。

2.1.3 Where exclusive possession of any portion of the Site is stated in this Sub-Contract, the Sub-Contractor shall take over the relevant portion of the Site upon the respective access date and take responsibility for the care thereof.

2.1.3 若本分包合同說明工地的某部份是供絕對佔有的，分包商須在有關的進入日期開始接收該部份的工地並承擔對它保護的責任。

2.2 Site access 進入工地

2.2.1 Where access to the Site is through land or premises which are not under the control of the Ultimate Client, the Sub-Contractor shall procure any necessary right of access.

2.2.1 若進出工地需通過不受最終委託方控制的土地或物業，分包商須取得使用進出通道權。

2.2.2 Where access to the Site is through land or premises which are under the control of the Ultimate Client, the Client-Contractor shall procure such right of access for the Sub-Contractor's use free of charge at such time mutually agreed between the Client-Contractor and the Sub-Contractor.

2.2.2 若進入工地乃需通過最終委託方控制的土地或物業，上家承包商須取得使用進出通道權，讓分包方在上家承包商和分包商雙方同意的時間無償使用。

2.2.3 Physical means of access to the Site and to work locations within the Site by way of roads, footpaths, bridges, tunnels, ladders, catwalks, scaffolding, gondolas, etc. shall be arranged for by the Sub-Contractor unless otherwise stated in this Sub-Contract.

2.2.3 使用道路、行人路、橋、隧道、爬梯、橋架、棚架、吊船等進入工地或到達工地內工作點的實物方法須由分包商提供，除非本分包合同另有規定。

2.2.4 Entry and exit points to the Site shall be at locations shown or described in this Sub-Contract or, when no specific locations are shown or described, at such locations to be determined by the Main Contractor, and such locations may be subject to subsequent re-location and re-sizing as directed by the Main Contractor from time to time to suit the sequence and progress of the Main Contract Works.

2.2.4 進入及離开工地的出入口須在本分包合同標示或說明的位置，若沒有特別標示或說明，則須在總承包商確定的位置，有關的位置隨後可能需為配合總承包工程的工序及進度而按總承包商的指示搬遷或更改大小。

2.2.5 The Sub-Contractor shall comply with all relevant regulations or restrictions of the Police, other Government authorities, and the Property Manager regarding access, usage of roads, parking of lorries and similar, and shall submit all necessary applications and pay any necessary fees and charges.

2.2.5 分包商須遵守警方、其他政府部門及物業管理人關於出入口、道路的使用、貨車的停泊、等的相關條例或限制，並須提交所有必需的申請和支付所有必須的費用。

2.3 House rules of Property Manager 物業管理人

2.3.1 The Sub-Contractor shall comply with the house rules of the Property Manager in regard to the day to day operation and use of the premises in which the Site is situated and in regard to any special restrictions on works of any nature within the premises.

2.3.1 分包商須遵守物業管理人關於工地所在物業的日常操作及使用的管理守則及關於在物業內進行任何性質的工程的特別限制的管理守則。

2.3.2 Any restrictions on access or working hours more stringent than those announced by the Property Manager prior to the award of this Sub-Contract and affecting the Sub-Contract Works shall be deemed to be a Variation.

2.3.2 任何較物業管理人在定本分包合同前已頒佈的更嚴謹的進出方法及工作時間的限制，若影響本分包工程，則視為工程變更。

2.3.3 The Client-Contractor shall pay any security deposit which may be demanded by the Property Manager to permit the carrying out of the Sub-Contract Works, and arrange by himself for the eventual release of the deposit.

2.3.3 上家承包商須支付物業管理人容許本分包工程執行而要求徵收的押金，並自行安排往後取回該押金。

2.4 Protection of access routes 通道的保護

The Sub-Contractor shall protect all access routes throughout the period of the Sub-Contract, and shall remove any protection when no longer required and make good any disturbance.

分包商在本分包合同期間保護所有通道，並在不需要時移走保護物及修復受影響的地方

2.5 Off-site areas 工地外的場地

The Sub-Contractor shall arrange by himself any areas or spaces outside the Site that he requires to prepare for the carrying out of the Sub-Contract Works.

分包商須自行安排為進行本分包工程所需準備工作的工地外的地方或空間。

2.6 Site visit 視察工地

2.6.1 The Sub-Contractor is deemed to have visited the Site and thoroughly acquainted himself with the location, general site conditions, type of soil where underground work is required, accessibility, storage space, restrictions for loading and off-loading materials, and any other conditions which may affect his carrying out of the Sub-Contract Works prior to entering into this Sub-Contract and is deemed to have made due allowance for all such restrictions and factors in the Sub-Contract Price.

2.6.1 分包商被視為在訂立本分包工程前已到工地視察受使自己了解工地的位置，一般的現場情況，若地下工作需要時的土壤類形、出入限制、儲存空間、裝卸物料的限制及其他可能影響他施工的情況，並視為在分包合同價款內充份考慮了所有該等限制及因素。

2.6.2 Any claim for extra payment or extension of the completion times shall not be allowed on the grounds of ignorance or misinterpretation of the site conditions.

2.6.2 任何因對了解工地情況的漠視或誤解的增加付款或對工期延長的索償皆不會獲得接納。

2.7 Site investigation and condition survey reports 工地勘察報告及現況勘察報告

Any site investigation or condition survey reports or other information which may be made available to the Sub-Contractor prior to the award of this Sub-Contract shall be the whole record of such investigation or survey as has been carried out. Other than this, any such reports are given without any warranty on the part of the Client-Contractor as to their accuracy or completeness, and they shall be deemed to be supplied for the Sub-Contractor's information only.

在定本分包合同前可能提供給分包商的任何工地勘察報告及現況勘察報告須為全套報告。除此之外，有關報告的提供不代表上家承包商就該報告的準確性或全面性提供任何承諾，該報告只被視為純作分包商參考。

2.8 Access during Defects Liability Period (or Maintenance Period) 保修期內的通行

2.8.1 The Client-Contractor shall provide the Sub-Contractor with a right of access to specific locations on the Site for the specific purpose of rectifying defects arising during the Defects Liability Period (or the Maintenance Period) at those locations. The Sub-Contractor shall restrict himself to the specific locations and shall leave the Site as soon as the defects have been rectified.

2.8.1 上家承包商須給予分包商為修補在保修期內發現的缺陷需通往工地上特定地方的權利。分包商須局限自己在特定的地方並在該修補工作完成後離開工地。

2.8.2 When existing facilities such as gondolas or lifting platforms are available for day to day use by the Ultimate Client or the Property Manager, and such existing facilities are useful for rectifying defects, the Client-Contractor shall assist to apply for the use of such gondolas or lifting platforms by the Sub-Contractor subject to payment by the Sub-Contractor of reasonable amounts for consumables. In other cases, the Sub-Contractor shall provide his own temporary facilities required for rectifying defects.

2.8.2 若有例如吊船或升降工作台的現存設施可供最終委託方或物業管理人的日常使用，而該現在設施對保修工作有幫助，則上家承包商須協助申請容許分包商使用該吊船或升降台，但分包商須支付耗料使用的合理費用。除此之外，分包商須自行提供保修所需的臨時設施。

2.9 Objects of antiquity 古物

Any object of antiquity found on the Site shall be deemed to be the property of the Ultimate Client. Upon discovery, the Sub-Contractor shall immediately report to the Client-Contractor who shall issue instructions to deal with the issue. The Sub-Contractor shall permit others appointed by the Ultimate Client to carry out examination, excavation or removal of the object of antiquity. Compliance with the Client-Contractor's instructions in this regard shall be deemed to be a Variation.

在工地上發現任何古物將被視為最終委託方的財產。在發現後，分包商須立刻通知上家承包商，請他發出處理的指示。分包商須容許最終委託方委派的其他人士進行檢查、挖掘及移走古物的工作。遵守上家承包商相關指示的行為須視為工程變更。

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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3. WORKS 工程

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3.1 Definitions 定義

3.1.1 The Sub-Contract Works include:

3.1.1 “本分包工程”乃包括：

- (a) permanent work required to be carried out and completed by the Sub-Contractor under this Sub-Contract;
- (a) 分包商按本分包合同所需進行及完成的永久工程；
- (b) temporary work required for the carrying out and completion of the permanent work;
- (b) 進行及完成永久工作所需的臨時工程；
- (c) services required to be carried out and completed by the Sub-Contractor under this Sub-Contract;
- (c) 分包商按本分包合同所需進行及完成的服務；
- (d) materials supplied by the Client-Contractor for incorporation by the Sub-Contractor into the Sub-Contract Works after they are handed over to the Sub-Contractor;
- (d) 上家承包商供應給分包商納入本分包工程內並已移交給分包商的物料；
- (e) design of any part of the permanent work if this is specified to be part of the Sub-Contract Works;
- (e) 永久工程任何部份的設計，若此設計說明為本分包工程的一部份；
- (f) service and maintenance required to be carried out after substantial completion (or practical completion) of the Sub-Contract Works; and
- (f) 在本分包工程充份竣工(或實效竣工) 從需進行的服務及保養；及
- (g) provision of warranties and guarantees.
- (g) 保證及擔保的提供。

3.1.2 The Sub-Contract Works exclude:

3.1.2 “本分包工程”不包括:

(a) materials supplied by the Client-Contractor for incorporation by the Sub-Contractor into the Sub-Contract Works but only until such time when they are handed over to the Sub-Contractor;

(a) 上家承包商供應給分包商納入本分包工程內但尚未移交給分包商的物料;

(b) materials or workmanship or method or work which is not in accordance with this Sub-Contract;
and

(b) 不符合本分包合同的物料或工藝或方法或工程; 及

(c) work or services carried out by the Sub-Contractor without authority under this Sub-Contract.

(c) 分包商沒有本分包合同授權而進行的工程或服務。

3.2 Design of permanent work 永久工程的設計

Unless otherwise stated in this Sub-Contract or unless the Sub-Contractor has provided the design for whatever reasons, and subject to Clause 3.3 below, the design of permanent work required for the Sub-Contract Works shall be the responsibility of the Client-Contractor who shall obtain the design from the Contract Administrator or engage other designers to carry out the design work. The Client-Contractor shall be responsible for issuing and explaining the design to the Sub-Contractor.

除非本分包合同另有規定或除非分包商不論甚麼原因而提供了設計，在不違反第3.3條款的前提下，本分包工程所需的永久工程的設計責任歸上家承包商，他須從合同監理取得設計或聘用其他設計師進行設計工作。上家承包商須向分包商發出及解釋該設計。

3.3 Development of design 設計的深化

3.3.1 Where any Sub-Contract Drawings or further drawings issued by the Client-Contractor after the award of this Sub-Contract are described as “design intent drawings”, such drawings shall be understood as indicating only the performance requirements, materials of the major components, layout, positions, configurations, controlling dimensions, and size limitations required for the finished work. The Sub-Contractor shall be responsible for the detailed design of the components making up the complete system, installation or fitting, and the selection of materials in compliance with the Sub-Contract Drawings and the further drawings.

3.3.1 若分包合同圖紙或上家承包商在定分包合同後發出的附加圖紙註明為“設計意念圖”，則有關圖紙須理解為只表示最後完成的工程所需的功能要求、主要構件的物料、佈置、位置、形狀、控制尺寸、及大小限制。分包商須按分包合同圖紙及附加圖紙負責構成整個系統、裝置或配件的構件的詳細設計及物料的選用。

3.3.2 The Sub-Contract Drawings or further drawings issued by the Client-Contractor after the award of this Sub-Contract for the building services installations (deemed to include also plumbing and drainage) shall be understood as schematic and layout design drawings indicating only the performance requirements, materials of the major components, layout, positions, configurations, controlling dimensions and sizes required for the finished work. The Sub-Contractor shall be responsible for the selection and fixing details of the system components, and the exact and co-ordinated routing of pipework, ducting,

cable and wiring in compliance with the Sub-Contract Drawings and the further drawings.

3.3.2 機電工程 (包括給排水工程)的分包合同圖紙或上家承包商在定合同後發出的附加圖紙須理解為示意及佈置設計圖，只表示了最後完成的工程所需的功能要求、主要部件的物料、佈置、位置、形狀、控制尺寸、及大小。分包商須按分包合同圖紙及附加圖紙負責系統構件的構件的選用要安裝細節、管道、風管、電纜、電線的具體及協調的路線。

3.4 Design of temporary work 臨時工程的設計

Unless otherwise stated in this Sub-Contract, the design of temporary work required for the Sub-Contract Works (no matter whether it has been shown on the Sub-Contract Drawings or not) shall be the responsibility of the Sub-Contractor.

除非本分包合同另有規定，本分包工程所需的臨時工程(不論分包合同圖紙是否已有表示)的設計責任歸分包商。

3.5 Sub-Contractor's design to be approved 分包商的設計須獲批准

3.5.1 Any design for which the Sub-Contractor is responsible under this Sub-Contract shall be submitted to the Client-Contractor and the Contract Administrator for comment and approval before implementation.

3.5.1 分包商按本分包合同應負責的任何設計皆須在實施前提交給上家承包商及合同監理審核及批准。

3.5.2 The Sub-Contractor's design shall be fit for the purpose for which it is intended. Approval by the Client-Contractor and the Contract Administrator shall not be taken as acceptance that the work is so fit for the purpose.

3.5.2 分包商的設計須適合意圖達到的目的。上家承包商及合同監理的任何批准皆不能視為有關設計已適合目的。

3.6 Testing and commissioning 調試

Before they may be certified as substantially completed (or practically completed), all mechanically, hydraulically, electrically or electronically operated parts of the Sub-Contract Works and any parts of the Sub-Contract Works connected by and including pipes, ducts, conduits, trunking, wiring or cables shall be tested and commissioned in accordance with the requirements of this Sub-Contract.

本分包工程內所有機械、水壓、電力或電子操作的部份及本分包工程內管道、風管、導管、幹管、電線或電纜及經它們連接的部份皆須在簽証已充份竣工前(或實效竣工前) 按本分包合同要求測試和試運轉。

3.7 Sub-Contractor's alternative proposals 分包商的另選建議

3.7.1 For a material permitted under this Sub-Contract to have "equal and approved" or "approved equal" brands or models or specified with a number of choices of brands or models, the Sub-Contractor may propose a brand or model of the same kind of material equal in performance and quality to those originally specified or proposed in this Sub-Contract for the approval by the Client-Contractor.

3.7.1 若某物料得本分包合同容許有“相等並經批准”或“經批准相等”的牌子或型號或規定了多個牌子或型號供分包商選擇，分包商可建議與原來在本分包合同規定或建議的牌子或型號功能及質量相同的同類物料的其他牌子或型號給上家承包商批准。

3.7.2 Except for the case of Clause 3.7.1 or when specifically called for under the Sub-Contract or under very special circumstances, the Sub-Contractor shall not propose alternative design, materials, workmanship and methods to those specified under the Sub-Contract.

3.7.2 除第3.7.1條款的情況或本分包合同特別要求或在特殊情況下，分包商不可以對本分包合同規定的設計、物料、工藝及方法提出另選建議。

3.7.3 The Client-Contractor's approval of any alternatives shall be at his sole discretion and he shall not be obliged to consider or approve any alternatives (in the case of Clause 3.7.1, beyond the originally specified or proposed brands or models) or provide any reasons for disapproval of such alternatives. No such alternatives shall be adopted without the prior written approval by the Client-Contractor. The approval shall have no effect on the Sub-Contract Price or the completion times unless the effect is specifically stated in the written approval, in which latter case, the approval shall be deemed to be a Variation instruction. Under no circumstances shall the approval relieve the Sub-Contractor of his responsibilities under this Sub-Contract.

3.7.3 上家承包商有全權決定是否接納另選建議，而他沒有責任一定要考慮或批准任何另選建議(就第3.7.1條款而言，超出原來規定或建議的多個牌子或型號選擇者)或提出不批准的原因。在未得上家承包商書面許可前，不能採用另選建議。批准了亦不能影響分包價款或完工日，除非有關的影響在該書面批准已明確說明，若屬後者，則該批准將被視為工程變更。在任何情況下，任何批准皆不會免除分包商在本分包合同的責任。

以下可能移到“一般責任”章節

3.8 Provision of construction plant 施工機械的提供

3.8.1 材料及工具儲存

- (a) 若分包商須搭建臨時士多房存放工具或材料，必須使用上家承包商准許之材料於指定地方蓋搭，並須在指定日期內清拆及搬到指定位置堆放。
- (b) 分包商如認為其物料貴重及有被竊可能時，必須將下列資料填妥物料申報表，並需於物料存放妥當後立即交予上家承包商存案：
 - (i) 清楚細錄物料名稱、種類、牌子、編號等；
 - (ii) 數量 (舉例： 1,000 個水氣掣)；
 - (iii) 單位 (舉例： 80 個水氣掣 / 每箱)；
 - (iv) 存放地點 / 位置；
 - (v) 將物料照片、包裝照片及存放地點照片貼於 A4 紙附在申報表之後。
- (c) 分包商運送物料到工地後，除非得到上家承包商同意，否則不能將該等物料撤離，並須自行保護妥。

3.8.2 工具測試

- (a) 所有石屎槍及其使用者，必須具備由香港特區政府認可之有效合格證書，並須依照“工廠及工業經營(槍彈推動打釘工具)規例”，以確保有足夠之安全措施。
- (b) 分包商預算使用之所有起重機械及設備，必須經合資格檢驗員檢驗認可及簽發證書，並須給予上家承包商作出有關之審核及記錄，方可運進地盤。
- (c) 凡吊重超逾一噸之起重機械及設備均要裝置超重自動警報器，須由合資格檢驗員測試並在有效之檢驗報告中聲明該警報器安全可靠，方可使用；超重自動警報器每週應由合資格的人作檢查報告。
- (d) 所有起重裝置均須由合資格檢驗員檢驗認可及簽發證書，並須給予上家承包商作出有關之審核及記錄，方可運進地盤及使用。

3.8.3 施工設施

- (a) 臨時電由上家承包商提供及拉主線，分包商自行拉分線至各施工位使用。每層樓都須要設有臨時電電源，而每層臨時電電源之數目，不可少過樓梯之數目。
- (b) 臨時水由上家承包商提供及拉主喉，分包商自行拉軟喉至各施工位使用。每層樓都須要設有一個臨時水水源。
- (c) 上家承包商供給上料機械設備。
- (d) 所有施工圖則將由上家承包商免費供應分包商一份。
- (e) 上家承包商提供基點、基線及十字線，其餘按工程種類提供所需之墨線及平水點。分包商必須於施工過程中清楚瞭解本身之責任，積極協調及配合上家承包商在此方面之安排，在發覺有問題時立刻向上家承包商報告及請示。

3.9 Provision of materials 物料的提供

- (a) [協議特定事項](#)說明的材料概由上家承包商提供。合同雙方同意，在工地使用的上述材料，其預計損耗率為[協議特定事項](#)說明的比率。分包商應盡量小心控制材料耗用，以免令上家承包商蒙受無謂損失。如發現分包商有無理浪費材料的情況，則分包商必須承擔有關的額外開支。
- (b) 工程後期如需要先拆除天秤、吊機等，則分包商依指示安排機械或人手上料以配合進度完成分包工程。額外增加之費用由上家承包商負責。

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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4. TIME 工期

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4.	4.5 Notices and claims 通知及索賠
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16.	4.10 Substantial completion 充份竣工

舊稿

4.1 Contract commencement 合同的開始

雙方須于合同中訂明的動工日期動工，及預定完工日期，並依據進度表完成每一階段的本合約工程。若本合約並未訂明本合約工程的動工日期、進度或完成日期，則承建商必須與分包商於動工前協商擬定動工時間及進度完成每一階段的工程。

4.3 Commencement of Works 工程的開始

a. 分包商在獲得定標通知後即可與承建商聯絡及安排開工事宜。

b. 分包商如在雙方擬定之進度開工日期早上遇到天雨，亦須與承建商在地盤洽商是否需要開工、繼續工作或停工等。

4.4 Working hours 工時

a. 分包商須依照承建商正常之工作時間 (上午八時至下午六時內八小時) 及進度，配足人力及工具進行施工，落價時應作充份預算必須之加班費用，以完成該工程之擬定進度。

b. 如在工程期限內，分包商需要開夜工，以能在工程期限前完成全部工程 (若延遲的原因由分包商引致，其一切費用均由分包商負責)。

4.5 Notices and claims 通知及索賠

- a. 如因增加或減少工程而導致施工計劃有所改變，分包商必須在**28天**內以書面向承建商提出索償要求。承建商則必須於**28天**內作出評估及回應。
- b. 如承建商的指示(例如縮短施工計劃，不定期加聘人手以配合施工計劃等)導致分包商的工程成本有所增加，分包商可於**28天**內向承建商提出書面索償，清楚列明索償的理據及詳情，以便承建商評估。承建商須於**28天**內作評估及回應。
- c. 如承建商因分包商延誤工程及損壞設備而蒙受損失，承建商可於**28天**內將額外支出的估值資料通知分包商，並可在付予分包商的任何款項內扣減。
- d. 分包商若發覺本合約工程或其中任何部份有可能出現延誤或需要加快，應立即以書面通知承建商。承建商須在收到書面通知**28日**內對通知及延期申請進行審核。在通知及索賠期間所有分包商都不可停工。
- e. 若因承建商或其他分包商引致工程延遲或要求加快工程，對分包商之合約價有影響時，分包商应在 **28 天**內以書面通知承建商。
- f. 所有分包商所做的本合約工程必須在業主根據其最後批出的圖則檢驗合格後方視作完成。承建商應在工程完成後的**28天**內向分包商出具工程完成證明。

4.6 Mitigation of delay or disruption 延誤或干擾的減輕

- a. 如分包商未能依進度施工，在收到承建商書面指示後，必須恢復正常進度，並追回延誤的時間。否則承建商可收回部分或全部分包工作，另聘他人施工。承建商因而蒙受的損失，可在付予分包商的工程款項中扣除。
- b. 如承建商未能依進度給予分包商施工條件，分包商有權書面通知承建商並終止合同。

4.7 Determining time effect 確定工期的影響

如工程有所變更，或承建商延期移交工地，又或承建商負責提供的施工材料未能按議定時間如期運送至工地，則分包商可申請延長竣工期。所有延長竣工期申請，可於工地以口頭向承建商駐工地代表提出，及後以書面確認，申述因由。承建商必須按相關情況在 **28 天**內作出評估和確認延長竣工期。

新稿

4.1 Contract commencement 合同的開始

This Sub-Contract shall be deemed to take effect and commence on the date of a letter issued by or on behalf of the Client-Contractor awarding this Sub-Contract to the Sub-Contractor, irrespective of when the Sub-Contract Agreement is signed.

本分包合同視為由上家承包商或代表上家承包商發出通知分包商他獲得本分包工程中標之函件之日起生效及開始，不論分包合同協議是否已經簽署。

4.2 Consent to commencement 開始的許可

The Sub-Contractor shall submit all applications required by law to be submitted by him and shall pay all associated charges prior to the commencement of work on site or as and when the same fall due, as the case may be.

在工地開始工作前或有關責任到期前，按情況而定，分包商須提交按法例規定應由他提供的所有申請及繳交有關費用。

4.3 Commencement of Works 工程的開始

The Sub-Contractor shall commence each Sub-Contract Works Section on its Commencement Date stated in the Sub-Contract Agreement, and shall complete each Sub-Contract Works Section on or before its Completion Date stated in the Sub-Contract Agreement.

分包商須在分包合同協議說明的有關開工日開始每個分包工程分部，並在分包合同協議說明的有關竣工日或之前完成每個分包工程分部。

4.4 Working hours 工時

The Sub-Contractor shall observe any working days and working hours restrictions which may be imposed under this Sub-Contract and at law, and shall apply to the Client-Contractor and the relevant Government authority for working outside the legally restricted time at his own expense.

分包商須遵守合同及法例規定的工作日期及時間限制，並向上家承包商或政府有關部門申請在法例限制的時間外施工及承擔費用。

4.5 Notices and claims 通知及索賠

4.5.1 As soon as practicable after the commencement of an event causing or likely to cause delay or disruption to the regular progress of the Sub-Contract Works or delay to the completion of any Sub-Contract Works Section beyond its Completion Date becoming apparent, the Sub-Contractor shall give notice to the Client-Contractor of such a delay or disruption.

4.5.1 引致或可能會引致本分包工程的正常進度受到延誤或干擾或任何分包工程分部的完成受到延誤超過其竣工日的事件開始後盡快可行的時間內，分包商須把有關的延誤或干擾通知上家承包商。

4.5.2 The notice shall state in full detail (illustrated with diagrammatic programmes as necessary) the event and material circumstances causing or likely to cause the delay or disruption, the estimated extent of the delay or disruption to the progress, the estimated length of the delay to the completion, and whether the Sub-Contractor considers that he is or may become entitled to an extension of time due to the event being an Excusable Event listed in Clause 1.25 and to reimbursement for direct loss and/or expense due to the event being a Compensable Event listed in Clause 1.25. If direct loss and/or expense is expected to be incurred, the notice shall give an estimate of the likely amount. If the delay or disruption is of continuing or repetitive nature, the Sub-Contractor shall submit updated notices at monthly intervals.

4.5.2 該通知須詳細說明(按需要以進度示意圖圖解)引致或可能會引致延誤或干擾的事件及實質情況、對進度延誤或干擾的估計程度、對竣工延誤的估計長度、及分包商是否認為該事件屬於第**1.25**條款所指的可延期事件而他有權或可能得到延長工期或認為該事件屬於第**1.25**條款所指的可賠償事件而他有權或可能得到直接損失及/或費用的賠償。若預計會產生直接損失及/或費用，該通知須說明估計的可能的金額。若延誤或干擾是持續或重覆性質的，分包商須按月提交更新的通知。

4.5.3 The Sub-Contractor shall submit his monetary claim for reimbursement for direct loss and/or expense with evidence of the direct loss and/or expense as soon as the direct loss and/or expense are fully known and reasonably calculable.

4.5.3 在直接損失及/或費用已完全知道及可合理地計算時，分包商須盡快提交要求賠償直接損失及/或費用的經濟索償及直接損失及/或費用的証據。

4.5.4 In any case, the notice under Clause 4.5.1 and the updated notices under Clause 4.5.2 shall not be submitted later than the Completion Date of the relevant Sub-Contract Works Section or its extended completion date previously claimed by the Sub-Contractor, and the Sub-Contractor's monetary claim under Clause 4.5.3 shall not be submitted later than three months after the direct loss and/or expense having been incurred, progressive submission permitted.

4.5.4 在任何情況下，第**4.5.1**條款所要求的通知及**4.5.2**條款所要求的更新通知不能遲過有關的分包工程分部的竣工日或分包商之前申請延遲的竣工日提交，而按第**4.5.3**條款提交的經濟索償不能遲過直接損失及/或費用發生後二個月提交，漸進式提交是可以的。

4.5.5 The Client-Contractor is entitled not to form his opinion as to the extent of delays or disruptions before the Sub-Contractor has submitted a notice of delay or disruption or in respect of a notice submitted later than the time specified in Clause 4.5.4. The Client-Contractor is entitled not to certify payment for reimbursement of direct loss and/or expense if the monetary claim is submitted later than the time specified in Clause 4.5.4 When considering the time or cost effect, the Client-Contractor is entitled to take into account only of the information currently submitted by the Sub-Contractor without an obligation to demand for further information from the Sub-Contractor. The Sub-Contractor shall bear the consequence of his own non-submission, late submission or insufficient submission of notices or information, and shall be deemed to waive his corresponding right against the Client-Contractor in respect of extension of time, immunity from damages for delay and monetary compensation.

4.5.5 在分包商提交延誤或干擾的通知之前，或通知是遲過第**4.5.4**條款規定的時間提交，上家承包商有權不就延誤或干擾的程度達成他的意見。若經濟索償是遲過第**4.5.4**條款規定的時間提交，上家承包商有權不就有關的直接損失及/或費用的補償予以簽証。在考慮時間或費用的影響時，上家承包商有權只按分包商當時已提交了資料考慮，而沒有責任向承包商要求更多的資料。分包商須負責他自己的未能提交、延誤提交或不充分提交通知或資料的後果，並被視為放棄他就相關的延長工期、免除誤工賠償及經濟索償向上家承包商追討的權利。

4.6 Mitigation of delay or disruption 延誤或干擾的減輕

The Sub-Contractor shall continuously use his best endeavours to prevent or mitigate delay or disruption to the progress of the Sub-Contract Works however caused, and to prevent the completion of the Sub-Contract Works from being delayed or further delayed. The use of best endeavours by the Sub-Contractor shall not require the Sub-Contractor to accelerate the carrying out of the Sub-Contract Works to recover delay caused by an Excusable Event. The Sub-Contractor shall however do all that may reasonably be required to proceed with the Sub-Contract Works expeditiously.

分包商須持續地用他最大的努力去避免或減輕本分包工程的進度受到延誤或干擾，不論如何發生，及避免本分包工程的竣工受到延誤或再延誤。分包商用最大的努力並不意味需要分包商加快本分包工程的執行以追回可延期事件所引致的延誤。但是分包商仍須做一切合理需要的使本分包工程可迅速的進行。

4.7 Determining time effect 確定工期的影響

4.7.1 Within 14 days after receipt of the Sub-Contractor's notice of delay or disruption under Clause 4.5 and subject to Clause 4.5.5, the Client-Contractor shall notify the Sub-Contractor his opinion on the extent of delay or disruption to progress or delay to completion that the Excusable Event or Compensable Event specified by the Sub-Contractor in his notice has caused or is likely to cause to the relevant Sub-Contract Works Section. If there is a delay to completion due to an Excusable Event, the Client-Contractor shall give an extension of time to the Sub-Contractor by fixing a later Completion Date for the relevant Sub-Contract Works Section to compensate the working time lost.

4.7.2 If the Client-Contractor gives an extension of time to the Sub-Contractor because of an Excusable Event that occurs in the period of delay after the Completion Date but before the substantial completion of a Sub-Contract Works Section, he shall add this extension of time to the total of any extensions of time previously granted when fixing a new Completion Date, even though the Excusable Event may have occurred later than the date that the Client-Contractor fixes as the new Completion Date.

4.7.3 The Client-Contractor may review his opinion on the time effect under Clause 4.7.1 and adjust any extension of time previously granted in light of further evidence at any time before issuing the Final Certificate, but shall not reduce the extension of time previously granted unless any previous extension has been based upon incorrect information provided by the Sub-Contractor.

4.8 Valuing cost effect 工程費的估值

4.8.1 Within 14 days after the receipt of both the Sub-Contractor's monetary claim and the opinion of the Client-Contractor on the time effect, the Client-Contractor shall assess and certify the value of any direct loss and/or expense compensable to the Sub-Contractor. Any such value which may be assessed from time to time shall be added to the Sub-Contract Price and included in the next Payment Certificate.

4.8.2 The Client-Contractor may review his valuation of the time effect under Clause 4.8.1 in light of further evidence at any time before issuing the Final Certificate. Any adjustment so resulted shall be accounted for in the next Payment Certificate.

4.9 Damages for delayed completion 延誤竣工的賠償

If a Sub-Contract Works Section is not completed by the Completion Date or the currently extended Completion Date, the Client-Contractor may recover from the Sub-Contractor liquidated damages calculated at the respective Rate of Liquidated Damages for Delayed Completion stated in the Sub-Contract Agreement for the period during which the Sub-Contract Works Section remains incomplete. Where no rate is specifically stated, the Client-Contractor may claim for general damages for delayed completion.

4.10 Substantial completion 充份竣工

4.10.1 A Sub-Contract Works Section shall be considered as substantially completed when the whole of the Sub-Contract Works within the Sub-Contract Works Section has been completed and the place is clean and tidy with the Sub-Contractor's temporary site facilities demobilized to the satisfaction of the Client-Contractor and is ready for handover to the Client-Contractor, excluding only work or services specifically required by this Sub-Contract to be carried out after substantial completion, and minor work which is not essential for the occupation, use or functioning of the Sub-Contract Works.

4.10.2 If the Sub-Contractor considers that substantial completion of a Sub-Contract Works Section is imminent, he shall invite by giving reasonable advance notice to the Client-Contractor to carry out a completion inspection. The Client-Contractor shall carry out the inspection and notify the Sub-Contractor whether there is any outstanding work essential to substantial completion. The Sub-Contractor shall complete the outstanding work, invite the Client-Contractor to re-inspect as appropriate, demobilize from the Site of the Sub-Contract Works Section (subject to Clause 4.10.3), and make the place clean, tidy and ready for handover to the Client-Contractor. If the Client-Contractor is satisfied that the state of substantial completion has been achieved, he shall issue a Substantial Completion Certificate to the Sub-Contractor to confirm the fact and the date. The Client-Contractor shall take over the Sub-Contract Works Section within 14 days after the state of substantial is reached and be responsible for the custody of the Sub-Contract Works Section thereafter.

4.10.3 The Sub-Contractor may stay after substantial completion at such portion of the Site which has been designated for the Sub-Contractor's placement of temporary site facilities and which are not immediately required for the occupation or use by the Client-Contractor for a longer time until 7 days after the Client-Contractor's instruction to demobilize from such portion of the Site.

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合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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5. CONTRACT BASIS 合同基礎

Contents

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6. [5.6 Documents on site](#) 現場的圖紙
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5.1 Interpretation of Sub-Contract Documents 分包合同文件的釋義

5.1.1 The various parts of the Sub-Contract Documents are complementary to each other and shall be interpreted as a whole as far as possible.

5.1.2 In case of any contradiction between the various parts of the Sub-Contract Documents, the order of precedence for interpretation shall be as follows:

- (a) Sub-Contract Agreement;
- (b) Tender Correspondence;
- (c) Form of Tender or the Tender;
- (d) Special Sub-Contract Conditions;
- (e) Pricing Schedules;
- (f) the Preliminaries section of the Sub-Contract Specification;
- (g) Sub-Contract Conditions;
- (h) Sub-Contract Drawings; and
- (i) Sections of the Sub-Contract Specification other than the Preliminaries section.

5.1.3 Subject to Clause 5.1.2, documents issued later in time shall take precedence, particular specification shall take precedence over general specification, detailed drawings shall take precedence over general drawings, specification and drawings specially prepared for the Sub-Contract Works shall take precedence over standard specification and drawings.

5.1.4 No other documents exchanged prior to the award of this Sub-Contract shall form part of the Contract, or affect the meaning and interpretation of the Sub-Contract Documents, unless otherwise agreed in writing by both the Contract Parties.

5.2 Clarification of discrepancy or divergence 差異及分歧的澄清

舊稿

5.2.1 工程合約包括圖則及章程內所示之全部工程，若工程說明與工程細則及合約條款或工程圖則有差異，則以工程圖則為準，分包商必須立即將有關差異通知總承包商，盡快確實。

5.2.2 分包商若發現章程內容與圖則不符，內容有衝突或含糊不清，或材料規格與實際市場情況有出入等等情況，分包商必須立即將有關差異通知總承包商，盡快確實。

5.2.3 分包商須按照主合約及本合約條款及總承包商的要求和指示履行及完成本合約工程。

新稿

If the Sub-Contractor shall find any discrepancy in or divergence between the various parts of the Sub-Contract Documents, he shall immediately give a written notice specifying the discrepancy or divergence to the Client-Contractor who shall issue instructions to clarify.

5.3 Supplementary information 補充資料

The Client-Contractor shall, if so requested by the Sub-Contractor, or may on his own initiative, issue supplementary drawings or specifications to amplify the Sub-Contract Documents.

5.4 Number of copies of Sub-Contract Documents and supplementary information 分包合同文及補充資料的份數

5.4.1 The Sub-Contractor shall be entitled free of charge to one signed copy and one unsigned copy of the Sub-Contract Documents.

5.4.2 The Sub-Contractor shall be entitled free of charge to two sets of supplementary drawings or specifications.

5.5 Instructions 指示

5.5.1 The Client-Contractor may issue instructions in regard to any matter in connection with the Sub-Contract Works to the Sub-Contractor. The Sub-Contractor shall forthwith comply with all instructions issued to him by the Client-Contractor. If the Sub-Contractor fails to comply with an instruction of the Client-Contractor, then the Client-Contractor may issue a notice in writing requiring the Sub-Contractor to comply with the instruction. If the Sub-Contractor does not comply with the instruction within 7 days of receipt of a written notice from the Client-Contractor requiring compliance with an instruction, then the Client-Contractor may without further notice employ and pay other persons to carry out any work whatsoever to give effect to such instruction and all costs incurred in connection with such employment shall be recoverable from the Sub-Contractor by the Client-Contractor.

5.5.2 All instructions issued by the Client-Contractor shall be issued in writing. Any instruction issued

orally shall be confirmed in writing by the Client-Contractor within 2 days, otherwise the oral instruction shall have no effect.

5.5.3 The Sub-Contractor shall maintain an efficient organization so that all instructions issued by the Client-Contractor are communicated immediately to the Site. The Sub-Contractor shall take instructions only from the Client-Contractor or persons authorised by the Client-Contractor in writing to give them.

5.5.4 The Sub-Contractor shall enter all instructions given to him or his Site Representative by the Client-Contractor or such other persons as are authorised in a Diary recording a description of such work ordered, and shall obtain against each entry the initials of the Client-Contractor or such other authorised person on the day that such instructions are given.

5.5.5 If required by the Client-Contractor, his Consultants and the Clerk of Works, the Sub-Contractor shall allow such Diary to be inspected by them at any reasonable time.

5.6 Documents on site 現場的圖紙

The Sub-Contractor shall keep in a neat and orderly manner a complete set of the Sub-Contract Drawings and Sub-Contract Specification together with copies of all instructions and supplementary or additional drawings or specifications issued after the award of this Sub-Contract on the Site. These documents shall be available for reference by the Client-Contractor and others who are involved on the Project and have a genuine need.

5.7 Use of drawings 圖紙的使用

5.7.1 Figured dimensions on drawings shall be taken in preference to scaled in all cases.

5.7.2 The Sub-Contractor shall counter-check the scale of any drawing transmitted electronically for the accuracy of the stated scale and make appropriate adjustments when scaling.

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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6. PRICES 價款

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舊稿

6.1 Lump Sum Contract 總價承包合同

a. 如合約以整單工程費之型式(“Lump Sum”一單)計算，分包商必須開列各項數量及單價，若認為圖則中部份項目需在價單內另列，可在價單內“補充項目”一欄列出及計價。工程一經判出，分包商須依合約及其圖則做妥所有工作，包在總價內；價單內數量只供參考，工程做妥後，不再重新量度任何數量。

b. 合約內之任何工程若因上家承包商之指示而有所增減時，分包商必須依照本合約條款之“額外工程計算原則”項目內容計算有關的調整。

6.2 Remeasurement Contract 重新計量合同

a. 如合約以完工後實量實度之形式計算，則不管先做、後做、分段施工或後加等工程，均須於完工後依照最新圖則或實地量度所有已完成之工程項目及數量，並按合約價單內開列之單價計算。合約數量為暫定數

量，只供分包商參考之用，若最後工程數量與原本暫定數量有差異，用於計算之合約單價及工期可作出調整。

b. 工程款項按實際所做工程數量計算，該數量需經上家承包商或業主所核准，及得到分包商書面同意。在量度數量時，應有分包商代表在場。

6.3 Rates Only Contract 純單價承包合同

純單價項目是專為在投標或定標時某些項目工作未能確定是否需要或將來可能在設計上有所變更時而設，分包商可只需在工程報價單內根據該等項目的內容及說明填報單價，該等單價將視為將來計算設計變更費用之依據。

6.9 Valuation of Variations 額外工程計算原則

a. 若因上家承包商要求的額外工程之工程數量有所增加或減少或工作性質有所改變，如有關工作與合約原來工作相類似，則其增減費用按合約原來的單價或採取原來的單價為換算基礎計算有關增減費用。若沒有適當的換算基礎，則採用公平合理的市場價格計算單價。

b. 若原合約數量與需增加工程之數量有很大的差異，因而引致不能引用原合約單價 (過高或過低) 計算工程款項時，上家承包商有權要求分包商另報一合理單價供評估及批核，增減之數量則按該新批核單價計算工程款項。

c. 若雙方同意有關額外工程未能正確量度及計算時，則用代工方法計算；若合約的清單中有訂明該等人工單價，則以該等單價計算，若沒有合約單價，則以執行該項工作的市場人工單價計算。若合約清單中沒有訂明該等機械單價，則以該等機械租用費加上運送費及經營開支及利潤計算，若該項工作所需的物料沒有訂明於合約內，將以其成本加運費再加上經營開支及利潤計算。分包商須提交列明每天花於該項工程的時間的日報表及所用物料的清單予上家承包商覆核。

d. 若合約為整單工程費之型式 (**Lump Sum** 一單)，在計算額外工程時，須按以下原則的計算方法處理：

- i. 若合約中某項目，整項工作按上家承包商要求而不需要進行時，則只需將該項目的總價從合約中扣除，而無需重新量度及計算有關數量及價款。但仍應支付該部分金額所對應之管理費用。
- ii. 當工程變更只涉及用料上的改變，而數量則沒有變更時，則只需調整該項目的單價，而無需重新計算有關數量。
- iii. 當工程變更只涉及數量上的改變，增減數量均需重新量度。
- iv. 當工程變更在數量及用料均有所改變時，計算方法均按上述之計算方法執行。

6.13 Valuation of provisional items 暫定項目的估值

a. 在合約總價內之暫定項目，是專為在投標或定標時未能完全規定或詳細說明的工作費用而設，並在工程進行中按上家承包商指示而部份或全部使用，或若不需要時從合約總價完全扣除的款項。

b. 暫定項目可分為‘暫定項目 (“**Lump Sum**” 一單)’及‘暫定項目 (實量實度)’兩種，兩者須分別按本合約條款之‘**Lump Sum**’及‘實量實度’項目內容之計算原則計價。

6.14 Sub-Contractor's claims for extras 分包商索賠

如因增加或減少工程而導致單價有所改變，分包商必須在協議特定事項說明的期限內以書面向上家承包商提出索償要求。上家承包商則必須於協議特定事項說明的期限內作出評估及回應。

6.16 Payment 付款

a. 本分包工程協議特定事項說明的周期支付工程款項一次，收到分包商申請後，在協議特定事項說明的期限內支付。

1. 支付的款項按工程完成量及協議單價計算，以協議特定事項說明的比率支付。所有因造工問題及工期延誤而須扣發的款項，將於修補妥當及作業回復正常時發予分包商。
2. 付款申請必須於協議特定事項說明的每月某日提交，逾期提交者將順延至下一期支付。
3. 凡工程累計金額較原合約總額多出百分之十時，該合約餘下所有未完成工作均需由上家承包商批准後，方可繼續施工，但有不影響安全為原則。
4. 上家承包商有權增加或削減本合約內任何一項工程之部份或全部，而增減之工程，全部均須依照合約內之單價計算，如有損失，分包商可按合約條款索償。
5. 各類少量之後做、補做或後加之工作，全部均實量實度及以合約單價計算或因現場情況以代工計算。
6. 分包商承包工程，必須包括呈交有關之施工計劃、物料樣辦及有關證書等予上家承包商批核。
7. 上家承包商應提供外，一切大小內外運輸及上落材料時間表給分包商。
8. 分包商包一切生財工具、搭拆施工台架及輔助器材。
9. 工程若因颱風或暴雨而受影響或損壞，分包商須在事後立即負責重新修妥，以免工期延遲。

b. 上家承包商按月支付計算好的中期工程款。工程款中百分之九十應于收到工程款申請書14日內向分包商支付。余下的百分之十作為保固金，直至保固金已達載於本合約的數額為止。上家承包商在本合約工程已全部完成且保養期已屆滿後14日內將保固金退回分包商。

6.17 Final Account 結算

a. 方案1 - 保修期屆滿日與入伙紙發出日掛鈎的情況

上家承包商必須在保修期屆滿及分包商修妥所有疵漏並得到最終項目委托方的合同監理及上家承包商滿意和接納後一個月內，向分包商發放保修金。

b. 方案2 - 保修期屆滿日與分包工程完工日掛鈎的情況

上家承包商必須在保修期屆滿及本分包工程經上家承包商驗收後協議特定事項說明的期限內，向分包商發放保修金。

c. 分包商所報之價格均包括招標章程內之所有圖則及內容。

d. 分包商之一切利潤、成本、管理、人力、工具及所有有關完成合約工程之必需物料連損耗、器材等等之費用，均包括在合約之單價內。

e. 分包商須依合約指定糧期上糧單申請中期糧款；一切糧單須由上家承包商指定之地盤負責人及 Q.S. 核實

並簽署所完成之工程項目及數量。

f. 分包商須於完工後申請尾期糧單，尾期工程款確認後，上家承包商須於一個月內發放。

新稿

6.1 Lump Sum Contract 總價承包合同

Where the Contract Type stated in the Sub-Contract Agreement is "Lump Sum Contract": The Sub-Contract Price stated in the Sub-Contract Agreement shall be deemed to be inclusive of all costs necessary for the completion of the Sub-Contract Works originally described in this Sub-Contract. The Sub-Contract Price shall not be adjusted except for Variations or adjustments of provisional quantities or provisional sums and other adjustments permitted under or required by this Sub-Contract.

6.2 Remeasurement Contract 重新計量合同

Where the Contract Type stated in the Sub-Contract Agreement is "Remeasurement Contract": The Sub-Contract Price stated in the Sub-Contract Agreement shall be deemed to be provisional and shall finally be recalculated by remeasuring the work properly carried out and valuing the same at the Sub-Contract Rates, subject only to other adjustments permitted under or required by this Sub-Contract.

6.3 Rates Only Contract 純單價承包合同

Where the Contract Type stated in the Sub-Contract Agreement is "Rates Only Contract". The Sub-Contract Price shall finally be calculated by measuring the work properly carried out based on the as-built records (excluding work done without authority) and valuing the same at the Sub-Contract Rates, subject only to other adjustments permitted under or required by this Sub-Contract.

6.4 Adjustment for rises or falls in costs of labour and materials 因人工及物價的升降的調整

The Sub-Contract Price shall not be adjusted for rises or falls in the costs of labour and materials or exchange rates of currencies.

6.5 Arithmetical errors 算術錯誤

Any arithmetical errors in multiplying the quantities and rates for the extensions, casting the extensions to page or section totals or carrying or bringing forward figures when calculating the original Sub-Contract Price stated in the Sub-Contract Agreement shall be deemed to have been accepted by the Contract Parties with no adjustment to the Sub-Contract Price.

6.6 Firm quantities 確定數量

6.6.1 The quantities set out by the Client-Contractor in the Pricing Schedules shall be taken as firm quantities unless otherwise described as provisional or for reference only.

6.6.2 The quantities estimated by the Sub-Contractor in the Pricing Schedules or other parts of the Sub-Contract Documents shall be taken as firm only if so specifically described.

6.6.3 For work represented by the firm quantities, the quantities as included in the Sub-Contract Price shall be the firm quantities, notwithstanding any discrepancies between such quantities and the Sub-Contract Drawings or the Sub-Contract Specification.

6.6.4 The firm quantities are not subject to remeasurement when settling the Final Account, and are only varied by Variations.

6.6.5 If the firm quantities and their descriptions do not, in accordance with the specified method of measurement, match the Sub-Contract Drawings and the Sub-Contract Specification and the Client-Contractor confirms that correction of the firm quantities have to be made to match the Sub-Contract Drawings and the Sub-Contract Specification for the actual carrying out of the Sub-Contract Works, the correction shall be deemed to be a Variation.

6.7 Reference quantities 參考數量

6.7.1 The quantities estimated by the Sub-Contractor in the Pricing Schedules or other parts of the Sub-Contract Documents shall be taken as for reference only unless otherwise described as firm or provisional.

6.7.2 Where quantities set out by the Client-Contractor in the Pricing Schedules are described as for reference only, the Sub-Contractor shall be deemed to have verified the accuracy of the quantities and make necessary correction of the quantities when submitting the Tender.

6.7.3 The Sub-Contractor shall be deemed to have estimated all reference quantities based on the Sub-Contract Drawings and the Sub-Contract Specification when submitting the Tender.

6.7.4 For work represented by reference quantities, the quantities as included in the Sub-Contract Price shall be those based on the Sub-Contract Drawings and the Sub-Contract Specification, notwithstanding any discrepancies between the reference quantities and the Sub-Contract Drawings or the Sub-Contract Specification and notwithstanding any deviations from the specified method of measurement.

6.8 Provisional quantities 暫定數量

6.8.1 Quantities of items described as "provisional" in the Pricing Schedules or other build-up of the Sub-Contract Price as included in the Tender Correspondence shall be remeasured on completion of the relevant work based on the as-built records (excluding work done without authority) and shall be valued in accordance with the Sub-Contract Rates. Provisional quantities shall be considered as estimates only, and the Client-Contractor shall not bear any responsibility for their accuracy. The Sub-Contract Rates are fixed, and shall not be adjusted whether or not the final quantities differ from the provisional quantities.

6.8.2 If the unit of a provisional item which is not described as a "provisional sum" is "Item" or "Sum", the sum priced against the item shall be included in the remeasurement unless the work described in the item is not required, in which case the sum shall not be included in the remeasurement.

6.9 Method of measurement 工程量計算規則

6.9.1 The quantities in the Pricing Schedules or other build-up of the Sub-Contract Price as included in the Tender Correspondence shall be deemed to have been measured in accordance with the method of measurement stated in the Preliminaries section of the Sub-Contract Specification or in the Preambles to the respective documents, except that when a different method of measurement is described in an item description of the documents, then the method of measurement described in the item description shall take precedence. The same method of measurement shall be used in the settlement of the Final Account.

6.9.2 Where more items than those specifically required by the method of measurement are measured for the same work, the same method of measurement as was adopted shall be used in the settlement of the Final Account.

6.9.3 Where fewer items than those specifically required by the method of measurement are measured for the work represented by firm quantities, unless the omission of measurement is specifically described in the aforesaid Preliminaries section or Preambles, the omission of measurement shall be corrected and deemed to be a Variation.

6.9.4 Where fewer items than those specifically required by the method of measurement are measured for the work represented by reference quantities, the cost of the items not measured shall be deemed to have been allowed for in the other Sub-Contract Rates, the omission of measurement shall be deemed to be a modification of the method of measurement and such modified method of measurement shall be used in the settlement of the Final Account.

6.9.5 If the various documents referred to in Clause 6.9.1 are silent as to the method of measurement used, the method of measurement which is reasonably apparent from the said documents shall be used, subject to the conditions that:

(a) all quantities shall be measured the net quantities as fixed in position with no allowance for wastage or, for work measured superficially, for laps; and

(b) ancillary items shown on the Sub-Contract Drawings or described in the Sub-Contract Specification but not measured separately in the documents shall not be measured separately when valuing variations, unless the proportion of the ancillary items to the principal items have been varied by Variations.

6.10 Provisional sums 暫定款

The Client-Contractor may issue instructions with regard to the expenditure of any sum described as "provisional sum" in the Pricing Schedules or other build-up of the Sub-Contract Price as included in the Tender Correspondence. The relevant work shall be valued based on the valuation rules stated below. In the settlement of the Final Account, the provisional sum shall be deducted from the Sub-Contract Price and the said value shall be added to the Sub-Contract Price.

6.11 Prime cost rates 暫定物料單價

6.11.1 Where a prime cost rate ("PC Rate") is included in the description of an item in the Pricing Schedules or other build-up of the Sub-Contract Price as included in the Tender Correspondence for materials delivered to site, the prime cost rate is a provisional allowance for the supply cost of the

principal material of that item delivered to site only and the Sub-Contract Rate for the item shall be deemed to have allowed in addition for all waste, fixing, all ancillary materials required for fixing such as mortar for bedding and jointing and all other similar items of a like nature, and for profits and overheads.

6.11.2 Where the prime cost rate is described as for supply and fix / install / apply, the provisional allowance is for the supply and fixing cost charged by a domestic specialist sub-sub-contractor, and the Sub-Contract Rate for the item shall be deemed to have allowed in addition for the Sub-Contractor's profits and overheads.

6.11.3 In the settlement of the Final Account, the Sub-Contract Rate shall be adjusted by the net difference between the prime cost rate and the actual unit cost and will be applied to the net quantity of the item measured as fixed, installed or applied in position, exclusive of wastage.

6.12 Variations 工程變更

The Client-Contractor may issue instructions from time to time requiring a Variation. All Variations shall be valued based on the valuation rules stated below, and the Sub-Contract Price shall be adjusted accordingly. Valuation of work is not a condition precedent to its execution by the Sub-Contractor.

6.13 Valuation of Variations and provisional sum items 工程變更及暫定款項目的估值

The valuation of Variations and of work carried out by the Sub-Contractor covered by a provisional sum shall be made by the Client-Contractor in accordance with the following "valuation rules":

- (a) The Sub-Contract Rates shall be used for valuing work of the same or similar character to, and carried out under the same or similar conditions to the work to which the Sub-Contract Rates apply.
- (b) If the work is not of the same or similar character to or not carried out under the same or similar conditions to the work to which the Sub-Contract Rates apply, "pro-rata rates" shall be used. A pro-rata rate shall use the Sub-Contract Rates for comparable items as the base with adjustment for the net difference in costs due to the difference in character or conditions plus the same percentage for profits and overheads as used in the relevant Sub-Contract Rates.
- (c) The Sub-Contract Rates shall be used for valuing work omitted from the Contract.
- (d) If the omission of work substantially varies the character of, or the conditions under which any remaining items of work are carried out, then such remaining items of work shall be valued in accordance with sub-clause (b) above.
- (e) If there are no Sub-Contract Rates which can reasonably form a basis for valuing work, "star rates" shall be used. Star rates shall be derived from market rates including rates used on other comparable projects fairly adjusted to take into consideration the nature and conditions under which the work is carried out under this Sub-Contract or from first principle based on actual costs plus the percentage for profits and overheads generally used in the Sub-Contract Rates.
- (f) If there is any disagreement as to the percentage for profits and overheads generally used in the Sub-Contract Rates, 15% shall be used for mark-up on the costs of direct labour, materials and plant. If the work is sub-sub-contracted, then 10% shall be used for mark-up on the sub-sub-contract Prices.
- (g) If it is foreseen that work to be carried out may not be properly measured or valued at Sub-Contract Rates then the Client-Contractor may and the Sub-Contractor shall propose that the work shall be valued on a daywork basis whereby the time of labour and plant engaged or properly left

idling and the quantities of materials used or properly wasted shall be recorded by the Sub-Contractor and endorsed by the Clerk of Works or other authorized representative of the Client-Contractor or the Client-Contractor on site. Notwithstanding any such proposal, the work shall be valued on a daywork basis only if there is an agreement between the Client-Contractor and the Sub-Contractor to that effect.

(h) The labour and plant to be valued on a daywork basis shall be valued at daywork rates contained or stipulated in the Contract or, in the absence of such rates, at fair rates determined by the Client-Contractor. Materials to be valued on daywork basis shall be valued at the nett cost incurred by the Sub-Contractor until being fixed plus 15% for profits and overheads.

6.14 Sub-Contractor's claims for extras 分包商索賠

6.14.1 Subject to Clause 6.14.2, compliance with the following shall not be deemed not to be Variations and not to have any cost effect:

- (a) oral or written comments on the Sub-Contractor's drawings or materials samples or catalogue submissions made by the Client-Contractor; or
- (b) any written instruction of the Client-Contractor specifically stating that there should be no cost addition.

6.14.2 If the Sub-Contractor considers that compliance as Clause 6.14.1 constitutes a Variation, then the Sub-Contractor shall immediately upon the receipt of the relevant comment or instruction write to the Client-Contractor to seek clarification.

6.14.3 Any failure by the Sub-Contractor to seek clarification of any such comment or instruction within a reasonable time is to be taken to be an acknowledgement by the Sub-Contractor that the compliance is not a Variation.

6.15 Invoices, receipts, etc. 發票、收據

The Sub-Contractor shall produce all original invoices, vouchers or receipted accounts with a photocopy of such documents for any materials or sub-contract labour charges when called upon to do so by the Client-Contractor. Upon verifying the photocopies of the invoices, receipts, etc., the originals shall be returned to the Sub-Contractor.

6.16 Payment 付款

6.16.1 The Sub-Contractor shall submit applications for payment to the Client-Contractor at monthly intervals after the commencement of the Sub-Contract Works until 1 month after substantial completion, and at bimonthly intervals thereafter.

6.16.2 The Client-Contractor shall check, amend or verify the payment application and recommend to the Client-Contractor the net amount payable and the Client-Contractor may make appropriate deductions for work or materials not in accordance with the Contract but included in the payment recommendation and shall issue a Payment Certificate to certify the net amount payable, if any, to the Client-Contractor with a copy to the Sub-Contractor within 14 days of receipt of the Sub-Contractor's application.

6.16.3 The Sub-Contractor shall submit an invoice for the amount stated in the Payment Certificate to the

Client-Contractor and the Client-Contractor shall pay the amount stated in the Payment Certificate as invoiced by the Sub-Contractor within the Period for Honouring Payment stated in the Sub-Contract Agreement.

6.16.4 The net amount payable to the Sub-Contractor under each Payment Certificate shall be computed by calculating the gross valuation at sub-clause (a) below and then making the deductions or additions at sub-clauses (b) to (g) below:

- (a) the gross valuation of the Sub-Contract Works, being the total value of materials delivered to site and work partly or fully completed up to the date of the Sub-Contractor's payment application, excluding those materials supplied by the Client-Contractor and those materials or work which are not in accordance with this Sub-Contract, but taking into account the effect of the items stated in Clause 6.17.1 (a) to (i);
- (b) deduction for retention fund as Clause 6.16.5;
- (c) addition for the amount of any advance payment stated in the Sub-Contract Agreement, but only after the provision by the Sub-Contractor of a surety bond in a form acceptable to the Client-Contractor of a value not less than the amount of the advance payment;
- (d) deduction for the amount of any advance payment which the Client-Contractor is entitled to recover in the manner stated in the Sub-Contract Agreement;
- (e) deduction for cash security or addition for release of cash security as Clauses 10.12.2 and 10.12.3;
- (f) deduction for any other sums including liquidated damages due from the Sub-Contractor to the Client-Contractor under this Sub-Contract or otherwise; and
- (g) deduction for the total amount previously paid to the Sub-Contractor.

6.16.5 The retention fund stated in Clause 6.16.4(b) above shall be dealt with in the following manner:

- (a) The retention fund shall be calculated by applying the Retention Percentage stated in the Sub-Contract Agreement on the gross valuation stated in Clause 6.16.4(a), subject to a maximum equal to the Maximum Retention stated in the Sub-Contract Agreement.
- (b) Upon the issue of the Substantial Completion Certificate of a Sub-Contract Works Section and the submission of any warranties and guarantees required under this Sub-Contract for that Sub-Contract Works Section, one half of the retention fund held in respect of the Sub-Contract Works Section shall be released to the Sub-Contractor in the next Payment Certificate.
- (c) Upon the issue of the Defects Rectification Certificate of a Sub-Contract Works Section, the balance of the retention fund held in respect of the Sub-Contract Works Section shall be released to the Sub-Contractor without interest by way of a special Payment Certificate.
- (d) Provided always that the Client-Contractor may have recourse to the retention fund otherwise due to the Sub-Contractor to recover sums due to the Client-Contractor from the Sub-Contractor.

6.16.6 The inclusion of materials or work in any Payment Certificate prior to the Final Certificate shall not be regarded as evidence that the materials are and the work has been performed in accordance with the requirements of this Sub-Contract.

6.16.7 The computation of Payment Certificates shall be by way of an estimate only based on the latest contemporary information available at the time of valuation and the valuation shall not be limited or affected by the information available in computing the amounts used in previous Payment Certificates.

6.17 Final Account 結算

6.17.1 A Final Account is a statement of the computation of the final Sub-Contract Price payable to the Sub-Contractor taking into account the following:

- (a) measurement and valuation of final quantities in the case of a Rate Only Contract as Clause 6.3;
- (b) adjustment of provisional quantities in the case of a Lump Sum Contract or Remeasurement Contract as Clause 6.8;
- (c) adjustment of provisional sums as Clause 6.10;
- (d) adjustment of prime cost rates as Clause 6.11;
- (e) adjustment for Variations as Clause 6.12;
- (f) addition for the value of any direct loss and/or expense as Clause 4.10;
- (g) deduction for failure to rectify defects as Clauses 7.6.3 and 7.6.4;
- (h) adjustment due to failure to pay statutory fees, charges or taxes as Clause 9.1.2;
- (i) deduction for the Sub-Contractor's failure to insure or addition for the Client-Contractor's failure to insure as Clause 10.6;
- (j) deduction for liquidated damages as Clause 4.11 if the Client-Contractor so instructs; and
- (k) other additions to or deductions from the Sub-Contract Price required by this Sub-Contract.

6.17.2 The Sub-Contractor shall submit his proposed Final Account calculated in accordance with this Sub-Contract with all factual evidence and relevant calculation details to the Client-Contractor for checking within 3 months from the completion of the whole of the Sub-Contract Works. The Client-Contractor shall send his draft Final Account to the Sub-Contractor for agreement as soon as practicable. In the absence of a submission by the Sub-Contractor, the Client-Contractor may compute the Final Account based on the information that is available to him and send it to the Sub-Contractor for agreement. The Sub-Contractor and the Client-Contractor shall discuss and agree the details of the Final Account from time to time and shall agree the whole Final Account as soon as possible not later than 1 month after the issue of the Defects Rectification Certificate.

6.17.3 The agreed Final Account shall be deemed to have taken into account all factors affecting the computation of the Final Account and known at the time of agreement but shall not prejudice the Sub-Contractor's liability for making good defects not considered in Clause 6.17.1(g) and the Sub-Contractor's responsibility to complete work valued in the Final Account but not yet done at the time of agreement.

6.17.4 If the Client-Contractor considers that he has taken into account all the representation of the Sub-Contractor but still fails to obtain the Sub-Contractor's agreement, he may issue his an unilateral Final Account to the Sub-Contractor and declare it as such.

6.17.5 The cost incurred by the Sub-Contractor in preparing the Final Account shall be deemed to have been included in the Sub-Contract Price.

6.18 Final Certificate

6.18.1 The Client-Contractor shall issue the Final Certificate certifying the final Sub-Contract Price, the amount previously paid to the Sub-Contractor and the difference between the two as the amount due to

the Sub-Contractor or due to the Client-Contractor as the case may be within 14 days after the issue of the Defects Rectification Certificate of the last Sub-Contract Works Section or within 14 days after the agreement of the Final Account or after 1 month has lapsed after the issue of the unilateral Final Account, whichever is the later. The final Sub-Contract Price shall be that stated in the agreed Final Account or the unilateral Final Account subject only to appropriate adjustments for all further factors affecting the computation of the Final Account and arising or known after the time of the Final Account. The Client-Contractor may also take into final consideration any further representation of the Sub-Contractor in respect of the unilateral Final Account within the aforesaid 1 month period. The amount stated as due in the Final Certificate shall be a debt payable as the case may be by the Client-Contractor to the Sub-Contractor or by the Sub-Contractor to the Client-Contractor within the Period for Honouring Payment stated in the Sub-Contract Agreement calculated from the date of the Final Certificate, unless either of the Contract Parties has expressed his disagreement to the Final Certificate and notified the other party not later than the due date for payment to resolve the dispute in accordance with Clause 12.

6.18.2 Unless notice to resolve the dispute has been issued as stated in Clause 6.18.1, the issue of the Final Certificate shall mean that the Client-Contractor has accepted the Sub-Contract Works carried out by the Sub-Contractor as being to his satisfaction and the contractual liabilities of both Contract Parties shall cease upon such Final Certificate except for the payment of the amount certified as finally due, liabilities for any latent defects not discovered at the time of the Final Account, or matters affected by any bribery offence, fraud, dishonesty or fraudulent concealment.

DSCWiki: 價款 (last edited 2010-12-05 11:07:44 by KCTang)

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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7. QUALITY 質量

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3. 7.6 Defects liability 保修責任
4. 7.1 Quality liability 質量責任
5. 7.2 Materials, workmanship and method to comply with Drawings and Specification 物料、工藝及方法須符合圖紙及規範
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8. 7.5 Testing and inspection 試驗及檢查
9. 7.6 Defects liability 保修責任
10. 7.7 Warranties and guarantees 保證及擔保

舊稿

7.1 Quality liability 質量責任

- a. 分包商明白本分包工程須按上家承包商、總承包商、終項目委托方的合同監理所訂的標準驗收。本分包工程如有不符規範之處，分包商必須按指示修復至有關方面滿意為準。否則上家承包商可扣發部分工程款項，並代僱工人修復，直至修復完成及複驗合格。上家承包商可扣除代分包商支付的工程費，並保留追討或有不敷之數的權利。
- b. 分包商須根據分包合約進行及完成全部分包工程，在各方面之施工水平均須達到則師及工程師的要求。

7.2 Materials, workmanship and method to comply with Drawings and Specification 物料、工藝及方法須符合圖紙及規範

7.6 Defects liability 保修責任

- a. 分包商必須不時修補所有已完工或施工中的工程，包括其他工種工人施工時所引致的損壞，以及因造工差劣而產生的問題。分包商不得拒絕執行補修工作的指示或拖延該等工作。
- b. 若分包商認為任何修補工程不屬其責任，則必須於協議特定事項說明的期限內以書面索還有關費用，並由上家承包商予以評估。
- c. 在保修期內，分包商必須自費調派足夠員工修補欠善的造工及材料所引致的缺點。若分包商不進行或不依期完成修補工作，上家承包商可另聘他人代為執行。一切費用均可在分包商的工程款項內扣回。

新稿

7.1 Quality liability 質量責任

The Sub-Contractor shall be fully liable for the site operations, construction methods and the stability, safety and quality of all work, whether completed or not, except for loss or damage arising from the Excepted Risks.

7.2 Materials, workmanship and method to comply with Drawings and Specification 物料、工藝及方法須符合圖紙及規範

7.2.1 The Sub-Contract Works shall be carried out, tested and inspected using the materials, workmanship and methods shown on the Drawings or described in the Specification or the Pricing Schedules, in conformity with the whole of this Sub-Contract.

7.2.2 If any of the specified materials are not procurable, then the Sub-Contractor shall submit proposed alternatives for the approval by the Client-Contractor.

7.3 Approval 批准

All items stated by this Sub-Contract to require the checking or approval by the Client-Contractor shall be submitted by the Sub-Contractor in good time before they are required for use to the Client-Contractor for such checking or approval, and shall not be used in the Sub-Contract Works until after the checking or approval by the Client-Contractor, which is to be confirmed in writing. No approval, disapproval or amendment proposal made by the Client-Contractor shall in any way reduce the Sub-Contractor's liability under this Sub-Contract.

7.4 Samples 樣品

7.4.1 If at the time of the award of this Sub-Contract, the Sub-Contractor has already submitted samples which have been approved by the Client-Contractor, those samples shall be used as the standard for subsequent acceptance of the materials or workmanship.

7.4.2 If samples have not been approved at the time of the award of this Sub-Contract, the Sub-Contractor shall submit free of charge samples and catalogues for approval purposes before ordering materials or commencing work. Approved samples shall be kept on site to serve as the standard for subsequent acceptance of the materials or workmanship.

7.5 Testing and inspection 試驗及檢查

7.5.1 The Sub-Contractor shall carry out all tests and inspections required by this Sub-Contract to be carried out or arrange for them to be carried out by independent parties if so required, all at the Sub-Contractor's expense unless the testing and inspection is covered by a provisional quantity or a provisional sum item. A copy of the testing and inspection report shall be submitted to the Client-Contractor as soon as possible after the testing and inspection.

7.5.2 The Client-Contractor may issue instructions requiring the Sub-Contractor to carry out tests and inspections additional to those required by this Sub-Contract on work already carried out, and the relevant

costs (including the cost of subsequent making good) shall be borne by the Client-Contractor. Provided that if the additional testing or inspection shows that the work is not in accordance with the requirements of this Sub-Contract, then the relevant costs (including the cost of subsequent making good and cost of rectification of other work) shall be borne by the Sub-Contractor. Where provisional quantities or provisional sums are included for such testing or inspection, the first and essential round of testing or inspection shall not be considered as additional for the purposes of this clause but shall be included in the adjustments of provisional quantities or provisional sums.

7.5.3 The Sub-Contractor shall inform the Client-Contractor not less than 24 hours before work is to be covered up to allow the Client-Contractor to inspect such work. If the Client-Contractor fails to inspect, the Sub-Contractor may carry out his own inspection. If the Client-Contractor requires work to be uncovered for inspection after it has been covered up, the Sub-Contractor shall so uncover the work. All costs of such an inspection shall be borne by the Client-Contractor, unless the inspection reveals that the work is not in accordance with this Sub-Contract, in which case the costs shall be borne by the Sub-Contractor.

7.5.4 If the Sub-Contractor fails to give the notice required by Clause 7.5.3, then the Client-Contractor may nevertheless require the inspection of any relevant work, and the cost of any such inspection shall be borne by the Sub-Contractor.

7.6 Defects liability 保修責任

7.6.1 The Sub-Contractor shall replace or rectify any materials or work which are found at any time before the expiry of the Defects Liability Period to be not in accordance with this Sub-Contract at his own cost on his own initiative or as and when instructed by the Client-Contractor to do so.

7.6.2 At any time not later than 14 days after the expiry of the Defects Liability Period, the Client-Contractor may issue one or more lists of defects to the Sub-Contractor for the Sub-Contractor to rectify. The Sub-Contractor shall rectify all defects on the lists of defects within a reasonable time as directed by the Client-Contractor or, if not so directed, within a reasonable time of receipt of a list.

7.6.3 If the Sub-Contractor fails to rectify defects within the aforesaid reasonable time, then the Client-Contractor may issue a notice to the Sub-Contractor informing him of the Client-Contractor's intention to employ others to rectify the defects specified in the notice at the expense of the Sub-Contractor. If the Sub-Contractor continues to fail to proceed to rectify the defects for a further period of 7 days or if the Sub-Contractor fails to carry on diligently thereafter, then the Client-Contractor shall be entitled to employ others to rectify the defects, and to recover the extra cost of so doing from the Sub-Contractor.

7.6.4 The Client-Contractor may instruct the Sub-Contractor not to rectify some or all of the defects specified on the lists which have been issued by the Client-Contractor, in which case a reasonable deduction from the Sub-Contract Price shall be made in respect of such defects.

7.6.5 After the expiry of the Defects Liability Period and the completion of rectification of defects on the lists of defects to his satisfaction, the Client-Contractor shall issue to the Sub-Contractor a Defects Rectification Certificate to that effect. Each Sub-Contract Works Section shall have its own separate Defects Rectification Certificate.

7.6.6 The issue of a Defects Rectification Certificate for a Sub-Contract Works Section shall discharge the Sub-Contractor from any further obligation to carry out the work of rectifying defects in the Sub-Contract Works Section which were patent before the issue of the Defects Rectification Certificate, but it shall not prejudice the Sub-Contractor's obligations under a warranty or guarantee or the Client-Contractor's other rights and remedies either under this Sub-Contract or at law regarding defective work

or other breaches of contract.

7.7 Warranties and guarantees 保証及擔保

7.7.1 The Sub-Contractor shall procure such warranties or guarantees as may be required by this Sub-Contract. The Sub-Contractor shall assign to the Client-Contractor (so far as he is lawfully able to do so) the benefits of all suppliers' and sub-sub-contractors' warranties or guarantees for materials or work insofar as they are standard sales ancillary benefits of the suppliers or sub-sub-contractors or they are required by this Sub-Contract.

7.7.2 The submission of the aforesaid warranties and guarantees satisfactorily in full compliance with this Sub-Contract shall be a pre-requisite to the release of one half of the retention fund upon substantial completion of the relevant Sub-Contract Works Section under Clause 6.16.5(b).

DSCWiki: 質量 (last edited 2010-12-05 11:08:31 by KCTang)

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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8. SUB-CONTRACTOR'S DOCUMENTS 分包商的文件

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1. 8.1 Shop drawings 製配圖
2. 8.2 Construction method statement and programme 施工組織設計及進度計劃表
3. 8.3 Progress reports 進度報告
4. 8.4 As-built records 竣工記錄

8.1 Shop drawings 製配圖

The Sub-Contractor shall submit all such shop drawings and other drawings as he is required to prepare under this Sub-Contract to the Client-Contractor for approval in sufficient time as to ensure that no delay to the Sub-Contract Works are caused.

8.2 Construction method statement and programme 施工組織設計及進度計劃表

8.2.1 Within 7 days after the Sub-Contract Award Date, the Sub-Contractor shall submit his proposed method statement and programme showing his intended time, method, sequence, stages and order of proceeding with the Sub-Contract Works for checking and approval by the Client-Contractor. The Sub-Contractor shall carry out the Sub-Contract Works in accordance with the approved method statement and programme.

8.2.2 If during the course of this Sub-Contract special circumstances should arise which in the opinion of the Client-Contractor warrant or necessitate a revision of the approved method statement and programme, then the Sub-Contractor shall accordingly so revise his method statement and programme as the Client-Contractor may require and submit the revised method statement and programme within 7 days of being notified by the Client-Contractor that such a revision is required.

8.2.3 The submission to and approval by the Client-Contractor of the method statement and programme (including revisions) shall not relieve the Sub-Contractor of any of his duties or responsibilities under this Sub-Contract.

8.3 Progress reports 進度報告

8.3.1 The Sub-Contractor shall submit the following progress reports in reasonable number of copies in the pre-approved format to the Client-Contractor regularly until 14 days after substantial/practical completion of the whole of the Sub-Contract Works and as and when work is carried out during the Defects Liability Period:

- (a) daily reports to be submitted on the working day following the day recorded and showing a record of labour employed on site under each trade, plant on site, materials delivered to site, and

the weather throughout the day, and other information as may be instructed by the Client-Contractor;

(b) weekly reports to be submitted on the first working day following the week recorded and describing in detail the progress of the Sub-Contract Works, any deviations from programme, reasons for actual or expected delays or disruptions, proposed actions to overcome the delays or disruptions, any claim for extension of time, testing and inspection carried out, list of Client-Contractor's instructions received, list of confirmations of oral instructions issued, outstanding information required, and other information as may be instructed by the Client-Contractor; and

(c) progress photographs attached to the weekly reports.

8.3.2 If a Clerk of Works or other representative of the Client-Contractor is employed upon the Sub-Contract Works, the progress reports shall be submitted for checking and signing by the Clerk of Works or other representative of the Client-Contractor before the duplicates of the signed copies are distributed.

8.4 As-built records 竣工記錄

Within 14 days after the completion of a Sub-Contract Works Section, the Sub-Contractor shall submit two sets of prints and one electronic file in suitable media of as-built records for use by the Client-Contractor, and shall additionally submit as-built records in accordance with any relevant statutory or other requirements. If there is any Variation during the Defects Liability Period, revisions to the as-built records shall be made and submitted as soon as the Variation is carried out.

DSCWiki: 分包商的文件 (last edited 2010-12-05 11:09:01 by KCTang)

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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9. GENERAL OBLIGATIONS 一般責任

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17. 9.8 Payment management to employees of all tiers 各層僱員的付款管理
18. 9.9 Temporary site facilities 現場臨時設施
19. 9.10 Setting out 開線定位
20. 9.11 Cleanliness and tidiness 清潔及整齊
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22. 9.13 Safety measures 安全措施
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24. 9.15 Visitors 訪客
25. 9.16 Prevention of bribery offences

舊稿

9.1 Statutory obligations 法定責任

- a. 強積金法例文件、勞工法例文件及僱員補償保險文件全文，均存於總承包商辦公室，並可透過預約安排供分包商省覽。
- b. 分包商須瞭解並確認其於合約中所承擔的義務、工作和責任，並不會因上述之安排有任何影響或增減。總承建商於遵從及執行香港特別行政區有關之法例時，不論是建築物條例、勞工法例、工業安全條例、強制性公積金計劃條例等等，分包商亦需有義務及責任共同遵守及執行。

9.4 Care of Works 工程的保護

- a. 分包商必須負責轄下各項已完成工程的保護工作。

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

- a. 分包商須依照總承包商/上家承包商所提供的文件及圖則，完成本分包工程。分包商的工作包括工地管理及安全監管。分包商須負責一切工具、器材以至配套用品等。上家承包商與總承包商所簽訂的合同內所有規條，分包商亦必須遵守，分包商可於辦公時間內約見上家承包商，以安排查閱合同內容。

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

- a. 分包商與上家承包商簽訂分包合同後，必須立即安排人手負責工地管理，並將駐工地代表的個人資料呈交上家承包商參考。未得上家承包商同意，經核准的駐工地代表不得更換。
- b. 如分包商或其駐工地代表缺席工地例會，並且沒有合理原因，上家承包商可收取行政費用，每人每次缺席須支付協議特定事項說明的金額。
- c. 分包商必須聘用可合法在港工作的員工施工。如發現分包商聘用非法勞工進行任何形式的工作，上家承包商可向警方舉報。分包商必須承擔因此引發的一切法律責任。同時，上家承包商保留一切循法律途徑追究的權利。

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

- a. 分包商的駐工地代表必須每天向上家承包商遞交工地的工人數目、工人名單及施工進度表。
- b. 分包商必須妥善保存工人的出勤及發薪記錄，以及每日出勤人數，於每月月底提交給上家承包商整理，以及呈交有關部門、最終項目委托方及總承包商。
- c. 分包商必須為本身及所僱用的工人，按法例規定按時繳納強積金供款，並在上家承包商要求時提交有關記錄。

9.9 Temporary site facilities 現場臨時設施

- a. 上家承包商將提供平水墨線、通道照明、水電接駁位置、照明工具。
- b. 工作台由分包商負責搭建及拆卸)。
- c. 合同單價已包括一切現場搬運及現場開料費用，分包商不得藉詞材料搬運路程過遠及開料過難，而索取額外款項。
- d. 分包商可採用總承包商所提供的設備把材料送進工地，並且必須依照工地人員的指示安排運送材料的時間。
- e. 分包商帶進工地的所有物料及機械，必須詳列清單，並即日交予上家承包商核對存錄，作為日後撤出工地時的擁有權憑證。如清單有所更改，分包商必須於同日通知上家承包商。

9.11 Cleanliness and tidiness 清潔及整齊

- a. 分包商必須負責轄下各項已完成工程的清潔及保護工作。
- b. 本分包工程所產生的廢料，全部均必須由分包商裝妥，並搬運至總承包商指定的地點，由總承包商運離工地。尼龍袋由分包商提供。

9.13 Safety measures 安全措施

- a. 分包商必須按《職業安全及健康條例》、《工廠及工業經營條例》、以及兩條法例的所有附屬法例，聘用合資格人員施工。同時，分包商必須督導、訓練及監察其員工，確保遵守工地安全規定。

- b. 分包商必須按相關法例和總承包商及上家承包商的規定，參與各項工地安全訓練及會議。
- c. 分包商須自行訂立符合法例要求的安全計劃書，並在上家承包商要求時呈交上家承包商。
- d. 分包商的員工若違反工地安全法例或最終項目委托方、總承包商或上家承包商所訂立的安全規定，則分包商必須就相關的後果承擔一切責任，包括民事和刑事責任，以及最終項目委托方、總承包商及上家承包商收取的行政費用。上家承包商可在付予分包商的任何款項扣減有關費用，分包商不得異議。
- e. 分包商必須按法例及最終項目委托方、總承包商和上家承包商的規定，自費採購本身及屬下員工所需的一切個人防護安全設備及工具，並更新和提升有關設備及工具。

9.14 Environmental protection measures 環保措施

- a. 分包商必須按現行及日後法例以及最終項目委托方、總承包商和上家承包商所訂明的環保規定施工。

新稿

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.

9.1.2 If either of the Contract Parties discharges the liability of the other party in regard to payment of fees, charges or taxes, then the amount paid plus 10% for administrative charges shall become money recoverable from the party liable for such fees, charges or taxes by the other party, without further adjustment to the prices allowed in this Sub-Contract for the like liability.

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.

9.2 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.

9.3 Assignment 轉讓

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

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.

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:

- (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 to the extent that the injury, disease or death of that person is due to any act or neglect of the Client-Contractor or any person for whom the Client-Contractor is responsible; and
- (b) injury 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, to the extent that the injury or damage is due to a breach of contract or other default of the Sub-Contractor or any person for whom the Sub-Contractor is responsible.

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.

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 construction manager full-time on site authorized and able to communicate with and take instructions from the Client-Contractor and capable of managing the Sub-Contract Works.

9.7.2 The persons employed upon the Sub-Contract Works shall be legally employable in Hong Kong. They 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 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 suitable a substitute at no extra cost and time to this Sub-

Contract.

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

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.

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.

9.11 Cleanliness and tidiness 清潔及整齊

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

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:

- (a) all workers or other persons on the Site;
- (b) all occupiers or users in the vicinity of the Site;
- (c) the public;
- (d) the Sub-Contract Works, materials for incorporation into the Sub-Contract Works, construction plant or temporary buildings used for the Sub-Contract Works;
- (e) existing building construction, finishes, fittings, services within the Site which are not to be modified under this Sub-Contract;
- (f) roads, loading and unloading points, temporary parking spaces, footpaths, corridors, staircases and lifts for travel within the Site or within the premises in which the Site is situated;

- (g) the premises where the Site is situated;
- (h) adjoining properties;
- (i) public properties, public roads and footpaths;
- (j) properties of the Public Utility Service Companies; and
- (k) existing trees and shrubs.

9.13 Safety measures 安全措施

9.14 Environmental protection measures 環保措施

9.15 Visitors 訪客

The Sub-Contractor shall not allow any unauthorised visitors on the Site. He shall keep a visitors book for persons authorised to visit the Site and provide safety helmets for such visitors.

9.16 Prevention of bribery offences

9.16.1 The Sub-Contractor shall not offer, give or agree to give to any person any bribe, commission, gift, loan or advantage of any kind as defined in the Prevention of Bribery Ordinance, Cap 201 as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the execution of this Sub-Contract or any other contract with the Client-Contractor, or for showing or forbearing to show favour or disfavour to any person in relation to this Sub-Contract or other contract with the Client-Contractor. By undertaking this Sub-Contract, the Sub-Contractor shall be deemed to have warranted that he has not committed similar bribery offences in relation to the obtaining of this Sub-Contract or any other contract with the Client-Contractor. Any commitment of the aforesaid offences by any person with the Sub-Contractor's prior authorization or subsequent acquiescence shall be deemed to be the Sub-Contractor's fault. The Sub-Contractor shall take all necessary measures to ensure that his employees, agents, sub-sub-contractors, suppliers, or other persons for whom the Sub-Contractor is responsible comply with the foregoing provisions.

9.16.2 In case of a conviction of the bribery offences described in Clause 9.16.1, without prejudice to the liability of the Sub-Contractor at law, and without prejudice to the right of the Client-Contractor to determine the employment of the Sub-Contractor under Clause 11.1.1, the Sub-Contractor shall repay the loss incurred by the Client-Contractor due to such offence and such loss shall be deemed to be at least equal to the amount of the bribe, commission, gift, loan or advantage, no matter whether the Final Certificate has been issued and payment made or not.

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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10. INSURANCES AND BOND 保險及履約保證

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17. 10.11 Surety bond or cash security 履約保證或押金

舊稿

10.1 Employees' Compensation Insurance 僱員賠償保險

- a. 本分包工程的僱員賠償保險，由協議特定事項說明的一方負責投保。所投保的免賠額(墊底費)，由分包商負責。
- b. 有關保險之墊底由總承包商負責。
- c. 分包商所屬員工若在地盤內因工作而受傷，應即時通知總承包商之地盤負責人備案，並須於 3 天內親自往地盤辦事處呈報工傷。
- d. 分包商所屬僱員若因工傷需暫支糧款，一律由分包商負責。
- e. 在履行此合約期間，分包商屬下員工或其分包商屬下之員工在地盤範圍內因工受傷後根據僱員補償法例規定暫支糧款，一概均由總承包商負責借糧予受傷工人。待受傷工人工傷完結並得勞工處發出「補償評估證明書」後。總承包商會根據經雙方覆實的「工傷借糧確認信」之金額代分包商向有關保險公司申索回一切依法例所作出之借糧款項

10.2 Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險

- a. 本分包工程的工程一切險及第三者責任險，由協議特定事項說明的一方負責投保。所投保的免賠額(墊底費)，由責任方負責。

10.3 Taking out insurances 投保

- a. 總承包商購買工程全保及勞工保險，並將保單給予分包商副本。
- b. 工程全保不包括分包商之機械及生財工具，分包商應自行購買。

10.8 Reporting incidents 通報事故

- a. 如分包商工人遇事受傷，分包商須在意外發生後24小時內通知上家承包商，以便向保險公司申報。分包商須於意外發生後三日內填妥指定的表格，呈交受傷工人過去12個月的入息證明文件，並按上家承包商指定的程序呈報工傷。
- b. 如分包商延遲遞交所需文件，上家承包商可向分包商收取協議特定事項說明的費用。
- c. 分包商必須負責因延遲遞交文件而引起的糾紛及損失。
- d. 分包商必須先代付其工人在受傷期內香港法例所規定的暫付生活費，以及收到相關通知後15天內須支付的僱員補償。否則，分包商須全數負責因而引致的任何額外費用。上家承包商在收到保險賠償後，必須按前述條文把分包商代付的款項付還分包商。
- e. 總承包商將向上家承包商就處理每宗僱員補償申索收徵收協議特定事項說明的行政費。上家承包商可在付予分包商的工程款項扣除該等費用。

10.10 Insurances of materials prior to delivery 物料到工地前的保險

- a. 分包方負責供應的物料到工地前的保險，由分包方負責投。

10.11 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險

- a. 上級承包方負責提供的施工機械及臨時建築物的保險，由上級承包方負責。
- b. 分包方負責提供的施工機械及臨時建築物的保險，由分包方負責。

新稿

10.1 Employees' Compensation Insurance 僱員賠償保險

10.1.1 The Client-Contractor shall, either by himself or cause others to, take out and maintain an employees' compensation insurance in compliance with the provisions of the Employees' Compensation Ordinance to cover the legal liabilities, costs and claims against the Sub-Contractor and his sub-sub-contractors of all tiers in respect of death or bodily injury by accident or disease sustained by any employees employed by any of them arising out of and in the course of their employment on the Sub-Contract Works or in connection with this Sub-Contract whether on site or off-site, for the full period of construction, defects liability and/or maintenance.

10.1.2 The insurance policy shall be especially endorsed to cover the death or bodily injury by accident or disease sustained by any self-employed persons or sole proprietors engaged by the Sub-Contractor or his sub-sub-contractors of all tiers upon the Sub-Contract Works or in connection with this Sub-Contract as if they were employees employed by them. Alternatively, the Client-Contractor shall ensure that separate personal accident insurance plans are taken out to provide cover commensurate with that

enjoyed by an employee under the Employees' Compensation Ordinance to all self-employed persons or sole proprietors.

10.1.3 As soon as the Sub-Contractor becomes aware of any employees, self-employed persons or sole proprietors employed or engaged upon the Sub-Contract Works or in connection with this Sub-Contract sustaining death or bodily injury by accident or disease, he shall notify the Commissioner for Labour in the manner prescribed by the Ordinance, with a copy of the notice to the Client-Contractor and the insurers, irrespective of whether the death or bodily injury gives rise to any liability to pay compensation.

10.2 Contractors' All Risks and Third Party Liability Insurance 工程一切險及第三者責任險

10.2.1 The Client-Contractor shall, either by himself or cause others to, take out and maintain a Contractors' All Risks and Third Party Liability Insurance and include the Sub-Contractor or his sub-sub-contractors of all tiers as one of the insured.

10.2.2 The Material Damage section of the insurance shall comply with the following requirements:

(a) The Insured Property shall include the Sub-Contract Works under this Sub-Contract and the materials supplied by the Client-Contractor for incorporation into the Sub-Contract Works and shall include temporary work and all unfixed materials delivered to, placed on or adjacent to the Insured Property and intended therefor (excluding construction plant and temporary buildings which are owned or hired by the Sub-Contractor).

(b) It shall cover physical loss of or damage to any part of the Insured Property during the period of construction until 14 days after substantial completion of that part notwithstanding any use or occupation by the principals or others prior to substantial completion, and also cover loss of or damage to such property arising during the period of defects liability and/or maintenance from a cause occurring during construction prior to completion or occasioned by any of the insured in the course of their carrying out of remedial work or outstanding work.

(c) The sum insured shall be equal to the full reinstatement value of the Insured Property plus:

- (i) the percentage of professional fees in case of reinstatement as stated in the Sub-Contract Agreement to cover the costs and expenses in respect of architects', surveyors' and engineers' fees necessarily incurred in the reinstatement of the Insured Property consequent upon its loss or damage but not for preparing any claim; and
- (ii) an amount not less than the amount for the removal of debris as stated in the Sub-Contract Agreement to cover the costs and expenses necessarily incurred by the Insured with the consent of the Insurers in dismantling and removing debris of the portion or portions of the Insured Property destroyed or damaged by any peril thereby insured against.

(d) It shall contain an escalation clause to cover the possible increase in the reinstatement value of the Insured Property by the percentage as stated in the Sub-Contract Agreement.

10.2.3 The Third Party Liability section of the insurance shall comply with the following requirements:

(a) It shall cover the legal liability, costs and claims against any or all of the joint-insured in respect of:

(i) accidental death, bodily injury, illness or disease suffered by any person, other than employees of the insured contractors;

(ii) accidental loss or damage to physical property, other than those insured under the Material Damage section until 14 days after substantial completion;

(iii) loss of or damage to property real or personal including damage to property, land or buildings due to collapse, subsidence, vibration, weakening or removal of support or lowering of ground water;

(iv) loss of or damage to any building, structure or property belonging to the principals in the care, custody or control of the insured contractors (alternatively, this paragraph (iv) may be covered by the Material Damage section of the insurance); and

(v) accidental death, bodily injury, illness or disease suffered by any employee of the principals visiting the Site on occasional basis,

arising out of the performance of the works by the insured contractors.

(b) It shall remain in force for the full period of construction, defects liability and/or maintenance.

(c) There shall be a "Cross-Liability" clause to cover any and all of the insured as separate and distinct parties with stipulation that the insurers agree to waive all subrogation rights which the insurers may have against any of the insured.

(d) The limit of indemnity shall not be less than the amounts stated in the Sub-Contract Agreement.

10.2.4 The amount of excess in respect of each and every occurrence of loss or damage shall not be bigger than the respective amount or, whichever is greater in monetary value, bigger in percentage term than the respective percentage of loss or damage stated in the Sub-Contract Agreement.

10.2.5 If the Sub-Contractor considers that the above-mentioned insurance coverage is inadequate to cover his contractual or legal liabilities and requires that the coverage be increased or the amounts of excesses be reduced then the additional premium so payable shall be solely for the account of the Sub-Contractor.

10.2.6 In the event of loss or damage covered by the Material Damage section of the insurance, the Sub-Contractor shall remove and dispose of any debris, repair or replace any materials damaged, destroyed, lost or stolen, restore work destroyed, damaged or lost, and proceed with the carrying out and completion of the Sub-Contract Works with due diligence immediately after any inspection required by the insurers has been carried out.

10.3 Taking out insurances 投保

10.3.1 The policies of the aforesaid insurances shall contain the usual terms and conditions, subject only to non-negotiable exclusions imposed by the insurance market.

10.3.2 It shall be acceptable if the aforesaid insurances are not exclusively for the Sub-Contract Works, the Sub-Contractor and his sub-sub-contractors of all tiers, or if the aforesaid insurances are in the form of a company master policy or an annual policy, provided they have been stated or endorsed to specifically include the Sub-Contract Works, the Sub-Contractor and his sub-sub-contractors of all tiers, and they provide cover no less than those required under this Sub-Contract.

10.3.3 Evidence of insurance covers shall be provided to the Sub-Contractor before commencement of any physical work. Copies of the policies, endorsements and premium receipts shall be provided to the Sub-Contractor as soon as practicable afterwards.

10.4 Maintaining insurances 維持投保

10.4.1 The Client-Contractor shall, either by himself or cause others to, maintain and extend as necessary the insurances to be in full force for the required periods of insurance. Extension endorsement, renewal policy (in the case of annual policy) and premium receipt shall be produced to Sub-Contractor for inspection within 14 days after each extension or renewal date.

10.4.2 If the period of insurance shall be extended through default of the Sub-Contractor or parties for whom he is responsible, the Sub-Contractor shall be responsible for any additional premiums for the extension, otherwise, the Client-Contractor shall be responsible.

10.5 Remedy for failure to insure 未能投保的補求

If the Client-Contractor shall at any time fail upon request to produce any receipt showing that any of the insurances is in full force then the Sub-Contractor may without prejudice to other rights and remedies in the joint name and on behalf of both parties insure against any risk, loss or damage with respect to which the default shall have occurred, and shall be entitled to recover the premium paid plus 15% administrative charges from the Client-Contractor. This shall be deemed to be a Variation.

10.6 Compliance with insurance conditions 遵從保險條款

The Sub-Contractor shall with all due diligence and at his own cost conform to the terms and conditions of the aforesaid insurances and all reasonable requirements of the insurers in connection with the prevention of accidents, the submission and settlement of claims, the recovery of losses and shall bear at his own cost the consequences of any failure to do so.

10.7 Reporting incidents 通報事故

In the event of the occurrence of the perils covered by the aforesaid insurances, the Sub-Contractor shall notify the insurers and the Client-Contractor of the details of the incident immediately upon he becomes aware of it.

10.8 Insurances not affecting liability 保險不解除的責任

10.8.1 The presence of the aforesaid insurances shall not prejudice or reduce the Sub-Contractor's liability or responsibility under this Sub-Contract.

10.8.2 The party who would have been liable in the absence of the insurance cover shall be responsible for the amounts of excesses, losses, damage, fees, costs and expenses not compensated by the insurances.

10.9 Insurances of materials prior to delivery 物料到工地前的保險

The taking out of insurances against risks of loss or damage to materials occurring prior to their delivery to the Site shall be the Sub-Contractor's own concern.

10.10 Insurances of construction plant and temporary buildings 施工機械及臨時建築物的保險

The taking out of insurances against risks of loss or damage to construction plant and temporary buildings owned or hired by the Sub-Contractor or persons for whom he is responsible shall be the Sub-Contractor's own concern.

10.11 Surety bond or cash security 履約保證或押金

10.11.1 The Sub-Contractor shall obtain the guarantee of an insurance company or bank to be jointly and severally bound with the Sub-Contractor to the Client-Contractor in the sum stated in the Sub-Contract Agreement for the due performance of this Sub-Contract under the terms of a Bond in the form as Appendix A hereto. The surety shall be to the approval of the Client-Contractor and the cost of obtaining the Bond shall be borne by the Sub-Contractor. The Bond shall be submitted to the Client-Contractor for custody following approval by the Client-Contractor.

10.11.2 If the Sub-Contractor so elects or if the Sub-Contractor fails to submit an approved Bond before the first Payment Certificate is issued, a cash security equal to the amount of the Bond may be held by the Client-Contractor to serve the purpose of the Bond and the amount of the cash security is recoverable by the Client-Contractor from the Sub-Contractor. If the Sub-Contractor subsequently submits an approved Bond, the amount of the cash security is recoverable by the Sub-Contractor from the Client-Contractor.

10.11.3 Upon the issue of a Substantial Completion Certificate of a Sub-Contract Works Section and the settlement of all claims (if any), the amount of the Bond or cash security shall be reduced pro-rata to ratio of the value of that Sub-Contract Works Section to the final Sub-Contract Price currently estimated. Upon the issue of the Substantial Completion Certificate of the last Sub-Contract Works Section and the settlement of all claims (if any), the Bond or the balance of the cash security shall be released to the Sub-Contractor without interests.

DSCWiki: 保險及履約保證 (last edited 2010-12-05 11:10:25 by KCTang)

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舊稿

11.1 Determination by Client-Contractor 上家承包商終止僱用

- a. 在以下情況下，上家承包商可在給予分包商<>天書面通知後，終止僱用分包商：
 - i. 分包商持續違反合同條文；
 - ii. 分包商未有按上家承包商的書面指示，有效及持續履行合同責任；
 - iii. 分包商無力償還債務；或
 - iv. 分包商干犯刑事罪行。
- b. 若分包商破產，分包商的僱用即時終止。
- c. 上家承包商終止僱用分包商後，分包商必須撤出工地。上家承包商並可：
 - i. 另聘他人承辦餘下工程；
 - ii. 扣押分包商帶進工地的一切機械和物料，以待確認價值並償予上家承包商；
 - iii. 扣除代分包商僱用他人承辦餘下工程的款項後，餘款發予分包商；
 - iv. 扣除款項後發現有不敷之數，向分包商進行追討；以及
 - v. 經法律途徑追索。

11.2 Determination by Sub-Contractor 分包商終止受僱

- a. 在以下情況下，分包商可發出書面通知，終止其受僱：
 - i. 上家承包商無限期暫停施工；
 - ii. 上家承包商延期施工超逾協議特定事項說明的期限；
 - iii. 上家承包商在施工方面未有支援分包商；或
 - iv. 上家承包商未有合理原因而不按合同規定支付工程款項予分包商。
- b. 若上家承包商破產，分包商的僱用即時終止。
- c. 分包商在合同終止後，可就因此而蒙受的損失向上家承包商索償。分包商必須以書面提出申索，並提供所需理據及詳情。賠償款額必須經雙方議定，當中可包括：
 - i. 分包商所完成工程的款額；及
 - ii. 終止合同所引致的損失。

11.3 Termination by Ultimate Project Client or Upper-tier Contractors 最終項目委托方或

再上層承包商的終止

- a. 如最終項目委托方或再上層承包商終止與上家承包商簽訂的承包合同，則本分包合同必須予以終止。若終止合同並非因為分包商犯錯而引致，則分包商已完成的工程，將會按合同單價支付工程款項。
- b. 接到最終項目委托方或再上層承包商的終止合同通知後，上家承包商必須在協議特定事項說明的期限內通知分包商。

新稿

11.1 Determination by Client-Contractor 上家承包商終止僱用

11.1.1 The Client-Contractor may but not unreasonably or vexatiously by notice by registered post or recorded delivery to the Sub-Contractor forthwith determine the employment of the Sub-Contractor under this Sub-Contract in any one or more of the following events:

- (a) the Sub-Contractor without reasonable cause fails to proceed regularly and diligently with the Sub-Contract Works (including rectifying defects) or completely or substantially suspends the carrying out of the Sub-Contract Works (including rectifying defects) before substantial completion of the whole of the Sub-Contract Works;
- (b) the Sub-Contractor without reasonable cause fails persistently to rectify defects after substantial completion of the whole of the Sub-Contract Works and the Client-Contractor pursuant to Clause 7.6.3 employs others to rectify the defects for 5 times or more and the total cost of rectifying defects exceeds \$100,000;
- (c) the Sub-Contractor without the written consent of the Client-Contractor assigns this Sub-Contract;
- (d) the Sub-Contractor becomes bankrupt or makes a composition or arrangement with his creditors or has a petition for compulsory winding-up presented or made against him or enters into compulsory or voluntary liquidation except for the purpose of reconstruction or has a provisional liquidator or receiver appointed, unless the Client-Contractor, the Sub-Contractor and his trustee in bankruptcy, liquidator or receiver, as the case may be, agree in writing before or after the notice of determination to the continuation or reinstatement of the Sub-Contractor's employment; or
- (e) the Sub-Contractor (or any person for whom the Sub-Contractor is responsible with or without the knowledge of the Sub-Contractor) is convicted of a bribery offence described in Clause 9.13.1.

Provided that the employment of the Sub-Contractor shall not be determined due to Clauses 11.1.1(a) to (c) unless the event either has continued for 7 days after receipt by registered post or recorded delivery of a warning notice of determination from the Client-Contractor specifying such event or at any time thereafter has repeated, and the Client-Contractor has certified during the continuation or resumption of the event not more than 14 days before the notice of determination.

11.1.2 In the event of the Client-Contractor determining the employment of the Sub-Contractor as aforesaid, the Sub-Contractor shall reimburse the Client-Contractor all additional costs and direct loss and/or expense caused to the Client-Contractor by the determination. Provided always that the right of determination shall be without prejudice to any other rights or remedies which the Client-Contractor may possess.

11.2 Determination by Sub-Contractor 分包商終止受僱

11.2.1 The Sub-Contractor may but not unreasonably or vexatiously by notice by registered post or recorded delivery to the Client-Contractor forthwith determine the employment of the Sub-Contractor under this Sub-Contract in any one of more of the following events:

- (a) the Client-Contractor fails to make any payment due under this Sub-Contract within 14 days of such payment being due;
- (b) the commencement or carrying out of the whole or substantially the whole of the Sub-Contract Works has been postponed or suspended as instructed by the Client-Contractor or the Client-Contractor due to no breach or default of the Sub-Contractor or postponed or suspended due to any combination of the Compensable Events for a continuous period of more than 3 months beyond any stipulated periods of postponement or suspension in this Sub-Contract; or
- (c) the Client-Contractor becomes bankrupt or makes a composition or arrangement with his creditors or has a petition for compulsory winding-up presented or made against him or enters into compulsory or voluntary liquidation except for the purpose of reconstruction or has a provisional liquidator or receiver appointed, unless the Sub-Contractor, the Client-Contractor and his trustee in bankruptcy, liquidator or receiver, as the case may be, agree in writing before or after the notice of determination to the continuation or reinstatement of the Sub-Contractor's employment.

Provided that the employment of the Sub-Contractor shall not be determined due to Clauses 11.2.1(a) to (b) unless the event has continued for 14 days after receipt by registered post or recorded delivery of a warning notice of determination from the Sub-Contractor specifying such event or, except for sub-clause (b), at any time thereafter has repeated, and the notice of determination is issued during the continuation or resumption of the event.

11.2.2 In the event of the Sub-Contractor determining his employment as aforesaid, the Client-Contractor shall reimburse the Sub-Contractor all additional costs and direct loss and/or expense caused to the Sub-Contractor by the determination. Provided always that the right of determination shall be without prejudice to any other rights or remedies which the Sub-Contractor may possess.

11.3 Termination by Ultimate Project Client or Upper-tier Contractors 最終項目委托方或再上層承包商的終止

11.4 Consequences of determination 終止僱用的後果

11.4.1 In the event of determination of the employment of the Sub-Contractor as Clause 11.1 or 11.2, this Clause 11.4 shall apply.

11.4.2 The Sub-Contractor shall immediately give up any possession of the Site and demobilize his people from the Site except those necessary to attend to site security, site survey and handover but only for the time specified by the Client-Contractor as being reasonably required for that purpose.

11.4.3 In case of determination by the Client-Contractor, the Sub-Contractor shall not without the consent of the Client-Contractor remove from the Site any materials, plant and facilities.

11.4.4 In case of determination by the Sub-Contractor, the Sub-Contractor may after informing the Client-Contractor remove from the Site any materials, plant and facilities.

11.4.5 Any removal by the Sub-Contractor of materials, plant and facilities shall be carried out with due care and with suitable safety provisions provided so as not to affect the safety and stability of work and other objects remaining on site or endanger personal safety.

11.4.6 The Client-Contractor may provide site security to prevent such improper removal and unauthorised access and provide safety measures to protect the Sub-Contract Works, people and adjoining properties.

11.4.7 The Client-Contractor and the Sub-Contractor shall jointly take records of the status and quantities of the work done and materials, plant and facilities on site.

11.4.8 The Client-Contractor may employ and pay other persons to carry out and complete the Sub-Contract Works and use or dispose of the materials, plant and facilities left on the Site pursuant to Clause 11.4.3 or 11.4.4.

11.4.9 If instructed to do so by the Client-Contractor, the Sub-Contractor shall, without payment from the Client-Contractor, terminate or assign as far as possible the contracts with his suppliers and sub-sub-contractors to enable the Client-Contractor or other persons appointed by the Client-Contractor to employ and pay the suppliers and sub-sub-contractors to continue to provide their service, warranties, guarantees on similar terms to their existing contracts.

11.4.10 The additional costs incurred in implementing the above procedures and measures shall be part of the additional costs due to determination.

11.4.11 In case of determination by the Client-Contractor, the balance of payment from one Contract Party to the other shall be computed by calculating the expenses at sub-clause (a) below and then making the deductions or additions at sub-clauses (b) to (d) below:

- (a) the expenses incurred by the Client-Contractor in completing the Sub-Contract Works, excluding the costs of Variations instructed after determination, but including the additional costs of employment of consultants and site staff for the necessary time until the settlement of the final payment under this Sub-Contract;
- (b) addition for the total amount previously paid to the Sub-Contractor;
- (c) addition for the additional costs and direct loss and/or expense caused to the Client-Contractor by the determination, including damages for delayed completion of any Sub-Contract Works Section for the period until the original completion date of the contract for completion; and
- (d) deduction for the total amount that would have been payable for completing the Sub-Contract Works calculated in accordance with this Sub-Contract if the determination had not occurred.

11.4.12 If the Client-Contractor does not employ other persons to commence the Sub-Contract Works left outstanding within 6 months after determination, the expenses, costs, direct loss and/or expense, and period of delay for the purpose of Clause 11.3.11 shall be assessed on the assumption that the employment had commenced by the end of the said 6 months.

11.4.13 In case of determination by the Sub-Contractor, the balance of payment from one Contract Party to the other shall be computed by calculating the gross valuation at sub-clause (a) below and then making the deductions or additions at sub-clauses (b) to (d) below:

- (a) the gross valuation of the Sub-Contract Works in accordance with Clause 6.16.4(a), excluding materials removed by the Sub-Contractor after determination, but including materials that the Sub-

Contractor has paid for, or is legally bound to pay for, and has or will transfer these materials with proper ownership to the Client-Contractor;

(b) deduction for liquidated damages which may accrue up to the date of determination;

(c) addition for the additional costs and direct loss and/or expense caused to the Client-Contractor by the determination; and

(d) deduction for the total amount previously paid to the Sub-Contractor.

11.4.14 The Client-Contractor and the Sub-Contractor shall as soon as practicable exchange their computations of the balance of payment in Clause 11.4.11 or Clause 11.4.13 with supporting documentation, discuss and agree the balance of payment. Upon agreement, the Client-Contractor shall issue a Final Account (in lieu of that under Clause 6.17) showing a summary computation of the balance of payment. If the Client-Contractor considers that he has taken into account all the representation of the Sub-Contractor but still fails to obtain the Sub-Contractor's agreement, he may issue his an unilateral Final Account to the Sub-Contractor and declare it as such.

11.4.15 The Client-Contractor shall issue the Final Certificate (in lieu of that under Clause 6.18.1) certifying the balance of payment due to the Sub-Contractor or due to the Client-Contractor as the case may be within 14 days after the agreement of the Final Account or after 1 month has lapsed after the issue of the unilateral Final Account, whichever is later. The amount stated as due in the Final Certificate shall be a debt payable as the case may be by the Client-Contractor to the Sub-Contractor or by the Sub-Contractor to the Client-Contractor within the Period for Honouring Payment stated in the Sub-Contract Agreement calculated from the date of the Final Certificate, and Clause 6.18.2 shall still apply, unless either of the Contract Parties has expressed his disagreement to the Final Certificate and notified the other party no later than the due date for payment to resolve the dispute in accordance with Clause 12.

11.4.16 Before the agreement of the Final Account, the liable Contract Party shall pay the undisputed portion of the up-to-date balance of payment once every 2 months.

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合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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12. DISPUTE RESOLUTION 爭議解決

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舊稿

12.1 Procedures 程序

- a. 雙方因執行本分包合同而發生的爭議，可在合同執行期間、完工後或合同終止後，以專家判斷、調解、仲裁等方式解決。

12.5 Reference to arbitration 提交仲裁解決

- a. 如選擇仲裁，其中一方可用書面通知對方有爭議之處(即“仲裁通知”)，按照有關法例規定和香港國際仲裁中心的本地仲裁現行規則進行仲裁。

12.6 Arbitrator's powers 仲裁員的權力

12.8 Governing law 規管法例

- a. 本合同受香港特別行政區法例規管，並按香港特別行政區法例詮釋。

新稿

12.1 Procedures 程序

12.1.1 The Contract Parties agree to follow the dispute resolution procedures outlined in this Clause 12 to resolve any disputes or differences between the Contract Parties that may arise under or in connection with this Sub-Contract, including disagreement between them over any act or omission of the types stated in Clause 12.5.1(d) of the Client-Contractor. This clause does not preclude the Contract Parties from adopting other dispute resolution measures mutually agreed between themselves.

12.1.2 The dispute resolution procedures shall be deemed to commence when either of the Contract Parties notify the other to resolve disputes in accordance with Clause 12.

12.2 Reference to Designated Representatives 提交指定的高層解決

12.2.1 Each of the Contract Parties shall designate one of his own senior executives as its representative (referred to in this clause as the "Designated Representatives") within 14 days after the Sub-Contract Award Date.

12.2.2 The dispute shall first be referred to the Designated Representatives who shall forthwith endeavour to settle the dispute.

12.3 Reference to expert determination 提交專家判斷解決

If the dispute is not resolved by the Designated Representatives within 28 days of the dispute being referred to them, either of the Contract Parties may give a notice to the other party to refer the dispute to a mutually agreed expert in the matter in dispute to determine impartially the share of liabilities and costs between the Contract Parties. The payment to the expert shall be equally shared between the Contract Parties. The Contract Parties may agree that the expert's determination may be for reference only or binding. The Contract Parties may agree that the expert's determination may or may not be presented to the arbitrator.

12.4 Reference to mediation 提交調解解決

12.4.1 If the dispute is not resolved by the Designated Representatives within 28 days of the dispute being referred to them, either of the Contract Parties may, instead of referring to an expert for determination, give a notice to the other party to refer the dispute to mediation.

12.4.2 The person to act as the mediator shall be agreed between the Contract Parties. If the Contract Parties are unable to agree on the person to act as the mediator within 21 days after a written request by either party to do so, the mediator shall, on the written request of either party, be appointed by the Hong Kong International Arbitration Centre.

12.4.3 Any such mediation shall, unless otherwise agreed by the Contract Parties, be conducted in accordance with and subject to the Hong Kong International Arbitration Centre Mediation Rules.

12.5 Reference to arbitration 提交仲裁解決

12.4.1 If the dispute is not settled by mediation within 28 days of the commencement of the mediation, either Contract Party may give a notice to the other party to refer the dispute to arbitration.

12.4.2 The person to act as the arbitrator shall be agreed between the Contract Parties. If the Contract Parties are unable to agree on the person to act as the arbitrator within 21 days after a written request by either party to do so, the arbitrator shall, on the written request of either party, be appointed by the Hong Kong International Arbitration Centre.

12.4.3 The arbitration shall be a domestic arbitration conducted in accordance with the Arbitration Ordinance (Chapter 341, Laws of Hong Kong) and, unless otherwise agreed by the Contract Parties, with the Domestic Arbitration Rules of the Hong Kong International Arbitration Centre.

12.6 Arbitrator's powers 仲裁員的權力

12.5.1 The arbitrator's powers include:

- (a) rectifying the Contract to accurately reflect the true agreement made by the Contract Parties;
- (b) directing measurements or valuations to determine the rights of the Contract Parties;
- (c) assessing and awarding any sum which ought to have been the subject of or included in a certificate; and
- (d) opening up, reviewing and revising, without limitation, the giving, submitting or issuing of any agreement, approval, assessment, authorisation, certificate, confirmation, consent, decision, delegation, direction, dissent, determination, endorsement, instruction, notice, notification, opinion, request, requirement, statement, termination or valuation.

12.5.2 The place of arbitration shall be Hong Kong.

12.7 Sub-Contractor to continue to proceed diligently 分判商仍須繼續不懈的工作

The Sub-Contractor shall continue to proceed regularly and diligently with the Sub-Contract Works despite a dispute having arisen, and shall continue to give effect to all instructions from the Client-Contractor unless and until revised by agreement between the Designated Representatives, by mediation or in arbitration under this Clause 12.

12.8 Governing law 規管法例

This Sub-Contract shall be governed by and construed according to the laws for the time being in force in Hong Kong.

合同協議	協議特定事項	1.釋義	2.工地	3.工程	4.工期	5.合同基礎	6.價款	7.質量	8.分包商的文件	9.一般責任	10.保險及履約保證	11.終止	12.爭議解決	附件
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APPENDICES 附件

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