

Appendix 7.3A –

Standard Provisions of EACSB Consultancy Agreements in GCE Form

Special Conditions of Employment

Recruitment, Employment and Management of Resident Site Staff **SCE XX** Clause 36 of the General Conditions of Employment is replaced by the following clause:

- 36 (A) Where this Agreement or the Brief requires the Consultants to provide a part of the Services in relation to recruitment, employment and management of Resident Site Staff (hereinafter referred to as “RSS” in this Agreement) under direct employment by the Consultants, the Consultants shall do so in accordance with Clauses SCE XX [*Insert the clause no.*] and SCE YY [*Insert the clause no.*] of these Special Conditions of Employment, the Brief and the Schedule of Resident Site Staff Standards and Duties.
- (B) The Consultants shall be responsible for the acts, default and neglects of all RSS in connection with any works under this Agreement.
- (C) The Consultants shall comply with the procedures and arrangements for recruitment, employment, management, reimbursement and remuneration for its direct employment of RSS in accordance with the latest version of the Management Handbook for Direct Employment of Resident Site Staff by Consultants for Public Works Projects promulgated by the Development Bureau (Works Branch) or equivalent as at the deadline for submission of the Technical and Fee Proposals (hereinafter referred to as “RSS Management Handbook” in this Agreement). The RSS Management Handbook is posted on the website of the Development Bureau or equivalent under the heading “Standard Consultancy Documents” in the

“Publications” section, and can be found in the following link or its update as advised by the Director’s Representative:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/index.html

The RSS Management Handbook will be updated from time to time after the deadline for submission of the Technical and Fee Proposals when the existing works policies are modified. Changes to the arrangements on recruitment, employment, management, reimbursement and remuneration for direct employment of RSS by the Consultants in this Agreement or new arrangements introduced by the Development Bureau (Works Branch) or equivalent before the completion of this Agreement shall, subject to any instruction(s) by the Director’s Representative to the Consultants, be implemented by the Consultants from the date the changes or new arrangements take effect.

Reimbursement and Remuneration for the Consultants' Recruitment, Employment and Management of Resident Site Staff

SCE YY (A) The reimbursement and remuneration to the Consultants for such part of the Services in relation to recruitment, employment and management of RSS shall be in accordance with this Clause. For the avoidance of doubt, except as provided in this Clause, no payment shall be made to the Consultants in respect of any part of the Services in relation to recruitment, employment and management of RSS.

(B) For the avoidance of doubt, the RSS on-cost and other reimbursable expenditures in relation to such part of the Services in relation to recruitment, employment and management of RSS shall be excluded from the Lump Sum (as stated in the Schedule of Fees) and associated payments. Notwithstanding that the notional value for RSS on-cost, calculated on the basis of the RSS on-cost rates tendered by the Consultants in the Fee Proposal, was taken into account by the Employer in assessing the Consultants' Technical and Fee Proposals for this Agreement, the Employer has no obligation whatsoever to instruct any part of the Services in relation to recruitment, employment and management of RSS. Notwithstanding that the actual RSS establishment size and composition determined in accordance with the Brief may deviate from the notional RSS establishment size and composition as stated in the Fee Proposal Proforma, any deviation between the actual RSS establishment size and composition determined in accordance with the Brief and the notional RSS establishment size and composition as stated in the Fee Proposal Proforma shall not constitute additional Services nor a claim and the Consultants shall not be entitled to any payment or other compensation or relief of or attributable to the Employer's decision.

(C) The Consultants shall be reimbursed for actual payment of salaries and fringe benefits of RSS, advertising costs for recruitment of RSS and expenses for specified training courses for RSS provided that:

- (i) the Consultants shall obtain the prior written approvals of the Director’s Representative on the proposals for the whole RSS establishment and its revisions in accordance with the Brief and the proposed reimbursement caps on salaries and fringe benefits for each RSS proposed to be employed in accordance with this Clause prior to entering into any commitment to expenditure for which there is a provision for reimbursement in this Clause;

- (ii) the total of the accumulated reimbursement applied and the estimated reimbursement to be applied for each calendar year shall not exceed the respective annual reimbursement ceiling (which is the aggregate total of various reimbursement caps on salary and fringe benefits of RSS, advertising costs for recruitment of RSS and expenses for specified training courses for RSS accepted by the Director’s Representative); and

- (iii) the Consultants shall observe and comply with the conditions and mechanisms for determination of reimbursement caps and reimbursement as stipulated in this Clause.

Sections 4.1 to 4.11 and associated appendixes of the RSS Management Handbook shall form a part of this Clause. The terms below in the RSS Management Handbook shall have the following respective meaning in this Agreement:

Term in the RSS Management Handbook	Meaning in this Agreement
the “Consultant”	the “Consultants”
the “managing department”	the “Director’s Representative”
“the consultancy agreement”	“this Agreement”

(D) The Consultants shall be remunerated RSS on-cost each month for such part of the Services in respect of the recruitment, employment and management of RSS, subject to price adjustments under sub-clause (E) of this Clause. The monthly amount shall be the sum of the products obtained by multiplying the number of man-months of RSS provided and managed in the month of the rank as described in Column A below by the respective RSS on-cost rates tendered by the Consultants in the Fee Proposal and input by the Employer in Clause SF ZZ [*Insert the clause no.*] of the Schedule of Fees upon acceptance by the Employer. Column B describes the collective ranks of RSS directly employed by the Consultants and Government staff posted to the Consultants by the Employer as appropriate. Unless stated otherwise, the RSS on-cost rates in the Schedule of Fees are all-inclusive in respect of such part of the Services in relation to recruitment, employment and management of RSS.

	Column A - <u>Rank</u>	Column B - Collective <u>Rank</u>
RSS directly employed by the Consultants	PRE, CRE, CRA	R1
	SRE, SRE(E&M), SRE(G), SRA, SRLA, SRQS, SRLS	R2
	RE, RE(E&M), RE(G), RA, RLA, RQS, RLS, RCTO, RSIOW, RSCOW, RPSO, RPTO, RSIO	R3
	ARE, ARE(E&M), ARE(G), ARA,	R4

ARLA, ARQS,
 ARLS, RIOW,
 RAIOW, RSFO,
 RFOI, RSSO,
 RCOW, RACOW,
 RSTO, RSO, RTO,
 RIO, REO, RAEO,
 RAO, RSCO, RCO

RWSI, RWSII, R5
 RFOIL, RACO,
 RACO(LR), RCA,
 RPSII, Resident
 Artisan, Resident
 Chainman,
 Resident
 Laboratory
 Assistant

Government Staff posted to the Consultants by the Employer under Section 4.11 of the RSS Management Handbook	CEG, GEG, LSG, SEG	R10
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[Add or delete ranks and/or collective ranks as may be necessary to suit the need of the consultancy agreement by the managing department.]

- (E) (i) There shall be no price adjustment to the RSS on-cost rates in Clause SF ZZ *[Insert the clause no.]* of the Schedule of Fees until the first anniversary of the base date which is the due date for commencement of this Agreement. On the first and every subsequent anniversary (collectively referred to as “index update date”), a price adjustment factor equal to $(L - B)/B$ shall be calculated. The interim payments for RSS on-

cost under Sub-clause (D) of this Clause to be invoiced on or after the latest index update date but before the next index update date shall be multiplied by this factor to determine the price adjustment amounts.

“B” referred to above is the monthly Consumer Price Index (C) of the base date and “L” is the monthly Consumer Price Index (C) of the latest index update date.

- (ii) “Consumer Price Index (C)” in this Clause shall mean the Consumer Price Index (C) (October 2019 - September 2020 based) compiled by the Census and Statistics Department, and published monthly in the Hong Kong Monthly Digest of Statistics, or, in the event that the Consumer Price Index (C) ceases to be compiled, such other Index as is, in the opinion of the Development Bureau (Works Branch) or equivalent, substantially equivalent.
- (F) The Consultants shall prepare monthly forecasts of the estimated expenditure on reimbursement for such part of the Services in relation to recruitment, employment and management of RSS, which will have been paid by the Consultants before the end of the following calendar month in accordance with Sub-clause (C) of this Clause and associated RSS on-cost in accordance with Sub-clauses (D) and (E) of this Clause. Within the first five working days of each calendar month, the Consultants shall submit the forecast and application for payment for such reimbursement and RSS on-cost one calendar month in advance to the Director’s Representative if appropriate. An explanation of the changes made since the previous forecast is submitted with each forecast. The Consultants shall correct any incorrectly estimated amount of reimbursement and RSS on-cost in a later application for payment but no interest will be paid on the difference between the incorrectly estimated amount and the correct amount. Applications for payment shall be processed in accordance with Clause 31 of the General Conditions of Employment.

A reason for withholding processing of any application for reimbursement and RSS on-cost is that more information is needed in order to assess the Consultants' submissions fully. A reason for disapproval of any application for reimbursement and RSS on-cost is that the Consultants' submission does not comply with Clauses SCE XX [*Insert the clause no.*] or SCE YY [*Insert the clause no.*] of these Special Conditions of Employment or the service provided by the Consultants does not comply with the Brief where appropriate.

(G) The Consultants shall keep and submit the following records to the Director's Representative in each payment application for the estimated expenditure on reimbursement and RSS on-cost in the following calendar month pursuant to Sub-clause (F) of this Clause:

- estimates and accounts of payments of such reimbursement and RSS on-cost;
- proof that the payments have been made for the last payment application; and
- other declarations and records as required in this Clause and the Brief.

Brief

XX. Resident Site Staff

XX.1 The Consultants shall provide the service in relation to the proposal, review and maintenance of RSS establishment appropriate for site supervision and contract management of works contracts arising from the Services, as well as recruitment, employment and management of RSS in accordance with Sections 3.3, 5.1 to 5.12, 6.1 to 6.7 and associated appendixes of the RSS Management Handbook and the Schedule of Resident Site Staff Standards and Duties.

XX.2 Sections 3.3, 5.1 to 5.12, 6.1 to 6.7 and associated appendixes of the RSS Management Handbook shall form a part of this Brief. The terms below in the RSS Management Handbook shall have the following respective meaning in this Agreement:

Term in the RSS Management Handbook	Meaning in this Agreement
the “Consultant”	the “Consultants”
the “managing department”	the “Director’s Representative”
“the consultancy agreement”	“this Agreement”

XX.3 The Consultants shall verify the information provided by RSS, keep and submit the declarations, records and other documents as required in Clause SCE YY [*Insert the clause no.*] of the Special Conditions of Employment to the Director’s Representative for such part of the Services in relation to recruitment, employment and management of RSS.

Schedule of Fees

Resident Site Staff **SF ZZ** (A) The RSS on-cost rates are:

Collective rank of RSS directly employed by the Consultants or Government staff posted to the Consultants by the Employer	RSS on-cost rate of each collective rank (\$/man-month)
R1	
R2	
R3	
R4	
R5	
R10	

[Add or delete collective ranks as may be necessary to suit the need of the consultancy agreement by the managing department.]

(B) The details of the collective ranks of RSS directly employed by the Consultants or Government staff posted to the Consultants by the Employer are in Clause SCE YY *[Insert the clause no.]* of the Special Conditions of Employment.

Fee Proposal Proforma

Resident Site Staff

- The Resident Site Staff (“RSS”) on-cost rates are:

Collective rank of RSS directly employed by the Consultants or Government staff posted to the Consultants by the Employer	RSS on-cost rate of each collective rank (HK\$/man-month)#
R1	
R2	
R3	
R4	
R5	
R10	

Remarks:

The RSS on-cost rate of each collective rank (except R10) shall be within the range of 5% to 30% of the reference average RSS cost of the corresponding collective rank given in the table below and are subject to correction in accordance with DEVB TC(W) No. 5/2018 and paragraph [*Insert number*] of the Invitation Letter for Submission of Technical and Fee Proposals.

[Add or delete collective ranks as may be necessary to suit the need of the consultancy agreement by the managing department.]

- The notional numbers of man-months of collective ranks of RSS directly employed by the Consultants or Government staff posted to the Consultants by the Employer are listed in the table below. The RSS on-cost rates in the Fee Proposal will be applied with the notional numbers of man-months to arrive at the “notional RSS on-cost charges” to be used for purpose of the combined score assessment of Technical and Fee Proposals by adopting DEVB TC(W) Nos. 2/2016 and 5/2018 and their subsequent updates (if any).

Collective rank of RSS directly employed by the Consultant or Government staff posted to the Consultant by the Employer	\$Reference average RSS cost (HK\$/man-month)	Notional number of man-months of each collective rank (man-month) [To be inserted by managing department before invitation of Technical and Fee Proposals]
R1	[Insert by project team]	
R2	[Insert by project team]	
R3	[Insert by project team]	
R4	[Insert by project team]	
R5	[Insert by project team]	
R10 (Please provide the further breakdown of notional number of man-months for Government staff to be posted for “Design Training” and “Site Training” if appropriate)		

[Add or delete collective ranks as may be necessary to suit the need of the consultancy agreement by the managing department.]

- The notional RSS establishment is given in **Attachment A**.
- The details of the collective ranks of RSS directly employed by the Consultants or Government staff posted to the Consultants by the Employer are in Clause SCE YY [Insert the clause no.] of the Special Conditions of Employment.

Attachment A – Notional RSS Establishment

(I) Rank	(II) Posts in notional RSS establishment	(III) Number in notional RSS establishment	(IV) Notional number of man-months	(V) Collective rank of RSS directly employed by the Consultants or Government staff posted to the Consultants by the Employer
				R1
			(sub-total =)	
				R2
			(sub-total =)	
				R3
			(sub-total =)	
				R4
			(sub-total =)	
				R5
			(sub-total =)	
				R10
			(sub-total =)	

[Add or delete collective ranks as may be necessary to suit the need of the consultancy agreement by the managing department.]

Invitation Letter for Technical and Fee Proposals

XX.1 Your attention is drawn to the requirement to insert the RSS on-cost rate in respect of each collective rank specified in the prescribed Fee Proposal Proforma for “Direct Employment of Resident Site Staff” (“RSS Proforma”), which is essential for bid assessment purpose and for payment/management of the Consultants upon award of the Assignment. The RSS on-cost rates (except for R10) shall be within the range of 5% to 30% of the reference average RSS cost of the corresponding collective rank. The reference average RSS cost for each collective rank can be found in the RSS Proforma.

- (a) If you fail to put in any of the RSS on-cost rates for any collective rank (except for R10) in the RSS Proforma, the relevant rate shall be corrected by deeming the same as 5% of the reference average RSS cost of the corresponding collective rank rounded up to the nearest cent.
- (b) If the RSS on-cost rates for any collective rank (except for R10) you entered in the RSS Proforma is lower than 5% of the reference average RSS cost of the corresponding collective rank, the relevant rate shall be corrected to 5% of the reference average RSS cost of the corresponding collective rank rounded up to the nearest cent.
- (c) If the RSS on-cost rates for any collective rank (except for R10) you entered in the RSS Proforma is higher than 30% of the reference average RSS cost of the corresponding collective rank, the relevant rate shall be corrected to 30% of the reference average RSS cost of the corresponding collective rank rounded up to the nearest cent.
- (d) If you fail to put in the RSS on-cost rate for R10 in the RSS Proforma, the relevant rate shall be corrected by deeming the same as zero.

We will seek confirmation from you to abide by the bid with the relevant rate(s) so corrected for bid assessment purpose and for payment/management of the Consultants upon award of the Assignment. If you confirm your agreement to abide by the bid with the rate(s) corrected, the combined score assessment of Technical and Fee Proposals would then be continued in the prescribed manner in accordance with DEVB TC(W) Nos. 2/2016 and 5/2018 and their subsequent updates (if any) on the basis of the proposed fee and/or rates with such rate(s) so corrected and confirmed. If you fail to confirm your agreement to abide by the bid with the rate(s) so corrected in writing by a specified deadline, **your bid shall not be considered further for this consultant selection exercise.**

XX.2 You are reminded that relevant sections of the Management Handbook for Direct Employment of Resident Site Staff by Consultants for Public Works Projects promulgated by the

Development Bureau (Works Branch) or equivalent will form parts of the Special Conditions of Employment and the Brief of this consultancy agreement. This Handbook can be found in the link below:

https://www.devb.gov.hk/en/publications_and_press_releases/publications/standard_consultancy_document/index.html