

DEVELOPMENT BUREAU
LIBRARY OF
STANDARD SPECIAL CONDITIONS OF TENDER

Important Notes:

- (1) This set of Special Conditions of Tender (“SCT”) is applicable to contracts using NEC4 (June 2017, with amendments January 2023) ECC form.
- (2) Project officers should refer to the latest technical circulars/memos on DEVB’s website and Works Group Intranet Portal during their preparation of tender documents.
- (3) Project officers should use the library with caution and, if any anomalies are found, notify their departmental contract advisors for clarification and, if necessary, seek further clarification with the DEVB subject officer [AS(WP4)8, telephone no. 3509 7308].
- (4) Double check the correct references are inserted in the relevant spaces.

| | Index | Last Update | Remarks |
|---------|---|--------------------|--|
| SCT 1 | Programme of <i>works</i> | 30.6.2022 | |
| SCT 2 | Alternative design invited for part of the <i>works</i> covered by the <i>Client’s</i> design | 30.6.2022 | |
| SCT 3 | Design required for part of the <i>works</i> not covered by the <i>Client’s</i> design | 30.6.2022 | |
| SCT 4 | Submission of Temporary Works design | 30.6.2022 | |
| SCT 5 * | Contractors’ Joint Venture | 4.10.2021 | Alternative for prequalified tendering not adopted and Joint Venture not allowed |

| | Index | Last Update | Remarks |
|---------|--|--------------------------------------|--|
| SCT 5 * | Contractors' joint venture | 30.9.2022 | Alternative for prequalified tendering not adopted |
| SCT 5 * | Contractors' Joint Venture | 4.10.2021 | Alternative for prequalified tendering adopted |
| SCT 6 | Outline quality system for production and supply of structural concrete | 30.6.2022 | |
| SCT 7 | ISO 9000 | 30.6.2022 | |
| SCT 8 | Outline Environmental Management Plan | 30.6.2022 | |
| SCT 9 | Disclosure of Information (bid challenges) | 4.10.2021 | |
| SCT 10 | Funding Approval | 4.10.2021 | |
| SCT 11 | Drawings | 4.10.2021 | |
| SCT 12 | Statement of Convictions under the Factories and Industrial Undertakings Ordinance (Cap. 59), The Occupational Safety And Health Ordinance (Cap. 509), The Shipping And Port Control Ordinance (Cap. 313), The Merchant Shipping (Local Vessels) Ordinance (Cap. 548) The Air Pollution Control Ordinance (Cap. 311), The Noise Control Ordinance (Cap. 400), The Waste Disposal Ordinance (Cap. 354), The Water Pollution Control Ordinance (Cap. 358), The Dumping At Sea Ordinance (Cap. 466), The Ozone Layer Protection Ordinance (Cap. 403), The Land (Miscellaneous Provisions) Ordinance (Cap. 28), The Environmental Impact Assessment Ordinance (Cap. 499), and The Hazardous Chemicals Control Ordinance (Cap. 595) | 422.104.2021 <u>24</u> | |

| | Index | Last Update | Remarks |
|----------------|--|---------------------------------|----------------|
| SCT 13 | Statement of Convictions under section 27 of the Public Health and Municipal Services Ordinance (Cap. 132) | 4.10.2021 | |
| SCT 14 | Outline Safety Plan | 30.6.2022 | |
| SCT 15 | Reduction of Contingency Sums for Compensation Events | 4.10.2021 | |
| SCT 16 | Award to Trading Fund | 4.10.2021 | |
| SCT 17 | Activity Schedule | 5 <u>18.23</u> .2024 | |
| SCT 18 | Pre-bid Arrangement under Target Contract | 20.3.2023 | |
| SCT 19 | <i>Fee Percentage</i> | 4.10.2021 | |
| SCT 20 | Estimates for Tender Price Index (ETPI) | 10.11.2021 | |
| SCT 21 | Bonus for joint venture with listed contractor in lower group or with probationary status | 13.9.2023 | |
| <u>SCT 22</u> | <u>Information on On-going Works Contracts for Assessment of “Merit/Demerit Point for Safety”</u> | <u>21.11.2023</u> | |
| Appendix [] | Sample JV Proforma | 4.10.2021 | |
| Appendix [] | Sample Estimates for Tender Price Index (ETPI) with General Preambles and Particular Preambles | 10.11.2021 | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 1 Programme of works | |
| <p>(1) The tenderer shall submit with its tender a construction programme showing the phasing and construction times of the major items of the <i>works</i>.</p> <p>The tenderer shall take cognizance of any sequence, method or timing of construction specified in this contract. [Optional: The tenderer's attention is drawn to the following factors when preparing its proposed programme submission:</p> <ul style="list-style-type: none"> (a) Completion Dates and Key Dates for <i>section(s)</i> of # the <i>works</i>; (b) interface problems or constraints; (c) special sequencing requirements; (d) site access constraints; (e) work restrictions; (f) etc.] | <p>This Clause shall not be used generally. Pursuant to the guidelines given in SETW's memo ref.: ETWB(W) 546/83/01 dated 10.1.2003, departments should not ask tenderers to make immaterial submissions where a non-submission or a poor submission would not affect the tender recommendation. In general, where selective tendering is adopted or where a marking scheme is used to ensure that only qualified contractors are eligible to tender, the contractor will be expected to possess the necessary expertise for programming and undertaking the <i>works</i> and examination of the programme at tender stage will not be necessary. Only when the project is very complex and with anticipated problems in interfacing and phased completion requirements and it is essential for a tenderer to demonstrate in its tender its ability to identify and manage such complexities, then this Clause shall be included.</p> |
| <p>(2) The programme to be submitted with the tender shall be in the form of a bar chart showing the earliest and latest start and finish dates for each major item and the critical path [Optional: and other preliminary information required under NEC Clause 31.2].</p> <p>[Note: if other forms of programme are required, reword the above sentence accordingly.]</p> | <p>Where this Clause is included, it shall be inserted as an essential <u>requirement submission</u> pursuant to Clause GCT 21. Where a Programme of Works is required to be submitted with the tender, the tender shall be invalidated if the tenderer does not make such a submission. If the tenderer makes a poor submission which fails to demonstrate its understanding of and its capability in programming the <i>works</i> for the contract under the very special</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| <p>(3) The submission of this programme is for the tenderer to demonstrate its understanding of and its capability in programming the <i>works</i> for this contract.</p> <p>(4) The programme shall not form part of this contract. It shall not be taken as a programme in the Contract Data under NEC Clause 31.1.</p> | <p>circumstances or programme requirements as specified, the tenderer shall be considered as not technically capable for recommendation for award of the contract. Legal advice should be obtained to form such a recommendation.</p> <p># Modify if Option X5 is not applicable</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| <p>(4) An alternative design shall:</p> <ul style="list-style-type: none"> (a) be presented as an integral part of a separate tender for the <i>works</i>, (b) be priced as a lump sum for related <i>*items/*activities</i> and supported by a fully priced and detailed Schedule of Rates, and (c) be sufficiently documented to enable the <i>Client's</i> decision on its acceptability <p>For the purposes of (b), the tender shall provide separately the approximate quantities showing the build up of the lump sum. [##The said Schedule of Rates shallmay form the basis of interim payments and assessment of compensation events.]</p> | <p>## Delete for Options C and D</p> |
| <p>(5) The tenderer shall submit such further clarifications pertaining to the alternative design as may be requested by the <i>Project Manager</i> designate to enable a proper assessment of the tender to be made. Failure to do so by the tenderer may render its tender invalid. General Conditions of Tender Clause GCT 16 will apply to such clarifications to the alternative design.</p> | <p>For sub-clause (5), post-tender communication with tenderers shall be limited to the need for clarifications. Tenderers should not be given the opportunity to enhance their design submissions.</p> |
| <p>(6) Any alternative design will be treated in confidence up to the date of acceptance of the tender. The contents of unsuccessful tenders will not be divulged.</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| (7) If the tenderer submits a tender— for incorporating an alternative design, it shall identify (*either in the programme required by SCT ... or in the alternative tender) the arrangements made and the time allowed for the design and independent checking of the alternative design. It shall also submit the name and particulars of the firm or company it proposes to employ as "Independent Checking Engineer". | * Delete as appropriate. |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 3 Design Rrequired for Ppart of the Wworks Nnot Ccovered by the <i>Client's</i> Ddesign | |
| <p>(1) The tenderer is required to submit in accordance with the provisions of this Special Condition of Tender a design for <i>*that/*those</i> part(s) of the <i>works</i> identified in [set out the relevant Drawings no(s). and the relevant clause/section no(s). of the tender documents e.g. the Specification].</p> | <p>This Clause is extracted from DEVB TC(W) No. 3/2014 and shall be used where the tenderer is required to submit a design for part of the <i>works</i> which is not covered by the <i>Client's</i> Scope. The design to be submitted should also be stipulated as an essential <u>requirement submission</u> under the relevant GCT clause for <u>essential</u> submission—of—<u>essential requirements</u>.</p> |
| <p>(2) Tenderer's design must comply with the minimum conditions specified in [set out the relevant Drawings no(s). and the relevant clause/section no(s) of the tender documents e.g. the Specification]. A tender incorporating a design which does not comply with the minimum conditions or which design requires substantial amendments in order to conform to the Scope shall be considered as a non-conforming tender.</p> | <p>* Delete as appropriate</p> |
| <p>(3) The attention of the tenderer is drawn to Clauses F1, F2 and F5 of the <i>additional conditions of contract</i>.</p> | |
| <p>(4) The tenderer's design shall:</p> <p>(a) be priced as a lump sum for related <i>*items/*activities</i> and supported by a fully priced and detailed Schedule of Rates, and</p> <p>(b) be sufficiently documented to enable the <i>Client</i> to reach a decision on its acceptability.</p> | <p>* Delete as appropriate</p> |
| <p>For the purposes of (a), the tenderer shall provide separately the approximate quantities showing the build up of the lump sum.</p> | <p># Delete for Options C and D</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--------------------------------|
| <p>[#The said Schedule of Rates shallmay form the basis of interim payments and assessment of compensation events.]</p> <p>(5) The tenderer's design will be treated in confidence up to the date of acceptance of the tender. The contents of unsuccessful tenders will not be divulged.</p> <p>(6) The tenderer shall identify (*either in the programme required by SCT ... or in the tender) the arrangements made and the time allowed for the design and independent checking of the design. The tenderer shall also submit the name and particulars of the firm or company it proposes to employ as "Independent Checking Engineer".</p> | <p>* Delete as appropriate</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| SCT 4 Submission of Temporary Works Design | |
| <p>(1) The tenderer shall submit with the tender a method statement of proposals for (which shall include proposals for the foundations and support of) the following Temporary Works #[to demonstrate its technical competence in executing the works]</p> <p><i>List the items of work for which this requirement applies. Particular attention shall be paid to the lateral stability of the Temporary Works.</i></p> | <p>This Clause may be used either on its own or in conjunction with the standard ACC and PS clauses requiring independent checking of Temporary Works design.</p> <p>This Clause shall not be used generally. Pursuant to the guidelines given in SETW's memo ref.: ETWB(W) 546/83/01 dated 10.1.2003, departments should not ask tenderers to make immaterial submissions where a non-submission or a poor submission would not affect the tender recommendation. In general, where selective tendering is adopted or where a marking scheme is used to ensure that only qualified contractors are eligible to tender, the contractor will be expected to possess the necessary expertise for undertaking the works. Only when the project is very complex and with anticipated problems in temporary works design and construction and it is essential for a tenderer to demonstrate in its tender its ability to identify and manage such complexities, then this Clause shall be included.</p> <p>Where this Clause is included, it shall be inserted as an essential requirement submission pursuant to Clause GCT 21. The tender shall be invalidated if the tenderer does not make such a submission. [If the tenderer makes a poor submission which fails to demonstrate its</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| (2) These proposals shall not form part of this contract. | understanding of the complexities and its capability in its temporary works design, the tenderer shall be considered as not technically capable for recommendation for award of the contract. Legal advice should be obtained to form such a recommendation.] # Delete for marking scheme |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|---|
| SCT 5 Contractors' Joint Venture | |
| <p>Tenders from an incorporated joint venture or an unincorporated joint venture will not be considered unless the incorporated joint venture or the unincorporated joint venture is itself separately listed on its own account in [to be inserted¹] on the List of Approved Contractors for Public Works/separately listed on its own account on the List of Approved Suppliers of Materials and Specialist Contractors for Public Works [to be inserted²].</p> | <p>Ref.: ETWB TCW No. 50/2002, ETWB memos ref. (019JP-01-4) in ETWB(W) 510/83/05 dated 2.11.2006, ref. (01656-01-03) in ETWB(W) 510/83/05 dated 4.8.2006, ref. (02VFJ-01-2) in DEVB(W) 510/83/05 dated 30.11.2016, ref. (02VWV-01-1) in DEVB(W) 510/83/05 dated 24.1.2017, ref. (03487-01-1) in DEVB(W) 510/83/05 dated 31.12.2019, ref. DEVB(W) 510/83/05 dated 14.7.2020, ref. DEVB(W) 510/83/05 dated 16.9.2020, and ref. DEVB(W) 510/83/05 dated 26.3.2021</p> <p>It should be used if joint venture is <u>not</u> allowed to tender.</p> <p><u>Note 1:</u> Insert the appropriate Category(ies), Group(s), and/or status of Contractors on the List of Approved Contractors for Public Works that are permitted to tender for the contract. It should be the same as that stipulated in the Gazette Notice or Tender Notice for invitation to tender for the contract.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--------|---|
| | <p><u>Note 2:</u> Insert the appropriate Category(ies), Group(s), Class(es) and/or status of Contractors on the List of Approved Suppliers of Materials and Specialist Contractors for Public Works that are permitted to tender for the contract. It should be the same as that stipulated in the Gazette Notice or Tender Notice for invitation to tender for the contract.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| SCT 5 Contractors' Jjoint Vventure | |
| <p>(1) Tenderers may submit their tender in the form of a joint venture provided they meet the conditions of participation below:</p> <p>(a) the participants or shareholders in the joint venture collectively satisfy the qualification requirements; and</p> <p>(b) each participant or shareholder in the joint venture is technically capable for that part of the <i>works</i> it undertakes.</p> | <p>Ref.:</p> <p>ETWB TCW No. 50/2002, ETWB memos ref. (019JP-01-4) in ETWB(W) 510/83/05 dated 2.11.2006, ref. (01656-01-03) in ETWB(W) 510/83/05 dated 4.8.2006, ref. (02VFJ-01-2) in DEVB(W) 510/83/05 dated 30.11.2016, ref. (02VWV-01-1) in DEVB(W) 510/83/05 dated 24.1.2017, ref. (03487-01-1) in DEVB(W) 510/83/05 dated 31.12.2019, ref. DEVB(W) 510/83/05 dated 14.7.2020, ref. DEVB(W) 510/83/05 dated 16.9.2020, and ref. DEVB(W) 510/83/05 dated 26.3.2021</p> <p>ETWB TCW No. 50/2002 stipulates that joint ventures shall be permitted to tender for contracts covered by the WTO GPA. For contracts not covered by the WTO GPA, departments may decide whether or not to allow joint ventures to tender. This Clause is to be used for tenders that allow joint ventures to participate. For tenders adopting open tendering procedures, project officers are advised to note the necessary amendments and to stipulate criteria on evaluation of technical capabilities or to consider using Stage 1 Screening. Please note that the amendments in curly brackets { } (or square brackets [] as the case may be) are only applicable to tenders with an estimated forecast total of the Prices equal to or greater than HK\$2 billion.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>(2) Where the tenderer is an unincorporated joint venture, it must:</p> <p>(a) subject to General Conditions of Tender Clause GCT 21 nominate a lead participant whose proposed value of works in the joint venture pursuant to sub-clause (4) below shall be more than that of any other participant in the joint venture. # [The lead participant must be a confirmed* Group [] contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (see Note 1)] / ## { The lead participant must be either:</p> <p>(i) a confirmed Group C (see Note 2) contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (“the stated category”) (see Note 1); or</p> <p>(ii) a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case, there must be at least one participant in the joint venture who is a confirmed Group C (see Note 2) contractor in the stated category. The total percentage participation of participant(s) who is/are confirmed Group C (see Note 2) contractors included in the stated category must be at</p> | <p>The submission required under sub-clause (2)(a) of this Clause is an essential submission and shall be mentioned in the GCT 21 on essential submissions.</p> <p><u>Note 1</u>: Insert the appropriate description in the event that the contract is invited from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. This clause is designed for inputting one service category only. If a project requires invitation of more than one service category in the List, DEVB and LAD(W) have to be consulted on the non-standard amendments.</p> <p>* Delete/Modify as appropriate.</p> <p># The words in square brackets [] are not applicable to open tendering.</p> <p>## The words in curly brackets { } are not applicable to open tendering and are only applicable to tenders with an estimated forecast total of the Prices equal to or greater than HK\$2 billion and shall replace the words in square brackets [].</p> <p><u>Note 2</u>: In case the contract is invited from the List of Approved Suppliers of Materials</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|---|--|
| <p>least 40% pursuant to sub-clause (4) below. The percentage participation of the lead participant shall be no more than 60% }; and</p> <p>(b) subject to General Conditions of Tender Clause GCT 25, submit to the <i>Project Manager</i> designate a Letter of Undertaking in the form set out in Appendix⁺ [insert appropriate reference] to these Special Conditions of Tender duly executed by all the participants of the unincorporated joint venture.</p> <p>Failure to comply with this sub-clause by an unincorporated joint venture tenderer shall render its tender invalid.</p> | <p>and Specialist Contractors for Public Works, amend the text “confirmed Group C” as appropriate.</p> <p>⁺ The form in Appendix AB2 in DEVBETWB memo ref. (02VVW-01-401656-01-3) in DEVB(W)ETWB(W) 510/83/05 dated 24.1.2017 August 2006 shall be used.</p> |
| <p>(3) Where the tenderer is an incorporated joint venture,</p> <p>(a) the shareholder who undertakes the largest share of proposed value of works, calculated pursuant to sub-clause (4) below, shall be referred to as “the major shareholder”. [#][The major shareholder must be a confirmed* Group [] contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (see Note 3)] / ^{##}{The major shareholder must be either:</p> <p>(i) a confirmed Group C (see Note 2) contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and</p> | <p>[*] Delete as appropriate.</p> <p>[#]The words in square brackets [] are not applicable to open tendering and shall be amended as appropriate for compatibility with sub-clause (4) regarding the determination of the major shareholder.</p> <p><u>Note 3</u>: Insert the same description as set out in sub-clause (2)(a) above.</p> <p>^{##} The words in curly brackets { } are not applicable to open tendering and are only applicable to tenders with an estimated forecast total of the Prices equal to or greater than HK\$2 billion. If applicable, they shall replace the words in square brackets []. The words in curly brackets { } shall be amended as appropriate for</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|---|---|
| <p style="color: blue;">Drainage* / Site Formation* / Waterworks* (“the stated category”) (see Note 3) ; or</p> <p>(ii) a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case, there must be at least one shareholder in the joint venture who is confirmed Group C (see Note 2) contractor in the stated category. The total percentage participation of shareholder(s) who is/are confirmed Group C (see Note 2) contractor(s) in the stated category must be at least 40% pursuant to sub-clause (4) below. The percentage participation of the major shareholder shall be no more than 60% }; and</p> <p>(b) it shall, subject to General Conditions of Tender Clause GCT 25, submit to the <i>Project Manager</i> designate a Letter of Undertaking in the form set out in Appendix⁺ [<i>insert appropriate reference</i>] to these Special Conditions of Tender duly executed by all the shareholders of the incorporated joint venture.</p> <p>Failure to comply with this sub-clause by an incorporated joint venture tenderer shall render its tender invalid.</p> | <p>compatibility with sub-clause (4) regarding the determination of the major shareholder.</p> <p style="color: red;">+ <u>The form in Appendix B1 in ETWB memo ref. (01656-01-3) in ETWB(W) 510/83/05 dated 4 August 2006 shall be used. The form in Appendix B in DEVB memo ref. (02VVW 01 1) in DEVB(W) 510/83/05 dated 24.1.2017 shall be used.</u></p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>(4)A (a) Where the tenderer is a joint venture (whether incorporated or unincorporated), the tenderer shall, subject to General Conditions of Tender Clause GCT 21, submit with its tender the proposed value of works to be undertaken by each participant or shareholder in the joint venture in the JV Proforma, set out in Appendix [insert appropriate reference] to these Special Conditions of Tender (the “JV Proforma”). Failure of a tenderer to submit the proposed value of works in the JV Proforma on or before the close of tender shall render its tender invalid.</p> <p>(b) The percentage participation of each participant or shareholder in a joint venture shall be calculated by reference to the proposed value of works to be undertaken by such participant or shareholder against the tendered total of the Prices stated in the JV Proforma or, if correction is required, by reference to the corrected proposed value of works and the corrected tendered total of the Prices in the JV Proforma. In the event that the percentage participation stated elsewhere in the tenderer’s submission does not tally with one calculated from the JV Proforma, the latter shall prevail.</p> <p>(c) Each proposed value of works shall be inserted as a figure in the unit of Hong Kong dollar, otherwise the tender shall be rendered invalid. Any other descriptions, such as “jointly”, “fully</p> | <p>Sub-clause (4)A should be used for tenders using the formula approach for tender evaluation.</p> <p>The submissions on the value of works proposed to be undertaken by each participant or shareholder in the joint venture in the JV Proforma required under sub-clause (4)A of this Clause are essential submissions and shall be mentioned in the GCT 21 on essential submissions.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|--|--|
| <p>integrated” etc. are not acceptable.</p> <p>(d) The tenderer shall not add any additional category of works; to, <u>or</u> amend or delete any category of works in the list of categories set out in the JV Proforma.</p> <p>(e) The tenderer shall ensure that there are no unclassified works. The value of those parts of the <i>works</i> that are not directly related to any category of works, e.g. preliminaries, personnel, insurance, safety etc., shall be distributed among the categories of works set out in the JV Proforma by the tenderer in such a way that the tendered total of the Prices in the JV Proforma tallies with the “tendered total of the Prices” inserted elsewhere in its tender e.g. the Grand Summary of <i>*activity schedules / bills of quantities</i>, Form of Tender and Contract Data Part two.</p> <p>(f) The specific correction rules as more particularly set out in the JV Proforma apply to correction of discrepancies and errors as therein described.</p> | <p style="color: blue;">* Delete as appropriate.</p> |
| <p>(4)B (a) Where the tenderer is a joint venture (whether incorporated or unincorporated), the tenderer shall, subject to General Conditions of Tender Clause GCT 21, submit with its tender (i) the proposed percentage participation of each participant or shareholder in the Technical Submission Envelope; and (ii) the proposed value of works to be</p> | <p>Sub-clause (4)B should be used for tenders <u>using the marking scheme</u> approach for tender evaluation.</p> <p>The submissions on the proposed percentage participation and value of works proposed to be undertaken by each participant or shareholder required under sub-clause (4)B of this Clause are essential submissions and shall be mentioned in GCT 21 on essential</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|--|--|
| <p>undertaken by each participant or shareholder in the joint venture in the JV Proforma set out in Appendix [insert appropriate reference] to these Special Conditions of Tender (the “JV Proforma”) in the Tender Price Documents Envelope. Failure of a tenderer to submit the proposed percentage participation or the proposed value of works in the JV Proforma on or before the close of tender shall render its tender invalid.</p> <p>(b) The proposed percentage participation shall be used for technical assessment. After completion of the technical assessment, the “Tender Price Documents” shall be opened. If the proposed percentage participation submitted in the Technical Documents Envelope does not tally with the proposed percentage participation calculated as detailed in sub-clause (4)(c) below, the latter shall prevail. In this case, it should be regarded as error of form and the technical score shall be adjusted using the corrected percentage participation so calculated instead the proposed percentage participation.</p> <p>(c) The percentage participation of each participant or shareholder in a joint venture shall be calculated by reference to the proposed value of works to be undertaken by such participant or shareholder against the tendered total of the Prices stated in the JV Proforma or, if</p> | <p>submissions.</p> <p>This JV Proforma submission requirement should be listed under GCT 4(1)(c). The proposed percentage participation should be listed under GCT 4(1)(e).</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|--|--|
| <p>correction is required, by reference to the corrected proposed value of works and the corrected tendered total of the Prices in the JV Proforma.</p> <p>(d) Each proposed value of works shall be inserted as a figure in the unit of Hong Kong dollar, otherwise the tender shall be rendered invalid. Any other descriptions, such as “jointly”, “fully integrated” etc. are not acceptable.</p> <p>(e) The tenderer shall not add any additional category of works to, or amend or delete any category of works in the list of categories set out in the JV Proforma.</p> <p>(f) The tenderer shall ensure that there are no unclassified works. The value of those parts of the <i>works</i> that are not directly related to any category of works, e.g. preliminaries, personnel, insurance, safety etc., shall be distributed among the categories of works set out in the JV Proforma by the tenderer in such a way that the tendered total of the Prices in the JV Proforma tallies with the “tendered total of the Prices” inserted elsewhere in its tender e.g. the Grand Summary of <i>*activity schedules / bills of quantities</i>, Form of Tender and Contract Data Part two.</p> <p>(g) The specific correction rules as more particularly set out in the JV Proforma apply to correction of discrepancies and errors as therein described.</p> | <p style="color: blue;">* Delete as appropriate.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>(5) (See Note 4) Without prejudice to any other General Conditions of Tender and Special Conditions of Tender, the lead participant or major shareholder in a joint venture will be considered as technically capable of undertaking the part of the <i>works</i> as required under sub-clause (1)(b) of this Clause, if:</p> <p>(a)(i) the lead participant or major shareholder is a contractor listed in the category and group in the List of Approved Contractors for Public Works (see Note 5) as required by sub-clause (2)(a) of this Clause; and</p> <p>(ii) the number of contracts to be held and the forecast value of works to be undertaken by the lead participant or major shareholder does not exceed the number and/or value of contracts or works that may be undertaken by a contractor listed in the same category and group as required by sub-clause (2)(a) of this Clause, the details of which are set out in the Contractor Management Handbook “CMH” published by the Development Bureau. ^{##}[; or</p> <p>(b)(i) the lead participant or major shareholder is NOT listed in the category and group in the List of Approved Contractors for Public Works as required by sub-clause (2)(a) of this Clause; and</p> <p>(ii) it has completed, in the capacity of main contractor, two contracts each of a value equal to or greater than the limit on the values of contract or works that may be undertaken by a Group C</p> | <p>DEVB’s memo ref. DEVB(W) 510/83/05 dated 14.7.2020</p> <p><u>Note 4</u>: Sub-clause (5) is not needed for open tendering. Project officer must state specific criteria needed to assess technical capabilities in open tendering to suit specific contract needs or to adopt Stage 1 Screening.</p> <p><u>Note 5</u>: Insert the List of Approved Suppliers of Materials and Suppliers of Materials and Specialist Contractors for Public Works as necessary.</p> <p>^{##} The words in square brackets are only applicable to tenders with an estimated forecast total of the Prices equal to or greater than HK\$2 billion.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|---|----------------------|
| <p>(probationary) contractor in the same category as required by sub-clause (2)(a) of this Clause as set out in the CMH, within the last 7 years before the date of first notice of tender invitation. If such a contract was completed by a joint venture, only the part of the contract completed by the lead participant or major shareholder in that joint venture shall be accredited and calculated in accordance with its share of works by value.</p> <p>For the purpose of sub-clause (5)(b)(ii) of this Clause, only the number of contract(s) and their respective contract value(s) concerning works falling within the same category on the List as required by sub-clause (2)(a) of this Clause shall be assessed. Experience gained in contracts overseas (government or non-government) will be counted. The joint venture tenderer shall, subject to General Condition of Tender Clause GCT 25, submit to the <i>Project Manager</i> designate documentary evidence, in the form of a certificate of completion and articles of agreement and the like to the satisfaction of the <i>Project Manager</i> designate, supporting the job experience of its lead participant or major shareholder.]</p> | |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>(6) (See Note 6) Without prejudice to any other General Conditions of Tender and Special Conditions of Tender, a participant or shareholder in a joint venture (other than the lead participant or major shareholder to which sub-clause (5) above applies) will be considered as technically capable of undertaking the part of the <i>works</i> as required under sub-clause (1)(b) of this Clause, if:</p> <p>(a)(i) the participant or shareholder is a contractor listed in the same category and group in the List of Approved Contractors for Public Works (see Note 7) as required by sub-clause (2)(a) of this Clause; and</p> <p>(ii) the number of contracts to be held and the forecast value of works to be undertaken by the participant or shareholder does not exceed the number and/or value of contracts or works that may be undertaken by a contractor listed in the same category and group as required by sub-clause (2)(a) of this Clause, the details of which are set out in the CMH published by the Development Bureau. For the purpose of the application of this sub-clause, probationary contractors will be treated in the same manner as confirmed contractors and the limits on the number and/or value of contracts or works that may be undertaken by probationary contractors as set out in the CMH will not apply; or</p> <p>(b)(i) the participant or shareholder in the</p> | <p>DEVB's memo ref. DEVB(W) 510/83/05 dated 14.7.2020</p> <p><u>Note 6</u>: Sub-clause (6) is not needed for open tendering. Project officer must state specific criteria needed to assess technical capabilities in open tendering to suit specific contract needs or to adopt Stage 1 Screening.</p> <p><u>Note 7</u>: Insert the List of Approved Suppliers of Materials and Specialist Contractors for Public Works as necessary.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>joint venture is a contractor included in the List of Approved Contractors for Public Works or the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, whichever is applicable, (“the List”) other than the same category and group as required by sub-clause (2)(a) of this Clause; and</p> <p>(ii) the category of works to be undertaken by the participant or shareholder as set out in the JV Proforma is of the same category of the List in which the participant or shareholder is included; and</p> <p>(iii) the number of contracts to be held and the forecast value of works to be undertaken by the participant or shareholder does not exceed the number and/or value of contracts or works that may be undertaken by a contractor listed in the same category and group in which the participant or shareholder is included, the details of which are set out in the Contractor Management Handbook “CMH” published by the Development Bureau. For the purpose of the application of this sub-clause, probationary contractors will be treated in the same manner as confirmed contractors and the limits on the number and/or value of contracts or works that may be undertaken by probationary contractors as set out in the CMH will not apply; or</p> <p>(c) the participant or shareholder in the joint</p> | |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>venture is NOT a contractor included in the List for the category of works it proposes to undertake, and it satisfies the minimum experience criteria set out in the CMH for direct entry to the respective category, group and, if applicable, class on the List for the category and forecast value of works it proposed to undertake either on a probationary status, or as a confirmed contractor if the category of works concerned has no probationary status; or</p> <p>(d) the participant or shareholder is a contractor included in the List for the category of works it proposes to undertake and this participant or shareholder wishes to take up works in excess of the limits of the category and group in which it is listed in, and it satisfies the minimum experience criteria set out in the CMH for promoting to the respective group for the forecast value of works it proposed to undertake, either on a probationary status, or as a confirmed contractor if the category of works concerned has no probationary status; or[^]</p> <p>(e) (See Note 8) the participant or shareholder in the joint venture, irrespective of whether it is a contractor included in the List, wishes to take up “trenchless replacement and rehabilitation works” under this contract. Since such works does not fall within any of the category on the List, it should for the purpose of assessment of technical capability be regarded as falling within the “Waterworks” category of the List.</p> | <p>[^] Delete “; or” if (e) is not used and end the sentence with “.”.</p> <p><u>Note 8:</u> Where there are specific works in a contract of which there is no exact match in the List, such as “trenchless replacement and rehabilitation works” in a water supplies or drainage contract, the project officer shall, upon consultation with the Managing Department of the relevant category, determine and state the assessment criteria in this sub-clause. Otherwise this sub-clause is not necessary. Sub-clause (e) is provided</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| <p>The participant or shareholder shall satisfy sub-clauses (6)(a), (6)(b) or (6)(c) in respect of the “Waterworks” category as appropriate. The experience gained in “trenchless replacement and rehabilitation works” shall be regarded as mainlaying experience for the purpose of this sub-clause.</p> <p>For the purpose of sub-clauses (6)(c) and (6)(d) of this Clause, only the number of contract(s) and their respective contract value(s) concerning works falling within the same category of works on the List the participant or shareholder proposed to undertake shall be assessed. Experience gained in contracts overseas (government or non-government) will be counted. The joint venture tenderer shall, subject to General Condition of Tender Clause GCT 25, submit to the <i>Project Manager</i> designate documentary evidence, in the form of a certificate of completion and articles of agreement and the like to the satisfaction of the <i>Project Manager</i> designate, supporting the job experience of its participants or shareholders.</p> | <p>here as an example.</p> <p>The submissions required under sub-clauses (6)(c), (6)(d) and, if applicable, sub-clause (6)(e) of this Clause are not essential submissions and shall be mentioned in Clause GCT 25 on Submission of further information.</p> |
| <p>(7) For the purpose of sub-clauses (5) and (6) above, the forecast value(s) of works to be undertaken by each participant or shareholder shall be calculated by multiplying the proposed value(s) of works by the ratio of the forecast total of the Prices in the Grand Summary of <i>*activity schedule / bills of quantities</i> to the tendered total of the Prices (both after correction if applicable).</p> | <p>* Delete as appropriate.</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|---|---|
| <p>(8) No tenderer is permitted to submit more than one tender for each contract. For the purpose of this Clause, a tenderer who submits a tender on its own behalf and as a participant or shareholder of a joint venture or as a participant or shareholder of more than one joint venture in response to a tender exercise shall be regarded as having submitted more than one tender. Tenders submitted from a tenderer on its own behalf who is found to be in breach of this sub-clause or from a joint venture or joint ventures in which any participant or shareholder is found to be in breach of this sub-clause shall not be considered.</p> <p>For the purpose of this sub-clause:-</p> <p>(i) A holding company and its subsidiaries are considered as one and the same tenderer. The existence of a holding-subsidiary relationship shall be determined as at the date set for the close of tender, or if this has been extended, the extended date, and in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622); and</p> <p>(ii) An entity (including but not limited to sole proprietorship, partnership and limited company) and its related parties as defined in sub-clause (2A) of GCT 29 are considered as one and the same tenderer.</p> <p>For the avoidance of doubt, if two or more shareholders or participants in the same joint</p> | <p>DEVB memo ref. DEVB(W) 510/83/05 dated 16.9.2020</p> |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
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| venture tenderer have a holding-subsiary relationship or they are related, they shall not be regarded as having submitted more than one tender. | |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|--|---|
| SCT 5 Contractors' Joint Venture | |
| (1) Tenders from an incorporated joint venture or an unincorporated joint venture will not be considered unless the incorporated joint venture or the unincorporated joint venture itself is a prequalified tenderer. | DEVB Memo ref. (02VW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017 and DEVB(W) 510/83/05 dated 16.9.2020. This version of SCT5 should be used for prequalified tendering. |
| (2) Where the tenderer is an unincorporated joint venture it shall, subject to General Conditions of Tender Clause 25, submit to the <i>Project Manager</i> designate a Letter of Undertaking in the form set out in Appendix[#] [insert appropriate reference] to these Special Conditions of Tender duly executed by all the participants of the unincorporated joint venture. Failure to comply with this sub-clause by an unincorporated joint venture shall render its tender invalid. | The percentages of financial participation of each participant as submitted in the prequalification application or, if any revision is proposed, the latest of the percentages of financial participation as approved by the <i>Client</i> shall be used for technical assessment. Project officers are reminded of this requirement in preparing the Marking Scheme for tender evaluation. |
| (3) Where the tenderer is an incorporated joint venture it shall, subject to General Conditions of Tender Clause 25, submit to the <i>Project Manager</i> designate a Letter of Undertaking in the form set out in Appendix^{##} [insert appropriate reference] to these Special Conditions of Tender duly executed by all the shareholders of the incorporated joint venture. Failure to comply with this sub-clause by an incorporated joint venture tenderer shall render its tender invalid. | [#] The form in Appendix A in DEVB Memo ref. (02VW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017 shall be used ^{##} The form in Appendix B in DEVB Memo ref. (02VW-01-1) in DEVB(W) 510/83/05 dated 24.1.2017 shall be used |
| (4) No tenderer is permitted to submit more than one tender for each contract. For the purpose of this Clause, a tenderer who submits a tender on its own behalf and as a participant or shareholder of a joint venture or as a participant or shareholder of more than one | |

Special Conditions of Tender

| Clause | Remarks / Guidelines |
|---|----------------------|
| <p>joint venture in response to a tender exercise shall be regarded as having submitted more than one tender. Tenders submitted from a tenderer on its own behalf who is found to be in breach of this sub-clause or from a joint venture or joint ventures in which any participant or shareholder is found to be in breach of this sub-clause shall not be considered.</p> <p>For the purpose of this sub-clause:-</p> <p>(i) A holding company and its subsidiaries are considered as one and the same tenderer. The existence of a holding-subsidiary relationship shall be determined as at the date set for the close of tender, or if this has been extended, the extended date, and in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622); and</p> <p>(ii) An entity (including but not limited to sole proprietorship, partnership and limited company) and its related parties as defined in sub-clause (2A) of GCT 29 are considered as one and the same tenderer.</p> <p>For the avoidance of doubt, if two or more shareholders or participants in the same joint venture tenderer have a holding-subsidiary relationship or they are related, they shall not be regarded as having submitted more than one tender.</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 6 Outline Qquality Ssystem for pProduction and Ssupply of Sstructural Cconcrete | |
| <p>(1) The tenderer shall submit with its tender an outline quality system for the production and supply of structural concrete for incorporation into the <i>works</i>. The submission of the outline quality system is for the tenderer to demonstrate its technical capability in managing the quality of the production and supply of structural concrete for the <i>works</i>.</p> <p>(2) The outline quality system for the production and supply of structural concrete shall not form part of this contract.</p> | <p>The Clause is based on ETWB TCW No. 57/2002 and revised in ETWB TCW No. 26/2004. The Clause shall not be used generally.</p> <p>Pursuant to the guidelines given in SETW's memo ref.: ETWB(W) 546/83/01 dated 10.1.2003, departments should not ask tenderers to make immaterial submissions where a non-submission or a poor submission would not affect the tender recommendation. In general, where selective tendering is adopted or where a marking scheme is used to ensure that only qualified contractors are eligible to tender, the contractor will be expected to possess the necessary expertise for undertaking and managing the quality of the <i>works</i> and examination of the Quality System at tender stage will not be necessary.</p> <p>Project officer may include this Clause in contracts where particular difficulties in the production of structural concrete are envisaged. It may be used in conjunction with the ACC on "Quality Assurance for Structural Concrete" for contracts located at remote areas (such as outlying islands) or where the volume of structural concrete involved is less than 50 cubic meter.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| | <p>Where this Clause is included, it shall be inserted as an essential requirement submission pursuant to Clause GCT 21.</p> <p>Where a Quality System for Production and Supply of Structural Concrete is required to be submitted with the tender, the tender shall be invalidated if the tenderer does not make such a submission.</p> <p>If the tenderer makes a poor submission which fails to demonstrate its understanding of and its capability in managing the quality of the production and supply of structural concrete for the <i>works</i> for the contract, the tenderer shall be considered as not technically capable for recommendation for award of the contract.</p> <p>Legal advice should be obtained to form such a recommendation.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| SCT 7 ISO 9000 | |
| <p>(1) The tenderer shall, upon written request by the <i>Project Manager</i> designate issued in accordance with General Conditions of Tender Clause GCT 25, submit to the <i>Project Manager</i> designate:</p> <p style="text-align: center;">EITHER</p> <p>(a) a copy of its ISO 9001:2015 certificate acceptable to the <i>Client</i> showing the scope of certification and a statement either:</p> <p style="margin-left: 40px;">(i) confirming that there is no area/aspect in this contract which its quality system specifically excludes; or</p> <p style="margin-left: 40px;">(ii) disclosing the areas/aspects in this contract which its quality system specifically excludes.</p> <p style="text-align: center;">OR</p> <p>(b) where the tenderer due to circumstances beyond its control has not obtained ISO 9001:2015 certification:</p> <p style="margin-left: 40px;">(i) a copy of the confirmation from a certification body acceptable to the</p> | <p>This Clause is extracted from WBTC No. 13/2001 with modifications in accordance with ETWB TCW No. 50/2002, DEVB memo ref. (025B1) in DEVB(W) 520/83/01 dated 26.1.2010 and DEVB memo ref. DEVB(W) 520/83/01 dated 4.4.2018. It shall be used for tenders which require contractors to have obtained ISO 9000 certification. The submissions under this Clause shall be taken as non-essential requirements <u>submissions</u> for the purpose of the tendering exercise.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--------------------|
| <p><i>Client</i>, stating that a full review of the Quality Manual of the tenderer's Hong Kong office has been carried out in Hong Kong and such Quality Manual has been found to be in conformity with the requirements of the ISO 9001:2015 standard; and</p> <p>(ii) an undertaking that within three months of the acceptance of tender, it would book with the certification body the date of audit for the ISO 9001:2015 certification; with detailed documented quality system procedures ready at the time of booking.</p> <p>(2) Where the tenderer is a joint venture, it shall, upon written request by the <i>Project Manager</i> designate issued in accordance with General Conditions of Tender Clause GCT 25, submit to the <i>Project Manager</i> designate:</p> <p>(a) a statement declaring that it shall implement the quality system of one of its participants or shareholders and specifying which one;</p> <p>(b) a copy of the written notification to the certification body of the specified participant or shareholder that the joint venture shall implement the quality system of the specified participant or shareholder and the written agreement of all participants or, as the case may be, shareholders of the joint venture that the activities of the joint venture shall be subject to the surveillance of the certification body; and</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--------------------|
| <p>(c)(i) a copy of its specified participant or shareholder's ISO 9001:2015 certificate acceptable to the <i>Client</i> showing the scope of certification and a statement either:</p> <p style="padding-left: 40px;">(A) confirming that there is no area/aspect in this contract which the specified participant or shareholder's quality system specifically excludes; or</p> <p style="padding-left: 40px;">(B) disclosing the areas/aspects in this contract which the specified participant or shareholder's quality system specifically excludes.</p> <p>OR</p> <p>(ii) where the specified participant or shareholder due to circumstances beyond its control has not obtained the ISO 9001:2015 certification:</p> <p style="padding-left: 40px;">(A) a copy of the confirmation from a certification body acceptable to the <i>Client</i>, stating that a full review of the Quality Manual of the specified participant or shareholder's Hong Kong office has been carried out in Hong Kong and such Quality Manual has been found to be in conformity with the requirements of ISO 9001:2015 standard; and</p> <p style="padding-left: 40px;">(B) an undertaking that within three months of the acceptance of</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| <p>tender, the specified participant or shareholder would book with the certification body the date of audit for the ISO 9001:2015 certification; with detailed documented quality system procedures ready at the time of booking.</p> <p>(3) The submission under sub-clause (2)(a) of this Special Condition of Tender, if applicable, shall form part of this contract.</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 8 Outline Environmental Management Plan | |
| <p>(1) The tenderer shall upon written request by the <i>Project Manager</i> designate in accordance with the General Conditions of Tender Clause GCT 25 submit an outline Environmental Management Plan, which shall be the tenderer's proposal to:</p> <p>(a) minimize the environmental nuisances of air, noise and wastewater pollution; and</p> <p>(b) minimize the generation of surplus construction and demolition (C&D) materials, in particular, the proposed measures to avoid/minimize the use of timber for Temporary Works construction, to effectively carry out on-site sorting of C&D materials and to minimize the generation of C&D waste from equipment/material packaging during the course of the <i>works</i>.</p> | <p>This Clause is extracted from ETWB TCW No. 19/2005 with modifications in accordance with the Interim Guidance Note on Administration of Environmental Management and Pay for Safety and Environment Scheme for Public Works Contracts (ETWB memo ref. (014G7-01-1) in ETWB(W) 517/91/01 dated 19.6.2006).</p> <p>This is usually a non-essential submission. Contract drafter shall ensure that the submission required under this Clause is also mentioned in GCT 25.</p> <p>However, if the submission of an EMP is considered an essential requirement submission (which is rare), sub-clause (1) will need to be re-worded to state that the EMP shall be submitted together with the submission of the tender and in accordance with GCT 21.</p> |
| <p>(2) The Outline Environmental Management Plan shall be specific to the Site and used for the preparation of the Environmental Management Plan after this contract is awarded. It shall <u>not</u> form part of this contract.</p> | <p>Sub-clause (2) shall not be applied if the project office requires the Outline Environmental Management Plan submitted by the tenderers to form part of the technical proposal under a marking scheme.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 9 Disclosure Of Information (Bid Challenges) | |
| <p>(1) The tenderer shall note that the provisions of the Agreement on Government Procurement of the World Trade Organisation (WTO GPA) apply to this procurement. In the event of a bid challenge by a tenderer to the Review Body on Bid Challenges of alleged breaches of the WTO GPA in respect of this procurement, the <i>Client</i> may be requested by the Panel appointed in accordance with the Rules of Operation of the Review Body on Bid Challenges (the Panel) to disclose information submitted by other tenderers.</p> <p>(2) By submitting its tender, the tenderer shall be deemed to have consented that in the event of a bid challenge by a tenderer to the Review Body on Bid Challenges of alleged breaches of the WTO GPA in respect of this procurement and the <i>Client</i> is requested by the Panel to disclose information submitted in its tender, the <i>Client</i> may disclose the information to the Panel and to such other persons and in such manner as the Panel may require in accordance with the Rules of Operation. This may include disclosing the information to the complainant which has lodged the bid challenge.</p> | <p>To be used if the tender exercise is subject to WTO GPA.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 10 Funding Approval | |
| The tenderers shall note that this tender exercise is held before the necessary funds for this contract have been approved. The tenderers shall also note that the <i>Client</i> reserves the right to cancel this tender exercise for not having the necessary funds approved; and that the tenderers will accordingly be notified if the necessary funds are not approved. | To be used if funding has not been approved at the time of tender. |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| SCT 11 Drawings | |
| Any drawings issued are to be returned to the issuing office after submission of the tender. | This Clause may be used if it is desired that the drawings issued to the tenderers are to be returned to the issuing office after submission of the tender. |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| <p>SCT 12 Statement Of Convictions Under The Factories And Industrial Undertakings Ordinance (Cap. 59), The Occupational Safety And Health Ordinance (Cap. 509), The Shipping And Port Control Ordinance (Cap. 313), The Merchant Shipping (Local Vessels) Ordinance (Cap. 548), The Air Pollution Control Ordinance (Cap. 311), The Noise Control Ordinance (Cap. 400), The Waste Disposal Ordinance (Cap. 354), The Water Pollution Control Ordinance (Cap. 358), The Dumping At Sea Ordinance (Cap. 466), The Ozone Layer Protection Ordinance (Cap. 403), The Land (Miscellaneous Provisions) Ordinance (Cap. 28), The Environmental Impact Assessment Ordinance (Cap. 499) and The Hazardous Chemicals Control Ordinance (Cap. 595)</p> | |
| <p>(1) The tenderer shall submit with the tender, either a statement of “no conviction” or a statement of all convictions for site safety and environmental offences under the Factories and Industrial Undertakings Ordinance (Cap. 59), the Occupational Safety and Health Ordinance (Cap. 509), the Shipping and Port Control Ordinance (Cap. 313), the Merchant Shipping (Local Vessels) Ordinance (Cap. 548), the Air Pollution Control Ordinance (Cap. 311), the Noise Control Ordinance (Cap. 400), the Waste Disposal Ordinance (Cap. 354), the Water Pollution Control Ordinance (Cap. 358), the Dumping at Sea Ordinance (Cap. 466), the Ozone Layer Protection Ordinance (Cap. 403), the Land (Miscellaneous Provisions) Ordinance (Cap. 28), the Environmental Impact Assessment Ordinance (Cap. 499) and the Hazardous Chemicals Control Ordinance (Cap. 595) for each site during the period of []* months prior to the date set for the close of tender, or if this has been extended, the extended date, based on the date of conviction. The statement of all convictions shall include the legislation contravened, dates of offences, dates of convictions and the associated fine imposed by the court, site addresses, contract numbers and contract titles (including sub-</p> | <p>This Clause is extracted from DEVB TCW No. 35/2009<u>23</u>. It is only needed if Marking Scheme Approach is used.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
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| <p>contracts where the contractor has acted as a sub-contractor). The statement shall be certified by a person authorized to sign Government contracts on the tenderer's behalf. #[, or in case of EMSTF's tender, a person authorized to sign the Service Level Agreement.]</p> <p>(2) If the tenderer is a joint venture, each participant or shareholder of the joint venture shall submit such a statement separately.</p> <p>(3) Where the tenderer (including shareholders and participants in joint ventures) is a company it shall disclose any change of name made during the period of []* months prior to the date set for the close of tender, or if this has been extended, the extended date, and shall include in its statement of all convictions any conviction recorded under any previous name.</p> <p>#(4) For tenders submitted by EMSTF, the letters of "non-compliance" issued by the relevant regulatory authorities shall also be treated as conviction records.</p> | <p># For use in tenders which EMSTF is eligible to bid</p> <p>* [Period to be specified by the <i>Project Manager</i> where appropriate to cope with the assessment period for tender evaluation. According to the standard marking scheme promulgated under Appendix C1 to DEVB TCW No. 4/2014, the 3-year period shall end on the last day of the month preceding the date being 2 months counting back from but exclusive of the original date set for the close of tender, or if this has been extended, the extended date, the period shall be set to 39 months.]</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|---|
| SCT 13 Statement Of Convictions Under Section 27 of The Public Health and Municipal Services Ordinance (Cap.132) | |
| <p>(1) The tenderer shall submit with the tender, either a statement of “no conviction” or a statement of all convictions under section 27 of the Public Health and Municipal Services Ordinance (Cap.132) for control of water likely to contain larvae or pupae of mosquitoes for each site during the period of []* months prior to the date set for the close of tender, or if this has been extended, the extended date, based on the date of conviction. The statement of all convictions shall include site addresses, contract numbers, contract titles, dates of offences, dates of convictions and the associated fine imposed by the court. The statement shall be certified by a person authorized to sign Government contracts on the tenderer's behalf. #[, or in case of EMSTF's tender, a person authorized to sign the Service Level Agreement.]</p> <p>(2) If the tenderer is a joint venture, each participant or shareholder of the joint venture shall submit such a statement separately.</p> <p>(3) Where the tenderer (including the shareholders and participants in a joint venture) is a company it shall disclose any change of name made during the period of []* months prior to the date set for the close of tender, or if this has been extended, the extended date, and shall include in its statement of all convictions recorded under the previous name.</p> | <p>This Clause is only needed if Marking Scheme Approach is used.</p> <p># For use in tenders which EMSTF is eligible to bid</p> <p>* [Period specified by the <i>Project Manager</i> where appropriate to cope with the assessment period for tender evaluation. According to the standard marking scheme promulgated under Appendix C1 to DEVB TCW No. 4/2014, the 3-year period shall end on</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|---|
| # (4) For tenders submitted by EMSTF, the letters of “non-compliance” issued by the relevant regulatory authorities shall also be treated as conviction records. | the last day of the month preceding the date being 2 months counting back from but exclusive of the original date set for the close of tender, or if this has been extended, the extended date, the period shall be set to 39 months.] # For use in tenders which EMSTF is eligible to bid |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| SCT 14 Outline Safety Plan | |
| <p>(1) The tenderer shall submit with its tender an Outline Safety Plan which shall be the tenderer's proposals to ensure safety and health in the execution of the <i>works</i> and which shall be able to demonstrate its capability in identifying and managing risks in the execution of the <i>works</i>.</p> <p>(2) The Outline Safety Plan shall start with a formal statement of policy on safety and health and shall include:</p> <ul style="list-style-type: none"> (a) identification of safety and health hazards which may be encountered in the execution of the <i>works</i>; (b) an outline of proposed safety and health measures for the control and prevention of such safety and health hazards, and (c) the manner by which safety and health measures will be implemented and monitored. <p>(3) The Outline Safety Plan shall not form part of this contract.</p> | <p>This Clause shall not be used generally. Pursuant to the guidelines given in SETW's memo ref.: ETWB(W) 546/83/01 dated 10.1.2003, departments should not ask tenderers to make immaterial submissions where a non-submission or a poor submission would not affect the tender recommendation. In general, where selective tendering is adopted or where a marking scheme is used to ensure that only qualified contractors are eligible to tender, the contractor will be expected to possess the necessary expertise for undertaking the <i>works</i> and examination of the outline safety plan at tender stage will not be necessary. In extremely rare circumstances where there are special risks in the contract for which it is essential that a tenderer demonstrates in its tender its ability to identify and manage the risks, an outline safety plan may be required from the tenderers.</p> <p>Where this Clause is included, it shall be inserted as an essential requirement submission pursuant to Clause GCT 21. The tender shall be invalidated if the tenderer does not make such a submission. If the tenderer makes a poor submission which fails to demonstrate its understanding of and its capability to ensure safety and health in the execution of the <i>works</i>, the tenderer shall be considered as not technically capable for recommendation for award of the contract.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--------|--|
| | Legal advice should be obtained to form such a recommendation. |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|---|
| SCT 15 Reduction of Contingency Sums for Compensation Events | |
| <p>(1) Without prejudice to the generality of the other General Conditions of Tender and Special Conditions of Tender, the <i>Client</i> reserves the right to reduce unilaterally the amount of the contingency sums for compensation events as stated in the Grand Summary of the [<i>*activity schedule /*bill of quantities</i>]¹ by himself giving or requiring the <i>Project Manager</i> designate to give a notification in writing as regards the reduction to a tenderer at any time after determination of the price ranking or overall marks/scores of the tenders in accordance with the evaluation criteria set forth in the tender documents but before award of this contract.</p> <p>(2) By submitting its tender, a tenderer shall be deemed to have agreed that upon receipt by the tenderer of a notification in writing referred to sub-clause (1) of this Clause:</p> <p style="padding-left: 20px;">(a) the amount of the contingency sums as stated in the Grand Summary of the [<i>*activity schedule /*bill of quantities</i>]¹ shall be taken to be reduced accordingly; and</p> <p style="padding-left: 20px;">(b) the reduction in the amount of the contingency sums under paragraph (a) above shall not affect any provisional sums specified in the Grand Summary of the [<i>*activity schedule /*bill of quantities</i>]¹.</p> <p>(3) For the avoidance of doubt, the original forecast total of the Prices taking into consideration the original tendered total of the Prices as stated in the Form of Tender and [<i>*bill of</i></p> | <p>DEVB memo ref. DEVB(W) 546/70/01 dated 8.8.2011</p> <p>1. This Clause shall only be included in a works contract involving contingency sums if an officer at D2 rank or above in the Project Office/Works Department is satisfied that the following adoption criterion is met:</p> <p style="padding-left: 20px;">- The contract is identified in the risk assessment at the pre-tender stage to have highly uncertain risk factors that could lead to an over-estimation of the allowance made in the contingency sums for covering such risks. This finding must be properly documented in file.</p> <p>2. Subject to compliance with the requirements given in paragraph 3 below, this Clause enables the Project Office, in case the original forecast total of the Prices of the recommended tender exceeds the funding allowed for the contract in the Approved Project Estimate, to unilaterally reduce the contingency sums stated in the tender documents and consequentially the forecast total of the Prices without the need for tender negotiation. The Project Office can then under properly justified circumstances:</p> <p style="padding-left: 20px;">(i) keep the forecast total of the Prices</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| <p><i>quantities/*activity schedule</i>¹ will, subject to correction (where applicable) in accordance with General Conditions of Tender Clause []**, be used for determination of the price ranking or overall marks/scores of the tenders in accordance with the evaluation criteria set forth in the tender documents irrespective of whether or not the <i>Client</i> has subsequently exercised its right under this Clause to reduce the amount of the contingency sums.</p> | <p>of the recommended tender within the funding available and, subject to approval by the relevant tender board, accept the tender without the need to seek additional funding; or</p> <p>(ii) reduce the amount of additional funding required even if after such reduction the forecast total of the Prices of the recommended tender still exceeds the funding available and additional funding is still required to be sought.</p> <p>3. In order to exercise this Clause, the Project Office shall have:</p> <p>(a) reviewed the risk assessment made at the pre-tender stage in arriving at the original contingency sums;</p> <p>(b) proper justifications that the amount of reduction is genuinely an excessive allowance in the original contingency sums; and</p> <p>(c) obtained approval of the Vote Controller.</p> <p>4. In conjunction with the use of this Clause, the Form of Tender and the Letter of Acceptance to Successful Tenderer shall be modified as provided in the memo ref. DEVB(W) 546/70/01 of 8 August 2011 promulgating this Clause. Sample letter notifying the tenderer (whose tender is going to be recommended</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--------|---|
| | <p>for contract award) of the reduction of the contingency sums is also provided in the said memo.</p> <p>5. This Clause is for use in works contracts other than design and build (D&B) contracts. A GCT is separately provided for D&B contracts in the memo mentioned in paragraph 4 above.</p> <p><u>Explanatory notes to words in square brackets</u></p> <p><i>1 The Project Office shall determine the appropriate wording to suit the contract/tender documentation arrangements of the contract being tendered.</i></p> <p>* Delete as appropriate.</p> <p>** Insert the clause number of the General Condition of Tender dealing with correction rules for tender errors (i.e. GCT 11 in DEVB's Library of Standard GCT).</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--|
| SCT 16 Award to Trading Fund | |
| <p>(1) Tenderers should note that tenders are invited from contractors/suppliers* providers in both the private and public sectors including department(s) of the Government of the Hong Kong Special Administrative Region whose operation of the services is managed and accounted for by trading funds established pursuant to the Trading Funds Ordinance, Cap. 430 (hereafter referred to as “the relevant trading fund department”).</p> <p>(2) Unless it is in the public interest not to do so, the Government will award this contract to the tenderer who has been determined to be fully capable of undertaking this contract and whose tender, whether for domestic products or services, or products or services of others, is either the lowest tender or the tender which in terms of the specific evaluation criteria set forth in this tender documentation is determined to be the most advantageous. In the situation where the tenderer selected in accordance with the foregoing criteria is the relevant trading fund department, the Government may, instead of issuing a contract, enter into a service level agreement with the relevant trading fund department.</p> | <p>This is to be used if Trading Fund is invited to tender. See FC 7/2014.</p> <p>* Delete as appropriate.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|---|
| SCT 17 Activity Schedule | |
| <p>(1) The tenderer shall submit an <i>activity schedule</i> fully priced as to each of the activities, extended, cast, totalled, completed and signed as required in Clause GCT 4 of the General Conditions of Tender.</p> <p>(2) The priced <i>activity schedule</i>, which shall contain a summary (“Grand Summary of the <i>activity schedule</i>”) stating the tendered total of the Prices, shall be submitted in the form set out in Appendix <i>[insert appropriate reference]</i> to these Special Conditions of Tender. Where the Grand Summary of the <i>activity schedule</i> is found missing from the tender, it shall be correctly reinstated in the <i>activity schedule</i> and corrected in accordance with the correction rules set out in Appendix <i>[insert appropriate reference]</i> to the General Conditions of Tender as referred to in Clause GCT 11 of the General Conditions of Tender.</p> <p>(3) The tenderer is allowed to add new activities. <u>*[For Schedule No. <i>[insert Schedule No. of MiC works]</i>, the tenderer is only allowed to add new activity(ies) related to MiC works.]</u> <u>#[For Schedule No. <i>[insert Schedule No. of MiMEP works]</i>, the tenderer is only allowed to add new activity(ies) related to MiMEP works.]</u> Other amendments, including but not limited to amendment to / deletion of any activity in the <i>activities schedule</i>, are not allowed and the <i>activities schedule</i> in the form set out in Appendix <i>[insert appropriate reference]</i> to these Special Conditions of Tender shall be correctly reinstated.</p> | <p>Applicable for Options A and C</p> <p>Note: The form set out in the Appendix to these Special Conditions of Tender should allow the tenderer to add new activities such that the tenderer can ensure that the total of the Prices for all activities covers the carrying out of all the work necessary for the completion of the <i>works</i> in accordance with the contract and all incidental work, services and actions which the contract requires.</p> <p><u>* for adoption of milestone payment of MiC works</u></p> <p><u># for adoption of milestone payment of MiMEP works</u></p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--------------------|
| <p>(4) The <i>Client</i> accepts no responsibility for and no reliance shall be placed by the tenderer on the completeness, sufficiency or accuracy of any information contained in the form or the form itself set out in Appendix <i>[insert appropriate reference]</i> to these Special Conditions of Tender. It is the tenderer's responsibility to ensure that the tendered total of the Prices, which shall be the total of the Prices for all activities in the submitted priced <i>activity schedule</i>, covers the carrying out of all the work necessary for the completion of the <i>works</i> in accordance with the contract and all incidental work, services and actions which the contract requires.</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|---|
| SCT 18 Pre-bid Arrangement under Target Contract | |
| <p>(1) The tenderer may elect to propose Subcontractor(s)/supplier(s) on or before This Clause SCT [18] sets out the close of [Optional/ Mandatory/ Optional and Mandatory]* Pre-bid Arrangement adopted in this tender for any of the works/items exercise.</p> <p>(a) For each item stipulated in as subject to Optional Pre-bid Arrangement in Part [A] of Appendix [insert appropriate reference] to these the additional conditions of contract, a tenderer may elect to propose in Contract Data Part two (Section 1) [See Note 1] of its tender one Subcontractor or supplier to undertake such item. The proposal shall be submitted in the manner and shall comply with all other requirements set out in sub-clauses (2) to (5) below. The Client may reject the proposal if it considers that the proposed Subcontractor or supplier does not satisfy the requirements of this clause. If no Subcontractor or supplier is proposed in Contract Data Part two (Section 1) [See Note 1] or the proposed Subcontractor or supplier is rejected by the Client, the tenderer is regarded to have proposed to undertake such item by itself. Nevertheless, if the tenderer is awarded the contract, it may subcontract such item (or any part of it) in accordance with Clause C9 or C11 of the additional conditions of contract after the Contract Date.</p> <p>(a)(b) For each item stipulated as subject to Mandatory Pre-bid Arrangement in Part [B] of Appendix [insert appropriate reference]</p> | <p>Applicable only for Target Contract.</p> <p>Applicable only which adopts pre-bid arrangement. Project Offices should allow sufficient time for tenderers to prepare their tenders if pre-bidding bid arrangement is adopted.</p> <p>The scope of pre-bid arrangement shall be approved by an officer at D2 rank or above. In case the estimated overall pre-bid amount exceeds 40% of the PTE excluding contingency sum and provisional sum, DEVB's approval is required.</p> <p>This SCT 18 is drafted for tender adopting marking <u>Marking Scheme Approach</u>. For tender adopting formula <u>Formula Approach</u>, Project Office shall make necessary amendment <u>Formula Approach, please amend this SCT 18 with reference to the relevant notes below.</u></p> <p>If Optional Pre-bid Arrangement is not adopted, please mark SCT 18(1)(a) and SCT 18(8) as appropriate "Not Used".</p> <p>If Mandatory Pre-bid Arrangement is not adopted, please mark SCT 18(1)(b), SCT 18(9) and SCT 18(10) as "Not Used".</p> <p>* Delete as appropriate</p> |

Special Conditions of Tender

to the additional conditions of contract, a tenderer shall propose in Contract Data Part two (Section 1) [See Note 1] of its tender one Subcontractor or supplier to undertake such item, unless the tenderer indicates in Contract Data Part two (Section 1) [See Note 1] that it proposes to undertake such item by itself. The proposal to appoint Subcontractor or supplier shall be submitted in the manner and shall comply with all other requirements set out in sub-clauses (2) to (5) below. If a tenderer proposes in Contract Data Part two (Section 1) [See Note 1], or is deemed to have proposed pursuant to sub-clause (10)(d) below, that it will undertake such item by itself, the tenderer shall comply with the requirements in sub-clause (10) below. Notwithstanding the aforesaid, the tenderer may subcontract such item in accordance with Clause C9 or C11 of the additional conditions of contract after the Contract Date if acceptance of the Project Manager is obtained in accordance with Clause C9(15)(c) or C11(4)(c) of the additional conditions of contract.

(2) In the envelope marked with “Technical Submission”, ~~the~~ tenderer shall ~~include~~ submit, for each ~~proposed Subcontractor/supplier: item~~ which the tenderer proposes to subcontract under the pre-bid arrangement in accordance with sub-clause (1) above [See Note 2]:

(a) in Contract Data Part two (Section 1) [See Note 1] under the name and address of item for which the Registered Office of the proposed Subcontractor/ or supplier is proposed, the name of the proposed Subcontractor or supplier, its registered

~~The scope of pre-bid shall be approved by an officer at D2 rank or above.~~

Note 1: For tender adopting Formula Approach, please replace “Contract Data Part two (Section 1)” with “Contract Data Part two”, if appropriate.

Note 2: For tender adopting Formula Approach, please replace ‘In the envelope marked with “Technical Submission”, a tenderer shall submit,’ with ‘The tenderer shall submit in its tender.’

Special Conditions of Tender

office and the name(s) of the person(s) authorized to sign the subcontract for and on behalf of the proposed Subcontractor/or supplier ~~in Contract Data Part two (Section 1)~~;

- (b) an expression of interest ~~from~~issued by the proposed Subcontractor/or supplier; and
- (c) ~~inif the ease of aitem is work to be undertaken by the~~ proposed Subcontractor:
 - (i) where the work proposed to be subcontracted is ~~a work referred any of the works subject to in~~ Clause C3 of ~~thesethe~~ *additional conditions of contract*, evidence to demonstrate that the proposed Subcontractor complies with the requirements set out in the said Clause C3 that are applicable to such work; or
 - (ii) where the work proposed to be subcontracted ~~does is~~ not ~~fall within sub-clause 2(e)(i) above~~any of the works subject to Clause C3 of the additional conditions of contract, evidence to demonstrate that the Subcontractor is:
 - (A) a contractor on the "List of Approved Contractors for Public Works" or the "List of Approved Suppliers of Materials and Specialist Contractors for Public Works" of the relevant category, group and class as determined by the Project Manager designate and is not

Special Conditions of Tender

suspended from tendering (whether by way of mandatory or voluntary suspension) in respect of the work in ~~the~~ relevant~~such~~ category, group and class; or

- (B) a contractor who possesses experience in the work proposed to be subcontracted by the ~~Contractor~~tenderer, or who is technically competent for the work proposed to be subcontracted by the ~~Contractor~~tenderer. [See Note 3]

(d) ~~in~~ if the ~~ease of~~item is to be supplied by a proposed supplier, evidence to demonstrate that the item to be supplied complies with the requirements of ~~this~~the contract that are applicable to such item. [See Note 3]

- (3) (a) In the envelope marked with “Tender Price Documents”, a tenderer shall submit, for each item which the tenderer ~~shall include~~proposes to subcontract under the pre-bid arrangement in accordance with sub-clause (1) above, a document entitled [“Pricing Information for Optional Pre-bid Arrangement” ~~–~~ or “Pricing Information for Mandatory Pre-bid Arrangement”, whichever is applicable] [See Note 4].
- (b) Such document shall ~~include, for each Subcontractor/supplier proposed for any of the works/items stipulated~~be in the form set out in Appendix [insert

Note 3: If other qualification/experience requirement is required, Project Offices are reminded to amend SCT 18(2) to suit. Project Offices are also reminded to observe the requirements of WTO GPA and avoid imposing requirements that may arouse bid challenges. In case of doubts, Project Offices may consult DEVB and/or LAD(W) for advice.

Note 4:

(i) For tender adopting Formula Approach, please replace ‘In the envelope marked with “Tender Price Documents”, the tenderer shall submit,’ with ‘The tenderer shall submit in its tender.’.

(ii) Please replace ‘ “Pricing Information for Optional Pre-bid Arrangement” or “Pricing Information for Mandatory Pre-bid Arrangement”, whichever is applicable’ with “Pricing Information for Optional Pre-bid Arrangement” or “Pricing Information for Mandatory Pre-bid Arrangement” if only either optional

Special Conditions of Tender

~~appropriate reference]~~ to these ~~additional conditions of contract, the pricing information in the form of~~ Special Conditions of Tender, with a fully priced and detailed Schedule of Rates ~~with~~ stating the approximate quantities and payment schedule for the ~~relevant work/item~~ proposed to be subcontracted.

(4) ~~The~~For each item listed in Appendix [~~insert appropriate reference]~~ to the ~~additional conditions of contract~~ which a tenderer proposes to subcontract, the tenderer shall ensure that:

- (a) ~~Only~~only one Subcontractor² ~~or~~ supplier is proposed for ~~each of the works/items listed in Appendix~~ [~~insert appropriate reference]~~ to these ~~additional conditions of contract~~item. The tenderer is not permitted to undertake the item partly by itself and partly by the proposed Subcontractor or supplier, or sub-divide the relevant works/items into further sub-packagesitem such that more than one Subcontractor or supplier will or may undertake the item;
- (b) ~~The scope of the~~ it does not propose to subcontract ~~is limited to the works/items as described~~any item not listed in Appendix [~~insert appropriate reference]~~ to ~~thesethe~~ the additional conditions of contract. ~~For any work/item that is beyond those described in Appendix~~ [~~insert appropriate reference]~~ to these ~~additional conditions of contract, separate subcontracting arrangements~~A successful tenderer may only subcontract

or mandatory pre-bid arrangement respectively is adopted.

(iii) The submission of Pricing Information for Mandatory Pre-bid Arrangement required under sub-clause (3) of this Clause is an essential submission and shall be mentioned in the GCT 21 on essential submission.

(iv) This SCT, including the sample template in its appendix, is drafted on the assumption that ONE item stipulated as subject to pre-bid arrangement is corresponding to ONE activity/item in the activity schedule/bill of quantities. The Project Office shall make necessary amendment to this SCT, sample template, the correction rule, etc. if one item stipulated as subject to pre-bid arrangement is corresponding to more than one activity/item in the activity schedule/bill of quantities.

(v) Project Offices are also reminded to clearly indicate which activity is subject to pre-bid arrangement in the activity schedule/bill of quantities.

Special Conditions of Tender

such item in accordance with Clause C9 or C11 (~~whichever is applicable to the work/item~~) of the *additional conditions of contract* ~~shall be made~~;

- (c) ~~the work/item to be carried out by each proposed Subcontractor/supplier is priced as a lump sum for related activities in the *activity schedule/bill of quantities; a lump sum price is proposed for the item in the *activity schedule/bill of quantities. The price of the item in the *activity schedule/bill of quantities shall be the same as the amount quoted for the same item in the pricing information submitted by the tenderer. Any error and/or omission found in the pricing information, *activity schedule/bill of quantities and/or fee percentage shall be corrected in accordance with the provisions of General Conditions of Tender Clause GCT 11;~~
- (d) ~~the price of the item in the *activity schedule/bill of quantities is competitive or at open market price; and~~
- (e) ~~in case of a tender submitted by a joint venture tenderer, the joint venture tenderer shall not propose any of its participants or shareholders as a Subcontractor or supplier.~~

- (5) ~~the prices and rates of each proposed Subcontractor/supplier as detailed Without prejudice to any other provisions in the pricing information are competitive or at open market prices or rates, and General Conditions of Tender and the Special Conditions of Tender, the subcontract/supply contract does Client may regard a tender as not contain activities~~

Special Conditions of Tender

~~which being the most advantageous, irrespective of whether or not it is the lowest tender or the tender with the highest overall score, if in the Client's opinion:~~

~~(a) the proposed prices or rates in the Schedule of Rates submitted in the tender are substantially over-priced or under-priced or priced erratically. For the purpose of this provision Clause, "priced erratically" shall be construed in accordance with General Conditions of Tender Clause GCT 14(2) which shall apply mutatis mutandis; and/or~~

~~(a)(b) the proposed payment schedule submitted in the tender will expose the Client to an unacceptable level of financial risk.~~

~~(6) A tenderer shall not appoint any proposed Subcontractor for any item stipulated in Appendix [insert appropriate reference] to the additional conditions of contract unless and until acceptance is given by the Project Manager pursuant to NEC Clause 26 with amendments as detailed in the Schedule to the Articles of Agreement.~~

~~(7) in case of The Project Manager designate may invite a tender submitted by a joint venture tenderer to submit further information or clarification in relation to any requirement under sub-clauses (2) to (5) above in accordance with General Conditions of Tender Clause GCT 16. In any case, the joint venture tenderer shall may not propose its participant(s) or shareholder(s) as the change any proposed Subcontractor(s)/ or supplier(s) for the work(s)/any item(s) listed stipulated in Appendix [insert appropriate reference] to the the additional conditions of contract: after~~

Special Conditions of Tender

the date set for the close of tender, or if this has been extended, the extended date when submitting further information or clarification pursuant to this sub-clause (7). Subject to correction in accordance with General Conditions of Tender Clause GCT 11, the price of any item stipulated in Appendix [insert appropriate reference] to the additional conditions of contract may not be adjusted after the aforesaid date when submitting further information or clarification pursuant to this sub-clause (7).

(58) ~~The~~ If a tenderer shall ~~not appoint any proposed~~ proposes a Subcontractor/ ~~or supplier~~ or supplier for ~~the works/items~~ an item stipulated ~~in~~ as subject to Optional Pre-bid Arrangement in Part A of Appendix [insert appropriate reference] to these ~~the~~ additional conditions of contract until, ~~and the Project Manager accepted him~~ Client considers that the tenderer has:

(a) failed to submit any information required in sub-clauses (2) and (3) above, or

(b) failed to comply with any of the requirements stated in sub-clause (4) above, or

(c) been regarded as not being the most advantageous pursuant to ~~NEC Core Clause 26 with amendments as detailed in the Schedule to the Articles of Agreement.~~ sub-clause (5) above,

the Client may reject the tenderer's proposal to appoint the Subcontractor or supplier for the item and require the tenderer to confirm in writing that it will abide by its tender without the proposal. If the tenderer fails to submit to the Client such confirmation within the time limit specified by the Client, its tender shall be

Special Conditions of Tender

rendered invalid.

(9) For each item stipulated as subject to Mandatory Pre-bid Arrangement in Part B of Appendix [insert appropriate reference] to the additional conditions of contract, if the Client considers that the tenderer has:

(a) failed to submit any information required in sub-clauses (2) and (3) above, or

(b) failed to comply with any of the requirements stated in sub-clause (4) above, or

(c) been regarded as not being the most advantageous pursuant to sub-clause (5) above,

its tender shall be rendered invalid.

(10) For each item stipulated as subject to Mandatory Pre-bid Arrangement in Part B of Appendix [insert appropriate reference] to the additional conditions of contract,

(6) (a) ~~For each proposed~~ if a tenderer proposes in Contract Data Part two (Section 1) [See Note 1] to undertake the item by itself, save as specifically provided for below, the requirements stipulated in sub-clauses (1) to (9) of this Clause shall not apply to the item. Instead, the tenderer shall submit:

(i) in the envelope marked with “Technical Submission” [See Note 5], evidence to demonstrate that it meets the requirements applicable to the item stated in sub-clause (2)(c) or (2)(d) above. Sub-clauses (2)(c) and (2)(d) shall be construed as if references to “Subcontractor~~?~~” or “supplier ~~for~~” are to the works/items

Note 5: For tender adopting Formula Approach, please replace ‘ the envelope marked with “Technical Submission” ’ with ‘the tender’.

Special Conditions of Tender

stipulated tenderer.

(ii) in the envelope marked with “Tender Price Documents” [See Note 6], a document entitled “Pricing Information for Mandatory Pre-bid Arrangement” for the item. Such document shall be in a form set out Appendix [insert appropriate reference] to these Special Conditions of Tender, with a fully priced and detailed Schedule of Rates stating the approximate quantities and payment schedule for the item. The tenderer shall ensure that:

(A) a lump sum price is proposed for the item in the *activity schedule/bill of quantities. The price of the item quoted in the *activity schedule/bill of quantities shall be the same as the amount quoted for the same item in the pricing information submitted by the tenderer. Any error and/or omission found in the pricing information, *activity schedule/bill of quantities and/or fee percentage shall be corrected in accordance with the provisions of General Conditions of Tender Clause GCT 11;

(B) the price of the item in the *activity schedule/bill of quantities is competitive or at open market price.

(b) on request of the Project Manager designate, the tenderer shall submit

Note 6: For tender adopting Formula Approach, please replace ‘ the envelope marked with “Tender Price Documents” ’ with ‘the tender’.

Special Conditions of Tender

further information or clarification in relation to any requirement under sub-clause (10)(a) above in accordance with General Conditions of Tender Clause GCT 16. In any case, the tenderer shall not propose other Subcontractor or supplier to undertake any item stipulated in Appendix [insert appropriate reference] to the additional conditions of contract, ~~after the date set for the close of tender, or if this has been extended, the extended date when submitting further information or clarification pursuant to this sub-clause (10)(b)~~ Subject to correction in accordance with General Conditions of Tender Clause GCT 11, the price of any item stipulated in Appendix [insert appropriate reference] to the additional conditions of contract, may not be adjusted after the aforesaid date when submitting further information or clarification pursuant to this sub-clause (10)(b).

(c) ~~if the Client,~~ considers that the tenderer has failed to ~~submit with~~ meet any of the requirements in sub-clause (10)(a)(i) and (10)(a)(ii) above, ~~its tender any of the information stated in sub-clauses (2) and (3) on or before the close of tender, OR failed to comply with the requirements as stated in sub-clause (4), the Client shall disregard all information submitted by the~~ rendered invalid.

~~(a)(d)~~ In cases where (i) a tenderer ~~for the pre-bid arrangement in relation to~~ fails to indicate that it is prepared to undertake the item(s) by itself and fails to insert

Special Conditions of Tender

name of the proposed Subcontractor/ or supplier and in Contract Data Part two (Section 1) [See Note 1] or (ii) name of a tenderer or, if a tenderer is a joint venture, name of the participant or shareholder of the joint venture is given in Contract Data Part two (Section 1) [See Note 1], the tenderer shall be deemed to have proposed to undertake such item by itself and sub-clauses (10)(a), (10)(b) and (10)(c) shall apply. The tenderer shall be requested to confirm in writing that it is prepared to will undertake the item by itself and abide by its tender, without the information submitted for that proposed Subcontractor/supplier under the pre-bid arrangement, and that the tenderer may only subcontract the relevant works/items in accordance with Clause C9 or C11 of the additional conditions of contract.
Failure to submit the aforesaid confirmation by the tenderer within the time limit specified by the *Client* shall render its tender invalid.

CONTRACT NO. [XXXXXX]
CONTRACT TITLE: [XXXXX]

Appendix [] to Special Conditions of Tender

SPECIMEN PRICING INFORMATION FOR *OPTIONAL/MANDATORY PRE-BID ARRANGMENT
(Item No. [1] in Part [A] of Appendix [S] to additional conditions of contract)
(Tenderer should use a separate form for each item proposed to be subcontracted)

Detailed Schedule of Rates with approximate quantities

| <u>Item No.</u> | <u>Item Description</u> | <u>Quantity</u> | <u>Unit</u> | <u>Rate (HK\$)</u> | <u>Amount (HK\$)</u> |
|-----------------|---|-----------------|-------------|------------------------------|----------------------|
| | <p><u>[Description for the Item subject to pre-bid arrangement]</u></p> <p><u>[Corresponding Item No. in the activity schedule / bill of quantities : AS/1.1]</u></p> | | | | |
| | | | | <u>Carried to Collection</u> | |

CONTRACT NO. [XXXXXX]
CONTRACT TITLE: [XXXXX]

Appendix [] to Special Conditions of Tender

SPECIMEN PRICING INFORMATION FOR *OPTIONAL/MANDATORY PRE-BID ARRANGMENT
(Item No. [1] in Part [A] of Appendix [S] to additional conditions of contract)

Summary page of the Schedule of Rates

| <u>Item Description</u> | <u>Amount (HK\$)</u> |
|--|----------------------|
| <p><u>Collection</u></p> <p><u>Brought Forward From Page Price Information AS/1.1/1</u></p> | |
| <p><u>Total Amount of pricing information for Item No. [] in Part [] of Appendix [S] to additional conditions of contract (A)</u></p> | |
| <p><u>The resulting Fee for Item No. [] in Part [] of Appendix [S] to additional conditions of contract (B) = (A) x fee percentage inserted in Contract Data Part two subject to correction in accordance with Clause GCT 11</u></p> | |
| <p><u>Total Amount to be brought forward to activity schedule / bill of quantities no. AS/1.1 (C) = (A) + (B)</u></p> | |

CONTRACT NO. [XXXXXX]
CONTRACT TITLE: [XXXXXX]

Appendix [] to Special Conditions of Tender

SPECIMEN PRICING INFORMATION FOR *OPTIONAL/MANDATORY PRE-BID ARRANGMENT
(Item No. [1] in Part [A] of Appendix [S] to additional conditions of contract)

Payment Schedule

| <u>Payment No.</u> | <u>Item Description / Pay Stages</u> | <u>% of Total</u> |
|--------------------|--------------------------------------|-------------------|
| | | |
| | | <u>100%</u> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|---|
| SCT 19 <i>Fee Percentage</i> | |
| <p>The <i>fee percentage</i> to be inserted by the tenderer in the Contract Data Part two shall be within a range from the <i>minimum fee percentage</i> to the <i>cap of fee percentage</i> as stated in the Contract Data Part two. Any error found should be corrected as per the principles and rules contained in Appendix [insert appropriate reference] to the General Conditions of Tender as mentioned in General Conditions of Tender Clause GCT [11].</p> | <p>DEVB memo ref. DEVB(W) 546/70/02 dated 11.11.2020</p> <p>* Delete as appropriate</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--|
| SCT 20 Estimates for Tender Price Index (ETPI) | |
| <p>(1) The tenderer shall submit with its tender Estimates for Tender Price Index (“ETPI”) in the form set out in Appendix []# to these Special Conditions of Tender. The Standard Method of Measurement for Civil Engineering Works, 1992 Edition as amended by its subsequent corrigenda and as further amended in accordance with the General Preambles and the Particular Preambles in Appendix []# to these Special Conditions of Tender apply to the ETPI. Such Standard Method of Measurement, General Preambles and Particular Preambles shall only be used for the preparation of the ETPI and shall not form part of the contract.</p> <p>(2) The tenderer shall submit the ETPI fully priced as to each of the items, extended, cast and totaled as appropriate. The tenderer shall ensure its ETPI contains a summary (“Summary of ETPI”) at the end stating the total amount of all bills, which shall be the same as the tendered total of the Prices as stated in the “Grand Summary of the <i>activity schedule</i>” as defined in SCT [17]#.</p> <p>(3) The ETPI is submitted to the <i>Client</i> for the purposes stated in SCT [20(4)]# only and shall not be used for tender assessment. Failure to submit the ETPI by a tenderer shall NOT render its tender invalid. The ETPI and anything stated therein shall NOT form part of this contract and shall NOT be relied on by the tenderer in making its decision to submit a tender or in pricing its tender. Before submitting a tender, the tenderer</p> | <p>This Clause only applicable for works tenders of Group C contracts issued under CEDD, HyD, WSD and DSD and adopting ECC Options A or C, where the tender price information are required for compilation of the CEWTPI. (DEVB TC(W) No. 6/2017)</p> <p># Insert as appropriate.</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--------------------|
| <p>shall carry out at its own expense any investigation, checking and calculation it requires (including seeking independent advice) to obtain its own information. The tenderer acknowledges that, in submitting and in pricing its tender, it has not relied on any information provided in the ETPI. None of the information provided in the ETPI constitutes any warranty, representation or undertaking by the <i>Client</i> to the tenderer with respect to the itemisation or quantities of works which are required under the contract. No claim of any nature whatsoever shall be allowed on the grounds of any reliance on and any error, misunderstanding or misrepresentation or insufficiency in any information given in the ETPI. The tenderer's attention is also drawn to Clause A8 of the <i>additional conditions of contract</i>.</p> <p>(4) The ETPI is compiled by the <i>Client</i> for the purposes of (a) conducting cost estimation and cost analysis for its works projects which may or may not be connected with this contract, and/or (b) compiling price indices (including tender price indices) for use by the Government and the public [(a) and (b) are collectively referred to as the "stated purposes" in this SCT [20(4)]#]. By submitting a tender, the tenderer is taken to have agreed that all information provided by the tenderer in the ETPI could be used by the <i>Client</i> for the stated purposes. The tenderer further agrees that the <i>Client</i> may furnish such information to any third party for any of the stated purposes after obtaining from such third party an undertaking to keep such information</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--------------------|
| confidential and not to use the same for any purpose other than the stated purposes. However, the contract number, the contract title and the tenderer's name (if any) provided in the ETPI will not be disclosed to such third party. | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--|
| <p>SCT 21 Bonus for joint venture with listed contractor in lower group or with probationary status</p> <p>For the purpose of evaluation of the attribute “Bonus for joint venture with listed contractor in lower group or with probationary status” under attribute [(3)(c)]# of Section [(3)]# of Part [(B)]# of the marking scheme at Appendix <i>[insert appropriate reference]</i> to the Notes to Tenderers, the joint venture tenderer, for fulfilling the requirement [(v)]# referred to in the attribute [(3)(c)]#, if applicable, shall submit with its tender a declaration in the form set out in Appendix <i>[insert appropriate reference]</i> to these Special Conditions of Tender.</p> | <p>DEVB’s memo ref. DEVB(W) 546/84/01 dated 18.8.2023.</p> <p>Applicable to tenders invited from Group C contractors of the List of Approved Contractors for Public Works only. Not applicable for open tendering or where tenders are invited from contractors other than Group C contractors enlisted in any category of the List of Approved Contractor for Public Works. Also not applicable for tenders invited from both Group B contractors and Group C contractors.</p> <p># <i>Insert appropriate reference</i></p> |

Special Conditions of Tender

Appendix []

To: The Government of the Hong Kong Special Administrative Region ("**Government**")

Date: _____

Dear Sir/Madam,

Contract No.: []

Title: []

1. *[I/We], the tenderer, [(name of the tenderer) of (address of the tenderer)]¹, refer to [my/our] tender submitted for the above contract.

2. *[I/We] confirm that, each of the following participant(s) / shareholder(s) in the joint venture:

- (i) has/have no holding-subsidary relationship with the lead participant / major shareholder in the joint venture; and
- (ii) is/are not related parties of the lead participant / major shareholder in the joint venture.

| No. | Name |
|-----|--|
| 1 | (Name of participant /shareholder in lower group(s) or with probationary status) (i.e. the JV Participant/shareholder as referred to in the requirement [(iii)] [#] of attribute [(3)(c)] [#] under Section [(3)] [#] of Part [(B)] [#] of the marking scheme at Appendix [<i>insert appropriate reference</i>] to the Notes to Tenderers) |

3. The meaning of holding-subsidary relationship and related parties are stated in sub-clauses (2) and (2A) of General Conditions of Tender [GCT 29].

* Delete as appropriate.

Insert appropriate reference

1 Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, this part in square brackets should be expanded to include the respective names and addresses of such persons or as the case may be companies.

2 Where the tenderer comprises two or more persons or companies acting in partnership, joint venture or otherwise, all such persons or as the case may be companies must sign. The signatory for each of such persons or companies shall be a person authorized to sign Government contracts on behalf of that person or as the case may be company.

Special Conditions of Tender

4. *[I/We] shall indemnify and keep indemnified the Government against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations and/or warranties above, including but not limited to damages for delay, costs and expenses of re-tendering and other costs incurred.

5. *[I/We] understand that the information declared above is used for the purpose of assessing [my/our] tender submitted for the above contract and is subject to verification checking. *[I/We] agree that the information provided in this declaration may be disclosed to third parties for verification purposes.

Signed for and on behalf of [name of the tenderer] by [name and position of the signatory]²:

Name of Witness: _____

Signature of Witness: _____

Occupation: _____

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|---|
| SCT 22 Information on On-going Works Contracts for Assessment of “Merit/Demerit Point for Safety” | |
| <p>(1) The tenderer shall submit with its tender either:</p> <p style="padding-left: 40px;">(a) a statement that it held one or more on-going works contracts in Hong Kong during the Relevant Period; or</p> <p style="padding-left: 40px;">(b) a statement that it held no on-going works contract in Hong Kong during the Relevant Period,</p> <p>in the form set out in Appendix [X] to the Special Conditions of Tender.</p> <p>In case the tenderer is a joint venture, each participant or shareholder of the joint venture shall submit such a statement separately.</p> <p>(2) Where the tenderer (or a participant or shareholder of the joint venture) held at least one on-going works contract in Hong Kong during the Relevant Period, the tenderer shall submit with its tender further information and documentary evidence of <u>ONE</u> such on-going works contract as required in Appendix [X] to the Special Conditions of Tender.</p> <p>(3) The <i>Project Manager</i> designate may invite a tenderer to submit further information or clarification regarding an on-going contract in accordance with Clause GCT 16 of the General Conditions of Tender. If a tenderer fails to demonstrate that it held one or more on-going works contract in the Relevant Period to the satisfaction of the <i>Project Manager</i> designate, its tender shall be assessed as if it held no on-going works contract during the Relevant Period</p> | <p>DEVB’s memo ref. DEVB(W) 546/84/01 dated 10.11.2023.</p> <p>The submission under this clause should be listed under GCT 4(1)(e).</p> |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--------------------|
| <p>notwithstanding it has submitted a statement under sub-clause (1)(a) of this Clause.</p> <p>(4) For the purposes of this Clause and Appendix [X] to the Special Conditions of Tender,</p> <p>(a) Relevant Period means the period between and inclusive of the two dates below:-</p> <p style="padding-left: 40px;">(i) the first day of the 14th calendar month immediately preceding the calendar month in which the original date set for close of tender is in or, if this has been extended, the extended date; and</p> <p style="padding-left: 40px;">(ii) the last day of the 3rd calendar month immediately preceding the calendar month in which the original date set for close of tender is in or, if this has been extended, the extended date.</p> <p>(b) A tenderer (or a participant or shareholder of the joint venture) is regarded as holding an on-going works contract in Hong Kong during the Relevant Period if:-</p> <p style="padding-left: 40px;">(i) It is acting in the capacity of the main contractor or is a participant/shareholder of a joint venture acting in the capacity of a main contractor of a public or private works contract at any point of time during the Relevant Period;</p> <p style="padding-left: 40px;">(ii) The whole or part of the works under the said contract is to be or has been carried out in a construction</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|---|--------------------|
| <p>site in Hong Kong. For the purpose of this Clause, “construction site” shall bear the same meaning as assigned to it under paragraph 10(a) of DEVB TC(W) No. 5/2023 dated 28 July 2023 or any subsequent update; and</p> <p>(iii) The said contract has commenced on or before the last day of the Relevant Period and the works under the said contract as a whole (excluding Maintenance Period) have not been certified complete by the Engineer / Architect / Surveyor / Supervising Officer/ Authorised Person or other equivalent professionals before the Relevant Period commences or, in the case of term contract, the contract term has not yet expired before the Relevant Period commences.</p> | |
| <p>Appendix []</p> <p>To: The Government of the Hong Kong Special Administrative Region ("Government")</p> <p>Date: _____</p> <p>Dear Sir/Madam,</p> <p style="text-align: center;">Contract No.: [] [Contract title]</p> | |

Special Conditions of Tender

| Clause | Remarks/Guidelines | | | | | | | | | | | | |
|---|--------------------|--|----------------|--|-------------------------------------|--|-------------------------------------|--|---|--|---|--|--|
| <p style="text-align: center;">Information on On-going Works Contracts</p> <p>*[I/We], refer to [my/our] tender submitted for the above contract.</p> <p>2[@].*[I/We] hereby confirm in accordance with Special Conditions of Tender Clause SCT [xx][#] that [I/We] held one or more on-going works contracts in Hong Kong during the Relevant Period. Further information and documentary evidence on <u>ONE</u> such on-going works contract is provided below:</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr> <td style="width: 40%; padding: 5px;">Contract No.</td> <td style="width: 60%;"></td> </tr> <tr> <td style="padding: 5px;">Contract Title</td> <td></td> </tr> <tr> <td style="padding: 5px;">BD Reference No. (if applicable)</td> <td></td> </tr> <tr> <td style="padding: 5px;">Name of the Employer/<i>Client</i></td> <td></td> </tr> <tr> <td style="padding: 5px;">Other information (e.g. name of Engineer / Architect / Surveyor / Supervising Officer / Authorised Person and their contact information e.g. tel. no. , fax no. , email address, etc.)</td> <td></td> </tr> <tr> <td style="padding: 5px;">Documentary evidence* (e.g. articles of agreement, recent correspondences issued by the Engineer / Architect / Surveyor / Supervising Officer / Authorised Person and the like</td> <td></td> </tr> </table> | Contract No. | | Contract Title | | BD Reference No. (if applicable) | | Name of the Employer/ <i>Client</i> | | Other information (e.g. name of Engineer / Architect / Surveyor / Supervising Officer / Authorised Person and their contact information e.g. tel. no. , fax no. , email address, etc.) | | Documentary evidence* (e.g. articles of agreement, recent correspondences issued by the Engineer / Architect / Surveyor / Supervising Officer / Authorised Person and the like | | |
| Contract No. | | | | | | | | | | | | | |
| Contract Title | | | | | | | | | | | | | |
| BD Reference No. (if applicable) | | | | | | | | | | | | | |
| Name of the Employer/ <i>Client</i> | | | | | | | | | | | | | |
| Other information (e.g. name of Engineer / Architect / Surveyor / Supervising Officer / Authorised Person and their contact information e.g. tel. no. , fax no. , email address, etc.) | | | | | | | | | | | | | |
| Documentary evidence* (e.g. articles of agreement, recent correspondences issued by the Engineer / Architect / Surveyor / Supervising Officer / Authorised Person and the like | | | | | | | | | | | | | |

Special Conditions of Tender

| Clause | Remarks/Guidelines |
|--|--------------------|
| <p>for the contract)</p> <p>[Note *: Please list out the documentary evidence submitted by the tenderer.]</p> <p>2[@]. *[I/We] hereby confirm in accordance with Special Conditions of Tender Clause SCT [xx]# that [I/We] have no on-going works contract in Hong Kong during the Relevant Period.</p> <p>[Note @: Tenderer shall submit either one of the two statement (2) above, as appropriate.]</p> <p>3. *[I/We] understand that the information provided above is used for the purpose of assessing *[my/our] tender submitted for the above contract and is subject to verification checking. *[I/We] agree that the information provided in this declaration may be disclosed to third parties for verification purposes.</p> <p>(Signed for and on behalf of the tenderer or, in case of a joint venture, the relevant participant or shareholder)</p> | |

[Sample for NEC ECC contracts]

JV Proforma for Proposed Value of Works to be Undertaken by Each Participant / Shareholder in the Joint Venture (JV)

[To be submitted in the “Tender Price Document” only (for tenders using marking scheme)]

[To be submitted with the tender (for tenders using formula approach)]

Name of Tenderer: _____

| Category of works ¹ | | Proposed value of works (in Hong Kong dollar (\$)) ² | | | |
|--|--|--|--|--|--|
| | | A | B ³ | C ^{3&4} | D ^{3&5} |
| | | {Name of the <u>lead</u> participant / <u>major</u> shareholder} (to be inserted by the tenderer) | {Name of the other JV participant / shareholder} (to be inserted by the tenderer) | {Name of the other JV participant / shareholder} (to be inserted by the tenderer) | {Name of the other JV participant / shareholder} (to be inserted by the tenderer) |
| Proposed value of works | Type I (Mandatory) [The relevant category of the Approved List / Approved Specialist List if it is required in SCT 5(2)(a) (i.e. condition of participation).] | | | | |
| | Type II (Optional) [The relevant categories of the Approved List selected as appropriate by the project team.] | | | | |
| | Type III (Optional) [If ACC Clause C3 on Specialist Subcontractor is included, select from the list thereof as appropriate by the project team] ^{6&7} (add the reference to footnote 6 & 7 after each Type III category) | | | | |
| | Sub-Total | | | | |
| Tendered total of the Prices⁸ | | {Summation of the totals of A, B, C and D to be inserted by the tenderer} | | | |
| Percentage Participation⁹ | | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } |
| Forecast value of works ¹⁰ | Type I (Same as above) | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } |
| | Type II (Same as above) | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } |
| | Type III (Same as above) | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } |
| | Sub-Total | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } | { to be inserted by the <i>PM</i> designate after receipt of tender } |
| Forecast total of the Prices¹¹ | | {to be inserted by the <i>PM</i> designate after receipt of tender} | | | |

Notes:

1. The tenderer shall not add any additional category of works to, or amend or delete any category of works in the list of categories set out in this JV Proforma.
2. Each proposed value of works to be undertaken by each participant / shareholder shall be inserted as a figure in the unit of Hong Kong dollar, **otherwise the tender shall be rendered invalid**. Any other descriptions, such as **“jointly”, “fully integrated” etc. are not acceptable**.
3. The tenderer’s attention is drawn to SCT 5(6). For a participant / shareholder other than the lead participant or major shareholder, even if it is not enlisted in the relevant category of the Approved List / Approved Specialist List as required under SCT 5(6)(a), it may nonetheless be considered technically capable if it satisfies the requirement as stated in other sub-clauses of SCT 5(6).
4. Delete as appropriate or add additional column(s) as necessary.
5. Delete as appropriate or add additional column(s) as necessary.
6. This category of works is included in ACC C3 which stipulates that the specified part(s) of the *works* must be undertaken by a contractor listed on the respective category of the Approved Specialist List. In case the tenderer intends to subcontract this category of works, the space for the proposed value of this category of works shall be left blank and the tenderer shall distribute the value of this category of works among other categories of works. In case a value is inserted in the space for this category of works for any participant / shareholder, it is presumed that the part of the *works* will be undertaken by that participant / shareholder. The relevant participant / shareholder needs to satisfy the requirement as stated in SCT 5(5) or SCT 5(6), as the case may be.
7. Correction Rules no. 1(c) and 1(f) do not apply to this category of works.
8. The “tendered total of the Prices” in the JV Proforma shall tally with the “tendered total of the Prices” inserted in the Form of Tender. ***[Internal note (not to be included in the tender documents): This note serves as a general reminder to the tenderer and gives an indication of what is expected to be filled in. In case there is discrepancy with the Form of Tender, it does not render the tender invalid and the relevant correction rules shall apply.]*** The tenderer shall ensure that there are no uncategorised works. The value of those parts of the works that are not directly related to any category of works, e.g. preliminaries, personnel, insurance, safety etc. shall be distributed among the categories of works set out in the JV Proforma by the tenderer. For the avoidance of doubt, the value of those parts of works that are intended to be subcontracted out shall be included / distributed among the categories of works set out in the JV Proforma by the tenderer.

9. The percentage participation of each participant / shareholder shall be calculated by reference to the corrected sub-total of proposed value of works to be undertaken by such participant / shareholder against the corrected tendered total of the Prices, and inserted by the *Project Manager* designate in this JV Proforma. In case the percentage participation stated elsewhere in the tenderer's submission does not tally with this JV Proforma, the percentage participation calculated as per this JV Proforma shall prevail.
10. The forecast value(s) of works to be undertaken by each participant / shareholder shall be calculated by multiplying the proposed value(s) of works by the ratio of the forecast total of the Prices in the Grand Summary of **activity schedule / *bills of quantities* to the tendered total of the Prices (both after correction if applicable), and be inserted by the *Project Manager* designate.
11. The "forecast total of the Prices" in the JV Proforma shall tally with the forecast total of the Prices in the Grand Summary of **activity schedule / *bills of quantities* (after correction if applicable), and be inserted by the *Project Manager* designate.

Correction Rules for JV Proforma

For lump sum contracts

[Internal note (not to be included in the tender documents): This set of rules shall apply to both bill of quantities and activity schedule. In choosing which set of rules to be adopted, reference shall be made to paragraphs A5.2.1 & A5.2.2 of NEC Practice Notes and it shall be consistent with the correction rules for tender errors under GCT 11.]

1. Where:
 - (a) no value or an illegible entry is inserted in the space for any proposed value of works in the JV Proforma, the proposed value of works shall be marked as zero;
 - (b) all entries for the proposed values of works of any particular participant / shareholder (i.e. the whole column in the table) have no value or deemed zero as per sub-paragraph (a) above, the tenderer shall be considered as having failed to comply with the essential requirement in GCT 21(xii) and **its tender shall be rendered invalid**;
 - (c) all entries for a category of works set out in this JV Proforma (i.e. the whole row in the table) have no value or deemed zero as per sub-paragraph (a) above, the tenderer shall be considered as having failed to comply with the essential requirement in GCT21(xii) and **its tender shall be rendered invalid**;
 - (d) an additional category of works has been added by the tenderer, the value inserted to the additional category shall be distributed to all categories of works set out in this JV Proforma in proportion according to the values of those categories inserted in the JV Proforma by the tenderer. The additional category of works shall then be discarded;
 - (e) any category of works in the list of categories set out in the JV Proforma has been amended by the tenderer, such amendment shall be discarded and any proposed value of works inserted in the relevant space shall be deemed to refer to the original category;
 - (f) any category of works in the list of categories set out in the JV Proforma is deleted, the proposed value of works for such category shall be marked as zero. In such a case, the tenderer shall be considered as having failed to comply with the essential requirement in GCT21(xii) and **its tender shall be rendered invalid**.
2. Errors in the casting of any proposed value of works in the JV Proforma (after correction under paragraph 1 above, if any) shall be corrected. Thereafter, the sub-total of proposed value of works to be undertaken by each participant / shareholder and the tendered total of the Prices in the JV Proforma shall be corrected.

3. The tendered total of the Prices inserted in the Form of Tender shall take precedence over the tendered total of the Prices inserted in the JV Proforma. In case of discrepancy, the tendered total of the Prices in the JV Proforma shall be corrected to match the one inserted in the Form of Tender in the manner set out in paragraph 4 below.

4. After correcting all the errors in accordance with paragraphs 1 and 2 above, the difference between:

(i) the tendered total of the Prices inserted in the Form of Tender, and

(ii) the tendered total of the Prices inserted in the JV Proforma

shall be calculated as a plus percentage if 4(i) is greater than 4(ii), or as a minus percentage if 4(i) is less than 4(ii). The plus or minus percentage shall then be applied to the proposed value of works of each category of each participant / shareholder inserted in the JV Proforma. The sub-total of proposed value of works of each participant / shareholder shall also be corrected accordingly.

5. After correcting all the errors in accordance with paragraphs 1 to 4 above, the percentage participation of each participant / shareholder shall be calculated by reference to the corrected sub-total of proposed value of works to be undertaken by such participant / shareholder against the corrected tendered total of the Prices.

For re-measurement contracts

[Internal note (not to be included in the tender documents): This set of rules shall apply to both bill of quantities and activity schedule. In choosing which set of rules to be adopted, reference shall be made to paragraphs A5.2.1 & A5.2.2 of NEC Practice Notes and it shall be consistent with the correction rules for tender errors under GCT 11.]

1. Where
 - (a) no value or an illegible entry is inserted in the space for any proposed value of works in the JV Proforma, the proposed value of works shall be marked as zero;
 - (b) all entries for the proposed values of works of any particular participant / shareholder (i.e. the whole column in the table) have no value or deemed zero as per sub-paragraph (a) above, the tenderer shall be considered as having failed to comply with the essential requirement in GCT 21(xii) and **its tender shall be rendered invalid**;
 - (c) all entries for a category of works set out in this JV Proforma (i.e. the whole row in the table) have no value or deemed zero as per sub-paragraph (a) above, the tenderer shall be considered as having failed to comply with the essential requirement in GCT21(xii) and **its tender shall be rendered invalid**;
 - (d) an additional category of works has been added by the tenderer, the value inserted to the additional category shall be distributed to all categories of works set out in this JV Proforma in proportion according to the values of those categories inserted in the JV Proforma by the tenderer. The additional category of works shall then be discarded;
 - (e) any category of works in the list of categories set out in the JV Proforma has been amended by the tenderer, such amendment shall be discarded and any proposed value of works inserted in the relevant space shall be deemed to refer to the original category;
 - (f) any category of works in the list of categories set out in the JV Proforma is deleted, the proposed value of works for such category shall be marked as zero. In such a case, the tenderer shall be considered as having failed to comply with the essential requirement in GCT21(xii) and **its tender shall be rendered invalid**.
2. Errors in the casting of any proposed value of works in the JV Proforma (after correction under paragraph 1 above, if any) shall be corrected. Thereafter, the sub-total of proposed value of works to be undertaken by each participant / shareholder and the tendered total of the Prices in the JV Proforma shall be corrected.
3. If the tendered total of the Prices inserted in the Grand Summary of [**bills of quantities / activities schedule*], or the corrected one if it is corrected in accordance with the correction rules as stated in [**ETWB TC(W) No. 41/2002 / Appendix [X] to the GCT*], is different from that inserted in the JV Proforma, the Grand Summary shall take precedence and the JV Proforma shall be corrected to match the one inserted / corrected in the Grand Summary in the manner set out in paragraph 4 below.

4. After correcting all the errors in accordance with paragraphs 1 and 2 above, the difference between:

(i) the tendered total of the Prices inserted in the Grand Summary, or the corrected one, and

(ii) the tendered total of the Prices inserted in the JV Proforma

shall be calculated as a plus percentage if 4(i) is greater than 4(ii), or as a minus percentage if 4(i) is less than 4(ii). The plus or minus percentage shall then be applied to the proposed value of works of each category of each participant / shareholder inserted in the JV Proforma. The sub-total of proposed value of works of each participant / shareholder shall also be corrected accordingly.

5. After correcting all the errors in accordance with paragraphs 1 to 4 above, the percentage participation of each participant / shareholder shall be calculated by reference to the corrected sub-total of proposed value of works to be undertaken by such participant / shareholder against the corrected tendered total of the Prices.

Internal Notes (for internal use only, not to be included in the tender documents issued to the tenderers)

1. This JV proforma is a standalone document for evaluating the technical capability of each participant (*for simplicity, "participant" in these notes refers to "participant / shareholder"*). The proposed value of each category need **NOT** tally with the activity schedule or bill of quantities that involve pricing strategy of the JV which is not the *Client's* concern.
2. The project team shall select the relevant categories in accordance with the nature of works and list them all out in the JV Proforma.
3. The categories of works must refer to the relevant categories listed in the List of Approved Contractors for Public Works ("**The Approved List**") and/or the List of Approved Suppliers of Materials and Specialist Contractor for Public Works ("**The Approved Specialist List**") which consist of 5 numbers and 51 numbers of categories respectively. The project team shall not come up with new category that does not exist in the Approved List or Approved Specialist List. Categories like "uncategorised category", "other", "miscellaneous" etc. are not allowed.
4. There are three types of category of works:
 - Type I: The listing requirement of the tenderer, i.e. the condition of participation. The category of the Approved List / Approved Specialist List that the tenderer is required to be listed on as stipulated in the SCT 5(2)(a) or tender notice.
 - Type II: Having considered the scope of works, apart from Type I above, project team has discretion to select additional relevant categories from the five categories of the Approved List, i.e. Buildings, Port Works, Roads and Drainage, Site Formation and / or Waterworks.
 - Type III: Having considered the scope of works, apart from Type I above, project team has discretion to select other relevant categories from the 51 numbers of categories of the Approved Specialist List, The project team needs to be cautious about the inclusion of Type III because there is a risk that the tenderer may inadvertently state a figure to which the tenderer could not satisfy the requirement stated in SCT 5(5) or SCT 5(6), as the case may be, and as a result is considered technically incapable. This type is only applicable for special cases where relevant optional ACC Clause C3 on specialist subcontractor is included in the contract and there is a high chance that one of the JV participants would only undertake that part of the specialist works.

ACC Clause C3 stipulates that the specified part(s) of the works must be undertaken by a contractor listed on the respective category of the Approved Specialist List. It is not necessary to include all categories provided in ACC Clause C3. Having considered the scope of works and the circumstances, the project team has discretion to include such relevant categories as appropriate. For instance, “**Landscaping**” is not included in the example below because it is very likely subcontracted out by one of the participants, and such value would be included in other categories undertaken by that participant. On the contrary, if there is a high chance that one of the JV participants would only undertake one part of the specialized works, like “**Structural Steelwork**” in the example below, then “**Structural Steelwork**” should be included in the JV Proforma because for that participant, it has no other category to fill in.

Even if the participant inserts a figure in this type of categories which shows the participant’s intention to undertake that part of the works by itself, it is not obliged to do so. The contractor still could subcontract that part of works and ACC C3 requiring either the contractor or the subcontractor to be listed on the Approved Specialist List still applies.

Type I must be included in case there is such a condition of participation. Types II and III are optional and only be included if it is a material part of the contract. Considerations shall be made to the scope of works and the circumstances. For instance, the project team shall consider the relevancy of requiring the tenderer to differentiate the value of that specific part of the works and the difficulties of the participant to demonstrate its experience of that specific part of the works. So, for most of the straightforward contracts, there should be only one row showing one category, i.e. Type I.

5. There is no “uncategorised works”, “other”, “miscellaneous” etc., which means, the sum of the proposed value of all participants must tally with the “Tendered total of the Prices”. The value of the part of works that are not directly related to any category, e.g. preliminaries, personnel, insurance, safety etc. shall be distributed among the listed categories by the tenderer in such a way that the sum is tally with the “Tendered total of the Prices”.
6. The tenderers are not allowed to add any additional category to the list selected by the project team.

7. Correction Rules:

- (i) The Tendered total of the Prices provided in the Form of Tender or inserted / corrected in the Grand Summary as the case may be prevails. The Tendered total of the Prices in this JV Proforma will be corrected and the breakdown of each category will be corrected on pro rata basis.
- (ii) The percentage participation on this JV Proforma will be inserted by the *Project Manager* designate based on the respective total of each participant and it prevails.

8. **Example:**

- ✧ The contract involves building a stadium with a structural steel roof. The contractor also needs to construct the connecting roads with landscaping works.
- ✧ The tenderers must be a Confirmed Group C contractor of the **Buildings Category** of the Approved List.
- ✧ In the contract, it is stipulated in ACC Clause C3 that “**Structural Steelwork**” and “**Landscaping**” must be undertaken by a Specialist Subcontractor if the Contractor is not on the respective lists.

| Category of works | | Proposed value of works (\$) | | | |
|-------------------------------------|-------------------------|--|--|--|--|
| | | A (lead participant) | B | C | D |
| | | Good Construction Company Limited | High Quality Construction Limited | {Name of the other JV participant / shareholder} (to be inserted by the tenderer) | {Name of the other JV participant / shareholder} (to be inserted by the tenderer) |
| Proposed value of works | 1. Buildings | \$1,200,000,000 | \$300,000,000 | | |
| | 2. Roads and Drainage | \$24,000,000 | \$30,000,000 | | |
| | 3. Structural Steelwork | \$150,000,000 | \$168,000,000 | | |
| | Sub-Total | \$1,374,000,000 | \$498,000,000 | | |
| Tendered total of the Prices | | \$1,872,000,000 | | | |
| Percentage Participation | | 73.4% {Inserted by the PM designate } | 26.6% {Inserted by the PM designate } | | |
| Forecast value of works | 1. Buildings | \$1,538,461,538 { Inserted by the PM designate } | (\$384,615,385 { Inserted by the PM designate }) | | |
| | 2. Roads and Drainage | \$30,769,231 { Inserted by the PM designate } | (\$38,461,538 { Inserted by the PM designate }) | | |
| | 3. Structural Steelwork | \$192,307,692 { Inserted by the PM designate } | (\$215,384,615 { Inserted by the PM designate }) | | |
| | Sub-Total | \$1,761,538,462 { Inserted by the PM designate } | [\$638,461,538] { Inserted by the PM designate } | | |
| Forecast total of the Prices | | \$2,400,000,000 {Inserted by the PM designate } | | | |

Explanatory notes:

1. “**Buildings**” must be included because the tenderer need to be enlisted in the category, i.e. condition of participation.
2. “**Roads and Drainage**” and “**Structural Steelwork**” are included based on the project team’s judgment.
3. In checking the technical capability of each participant, the lead and non-leading participants are handled differently:

(i) The sub-total of forecast value of works to be undertaken by the lead participant, as included in the [square brackets] in the

second last row of the table, is checked against its permitted limit. It is not necessary to check each category it proposed to undertake, because if it were a solo tenderer, it is not required to be checked for each of the categories it undertakes. The requirement should not be more stringent for it in a JV.

(ii) For the non-leading participants, there are two cases. Take participant B as an example. Case 1: If it is a confirmed Group C contractor of the Buildings Category, just like the lead participant, only the sub-total of forecast value of works, as included in the [square brackets] in the second last row of the table, is checked against its permitted limit. Case 2: If it is not a confirmed Group C contractor of the Buildings Category, the forecast values of works to be undertaken under each category, i.e. Buildings, Roads and Drainage & Structural Steelwork, as included in the (round brackets), shall be checked against the respective limits of that participant in accordance with the SCT5(6).

4. There are situations where the participants lump certain value of works not listed in this JV Proforma. It is not necessary to enquire about the buildup of any value. Check the value as inserted by the tenderer should suffice.

[Sample Form for NEC ECC contracts adopting **SCT 20**]

APPENDIX []

**Estimates for Tender Price Index (ETPI) with
General Preambles and Particular Preambles**

[Sample Form for NEC ECC contracts adopting **SCT 20**]

| Item | Descriptions | Qty | Unit | Rate | Amount |
|-----------------------|---|-----|----------------------|----------------------|--------|
| <p>X.X</p> <p>X.X</p> | <p><u>BILL NO. X</u> <u>DESCRIPTION</u></p> <p><u>SECTION 7 - EARTHWORKS</u></p> <p><u>Excavation</u></p> <p>General excavation</p> <p>material other than rock or artificial hard material</p> <p>[Project office to include the following provision at the end of each bill]</p> <p>Please specify, if any, additional items/costs not included in above but are necessary for the full compliance with the requirements of the contract (to be inserted by the tenderer/<i>Contractor</i>)</p> | | <p>m³</p> | | |
| | | | | To Collection | |

[Project office to include the following remarks at the end of each bill]

Remarks: Before submitting a tender, the tenderer shall carry out at its own expense any investigation, checking and calculation it requires (including seeking independent advice) to obtain its own information. In the event the tenderer/Contractor finds the quantity(ies) above different from its own information, it may adjust the figure(s) in the quantity column to suit as appropriate.

- ETPI/X -

[Sample Form for NEC ECC contracts adopting **SCT 20**]

| Item | Descriptions | Amount |
|------|--|--------|
| | <p><u>BILL NO. X</u> <u>DESCRIPTION</u></p> <p><u>Collection</u></p> <p>Brought forward from ETPI/X</p> | |
| | Total of Bill No. X carried to Summary | |

- ETPI/X -

