

**DEVELOPMENT BUREAU  
LIBRARY OF  
STANDARD GENERAL CONDITIONS OF TENDER**

**Important Notes:**

- (1) This set of General Conditions of Tender (“GCT”) is applicable to contracts using NEC4 TSC (June 2017, with amendments January 2023) 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.

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## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 1 Definitions</b>	
<p>(1) For the purpose of these General Conditions of Tender and Special Conditions of Tender:</p> <p>(a) <i>conditions of contract</i> means the core clauses and the clauses for main Option [<i>insert appropriate option</i>] and secondary Options [<i>insert appropriate options</i>] and Z of the NEC4 Term Service Contract [(June 2017, with amendments <del>October—2020</del><u>January 2023</u>)]* published by Thomas Telford Ltd., with amendments identified in the Schedule to the Articles of Agreement referred to in Clause GCT 2(a)(ii) of these General Conditions of Tender below;</p> <p>(b) words and expressions used throughout shall, except when the context otherwise requires, have the same meaning assigned to them under the <i>conditions of contract</i>;</p> <p>(c) terms identified in the Contract Data are in italics;</p> <p>(d) in addition, the following words and expressions shall have the meaning hereby assigned to them:</p> <p>(i) “<i>Service Manager designate</i>” means ____#</p> <p>(ii) “unincorporated joint venture”, “participant”, “incorporated joint venture” and “shareholder” shall bear the same meanings as those given in paragraph 6 of the Environment, Transport and Works Bureau Technical Circular (Works) No. 50/2002 on Contractors’ Joint Venture.</p>	<p>DEVB memo ref. (02B6J-01-6) in DEVB(W)510/10/01 dated 24.3.2011.</p> <p>* <i>Insert appropriate version.</i></p> <p># Full description of the “<i>Service Manager designate</i>” (including full name or, as the case may be, full description of the post and name of the current holder of the post, address, telephone number and fax number) should be given in the definition.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>(iii) "person" includes individual, corporation, partnership, firm and unincorporated body.</p> <p>(2) In these General Conditions of Tender and Special Conditions of Tender, except where the context otherwise requires, the singular shall include the plural and vice versa and any gender shall include all genders.</p>	



## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 3 Relevant documents not issued</b>	
<p>The following documents are not issued to tenderers:</p> <p>(a) Standard documents, namely:</p> <p style="padding-left: 20px;">(i) NEC4 Term Service Contract [( <a href="#">June 2017, with amendments <del>October 2020</del> <a href="#">January 2023</a></a>)]# published by Thomas Telford Ltd.,</p> <p style="padding-left: 20px;">*(ii) General Specification,</p> <p style="padding-left: 20px;">*(iii) Construction Site Safety Manual (Chapter 3),</p> <p style="padding-left: 20px;">*(iv) The Hong Kong International Arbitration Centre Domestic Arbitration Rules,</p> <p style="padding-left: 20px;">*(v) The Government of the Hong Kong Special Administrative Region Construction Mediation Rules.</p> <p>*(b) Drawings as listed in Appendix [<i>insert appropriate reference</i>] to the Particular Specification.</p> <p>The documents referred to in (a) and (b) above may be inspected, by appointment, at the <i>Service Manager</i> designate’s office during normal office hours.</p> <p>*(c) The “Index Numbers of the Costs of Labour and Materials used in Public Sector Construction Projects (April 2021=100)”, with base date at April 2021 and the “Average Daily Wages of Workers Engaged in Public Sector Construction Projects as Reported by Main Contractors (2021 Edition of Data Series)”. The former are published in the Government of the Hong Kong Special Administrative Region Gazette, whereas the latter are available on the website of the Census and Statistics Department.</p>	<p>* <a href="#">Delete/Modify as appropriate.</a></p> <p># <a href="#">Insert appropriate version.</a></p> <p>The documents referred to in sub-clauses (a)(i) to (a)(v) should be described in the Particular Specification with the full titles and editions.</p> <p>Note: where applicable, amend this to (b)(i) and add other item(s) such as “Site investigation information” as (b)(ii).</p> <p>Ref. DEVB TC(W) No. 4/2021</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 4 Submission of tender (Formula Approach)</b>	
<p>(1) The following documents shall be enclosed in a sealed envelope addressed, endorsed and deposited as required by the Gazette Notification or Letter of Invitation to Tender or the Tender Notice:</p> <p>(a) One set of the documents referred to in Clause GCT 2(b)* above with:</p> <p style="padding-left: 20px;">(i) The Form of Tender in hard copy format duly signed.</p> <p style="padding-left: 20px;">(ii) The Contract Data Part two in hard copy format duly completed and signed.</p> <p>(b) A copy each of the documents submitted under sub-clauses (1)(a)(i) and (1)(a)(ii) of this Clause.</p> <p>(c) The submissions that are required by the General Conditions of Tender (GCT) and Special Conditions of Tender (SCT).</p> <p>(2) If a tenderer submitted the documents required under sub-clause (1)(a) of this Clause in electronic format as allowed thereunder but failed to submit the required copy under sub-clause (1)(b) of this Clause, the tender opening team shall make the required copy in electronic format on the tenderer's behalf. The tenderer may be asked to bear the cost of making the copy. The cost of duplication is currently set at \$54** per electronic file and the material charge at \$1.1** per CD-ROM and \$1.3** per 4.7GB DVD+/-R.</p> <p>(3) If a tenderer submitted the documents required</p>	<p>For tenders not using a marking scheme for tender evaluation.</p> <p>Ref. DEVB memos ref. (026NM-01-3) in DEVB(W) 546/17/01 dated 25.6.2010 and DEVB(W) 546/83/01 dated 11.11.2020.</p> <p>* <a href="#">Delete/Modify as appropriate.</a></p> <p>Note:</p> <ol style="list-style-type: none"> <li>1. Not used.</li> <li>2. Attach an appendix to the GCT on the prevailing technical requirements for tender submission in electronic format (Appendix 4 to ETWB TCW No. 11/2005)</li> </ol> <p>** Works Departments should stipulate the prevailing rates which may from time to time be prescribed by DEVB, FSTB and/or PWTB. Ref: DEVB memo ref. ( ) in DEVB(W) 511/70/02 dated 3.7.2019, FSTB memo ref. ( ) in TsyB T ADM/1-135/1/0 Pt.10 dated 24.12.2018 and PWTB memo ref. (217) in ASD13/95200/TEN/<a href="#">PTC/1OPEN/PCF</a> dated</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>under sub-clause (1)(a) of this Clause in hard copy format as allowed or required thereunder but failed to submit the required copy under sub-clause (1)(b) of this Clause, the tender opening team shall make the required photocopies on the tenderer's behalf. The tenderer may be asked to bear the cost of making the photocopies. The cost of photocopying is currently set at <del>\$12</del>/<del>\$16.214.8</del>** per copied page, which cost also covers material.</p> <p>(4) If a tenderer elects to submit the Schedule of Percentages in the Contract Data Part two in hard copy format and where a hard copy has been supplied by the <i>Client</i>, it should price the Schedule of Percentages on the hard copy supplied by the <i>Client</i>. If a tenderer fails to do so, any extra cost incurred by the <i>Client</i> in checking whether the printed descriptions or figures of the tender are identical to those in the hard copy supplied by the <i>Client</i> is recoverable by the <i>Client</i> as a debt. The tenderer whose tender has been so checked shall pay such cost if demanded by the <i>Client</i>.</p> <p>(5) Where a document may be submitted in hard copy format or electronic format and if a tenderer makes two submissions for the same document, one in hard copy format and one in electronic format, the submission in hard copy format shall be discarded.</p> <p>(6) All submissions in electronic format shall comply with the requirements set out in Appendix [<i>insert appropriate reference</i>] to these General Conditions of Tender [See Note 2].</p>	<p><del>16.9.2022</del><del>5.7.2018</del>. [Note: Please check the latest relevant memo. The photocopying charge for tenders opened by the CTB and PWTB are \$12.0 per page and <del>\$16.214.8</del> per page respectively.]</p>



## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 4 Submission of tender (Marking Scheme Approach)</b>	
<p>(1) The following documents shall be placed in two separate envelopes as specified below and the two envelopes shall then be enclosed in a sealed envelope addressed, endorsed and deposited as required by the Gazette Notification or Letter of Invitation to Tender or the Tender Notice:</p> <p style="text-align: center;"><b>In an envelope clearly marked with the tender reference and the words 'Tender Price Documents'</b></p> <p>(a) One set of documents referred to in Clause GCT 2(b)* above with:</p> <p style="padding-left: 20px;">(i) The Form of Tender in hard copy format duly signed.</p> <p style="padding-left: 20px;">(ii) The Contract Data Part two <i>*(Section 2)</i> in hard copy format duly completed and signed.</p> <p style="padding-left: 20px;">(iii) {*For tenders with a tender price and hence not including the Schedule of Percentages in Contract Data Part two, the Project Office should specify the documents to be priced by tenderers in this sub-clause and amend other provisions involving the Schedule of Percentages accordingly. }</p> <p>(b) A copy each of the documents submitted under sub-clauses (1)(a)(i), (1)(a)(ii) and <i>*(1)(a)(iii)</i> of this Clause.</p> <p>(c) The following submissions that are required by the General Conditions of Tender (GCT) and Special Conditions of Tender (SCT) [<i>See Note 2</i>]:</p> <p style="padding-left: 20px;">(i) ..... (GCT Clause [ ] )</p>	<p>Alternative Clause GCT 4 for tenders using a marking scheme for tender evaluation.</p> <p>Ref. DEVB memos ref. (026NM-01-3) in DEVB(W) 546/17/01 dated 25.6.2010 and DEVB(W) 546/83/01 dated 11.11.2020.</p> <p><i>* Delete/Modify as appropriate.</i></p> <p>Note:</p> <ol style="list-style-type: none"> <li>1. Not used.</li> <li>2. All submissions required from tenderers should be stated, quoting where the details of the requirements are given, e.g. Clause SCT 1 of the Special Conditions of Tender.</li> <li>3. Attach an appendix to the GCT on the prevailing technical requirements for tender submission in electronic format (Appendix 4 to ETWB TCW No. 11/2005)</li> </ol> <p><i>* Delete/Modify as appropriate.</i></p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>(ii) .....(SCT Clause [ ] )</p> <p><b>In another envelope clearly marked with the tender reference and the words 'Technical Submission'</b></p> <p>(d)# Submissions on tenderer’s experience, technical resources and technical proposals which are the subject of evaluation in accordance with the marking scheme at [Appendix to Notes to Tenderers] *[and more particularly described in Special Conditions of Tender Clause ], in either hard copy format or electronic format.</p> <p>(e) The following submissions that are required by the General Conditions of Tender (GCT) and Special Conditions of Tender (SCT) [See Note 2]:</p> <p>(i) ..... (GCT Clause [ ] )</p> <p>(ii) .....(SCT Clause [ ] )</p> <p>(2) If a tenderer submitted the documents required under sub-clause (1)(a) of this Clause in electronic format as allowed thereunder but failed to submit the required copy under sub-clause (1)(b) of this Clause, the tender opening team shall make the required copy in electronic format on the tenderer's behalf. The tenderer may be asked to bear the cost of making the copy. The cost of duplication is currently set at \$54** per electronic file and the material charge at \$1.1** per CD-ROM or \$1.3** per 4.7GB DVD+/-R.</p> <p>(3) If a tenderer submitted the documents required under sub-clause (1)(a) of this Clause in hard copy format as allowed or required thereunder but failed to submit the required copy under sub-clause (1)(b) of this Clause, the tender opening</p>	<p>* Delete/Modify as appropriate.</p> <p>#Where applicable, amend this to (d)(i) and add other items such as “Contract Data Part one (Section 1)”</p> <p>** Works Departments should stipulate the prevailing rates which may from time to time be prescribed by DEVB, FSTB and/or PWTB. Ref: DEVB memo ref.(032YD-01-3) in DEVB(W) 511/70/02 dated 3.7.2019, FSTB memo ref. TsyB T ADM/1-135/1/0 Pt. 10 dated 24.12.2018 and PWTB memo ref. (721) in ASD13/95200/ TEN/<del>PTC/1</del>OPEN/PCF dated <u>16.9.2022</u><del>5.7.2018</del>. [Note: Please check the latest relevant memo. The photocopying charge for tenders opened by</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>team shall make the required photocopies on the tenderer's behalf. The tenderer may be asked to bear the cost of making the photocopies. The cost of photocopying is currently set at <del>\$12/\$14.8</del><u>16.2</u>** per copied page, which cost also covers material.</p>	<p>the CTB and PWTB are \$12.0 per page and <del>\$14.8</del><u>16.2</u> per page respectively.]</p>
<p>(4) If a tenderer elects to submit the Schedule of Percentages in the Contract Data Part two in hard copy format and where a hard copy has been supplied by the <i>Client</i>, it should price the Schedule of Percentages on the hard copy supplied by the <i>Client</i>. If a tenderer fails to do so, any extra cost incurred by the <i>Client</i> in checking whether the printed descriptions or figures of the tender are identical to those in the hard copy supplied by the <i>Client</i> is recoverable by the <i>Client</i> as a debt. The tenderer whose tender has been so checked shall pay such cost if demanded by the <i>Client</i>.</p>	
<p>(5) Where a document may be submitted in hard copy format or electronic format and if a tenderer makes two submissions for the same document, one in hard copy format and one in electronic format, the submission in hard copy format shall be discarded.</p>	
<p>(6) All submission in electronic format shall comply with the requirements set out in Appendix [<i>insert appropriate reference</i>] to these General Conditions of Tender [See Note 3].</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 5 Financial information</b>	
<p>The tenderer shall, upon written request by the <i>Service Manager</i> designate issued in accordance with General Conditions of Tender Clause GCT 25, submit to the <i>Service Manager</i> designate the financial information set out in Appendix <i>[insert appropriate reference]</i> to these General Conditions of Tender. The information shall be used for tender assessment only and shall not form part of this contract.</p>	<p>Remember to insert Appendix. Refer to SDEV's memo ref. DEVB(W) 546/70/02 dated 10.2.2021 for the standard Appendix to General Conditions of Tender Clause GCT 5.</p> <p>This is a non-essential submission.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 6 Unauthorised alterations</b>	
Any unauthorised alteration or erasure or obliteration to the text of the documents may cause the tender to be disqualified.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 7 Discrepancies in the documents</b>	
The tenderer shall check the numbers of pages of all documents against page numbers given in summaries, and should it find any discrepancy or indistinctness, it must inform the <i>Service Manager</i> designate and have the same rectified.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 8 Clarification of documents</b>	
Should the tenderer for any reason whatsoever be in doubt about the precise meaning of any item or figure contained in the documents it shall seek clarification from the <i>Service Manager</i> designate.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 9 Qualification of tender</b>	
Any qualification of the tender may cause the tender to be disqualified.	



## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 10 Errors in tender submission</b>	
In the event of a tenderer discovering an error in its tender after it has been deposited, attention in writing may be drawn to the error and an amendment submitted which, provided that the amendment shall have been deposited before the time fixed for receipt of tenders, shall be accepted.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 11 Correction rules for tender errors</b>	
Without prejudice to other General Conditions of Tender and Special Conditions of Tender, if errors and/or omissions are found in a tender during tender examination, such errors and/or omissions shall be dealt with in accordance with the principles and rules contained in Appendix <i>[insert appropriate reference]</i> <sup>#</sup> to these General Conditions of Tender.	# Please insert appropriate appendix reference.

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 12 Tenders in Hong Kong dollars</b>	
Unless otherwise provided, the tender shall be in Hong Kong dollars.	Note: Please refer to SPR 355 for tenders in foreign currencies.

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 13 Tender negotiation</b>	
The <i>Client</i> reserves the right to negotiate with any tenderer about the terms of the offer.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 14 Erratic pricing</b>	
<p>(1) Without prejudice to the generality of the other General Conditions of Tender and Special Conditions of Tender, the <i>Client</i> may regard a tender as not 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 <i>Client</i>'s opinion:</p> <p style="margin-left: 20px;">(a) the Schedule of Percentages in the Contract Data Part two of the tender have been priced erratically whether or not such erratic pricing is the result of the application of Appendix <i>[insert appropriate reference]</i> to these General Conditions of Tender; and</p> <p style="margin-left: 20px;">(b) the erratic pricing is such as to expose the <i>Client</i> to an unacceptable level of financial risk.</p> <p>(2) For the purposes of this Clause, "erratic pricing" means the situation where an item or certain items in Schedule of Percentages in the Contract Data Part two are priced or structured in such a way as to suggest significant and unjustified:-</p> <p style="margin-left: 20px;">(a) inconsistency, irregularity or non-uniformity as compared with item or items of the same or similar nature in the same Schedule of Percentages or another Schedule of Percentages submitted by the same tenderer in the same tendering exercise; or</p> <p style="margin-left: 20px;">(b) deviation from prevailing market prices in respect of the same or similar item or items.</p> <p style="margin-left: 40px;">The expression "priced erratically" shall be construed accordingly.</p> <p>(3) In determining prevailing market price, the <i>Client</i> may take into account the <i>Service Manager</i></p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
designate's estimates, the average price of the same item in other tenders submitted for the same tendering exercise, and/or the price of the same or similar items in other tendering exercises after making adjustment for changes in price in accordance with inflation or deflation.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 15 Tender addenda</b>	
Should the <i>Client</i> require any amendments, clarifications, or adjustments to be made to the tender documents for the purpose of tendering, the <i>Service Manager</i> designate will issue to every tenderer numbered addenda giving full details of such amendments etc. and the tender documents shall be taken as having been amended, clarified or adjusted accordingly upon the issue of these addenda. The tenderer shall acknowledge receipt of these addenda.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 16 Tender clarifications</b>	
<p>(1) The <i>Client</i> will not consider any clarification or information submitted by a tenderer after close of tender irrespective of whether or not the clarification or information is submitted at the invitation of the <i>Client</i> if such clarification or information would alter the tender in substance or give the tenderer an advantage over the other tenderers.</p>	<p>DEVB memos ref. DEVB(W) 510/20/01 dated 10.9.2012, <del>and ref. DEVB(W) 510/83/05 dated 9.11.2020</del> <u>and DEVB(W) 510/30/01 dated 31.8.2022.</u></p>
<p>(2) Without prejudice to the generality of sub-clause (1) of this Clause, where the <i>Service Manager</i> designate has after close of tender invited a tenderer to submit further information or clarification other than the Excepted Information, the tenderer shall submit the requested information or clarification within the time specified in such invitation or within such further time as the <i>Service Manager</i> designate may allow.</p>	
<p>(3) If the requested information or clarification is not provided within the time or further time as referred to in sub-clause (2) of this Clause, the <i>Client</i> may proceed to evaluate the tender on an as is basis, but in the case where the information is in respect of [the letters referred to in Clause GCT 26(3), <del>and</del> Clause GCT 29(4), <u>or Clause GCT 35(2)</u> of the General Conditions of Tender, the duly signed letter of consent and authorization referred to in Clause GCT 34(1) of the General Conditions of Tender or the information related to the “General statements” *and “X1 Price adjustment for inflation” in the Contract Data Part two required under Clause GCT 4(1)(a)(ii) of the General Conditions of Tender]<sup>+</sup>, the tender may be invalidated.</p>	
	<p>+ Depending on the provisions of the tender documents as adopted for any particular project, project office/procuring department may include additional item(s) of information. The additional item(s) of information shall not include any Excepted Information (as defined in GCT 16(4)).</p> <p>* Delete as appropriate.</p>



## General Conditions of Tender

Clause	Remarks/Guidelines
(4) For the purposes of this Clause, "Excepted Information" means the information required to be submitted upon written request by the <i>Service Manager</i> designate under Clause GCT 25 of the General Conditions of Tender and any information for which it is provided that a tenderer's failure to submit on or before close of tender will render its tender invalid or result in its tender not being considered.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 17 Unreasonably low bids</b>	
Without prejudice to the generality of other General Conditions of Tender and Special Conditions of Tender, the <i>Client</i> may reject a tender which in the opinion of the <i>Client</i> is unreasonably low in terms of price and may therefore affect the tenderer's capability to carry out and complete this contract and/or deliver work of the quality required in accordance with the terms of this contract.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 18 Site investigation information</b>	
<p>(1) Site investigation information <i>*as listed in Clause GCT 2(c) of these General Conditions of Tender is issued with the tender documents/* as listed in Clause GCT 3(b) of these General Conditions of Tender</i> is available for inspection by appointment at the <i>Service Manager</i> designate's office during normal office hours for the information of the tenderer. Any site investigation information, if issued, is to be returned to the <i>Service Manager</i> designate's office after submission of the tender.</p> <p>(2) Neither the <i>Client</i> nor its agents or representatives accept any responsibility whatsoever for the accuracy or sufficiency of any information provided under this Clause and the onus is on the tenderer to carry out at its own expense any further enquiries and investigations it requires for its own information.</p>	<p>Please refer to the guidelines in Section 11.5, Chapter 5 of the Project Administration Handbook for issuing information to prospective contractors in the pre-contract stage.</p> <p><i>* Delete/amend as appropriate.</i></p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 19 Copyright</b>	
<p>(1) The documents, plans, drawings or other materials forming part of the tender documents shall only be used by a tenderer or any person authorized or licensed by the tenderer for the purpose of preparing its tender. All other rights in the aforesaid materials are reserved by the relevant copyright owners. The tenderer shall be liable to the <i>Client</i> for breach of the foregoing by any such person as if the breach were committed by the tenderer.</p> <p>(2) The tenderer shall indemnify and keep indemnified the <i>Client</i> against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the <i>Client</i> whether direct or consequential arising out of any disputes or other claims or proceedings against the <i>Client</i> by any third party by reason of any breach of sub-clause (a) above by the tenderer or any person authorized or licensed by the tenderer. In this connection the tenderer shall submit with its tender a Letter of Indemnity in the form set out in Appendix <i>[insert appropriate reference]</i> to these General Conditions of Tender duly executed by the tenderer. Where the tenderer is an incorporated joint venture, it shall also submit with its tender a Letter of Indemnity in the form set out in Appendix <i>[insert appropriate reference]</i> to these General Conditions of Tender duly executed by all the shareholders of the incorporated joint venture.</p>	<p>Ref: ETWB TCW No. 26/2004 (Based on the SCT clause in the obsolete ETWB TCW No. 39/2002.)</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 20 Management of subcontractors</b>	
<p>(1) The tenderer shall, upon written request by the <i>Service Manager</i> designate issued in accordance with General Conditions of Tender Clause GCT 25, submit to the <i>Service Manager</i> designate an outline Subcontractor Management Plan (SMP) which shall contain information as required in the Guidelines on Scope and Contents of the Subcontractor Management Plan at Appendix <a href="#">[insert appropriate reference]</a> to the <i>additional conditions of contract</i>. The outline SMP submitted shall not form part of this contract.</p> <p>(2) For the purpose of this Clause and Appendix <a href="#">[insert appropriate reference]</a> to the <i>additional conditions of contract</i>, the term ‘subcontractor’ means all types of subcontractor including without limitation Specialist Subcontractor.</p>	<p>Note: This is usually a non-essential submission. However, if the submission of a SMP is considered an essential requirement (which is rare), sub-clause (1) will need to be re-worded to state that the SMP shall be submitted together with the submission of the tender.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 21 Essential submission</b>	
<p>Without prejudice to other General Conditions of Tender or Special Conditions of Tender providing for invalidating a tender submitted by a tenderer, the failure of a tenderer to submit with its tender any of the following on or before the original date set for the close of tender or, if this has been extended, the extended date shall render its tender invalid:</p> <ul style="list-style-type: none"> <li>(i) the Form of Tender required under Clause GCT 4(1)(a)(i)</li> <li>(ii) the pages of the Contract Data Part two containing the Schedule of Percentages required under Clause GCT 4(1)(a)(ii) which are subject to the correction rules in Clause GCT 11 of the General Conditions of Tender</li> <li>(iii) Not Used</li> <li>* (iv) the plan of <i>service</i> required under Clause [SCT 1]</li> <li>* (v) design required for part of the <i>service</i> not covered by the <i>Client's</i> design required under Clause [SCT 3]</li> <li>* (vi) Temporary Works design required under Clause [SCT 4]</li> <li>* (vii) Outline Safety Plan required under Clause [SCT 14]</li> <li>* (viii) outline quality system for structural concrete required under Clause [SCT 6]</li> <li>* (ix) Subcontractor Management Plan required under Clause GCT 20.</li> <li>* (x) Outline Environmental Management Plan required under Clause [SCT 8]</li> </ul>	<p>Ref: DEVB memo ref. (01YVQ-01-2) in DEVB(W) 546/17/01 dated 3.4.2009 and DEVB memo ref. (03487-01-1) in DEVB(W) 510/83/05 dated 31.12.2019.</p> <p>Note: The items (i) must be listed under this GCT. Please see also the “remark” for SCT.</p> <p>The items from (iv) to (x) are used only in rare cases. Please refer to the individual SCT Clause for guidance. These items are to be included as essential submissions if required to be submitted by the tenderers. If these are not regarded as essential submissions, they should not be required to be submitted.</p> <p>* <a href="#">Delete as appropriate.</a></p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>*<b>(xi)</b> where the tenderer is an unincorporated joint venture, nomination of a lead participant required under SCT Clause [SCT 5]<sup>1</sup></p>	<p>Items (xi) and (xii) must be listed for tenders that allow joint ventures to participate.</p>
<p>*<b>(xii)</b> where the tenderer is a joint venture (whether incorporated or unincorporated) :</p> <p>(a) the proposed [<b>^value / ^percentage participation and value</b>] of work to be undertaken by each participant or shareholder in the joint venture in the [<b>^JV Proforma / ^Technical Submission Envelope and JV Proforma in the Tender Price Documents Envelope respectively</b>] as required under SCT Clause [SCT 5]<sup>2</sup>.</p>	<p><b>^ Select as appropriate:</b></p> <p>“<b>value</b>” and “<b>JV Proforma</b>” are for <u>Formula Approach</u> tender evaluation.</p> <p>“<b>percentage participation and value</b>” and “<b>Technical Submission Envelope and JV Proforma in the Tender Price Documents Envelope respectively</b>” are for <u>Marking Scheme</u> tender evaluation.</p> <p>Note on standard SCT Sub-clauses to be quoted:</p> <ol style="list-style-type: none"> <li>1 SCT 5(2)(a)</li> <li>2 SCT 5(4)A or 5(4)B</li> </ol>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 22 Contractors under suspension</b>	
<p>(1) If the tenderer or, if the tenderer is an unincorporated or incorporated joint venture, any participant of the unincorporated joint venture or shareholder of the incorporated joint venture is under suspension from tendering for <b>Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks*</b> category of the List of Approved Contractors for Public Works (“the List”) (see Note 1), its tender will not be considered unless the suspension is lifted by the relevant works department or the Development Bureau by the date set for the close of tender, or if this has been extended, the extended date.</p>	<p><del>Ref: ETWB TCW No. 10/2004 with modifications in accordance with the definition in GCT 1(b).</del></p> <p><u>Ref: DEVB TC(W) No. 5/2023.</u></p> <p>This clause is designed for inputting one service category only. If a project requires invitation of contractors from more than one service category on the List of Approved Contractors for Public Works, DEVB and LAD(W) will have to be consulted on the non-standard amendments.</p>
<p>(2) <u>If the tenderer or, if the tenderer is an unincorporated or incorporated joint venture, any participant of the unincorporated joint venture or shareholder of the incorporated joint venture is under voluntary suspension from tendering for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* category of the List (see Note 1) at the date of tender invitation but subsequently revokes the voluntary suspension without agreement in writing from either the relevant works department or the Development Bureau, its tender will not be considered.</u></p>	<p>For tenders adopting open tendering procedures, if the project requires more than one service category on the List of Approved Contractors for Public Works or the List of Approved Suppliers of Materials and Specialist Contractors for Public Works to be included in this clause, DEVB and LAD(W) will have to be consulted on the non-standard amendments.</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</p>



## General Conditions of Tender

Clause	Remarks/Guidelines
	Public Works.  * Delete as appropriate.

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>(23) <del>In</del> addition to sub-clauses (1) and (2) above, <u>where</u> the tenderer or, if the tenderer is an unincorporated or incorporated joint venture, any participant of the unincorporated joint venture or shareholder of the incorporated joint venture, is —</p> <p>(a) <u>under <del>voluntary</del> suspension from tendering for all categories of the List pursuant to paragraphs 5.2.3(c)(i) or 5.2.3(c)(vi) of the Contractor Management Handbook (“CMH”); or</u></p> <p>(b) <u>under suspension from tendering for Buildings* / Port Works* / Roads and Drainage* / Site Formation*/ Waterworks* category of the List of Approved Contractors for Public Works (see Note 1) arising from “poor site safety record in a category” specified in paragraph 5.2.3(d)(ii) of the CMH or the occurrence of a serious incident or conviction of site safety offences pursuant to DEVB Technical Circular (Works) Nos. 4/2022, 5/2023 and their subsequent updated versions,</u></p> <p>—  <u>and if the aforesaid suspension is in force at any point of time between (i) the date set for close of tender invitation but subsequently revokes the voluntary suspension without agreement in writing from either the relevant works department or the Development Bureau, or if this has been extended, the extended date; and (ii) the date on which this contract is awarded (both dates inclusive), then</u> its tender</p>	<p><del>* Delete as appropriate.</del> <u>Note 2: Project Office shall check the status of tenderers, including any participant of the unincorporated joint venture or shareholder of the incorporate joint venture if applicable, in relation to suspension at appropriate junctures of time during the process of tender assessment and tender award. For details of the checking procedures, please refer to Section 7.6 of the Contractor Management Handbook.</u></p>

## General Conditions of Tender

Clause	Remarks/Guidelines
will not be considered <del>or eligible for award of</del> <u>this contract (see Note 2).</u>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 23 Alternative tenders or designs uninvited</b>	
Alternative tenders or designs for which no invitation has been made shall not be considered.	Ref.: DEVB TCW No. 3/2014.

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 24 Offering gratuities</b>	
The tenderer shall not and shall ensure that its agents and employees shall not offer or give any advantage, gratuity, bonus, discount, bribe or loan of any sort to any agent or employee of the <i>Client</i> or to the <i>Service Manager</i> designate or to any member of the <i>Service Manager</i> designate's staff. Any breach of or non-compliance with this Clause by the tenderer shall, without affecting the tenderer's liability for such breach or non-compliance, invalidate its tender."	Ref: ETWB TCW No. 3/2004 "Ethical Commitment by Consultants and Contractors" is relevant.

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 25 Submission of further information</b>	
<p>The tenderer shall upon written request by the <i>Service Manager</i> designate (which may be issued at any time after the tender closing date) submit to the <i>Service Manager</i> designate within 7 days of the date of issue of the written request or within reasonable time upon the written request the following documents:</p> <p style="margin-left: 40px;">#[(a) .....; (b) .....; and (c) .....]</p> <p>Failure to comply with this Clause by the tenderer shall render its tender invalid.</p>	<p>DEVB memo ref. (02B6J-01-6) in DEVB(W)510/10/01 dated 24.3.2011.</p> <p>Note: Non submission will be regarded as withdrawal of tender.</p> <p># Project office to specify the relevant documents with reference to the relevant GCT or SCT clause, e.g. the financial information as referred to in General Conditions of Tender Clause GCT 5. Such documents should not contain information which will affect the evaluation process or the marking scheme.</p> <p>Note on standard GCT/SCT Sub-clauses may be quoted:</p> <ol style="list-style-type: none"> <li>1. GCT 5,</li> <li>2. GCT 20(1),</li> <li>3. GCT 27(2),</li> <li>4. GCT 28(2),</li> <li>5. SCT 5(2)(b) and SCT 5(3),</li> <li>6. SCT 5(5)(b),</li> <li>7. SCT 5(6)(c), (d) and (e),</li> <li>8. SCT 7(1),</li> <li>9. SCT 7(2), and/or</li> <li>10. SCT 8(1).</li> </ol>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 26 Anti-collusion</b>	
<p>(1) (a) Subject to sub-clause (2) of this Clause, the tenderer shall not communicate to any person other than the <i>Client</i> the amount of the tender price or any part thereof until the tenderer is notified by the <i>Client</i> of the outcome of the tender exercise.</p> <p>(b) Further to paragraph (a) of this sub-clause, the tenderer shall not fix the amount of the tender price or any part thereof by arrangement with any other person, make any arrangement with any person about whether or not it or that other person will or will not submit a tender or otherwise collude with any person in any manner whatsoever in the tendering process.</p> <p>(c) Any breach of or non-compliance with this sub-clause by the tenderer shall, without affecting the tenderer's liability for such breach or non-compliance, invalidate its tender.</p>	<p>DEVB memo ref. (02B6J-01-6) in DEVB(W)510/10/01 dated 24.3.2011.</p>
<p>(2) Sub-clause (1)(a) of this Clause shall have no application to the tenderer's communications in strict confidence with:</p> <p>(a) its own insurers or brokers to obtain an insurance quotation for computation of tender price;</p> <p>(b) its consultants or subcontractors to solicit their assistance in preparation of tender submission; and</p> <p>(c) its bankers in relation to financial resources for this contract.</p>	
<p>(3) The tenderer shall submit with its tender a duly</p>	<p>+ See below. It shall not be</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>signed and witnessed letter in the form set out in Appendix <i>[insert appropriate reference]</i><sup>+</sup> to these General Conditions of Tender. The signatory to the letter shall be a person authorized to sign Government contracts on the tenderer's behalf.</p> <p>(4) The tenderer shall indemnify and keep indemnified the <i>Client</i> against all losses, damages, costs or expenses arising out of or in relation to any breach of or non-compliance with sub-clause (1) of this Clause by the tenderer, including but not limited to additional costs due to price escalation, costs and expenses of re-tendering and other costs incurred.</p>	<p>included as an essential submission under GCT 21.</p>
<p><b>Appendix [ ]</b></p> <p>To: The Government of the Hong Kong Special Administrative Region ("<b>Government</b>")</p> <p>Date: _____</p> <p>Dear Sir/Madam,</p> <p style="text-align: center;">Contract No.: [ ]</p> <p>Title: [ ]</p> <p><i>*[I/We]</i>, [(name of the tenderer) of (address of the tenderer)]<sup>1</sup>, refer to <i>*[my/our]</i> tender for the above contract.</p> <p><i>*[I/We]</i> confirm that, before <i>*[I/we]</i> sign this letter, <i>*[I/we]</i> have read and fully understand this letter and the anti-collusion clause in General Conditions of Tender Clause GCT 26.</p> <p><i>*[I/We]</i>, represent and warrant that in relation to the tender for the above contract:</p> <p>(i) <i>*[I/We]</i>, other than the Excepted</p>	<p><i>* Delete as appropriate.</i></p> <p>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.</p>



## General Conditions of Tender

Clause	Remarks/Guidelines
<p>Communications referred to in the last paragraph of this letter, have not communicated and will not communicate to any person other than the Government the amount of the tender price or any part thereof until *[I/we] have been notified by the Government of the outcome of the tender exercise;</p> <p>(ii) *[I/We] have not fixed and will not fix the amount of the tender price or any part thereof by arrangement with any person;</p> <p>(iii) *[I/We] have not made and will not make any arrangement with any person as to whether *[I/we] or that other person will or will not submit a tender; and</p> <p>(iv) *[I/We] have not otherwise colluded and will not otherwise collude with any person in any manner whatsoever in the tendering process.</p> <p>*[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.</p> <p>In this letter, the expression “Excepted Communications” means *[my/our] communications in strict confidence with:</p> <p>(i) *[my/our] own insurers or brokers to obtain an insurance quotation for computation of tender price;</p> <p>(ii) *[my/our] consultants or subcontractors to</p>	<p>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.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>solicit their assistance in preparation of tender submission; and</p> <p>(iii) *[my/our] bankers in relation to financial resources for this contract.</p> <p>Signed for and on behalf of [name of the tenderer] by [name and position of the signatory]<sup>2</sup>:</p> <p>_____</p> <p>Name of Witness: _____</p> <p>Signature of Witness: _____</p> <p>Occupation: _____</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 27 Statement of convictions under the Immigration Ordinance (Cap. 115)</b>	
<p>(1) A tender will not be considered if, during the 12-month period prior to the date set for the close of tender, or if this has been extended, the extended date, the tenderer has had three or more convictions in respect of separate incidents under Sections 17I or 38A of the Immigration Ordinance (Cap. 115) for employing illegal workers or for having illegal workers on any site under the tenderer's control, whether or not it has been formally suspended as a result of such convictions. Illegal workers shall mean any persons on construction sites who are illegal immigrants; or any persons who, being not lawfully employable by virtue of Section 17G(2) of the Immigration Ordinance, have committed an offence under Section 41 by contravening the conditions of stay in force in respect of them. If the tenderer is an unincorporated or incorporated joint venture, the tender will not be considered if any participant of the unincorporated joint venture or shareholder of the incorporated joint venture has had three or more such convictions during the 12-month period, whether or not that participant or shareholder has been formally suspended as a result of such convictions.</p> <p>(2) The tenderer shall submit, <a href="#">subject to General Conditions of Tender Clause GCT 25/with the tender**</a>, <u>either</u> a statement of all convictions under Sections 17I or 38A of the Immigration Ordinance (Cap. 115) for employing illegal workers or for having illegal workers for all sites under its control (whether they are sites under public or private contracts) during the <a href="#">12-month</a><sup>^</sup> period prior to the date set for the close of tender,</p>	<p>** Delete as appropriate for Formula Approach / Marking Scheme tender evaluation.</p> <p><sup>^</sup> [or other period specified by the <i>Service Manager</i> where appropriate to cope with the</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>or if this has been extended, the extended date, the details of which shall include the legislation violated, dates of offences, dates of convictions and the associated fine imposed by the court, site addresses, contract numbers and contract titles, <u>or</u> a statement of “no conviction”. 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>assessment period for tender evaluation using the Marking Scheme.]</p> <p># For use in tenders which EMSTF is eligible to bid</p>
<p>(3) If the tenderer is an unincorporated or incorporated joint venture, each participant of the unincorporated joint venture or shareholder of the incorporated joint venture shall submit such a statement separately.</p>	
<p>(4) 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 <b>twelve months</b><sup>^</sup> 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><sup>^</sup> [or other period specified by the <i>Service Manager</i> where appropriate to cope with the assessment period for tender evaluation using the Marking Scheme.]</p>
<p>#(5) 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>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 28 Statement of convictions under the Employment Ordinance (Cap. 57)</b>	
<p>(1) A tender will not be considered if, during the 12-month period prior to the date set for the close of tender, or if this has been extended, the extended date, the tenderer has had three or more convictions in respect of separate incidents under the Employment Ordinance (Cap. 57) on any site under the tenderer's control, whether or not it has been formally suspended as a result of such convictions. If the tenderer is an unincorporated or incorporated joint venture, the tender will not be considered if any participant of the unincorporated joint venture or shareholder of the incorporated joint venture has had three or more such convictions during the 12-month period, whether or not that participant or shareholder has been formally suspended as a result of such convictions.</p>	<p>Ref. ETWB TCW No. 10/2004 and Clause 5.7.1 of the Contractor Management Handbook., with modifications in accordance with the definition in GCT 1(b).</p>
<p>(2) The tenderer shall submit, <a href="#">subject to General Conditions of Tender Clause GCT 25/ with the tender**</a>, <u>either</u> a statement of all convictions under the Employment Ordinance (Cap. 57) for all sites under its control (whether they are sites under public or private contracts) during the <a href="#">12-month</a><sup>^</sup> period prior to the date set for the close of tender, or if this has been extended, the extended date, the details of which shall include the legislation violated, dates of offences, dates of convictions and the associated fine imposed by the court, site addresses, contract numbers and contract titles, <u>or</u> a statement of "no conviction". The statement shall be certified by a person authorized to sign Government contracts on the tenderer's behalf <a href="#">#[, or in case of EMSTF's tender, a person authorized to sign the Service Level Agreement]</a>.</p>	<p>** <a href="#">Delete as appropriate</a> for Formula Approach / Marking Scheme tender evaluation.</p> <p><sup>^</sup> [or other period specified by the <i>Service Manager</i> where appropriate to cope with the assessment period for tender evaluation using the Marking Scheme.]</p> <p># For use in tenders which EMSTF is eligible to bid</p>
<p>(3) If the tenderer is an unincorporated or incorporated</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>joint venture, each participant of the unincorporated joint venture or shareholder of the incorporated joint venture shall submit such a statement separately.</p> <p>(4) 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 <b>twelve months</b><sup>^</sup> 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>#(5) 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><sup>^</sup> [or other period specified by the <i>Service Manager</i> where appropriate to cope with the assessment period for tender evaluation using the Marking Scheme.]</p> <p># For use in tenders which EMSTF is eligible to bid</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 29 One tender only for holding companies, subsidiaries or related parties</b>	
(1) Unless otherwise provided in the Special Conditions of Tender, no tenderer is permitted to submit more than one tender for each contract.	
(2) (a) A holding company and all of its subsidiaries shall be allowed to submit only one tender from any one of the companies in the group.  (b) 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).	DEVB memo ref. DEVB(W) 510/10/01 dated 16.12.2014.
(2A) (a) For related parties, only one of them is permitted to submit a tender for this contract.  (b) For the purpose of this sub-clause (2A), an entity (including but not limited to sole proprietorship, partnership and limited company) and the tenderer are related parties if any of the following conditions applies as at the date set for the close of tender, or if this has been extended, the extended date:  (i) A person has control or joint control of the entity; and that person or his relatives:  (1) has control or joint control of the tenderer;  (2) has significant influence over the tenderer; or  (3) is a member of the key management of the tenderer or of a parent of the tenderer.  (ii) A person has control or joint control of	DEVB memo ref. DEVB(W) 510/83/05 dated 16.9.2020

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>the tenderer; and that person or his relatives:</p> <p>(1) has significant influence over the entity; or</p> <p>(2) is a member of the key management of the entity or a parent of the entity.</p> <p>(iii) The entity, or any member of a group of which it is a part, provides key management services to the tenderer or to the parent of the tenderer.</p> <p>(c) For the avoidance of doubt, the following definitions should be adopted when interpreting sub-clause (2A) above: -</p> <p style="padding-left: 40px;">‘Control’ means the power to govern the financial and operating policies of the tenderer/entity so as to obtain benefits from its activities.</p> <p style="padding-left: 40px;">‘Joint control’ means the contractually agreed sharing of control over the tenderer/entity, and exists only when the strategic financial and operating decisions relating to the tenderer/entity require the unanimous consent of the parties sharing control.</p> <p style="padding-left: 40px;">‘Significant influence’ means the power to participate in the financial and operating policy decisions of the tenderer/entity but is not control or joint control over those policies</p> <p style="padding-left: 40px;">‘Key management’ mean those persons having authority and responsibility for planning, directing and controlling the activities of a business, directly or indirectly, including any director (whether executive or otherwise) of that business.</p> <p style="padding-left: 40px;">A person’s ‘relatives’ mean any family</p>	



## General Conditions of Tender

Clause	Remarks/Guidelines
<p>members of a person who may be expected to influence, or be influenced by, that person in their dealings with the tenderer or the entity. They may include but not limited to:</p> <ul style="list-style-type: none"> <li>(i) the person's domestic partner and children;</li> <li>(ii) children of the person's domestic partner; and</li> <li>(iii) dependants of the person or the person's domestic partner.</li> </ul>	
<p>(3) Failure to observe the above conditions shall render all related tenders null and void and any such tenders shall not be considered.</p>	
<p>(4) The tenderer shall submit with its tender a duly signed and witnessed letter in the form set out in Appendix <i>[insert an appropriate reference]</i><sup>+</sup> to these General Conditions of Tender. The signatory to the letter shall be a person authorized to sign Government contracts on the tenderer's behalf.</p>	<p>DEVB memo ref. DEVB(W) 510/83/05 dated 9.11.2020</p> <p><sup>+</sup> It shall not be included as an essential submission under GCT 21.</p>

## General 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)]<sup>1</sup>, refer to \*[my/our] tender for the above contract.

2. \*[I/We] confirm that, before \*[I/we] sign this letter, \*[I/we] have read and fully understand this letter and the requirements set out in General Conditions of Tender Clause GCT 29 on "One tender only for holding companies, subsidiaries or related parties".

3. \*[I/We] represent and warrant that in relation to the restriction that no tenderer is permitted to submit more than one tender for the above contract as set out in GCT 29:

- (i) This tender is the only tender submitted by \*[me/us];
- (ii) None of our holding company or subsidiary company has submitted a tender for the above contract. The existence of a holding-subsidiary relationship shall be determined as set out in GCT 29(2)(b); [this is only applicable where the tenderer is a company] and

\* Delete as appropriate.

- 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.

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>(iii) None of our related parties, as more particularly defined in GCT 29(2A), has submitted a tender for the above contract.</p> <p>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.</p> <p>Signed for and on behalf of [name of the tenderer] by [name and position of the signatory]<sup>2</sup>:</p> <p>_____</p> <p>Name of Witness: _____</p> <p>Signature of Witness: _____</p> <p>Occupation: _____</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 30 Admission, promotion and confirmation to the List of Approved Contractors for Public Works / the List of Approved Suppliers of Materials and Specialist Contractors for Public Works</b>	
A tender submitted by a contractor who has applied for admission or promotion to the category, class and/or group specified in the tender invitation or, in relation to a contract for which tenders are invited from confirmed contractors only, a tender submitted by a contractor who has applied for confirmed status will not be considered unless its application for admission or promotion or, as the case may be, confirmation is approved by the date set for the close of tender, or if this has been extended, the extended date.	DEVB memo ref. DEVB(W) 546/83/01 dated 10.8.2011

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 31 Eligibility of probationary contractors to tender and for the award of contracts</b>	
<p>(1) A tender submitted by a contractor who is on probation in the category(ies), class(es) and/or group(s) specified in the tender invitation will be considered as non-conforming if, at the date set for the close of tender or, if this has been extended, the extended date:</p> <p>(a) the number and/or value of contracts or works that it holds (also counting this contract and its corrected forecast total of the Prices* / its corrected Total Value for Tender Assessment (TVTA)* / its Estimated Total Expenditure*) exceeds the limits on number and/or value of contracts or works in the relevant category, class and group as stipulated in the then current version of the Contractor Management Handbook (the “Limits”); or</p> <p>(b) it is otherwise ineligible to tender according to the then current version of the Contractor Management Handbook (the “CMH”).</p> <p>(2) A tenderer who is on probation in the category(ies), class(es) and/or group(s) specified in the tender invitation will not be eligible for award of this contract if, at the date when the tender report is completed and signed for submission to the relevant authority for determination of the contract award:</p> <p>(a) the number and/or value of contracts or works that it holds (also counting this contract and its corrected forecast total of the Prices* / its corrected Total Value for Tender</p>	<p>DEVB memo ref. DEVB(W) 546/83/01 dated 10.8.2011</p> <p>and</p> <p>DEVB’s memo ref. DEVB(W) 510/83/05 dated 14.7.2020</p> <p><a href="#">This clause is not applicable for tenders adopting open tendering procedures.</a></p> <p>* Delete as appropriate.</p> <p>* Delete as appropriate.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>Assessment (TVTA)* / its Estimated Total Expenditure*) exceeds the Limits; or</p> <p>(b) it is otherwise ineligible for the award of this contract according to the version of the CMH current at the date set for close of tender or, if this has been extended, the extended date.</p> <p>(3) In counting the number and/or value of contracts or works that a tenderer holds under sub-clauses (1)(a) and (2)(a) above, only the joint venture contract(s) held by the tenderer of which it is the lead participant or major shareholder will be counted.</p> <p>For the purpose of this sub-clause (3):</p> <p>(a) Lead participant means a participant of an unincorporated joint venture who has the highest percentage participation in the joint venture; and</p> <p>(b) Major shareholder means a shareholder of an incorporated joint venture who has the highest percentage participation in the joint venture.</p> <p>(4) Tenderers should note that where:</p> <p>(a) a probationary contractor has submitted tenders (including a tender for this contract) and attained the highest combined scores for more than one contract (including this contract) in the same category, class and group; and</p> <p>(b) if the award of these contracts are determined at the same time but the award</p>	<p>Refer to DEVB's memo ref. DEVB(W) 510/83/05 dated 14.7.2020</p> <p>Refer to DEVB's memo ref. DEVB(W) 510/83/05 dated 14.7.2020</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p style="text-align: center;">of two or more of these contracts to that probationary contractor will exceed the Limits,</p> <p style="text-align: center;">the <i>Client</i> shall be entitled to determine which contract(s) is/are to be awarded to that probationary contractor on the basis of a combination of tender awards of these contracts that would cost least to the <i>Client</i>.</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<p><b>GCT 31A Eligibility to tender and for the award of contracts applicable to confirmed Group [B]<sup>Note 1</sup> contractors</b> <del>Effective period from 2 October 2020 to 30 September 2022</del></p>	
<p>(1) Where a tender is submitted by a confirmed Group [B]<sup>Note 1</sup> contractor in the category(ies) and group(s) specified in the tender invitation:-</p> <p>(a) The rules on the eligibility to tender and for the award of contract for probationary Group [C]<sup>Note 2</sup> contractors and the limits on the number and/or values of contract or works that may be undertaken by probationary Group [C]<sup>Note 2</sup> contractors in the relevant category, all as set out in the <u>Contractor Management Handbook (the “CMH”)</u>, shall apply to the confirmed Group [B]<sup>Note 1</sup> contractor. The eligibility shall be checked at the date set for the close of tender or, if this has been extended, the extended date and at the date when the tender report is completed and signed for submission to the relevant authority for determination of the contract award in accordance with sub-clauses (1)(b) and (1)(c).</p> <p>(b) The submitted tender will be considered as non-conforming if, at the date set for the close of tender or, if this has been extended, the extended date:</p> <p>(i) the number and/or value of Group [C]<sup>Note 2</sup> contracts or works that it holds (also counting this contract and its corrected forecast total of the Prices* / its corrected Total Value for Tender Assessment (TVTA)* / its Estimated Total Expenditure*) exceeds the limits on number and/or value of contracts or works in the relevant category</p>	<p>DEVB memos ref. DEVB(W) 510/33/02 dated 31.8.2020 <u>and 8.8.2022</u>. <del>Effective period from 2 October 2020 to 30 September 2022</del>.</p> <p><i>* Delete as appropriate.</i></p>



## General Conditions of Tender

Clause	Remarks/Guidelines
<p>applicable to probationary Group [C]<sup>Note 2</sup> contractors as stipulated in the then current version of the CMH (the “Group [C]<sup>Note 2</sup> Limits”); or</p> <p>(ii) it is otherwise ineligible to tender, whether as a confirmed Group [B]<sup>Note 1</sup> or a probationary Group [C]<sup>Note 2</sup> contractor, according to the then current version of the CMH.</p> <p>(c) The tenderer will not be eligible for award of this contract if, at the date when the tender report is completed and signed for submission to the relevant authority for determination of the contract award:</p> <p>(i) the number and/or value of Group [C]<sup>Note 2</sup> contracts or works that it holds (also counting this contract and its corrected forecast total of the Prices* / its corrected TVTA* / its Estimated Total Expenditure*) exceeds the Group [C]<sup>Note 2</sup> Limits; or</p> <p>(ii) it is otherwise ineligible for the award of this contract, whether as a confirmed Group [B]<sup>Note 2</sup> or a probationary Group [C]<sup>Note 2</sup> contractor, according to the version of the CMH current at the date set for close of tender or, if this has been extended, the extended date,</p> <p>in which case its tender shall still be considered to be a conforming tender for the purposes of tender assessment under *the marking scheme at Annex [ ] / the formula</p>	<p>* Delete as appropriate.</p> <p>* Delete as appropriate.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p style="text-align: center; color: blue;">approach</p> <p>set out in the Notes to Tenderers NTT Clause [    ].</p> <p>(2) Notwithstanding Special Conditions of Tender Clause [5]<sup>Note 3</sup> and in assessing whether a participant or shareholder in a joint venture (whether incorporated or unincorporated) is technically capable of undertaking the part of the <i>service</i>, the participant or shareholder who is a confirmed Group [B]<sup>Note 1</sup> contractor will be assessed as if it is a probationary Group [C]<sup>Note 2</sup> contractor. The participant or shareholder will be considered as technically capable of undertaking the part of the <i>service</i>, if the forecast value of works to be undertaken does not exceed the Group [C]<sup>Note 2</sup> Limits. If this participant or shareholder wishes to take up works in excess of the Group [C]<sup>Note 2</sup> Limits, the provisions in Special Conditions of Tender Clause 5(6)(d)<sup>Note 3</sup> shall apply.</p> <p>(3) In counting the number and/or the value of contracts or works that a tenderer holds under sub-clauses (1)(b) and (1)(c), only the joint venture contract(s) held by the tenderer of which it is the lead participant or major shareholder will be counted.</p> <p>For the purpose of this sub-clause (3):</p> <p>(a) Lead participant means a participant of an unincorporated joint venture who has the highest percentage participation in the joint venture; and</p> <p>(b) Major shareholder means a shareholder of an incorporated joint venture who has the highest percentage participation in the joint</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<p style="text-align: center;">venture.</p> <p>(4) Tenderers should note that where:</p> <p style="margin-left: 40px;">(a) a confirmed Group [B]<sup>Note 1</sup> contractor has submitted tenders (including a tender for this contract) and attained the highest combined scores for more than one Group [C]<sup>Note 2</sup> contract (including this contract) in the same category; and</p> <p style="margin-left: 40px;">(b) if the award of these contracts are determined at the same time but the award of two or more of these contracts to that contractor will exceed the Group [C]<sup>Note 2</sup> Limits,</p> <p style="margin-left: 40px;">the <i>Client</i> shall be entitled to determine which contract(s) is/are to be awarded to that contractor on the basis of a combination of tender awards of these contracts that would cost least to the <i>Client</i>.</p>	

## General Conditions of Tender

### Notes:

**Note 1** Please insert the appropriate group by the Project Office as follows:

<b>Contract</b>	<b>Group</b>
Term contract with pre-tender estimate more than the Group B tender limit but less than or equivalent to 110% of the Group B tender limit	Group B

**Note 2** Please insert the appropriate group by the Project Office as follows:

<b>Contract</b>	<b>Group</b>
Term contract with pre-tender estimate more than the Group B tender limit but less than or equivalent to 110% of the Group B tender limit	Group C

**Note 3**

Please insert appropriate clause by the Project Office.

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 32 Ethical commitment</b>	
(1) The tenderer shall not, and shall procure that its employees, agents and subcontractors shall not, offer, solicit or accept an advantage as defined in the Prevention of Bribery Ordinance, Cap. 201 in connection with the tendering and execution of this contract.	
(2) Failure to so procure or any act of offering, soliciting or accepting advantage referred to in (1) above committed by the tenderer or by an employee, agent or subcontractor of the tenderer shall, without affecting the tenderer's liability for such failure and act, result in its tender being invalidated.	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 33 Tender cost</b>	
<p>The <i>Client</i> shall not in any circumstances be liable for any costs, expenses and damages incurred or suffered by the tenderers in connection with the preparation and submission of their tenders, in the event that this tender exercise is cancelled on any ground[, including on the ground that funds are not available under Special Conditions of Tender Clause SCT 10].*</p>	<p>Note : Originated from the funding approval clause.</p> <p>* Delete the words in square brackets if SCT 10 is not used.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p><b>GCT 34 Tenderer’s consent and authorization on conviction records <u>and site incident records</u></b></p>	
<p>(1) <u>The tenderer shall submit with the tender a duly signed letter in the form set out in <b>Appendix</b> [insert appropriate reference] to the General Conditions of Tender giving consent to the [name of the project office/procuring department] to obtain from all relevant government departments/bureaux, authorizing such relevant government departments/bureaux to release and make available to [name of the project office/procuring department] and giving further consent to the [name of the project office/procuring department] to furnish to the Service Manager designate information on conviction records and site incident records as more particularly described in sub-clauses (2) and (3) below for the purpose of tender assessment.</u></p>	<p><u>DEVB memo ref. DEVB(W) 510/10/01 dated 3.12.2012.</u></p>
<p><del>(12) The tenderer shall submit with the tender a duly signed letter in the form set out in <b>Appendix</b> [insert appropriate reference] to these General Conditions of Tender giving consent to the [name of the project office/procuring department] to obtain from all relevant government departments/bureaux, authorizing such relevant government departments/bureaux to release and make available to [name of the project office/procuring department] and giving further consent to the [name of the project office/procuring department] to furnish to the Service Manager designate, Information on the tenderer’s conviction records includes all information relating to its convictions, including the legislation violated, dates of offences, dates of</del></p>	<p><del>DEVB memo ref. DEVB(W) 510/10/01 dated 3.12.2012.</del></p> <p><b>Note 1</b> : Project office/procuring department should check the ordinances / specific subsidiary legislation to be listed, taking into account the provisions of the tender documents as adopted for any particular project (including GCT and SCT). On the basis of the GCT and SCT promulgated by</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>convictions and the associated fine imposed by the court, site addresses, contract numbers and contract titles, for offences under the following ordinances (including all subsidiary legislation made thereunder) and specific subsidiary legislation (if any):</p> <p>(a) <i>[Set out the ordinances/specific sub-legislation quoted in relevant GCTs and SCTs]</i> [See Note 1];</p> <p>(b) <i>[Land (Miscellaneous Provisions) Ordinance (Cap. 28) <del>H</del>]</i> [See Note 2]; and</p> <p>(c) <i>[Other ordinances / specific subsidiary legislation to be specified by the project office/procuring department if required for tender assessment in accordance with the provisions of the tender documents as adopted for any particular project-].</i> [See Note 1]</p>	<p>DEVB (via Technical Circulars and memos) as at 30 November 2012, the ordinances/specific subsidiary legislation to be covered include:</p>



## General Conditions of Tender

- (a) Section 27 of the Public Health and Municipal Services Ordinance (Cap 132);
- (b) Section 17I and Section 38A of the Immigration Ordinance (Cap 115);
- (c) Employment Ordinance (Cap 57);
- (d) Factories and Industrial Undertakings Ordinance (Cap. 59);
- (e) Occupational Safety and Health Ordinance (Cap. 509);
- (f) Shipping and Port Control Ordinance (Cap. 313);
- (g) Merchant Shipping (Local Vessels) Ordinance (Cap. 548);
- (h) Air Pollution Control Ordinance (Cap. 311);
- (i) Noise Control Ordinance (Cap. 400);
- (j) Waste Disposal Ordinance (Cap. 354);
- (k) Water Pollution Control Ordinance (Cap. 358);
- (l) Dumping at Sea Ordinance (Cap. 466);
- (m) Ozone Layer Protection Ordinance (Cap. 403);
- (n) Environmental Impact Assessment Ordinance (Cap. 499); and
- (o) Hazardous Chemicals Control Ordinance (Cap. 595).

**Note 2:** To be included when the

## General Conditions of Tender

Clause	Remarks/Guidelines
	standard marking scheme set out in Appendix C1 to DEVB TCW No. 4/2014 is adopted. Departments should check with the Highways Department for such conviction records.
(3) <u>Information on site incident records includes all information relating to any incident involving loss of life or serious bodily injury at any construction site in Hong Kong, regardless of whether the tenderer has or may have any involvement therein. For the purpose of this Clause, “serious bodily injury” and “construction site” shall bear the same meanings as assigned to them under paragraph 10(g)(ii) and paragraph 10(a), respectively, of DEVB TC(W) No. 5/2023 dated 28 July 2023 or any subsequent update.</u>	<u>DEVB’s memo ref. DEVB(W) 546/84/01 dated 10.11.2023.</u>
(4) The letter shall be signed by a person authorized to sign Government contracts on the tenderer's behalf [See Note 3].	<b>Note 3</b> : This is not to be inserted as an essential submission pursuant to Clause GCT 21. However, contract drafter shall ensure that the submission of the duly signed letter of consent and authorization is covered by GCT 16 as amended in accordance with DEVB’s memo ref. DEVB(W) 510/10/01 dated 10 September 2012 and entitled Tender Clarifications.
(25) If the tenderer is <del>a partnership or</del> an unincorporated or incorporated joint venture, each participant of the <del>partnership or</del> unincorporated joint venture or shareholder of the incorporated joint venture shall submit such a duly signed letter. The signatory for such participant or shareholder shall be a person authorized to sign Government	

## General Conditions of Tender

Clause	Remarks/Guidelines
contracts on behalf of that participant or, as the case may be, shareholder.	
<p><b>Appendix __</b></p> <p>To: [ Name of the procuring department ]</p> <p><u>Date: _____</u></p> <p>Dear Sir/Madam,</p> <p style="text-align: center;"><b>Contract No. [     ]</b> <b>[ Contract title ]</b></p> <p style="text-align: center;"><b>Letter of Consent and Authorization</b></p> <p>We hereby give consent to the [ name of the project office/procuring department ] to obtain from all relevant government departments/bureaux and authorize such relevant government departments/bureaux to release and make available to [ name of the project office/procuring department ] <del>information relating to the following information for the purposes of assessment of [our submission]* in this tendering exercise:</del></p> <p>(1) <u>Information on</u> our conviction records (if any), including the legislation violated, dates of offences, dates of convictions and the associated fine imposed by the court, site addresses, contract numbers and contract titles, for offences under the following ordinances (including all sub-legislation made thereunder) and specific sub-legislation (if any) <del>for the purposes of assessment of [our submission]* in this tendering exercise.:</del></p> <p>[ set out the legislation referred to in GCT X(1) }; and</p> <p><u>(2) Information on site incident records, including all</u></p>	<p>* Where GCT 34(<del>25</del>) applies, change to "the submission of [name of the tenderer]".</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p><u>information relating to any incident involving loss of life or serious bodily injury at any construction site in Hong Kong, regardless of whether we have or may have any involvement therein. For the purpose of this sub-paragraph, “serious bodily injury” and “construction site” shall bear the same meanings as assigned to them under paragraph 10(g)(ii) and paragraph 10(a), respectively, of DEVB TC(W) No. 5/2023 dated 28 July 2023 or any subsequent update.</u></p> <p>We give further consent to the [ <i>name of the project office / procuring department</i> ] to furnish <del>such</del><u>the</u> information <u>described in sub-paragraphs (1) and (2) above</u> to [ <i>name of project consultant</i>], the <i>Service Manager</i> designate, for the same purposes.</p> <p>(Signed for and on behalf of the tenderer or, <del>where GCT 34(2) applies, the relevant participant or,</del> as the case may be, <u>each participant or shareholder of the joint venture</u>)</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 35 National security and public interest</b>	
<p>(1) Notwithstanding anything to the contrary in the tender documents, the <i>Client</i> reserves the right to disqualify a tenderer on the grounds that the tenderer or if the tenderer is an unincorporated or incorporated joint venture, any participant of the unincorporated joint venture or shareholder of the incorporated joint venture has engaged, is engaging, or is reasonably believed to have engaged or be engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security, or otherwise the disqualification is necessary in the interest of national security, or is necessary to protect the public interest of Hong Kong, public morals, public order or public safety.</p>	<p>DEVB memo ref. DEVB(W) 510/30/01 dated 31.8.2022.</p>
<p>(2) The tenderer shall submit with its tender a duly signed and witnessed letter in the form set out in Appendix <i>[insert appropriate reference]</i><sup>+</sup> to these General Conditions of Tender. The signatory to the letter shall be a person authorized to sign Government contracts on the tenderer's behalf.</p>	<p>+ It should NOT be included as an essential submission under GCT 21.</p>

## General Conditions of Tender

<p><b>Appendix [ ]</b></p> <p>To: The Government of the Hong Kong Special Administrative Region ("<b>Government</b>")</p> <p>Date: _____</p> <p>Dear Sir/Madam,</p> <p style="text-align: center;">Contract No.: [ ]</p> <p style="text-align: center;">Title: [ ]</p> <p>1. *[I/We], the tenderer, [(name of the tenderer) of (address of the tenderer)]<sup>1</sup>, refer to *[my/our] tender for the above contract.</p> <p>2. *[I/We] confirm that, before *[I/we] sign this letter, *[I/we] have read and fully understand this letter and General Conditions of Tender Clause GCT 35 on “National Security and Public Interest”.</p> <p>3. *[I/We], represent and warrant that *[I/We] have not engaged, *[am/are] not engaging and will not engage in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security.</p> <p>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.</p> <p>Signed for and on behalf of [name of the tenderer] by [name and position of the signatory]<sup>2</sup>:</p> <p>_____</p>	<p>* <b>Modify/Delete as appropriate.</b></p> <p>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.</p> <p>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.</p>
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## General Conditions of Tender

Name of Witness: _____ Signature of Witness: _____ Occupation: _____	
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## General Conditions of Tender

Clause	Remarks/Guidelines
<p><b>GCT 365 Contingency sums, provisional sums and forecast total of the Prices* / Total Value for Tender Assessment (TVTA)*</b></p>	
<p>(1) Notwithstanding the inclusion of contingency sums, provisional sums and forecast total of the <b>Prices* / Total Value for Tender Assessment (TVTA)*</b> in the Grand Summary of the Schedule of Percentages in the Contract Data Part two, the contingency sums, provisional sums and forecast total of the <b>Prices* / TVTA*</b> shall not form part of this contract.</p> <p>(2) The contingency sums and provisional sums are allowed as contingencies for the purpose of internal administration of the <i>Client</i> under the Stores and Procurement Regulations only. The forecast total of the <b>Prices* / TVTA*</b> is included for tender evaluation purpose only and shall not affect the <i>contract percentages</i> which shall remain contractually binding. The tenderer shall not rely on any information supplied to it on the contingency sums, provisional sums or forecast total of the <b>Prices* / TVTA*</b> as estimated changes to the Prices due to the effect of compensation events or other estimated payment which shall be assessed in accordance with the relevant contract terms if this contract is awarded to it.</p> <p>(3) The attention of the tenderer is drawn to Clause <b>[A7]</b><sup>#</sup> of the <i>additional conditions of contract</i>.</p>	<p>* Delete where appropriate.</p> <p># Insert appropriate clause reference.</p>



## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 376 Estimated total expenditure and provisional quantities</b>	
<p>(1) The tenderer acknowledges that the estimated total expenditure on this contract being HK\$ [Insert appropriate amount] *[and the provisional quantities in the Price List] *is/*are given for information. The tenderer acknowledges and confirms that its tender has not been taken in reliance on the estimated total expenditure *[and the provisional quantities in the Price List] or any representations, warranties or statements (expressed or implied) of any kind made by or on behalf of the <i>Client</i> with respect to the accuracy, appropriateness, completeness, sufficiency or otherwise of the estimated total expenditure *[and the provisional quantities in the Price List].</p> <p>(2) The <i>Client</i> does not give any representation, warranty or guarantee that the actual total expenditure of this contract will not differ, whether substantially or otherwise, from the estimated total expenditure of this contract. Neither the <i>Client</i> nor its agents or representatives have or accept any liability, obligation or responsibility whatsoever for any loss or damage (including without limitation any consequential loss or damage) however arising from or in respect of any use or misuse or reliance on the estimated total expenditure. Without prejudice to the generality of the foregoing provision, the <i>Contractor</i> shall not be entitled to any compensation event or additional payment in the event that the actual total expenditure on this contract differs, whether substantially or otherwise, from the estimated total expenditure on this contract.</p> <p>(3) The <i>Client</i> does not give any representation, warranty or guarantee that the actual quantities of the items concerned will not differ, whether substantially or otherwise, from the provisional quantities in the Price List. Neither the <i>Client</i> nor its agents or representatives have or accept any liability, obligation or</p>	<p># Insert appropriate clause reference.</p> <p>* Delete as appropriate.</p>

## General Conditions of Tender

Clause	Remarks/Guidelines
<p>responsibility whatsoever for any loss or damage (including without limitation any consequential loss or damage) however arising from or in respect of any use or misuse or reliance on the provisional quantities in the Price List. Without prejudice to the generality of the foregoing provision, the <i>Contractor</i> shall not be entitled to any compensation event or additional payment in the event that the actual quantities of the items concerned differs, whether substantially or otherwise, from the provisional quantities in the Price List.</p> <p>(4) The attention of the tenderer is drawn to Clause [A8]<sup>#</sup> of the <i>additional conditions of contract</i>.</p>	

## General Conditions of Tender

Clause	Remarks/Guidelines
<b>GCT 387 Weighting factors in the Schedule of Percentages</b>	
<p>(1) The tenderer acknowledges that the weighting factors shown in the Schedule of Percentages in the Contract Data Part two are used for the purpose of tender assessment. The tenderer acknowledges and confirms that its tender has not been taken in reliance on the weighting factors or any representations, warranties or statements (expressed or implied) of any kind made by or on behalf of the <i>Client</i> with respect to the accuracy, appropriateness, completeness, sufficiency or otherwise of the weighting factors.</p> <p>(2) The <i>Client</i> does not give any representation, warranty or guarantee that the weighting factors or any part thereof bears any relation to the actual proportion of any item of work to the <i>service</i>. Neither the <i>Client</i> nor its agents or representatives have or accept any liability, obligation or responsibility whatsoever for any loss or damage (including without limitation any consequential loss or damage) however arising from or in respect of any use or misuse or reliance on the weighting factors. Without prejudice to the generality of the foregoing provision, the <i>Contractor</i> shall not be entitled to any compensation event or additional payment in the event that the actual proportion of any item of work to the <i>service</i> differs, substantially or otherwise from the weighting factors or any part thereof.</p> <p>(3) The attention of the tenderer is drawn to Clause [A9]<sup>#</sup> of the <i>additional conditions of contract</i>.</p>	<p># Insert appropriate clause reference.</p>

## General Conditions of Tender

### APPENDIX [ ] TO THE GENERAL CONDITIONS OF TENDER

#### **Part A - Financial information required to be submitted in tender for public works contracts (for tenderers already on List of Approved Contractors for Public Works and/or the List of Approved Suppliers of Materials and Specialist Contractors for Public Works)**

- (1) Tenderers shall provide the following documents if they have not already been submitted to the Finance Section of Development Bureau before:
  - (a) management accounts covering the period between the latest set of audited financial statements up to a date not earlier than three months before the date of submission;
  - (b) a statement listing current or outstanding contracts held in hand with the *Client* and the private sector including but not limited to the Hospital Authority and the Housing Authority, both as main contractor or subcontractor, with total and outstanding contract sums, contract period and time required to complete the outstanding portion of the contract; and
  - (c) bank letters or agreements on existing banking facilities such as term loans and overdraft.

Copies of all statements submitted under paragraphs (a) to (c) above shall be certified true and correct by independent auditors or directors of the company. The sample statement format for (b) above can be downloaded from the website of Development Bureau.

- (2) All statements submitted should be prepared in English or Chinese.
- (3) The management accounts shall reflect the financial position of the company only (i.e. the accounts must not be consolidated accounts).
- (4) The management accounts include at a minimum statement of financial position (or balance sheet) and statement of comprehensive income (or profit and loss accounts) and must be in the same layout of the audited financial statements.
- (5) In the case of a joint venture, financial and supplementary statements as mentioned under paragraph (1) above for each participating company must be submitted.

## General Conditions of Tender

### **Part B - Financial information required to be submitted in tender for public works contracts (for tenderers NOT on the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works)**

- (1) Tenderers shall provide the following documents if they have not already been submitted to the Finance Section of Development Bureau before:
  - (a) the original or copies of annual financial statements for the last three accounting years audited and certified by certified public accountants;
  - (b) management accounts covering the period between the latest set of audited financial statements up to a date not earlier than three months before the date of submission;
  - (c) a statement of gains/(losses) arising from fair value adjustments for the latest audited financial statements;
  - (d) a statement giving details of significant events which occurred after the year end date of the latest audited financial statements which would affect the tenderer's financial position;
  - (e) a statement giving details of subsequent settlement of current assets after the year end date of the latest audited financial statements;
  - (f) a statement giving details of any off-balance sheet liabilities, including contingent liabilities, if not covered in the latest audited financial statements;
  - (g) a statement listing current or outstanding contracts held in hand with the *Client* and the private sector including but not limited to the Hospital Authority and the Housing Authority, both as main contractor or subcontractor, with total and outstanding contract sums, contract period and time required to complete the outstanding portion of the contract; and
  - (h) bank letters or agreements on existing banking facilities such as term loans and overdraft.

Copies of audited financial statements submitted under paragraph (a) shall be certified true by the directors of the company and all documents under paragraphs (b) to (h) above shall be certified true and correct by independent auditors or directors of the company. The sample statement format for (c), (d), (e) and (g) above can be downloaded from the website of Development Bureau.

- (2) All statements submitted should be prepared in English or Chinese.
- (3) The financial statements and the management accounts shall reflect the financial position of the company only (i.e. the accounts must not be consolidated accounts).

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- (4) Audited financial statements include auditor's statement of financial position, statement of comprehensive income, statement of changes in equity and statement of cash flows, and notes comprising significant accounting policies and other explanatory information.
- (5) The latest audited financial statements must be for a period ending no more than 18 months before the submission date.
- (6) For the latest audited financial statements, if the auditor has issued a disclaimer or adverse audit opinion in the auditor's report, the company shall be deemed as failing to submit the required financial statements.
- (7) The management accounts include at a minimum statement of financial position (or balance sheet) and statement of comprehensive income (or profit and loss accounts) and must be in the same layout of the audited financial statements.
- (8) In the case of a joint venture, financial and supplementary statements as mentioned under paragraph (1) above for each participating company must be submitted.

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### **APPENDIX [ ] TO THE GENERAL CONDITIONS OF TENDER**

#### **Correction Rules for Tender Errors (General Conditions of Tender Clause GCT 11)**

##### **Section 1 – General**

- 1.1 For errors which have been specifically addressed in the General or Special Conditions of Tender, the errors shall be dealt with strictly in accordance with the relevant General or Special Conditions of Tender. The following rules shall only apply where the errors have not been specifically addressed in the General or Special Conditions of Tender.
- 1.2 Subject to paragraph 1.1 above, where a correction rule provided in Section 2 below is applicable, the errors shall be corrected in accordance with that rule.
- 1.3 In the event no written correction rule is applicable,
  - (i) where ambiguity as to the tenderer's true intention exists, it shall be construed by the tender examiner by reference to the best practice or his best judgment; and
  - (ii) where errors relate to factual information and there is no room for manipulation by a tenderer by virtue of subsequent correction; or where the correction of such errors would not change the tender in substance or the quality of the tender which would give the tenderer an advantage over the other tenderers, the concerned tenderers may be permitted to correct the errors. In other cases, the tender shall be assessed with the errors as submitted.
- 1.4 For the purposes of these rules, errors include omissions.

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### Section 2 – Errors in pricing document

2.1 If errors are found in the Schedule of Percentages in the Contract Data Part two, they shall be corrected as follows:

- (i) Errors in extensions and summations of *contract percentages* shall be corrected and the rectified amounts carried to the forecast total of the Prices\* / Total Value for Tender Assessment (TVTA)\*.
- (ii) Where no *contract percentage* or an illegible *contract percentage* has been inserted against any item in the Schedule of Percentages, it shall be deemed that the tenderer is taken to have agreed with the *price list* in respect of those items and does not intend to make any variation thereto, thus the *contract percentage* shall be marked as zero.
- (iii) If one or more pages of the Schedule of Percentages are found missing, it shall be deemed that the tenderer is taken to have agreed with the *price list* in respect of all items in those pages and does not intend to make any variation thereto, thus the *contract percentages* for all items in the missing page(s) shall be marked as zero.
- (iv) Should there be a tender addendum introducing changes to the Schedule of Percentages but the changes have not been incorporated into the Schedule of Percentages by a tenderer, then the changes as required by the tender addendum shall be incorporated into the tenderer's Schedule of Percentages and the *contract percentages* for those new items or modified items shall be determined as follows:

Where new item is introduced	It shall be deemed that the tenderer is taken to have agreed with the <i>price list</i> in respect of the new item and does not intend to make any variation thereto, thus the <i>contract percentage</i> for the new item shall be marked as zero.
Where the item description and/or weight factor is changed	If a <i>contract percentage</i> has been entered against the original item, the same <i>contract percentage</i> shall be used.
Where an item is deleted	That item shall be deleted in accordance with the addendum.

2.2 If error is found in the *fee percentage*, it shall be corrected as follows:

- (i) If the *fee percentage* inserted by the tenderer in the Contract Data Part two exceeds the *cap of fee percentage* as stated in the Contract Data Part two, it shall be corrected to the *cap of fee percentage*. The Grand Summary of the Schedule of Percentages including the forecast total of the Prices\* / TVTA\* shall be adjusted accordingly.



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- (ii) If the *fee percentage* inserted by the tenderer in the Contract Data Part two is a negative percentage or lower than the *minimum fee percentage*, it shall be corrected to the *minimum fee percentage*. The Grand Summary of the Schedule of Percentages including the forecast total of the Prices\* / TVTA\* shall be adjusted accordingly.
  - (iii) If the tenderer has not inserted a *fee percentage* in the Contract Data Part two, the *fee percentage* shall be corrected to the *minimum fee percentage*. The Grand Summary of the Schedule of Percentages including the forecast total of the Prices\* / TVTA\* shall be adjusted accordingly.
  - (iv) If the *fee percentage* inserted by the tenderer in the Contract Data Part two is illegible, the *fee percentage* shall be corrected to the *minimum fee percentage*. The Grand Summary of the Schedule of Percentages including the forecast total of the Prices\* / TVTA\* shall be adjusted accordingly.
- 2.3 Where the Grand Summary of the Schedule of Percentages contains contingency sum for Defined Cost for compensation events, \*provisional sum for price adjustment for inflation under secondary Option X1, or any combination of them and the tenderer fails to include any or all of them correctly in the Grand Summary, then such sum (or sums) shall be correctly reinstated in the Grand Summary.
- 2.4 Where the Grand Summary of the Schedule of Percentages contains contingency sum for Fee for compensation events, and sub-total of all contingency sums and provisional sums or any combination of them and arithmetical errors are found, then errors in calculation of such sum (or sums) shall be corrected in the Grand Summary.
- 2.5 After correcting all the errors in the manner abovementioned, the values for tender assessment and their total and the forecast total of the Prices\* / TVTA\* in the Grand Summary of the Schedule of Percentages shall be corrected accordingly.

\* Modify where appropriate.