

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

Important Notes:

- (1) This set of Special Conditions of Tender (“SCT”) is applicable to contracts using NEC4 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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~~SCT 22~~SCT 23 Number of term service contracts to be ~~282.94.2023~~282.94.2023
awarded to one single contractor

Appendix [] Sample JV Proforma

29.4.2022

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks/Guidelines
(3) The submission of this plan is for the tenderer to demonstrate its understanding of and its capability in planning the <i>service</i> for this contract.	shall be considered as not technically capable for recommendation for award of the contract. Legal advice should be obtained to form such a recommendation.
(4) The plan shall not form part of this contract. It shall not be taken as a plan in the Contract Data under NEC Clause 31.1.	

Special Conditions of Tender

Clause	Remarks/Guidelines
SCT 2 Alternative design invited for part of the <i>service</i> covered by the <i>Client's</i> design	
<p>(1) The tenderer may elect to submit a tender conforming with the <i>Client's</i> design of the <i>service</i> priced in accordance with the tender documents, or in accordance with the provisions of this Special Condition of Tender an alternative tender incorporating the tenderer's alternative design for <i>*that/*those</i> part(s) of the <i>service</i> identified in [set out the relevant Drawings no(s). and the relevant clause/section no(s) of the tender documents e.g. the Specification], or both a tender conforming to the <i>Client's</i> design of the <i>service</i> and an alternative tender incorporating the tenderer's alternative design.</p> <p>(2) Tenderer's alternative design must comply with the minimum conditions specified in [set out the relevant Drawings no(s). and the relevant clause/section no(s) of the tender documents e.g. the Specification]. A tender incorporating a design which does not comply with the minimum conditions or which design requires substantial amendments in order to conform to the Scope shall be considered as a non-conforming tender.</p> <p>#(3) Clauses F1, F2 and F5 of the <i>additional conditions of contract</i> will only apply in the event that a tender for an alternative design is accepted.</p> <p>(4) An alternative design shall:</p> <p style="padding-left: 40px;">(a) be presented as an integral part of a</p>	<p>(This Clause is extracted from DEVB TC(W) No. 3/2014 and shall be used where tenderers are invited to submit an alternative design for part of the <i>service</i>.</p> <p>* Delete as appropriate.</p> <p># Delete this sub-clause in case this Clause is used together with the SCT Clause where a tenderer's design is required for part of the <i>service</i> not covered by the <i>Client's</i> Scope.</p>

Special Conditions of Tender

Clause	Remarks/Guidelines
<p style="text-align: center;">separate tender for the <i>service</i>,</p> <p>(b) be priced as a lump sum for related items and supported by a fully priced and detailed Schedule of Rates, and</p> <p>(c) be sufficiently documented to enable the <i>Client's</i> decision on its acceptability</p> <p>For the purposes of (b), the tender shall provide separately the approximate quantities showing the build up of the lump sum. [##The said Schedule of Rates may form the basis of interim payments and assessment of compensation events.]</p>	<p>## Delete for Option C</p>
<p>(5) The tenderer shall submit such further clarifications pertaining to the alternative design as may be requested by the <i>Service Manager</i> designate to enable a proper assessment of the tender to be made. Failure to do so by the tenderer may render its tender invalid. General Conditions of Tender Clause GCT 16 will apply to such clarifications to the alternative design.</p>	<p>For sub-clause (5), post-tender communication with tenderers shall be limited to the need for clarifications. Tenderers should not be given the opportunity to enhance their design submissions.</p>
<p>(6) Any alternative design will be treated in confidence up to the date of acceptance of the tender. The contents of unsuccessful tenders will not be divulged.</p>	
<p>(7) If the tenderer submits a tender incorporating an alternative design, it shall identify (*either in the plan required by SCT ... or in the alternative tender) the arrangements made and the time allowed for the design and independent checking of the alternative design. It shall also submit the name and particulars of the firm or company it proposes to employ as “Independent Checking</p>	<p>* Delete as appropriate.</p>

Special Conditions of Tender

Clause	Remarks/Guidelines
Engineer”.	

Special Conditions of Tender

Clause	Remarks/Guidelines
SCT 3 Design required for part of the <i>service</i> not covered by the <i>Client's</i> design	
<p>(1) The tenderer is required to submit in accordance with the provisions of this Special Condition of Tender a design for <i>*that/*those</i> part(s) of the <i>service</i> identified in [set out the relevant Drawings no(s). and the relevant clause/section no(s). of the tender documents e.g. the Specification].</p> <p>(2) Tenderer's design must comply with the minimum conditions specified in [set out the relevant Drawings no(s). and the relevant clause/section no(s) of the tender documents e.g. the Specification]. A tender incorporating a design which does not comply with the minimum conditions or which design requires substantial amendments in order to conform to the Scope shall be considered as a non-conforming tender.</p> <p>(3) The attention of the tenderer is drawn to Clauses F1, F2 and F5 of the <i>additional conditions of contract</i>.</p> <p>(4) The tenderer's design shall :</p> <p style="padding-left: 40px;">(a) be priced as a lump sum for related items and supported by a fully priced and detailed Schedule of Rates, and</p> <p style="padding-left: 40px;">(b) be sufficiently documented to enable the <i>Client</i> to reach a decision on its acceptability.</p> <p>For the purposes of (a), the tenderer shall provide separately the approximate quantities showing the build up of the lump sum. [#The said Schedule of Rates may form the</p>	<p>This Clause is extracted from DEVB TC(W) No. 3/2014 and shall be used where the tenderer is required to submit a design for part of the <i>service</i> which is not covered by the <i>Client's</i> Scope. The design to be submitted should also be stipulated as an essential submission under the relevant GCT clause for essential submission.</p> <p><i>* Delete as appropriate</i></p> <p><i>#Delete for Option C</i></p>

Special Conditions of Tender

Clause	Remarks/Guidelines
<p style="text-align: center; color: blue;">basis of interim payments and assessment of compensation events.]</p> <p>(5) The tenderer's design will be treated in confidence up to the date of acceptance of the tender. The contents of unsuccessful tenders will not be divulged.</p> <p>(6) The tenderer shall identify (*either in the plan required by SCT ... or in the tender) the arrangements made and the time allowed for the design and independent checking of the design. The tenderer shall also submit the name and particulars of the firm or company it proposes to employ as "Independent Checking Engineer".</p>	<p>* Delete as appropriate</p>

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks/Guidelines
	only applicable to tenders with the estimated forecast total of the Prices / Estimated Total Expenditure / estimated Total Value for Tender Assessment (TVTA) equal to or greater than HK\$2 billion.

Special Conditions of Tender

Clause	Remarks/Guidelines
<p>(2) Where the tenderer is an unincorporated joint venture, it must:</p> <p>(a) subject to General Conditions of Tender Clause GCT 21 nominate a lead participant whose forecast value of works in the joint venture pursuant to sub-clause (4) below shall be more than that of any other participant in the joint venture. # [The lead participant must be a confirmed* Group [] contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (see Note 1)] / ## { The lead participant must be either:</p> <p>(i) a confirmed Group C (see Note 2) contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (“the stated category”) (see Note 1); or</p> <p>(ii) a contractor who is not enlisted in any service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case, there must be at least one participant in the joint venture who is a confirmed Group C (see Note 2) contractor in the stated category. The total percentage participation of participant(s) who is/are confirmed Group C (see Note 2) contractors included in the stated category must be at least 40% pursuant to sub-clause (4) below. The percentage participation of the lead participant shall be no more than 60% }; and</p>	<p>The submission required under sub-clause (2)(a) of this Clause is an essential submission and shall be mentioned in the GCT 21 on essential submissions.</p> <p><u>Note 1</u>: Insert the appropriate description in the event that the contract is invited from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. This clause is designed for inputting one service category only. If a project requires invitation of more than one service category in the List, DEVB and LAD(W) have to be consulted on the non-standard amendments.</p> <p>* Delete/Modify as appropriate.</p> <p># The words in square brackets [] are not applicable to open tendering.</p> <p>## The words in curly brackets { } are not applicable to open tendering and are only applicable to tenders with an estimated forecast total of the Prices / Estimated Total Expenditure / estimated TVTA equal to or greater than HK\$2 billion and shall replace the words in square brackets [].</p>

Special Conditions of Tender

Clause	Remarks/Guidelines
<p>(b) subject to General Conditions of Tender Clause GCT 25, submit to the <i>Service Manager</i> designate a Letter of Undertaking in the form set out in Appendix⁺ [insert appropriate reference] to these Special Conditions of Tender duly executed by all the participants of the unincorporated joint venture.</p> <p>Failure to comply with this sub-clause by an unincorporated joint venture tenderer shall render its tender invalid.</p> <p>(3) Where the tenderer is an incorporated joint venture,</p> <p>(a) the shareholder who undertakes the largest share of forecast value of works, calculated pursuant to sub-clause (4) below, shall be referred to as “the major shareholder”. [#][The major shareholder must be a confirmed* Group [] contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (see Note 3)] / ^{##}{The major shareholder must be either:</p> <p>(i) a confirmed Group C (see Note 2) contractor in the List of Approved Contractors for Public Works for Buildings* / Port Works* / Roads and Drainage* / Site Formation* / Waterworks* (“the stated category”) (see Note 3) ; or</p> <p>(ii) a contractor who is not enlisted in any</p>	<p><u>Note 2</u>: In case the contract is invited from the List of Approved Suppliers of Materials and Specialist Contractors for Public Works, amend the text “confirmed Group C” as appropriate.</p> <p>⁺ The form in Appendix B2 in ETWB memo ref. (01656-01-3) in ETWB(W) 510/83/05 dated 4 August 2006 shall be used.</p> <p>[*] Delete as appropriate.</p> <p>[#] The words in square brackets [] are not applicable to open tendering and shall be amended as appropriate for compatibility with sub-clause (4) regarding the determination of the major shareholder.</p> <p><u>Note 3</u>: Insert the same description as set out in sub-clause (2)(a) above.</p> <p>^{##} The words in curly brackets { } are not applicable to open tendering and are only applicable to tenders with an estimated forecast total of the Prices / Estimated Total Expenditure / estimated TVTA equal to or greater than HK\$2 billion. If applicable, they shall replace the words in square brackets []. The words in curly brackets { } shall be amended as appropriate for compatibility with sub-clause (4) regarding the determination of</p>

Special Conditions of Tender

Clause	Remarks/Guidelines
<p>service category under the List of Approved Contractors for Public Works and the List of Approved Suppliers of Materials and Specialist Contractors for Public Works. In this case, there must be at least one shareholder in the joint venture who is confirmed Group C (see Note 2) contractor in the stated category. The total percentage participation of shareholder(s) who is/are confirmed Group C (see Note 2) contractor(s) in the stated category must be at least 40% pursuant to sub-clause (4) below. The percentage participation of the major shareholder shall be no more than 60% }; and</p> <p>(b) it shall, subject to General Conditions of Tender Clause GCT 25, submit to the <i>Service Manager</i> designate a Letter of Undertaking in the form set out in Appendix⁺ [insert appropriate reference] to these Special Conditions of Tender duly executed by all the shareholders of the incorporated joint venture.</p> <p>Failure to comply with this sub-clause by an incorporated joint venture tenderer shall render its tender invalid.</p>	<p>the major shareholder.</p> <p>⁺ The form in Appendix B1 in ETWB memo ref. (01656-01-3) in ETWB(W) 510/83/05 dated 4 August 2006 shall be used.</p>

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks/Guidelines
<p>category and forecast value of works it proposed to undertake either on a probationary status, or as a confirmed contractor if the category of works concerned has no probationary status; or</p> <p>(d) the participant or shareholder is a contractor included in the List for the category of works it proposes to undertake and this participant or shareholder wishes to take up works in excess of the limits of the category and group in which it is listed in, and it satisfies the minimum experience criteria set out in the CMH for promoting to the respective group for the forecast value of works it proposed to undertake, either on a probationary status, or as a confirmed contractor if the category of works concerned has no probationary status; or[^]</p> <p>(e) (See Note 8) the participant or shareholder in the joint venture, irrespective of whether it is a contractor included in the List, wishes to take up “trenchless replacement and rehabilitation works” under this contract. Since such works does not fall within any of the category on the List, it should for the purpose of assessment of technical capability be regarded as falling within the “Waterworks” category of the List. The participant or shareholder shall satisfy sub-clauses (6)(a), (6)(b) or (6)(c) in respect of the “Waterworks” category as appropriate. The experience gained in “trenchless replacement and rehabilitation works” shall be regarded as mainlaying experience for the purpose of this sub-clause.</p> <p style="text-align: right;">For the purpose of sub-clauses (6)(c) and (6)(d)</p>	<p>[^] Delete “; or” if (e) is not used and end the sentence with “.”.</p> <p><u>Note 8:</u> Where there are specific works in a contract of which there is no exact match in the List, such as “trenchless replacement and rehabilitation works” in a water supplies or drainage contract, the project officer shall, upon consultation with the Managing Department of the relevant category, determine and state the assessment criteria in this sub-clause. Otherwise this sub-clause is not necessary. Sub-clause (e) is provided here as an example.</p>

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Clause	Remarks/Guidelines
<p>of this Clause, only the number of contract(s) and their respective contract value(s) concerning works falling within the same category of works on the List the participant or shareholder proposed to undertake shall be assessed. Experience gained in contracts overseas (government or non-government) will be counted. The joint venture tenderer shall, subject to General Condition of Tender Clause GCT 25, submit to the <i>Service Manager</i> designate documentary evidence, in the form of a certificate of completion and articles of agreement and the like to the satisfaction of the <i>Service Manager</i> designate, supporting the job experience of its participants or shareholders.</p>	<p>The submissions required under sub-clauses (6)(c), (6)(d) and, if applicable, sub-clause (6)(e) of this Clause are not essential submissions and shall be mentioned in Clause GCT 25 on Submission of further information.</p>
<p>(7) Not used</p>	
<p>(8) No tenderer is permitted to submit more than one tender for each contract. For the purpose of this Clause, a tenderer who submits a tender on its own behalf and as a participant or shareholder of a joint venture or as a participant or shareholder of more than one joint venture in response to a tender exercise shall be regarded as having submitted more than one tender. Tenders submitted from a tenderer on its own behalf who is found to be in breach of this sub-clause or from a joint venture or joint ventures in which any participant or shareholder is found to be in breach of this sub-clause shall not be considered.</p> <p>For the purpose of this sub-clause:-</p>	<p>DEVB memo ref. DEVB(W) 510/83/05 dated 16.9.2020</p>

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks / Guidelines
<p style="text-align: center;">Kong office has been carried out in Hong Kong and such Quality Manual has been found to be in conformity with the requirements of the ISO 9001:2015 standard; and</p> <p style="text-align: center;">(ii) an undertaking that within three months of the acceptance of tender, it would book with the certification body the date of audit for the ISO 9001:2015 certification; with detailed documented quality system procedures ready at the time of booking.</p> <p>(2) Where the tenderer is a joint venture, it shall, upon written request by the <i>Service Manager</i> designate issued in accordance with General Conditions of Tender Clause GCT 25, submit to the <i>Service Manager</i> designate :</p> <p style="padding-left: 20px;">(a) a statement declaring that it shall implement the quality system of one of its participants or shareholders and specifying which one;</p> <p style="padding-left: 20px;">(b) a copy of the written notification to the certification body of the specified participant or shareholder that the joint venture shall implement the quality system of the specified participant or shareholder and the written agreement of all participants or, as the case may be, shareholders of the joint venture that the activities of the joint venture shall be subject to the surveillance of the certification body; and</p> <p style="padding-left: 20px;">(c)(i) a copy of its specified participant or shareholder's ISO 9001:2015 certificate acceptable to the <i>Client</i> showing the</p>	

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks / Guidelines
(3) documented quality system procedures ready at the time of booking. The submission under sub-clause (2)(a) of this Special Condition of Tender, if applicable, shall form part of this contract.	

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks / Guidelines
	the contract. Legal advice should be obtained to form such a recommendation.

Special Conditions of Tender

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

Special Conditions of Tender

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

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

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks / Guidelines
SCT 17 Not used	

Special Conditions of Tender

Clause	Remarks / Guidelines
SCT 18 Not used	

Special Conditions of Tender

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

Special Conditions of Tender

Clause	Remarks / Guidelines
SCT 20 Not used	

Special Conditions of Tender

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

Special Conditions of Tender

Appendix []

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

Date: _____

Dear Sir/Madam,

Contract No.: []

Title: []

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

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

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

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

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

* Delete as appropriate.

Insert appropriate reference

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

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

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

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

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

Name of Witness: _____

Signature of Witness: _____

Occupation: _____

Special Conditions of Tender

Clause	Remarks/Guidelines
SCT 22 Information on On-going Works Contracts for Assessment of “Merit/Demerit Point for Safety”	
<p>(1) The tenderer shall submit with its tender either:</p> <p style="padding-left: 20px;">(a) a statement that it held one or more on-going works contracts in Hong Kong during the Relevant Period; or</p> <p style="padding-left: 20px;">(b) a statement that it held no on-going works contract in Hong Kong during the Relevant Period,</p> <p>in the form set out in Appendix [X] to the Special Conditions of Tender.</p> <p>In case the tenderer is a joint venture, each participant or shareholder of the joint venture shall submit such a statement separately.</p> <p>(2) Where the tenderer (or a participant or shareholder of the joint venture) held at least one on-going works contract in Hong Kong during the Relevant Period, the tenderer shall submit with its tender further information and documentary evidence of <u>ONE</u> such on-going works contract as required in Appendix [X] to the Special Conditions of Tender.</p> <p>(3) The <i>Service Manager</i> designate may invite a tenderer to submit further information or clarification regarding an on-going contract in accordance with Clause GCT 16 of the General Conditions of Tender. If a tenderer fails to demonstrate that it held one or more on-going works contract in the Relevant Period to the satisfaction of the <i>Service Manager</i> designate, its tender shall be assessed as if it held no on-going works contract during the Relevant Period</p>	<p>DEVB’s memo ref. DEVB(W) 546/84/01 dated 10.11.2023.</p> <p>The submission under this clause should be listed under GCT 4(1)(e).</p>

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

Special Conditions of Tender

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

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Clause	Remarks / Guidelines
SCT 223 Number of term service contracts to be awarded to one single contractor	
<p>(1) The tenderer's attention is drawn to the <i>Client's</i> policy on restricting the maximum number of term service contracts that can be undertaken at any one time by a single contractor.</p> <p>(2) Under the restriction, no contractor will be allowed to undertake more than [insert appropriate number] contract(s) at any one time from the following list of term service contracts:</p> <p>(a) List the term service contracts</p> <p>(b) ...</p> <p>[#Following this principle, the contractor under contract [insert appropriate item no.] above will automatically be barred from being awarded this contract.]</p> <p>(3) For the purpose of operating the restriction, if a joint venture contractor is awarded any one of the contracts referred to in sub-clause (2) above, all participants/shareholders of the joint venture will be treated as if each of them is awarded the same contract. Therefore, they will automatically be barred from being awarded the other contract referred to in sub-clause (2) above either on their own or as a participant/shareholder of a joint venture. Similarly, a joint venture will automatically be barred from being awarded the contracts referred to in sub-clause (2) above if one or more of its participants/shareholders is/are awarded any one of the contracts referred to in sub-clause (2) above either on their own or</p>	<p>Project Office should consult LAD(W) who may consult ILD on a case-by-case basis on whether such a restriction may be imposed. Please refer to WBTC No. 24/99 and other relevant memo(s) from FSTB and DEVB for the required procedures before adopting this clause. Project Office may amend this clause to suit the departmental operation.</p> <p>#Modify as appropriate.</p>

Special Conditions of Tender

Clause	Remarks / Guidelines
<p>as a participant/shareholder of a joint venture.</p> <p>(4) A holding company and its subsidiaries are considered as one and the same contractor. Therefore, all companies in the same group as the contractor who is awarded any one of the contracts referred to in sub-clause (2) above will automatically be barred from being awarded the other contract referred to in sub-clause (2) above either on their own or as a participant/shareholder of a joint venture. The existence of a holding – subsidiary relationship shall be determined in accordance with the provisions in Sections 13 to 15 of the Companies Ordinance (Cap. 622).</p> <p>(5) For the purpose of this Clause, a tenderer who submits a tender on its own behalf and as a participant or shareholder of a joint venture shall be regarded as having submitted more than one tender.</p> <p>(6) Tender assessment and award of this contract will take due consideration of the aforesaid policy and restriction.</p> <p>(7) For the purpose of this Clause, the expression “joint venture” includes “unincorporated joint venture” and “incorporated joint venture”, the meanings of which are given in paragraph 6 of the Environment, Transport and Works Bureau Technical Circular (Works) No. 50/2002 on Contractors’ Joint Ventures.</p> <p>(8) The <i>Client</i> reserves the right to vary or withdraw the aforesaid policy and restriction in appropriate circumstances.</p>	

Special Conditions of Tender

Clause	Remarks / Guidelines
(9) Notwithstanding the foregoing provisions, the tenderer shall note that the <i>Client</i> does not bind itself to accept any tender whether the tender is the lowest bid or, where the assessment of the tenders is based on a formula approach, the tender has the highest overall mark.	

Special Conditions of Tender
[Sample for NEC TSC contracts]

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

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

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

Name of Tenderer: _____

Category of works ¹		Forecast value of works (in Hong Kong dollar (\$)) ²			
		A	B ³	C ^{3&4}	D ^{3&5}
		{Name of the <u>lead</u> participant / <u>major</u> shareholder} (to be inserted by the tenderer)	{Name of the other JV participant / shareholder} (to be inserted by the tenderer)	{Name of the other JV participant / shareholder} (to be inserted by the tenderer)	{Name of the other JV participant / shareholder} (to be inserted by the tenderer)
Forecast value of works	Type I (Mandatory) [The relevant category of the Approved List / Approved Specialist List if it is required in SCT 5(2)(a) (i.e. condition of participation).]				
	Type II (Optional) [The relevant categories of the Approved List selected as appropriate by the project team.]				
	Type III (Optional) [If ACC Clause C3 on Specialist Subcontractor is included, select from the list thereof as appropriate by the project team] ^{6&7} (add the reference to footnote 6 & 7 after each Type III category)				
	Sub-Total				
Forecast total of the Prices / Total Value for Tender Assessment (TVTA)⁸		{Summation of the totals of A, B, C and D to be inserted by the tenderer}			
Percentage Participation⁹		{ to be inserted by the <i>SM</i> designate after receipt of tender }	{ to be inserted by the <i>SM</i> designate after receipt of tender }	{ to be inserted by the <i>SM</i> designate after receipt of tender }	{ to be inserted by the <i>SM</i> designate after receipt of tender }

Special Conditions of Tender

Notes:

1. The tenderer shall not add any additional category of works to, or amend or delete any category of works in the list of categories set out in this JV Proforma.
2. Each forecast value of works to be undertaken by each participant / shareholder shall be inserted as a figure in the unit of Hong Kong dollar, **otherwise the tender shall be rendered invalid**. Any other descriptions, such as **“jointly”, “fully integrated” etc. are not acceptable**.
3. The tenderer’s attention is drawn to SCT 5(6). For a participant / shareholder other than the lead participant or major shareholder, even if it is not enlisted in the relevant category of the Approved List / Approved Specialist List as required under SCT 5(6)(a), it may nonetheless be considered technically capable if it satisfies the requirement as stated in other sub-clauses of SCT 5(6).
4. Delete as appropriate or add additional column(s) as necessary.
5. Delete as appropriate or add additional column(s) as necessary.
6. This category of works is included in ACC C3 which stipulates that the specified part(s) of the *service* must be undertaken by a contractor listed on the respective category of the Approved Specialist List. In case the tenderer intends to subcontract this category of works, the space for the forecast value of this category of works shall be left blank and the tenderer shall distribute the value of this category of works among other categories of works. In case a value is inserted in the space for this category of works for any participant / shareholder, it is presumed that the part of the *service* will be undertaken by that participant / shareholder. The relevant participant / shareholder needs to satisfy the requirement as stated in SCT 5(5) or SCT 5(6), as the case may be.
7. Correction Rules no. 1(c) and 1(f) do not apply to this category of works.
8. The **“*forecast total of the Prices / Total Value for Tender Assessment (TVTA)”** in the JV Proforma shall tally with the **“*forecast total of the Prices / Total Value for Tender Assessment (TVTA)”** inserted in the ***Form of Tender / Grand Summary of the Schedule of Percentages**. **[Internal**

Special Conditions of Tender

note (not to be included in the tender documents): This note serves as a general reminder to the tenderer and gives an indication of what is expected to be filled in. In case there is discrepancy with the Form of Tender / the Grand Summary of the Schedule of Percentages, it does not render the tender invalid and the relevant correction rules shall apply. In case, the “forecast total of the Prices / Total Value for Tender Assessment (TVTA)” does not follow the Sample Format of Grand Summary of the Schedule of Percentages in the Practice Notes for New Engineering Contract - Term Service Contract for Public Works Projects in Hong Kong, Project Office should amend JV Proforma and SCT 5 as appropriate.] The tenderer shall ensure that there are no uncategorised works. The value of those parts of the works that are not directly related to any category of works, e.g. preliminaries, personnel, insurance, safety etc. shall be distributed among the categories of works set out in the JV Proforma by the tenderer. For the avoidance of doubt, the value of those parts of works that are intended to be subcontracted out shall be included / distributed among the categories of works set out in the JV Proforma by the tenderer.

9. The percentage participation of each participant / shareholder shall be calculated by reference to the corrected sub-total of forecast value of works to be undertaken by such participant / shareholder against the corrected forecast total of the Prices / Total Value for Tender Assessment (TVTA), and inserted by the *Service Manager* designate in this JV Proforma. In case the percentage participation stated elsewhere in the tenderer’s submission does not tally with this JV Proforma, the percentage participation calculated as per this JV Proforma shall prevail.
10. Not used.
11. Not used.

Special Conditions of Tender

Correction Rules for JV Proforma

[Internal note (not to be included in the tender documents): This set of rules shall be consistent with the correction rules for tender errors under GCT 11.]

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

Special Conditions of Tender

and **its tender shall be rendered invalid.**

2. Errors in the casting of any forecast value of works in the JV Proforma (after correction under paragraph 1 above, if any) shall be corrected. Thereafter, the sub-total of forecast value of works to be undertaken by each participant / shareholder and the forecast total of the Prices in the JV Proforma shall be corrected.

3. The *forecast total of the Prices / Total Value for Tender Assessment (TVTA) inserted in the *Form of Tender / Grand Summary of the Schedule of Percentages shall take precedence over the *forecast total of the Prices / Total Value for Tender Assessment (TVTA) inserted in the JV Proforma. In case of discrepancy, the *forecast total of the Prices / Total Value for Tender Assessment (TVTA) in the JV Proforma shall be corrected to match the one inserted in the *Form of Tender / Grand Summary of the Schedule of Percentages in the manner set out in paragraph 4 below.

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

(i) the *forecast total of the Prices / Total Value for Tender Assessment (TVTA) inserted in the *Form of Tender / Grand Summary of the Schedule of Percentages, and

(ii) the *forecast total of the Prices / Total Value for Tender Assessment (TVTA) inserted in the JV Proforma

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

5. After correcting all the errors in accordance with paragraphs 1 to 4 above, the percentage participation of each participant / shareholder shall be calculated by reference to the corrected sub-total of forecast value of works to be undertaken by such participant / shareholder against the corrected *forecast total of the Prices / Total Value for Tender Assessment (TVTA).

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

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

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cases where relevant optional ACC Clause C3 on specialist subcontractor is included in the contract and there is a high chance that one of the JV participants would only undertake that part of the specialist works.

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

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

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

5. There is no “uncategorised works”, “other”, “miscellaneous” etc., which means, the sum of the forecast value of all participants must tally with the “forecast total of the Prices / Total Value for Tender Assessment (TVTA)”. The value of the part of *service* that are not directly related to any category, e.g. preliminaries, personnel, insurance, safety etc. shall be distributed among the listed categories by the tenderer in such a way that the sum is tally with the “forecast total of the Prices / Total Value for Tender Assessment (TVTA)”.

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6. The tenderers are not allowed to add any additional category to the list selected by the project team.
7. Correction Rules:
 - (i) The forecast total of the Prices provided in the Form of Tender or inserted / corrected in the Grand Summary of the Schedule of Percentages as the case may be prevails. The forecast total of the Prices / Total Value for Tender Assessment (TVTA) in this JV Proforma will be corrected and the breakdown of each category will be corrected on pro rata basis.
 - (ii) The percentage participation on this JV Proforma will be inserted by the *Service Manager* designate based on the respective total of each participant and it prevails.
8. **Example:**
 - ✧ The contract involves building a stadium with a structural steel roof. The contractor also needs to construct the connecting roads with landscaping works.
 - ✧ The tenderers must be a Confirmed Group C contractor of the **Buildings Category** of the Approved List.
 - ✧ In the contract, it is stipulated in ACC Clause C3 that “**Structural Steelwork**” and “**Landscaping**” must be undertaken by a Specialist Subcontractor if the Contractor is not on the respective lists.

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Category of works		Forecast value of works (\$)			
		A (lead participant)	B	C	D
		Good Construction Company Limited	High Quality Construction Limited	{Name of the other JV participant / shareholder} (to be inserted by the tenderer)	{Name of the other JV participant / shareholder} (to be inserted by the tenderer)
Forecast value of works	1. Buildings	\$1,200,000,000	(\$300,000,000)		
	2. Roads and Drainage	\$24,000,000	(\$30,000,000)		
	3. Structural Steelwork	\$150,000,000	(\$168,000,000)		
	Sub-Total	[\$1,374,000,000]	[\$498,000,000]		
Forecast total of the Prices		\$1,872,000,000			
Percentage Participation		73.4% {inserted by the PM designate }	26.6% {inserted by the PM designate }		

Explanatory notes:

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

(i) The sub-total of forecast value of works to be undertaken by the lead participant, as included in the [square brackets] in the third last row of the table, is checked against its permitted limit. It is not necessary to check each category it proposed to undertake, because if it were a solo tenderer, it is not required to be checked for each of the categories it undertakes. The requirement should not be more stringent for it in a JV.

Special Conditions of Tender

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

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