

Licence Conditions
for Electronic Dissemination Packages
Distributed Through Authorized Service Providers

EDP Reference - ¹

1. This set of "Licence Conditions for Electronic Dissemination Packages Distributed Through Authorized Service Providers" may be cited as the "Licence Conditions".
2. In these conditions, unless the context otherwise requires-
 - (a) "Authorized Service Provider" means a service provider which has been authorized by the Employer to provide dissemination services for EDP.
 - (b) "Contract" means the works contract named in Schedule 1 hereto.
 - (c) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance (Cap. 553) satisfying the requirements stipulated in section 6 of that Ordinance. "Digitally Signed" should be interpreted accordingly.
 - (d) "Distribution Medium" means the removable electronic storage medium containing all or part of the files of an EDP.
 - (e) "Editable File" means an electronic file which is stored in file formats that are editable using mainstream computer applications for office automation and computer-aided drafting.
 - (f) "Electronic Dissemination Package" (or "EDP") means the electronic files in Schedule 2 hereto containing the contents of the Tender Documents, the supporting information for using these electronic files and these Licence Conditions.
 - (g) "Employer" means the Government of the Hong Kong Special Administrative Region.
 - (h) "Image File" means an electronic file which is stored in file formats that capture the printed image of the document.
 - (i) "Licensee" means-
 - (i) the person who has obtained the Distribution Medium from an Authorized Service Provider and uses the EDP and includes, if the person acts on behalf of another person, that other person; or
 - (ii) the person who has downloaded any of the electronic files contained in the EDP from an

¹ To be inserted by department

Authorized Service Provider and includes, if the person acts on behalf of another person, that other person.

- (j) "Relevant File" means an electronic file that-
 - (i) is derived from duplication of any files in the EDP; or
 - (ii) contains any contents extracted from any files in the EDP.
- (k) "Signed Editable File" means a file listed under the column "Signed Editable File" in Schedule 2 hereto containing the Digitally Signed version of an Editable File.
- (l) "Signed Image File" means a file listed under the column "Signed Image File" in Schedule 2 hereto containing the Digitally Signed version of an Image File.
- (m) "Special File" means a file listed in Schedule 3 hereto.
- (n) "Sub-licensee" means a party licensed by the Licensee to use the EDP.
- (o) "Tender" means a tender that may be submitted for the Contract.
- (p) "Tender Addendum" means a set of documents and its attachments in the form of electronic files issued before the Tender Closing Date to amend the tender documents.
- (q) "Tender Closing Date" means the date and time set for the return of tender for the Contract.
- (r) "Tender Documents" means the documents in the EDP issued for the tendering of the Contract, including:-
 - (i) the invitation to submit tenders and other documents issued together with it; and
 - (ii) Tender Addenda.
- (s) "Triggering Event" means one of the following events-
 - (i) The Licensee does not submit a Tender by the Tender Closing Date;
 - (ii) The Licensee receives notification from the Employer that his Tender is invalid;
 - (iii) The Licensee receives notification from the Employer that his Tender is not accepted;
 - (iv) The Licensee withdraws his Tender; or
 - (v) The execution of the Articles of Agreement for the Contract.

3. Words importing the singular only also include the plural and vice versa where the context requires. Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.

4. Subject to the provisions hereof, the Employer grants the Licensee, free of charge, a non-exclusive and revocable licence for using the EDP solely for the purpose of preparing the Tender. Save as aforesaid, all other rights in the EDP are reserved by the relevant copyright owners.

5. The Licensee shall indemnify and keep indemnified the Employer against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising out of any disputes or other claims or proceedings against the Employer by any third party by reason of any breach by the Licensee of Clause 4 hereof.

6. (1) The licence for using the EDP shall expire within seven working days of the occurrence of a Triggering Event.

(2) Sub-clause (1) shall not apply if the Licensee is nominated as a sub-contractor or supplier in a tender submitted by a tenderer who is holding a valid licence to use the EDP (the "Relevant Licence"). In this case, the licence of the Licensee shall expire with the Relevant Licence. If there are more than one Relevant Licences, the licence shall expire with the last Relevant Licence.

(3) On or before the expiration date of the licence, the Licensee shall-

(a) either destroy the Relevant Files in his possession or retain them as archives; and

(b) ensure that all sub-licensees have either destroyed the Relevant Files in their possession or retained these files for archive purpose.

7. Any files kept as archives pursuant to Clause 6 shall not be used for any other purpose.

8. Subject to the following conditions, the Licensee may license other persons as Sub-licensees to use the EDP-

(a) The Licensee shall obtain from each Sub-licensee an undertaking in writing that the Sub-licensee shall not use the EDP for any purpose other than for the purpose of preparing the Tender;

(b) The Licensee shall be liable to the Employer for the breach of the undertaking referred in sub-clause (a) of this Clause by the Sub-licensees as if the breach were committed by the Licensee;

(c) The Licensee shall indemnify and keep the Employer indemnified against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising out of any disputes or other claims or proceedings against the Employer by any

third party by reason of any breach of the undertaking referred to in sub-clause (a) of this Clause by the Sub-licensees as if the breach were committed by the Licensee;

(d) Provided that:-

- (i) The Licensee shall not license any Sub-licensee to use the Special Files enumerated in Schedule 3 hereto; and
- (ii) The Licensee shall not grant any Sub-licensee the right to license other parties to use the EDP.

Schedule 1²

Contract No. _____

Contract Title _____

Department _____

Tender Closing Date³ _____

² To be completed by department

³ Please also fill in the time.

Schedule 2 – Electronic Dissemination Package⁴

Tender Documents	Version no.	Signed Image File ⁵	Signed Editable File ⁶

⁴ To be completed by department

⁵ the location and filename in the EDP (includes disk no., if the EDP contain more than one CD-ROM, and filename with full path information)

⁶ the location and filename in the EDP (includes disk no., if the EDP contain more than one CD-ROM, and filename with full path information)

Schedule 3 – Special Files⁷
(Files not to be re-distributed by tenderers)

(List the file names of the special files in the EDP)

⁷ To be completed by department