**Section V Subcontracting**

**V:1 Basic Constraints**

| **V:1** | **Basic Constraints** | **Guidelines** |
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| (1) | The *Contractor* does not subcontract the whole of the *works*. | Modified from GCC4 |
| (2) | The *Project Manager*, if in its opinion it considers it necessary, has full power to order the removal of any Tier Subcontractor from the Site and/or Providing the Works, which power shall not be exercised unreasonably. |  |
| (3) | If instructed by the *Project Manager*, the *Contractor* submits full particulars and/or original copies of the subcontract documents of any Tier Subcontractor and the supply contracts of any suppliers to the *Project Manager*. |  |
| (4) | The *Contractor* uses its own employees to manage and supervise its Subcontractors. |  |

**V:2 Subcontractor Management Plan**

| **V:2** | **Subcontractor Management Plan** | **Guidelines** |
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| (1) | Within four weeks of the Contract Date, the *Contractor* provides the *Project Manager* with a Subcontractor Management Plan (“**SMP**”) for comment. |  |
| (2) | As a minimum, the *Contractor* reviews the SMP on a quarterly basis (counting from the date of the first SMP) until issuance of the last certificate of Completion. If any changes are made to the SMP, the *Contractor* provides the *Project Manager* with the changed SMP. An explanation of the changes made since the previous version is submitted with each revision. If there is no change to the previous SMP, the *Contractor* declares such status in writing instead of submitting the same SMP again. |  |
| (3) | The SMP provided by the *Contractor* complies with the requirements stated in the “**Guidelines on Scope and Contents of the Subcontractor Management Plan**” in **Appendix** [*insert reference*] to the *additional conditions of contract*. |  |
| (4) | The *Project Manager* may issue comment on the SMP within the *period of reply* and the *Contractor* resubmits the SMP within the *period of reply*. No acceptance of the SMP is required from the *Project Manager*. |
| (5) | If instructed by the *Project Manager*, the *Contractor* provides the *Project Manager* with evidence to demonstrate it has complied with the latest SMP. The evidence may include   1. subcontract documents, 2. reports from Subcontractors on their further subcontracting arrangement and daily attendance records of site workers and 3. other information identified in the guidelines in **Appendix** [*insert reference*] to the *additional conditions of contract*. |  |

**V:3 Limiting Tiers of Subcontracting**

| **V:3** | **Limiting Tiers of Subcontracting** | **Guidelines** |
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| (1) | For the purpose of this clause, “**confined space**” has the same meaning as defined in the Factories and Industrial Undertakings (Confined Spaces) Regulation (Cap. 59AE). | SDEV’s memo ref. DEVB(W) 510/17/01 dated 19.4.2021  The effect of this ACC is to limit the number of tiers of subcontracting to a maximum of three tiers, which aligns with the definition of a Tier Subcontractor in NEC Clause 11.2(23). For the avoidance of doubt, the additional tier of subcontracting under sub-clause (3) refers to the third tier of subcontracting. |
| (2) | The *Contractor* limits the number of tiers of subcontracting to two except that the following is limited to one   1. *works* requiring entry of humans into a confined space that forms part of a sewerage or drainage system and 2. [any part of the works] involving [state clearly the project-specific high risk operation]. |
| (3) | The *Contractor* may propose an additional tier of subcontracting to the *Project Manager* for acceptance. The proposal is submitted no later than two weeks before the relevant contractor is appointed and includes an explanation of why the additional tier of subcontracting is necessary.  The *Project Manager* may give any reason for not accepting the proposal. If the *Project Manager* fails to reply to the *Contractor*’s proposal within the *period of reply*, it is treated as acceptance by the *Project Manager* of the proposal. |

**V:4 Subcontractor Registration Scheme**

| **V:4** | **Subcontractor Registration Scheme** | **Guidelines** |
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| (1) | For the purpose of this clause,   1. “**RSTCS**” means the Registered Specialist Trade Contractors Scheme managed by the Construction Industry Council and as referred to in the Rules and Procedures applicable to the aforesaid Scheme. 2. “**Register of Specialist Trade Contractors**” means the register of specialist trade contractors compiled by the Construction Industry Council for the purpose of the RSTCS. 3. “**Group 1**”, “**Group 1 (Advanced)**” and “**Group 2**” mean the classification of contractors into Group 1, Group 1 (Advanced) and Group 2 under each trade of the Register of Specialist Trade Contractors. 4. [“**Building Maintenance**” and “**Interior Fitting-out**” mean the trade of “building maintenance” and “interior fitting-out” respectively under the Register of Specialist Trade Contractors.] Note 1 5. [“**Painting**”, “**Metal Work**”, “**Structural Steelwork**”, “**Horticultural Works**”, “**Arboriculture Works**” and “**Skyrise Greenery Works**” mean the trade of “painting”, “metal work”, “structural steelwork”, “horticultural works”, “arboriculture works” and “skyrise greenery works” respectively under the RSTCS as promulgated by the Construction Industry Council from time to time.] Note 2 | SDEV’s memos ref. DEVB(W) 510/94/02 dated 6.9.2023 and 10.4.2024  SDEV’s memo ref. DEVB(W) 546/83/01 dated 24.4.2024. |
| (2) | If the *Contractor* is to subcontract part of the *works*, except the part of the *works* to be done by a Specialist Contractor stated in ACC Clause V:5, involving trades available in the RSTCS, the *Contractor* appoints a Subcontractor   1. that is identified as a subcontractor in the latest SMP, 2. that is registered under the relevant trade in the RSTCS before the subcontract work starts, and 3. if the Subcontractor is registered under a trade [Note 2, except [Note 1 Building Maintenance and Interior Fitting-out,] Note 1 Painting, Metal Work, Structural Steelwork, Horticultural Works, Arboriculture Works and Skyrise Greenery Works,]Note 2 in the Register of Specialist Trade Contractors, that has been admitted into Group 1 (Advanced) or Group 2 before the subcontract work starts if the value of the subcontract exceeds the tender limit of Group 1 and that has been admitted into Group 2 before the subcontract work starts if the value of the subcontract exceeds the tender limit of Group 1 (Advanced).   The *Contractor* does not appoint a Subcontractor that is suspended or in the process of appealing against its suspension from registration unless the suspension will be lifted before the subcontract work starts. |  |
| (3) | The *Contractor* ensures that a Tier Subcontractor that has been subcontracted with part of the *works*, except the part of the *works* to be done by a Specialist Contractor stated in ACC Clause V:5, involving trades available in the RSTCS   1. is identified as a Tier Subcontractor in the latest SMP, 2. is registered under the relevant trade in the RSTCS before the subsubcontract work starts, and 3. if the Tier Subcontractor is registered under a trade [Note 2, except [Note 1 Building Maintenance and Interior Fitting-out,] Note 1 Painting, Metal Work, Structural Steelwork, Horticultural Works, Arboriculture Works and Skyrise Greenery Works,] Note 2 in the Register of Specialist Trade Contractors, that is admitted into Group 1 (Advanced) or Group 2 before the subsubcontract work starts if the value of the subsubcontract exceeds the tender limit of Group 1 and that is admitted into Group 2 before the subsubcontract work starts if the value of the subsubcontract exceeds the tender limit of Group 1 (Advanced).   The Tier Subcontractor is not appointed if it is suspended or in the process of appealing against its suspension from registration unless the suspension will be lifted before the subsubcontract work starts. |  |
|  | **Note:**   1. The words in square brackets should be deleted for contracts for which tenders will be invited on or **after 1 July 2024**, i.e. the tender limits of Group 1, Group 1 (Advanced) and Group 2 should be observed for all trades including Building Maintenance, and Interior Fitting-out except Painting, Metal Work, Structural Steelwork, Horticultural Works, Arboriculture Works and Skyrise Greenery Works. (SDEV’s memo ref. DEVB(W) 510/94/02 dated 6 September 2023 refers) 2. The words in square brackets should be deleted for contracts for which tenders will be invited on or after **1 February 2025**, i.e. the tender limits of Group 1, Group 1 (Advanced) and Group 2 should be observed for all trades including Painting, Metal Work and Structural Steelwork while the tender limits of Group 1 and Group 2 should be observed for all trades including Horticultural Works, Arboriculture Works and Skyrise Greenery Works. (SDEV’s memo ref. DEVB(W) 510/94/02 dated 10 April 2024 refers) |  |

**V:5 Specialist Contractor**

| **V:5** | **Specialist Contractor** | **Guidelines** |
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| (1) | The following part(s) of the *works* is to be done by a specialist contractor listed in the “List of Approved Suppliers of Materials and Specialist Contractor for Public Works” (“**Approved Specialist List**”) or the “List of Approved Contractors for Public Works” (“**Approved List**”) maintained by the *Client* (“**Specialist Contractor**”).   |  |  | | --- | --- | | **The Approved Specialist List** | | | [state the part of the *works*] | [state the type of material / specialist work and the Category, Group, Class and status as appropriate.] | | **The Approved List** | | | [state the part of the *works*] | [state the Category, Group and status as appropriate.] | | S for W’s memos ref. WB(W) 209/32/110 dated 23.3.2001 and 2.5.2001  Modified from SCC14A, 14B & 14C  **Optional** for contracts requiring specialist contractor only |
| (2) | If the *Contractor* is a Specialist Contractor in the relevant Group, Category and, where appropriate, Class and status for the respective part of the *works*, it may do such work itself. If not, it appoints a Specialist Contractor in the relevant Group, Category and, where appropriate, Class and status as a Subcontractor to do such work. |  |
| (3) | Unless otherwise agreed by the *Project Manager*, the *Contractor* does not appoint a Specialist Contractor that is suspended from tendering (whether by way of mandatory or voluntary suspension) in the respective Group, Category and, where appropriate, Class and status. |  |

**V:6 ISO 9000 Certification for Specialist Contractor**

| **V:6** | **ISO 9000 Certification for Specialist Contractor** | **Guidelines** |
| --- | --- | --- |
| (1) | If the *Contractor* appoints a Specialist Contractor as a Subcontractor to do the following part(s) of the *works*, the Subcontractor either:   |  |  | | --- | --- | | **The Approved Specialist List** | | | [state the part of the *works*] | [state the type of material / specialist work and the Category, Group, Class and status as appropriate.] | | **The Approved List** | | | [state the part of the *works*] | [state the Category, Group and status as appropriate.] |  1. has obtained an ISO 9001 certificate acceptable to the *Client* with the scope of certification acceptable to the Project Manager on or before the date of execution of the subcontract, or 2. (i) has obtained a confirmation from a certification body acceptable to the *Client*, stating that a full review of the Quality Manual of its Hong Kong office has been carried out in Hong Kong and such Quality Manual has been found to be in conformity with ISO 9000, and   (ii) submits an undertaking to the *Project Manager* that within three months of the execution of the subcontract, it would book with the certification body the date of audit ISO 9001 certification, with detailed documented quality system procedures ready at the time of booking. | WBTC No. 13/2001,  SDEV’s memo ref. DEVB(W) 520/83/01 dated 4.4.2018.  Modified from SCC29  **Optional** to be used with Clause V:5 on Specialist Contractor |
| (2) | If the *Contractor* fails to procure the Subcontractor to make such booking, the *Client* is entitled to withhold payment until such booking is made and the *Contractor* is not entitled to interest in that period. |  |

**V:7 Subcontract Conditions**

| **V:7** | **Subcontract Conditions** | **Guidelines** |
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| (1) | The *Contractor* includes in each subcontract the following requirements. If necessary, the *Contractor* enters into a supplemental agreement with its Subcontractors to include the following requirements. |  |
|  | **Do not subsubcontract the whole of the work**   1. A statement that the Subcontractor does not subsubcontract the whole of the work subcontracted. |  |
|  | **Payment of Site Workers’ Wages**   1. A clause on payment of wages of Site Workers in the form appearing in Appendix [*insert reference (see Annex to SDEV’s memo ref. (02VKU-01-3) in DEVB(W)510/17/01 dated 16.12.2016)*] to the *additional conditions of contract*. |  |
|  | **Disclosure**   1. A clause equivalent to ACC Clause II:3 requiring the Subcontractor and the Related Persons not to use or divulge any Confidential Information. |  |
|  | **Corrupt Act**   1. The Subcontractor, its directors, employees, agents or suppliers do not do a Corrupt Act. |  |
|  | **Ethical Commitment**   1. The Subcontractor requires its employees, agents and subsubcontractors to declare in writing to the Subcontractor any conflict or potential conflict between their personal or financial interests and their duties in connection with the contract. 2. If a conflict or potential conflict is disclosed in a declaration, the Subcontractor immediately acts to mitigate as far as possible or remove the conflict or potential conflict. 3. The Subcontractor prevents its employees, agents and subsubcontractors from undertaking any work or employment or entering into any agreement which causes or potentially results in a conflict between their personal or financial interests and their duties in connection with the contract. |  |
|  | **Interim Statements**   1. The Subcontractor submits a signed declaration to confirm compliance with the provisions on ethical commitment, confidentiality and conflict of interest in its application for payment. |  |
|  | **Prohibition of Imposing Administrative Charges for Reporting of Site Accidents and Elimination of Under-reporting of Site Accidents**   1. The provisions titled “Mandatory Subcontract Conditions for Prohibition of Imposing Administrative Charges for Reporting of Site Accidents and Elimination of Under-Reporting of Site Accidents” in **Appendix** [*insert reference (see SDEV’s memo ref. DEVB(W)516/80/03 dated 3.8.2022)*] to the *additional conditions of contract*. |  |
| (2) | The *Contractor* requires and take all reasonable steps to ensure that a Tier Subcontractor, when further subcontracting works to any lower tier of subcontractor, includes the equivalent requirements above in the subcontracts. If necessary, the *Contractor* ensures that the Tier Subcontractor enters into a supplemental agreement to include the equivalent requirements above. |  |