

Standard Terms and Conditions

October 2014

1. INTRODUCTION

- 1.1. Our aim is to give you the highest care, skill and attention to your instructions with a view to fostering a long-term business relationship with you built on mutual trust.
- 1.2. While our first priority is as outlined in clause 1.1, we recognize the need for our relationship with you as our client to be formally documented. These are the general terms of business which will apply to the services provided by us. These terms will be subject to the specific matters detailed in the document confirming your instructions (the "Agreement"). The terms of that letter read with these terms of business will together form the contract between us (the "Contract"). Our obligations to each other will therefore be defined exclusively in the Contract, which will therefore supersede all previous communications between us.
- 1.3. No amendment or variation to the Contract will be binding on the parties unless effected in writing and signed by the respective duly authorized officers (which for the avoidance of doubt means director level or equivalent) of the parties.
- 1.4. This Contract is for the sole benefit of the parties. Unless otherwise agreed, the terms and conditions of this Contract (including remedies available under the Contract) shall not be enforceable by any person other than the parties.
- 1.5. We do not tolerate bribery and corruption in any form, whether giving or receiving a bribe and whether committed by our partners, employees, agents or associates. Either side may terminate the Contract immediately in the event that the other commits an act of bribery or corruption, which constitutes an offence under Sections 1, 2 or 6 of the UK Bribery Act 2010.
- 1.6. We endeavor to avoid conflicts of interest and if a potential or actual conflict of interest is identified, we will disclose this to you and agree with you how to proceed.

2. OUR GENERAL OBLIGATIONS

- 2.1. We agree to perform the services detailed in the Engagement Letter (the "Services") subject to and in accordance with the Contract.
- 2.2. We shall perform the Services with the skill care and diligence reasonably to be expected of a professional person experienced in the provision of like services. Notwithstanding any other provision of this Contract, we shall only be liable under or in connection with this Contract to the extent that we have failed to exercise the standard of care set out in this clause 2.2.

- 2.3. We shall liaise with, keep informed and co-operate with your representatives and any other professional advisers or contractors engaged by you. It is expressly agreed that we shall be entitled to rely upon any information and/or advice provided by you, and/or any of your other professional advisers and/or contractors. We shall advise you of the individual persons who will act on our behalf in relation to the provision of the Services. From time to time we may be required to replace such individuals. In such circumstances we shall give you reasonable notice in advance of any such replacement.
- 2.4. The individual persons referred to in clause 2.3 shall have the necessary qualifications and experience to perform their duties in relation to the Services.

3. YOUR GENERAL OBLIGATIONS

- 3.1. In order for us to perform the Services, you shall, without charge and within such time so as not to delay or disrupt the performance of the Services:
 - 3.1.1. Obtain and provide us with all necessary and relevant information (including reports and other relevant documentation) in your possession which relate to the Services or the project in relation to which the Services are being provided (the "Project");
 - 3.1.2. Provide us in a timely manner with all other information which we may reasonably request;
 - 3.1.3. Ensure that your decisions, instructions, consents or approvals on all matters referred to you are provided in such reasonable time so as not to delay or disrupt the performance of the Services;
 - 3.1.4. Ensure that your other professional advisers, consultants and contractors provide us with all necessary and relevant information (including reports and other relevant documentation) in relation to the Project; and;
 - 3.1.5. Ensure that your other professional advisers, consultant and contractors issue decisions, instructions, consents or approvals on all matters referred to them in such reasonable time so as not to delay or disrupt the performance of the Services.
- 3.2. Our employees are an important asset of our business. It is a condition of our engagement that during the term of our engagement and for a period of six months after completion of the Services (or termination of our engagement under paragraph 8) you shall not directly or indirectly solicit or offer employment to any of our directors or employees without our prior written consent.

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4. ADDITIONAL SERVICES

4.1. In the event that we are required to provide service in addition to the Services detailed in the Engagement Letter and/or are required to revise/modify reports or other documentation due to:

4.1.1. Changes in the scope or timing or sequence of the Project whether or not instructed or caused by you and/or your other professional advisers,

4.1.2. Delay or disruption caused to us due to you or your other professional advisers, consultants and contractors' delay, defective performance or insolvency;

(The "Additional Services"), we shall be entitled to be paid such further fee as agreed between us, or in the absence of such agreement, a fee calculated on a time basis in accordance with the hourly rates set out in the Engagement Letter (or if no such rates are specified, our standard hourly rates from time to time in force).

4.2. The following services are not included within the fee set forth in this proposal;

4.2.1. Services necessitated by the Client's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED or similar certification;

4.2.2. Preparation of cost estimates or redesign required as a result of value engineering performed after the detailed design phase;

4.2.3. Production of as-built drawings of completed services;

4.2.4. Providing services with respect to Furniture Fixtures and Equipment (FF&E)

4.2.5. Providing and other services or deliverables not otherwise specified in this proposal.

5. INSURANCES

5.1. We shall maintain professional indemnity insurance in respect of our professional liabilities in an amount not less than HK\$5,000,000 for a period of 6 years from completion of the Services, provided always that such insurance is available at commercially reasonable rates and terms. In the event that such insurance ceased to be available on the terms required by this clause 5.1, we shall notify you accordingly.

6. OUR LIABILITY

6.1. It is expressly agreed that you will not bring any claim, action or proceedings of any kind arising out of or in connection with this Contract against any of our employees (or those of our associated companies) and will only look to us for redress if you consider that there has been a breach of this Contract.

6.2. Notwithstanding any other provision in this Contract, our maximum aggregate liability under or in connection with this Contract whether in contract, tort, negligence, for breach of statutory duty or otherwise shall be limited to HK\$5,000,000 or an amount found by multiplying the fee payable in accordance with this Contract by 10 (whichever the lesser).

6.3. Our maximum aggregate liability under or in connection with this Contract whether in contract, tort, negligence, for breach of statutory duty or otherwise shall be further limited to such sum as would be just and equitable for us to pay having regard to the extent of our responsibility for the loss or damage (including interest and costs) suffered by you and on the assumptions that:

6.3.1. All other consultants, contractors and sub-contractors shall have provided contractual undertakings in terms no less onerous than those set out in clause 2.2 to you in respect of the carrying out of their obligations;

6.3.2. there are no exclusions of or limitations of liability or joint insurance or co-insurance provisions between you and any other party referred to in this clause and any such other party who is responsible to any extent for the loss and damage and is contractually liable to you for that loss and damage; and;

6.3.3. all other consultants, contractors and sub-contractors have paid to you such proportion of the loss and damage which it would be just and equitable for them to pay having regard to the extent of their responsibility for that loss and damage.

6.4. Notwithstanding any other provision of this Contract, we shall have no liability under or in connection with this Contract whether in contract, tort, negligence, for breach of statutory duty or otherwise in respect of any claim or loss or expense caused by or attributable to asbestos, toxic mould and/or computer viruses.

6.5. Any claim for breach of contract, breach of duty or negligence or otherwise arising out of or in connection with the Contract shall be brought against us within six years of the act or omission alleged to have caused the loss in question.

6.6. You agree that the provisions of this clause 6 shall not be affected by the termination of the Contract (whether or not pursuant to clause 8) and that the provisions of this clause 6 shall continue in full force and effect notwithstanding any such termination.

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- 6.7. This clause 6 shall not apply to any liability which by law cannot be excluded or limited.
- 6.8. Unless otherwise agreed in writing, we shall not be responsible for any aspect of the design of the Project, including the selection of materials to be used.

7. RENUMERATION

- 7.1. Our fees, both in total and payable on an interim basis, are defined in the Engagement Letter (the "Fee"), and we shall be entitled to render invoices monthly unless otherwise agreed, such invoices to include any additional fees payable in respect of Additional Services. You agree to pay us the amount stipulated in each invoice within 28 days of the date of the invoice (the "Due Date").
- 7.2. The Fee shall be deemed to be payment for the Services and to be exclusive of all expenses and disbursements. You shall reimburse us, against appropriate proof of expenditure, in respect of any expenses which shall have been incurred by us in connection with the Contract.
- 7.3. If in good faith you dispute that any item set out in any invoice is due, you shall give notice in writing within 5 days of the date of such invoice stating the reason for such dispute, leaving the balance of the invoice to be paid in accordance with clause 7.1. Both parties shall use reasonable endeavors to agree the amount of any disputed item, but failing agreement the matter may be referred to arbitration in accordance with clause 14.
- 7.4. Subject to clause 7.3 you shall pay all invoices without deduction, set-off, abatement or counter-claim.
- 7.5. We shall be entitled to be paid interest on invoices or any part thereof due and payable but remaining unpaid after the Due Date at the rate of 2.5% above the HSBC Hong Kong Prime rate provided that, in the case of items correctly disputed by you, interest shall run only from the date when the amount of such item is agreed or settled by arbitration.
- 7.6. Reimbursable expenses are in addition to the fee and include the following out-of-pocket expenses plus an administrative fee of 5%: travel (including transportation, accommodation, and meals), fees paid to specialist sub-consultants, fees paid for surveys and securing approval of authorities, printing and reproductions, communications, translation, postage and delivery, renderings, models, animations, mock-ups, professional photography and presentation materials requested by the Client, and other Project-related expenses.

8. TERMINATION AND/OR SUSPENSION

- 8.1. You may by giving not less than 7 working days written notice require us to suspend the Services. You may, by giving not less than 7 working days written notice, require us to resume the Services at any time within a period of 6 months from the date of suspension. In those circumstances we shall use reasonable endeavors to resume performance of the Services as soon as possible. If you do not request us to resume performance within such period, then the Contract shall be deemed to have terminated, and the provisions of clause 8.5 shall apply.
- 8.2. We shall be entitled to suspend performance of the Services in the event that you fail to pay any invoice within 14 working days of its Due Date in accordance with clause 7.1 (or in the case of items disputed in good faith within 14 working days after the date when we agree with you the amount of such item or the amount is settled by arbitration), provided that we give to you 7 working days notice of our intention to suspend performance of the Services.
- 8.3. Both parties shall be entitled to terminate this Contract with immediate effect by serving a written notice to the other party in the event that:
 - 8.3.1. Either party is in material breach of its obligations hereunder and has failed to remedy such breach or breaches within 14 days of receipt of a written notice from the other party specifying the breach and requiring its remedy;
 - 8.3.2. Distress or execution is levied or threatened upon the other party's property;
 - 8.3.3. A judgment against the other party remains unsatisfied for more than 14 working days;
 - 8.3.4. Either party becomes insolvent, bankrupt, unable to pay its debts, enters into liquidation, has an administrator, receiver, or administrative receiver appointed, seeks to enter into a voluntary arrangement with its creditors, a petition is presented or a resolution is passed or any steps towards proceedings are taken which may lead to any of the aforesaid occurrences; or
 - 8.3.5. Either party ceases to carry on business for any reason.
- 8.4. Termination of the Contract, however it may arise, shall not affect the rights and remedies of the parties in relation to any default prior to such termination.
- 8.5. If the performance of the Services has been suspended or terminated under clause 8.1, 8.2 or 8.3 of if the Contract has been terminated by us in accordance with clause 8.3 then:

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- 8.5.1. we shall be entitled to be paid (and we shall invoice you accordingly) all outstanding fees for the Services performed (whether wholly or in part) and all expenses and other disbursements incurred;
 - 8.5.2. You shall compensate us for all subsequent expenses and disbursements properly incurred (or to be incurred) arising from such suspension, resumption of the Services or termination (including but not limited to the cost of engaging, re-deploying, remobilizing and/or dismissing staff); and
 - 8.5.3. You shall compensate us for all other costs or liability, which in the circumstances was reasonably, incurred in the expectation of performing/completing the Services.
- 8.6. If the Contract is terminated by you in accordance with clause 8.3, then clause 8.5.1 shall apply (but for the avoidance of doubt clauses 8.5.2 and 8.5.3 shall not apply) and we shall provide to you copies of any reports or other documents for and in relation to the Project prepared by us or on our behalf which are in our possession as reasonably necessary to minimize any disturbance to the Project.

9. FORCE MAJEURE

- 9.1. We shall not be liable for any failure to carry out or delay in carrying out our obligations under the Contract where such delay or failure is due to an event or circumstance which is beyond our reasonable control, and/or which we could not reasonably have anticipated before entering into this Contract ("Force Majeure Event").
- 9.2. We shall immediately notify you in writing of the existence of the Force Majeure Event and of the anticipated effects of the Force Majeure Event. We shall be entitled to an extension of time sufficient to take account of the Force Majeure Event.
- 9.3. If a Force Majeure Event prevents us from performing our obligations under the Contract, or if the extension of time granted under clause 9.2 continues for a period of 6 months or more, either party may terminate this Contract with immediate effect upon written notice to the other party, and the provisions of clause 8.5 shall apply.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. We shall be deemed to be the author of the instruments of service delivered by us under this proposal, including drawings, specifications, models, photographs, graphic works, images, research and analysis (the "Instruments of Service"), and shall retain the common law, statutory and other reserved rights therein, including patents, copyrights, moral rights, and trade secrets, which will remain the property of ALT-254. We will grant the Client a non-transferable, non exclusive license to use the Instruments of Service solely for the construction, maintenance and marketing of the Project, provided that the Client substantially performs its obligations under this proposal, including prompt payment of all sums when due. If this proposal is terminated through no fault of ALT-254, the license granted herein will terminate. The Instruments of Service will not be used by the Client or any third party for this Project, any other project, or any additions or modifications to this Project without the contractual involvement of ALT-254 in all design and project stages, unless otherwise agreed.
- 10.2. In the event the Client uses or modifies the Instruments of Service without ALT-254's prior written consent, the Client releases ALT-254 and any of ALT-254's consultant(s) from all claims and causes of action arising from such uses or modifications. The Client, to the extent permitted by law, further agrees to indemnify and hold harmless ALT-254 and its consultant(s) from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third party or entity to the extent such costs and expenses arise from the Client's use of the Instruments of Service under this paragraph.

11. ASSIGNMENT AND SUB-CONTRACTING

- 11.1. Neither party may assign or transfer all or any part of the Contract without the written consent of the other.
- 11.2. We shall not sub-contract any part of the Services under the Contract except with your prior written consent, such consent not to be unreasonably withheld or delayed.

12. COMMUNICATIONS

- 12.1. Any notices to be given under the Contract shall be given in writing and delivered by receipted hand delivery or recorded delivery post or fax or e-mail to the address of the party as stated in the Engagement Letter.

13. RESOLVING PROBLEMS AND COMPLAINTS

- 13.1. It is our policy to investigate complaints in relation to our conduct of a matter fully and promptly and to this end we operate a clients' complaints procedure, a copy of which is available upon request.

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14. ARBITRATION

- 14.1. In the event that there is a dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof, both parties shall use reasonable endeavors to resolve the dispute by entering into bona fide negotiations.
- 14.2. If despite both parties' reasonable endeavors the dispute, controversy or claim cannot be resolved by negotiation between the parties, it shall be referred to and determined by arbitration at the Hong Kong International Arbitration Centre and in accordance with its Domestic Arbitration Rules.
- 14.3. The parties will endeavor to agree the appointment of a single Arbitrator within 14 days from the time when a written request to agree the appointment of an Arbitrator was given by one of the parties. If the Parties are unable to reach agreement, the appointing authority shall be Hong Kong International Arbitration Centre. The place of arbitration shall be in Hong Kong at Hong Kong International Arbitration Centre ("HKIAC"). There shall be only one arbitrator.

15. SEVERABILITY

- 15.1. If any term or condition of this Contract is for any reason held to be illegal, invalid, ineffective, inoperable or otherwise unenforceable, it shall be severed and deemed to be deleted from this Contract and the validity and enforceability of the remainder of this Contract shall not be affected or impaired thereby.

16. GOVERNING LAW

- 16.1. This Contract is governed by the laws of the Hong Kong Special Administrative Region from time to time in force.