

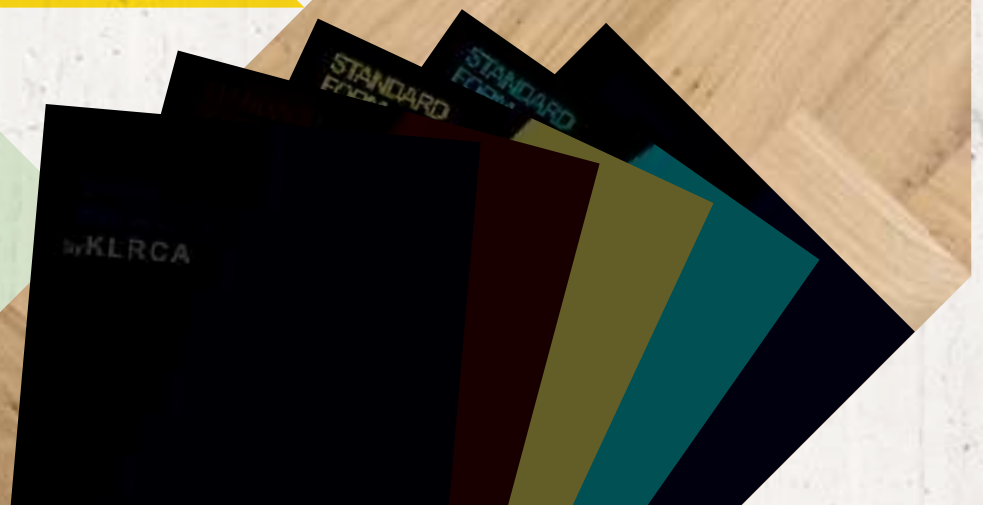


CLARITY
INTEGRITY
ACCOUNTABILITY
TRANSPARENCY
CONTINUITY
CERTAINTY

KLIRCA's STANDARD FORM *of* BUILDING CONTRACTS

KEY FEATURES

- + Customizable and free
- + Over 60 definitions of words and expressions for greater clarity (adverse weather conditions, fossils & antiquities)
- + Comprehensive ADR provisions providing for mediation and arbitration while also contemplating the latest legal developments in adjudication
- + Enlarged powers for the Architect, with powers to delegate his powers to an appointed representative
- + Clearly sets out accountability between Employer and Architect
- + Specific time periods for parties to carry out obligations under the SFC
- + Enhanced provisions on nominated sub-contractors and suppliers
- + Enhanced provisions on payment, valuation, variation, extension of time and making good defects
- + Provisions addressing bribery and corruption



KLRCAs STANDARD FORM of BUILDING CONTRACTS

WHAT SETS US APART?

CLAUSE 2.0

CLARITY
CERTAINTY

CONTRACT DOCUMENTS

Article 2 enlists documents that form part of the Contract, in order of priority. This prioritizing feature prevents any conflict or dispute regarding the weight placed on any document as evidence or in interpreting the entire agreement.

The downloadable software on the KLRCAs website allows the users to re-arrange the priority order of these contract documents, or add / subtract any contract documents forming part of the Contract.

CLAUSE 8.0

CLARITY
CERTAINTY

DEFINITIONS

KLRCAs SFC contains definitions for over 65 words/terms and phrases used in the contract, including contentious definitions like Exceptionally Adverse Climatic Conditions, Force Majeure and the meaning of Unforeseeable.

ARTICLE 2.2

CONTINUITY
ACCOUNTABILITY

ARCHITECT'S REPRESENTATIVE

Clause 2 of the SFC embodies specific powers of the Architect including the power to issue instructions.

The Architect is empowered to appoint a suitably qualified representative and to delegate any of his duties to the appointed representative.

ARTICLE 2.6

ACCOUNTABILITY
INTEGRITY

DISPUTE AS TO ARCHITECT'S POWER TO ISSUE INSTRUCTIONS

Under the provisions of the SFC, a Contractor may require the Architect to specify the provision pursuant to which the instruction in question was made by the Architect.

KLRCAs SFC requires the Architect to comply with the Contractor's request within 3 days. Notwithstanding any dispute, it is expressed that the Contractor must proceed with the carrying out of the instructions, without prejudice to the Contractor's rights and remedies under the Contract and/or at law. This ensures that there is no break in the continuity of the project caused by such request.

CLARITY
ACCOUNTABILITY
INTEGRITY

ARTICLE 3.4

CONTRACTOR TO PROVIDE WORKS PROGRAMME

In addition to the usual obligation to supply Works Programme and updated Works Programme, there is specific requirement for the contractor to insert therein remedial action to catch up any delays.

CONTINUITY

ARTICLE 11.0

NO VARIATION REQUIRED BY ARCHITECT SHALL VITIATE CONTRACT

The provisions ensure that any dispute as to instructions relating to variation is not to delay the progress of works. See Clause 11.3. There is an additional provision in Clause 11.8 granting an option for the Architect to request for proposal and agree on the price before the execution of any instruction variation works.

ACCOUNTABILITY
INTEGRITY

ARTICLE 14.3

CONTRACTOR RESPONSIBLE FOR LOSS OR DAMAGE TO MATERIALS OR GOODS

KLRCA's SFC provides that the Contractor is responsible for loss of materials or goods, including the ones supplied by the Sub-Contractor, if any.

CONTINUITY
ACCOUNTABILITY

ARTICLE 15.5

CERTIFICATE OF MAKING GOOD DEFECTS

If the Architect does not issue a Certificate of making good defects and at the same time does not reject the Contractor's application in that respect, the Certificate is deemed to have been granted.

ARTICLE 22.2(b)

LIQUIDATED DAMAGES AMOUNT DEEMED AS AGREED

KLRCA's SFC specifically excludes the application of Section 75 of the Contracts Act and contractually binds the Contractor to refrain from challenging the stipulated amount in court or otherwise.

ARTICLE 24A.4

ADJUDICATION DECISION IS SET ASIDE OR SUPERSEDED BY COURT OR ARBITRATION

If a claim made by a Contractor is the subject of an Adjudication Decision which is subsequently set aside by the Court or final arbitration, then the Contractor will not be entitled to any loss granted to him in that Adjudication decision.

The Employer will be entitled to the loss/ expense arising out of that Adjudication Decision, which is subsequently superseded by a court or arbitration.

This ensures an avoidance of a multiplicity of proceedings as between the Employer and Contractor.

ARTICLE 23.4

DETERMINATION OF EOT APPLICATION

The Architect is required to decide on the Contractor's Application for an extension of time within 42 days. Whether the Architect rejects the Application or grants the Contractor an extension, his decision must be supported with the relevant details of his determination.

ARTICLE 28.4

NOMINATED SUPPLIERS (ARCHITECT'S ACTION FOLLOWING OBJECTION RAISED)

In the event that the Contractor raises an objection to the Supplier nominated by the Architect, the Architect may either accept the objection or reject it.

If the Architect thinks that the objection is unreasonable and rejects it, then the Contractor must enter into a sub-contract with the Supplier in question as instructed by the Architect. KLRCA's SFC is the only standard form contract to provide the Contractor with an avenue to further object to such instruction of the Architect, which if invoked, will require the Architect to cancel such nomination instruction and either issue an instruction omitting the goods or materials which was the subject of the nomination instruction or nominate another person to supply the goods or materials. In that event, the Contractor shall not be entitled to claim for any EOT, loss and/or expense in respect of the omission or re-nomination.

KUALA LUMPUR REGIONAL CENTRE FOR ARBITRATION

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