

## CONDITIONS OF CONTRACT FOR TENDER LITE

### 1. DEFINITIONS

1.1 In the Contract, unless the context otherwise requires:

(a) “**Authority**” means [the Government of the Republic of Singapore as a whole including all its ministries, government departments and organs of state. For the avoidance of doubt, a reference to “**Authority**” does not include any Statutory Board] OR

“**Authority**” means *[insert name of the Statutory Board]*.

(b) “**Contract**” means the resulting contract between the Authority and the Contractor for the provision of the Goods and Services as a result of the Authority’s acceptance of the Contractor’s Tender Offer which terms and conditions are contained in the following:

- (i) the Covering Letter;
- (ii) the Instructions to Tenderers;
- (iii) the Contractor's Tender Offer;
- (iv) these Conditions of Contract;
- (v) the Requirement Specifications;
- (vi) the Letter of Acceptance;
- (vii) [any Purchase Order issued by the Authority to the Contractor;]
- (viii) any correspondence exchanged between the Authority and the Contractor which is agreed to by the Authority in writing as amplifying or modifying the Invitation to Tender or the Contractor’s Tender Offer; and
- (ix) any formal agreement executed between the Parties,

including all schedules and annexes to such documents as relevant.

(c) “**Contract Price**” means the aggregate Tender Price for Goods and Services required under the Contract.

(d) [“**Contract Works**” means:

- (i) Works and protected performances comprised in the Goods;
- (ii) Works and protected performances created in connection with the Services; and

- (iii) Works and protected performances used in connection with the provision of the Services or the performance of the Contract, including where such Works and protected performances are Future Works or created prior to or independently of the Contract.]
- (e) “**Contractor**” means a successful Tenderer whose Tender Offer has been accepted by the Authority.
- (f) “**Control**” means, with respect to a person (i) the right to exercise, directly or indirectly, at least 50 per cent of the voting rights attributable to the shares of the controlled person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person.
- (g) “**data**” means any representation of information or of concepts regardless of the medium of storage, and includes any personal data.
- (h) “**Factor**” means any person:
  - (i) listed in the “List of Factoring Companies” at the Vendors@Gov website; and
  - (ii) with an approved vendor record in the Vendors@Gov system or other electronic invoicing system maintained by the Authority.
- (i) [“**Future Works**” means Works and protected performances created pursuant to or for the purpose of the Contract.]
- (j) “**Goods**” means all goods proposed in the Contractor’s Tender Offer as being capable of meeting the Requirement Specifications and accepted in the Letter of Acceptance which the Contractor is required to provide under the Contract, and such other goods as may be agreed in writing between the Parties to be provided by the Contractor.
- (k) “**GST**” means goods and services tax charged under the GST Act.
- (l) “**GST Act**” means the Goods and Services Tax Act 1993.
- (m) [“**IP**” means patents, copyright, trade marks, service marks, trade names, domain names, get-ups, inventions, registered and unregistered design rights, database rights, integrated circuit topography, geographical indications and all other similar rights of whatever nature wherever in the world arising, in each case:
  - (i) whether registrable or not;
  - (ii) whether registered or not;
  - (iii) including any application to protect or register such rights;
  - (iv) including all renewals and extensions of such rights or applications;

- (v) whether vested, contingent or future; and
- (vi) wherever existing.]
- (n) **“Invitation to Tender”** means the invitation to participate in the tender for the provision of Goods and Services and comprises all the tender documents forwarded to the Tenderer, inclusive of the Covering Letter, Form of Tender, Instructions to Tenderers, Conditions of Contract, Requirement Specifications, Guidelines for Tender, Evaluation Criteria and any other document and form enclosed.
- (o) **“InvoiceNow”** means the nationwide e-invoicing method that facilitates the direct transmission of invoices in a structured digital format across finance systems in Singapore.
- (p) **“Letter of Acceptance”** means the letter issued by the Authority accepting the Contractor’s Tender Offer.
- (q) **“Losses”** means all liabilities, losses, damages, actions, claims, demands, costs (including legal costs on a full indemnity basis and experts’ and consultants’ fees), settlement sums and sums paid in satisfaction of a court, arbitral or expert award.
- (r) [**“Moral Rights”** means the Right to be Identified and other moral rights that may accrue to authors of Works in Singapore or any territory of the world, and includes any similar rights accorded to a performer.]
- (s) **“Parties”** means the Authority and the Contractor, and **“Party”** means any one of them.
- (t) **“Payee”** in relation to a Receivable, means the person specified in the Contractor’s invoice to the Authority as the payee of such Receivable.
- (u) **“personal data”** shall have the same meaning as its definition in the Personal Data Protection Act 2012.
- (v) **“Personnel”** in relation to a person, means a director, officer, employee or agent of that person, or any individual engaged by that person under a contract for service.
- (w) **“Price Schedule”** means the schedule of prices for Goods and Services proposed in the Contractor’s Tender Offer and accepted in the Letter of Acceptance, as amended from time to time in accordance with the Contract.
- (x) [**“protected performance”** means a performance protected under the Copyright Act 2021 or any similar legislation from time to time in force in any territory of the world.]
- (y) [**“Purchase Order”** means an order issued by the Authority, making reference to the Contract, to purchase the Goods and/or Services.]

- (z) **“Receivables”** means the amounts payable by the Authority to the Contractor under the Contract, subject to the Authority’s rights against the Contractor under the Contract, at law or in equity, including the Authority’s rights of deduction and set-off.
- (aa) **“Requirement Specifications”** means the specifications set out in the Invitation to Tender and any amendment or addition to the aforesaid as may be mutually agreed in writing between the Parties from time to time.
- (bb) [**“Right to be Identified”** means the right to be identified as the author of a Work, that may accrue to authors of Works and includes any similar right accorded to a performer.]
- (cc) **“S\$”, “\$” or “SGD”** means the lawful currency of Singapore.
- (dd) **“Service Personnel”** means all Personnel (including Personnel of the Subcontractors) provided by or to be provided by the Contractor to perform the Contract.
- (ee) **“Services”** means the services proposed in the Contractor’s Tender Offer as being capable of meeting the Requirement Specifications and accepted in the Letter of Acceptance which the Contractor is required to provide under the Contract, and such other services as may be agreed in writing between the Parties to be provided by the Contractor.
- (ff) [**“Statutory Board”** means a body corporate established by or under written law to perform or discharge any public function under the supervisory charge of a ministry or organ of state.]
- (gg) **“Subcontractor”** means any person, firm or company engaged by the Contractor to perform any part or parts of the Contractor’s obligations and includes the Subcontractor’s duly appointed representatives, successors and permitted assignees and the Subcontractor’s subcontractors.
- (hh) **“Tender Offer”** means the offer submitted by the Tenderer to provide Goods and Services to the Authority in response to the Invitation to Tender, and other documents submitted by the Tenderer and accepted in writing by the Authority as modifying such offer submitted by the Tenderer.
- (ii) **“Tender Price”** in respect of any of the Goods or Services, means the sum specified in the Price Schedule (as may be varied in accordance with the Contract) for the provision of such Goods or Services under the Contract.
- (jj) **“Tenderer”** means a person or its permitted assignees and successors offering to provide the Goods and Services pursuant to the Invitation to Tender, and shall be deemed to include two or more persons if appropriate.
- (kk) [**“Work”** shall have the same meaning as the definition of “work” in the Copyright Act 2021.]

(ll) “**Working Day**” means a day which is not a [Saturday], Sunday or a public holiday in Singapore.

1.2 In the Contract, unless a contrary intention appears:

- (a) words in the singular include the plural and vice versa where the context requires;
- (b) the headings are for convenience of reference only and shall not be taken into consideration for the purpose of interpretation;
- (c) references to a person include any company, limited liability partnership, partnership, business trust, unincorporated association or government agency (whether or not having separate legal personality);
- (d) a reference to “including” shall not be construed restrictively but shall mean “including without prejudice to the generality of the foregoing” and “including but without limitation”;
- (e) any reference to any legislation shall be deemed a reference to such legislation as amended or revised from time to time and be deemed to include any subsidiary legislation made under such legislation;
- (f) “month” means calendar month and “day” means calendar day; and
- (g) for the purposes of computing time, a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done.

## **2. SCOPE OF CONTRACT**

2.1 The Contractor must carry out and complete the provision of all items of Goods and Services in accordance with the Contract. [Unless otherwise stated in the Contract, all Goods must be new and unused.]

## **3. CARE AND DILIGENCE**

3.1 The Contractor must with due care and diligence carry out its obligations to the Authority under the Contract.

3.2 The Contractor acknowledges and accepts that the Authority relies on the skill and judgment of the Contractor and also upon the accuracy of all representations and statements made and advice given by the Contractor in the delivery of the Goods and performance of the Services under the Contract.

#### 4. REMOVAL AND REPLACEMENT

4.1 The Authority may reject any Goods that are found on delivery, or upon installation where installation is required, to be:

- (a) not in accordance with the Contract; or
- (b) defective or of unsatisfactory quality or not fit for the ordinary uses contemplated by the Authority,

(collectively, the “**Rejected Goods**”), and the Contractor must:

- (i) provide a replacement for the Rejected Goods immediately at the Contractor’s own expense; and
- (ii) collect the Rejected Goods at the Contractor’s own expense within seven (7) days after the date of notification by the Authority and failing which, the Authority shall have the right:
  - (A) to claim from the Contractor storage charges and other expenses incurred in relation to the Rejected Goods until collection by the Contractor or disposal in accordance with sub-clause (B) below, whichever is earlier; and
  - (B) if the Rejected Goods are not collected after **one (1)** month after the date of notification by the Authority, to dispose of the Rejected Goods in any way the Authority deems fit and claim all expenses incurred thereby from the Contractor,

and the Authority shall be entitled to claim from the Contractor all costs and damages incurred by the Authority as a result of the Rejected Goods.

4.2 The Authority may reject any Services that are not performed in accordance with the Contract or with reasonable care, skill and diligence, and if so required by the Authority, the Contractor must re-perform such rejected Services at the Contractor’s own expense.

4.3 Where any Goods or Services are rejected by the Authority pursuant to Clause 4.1 or Clause 4.2 or pursuant to any other provision of law, the Contractor shall be deemed to have completely failed to deliver such Goods and perform such Services.

4.4 Notwithstanding anything to the contrary, the risk of loss, damage or deterioration of Rejected Goods (whether rejected pursuant to this Clause 0 or otherwise) shall be borne by the Contractor at all times and possession shall be deemed to have never passed to the Authority.

## 5. PAYMENT

- 5.1 [The Contractor must invoice the Authority in accordance with Clause 5.4 after receipt by the Authority of all the Goods and Services.]

OR

[Upon the achievement of each payment milestone, the Contractor must invoice the Authority for the amount set out against such payment milestone in accordance with Clause 5.4.]

- 5.2 Subject to compliance with Clause 5.1, the Authority must pay the Contractor within **[thirty (30)]** days after the date of the invoice by any electronic payment mode as the Authority may decide (e.g. Interbank GIRO, PayNow, FAST transfer), or such other mode of payment as the Authority and the Contractor may agree. The Contractor must provide the Authority with the relevant payment details for such mode of payment within **[thirty (30)]** days after the date of the Letter of Acceptance.
- 5.3 No payment shall be considered as evidence of the quality of the Goods or Services to which such payments relate or a waiver of any default on the part of the Contractor in the performance of its obligations, nor shall it relieve the Contractor from its other obligations under the Contract.
- 5.4 If requested by the Authority, the Contractor must submit to the Authority invoices through InvoiceNow (strongly recommended) or the electronic invoicing system maintained by the Authority and such other documents through such means and format as may be specified by the Authority for the purposes of making payment.
- 5.5 The Authority shall not be required to pay for expenses or cost of whatever nature other than those expressly set out in the Contract or otherwise expressly agreed to in writing by the Authority.
- 5.6 The Contract Price is exclusive of any GST chargeable on the provision of goods and services to the Authority by the Contractor under the Contract. If the Contractor is a taxable person under the GST Act, the Authority must reimburse the Contractor for any GST chargeable by the Contractor on the provision by the Contractor of goods or services under the Contract.
- 5.7 Any invoice or other request for payment of monies due to the Contractor under the Contract must, if it is a taxable person for the purpose of the GST Act, be in the same form and contain the same information as if it were a tax invoice for the purposes of any subsidiary legislation made under the GST Act.
- 5.8 The Authority is agreeable to the Contractor assigning its Receivables to any Factor, subject to the following:
- (a) the Contractor warrants and represents to the Authority that it has not previously assigned such Receivable to any person other than the Payee of such Receivable;

- (b) the Contractor must provide to the Authority any information in relation to the Payee and the factoring arrangement as the Authority may from time to time reasonably require;
- (c) such assignment shall be without prejudice to the Authority's rights against the Contractor under the Contract, at law or in equity, including the Authority's rights of deduction and set-off;
- (d) the Contractor must ensure that:
  - (i) each of its invoices for assigned Receivables (each, a "**Factored Invoice**") indicate a Factor as the Payee;
  - (ii) it does not issue any Factored Invoice indicating a person that is not a Factor as the Payee;
  - (iii) where any Factored Invoice is in respect of goods or services on which GST is chargeable by the Contractor, the Payee is indicated as the payee of the entire amount (including GST) of such Factored Invoice, unless the Authority agrees otherwise in writing; and
  - (iv) where payment of the Receivable to the Factor is subject to withholding tax under Singapore law, the Contractor must give prior written notice of this to the Authority and comply with all reasonable invoicing directions of the Authority in connection with such withholding;
- (e) the Contractor acknowledges and agrees that:
  - (i) the Authority shall not be required to verify whether:
    - (A) payment of any Factored Invoice to the Payee is in accordance with a valid factoring arrangement; or
    - (B) the Contractor has complied with Clause 5.8(d);
  - (ii) payment made by the Authority to the Payee in respect of any Factored Invoice shall constitute a full discharge of the Authority's payment obligations to the Contractor in respect of such Factored Invoice;
  - (iii) where a Factored Invoice includes GST, payment made by the Authority to the Payee in respect of such GST shall constitute a full discharge of the Authority's payment obligations to the Contractor in respect of such GST;
  - (iv) if the Contractor issues a Factored Invoice which indicates a Payee that is not a Factor, the Authority shall have the right to reject such invoice and require the Contractor to reissue such invoice indicating either the Contractor or a Factor as the Payee; and
  - (v) in the event withholding taxes are imposed by the tax authorities on any payment made pursuant to a Factored Invoice and such withholding



taxes have not already been withheld by the Authority by way of deduction without any obligation to gross up, the Contractor must indemnify and hold the Authority harmless from and against all such withholding taxes and any other Losses incurred or suffered by the Authority arising in connection with such withholding tax;

- (f) the Contractor must ensure that all its invoices that are not factored do not indicate a Factor as the Payee. If the Contractor indicates the Factor as the Payee in any invoice that is not factored, payment made by the Authority to the Payee in respect of such invoice shall constitute a full discharge of the Authority's payment obligations to the Contractor in respect of such invoice; and
- (g) the Authority shall have the right at any time (whether before or after receiving a Factored Invoice) to withdraw its consent to any factoring arrangement by giving notice to the Contractor and the Factor, and upon such withdrawal of consent:
  - (i) the Authority shall be entitled to pay all Receivables to the Contractor without being liable to the Contractor or the Factor for any Losses; and
  - (ii) the Contractor must reissue any Factored Invoice if required by the Authority.

## **6. TAXES, FEES AND DUTIES**

- 6.1 The Contractor shall be responsible for all corporate and personal income taxes, customs fees, duties, fines, levies, assessments and other taxes payable by the Contractor or its Personnel in carrying out its obligations under the Contract.
- 6.2 If the Authority receives a request from the tax authorities or otherwise decides to pay on behalf of the Contractor or the Contractor's Personnel, or to withhold payments from the Contractor in order that the Authority may subsequently so pay, any of the abovementioned taxes, fees, duties, fines, levies and assessments ("**Taxes**"), the Contractor agrees that the Authority may deduct such Taxes from payment due to the Contractor and forward the balance to the Contractor without any obligation to gross up such payment or pay the Contractor any amount so withheld.
- 6.3 In the event that withholding taxes are imposed by the tax authorities on any payment due under the Contract, the Contractor must bear all such withholding taxes and the Authority may deduct such taxes from payment due to the Contractor and forward the balance to the Contractor without any obligation to gross up such payment or pay the Contractor any amount so withheld.

## **7. DELAY IN DELIVERY AND PERFORMANCE**

- 7.1 If the Contractor fails to deliver any Goods or complete the performance of any Services by the date(s) specified in the Contract, the Authority shall have the right (in addition to and without prejudice to all other rights or remedies available, including the Authority's right to terminate the Contract pursuant to Clause 11.1), to cancel all or any

such Goods or Services from the Contract without compensation and obtain them from other sources (the “**Replacement Goods and Services**”) and all increased costs thereby incurred shall be borne by the Contractor provided that the quantity of the Replacement Goods and Services so obtained shall not exceed the quantity stated in the Contract.

## **8. COMPLIANCE WITH LAW**

- 8.1 The Contractor must, at its own cost, obtain and maintain all licences, permits, certifications, approvals, registrations and authorisations without any restriction or qualification whatsoever so as to enable the Contractor to fulfil all its obligations under the Contract.
- 8.2 The Contractor must, in performing its obligations under the Contract, comply with all applicable laws and shall keep the Authority indemnified against all penalties and liabilities of every kind for the breach of any such laws.

## **9. COMPLIANCE WITH PROGRESSIVE WAGE MARK REQUIREMENTS**

- 9.1 Subject to Clauses 9.2 and 9.3, throughout the duration of the Contract, a Contractor who is PW Mark-Eligible must:
- (a) maintain a valid Progressive Wage Mark or Progressive Wage Mark Plus issued by the relevant authority (individually and collectively, “**PW Mark**”); and
  - (b) notify the Authority of any change to the PW Mark accreditation status of the Contractor within **[one month]** after the change.
- 9.2 If at the time of issuance of the Letter of Acceptance, the Contractor who is PW Mark-Eligible has neither obtained nor applied for the PW Mark, the Authority shall have the right to exempt the Contractor from compliance with Clause 9.1(a) for such period of time as determined by the Authority.
- 9.3 If at the time of issuance of the Letter of Acceptance, the Contractor who is PW Mark-Eligible has applied for but has yet to successfully obtain the PW Mark, the Contractor must:
- (a) be exempted from compliance with Clause 9.1(a) during the period where the initial application for the PW Mark is being processed by the relevant authority. The Authority may extend the period of exemption by one or more consecutive periods as determined by the Authority; and
  - (b) notify the Authority of the outcome of the Contractor’s application(s) for the PW Mark within **[one month]** after the date of receipt of the outcome of the application, and provide the Authority with the e-Certificate as proof of the successful application (if any).
- 9.4 If a Contractor who is not initially PW Mark-Eligible becomes PW Mark-Eligible at any point in time during the period of the Contract, the Contractor must comply with all the following:

- (a) notify the Authority on its eligibility for the PW Mark within [one month] after the first day of employment of the relevant Local Resident Worker(s) covered by the Sectoral Progressive Wages and/or Occupational Progressive Wages;
- (b) apply for a PW Mark by the end of the third month of employment of the relevant Local Resident Worker(s) referred to in Clause 9.4(a);
- (c) provide the Authority with proof of its application for a PW Mark within [one month] after the date of submission of the application;
- (d) notify the Authority of the outcome of the Contractor's application for a PW Mark within [one month] after the date of receipt of the outcome of the application, and provide the Authority with the e-Certificate as proof of the successful application (if any); and
- (e) maintain a valid PW Mark for the remaining duration of the Contract.

9.5 The Authority shall have the right to terminate the Contract by giving [two months'] prior written notice to the Contractor if the Contractor fails to comply with any of the provisions in Clauses 9.1, 9.3(b) or 9.4.

9.6 For the purposes of this Clause 9, unless the context otherwise requires:

**“PW Mark-Eligible”** in relation to an employer, means an employer who is eligible to apply for a Progressive Wage Mark or Progressive Wage Mark Plus as the employer employs at least a Local Resident Worker covered by the prevailing Sectoral Progressive Wages or Occupational Progressive Wages.

**“Local Resident Worker”** means an employee who is a Singapore Citizen or Permanent Resident.

**“Sectoral Progressive Wages”** mean the progressive wage structure implemented for specified sectors under the Progressive Wage Model.

**“Occupational Progressive Wages”** mean the progressive wage structure implemented for specified occupations under the Progressive Wage Model.

## 10. GIFTS, INDUCEMENTS AND REWARDS

10.1 The Authority shall be entitled to immediately terminate or rescind the Contract and recover from the Contractor the amount of any Losses resulting from such termination or rescission if:

- (a) any Contractor Representative has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for:
  - (i) doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Contract; or
  - (ii) showing favour or disfavour to any person in relation to any contract

with the Authority; or

- (b) any Contractor Representative has engaged in any activity or conduct that has resulted or will result in a violation of any Anti-Corruption Laws.

10.2 In this Clause 10:

“**Anti-Corruption Laws**” means:

- (a) Chapter 9 of the Penal Code 1871;
- (b) the Prevention of Corruption Act 1960; and
- (c) any other applicable law including any foreign law which:
  - (i) prohibits the conferring of any gift, payment or other benefit on any person or any Personnel or adviser of such person; or
  - (ii) is broadly equivalent to the laws set out in paragraph (a) or (b) or which has as its objective the prevention of corruption.

“**Contractor Representative**” means any of the following:

- (a) the Contractor;
- (b) any person employed by the Contractor; or
- (c) any person acting on behalf of the Contractor (whether with or without the knowledge of the Contractor).

## 11. TERMINATION

11.1 If any of the following events occur, the Authority shall have the right (in addition to and without prejudice to all other rights or remedies available, including the right to claim damages) to terminate the Contract with immediate effect by written notice to the Contractor:

- (a) an Event of Default has occurred (not being a default covered by any other sub-clause of Clause 11.1) and:
  - (i) the Contractor fails to remedy the Event of Default within **fourteen (14) days** after the date of the written notice from the Authority to do so; or
  - (ii) the Event of Default is not capable of being remedied within a reasonable time;
- (b) the Contractor is in breach of any of its obligations under the Contract, and such breach results, or is likely to result, in damage to the reputation of the Authority [or the Government of the Republic of Singapore];

- (c) the Contractor is in material breach of any of its obligations under the Contract;
- (d) a breach by the Contractor of Clause 8 (Compliance with Law) or Clause 17 (Subcontract, Transfer and Assignment); or
- (e) [any other specific breaches, if applicable.]

11.2 If any of the following events occur, the Authority shall, to the extent permitted by law, be entitled to terminate the Contract with immediate effect by written notice to the Contractor, and the Contractor shall have no claim for any damages or compensation:

- (a) the Contractor is unable to pay its debts as and when they fall due;
- (b) where the Contractor is a company or a limited liability partnership, a receiver, liquidator or provisional liquidator is appointed over any undertaking or property of the Contractor or an order is made or a resolution is passed for winding-up or dissolution without winding-up (other than for the purpose of amalgamation or reconstruction) of the Contractor;
- (c) where the Contractor is a partnership, the Contractor is dissolved or has a bankruptcy order made against it;
- (d) where the Contractor is an individual, the Contractor becomes bankrupt or dies;
- (e) legal proceedings alleging insolvency are brought against the Contractor;
- (f) any application is made for the winding-up, bankruptcy or dissolution of the Contractor; or
- (g) the Contractor enters into any composition or arrangement with creditors.

11.3 If the Contract is terminated, the following shall apply:

- (a) termination shall be without prejudice to any rights or obligations of either Party which has accrued prior to such termination and any obligation which expressly or by implication is intended to come into or continue in force on or after such termination;
- (b) the Contractor must forthwith refund to the Authority all amounts paid to the Contractor under the Contract, less the price of the Goods and Services which have been accepted by the Authority as at the date of termination;
- (c) the Contractor must immediately deliver property belonging to or provided by the Authority pursuant to the Contract and all deliverables prepared by the Contractor for the Contract (including works-in-progress if so requested by the Authority). [Works-in-progress shall be paid on a pro-rated basis at the Authority's sole discretion];
- (d) in the event of a termination pursuant to Clause 11.1 or 11.2, the Authority shall have the right to engage another person to provide the remaining Goods and Services to be provided under the Contract, and any additional costs and

expenses incurred must be paid by the Contractor, and the Contractor must give reasonable assistance to the incoming contractors; and

- (e) [in the event of a termination pursuant to Clause 11.1(a), the Authority shall have the right to return any Goods which have been provided to the Authority as at the date of termination, and the Contractor must forthwith refund to the Authority all amounts paid to the Contractor under the Contract in respect of such Goods].

11.4 For the purposes of this Clause 11:

**“Event of Default”** means any breach (whether material or not) by the Contractor of any of its obligations under the Contract.

11.5 Nothing in this Clause 11 shall be deemed to prejudice any other rights or remedies available to the Authority against the Contractor for any breach of the Contractor’s obligations whether under the Contract or at law or in equity.

## **12. FORCE MAJEURE**

12.1 Neither Party shall be liable for any failure to perform its obligations under the Contract if the failure results from events which are beyond its reasonable control (**“Force Majeure Event”**), except that whenever possible the affected Party shall resume that obligation as soon as the factor or event occasioning the failure ceases or abates. For the purposes of the Contract, **“Force Majeure Event”** shall include acts of God, acts of civil or military authority, civil disturbance, wars, strikes, fires, epidemics or pandemics, and other catastrophes.

12.2 If the effect of any Force Majeure Event continues for a period exceeding three (3) months, the Authority may at any time thereafter give notice to the Contractor to terminate the Contract with immediate effect without being liable to the Contractor in damages or compensation.

12.3 If a Force Majeure Event occurs, the Contractor or the Authority (as the case may be) shall for the duration of such Force Majeure Event be relieved of any obligation under the Contract as is affected by the Force Majeure Event except that the provisions of the Contract shall remain in force with regard to all other obligations under the Contract which are not affected by the Force Majeure Event.

12.4 Failure of the Contractor’s Subcontractors or suppliers to perform their obligations shall not be regarded as events beyond the reasonable control of the Contractor.

### **13. CORRESPONDENCE**

- 13.1 Any notice (“**Notice**”) shall be in writing and shall be deemed to have been duly given when it is delivered by hand or by prepaid registered post or electronic mail to the Party as follows:
- (a) in the case of the Contractor, the address and electronic mail address set out in the Tender Offer; and
  - (b) in the case of the Authority, the address and electronic mail address stated in the Covering Letter of the Invitation to Tender.
- 13.2 Either Party may change its address and electronic mail address referred to above by giving the other Party written notice of the change.
- 13.3 A Notice sent by electronic mail shall be deemed not to have been received if the sender receives, within 24 hours after sending such electronic mail, a notification that such electronic mail has not been successfully delivered.

### **14. LANGUAGE**

- 14.1 The Contractor must ensure that all data, documents, descriptions, diagrams, books, catalogues, instructions, markings for the Goods and correspondence are written in readily comprehensible English language.

### **15. CONSORTIUM**

- 15.1 As used in the Contract, “**Consortium**” means an unincorporated joint venture through the medium of a consortium or a partnership.

- 15.2 Where the Contractor is a Consortium, the following shall apply:

*Joint and Several Responsibility and Liability*

- 15.2.1 Each member of the Consortium shall be jointly and severally responsible and liable to the Authority for the due performance of the Contract.

*Addition of members to Consortium*

- 15.2.2 Any introduction of, or changes to, Consortium membership must be approved in writing by the Authority.

- 15.2.3 Should any additional member be added to the Consortium at any time with the approval of the Authority pursuant to Clause 15.2.2, such additional member shall be deemed to be included in the expression “the Contractor”.

*Withdrawal from Consortium*

15.2.4 If any member of the Consortium withdraws from the Consortium, goes into liquidation, is wound up or ceases to exist in accordance with the laws of the country of incorporation:

- (a) the Contract shall continue and not be terminated, and
- (b) the remaining member(s) of the Consortium must carry out and complete the Contract.

**16. INDEPENDENT CONTRACTOR**

16.1 For the purposes of the Contract, the Contractor shall be, and shall be deemed to be, an independent contractor and not an agent or employee of the Authority.

**17. SUBCONTRACT, TRANSFER AND ASSIGNMENT**

17.1 The Contractor must not, without the prior written consent of the Authority, subcontract its obligations, or transfer or assign the benefit of the whole or any part of the Contract.

17.2 The Contractor shall be responsible for the acts, defaults, negligence and omissions of its Subcontractors and their Personnel.

**18. DEFAULT INTEREST**

18.1 If the Contractor defaults in the payment when due of any sum payable under the Contract its liability shall be increased to include interest on such sum from the date when such payment is due until the date of actual payment (after as well as before judgment). The interest shall be calculated on a daily basis at a rate per annum [X] %].

**19. REMEDIES**

19.1 The rights and remedies of a Party under the Contract are cumulative and are without prejudice and in addition to any rights or remedies such Party may have at law or in equity. No exercise by a Party of any one right or remedy under the Contract, or at law or in equity shall operate so as to hinder or prevent the exercise by it of any other right or remedy under the Contract, at law or in equity.

**20. VARIATION**

20.1 No variation of the Contract shall be of any force unless agreed upon in writing and signed by the authorised signatories of both Parties.



**21. WAIVER**

- 21.1 No failure or delay on the part of any Party in exercising any right under the Contract, or at law or in equity, shall operate as a release or waiver thereof.
- 21.2 No waiver of any breach of the Contract shall be deemed to be a waiver of any other or of any subsequent breach.
- 21.3 Any waiver granted under the Contract must be in writing and may be given subject to conditions. Such waiver under the Contract shall be effective only in the instance and for the purpose for which it is given.

**22. SET-OFF**

- 22.1 Whenever under the Contract any sum of money (including any damages) shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under the Contract or any other agreement with the Authority.

**23. ENTIRE AND WHOLE AGREEMENT**

- 23.1 The Contract contains the entire and whole agreement between the Parties relating to the subject matter of the Contract.

**24. SEVERABILITY**

- 24.1 In the event any provision in the Contract is determined to be illegal, invalid or unenforceable, in whole or in part, such provision or part of it shall, to the extent it is illegal, invalid or unenforceable, be deemed not to form part of the Contract and the legality, validity and enforceability of the remainder of the Contract shall not be affected.

## **25. RIGHTS OF THIRD PARTIES**

### *[Version A]*

- 25.1 A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 2001 to enforce any term of the Contract.

### *[Version B: To be used if the Tender involves Intellectual Property Rights and/or Moral Rights and Intellectual Property Indemnification]*

- 25.1 Save for the Licensees, a person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 2001 to enforce any term of the Contract.
- 25.2 A Licensee may enforce and rely on Clause on Ownership of Intellectual Property Rights and Moral Rights and Intellectual Property Indemnification to the same extent as if it were a Party.
- 25.3 The Parties may by agreement rescind or vary the Contract without the consent of any third party.
- 25.4 [The Contractor agrees that the Authority shall not be liable or held responsible for the acts or omission of any Statutory Board.]

## **26. SURVIVING PROVISIONS**

- 26.1 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract, including Clauses 10 (Gifts, Inducements and Rewards), 11.3 and 11.5 (Termination), 10 (Correspondence), 18 (Default Interest), 19 (Remedies), 20 (Waiver), 22 (Set-off), 23 (Entire and Whole Agreement), 24 (Severability), 25 (Rights of Third Parties), 26 (Surviving Provisions), 27 (Governing Law), 28 (Escalation of Disputes), 29 (Mediation) and 30 (Dispute Resolution), shall survive the termination or expiry of the Contract.

## **27. GOVERNING LAW**

- 27.1 The Contract shall be deemed to be made in Singapore and shall be governed by and construed in accordance with the laws of the Republic of Singapore.

## **28. ESCALATION OF DISPUTES**

- 28.1 In the event of any dispute arising out of or relating to the Contract or its subject matter or formation (a “**Dispute**”), no Party shall proceed to mediation or any form of dispute resolution unless the Parties have referred the Dispute to a senior officer of each Party

(each, an “**Officer**”) who shall negotiate in good faith with a view to resolution of such Dispute.

- 28.2 If such Dispute is not resolved by agreement between the Officers within **[X]** days after the date of referral of the Dispute to the Officers, any Party may proceed to:
- (a) if the Dispute is within the jurisdiction of the Small Claims Tribunals, refer the Dispute to the Small Claims Tribunals; or
  - (b) give the other Party written notice for mediation as contemplated in Clause 29 (Mediation).

## **29. MEDIATION**

- 29.1 Notwithstanding anything in the Contract, in the event of any Dispute and subject to Clauses 28, 29.3 and 29.4, no Party shall proceed to any form of dispute resolution unless the Parties have made reasonable efforts to resolve the same through mediation in accordance with the mediation procedure of the Singapore Mediation Centre. The Parties shall be deemed to have made reasonable efforts in accordance with this Clause 29.1 if they have gone through at least one mediation session at the Singapore Mediation Centre.
- 29.2 A Party who receives a written notice for mediation from the other Party must consent and participate in the mediation process in accordance with this Clause 29.
- 29.3 The mediation session is to commence no later than **ninety (90)** days after the date of the written notice of mediation failing which either Party may proceed to dispute resolution.
- 29.4 Clause 29.1 shall not apply to a Dispute referred to the Small Claims Tribunals, provided that:
- 29.4.1 the Parties attend a consultation session before a Registrar (where the Parties will be given an opportunity to resolve the Dispute amicably) after a claim is filed with the Small Claims Tribunals; and
  - 29.4.2 the proceedings relating to such Dispute are not:
    - (i) discontinued by the Registrar pursuant to Section 17(3) of the Small Claims Tribunal Act 1984; or
    - (ii) transferred out of the Small Claims Tribunals before or pursuant to such consultation session.
- 29.5 Failure to comply with Clause 29.1 or 29.2 shall be deemed to be a breach of the Contract.

### **30. DISPUTE RESOLUTION**

#### *[Version A: Litigation]*

30.1 Each Party irrevocably agrees that the courts of Singapore shall have exclusive jurisdiction to settle any Dispute. Each Party irrevocably submits to the jurisdiction of such courts.

#### *[Version B: Arbitration]*

30.1 Subject to Clause 29, any Dispute shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“**SIAC**”) for the time being in force which rules are deemed to be incorporated by reference into this Clause.

30.2 The seat of the arbitration shall be Singapore.

30.3 The arbitrator shall be agreed upon between the Parties, or on failure to agree within thirty (30) days after a written proposal by one Party to the other Party, be appointed by the SIAC acting in accordance with the SIAC Rules.

30.4 This arbitration agreement shall be governed by and construed in accordance with the laws of the Republic of Singapore.

## **COMPENDIUM A: SECTOR-SPECIFIC CLAUSES**

### **A1. “CLEAN MARK SILVER” AWARD**

A1.1 Throughout the duration of the Contract, the Contractor must:

- (a) (for so long as it directly provides cleaning services under the Contract) maintain at least the “Clean Mark Silver” Award accredited by the National Environment Agency under the prevailing Enhanced Clean Mark Accreditation Scheme (the “**Clean Mark Silver Award**”);
- (b) ensure that each of its Subcontractors (including each subcontractor for all levels of subcontracting) providing cleaning services under the Contract (each, a “**Cleaning Subcontractor**”) complies with Clause A1.1(a); and
- (c) immediately notify the Authority if the Contractor or any of its Cleaning Subcontractors fails to comply with Clause A1.1(a) within **[X]** days after such failure.

A1.2 The Authority shall have the right to terminate the Contract by giving at least **[X]** months’ written notice to the Contractor if any of the following occurs:

- (a) the Contractor fails to comply with Clause A1.1(a) or A1.1(c); or
- (b) any Cleaning Subcontractor fails to comply with Clause A1.1(a), and the Contractor does not replace such Cleaning Subcontractor within **[X]** days after such failure with another Cleaning Subcontractor approved by the Authority.

A1.3 For the purposes of this Clause 0, the Contractor “directly provides any cleaning services” if any of its employees performs cleaning work or supervises any cleaning work.

A1.4 For the avoidance of doubt, the Contractor must comply with Clauses A1.1(b) and A1.1(c) in respect of any replacement Cleaning Subcontractor.

### **A2. [LANDSCAPE COMPANY REGISTER STATUS**

A2.1 Throughout the duration of the Contract, the Contractor must:

- (a) (for so long as it directly provides landscaping services under the Contract) maintain the Landscape Company Register status administered by the National Parks Board;
- (b) ensure that each of its Subcontractors (including each subcontractor for all levels of subcontracting) providing landscaping services under the Contract (each, a “**Landscaping Subcontractor**”) complies with Clause A2.1(a); and

- (c) immediately notify the Authority if the Contractor or any of its Landscaping Subcontractors fails to comply with Clause A2.1(a) within [X] days after such failure.
- A2.2 The Authority shall have the right to terminate the Contract by giving at least [X] months' written notice to the Contractor if any of the following occurs:
- (a) the Contractor fails to comply with Clause A2.1(a) or A2.1(c); or
  - (b) any Landscaping Subcontractor fails to comply with Clause A2.1(a), and the Contractor does not replace such Landscaping Subcontractor within [X] days after such failure with another Landscaping Subcontractor approved by the Authority.
- A2.3 For the purposes of this Clause A2, the Contractor or a Subcontractor is deemed to "directly provide landscaping services" if any of its employees performs landscaping work or supervises any landscaping work.
- A2.4 For the avoidance of doubt, the Contractor must comply with Clauses A2.1(b) and A2.1(c) in respect of any replacement Landscaping Subcontractor.

### **A3. LICENCE REQUIREMENTS AND COMPLIANCE WITH EMPLOYMENT LAWS FOR SECURITY SERVICES**

- A3.1 Throughout the duration of the Contract, the Contractor must:
- (a) (for so long as it directly provides security services under the Contract) maintain a valid security agency's licence issued under the Private Security Industry Act 2007;
  - (b) (if it at any time directly provides security services under the Contract) not be convicted of any offence under the Central Provident Fund Act 1953, the Employment Act 1968, the Employment of Foreign Manpower Act 1990, the Work Injury Compensation Act 2019 or the Workplace Safety and Health Act 2006;
  - (c) ensure that each of its Subcontractors (including each subcontractor for all levels of subcontracting) providing security services under the Contract (each, a "**Security Services Subcontractor**") complies with Clauses A3.1(a) and A3.1(b); and
  - (d) notify the Authority if the Contractor or any of its Security Services Subcontractors fails to comply with Clause A3.1(a) or A3.1(b) within [X] days after such failure.
- A3.2 The Authority shall have the right to terminate the Contract by giving [X] months' written notice to the Contractor if any of the following occurs:
- (a) the Contractor fails to comply with Clause A3.1(a) or A3.1(b); or

- (b) any of its Security Services Subcontractors fails to comply with Clause A3.1(a) or A3.1(b), and the Contractor does not replace such Security Services Subcontractor within **[X]** days after such failure with another Security Services Subcontractor approved in writing by the Authority.
- A3.3 For the purposes of this Clause A3, the Contractor or a Subcontractor is deemed to “directly provide security services” if any of its employees performs security work or supervises any security work.
- A3.4 For the avoidance of doubt, the Contractor must comply with Clauses A3.1(c) and A3.1(d) in respect of any replacement Security Services Subcontractor.