

**THE GOVERNMENT OF  
THE HONG KONG SPECIAL ADMINISTRATIVE REGION  
AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT**

**TENDER FOR SERVICES**

*Tender Ref. : ..... AFCD/ITMD/202201.....*

**TENDER FORM**

*Contract No. :.....*

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**PART 1 - LODGING OF TENDER**

To be acceptable as a Tender, these Tender Documents, properly completed in triplicate and enclosed in a sealed plain envelope marked “Tender for the Provision of Metro Ethernet Services for the Agriculture, Fisheries and Conservation Department, Tender Ref. AFCD/ITMD/202201” and addressed to the Chairman, Tender Opening Committee, Government Logistics Department, must be deposited in the Government Logistics Department Tender Box situated at the Ground Floor of the North Point Government Offices, 333 Java Road, North Point, Hong Kong before 12:00 noon on 28<sup>th</sup> April 2022 (Hong Kong Time).

A late Tender or a Tender not submitted in accordance with the submission method stipulated in this Part and Part 3 – Terms of Tender, including a Tender submitted by facsimile or e-mail, will not be considered further.

**Provision of Metro Ethernet Services for  
the Agriculture, Fisheries and Conservation Department**

**PART 2 – INTERPRETATION**

**1 Definitions**

In these Tender Documents the following words and expressions shall have the meaning hereby assigned to them except when the context otherwise requires:

- “Acceptance Date” means the date of an Acceptance Letter in respect of a Connection.
- “Acceptance Test” means collectively the Connectivity Test and the Reliability Test.
- “Acceptance Letter” means an acceptance letter to be issued by the Government Representative upon the completion and passing to his satisfaction of the Acceptance Test by the Contractor in respect of a Connection.
- “AFCD” means the Agriculture, Fisheries and Conservation Department of the Government.
- “Client Port” means the network port at a Remote Site with detailed requirements specified in the Part 6 – Specifications.
- “Connection” means the point-to-point ME connection between the Host Port and the Client Port including but not limited to the physical link, ports, network equipment and termination equipment.
- “Connectivity Test” means the connectivity test to be conducted by the Contractor in accordance with Annex 3 to Part 6 – Specifications.
- “Contract” means the contract made between the Government and the Contractor for the provision of the Services at the Locations and comprises these Interpretation, Terms of Tender (where the context requires or permits); Conditions of Contract and Specifications together with all the respective schedules, appendices and annexes to each of the above documents and the Contractor’s Tender to the extent not inconsistent with the terms of these Tender Documents.
- “Contractor” means the Tenderer whose Tender is accepted by the Government through the issue of the Letter of Conditional Acceptance.
- “Contract Deposit” means the sum of deposit referred to in Clause 21.2 of Part 3 – Terms of Tender and Clause 23 of Part 4 – Conditions of Contract.
- “Contract Period” has the meaning given to the term in Clause 1.1 of Part 4 – Conditions of Contract.

“CPE” or “Customer Premises Equipment”	means equipment on AFCD’s premises that is used in connection with the Services.
“Essential Requirements”	means the essential requirements set out in Clause 4.1 of Part 3 – Terms of Tender.
“Estimated Contract Value”	means the Estimated Contract Value quoted by a Tenderer under Clause 5.3 of Schedule 5 of Part 5 – Schedules for the purposes of Tender evaluation.
“Ethernet”	means the frame based computer network technology including but not limited to IEEE 802.3 and RFC 894.
“Expiry Date”	means 31 <sup>st</sup> December 2024.
“Fast Ethernet”	means the Fast Ethernet network technology specified by the Institute of Electrical and Electronics Engineers (IEEE).
“Fixed Internal Services”	means the provision of telecommunications connection and services for communications between two fixed points within Hong Kong.
“Fixed Network Operator”	means the holder of any one of a Fixed Telecommunications Network Services Licence or a Fixed Carrier Licence; or a Unified Carrier Licence and who is authorized by OFCA to provide Fixed Internal Services.
“Force Majeure”	means: <ul style="list-style-type: none"><li>(a) any supervening outbreak of war affecting Hong Kong and/or any other parts of the People’s Republic of China (“PRC”), hostilities (whether war be declared or not), invasion, acts of foreign enemies, rebellion, revolution, military or usurped power, overthrow (whether by external or internal means) of the Government and/or the government of the PRC, civil war, riot, civil disturbances, fire if not caused or contributed to by the Contractor, its related persons or any employee or agent or ex-employee or ex-agent thereof, civil commotion and acts of God; or</li><li>(b) any supervening catastrophic event which is similar to the foregoing if not caused or contributed to by the Contractor, its related persons or any employee or agent or ex-employee or ex-agent thereof;</li><li>(c) any supervening epidemic outbreak in Hong Kong and/or any other part of the PRC excluding COVID-19 or any variant thereof;</li></ul> and which, in any case of (a), (b) and (c) above, materially prevents the performance of the duties and obligations of any party hereunder;

“related person” includes any one of the following:

- (a) a shareholder (corporate or individual) which directly or indirectly owns 50 percent or more of the issued share capital of the Contractor (“majority shareholder”);
- (b) a holding company or a subsidiary of the Contractor;
- (c) a holding company or a subsidiary of a majority shareholder of the Contractor; or
- (d) a company in which a majority shareholder (being an individual) of the Contractor directly or indirectly owns 50 percent or more of its issued share capital or controls the composition of its board of directors.

The expressions “holding company” and “subsidiary” have the meanings given to them in the Companies Ordinance (Cap. 622).

“Government”	means the government of Hong Kong.
“Government Representative”	means the Director of AFCD or any officer authorized to act for and on behalf of the Government for the purposes of the Contract.
“Hong Kong”	means the Hong Kong Special Administrative Region of the People’s Republic of China.
“Host Port”	means the network port at HQs with detailed requirements specified in Part 6 – Specifications.
“HQs”	means the AFCD Headquarters, having its Server Room situated at 5/F Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon, Hong Kong.
“IEEE 802.3”	means the standard for “CSMA/CD Access Method and Physical Layer Specifications” by IEEE.
“Internal Relocation Charge”	means the amount payable by the Government to the Contractor according to Clause 8.2(b) of Part 4 – Conditions of Contract at the rates as stipulated in Schedule 5 of Part 5 – Schedules
“IP”	means Internet Protocol; the standard network communication protocol of the Internet.
“IPSec”	means IP Security Protocol defined in Security Architecture for the Internet Protocol defined in RFC 2401 or its RFC standard replacement.
“Letter of Conditional Acceptance”	has the meaning given to the term in Clause 21.1 of Part 3 – Terms of Tender.
“Licensee”	means a Fixed Network Operator.
“Locations”	means a location or locations as may be designated by the Government

from time to time at which the Connection is installed or relocated, **including**, as at the date of 4th March 2022 the HQs and the Remote Sites as set out in Annex 1 to Part 6 – Specifications.

“Maintenance Services”	means the maintenance services provided by the Contractor in accordance with Clause 4 of Part 4 – Conditions of Contract.
“Mbps”	means mega-bits-per-second.
“ME”	means Metro Ethernet which is a network technology for transmission of IEEE 802.3 frames over wide area network.
“Monthly Rental”	means the amount payable by the Government to the Contractor according to Clause 8.2(c) of Part 4 – Conditions of Contract at the rates as stipulated in Schedule 5 of Part 5 – Schedules for each Connection..
“MTBF”	means mean-time-between-failure.
“OFCA”	means the Office of the Communications Authority of the Hong Kong Special Administrative Region.
“Order”	has the meaning given to the term in Clause 3.1 of Part 4 – Conditions of Contract.
“OSI”	means the reference model in accordance with the standard published by the International Organisation for Standardisation (ISO).
“OSI Layer 2”	means the data link layer or the second layer in the OSI reference model.
“OSI Layer 3”	means the network layer or the third layer in the OSI reference model.
“Port Setup Charge”	means the amount payable by the Government to the Contractor according to Clause 8.2(b) of Part 4 – Conditions of Contract at the rates as stipulated in Schedule 5 of Part 5 – Schedules.
“Preparation Period”	has the meaning given to the term in Clause 1.2 of Part 4 – Conditions of Contract.
“Ready For Use”	means the Connection fully installed, tested and successfully passed the Acceptance Test in accordance with the provisions of this Contract.
“Re-configuration Charge”	means the amount payable by the Government to the Contractor according to Clause 8.2(b) of Part 4 – Conditions of Contract at the rates as stipulated in Schedule 5 of Part 5 – Schedules.
“Reliability Test”	means the reliability test to be conducted by the Contractor in accordance with Annex 3 to Part 6 – Specifications.
“Remote Sites”	means one or more of the Locations other than HQs situated at different areas of the territory of Hong Kong as detailed in Annex 1 to Part 6 –

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	Specifications; and for the purpose of the Contract shall mean such Remote Site in respect of which the Contract is awarded;
“RJ45”	means connector with 8 wires commonly used in telephone and network industry, also known as Registered Jack 45.
“Service Commencement Month”	means the estimated month for commencement of Services for each Connection as listed in Annex 1 to Part 6 – Specifications in which the Contractor shall provide the Connection Ready for Use.
“Service Period”	has the meaning given to the term in Clause 1.3 of Part 4 – Conditions of Contract.
“Services”	means ME services, including installation of the ME ports, connection and bandwidth rental at the Locations and shall be inclusive of all other obligations and duties, ancillary or incidental thereto in accordance with the Specifications and subject to all terms and conditions of this Contract.
“Specifications”	means each and every specification referred to in Part 6 – Specifications.
“Tender”	means a tender submitted by a Tenderer in response to the invitation to tender.
“Tenderer”	means a tenderer who has submitted a Tender in response to the invitation to tender.
“Tender Closing Date”	means the latest date by which tenders must be lodged as the same may be extended by the Government pursuant to any applicable provision in the Tender Documents.
“Tender Documents”	means the documents as specified in Clause 1 of Part 3 –Terms of Tender and any addenda issued under Clause 3 of Part 3 –Terms of Tender.
“Validity Period”	means the period of time described in Clause 8 of Part 3 –Terms of Tender during which the Tender is to remain valid and open for acceptance by the Government Representative.
“VLAN”	means a logical grouping of end stations within a bridged infrastructure, also known as Virtual LAN.
“WAN”	means a network of computers and peripheral devices linked by cable over a broad geographic area, also known as Wide Area Network.
“WTO GPA”	means the Agreement on Government Procurement of the World Trade Organization.

## 2 Singular and plural

Words importing the singular only also include the plural and vice versa where the context requires.

**3 Headings**

The heading to individual clauses of the Contract is for ease of reference only and shall not in any way vary, limit, extend or affect the interpretation or construction of the Contract.

**4 Gender**

Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.

**5. Reference**

- (1) Reference to a person includes an individual, company, corporation, firm or any body of persons, corporate or unincorporated and includes any public body.
- (2) Reference to a day shall be construed as a calendar day and reference to a working day shall be construed as any calendar day other than general holidays and Saturdays.
- (3) Reference to a month shall be construed as a calendar month.
- (4) Reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended, or repealed and substantially re-enacted or made, by any subsequent enactment, order, regulation or instrument.
- (5) References to a clause, sub-clause, contract schedule, annex or appendix by number or letter shall be construed as references to the clause, sub-clause, contract schedule, annex or appendix of that number or letter contained in the relevant part of these Tender Documents.

**Provision of Metro Ethernet Services for  
the Agriculture, Fisheries and Conservation Department**

**PART 3 - TERMS OF TENDER**

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## **TERMS OF TENDER**

### **1. The Tender Documents**

The Tender Documents consist of one complete set of the documents in a bound booklet comprising:-

- Part 1- Lodging of Tender
- Part 2- Interpretation
- Part 3- Terms of Tender
- Part 4- Conditions of Contract
- Part 5- Schedules

Schedule 1 – Company/ Business Organization Details

Schedule 2 – Non-collusive Tendering Certificate

Schedule 3 – Statement of Compliance

Schedule 4 – Execution Plan

Schedule 5 – Price Schedule

Schedule 6 – Payment Discounts and Contract Deposit Payment Method

- Part 6- Specifications
- Part 7- Offer to be Bound

### **2. Invitation to Tender**

- 2.1 Tenders are invited for the provision of the Services as more particularly set out in the Specifications subject to and in accordance with the terms and conditions of the Contract.
- 2.2 A Tenderer may offer to provide the Services in respect of any or all of sixty-nine (69) Remote Sites and must specify clearly the Remote Sites to which its Tender relates. If the Tenderer offer to provide one or more Services in Remote Sites, the Tenderer shall provide Services of two dedicated backbone links / Host Ports connecting to HQs. (See Clause 14 for the basis for acceptance of Tenders). If a Tenderer's bid is successful, a Contract shall be awarded to a Tenderer to provide Services in respect of all the Remote Sites for which it successfully bid.
- 2.3 Each Tenderer and an associate or associated person as defined in Clause 21.3 of Part 4 - Conditions of Contract in relation to a Tenderer may submit only one Tender. **If two or more tenders are submitted by the same Tenderer, all such tenders will not be considered.**
- 2.4 A Tender jointly submitted by two or more entities or submitted by an unincorporated joint venture will not be considered.
- 2.5 The maximum number of Contracts to be awarded will be the number of Remote Sites

as specified in Annex 1 of Part 6 - Specification.

### **3. Supplementary Information/Tender Addenda**

The Government reserves the right to supplement, clarify, amplify or amend the Tender Documents at any time prior to the Tender Closing Date. Any supplementation(s), clarification(s), amplification(s) or amendment(s) of any aspect of the Tender Documents will be by way of supplementary information or an addendum and a notice of the supplementary information or addendum will be posted on the AFCD website at [www.afcd.gov.hk](http://www.afcd.gov.hk). Tenderers are advised to check the said website from time to time for any issue of supplementary information or addendum. Any supplementary information or addendum will also be made available for collection at the HQs. In addition, a copy of the supplementary information or addendum will be sent by post, by fax or by email to each of the Tenderers who has according to AFCD's record collected a copy of the Tender Documents at the HQs.

### **4. Essential Requirements**

4.1 A Tenderer **MUST** satisfy all the essential requirements specified below. Failure to comply with any of such will render the Tender invalid and the Tender will not be considered further.

(a) Licensee:

A Tenderer must, as at the Tender Closing Date, be a Fixed Network Operator

(b) Network Coverage:

A Tenderer must have ME coverage to the HQs and the specific Remote Sites (see Clause 5.1 of Schedule 5) to which its offer is made. A Tenderer shall provide documentary proof that the ME service coverage has included the HQs and the specific Remote Sites to which its offer is made by the Tender Closing Date .

4.2 **Failure to comply with any of the above essential requirements or failure to provide relevant documentary proof by the Tender Closing Date will disqualify a Tenderer and its Tender will not be further considered.**

### **5. Tender Preparation and Submission**

5.1 A Tender (including particularly Part 7 - Offer to be Bound and Part 5 - Schedules) shall be completed in English and in accordance with other requirements of the Tender Documents. The Government may not consider a Tender that is completed in any other language. If any of its accompanying documents are not in English, a certified translation in writing of the document in English shall be submitted by the Tenderer. Evaluation of such Tender will be based on the certified translation only. If a Contract is awarded to that Tenderer, the certified translation shall form part of the Contract documentation and shall prevail in case of any inconsistency with the version in its original language.

- 5.2 Each Tenderer should read the instructions specified in the Tender Documents before completing the Schedules.
- 5.3 Each Tenderer must submit their proposals in the following manner for easy identification:
- (a) Technical proposal that contains the Technical Proposal (see Clause 5.4 below) only in a separately sealed envelope. The envelope must be marked “Technical Proposal for the Provision of Metro Ethernet Services for AFCD, (Tender Ref: AFCD/ITMD/202201)”.
  - (b) Price proposal that contains the price quotation requested in Schedule 5 of Part 5 – Schedules (“Price Schedule”) only in a separately sealed envelope. The envelope must be marked “Price Proposal for the Provision of Metro Ethernet Services for AFCD, (Tender Ref: AFCD/ITMD/202201)”. If a Tenderer has submitted price quotations not requested in the Price Schedule, the Government reserves the right to disqualify the Tenderer concerned. Even if the Tenderer has not been disqualified, unless otherwise accepted by the Government on a case by case basis, the unsolicited price quotations will be ignored and will not form part of the Contract regardless of whether or not they are found in the copies of the Schedules forming part of the Contract.
- 5.4 Tenderers must complete the following parts in ink or typescript and provide all the necessary information including documentary evidence which is necessary for tender evaluation in triplicate:

#### **Technical Proposal**

- (a) Part 7 - Offer to be Bound duly signed by the Tenderer;
- (b) the duly completed Schedule 1 of Part 5 – Schedules (Company/Business Organization Details);
- (c) the duly completed Schedule 2 of Part 5 – Schedules (Non-collusive Tendering Certificate);
- (d) the duly completed Schedule 3 of Part 5 – Schedules (Statement of Compliance);
- (e) the duly completed Schedule 4 of Part 5 – Schedules (Execution Plan);
- (f) the information and documentary proofs required in Clause 4.1 of this Part;
- (g) all information and documents as required in Schedule 1 of Part 5 – Schedules and Clause 11 of this Part; and
- (h) all other product/solution information, not already mentioned above, including technical and descriptive literature to demonstrate that the proposed technical solution or the offered ME Services will meet the requirements specified in Part 6 – Specifications.

**Price Proposal**

- (i) Schedule 5 of Part 5 – Schedules (Price Schedule) duly completed in accordance with Clause 7.
- (j) the duly completed Schedule 6 of Part 5 – Schedules (Payment Discounts and Contract Deposit Payment Method).

**5.5 Failure to submit the document or information specified in Clause 5.4(a) to (j) by the Tender Closing Date will render the Tenderer to be disqualified and the Tender not to be considered further.**

5.6 The Government may not consider a Tender if:

- (a) false, inaccurate or incorrect information is given in the Tender; or
- (b) complete proposals, quotations and information (including descriptive literature, catalogues and any other document required under any provision of the Tender Documents) have not been given with the Tender.

5.7 When completing the Tender (including the Offer to be Bound), a Tenderer shall ensure that the name of the Tenderer is the same as the name shown in:

- (a) if the Tenderer is a company incorporated in Hong Kong:
  - (i) the Certificate of Incorporation of the Tenderer; or
  - (ii) if there is a change of name of the Tenderer since the date of its Certificate of Incorporation, the latest Certificate of Change of Name of the Tenderer; or
  - (iii) the current business registration certificate.
- (b) if the Tenderer is a sole proprietorship or a partnership, the current business registration certificate of the Tenderer; or
- (c) if the Tenderer is formed, established or incorporated outside Hong Kong, a document equivalent to Clause 5.6(a) or 5.6(b) above (as the case may be) issued by a governmental or competent authority of the place where the Tenderer is formed, established or incorporated.

5.8 “Offer to be Bound” in Part 7 shall be duly signed by:

- (a) if the Tenderer is a sole proprietorship, the Tenderer;
- (b) if the Tenderer is a partnership, a partner of the Tenderer;
- (c) if the Tenderer is a body corporate, one or more persons who are duly authorized by the Tenderer to execute and submit the Tender for and on behalf of the Tenderer; and

(d) duly signed Offer to be Bound means signature in ink and in manuscript.

- 5.9 Figures shall not be altered or erased; any alteration shall be effected by striking through the incorrect figures and inserting the correct figures in ink above the original figures. All such amendments shall be initialed by the Tenderer in ink.

## 6. Tender Closing Date

- 6.1 A Tender **MUST** be submitted on or before the Tender Closing Date. **A late Tender will NOT be considered.**

- 6.2 In case a rainstorm black warning or typhoon signal no. 8 or above is valid for any duration between 9:00 a.m. and 12:00 noon (Hong Kong time) on the Tender Closing Date, the Tender Closing Date will be extended to 12:00 noon (Hong Kong time) on the next day which is not a Saturday, a Sunday or a general holiday under the General Holidays Ordinance (Cap.149).

## 7. Price Proposal

- 7.1 Each Tenderer shall quote in Schedule 5 of Part 5 – Schedules:

- (a) Port Setup Charge and Internal Relocation Charge in the table under Clause 4.1;
- (b) Re-configuration Charge in the table under Clause 4.2;
- (c) Monthly Rental in the tables under Clause 4.3 and 4.4;
- (d) the Monthly Rental for the whole Service Period in relation to the Remote Site(s) for which the Tenderer is making an offer in the table under Clause 5.1; and
- (e) Total One-off Cost, Total Monthly Rental and Estimated Contract Value of the Services under Clause 5.3.

- 7.2 Each Tenderer is required to submit its Tender in either Hong Kong Dollars or US Dollars. A Tender denominated in other currency will **not** be considered.

- 7.3 Every Tenderer shall ensure that all the figures in Schedule 5 of Part 5 – Schedules are accurate before submitting their bids. Under no circumstances shall the Government be obliged to accept any request for price adjustment on grounds that a mistake has been made in the figures. An illustration for the completion of Schedule 5 is provided under Clause 5.4 of Schedule 5 for Tenderer's reference.

## 8. Validity Period

A Tender shall remain valid and open for acceptance by the Government Representative on these conditions for not less than one hundred and twenty (120) days after the Tender Closing Date.

## **9. Site Surveys during the Tender Period**

To ensure that its Tender complies with the requirements of the Specifications, the Tenderer is strongly advised to make on-site surveys, at the Tenderer's expenses, and take any other necessary action before the Tender Closing Date, to determine the scale and costs of works. Application for site visit shall be in writing addressed to the officer as mentioned in Clause 17.1 below.

## **10. Warranty against Collusion**

10.1 The Tenderer must ensure that the Tender is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person (except as provided in paragraph 3 of the Non-collusive Tendering Certificate referred to in Clause 10.2 below), regarding, amongst other things, price, tender submission procedure or any terms of the Tender. Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Chapter 619 of the Laws of Hong Kong). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.

10.2 The Tenderer shall complete and submit to the Government a Non-collusive Tendering Certificate (in the form set out in Schedule 2 of Part 5 –Schedules titled as such) as part of its Tender.

10.3 In the event that the Tenderer is in breach of any of the representations, warranties and/or undertakings in Clause 10.1 above or in the Non-collusive Tendering Certificate submitted by it under Clause 10.2 above, the Government shall be entitled to, without compensation to any person or liability on the part of the Government:

- (a) reject the Tender;
- (b) if the Government has accepted the Tender, withdraw its acceptance of the Tender; and
- (c) if the Government has entered into the Contract with the Tenderer, terminate the Contract.

10.4 By submitting a Tender, a Tenderer is regarded to have undertaken to indemnify and keep indemnified the Government against all losses, damage, costs or expenses arising out of or in relation to any breach of any of the representations, warranties and/or undertakings in Clause 10.1 above or in the Non-collusive Tendering Certificate submitted under Clause 10.2 above.

10.5 A breach by a Tenderer of any of the representations, warranties and/or undertakings in Clause 10.1 above or in the Non-collusive Tendering Certificate submitted by it under Clause 10.2 above may prejudice its future standing as a Government contractor or service provider.

10.6 The rights of the Government under Clauses 10.3 to 10.5 above are in addition to and

without prejudice to any other rights or remedies available to it against the Tenderer.

## 11. Company/Business Organization Status

- 11.1 The Tenderer shall provide the details relating to itself in Schedule 1 of Part 5 – Schedules.
- 11.2 The Tenderer should attach with its Tender a certified copy of relevant document (e.g. board resolution of the Tenderer, confirmation letter, etc.) showing the person or persons who is or are authorized to sign the Offer to be Bound has or have the authority to sign for and on behalf of the Tenderer.
- 11.3 If a Tenderer is not a company incorporated under the Companies Ordinance (Cap. 622), and if the Tenderer is an entity formed or established outside Hong Kong, a legal opinion issued by a lawyer duly qualified to practise the laws of the place of incorporation, formation or establishment (as the case may be) of the Tenderer and acceptable to the Government shall be provided upon request by the Government on the following issues and any other issues as may be required by the Government:
- (a) that the Tenderer is duly incorporated, formed or established and validly existing under the laws of the place of the Tenderer's incorporation, formation or establishment and that the Tenderer has full power and authority to carry on the business as it is now conducting and to supply the related equipment and the ME Services to the Government on the terms and conditions of the proposed Contract; and
  - (b) that the Tenderer has the power to enter into and perform the proposed Contract with the Government and that it has taken all necessary legal action to authorize the entry into and performance of the proposed Contract.

The Government may require the Tenderer to provide, at its own expense, additional legal opinions satisfactory to the Government issued by a lawyer duly qualified to practise the laws of the place of incorporation, formation or establishment of the Tenderer on any other matters arising from its Tender.

- 11.4 A Tenderer shall also provide in Schedule 1 of Part 5 – Schedules the information in respect of the organization structure of the Tenderer and the Licensees.

## 12. User Reference

A Tenderer shall provide in Schedule 1 of Part 5 – Schedules a list of government user(s) to whom similar services have been provided by the Licensee. **If any of the above information is missing in a Tender and is not provided upon any request by the Government which may be made pursuant to Clause 16 of this Part, the Tender will not be considered further.**

## 13. Counter-proposal

Any counter-proposal by a Tenderer on any aspect of the Tender may, at the

Government's absolute discretion, render its Tender not to be considered further. The Government, however, may, but is not obliged to, request the Tenderer to abide by the original requirements as set out in the Tender Documents within a period as specified in the Government's request. If the Tenderer confirms such abidance within the specified period and in the manner as requested, its Tender will be considered on the basis as if no counter-proposal has ever been made. **If it fails or refuses to confirm such abidance, its Tender will not be considered further.**

#### 14. Basis for Acceptance

- 14.1 In this tendering exercise, tenders will be considered on an "itemised" basis. Contracts for all Locations may be offered to one or more Tenderer(s). Acceptance of the offer will be made according to the assessment criteria as stipulated in Clause 15 below.
- 14.2 Notwithstanding anything contained herein to the contrary, the Government is not bound to accept the lowest offer of individual Locations or any Tender and reserves the right to accept all or any part of any tender at any time within the Validity Period.

#### 15. Tender Evaluation

A two-envelope approach with a technical to price weighting of 50% : 50% will be adopted for tender evaluation whereby price assessment will be conducted separately from and subsequent to technical assessment.

For tender evaluation, an assessment panel will be formed. Based on the tender requirement, the assessment panel will evaluate the tenders in six stages, as set out below.

(a) Stage I - Completeness Check

A completeness check will be conducted by checking whether the Tender has been submitted in accordance with the procedural requirements stipulated in the Tender Document. **Failure to submit any one of the documents as set out in Clause 5.5 of this Part will render a Tender invalid and it will not be considered further.**

(b) Stage II - Checking for Compliance with Essential Requirements

A Tender which has passed the completeness check will be assessed for its compliance with the Essential Requirements stipulated in Clause 4.1(a) and (b) of this Part. **A Tender which fails to meet any one of the Essential Requirements will not be considered further.**

(c) Stage III - Checking for Full Coverage of Services to Remote Sites

Tenders which have passed Stage I and II evaluation will be further evaluated for full service coverage to Locations.

Any Tenderer's tender, which can provide full service coverage alone or in combination with tenders of other tenderers, would be selected for the next stage of assessment.

(d) Stage IV - Technical Assessment

Tenders which have passed Stages I to III evaluation will be further evaluated on their Technical Proposal as detailed in and according to the Assessment Criteria and Marking Guidelines in **Appendix A**.

The weighted technical score (WTS) will be worked out for each Tender which has passed Stages I to III evaluation and the WTS will be applied to all Remote Site bid in the Tender. The highest scoring Tender in this Stage will be given the maximum WTS of 50 and the remaining tenders will be given a WTS in accordance with the following formula:

$$50 \times \frac{\text{Total technical mark attained by the Tender being assessed}}{\text{Highest total technical mark among tenders that have passed Stages I to III evaluation}}$$

(e) Stage V - Price Assessment

The price proposals of Tenders which have passed Stage I to IV evaluation will be assessed. The price assessment will be based on the tender price for the respective Remote Site in Schedule 5 of Part 5 – Schedules (Price Schedule). The sum of the total monthly rental for the Service Period of the Remote Site and the associated One-off cost(s), including Port Setup Charge, Internal Relocation Charge and Re-configuration Charge, would constitute the total Monthly Rental of the Client Port for the Remote Site.

For each Location, the lowest tender price offered by a Tenderer amongst all the Tenderers whose tenders have passed Stage I to III evaluation and completed Stage IV assessment will be given the maximum weighted price score (WPS) of 50 and the remaining Tenders with offer will be given a WPS in accordance with the following formula:

$$50 \times \frac{\text{Lowest Total Monthly Rental of the Client Port for the Remote Site amongst all the Tenders with offers which have passed Stages I to III evaluation and completed Stage IV assessment}}{\text{Total Monthly Rental of the Client Port for the Remote Site of the Tender with offer being assessed}}$$

0 WPS will be given to those Remote Sites without offer. For price assessment purpose, any payment discounts offered by any Tenderer will **NOT** be taken into consideration.

[Note: WTS and WPS of each tender will be rounded to the nearest 2 decimal places. Figures with the value at the third decimal place larger than or equal to 0.005 will be rounded up by adding 0.01 to the figures and curtailing the third decimal place onward whereas figures with the value at the third decimal place below 0.005 will be rounded down by curtailing the third decimal place onward without changing the value at the second decimal place.]

(f) Stage VI – Calculation of Combined Score

The WTS and the WPS of each Remote Site will be added up to give the combined score for each Remote Site in the Tender.

(g) Stage VII – Calculation of Combination of Contract Value

The combination of Tenderers that could provide full service coverage alone or with other tenderers would be shortlisted. For each combination, the Tenderer attaining the highest combined score for each Remote Site would normally be selected to form the potential contract combination. If two or more Tenderers obtain the same highest combined score for the Remote Site, the Tenderer with the highest WTS would be selected to form the potential contract combination.

The combination with the lowest total contract value would normally be selected to form the Contract(s). Notwithstanding anything herein, the Government is not bound to accept the combination with the lowest total contract value and reserves the right to accept the combination which the Government deems fit and appropriate.

The illustration of Tender evaluation is cited in **Appendix B**.

## 16. Request for Information

In the event that the Government determines that:

- (a) clarification in relation to any part of the Tender is necessary; or
- (b) a certain document or a piece of information is missing in the Tender (other than the price information required in Schedule 5 of Part 5 – Schedules, or a duly completed and signed Part 7 – Offer to be Bound, or other items in respect of which it is expressly specified that if found missing after the Tender Closing Date, will result in the tender not being considered further),

it may, but is not obliged to, request the Tenderer concerned to make the necessary clarification, or submit the document or information. The Tenderer shall thereafter within five (5) working days or such other period as specified in the request submit such clarification, information or document. A Tender will not be considered further if complete information or document is not provided as required by the deadline specified in the request, or in the case of clarification, such clarification is not acceptable to the Government. As an alternative to seeking clarification or submission, the Government may not consider the Tender further or may proceed to evaluate the Tender on an “as is” basis.

## 17. Tenderer's Enquiries

- 17.1 Any enquiries from the Tenderer concerning this Tender Document, including Part 6 – Specifications up to the date of lodging its Tender with the Government shall be made in writing to:

Director of Agriculture, Fisheries and Conservation,  
Agriculture, Fisheries and Conservation Department,  
6/F., Cheung Sha Wan Government Offices,  
303 Cheung Sha Wan Road, Kowloon,

Hong Kong.

(Attn.: Systems Manager/ITMD)  
Fax No. : (852) 2110 2934

17.2 After lodging a Tender with the Government, the Tenderer shall not attempt to initiate any further contact, whether direct or indirect, with the Government concerning its Tender or these Tender Documents. The Government shall have the sole right to initiate any such further contact and all such contacts and any replies of the Tenderer thereto shall be in writing or formally documented in writing.

## **18. Saving**

The Government is not bound to accept the lowest offer or any Tender and reserves the right to cancel the Tender on the ground of public interest.

## **19. Unreasonably Low Price**

The Government may require a Tenderer who in the opinion of the Government, has submitted an unreasonably low price, to justify and demonstrate to the reasonable satisfaction of the Government that such Tenderer is capable of carrying out and completing the Contract. Failing to justify and demonstrate to the Government's satisfaction would entitle the Government to reject the Tender without having to give any reason(s) for the rejection.

## **20. Tender Negotiation**

The Government reserves the right to negotiate with any Tenderer about the terms of its Tender.

## **21. Award of Contract and Contract Deposit**

21.1 The successful Tenderer will receive a letter ("Letter of Conditional Acceptance"), by fax or post, from the Government notifying conditional acceptance of offer. This Letter of Conditional Acceptance will, notwithstanding any content therein to the contrary, have the effect that the Government accepts its Tender (as the case may be and as specified therein) subject by way of condition precedent to the Contract to the delivery of Contract Deposit pursuant to Clause 21.2 of this Part and any other conditions as the Government may specify therein. Upon the due fulfillment of all such conditions by the successful Tenderer as confirmed in writing by the Government Representative, the Contract shall be deemed to be constituted between the Government and successful Tenderer and commence on the date of the Letter of Conditional Acceptance.

21.2 Should the actual contract value stipulated in the Letter of Conditional Acceptance exceeds HK\$1.4 million, the successful Tenderer shall furnish a Contract Deposit to the Government within twenty-one (21) days from the date of receipt of the Letter of Conditional Acceptance, an amount equivalent to two percent (2%) of the actual contract

value as a security for the due and faithful performance of the Contract. The Contract Deposit may be payable either in cash or in the form of a banker's guarantee in substantially the form as appears in **Appendix A** to Part 4 – Conditions of Contract, issued by a bank holding a valid banking licence under the Banking Ordinance (Cap. 155). Tenderers should elect the method they prefer in Schedule 6 of Part 5 – Schedules. In the event that a Tenderer fails to elect the method of providing a Contract Deposit in Schedule 6, it will be assumed that the Tenderer will pay the Government the Contract Deposit by way of cash.

- 21.3 If the successful Tenderer who receives the Letter of Conditional Acceptance fails to comply with Clause 21.1, the Letter of Conditional Acceptance will lapse and be of no further effect and the Government Representative shall be at liberty to award the relevant Contract to another Tenderer who is fully capable of undertaking the Contract and whose Tender is determined by the Government to be the most advantageous to the Government.
- 21.4 The Government will notify all Tenderers the result of the tendering exercise as soon as practicable. Tenderers who do not receive any notification within the Validity Period may assume that their Tenders have not been accepted.

## **22. Warning against Bribery**

- 22.1 The offer of an advantage to any public officer with a view to influencing the award of the Contract is an offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong). Any such offence committed by a Tenderer or any of its officers (including directors), employees or agents will render its Tender null and void.
- 22.2 The successful Tenderer shall inform his officers, employees (whether permanent or temporary), agents and sub-contractors who are connected with the provision of the Services that the soliciting or accepting of advantages, as defined in the Prevention of Bribery Ordinance (Cap. 201) is not permitted. The successful Tenderer shall also caution his officers (including directors), employees and agents and sub-contractors against soliciting or accepting any hospitality, entertainment or inducement which may impair their impartiality in relation to the selection of its sub-contractors, if any, or the supervision of the work of the sub-contractors once selected.

## **23. Costs of Preparing the Tender**

Every Tenderer submits its Tender at its own cost and expense. The Government will not be liable for any costs and expenses whatsoever incurred by the Tenderer in connection with the preparation or submission of its Tender or in any related communication with the Government, whether before, on or after the Tender Closing Date.

## **24. Personal Data Provided**

- 24.1 The personal data of any individual provided by the Tenderer in the Tender will be used for Tender evaluation and contract award purposes.

- 24.2 The personal data provided in the Tender may be disclosed to the parties responsible for Tender evaluation in other government departments and non-government organizations.
- 24.3 Individuals to whom the personal data belong have the right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance (Cap. 486). The right of access includes the right to obtain a copy of the personal data provided in the Tender.
- 24.4 Enquiries concerning the personal data collected by means of the Tender, including the making of access and corrections, should be addressed to Personal Data Privacy Officer of the department issuing the Tender Documents.

## **25. Consent to Disclosure**

For the purposes of this invitation to tender, including without limitation for evaluation and processing purposes, and for all other purposes arising from or incidental to this invitation to tender (including resolution of any dispute arising from this invitation to tender), the Government shall have the right (but not obligation to whomsoever) to disclose whenever it considers appropriate or upon request by any third party (written or otherwise) information concerning any of the Tenderers or the Tender submitted by that Tenderer, without any further reference to that Tenderer, including without limitation the name of the Tenderer and the prices proposed in its Tender.

## **26. Cancellation of Tender**

Without prejudice to the Government's right to cancel the tender at its absolute discretion or for public interest reasons, where there are changes of requirement after the Tender Closing Date for operational or whatever reasons, the Government is not bound to accept any conforming tender and reserves the right to cancel the tender.

## **27. Agreement on Government Procurement of the World Trade Organization**

This Tender is covered by WTO GPA and the provisions of the WTO GPA will apply to this Tender. Tenderers are requested to note that a Review Body on Bid Challenges (under WTO GPA) ("the Review Body") has been set up by the Government to deal with challenges made against alleged breaches of the WTO GPA and the relevant procedures for handling bid challenges are set out in the Rules of Operation of the Review Body ("the Rules") which are available for inspection at the Secretariat of the Review Body located at the Trade and Industry Department or which may be sent to the interested parties upon request. In the event that a Tenderer believes that a breach of the WTO GPA has occurred, the Tenderer may, within ten (10) working days after he/she knew or reasonably should have known the basis of the challenge, lodge a challenge to the Review Body on the alleged breaches of the WTO GPA. Nevertheless, the Tenderer is encouraged to seek resolution of its complaint in consultation with the Government before lodging a complaint to the Review Body. In such instances, the Government shall accord impartial and timely consideration to any such complaint, in a manner that is not prejudicial to obtaining corrective measures through the Review Body. Tenderers are also to note that the Review Body may receive and consider a late challenge but a

challenge shall not be considered if it is filed later than thirty (30) days after the basis of the challenge is known or reasonably should have been known.

## **28. Documents of Unsuccessful Tenderers**

Documents of unsuccessful Tenderers will be destroyed three (3) years after the date the Contract has been awarded.

## **29. Statement of Compliance**

A Tenderer shall confirm in Schedule 3 of Part 5 – Schedules that the Services offered are in compliance with Part 6 – Specifications. Without prejudice to other provisions of the Tender Documents, a Tenderer who expressly indicates non-compliance with any of the Essential Requirements in Part 6 – Specifications will result in its Tender not being considered further.

## **30. Offer to be Binding**

30.1 All parts of the Tender Documents submitted and offered by the Tenderer will be binding on the Tenderer. A Tenderer is deemed to have satisfied itself as to the correctness of its Tender. In the event that a Tenderer discovers an error in its Tender after the Tender has been deposited, the Tenderer may correct the same in a separate letter before the Tender Closing Date. No request for adjustment or variation whatsoever will be allowed or entertained after the Tender Closing Date.

30.2 By signing the Part 7 – Offer to be Bound, a Tenderer confirms that its offer has been made subject to the terms and conditions contained in the Tender Documents, and any variation or adjustment agreed with the Government and upon being accepted by the Government, be incorporated into and form part of the Contract.

## **31. Contractor's Performance Monitoring**

Tenderers are advised that should the Government award the Contract to the successful Tenderer, its performance of the Services under the Contract will be monitored and may be taken into account when the Government evaluates any tenders or quotations that the successful Tenderer may submit in future. A Tender will be rejected if by the Tender Closing Date, the Tenderer is under suspension from tendering for the government tenders.

## **32. New Information Relevant to Qualified Status**

Tenderers should inform the Government in writing immediately of any factor which might affect their qualified status as an enlisted supplier with the Government, or as a qualified supplier for a particular service. The Government reserves the right to review their qualified status in the light of any new information relevant to their qualification.

**APPENDIX A****Assessment Criteria and Marking Guidelines for the Technical Proposal**

<b>Assessment Criteria of Execution Plan (see Schedule 4 – Execution Plan of Part 5 – Schedules)</b>		<b>Maximum Mark</b>
(1)	User Acceptance Test Plan	40
(2)	Escalation Plan	40
(3)	Innovative Suggestions	
	(a) Type I – directly relevant to the Service	10
	(b) Type II – not directly relevant to the Service but can bring positive values to Government or the society	10
<b>Total Marks for Technical Proposal</b>		<b>100</b>

**Marking Standard for Assessment Criteria (1) and (2)**

The User Acceptance Test Plan and the Escalation Plan should demonstrate the Tenderer's ability to coordinate and deliver the Service promptly with quality assurance measures. Marks will be given according to the marking standard provided below.

<u>Percentage of Maximum Marks</u>	<u>Marking Standard for Assessment Criteria (1) and (2)</u>
100%	The proposed plan is practical and with detailed description for the 2 pieces of the required information.
50%	The proposed plan is practical and with detailed description for 1 piece of the required information.
0%	The proposed plan is impractical or fails to provide the required information.

**Marking Standard for Assessment Criteria (3)(a) and (b)**

- Both Type I and Type II Innovative Suggestions will be assessed according to the marking standard provided below.
- An innovative suggestion expressed to be a Type I Innovative Suggestion will be scored under Assessment Criterion 3(a) only and no marks will be given under Assessment Criterion (3)(b). Likewise, An innovative suggestion expressed to be a Type II Innovative Suggestion will be scored under Assessment Criterion 3(b) only and no marks will be given under Assessment Criterion (3)(a).
- All proposed innovative suggestions will be assessed on the basis of the information provided in the tender submissions and factual supporting documents (e.g. test reports/certificates) provided by the Tenderers upon request by the Government. Any demonstration which may be requested will not be taken into account in marking. It only serves as a means to enable members of the Tender Assessment Panel to have a better understanding of the innovative suggestions proposed by the Tenderers. During the demonstration, Tenderers are also not allowed to provide additional information not contained in their original tender submissions.

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<u>Percentage of Maximum Marks</u>	<u>Marking Standard for Assessment Criteria (3)(a) and (b)</u>
100%	Three or more practicable innovative suggestions are proposed.
50%	Two practicable innovative suggestions are proposed.
25%	One practicable innovative suggestion is proposed.
0%	No innovative suggestion is proposed.

**APPENDIX B****Illustration of Tender Evaluation**

The following serves as an illustration of the Tender Evaluation.

Tenders from Tenderer A, B and C have passed the completeness check (Stage I) and the checking for compliance with Essential Requirements (Stage II). Combining the proposals of Tenderer A and B as well as Tenderer A, B and C can provide full service coverage to all Locations (Stage III). After the technical assessment (Stage IV), Tenderer A, B and C scored 90 marks, 100 marks and 80 marks for their technical proposals respectively. In the price proposals, they make the following offers:

Client Ports Offer:

Remote Site	Service Period (Month)	Tenderer A		Tenderer B		Tenderer C	
		Monthly Rental (HK\$)	First Time Installation	Monthly Rental (HK\$)	First Time Installation	Monthly Rental (HK\$)	First Time Installation
Site I	28	No offer		1,200		No offer	
Site II	20	3,333		2,500	✓	1,000	✓
Site III	28	2,000		No offer		No offer	

Host Ports Offer:

	Tenderer A (HK\$)	Tenderer B (HK\$)	Tenderer C (HK\$)
Monthly rental for two Host Ports	20,000	18,000	2,000

[Note: Service Commencement Month of Host Ports would be the same as the earliest Service Commencement Month of the Client Ports awarded.]

One-off Cost:

	Tenderer A (HK\$)	Tenderer B (HK\$)	Tenderer C (HK\$)
Port setup charge per site	10,000	50,000	0

Table A – Calculation of Weighted Technical Score in Stage IV

	<b>Tenderer A</b>	<b>Tenderer B</b>	<b>Tenderer C</b>
Technical Mark	90	100	80
Weighted Technical Score	$50 \times \frac{90}{100} = 45.00$	$50 \times \frac{100}{100} = 50.00$	$50 \times \frac{80}{100} = 40.00$

Table B – Calculation of Weighted Price Score for each Remote Site in Stage V

Remote Site	Service Period (Month) (A)	Tenderer A			Tenderer B			Tenderer C		
		Monthly Rental (HK\$) (B)	One-off Cost (HK\$) (C)	Total Monthly Rental of Client Port (HK\$) (A)x(B)+(C)	Monthly Rental (HK\$) (D)	One-off Cost (HK\$) (E)	Total Monthly Rental of Client Port (HK\$) (A)x(D)+(E)	Monthly Rental (HK\$) (F)	One-off Cost (HK\$) (G)	Total Monthly Rental of Client Port (HK\$) (A)x(F)+(G)
Site I	28	No offer			1,200	0	33,600	No offer		
Site II	20	3,333	0	66,660	2,500	50,000	100,000	1,000	0	20,000
Site III	28	2,000	0	56,000	No offer			No offer		

[Note: The sum of total monthly rental for the Service Period of the Remote Site and the associated one-off cost(s) would constitute the tender price for the Remote Site.]

Remote Site \ Weighted Price Score	<b>Tenderer A</b>	<b>Tenderer B</b>	<b>Tenderer C</b>
Site I	0.00 (No offer)	$50 \times \frac{33,600}{33,600} = 50.00$	0.00 (No offer)
Site II	$50 \times \frac{20,000}{66,660} = 15.00$	$50 \times \frac{20,000}{100,000} = 10.00$	$50 \times \frac{20,000}{20,000} = 50.00$
Site III	$50 \times \frac{56,000}{56,000} = 50.00$	0.00 (No offer)	0.00 (No offer)

Table C – Calculation of Combined Score in Stage VI

Remote Site	Tenderer A			Tenderer B			Tenderer C		
	Weighted Technical Score	Weighted Price Score	Combined Score	Weighted Technical Score	Weighted Price Score	Combined Score	Weighted Technical Score	Weighted Price Score	Combined Score
Site I	45.00	0.00	45.00	50.00	50.00	100.00	40.00	0.00	40.00
Site II	45.00	15.00	60.00	50.00	10.00	60.00	40.00	50.00	90.00
Site III	45.00	50.00	95.00	50.00	0.00	50.00	40.00	0.00	40.00

Table D – Calculation of Combination of Contract Value in Stage VII

In order to provide full service coverage, there are two potential combinations of Tenderers for awarding the Contracts. (i.e. Tenderer A + B and Tenderer A + B + C)

#### Contract Value of Combination of Tenderer A + B

Remote Site	Service Period (Month)	Proposal with Highest Combined Score	Total Monthly Rental of Client Port (HK\$)
Site I	28	Tenderer B	33,600
Site II	20	Tenderer B	100,000
Site III	28	Tenderer A	56,000

According to the results in Stage VI, Tenderer B has attained the highest combined score (100.00) for Site I whereas Tenderer A has attained the highest combined score (95.00) for Site III. As for Site II, Tenderer A and B has attained the same highest combined score (60.00). Among them, Tenderer B has higher Weighted Technical Score (50.00). Hence, Site I, II would be awarded to Tenderer B and Site III would be awarded to Tenderer A under this combination.

Total monthly rental of Client Port for Remote Site (TC):  $\$33,600 + \$100,000 + \$56,000 = \underline{\$189,600}$

Total monthly rental for two Host Ports (TH):  $\$20,000 \times 28 + \$18,000 \times 28 = \underline{\$1,064,000}$

Total contract value (TC) + (TH):  $\$189,600 + \$1,064,000 = \underline{\$1,253,600}$

**Contract Value of Combination of Tenderer A + B + C**

<b>Remote Site</b>	<b>Service Period (Month)</b>	<b>Proposal with Highest Combined Score</b>	<b>Total Monthly Rental of Client Port (HK\$)</b>
Site I	28	Tenderer B	33,600
Site II	20	Tenderer C	20,000
Site III	28	Tenderer A	56,000

According to the results in Stage VI, Tenderer B has attained the highest combined score (100.00) for Site I, Tenderer C has attained the highest combined score (90.00) for Site II whereas Tenderer A has attained the highest combined score (95.00) for Site III. Hence, Site I, II and III would be awarded to Tenderer B, C and A respectively.

Total monthly rental of Client Port for Remote Site (TC):  $\$33,600 + \$20,000 + \$56,000 = \underline{\$109,600}$

Total monthly rental for two Host Ports (TH):  $\$20,000 \times 28 + \$18,000 \times 28 + \$2,000 \times 20 = \underline{\$1,104,000}$

Total contract value (TC) + (TH):  $\$109,600 + \$1,104,000 = \underline{\$1,213,600}$

Based on the above, the combination of Tenderer A + B + C has the lowest total contract value. Hence, Remote Sites would be awarded according to the combination of **Tenderer A + B + C**.

**Provision of Metro Ethernet Services for  
the Agriculture, Fisheries and Conservation Department**

**PART 4 – CONDITIONS OF CONTRACT**

**Contents**

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2. Contractor's Obligations
3. Preparation and Acceptance of the Connection
4. Maintenance and Rental of Connection
5. As-built Records
6. Termination of the Contract
7. Contractor's Undertakings
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**APPENDIX A – FORM OF BANKER'S GUARANTEE FOR PERFORMANCE OF  
CONTRACT**

**CONDITIONS OF CONTRACT****1. Contract Period**

- 1.1 This Contract shall have a duration (“Contract Period”) commencing from the date of Letter of Conditional Acceptance until the Expiry Date, subject to any provision for sooner termination or extension of the Contract as provided for in the Contract.
- 1.2 The preparation period (“Preparation Period”) for each Connection shall commence from the date of an Order to the Acceptance Date of the Connection, during which the Contractor shall render the Connection Ready for Use. Under no circumstances the Preparation Period for each Connection shall exceed two (2) weeks from the date of an Order for a Connection.
- 1.3 The intended Service Commencement Month and the Service Period of each Connection is set out in Annex 1 of Part 6 – Specifications for the Contractor’s reference only. The actual service period (“Service Period”) for each Connection shall commence from the Acceptance Date of the Connection until the Expiry Date, both dates inclusive.
- 1.4 The Government may, by serving on the Contractor not less than one (1) month’s advance notice in writing extend the Contract for a period up to an aggregate maximum of six (6) months on the same terms and conditions contained in the Contract. The extended Contract Period commences immediately upon the expiry of the current Contract Period.

**2. Contractor’s Obligations**

The Contractor shall:

- (a) provide, install, test and commission the Connection in accordance with Clause 3;
- (b) throughout the Contract Period, make available for use by Government under the Contract and maintain in accordance with Clause 7 of Part 6 – Specifications all Connection;
- (c) comply with all reasonable instructions of the Government Representative in relation to provision of the Services;
- (d) notify the Government Representative forthwith of any matter that may materially affect the Contractor’s provision of the Services under this Contract; and
- (e) at all times throughout the Contract Period comply with all laws, regulations and by-laws applicable to the Services including without limitation obtaining and maintaining any authorizations, licences, permits and approvals under any of such laws, regulations and by-laws.

**3. Preparation and Acceptance of the Connection**

3.1 AFCD may request Services from time to time in relation to Connection between HQs and Remote Sites by the issuance of an order (“Order”). The Contractor shall render the Connection Ready For Use in accordance with the Order and Part 6 – Specifications.

3.2 The Contractor shall install ME port and complete the work at the Locations within two (2) weeks from the date of an Order of the Connection. Upon completion of the work required under the Order, the Contractor shall notify AFCD in writing that the Connection is ready for Acceptance Test as detailed in Annex 3 to Part 6 – Specifications.

**3.3 Acceptance Letter**

(a) Upon the successful completion of an Acceptance Test to be conducted by the Contractor, an Acceptance Letter will be issued by AFCD to the Contractor indicating the successful commissioning of the Connection. This date of issuance of an Acceptance Letter is the Acceptance Date.

(b) The issuance of an Acceptance Letter shall nevertheless be without prejudice to any claim of the Government in respect of any fault/defect which may subsequently become apparent or discovered.

3.4 The Contractor shall conduct the Acceptance Test each time upon a Connection established successfully after receiving an Order issued by AFCD. In the event of any Connection failing to pass any of the Acceptance Test, the Contractor shall forthwith take all necessary remedial measures to ensure that the Connection passes the Acceptance Test and provision of any Services requested by the Government will not be affected by failure of any Connection to pass any Acceptance Tests.

3.5 Notwithstanding any other provisions herein contained, the Government shall be entitled to terminate the Contract should the Contractor fail the Acceptance Test for any Connection.

3.6 The Contractor shall provide relocation services of ME port within six (6) weeks from the date of an Order issued by AFCD.

3.7 The Contractor shall provide re-configuration services for subscribed Connection(s) in respect of the change of bandwidth (including upgrade and downgrade) or VLAN property (including but not limited to change of VLAN number) that involve no change of ME port type within one (1) week from the date of an Order issued by AFCD.

**4. Maintenance and Rental of Connection**

4.1 The Contractor shall maintain all Connection in full and proper working order in accordance with Clause 7 of Part 6 – Specifications.

4.2 The Contractor shall rent to and make available for use by the Government the

Connection in accordance with Part 6 – Specifications.

- 4.3 Notwithstanding anything to the contrary herein contained, the Government Representative may at any time and from time to time during the Service Period, by giving not less than one (1) month prior written notice (or such shorter period of notice as the parties may agree) served upon the Contractor, modify, reconfigure or remove any Connection from Annex 1 to Part 6 – Specifications; and except to the extent of such modification, reconfiguration or removal, the duties and obligations of the Contractor under this Contract shall remain unchanged but the Monthly Rental shall be adjusted in accordance with Clause 4.4 below.
- 4.4 Following any modification or reconfiguration under Clause 4.3 above, the Monthly Rental shall be correspondingly adjusted on the basis of the rates of charges stipulated in Schedule 5 of Part 5 – Schedules.
- 4.5 Where any Connection has been removed under Clause 4.3 above, the Monthly Rental in respect of such Connection shall cease to be payable from the date of the removal.
- 4.6 In the event that the Contractor removes any Connection (or any parts thereof) provided under the Contract, the Contractor shall, unless otherwise agreed by the Government in writing, bear all the relevant costs and expenses arising out of such removal, including without limitation, the packing, carriage and insurance costs incurred in the dismantlement, removal, overhaul, repair, return, re-installation and re-testing of such Connection, equipment or any parts thereof.

## **5. As-built Records**

The Contractor shall furnish the Government with a full set of as-built plans, wiring diagrams, port assignments, configurations, bandwidths and drawings in respect of all Connection specified in an Order.

## **6. Termination of the Contract**

- 6.1 Notwithstanding any other provisions herein, the Government may at any time during the Contract Period, at its option and without cause, terminate the Contract by giving not less than three (3) months' prior notice in writing to the Contractor.
- 6.2 Without prejudice to any rights and claims of the Government under the Contract or otherwise at law, the Government will be entitled to forthwith terminate the Contract with immediate effect if any of the following events occurs –
- (a) the Contractor fails to observe and/or comply with any of the essential requirements set out in Part 6 – Specifications; or
  - (b) the Contractor fails to successfully complete any Acceptance Test, hence, being unable to obtain the Acceptance Letter; or
  - (c) the Contractor fails to observe or perform any of the terms and conditions of the Contract or pay any of the sums payable by the Contractor under the Contract, or

(in the case of a breach capable of being remedied but not otherwise) the Contractor has failed to remedy the breach to the satisfaction of the Government Representative within 7 days (or such other period as the Government Representative may, in its sole discretion, specify) after the issuance by the Government Representative to the Contractor of a request in writing (such request to contain a warning of the Government's intention to terminate the Contract) requiring it to do so; or

- (d) the Contractor abandons the Contract in part or in whole; or
- (e) the Contractor is found to have employed illegal workers in the execution of this Contract; or
- (f) the Contractor, any officer (including director), employee, agent or sub-contractor of the Contractor commits an offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) or any law of a similar nature in relation to the Contract or any other contract made by the Contractor with the Government; or
- (g) the Government is given the right to terminate the Contract under any other provision of the Contract including without limitation Clauses 6.3, 14, 15, 23 and 39 of this Part.

6.3 The Government may also by written notice to the Contractor terminate the Contract immediately upon the occurrence of any of the following events:

- (a) a proposal is made for a voluntary arrangement or any other composition, scheme or arrangement with, or assignment for the benefit of, the Contractor's creditors;
- (b) if the Contractor is a body corporate, a shareholders' or members' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than voluntarily for the purpose of bona fide reconstruction or solvent amalgamation);
- (c) a petition is presented for the winding-up of the Contractor, which is not dismissed within 14 days after the petition is presented;
- (d) the Contractor is or becomes insolvent;
- (e) a receiver is appointed over the whole or any part of the Contractor's business or assets;
- (f) the Contractor suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- (g) the Government reasonably apprehends that any of the events mentioned above is about to occur.

6.4 On termination of the Contract for any reason, the Government is under no further obligation to the Contractor under the Contract without thereby releasing the Contractor from any of its liabilities under the Contract, or affecting any rights and

powers conferred upon the Government by the Contract.

- 6.5 The expiry or termination of the Contract shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision of the Contract which is expressly or by implication intended to come into or continue in force on or after such expiry or termination.
- 6.6 Upon expiry or termination of the Contract in accordance with the terms and conditions of the Contract hereof, the Contractor shall, at its own costs and expenses:-
- (a) disconnect and remove each any every Connection provided under the Contract with due care and diligence causing as little inconvenience or disruption as possible to the Government;
  - (b) within a reasonable time make good any physical damage caused to any property of the Government or of any other person and reinstate such property in a good and workmanlike manner, failing which the Contractor shall pay, promptly and fully, compensation for such damage caused or costs incurred by the Government in making good such damage;
  - (c) immediately return to the Government all documents containing confidential information, personal data and such other information, property and materials in the possession or under the control of the Contractor or any of its sub-contractors and agents, which was obtained or produced in the course of providing the Services;
  - (d) assist and co-operate with the Government to ensure an orderly transition of the provision of the Services to such person specified by the Government Representative and/or the completion of any work-in-progress;
  - (e) within 28 days of the date of termination or the Expiry Date compile and submit to the Government a report of all relevant information, facts, data, findings and conclusions in respect of the Services which have been provided up to the effective date of termination or the Expiry Date; and
  - (f) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Government for the purposes of adequately understanding the manner in which the Services have been provided or the purpose of allowing the Government or a replacement contractor to conduct due diligence.

This clause shall survive the termination or expiry of the Contract.

- 6.7 Save as otherwise expressly provided for in the Contract, no compensation whatsoever (including compensation for any loss or expense arising from any consequential loss or damage, or loss of opportunity, suffered or incurred by the Contractor) will be payable by the Government to the Contractor as a result of any suspension or early termination of the Contract by the Government.

## **7. Contractor's Undertakings**

The Contractor warrants and undertakes to the Government that:-

- (a) the Contractor has the full capacity, power and authority to enter into this Contract;
- (b) every Connection shall be free from defects in design, material, workmanship and installation during the continuance of the Contract;
- (c) every Connection shall, at all times during the continuance of the Contract, conform fully to the standards and requirements specified in the Specifications and be in full and proper order;
- (d) the Contractor has good and sufficient title in every Connection to enable the Government to use such Connection without disruption; and
- (e) the Services shall be performed in a timely and diligent manner and that the Contractor and any person employed, used or engaged by the Contractor for the performance of its duties and obligations under the Contract shall use all experience, skill, care and diligence in the performance of the Services and the discharge of all its duties and obligations under the Contract as may be expected from a person who is an expert in performing services of a similar kind.

## **8. Payment for Services**

8.1 In consideration of the provision of the Services by the Contractor according to this Contract and to the full satisfaction of the Government, the Government will pay for the Services on the following terms.

8.2 Payment for Services, without prejudice to Clauses 9 to 12, are as follows -

- (a) for Services provided by the Contractor under Clause 3.1, the “Total One-off Cost” specified in Clause 5.3 of Schedule 5 of Part 5 – Schedules;
- (b) for Services provided by the Contractor under Clause 3.6 and 3.7, the Port Setup Charge, either Internal Relocation Charge or Re-configuration Charge as the case may be; and
- (c) for Services provided by the Contractor under Clause 4.1 and 4.2, the Monthly Rental includes all costs for the maintenance, repair or replacement of such Connection, subject to any adjustment, if any, as stipulated in Clause 4.5, 4.6 and 9.

8.3 The Contractor shall invoice the Government:-

- (a) for Services provided under Clause 3.1, 3.6 and 3.7, upon the issue of an Acceptance Letter pursuant to Clause 3.3 and 3.4; and
- (b) for Services provided under Clause 4.1 and 4.2 in any given month, within 30 days after the first day of that month.

8.4 Payments due and payable to the Contractor will normally be made after due presentation

of accurate invoice with supporting documents required by the Government, as follows:

- (a) 90 days from the receipt of an invoice issued by the Contractor under Clause 8.3(a).
- (b) 60 days from the receipt of an invoice issued by the Contractor under Clause 8.3(b).

8.5 If the Service Period in relation to a Connection does not commence from the first day of a month, the Monthly Rental for the first month of the Connection shall be calculated on a pro-rata basis.

8.6 All invoices and correspondence for payments shall be sent to the Government Representative's address in Clause 17.1 of Part 3 - Terms of Tender. The Government shall not be held responsible for any delay in payment for inaccurate or unsupported invoices or use of inaccurate recipient's addresses.

## **9. Price Adjustment**

Notwithstanding anything to the contrary herein contained, if the Contractor's "listed monthly rental" for any Connection of the same type of port and bandwidth falls below the Monthly Rental set out in Schedule 5 of Part 5 – Schedules, the Monthly Rental in respect of that Connection shall be automatically adjusted, with effect from the next payment due, to the level of the "listed monthly rental". For the purpose of this Clause, "listed monthly rental" shall mean the monthly rental for the Fixed Internal Services published from time to time by the Contractor in the gazette / tariff notices in the website of OFCA ([www.ofca.gov.hk](http://www.ofca.gov.hk)).

## **10. Delays**

10.1 If the Contractor fails to render any Connection Ready For Use on or before the expiry of the Preparation Period in respect of the Connection, the Contractor shall pay to the Government as and by way of liquidated damages and not as a penalty for any loss or damages sustained by the Government resulting from the delay a daily sum to be calculated using the formula below:

$$D = T / M$$

where D = daily rate  
T = the relevant Monthly Rental at the rate set out in Schedule 5 of Part 5 – Schedules (Price Schedule)  
M = the number of days in the relevant calendar month

for each day during the period whilst such delay subsists from the applicable Commencement Date to the actual date on which the Contractor shall have the Connection Ready for Service in due accordance with the terms of the Contract. The payment of liquidated damages shall not relieve the Contractor from its obligation to

provide the Services or from any other liability or obligation arising from or under the Contract.

- 10.2 Time shall be of the essence of the Contract, and if the Contractor fails to provide the full and complete Services or any part thereof on the date falling one month from the applicable Commencement Date, then notwithstanding anything to the contrary contained in the Contract, the Government shall be entitled to terminate the Contract in accordance with Clause 6.2 of this Part (without first having to resort to demanding payment under Clause 10.1).
- 10.3 The payment of liquidated damages shall be without prejudice to the right of the Government to terminate the Contract. The payment of such sums shall not relieve the Contractor from its obligations to provide such or other Services or from any other liability or obligations under the Contract.

## 11. Reliability

- 11.1 The Contractor shall warrant the service compliance with the Serviceability Level and MTBF as stipulated in Annex 2 of Part 6 – Specifications (“Committed Serviceability Level” and “Committed MTBF” respectively).
- 11.2 In the event that any Connection cannot achieve the Committed Serviceability Level, the following amount shall be deducted from the Port Setup Charge and Monthly Rental for the Connection and to be calculated below as and for liquidated damages:

$$\frac{(A - B) \times C}{E} + (A - B) \times D$$

Where A = the Committed Serviceability Level  
 B = the Actual Serviceability Level  
 C = the Port Setup Charge  
 D = the Monthly Rental  
 E = the Service Period (in months)

- 11.3 In the event that any Connection cannot achieve the Committed MTBF, the following amount shall be deducted from the Port Setup Charge and Monthly Rental for the Connection and to be calculated below as and for liquidated damages:

$$\frac{(A - B) \times C}{E \times 30 \times 24} + \frac{(A - B) \times D}{24 \times 30}$$

Where A = the Committed MTBF  
 B = the Actual MTBF  
 C = the Port Setup Charge  
 D = the Monthly Rental  
 E = the Service Period (in months)

- 11.4 Without prejudice to any other rights and claims of the Government, in the event that the

Government detects error due to incorrect setting or configuration of a Connection that makes a Connection fail to conform to any of the specifications in Part 6 – Specifications, including but not limited to, incorrect configuration of VLAN or leakage of data from or to the Connection, an amount equivalent to the relevant Monthly Rental for such Connection as specified in Clause 8 shall not be payable by the Government as and for liquidated damages for such non-conformity.

## **12. Set Off**

Where the Contractor has incurred any liability to the Government, whether at law or in equity, and whether such liability is liquidated or unliquidated, the Government may set off, whether at law or in equity, the amount of such liability against any sum then due or which at any time thereafter may become due from the Government to the Contractor under this Contract or any other contracts.

## **13. Variation**

Subject to the terms and conditions of the Contract, no waiver, cancellation, alteration or amendment of or to the terms and conditions of the Contract shall be valid unless made by an instrument in writing and duly signed by both parties.

## **14. Assignment**

14.1 The Contractor shall not assign, transfer or otherwise dispose of the Contract or any of its rights and obligations there under whether in whole or in part without the prior written consent of the Government Representative. This shall include the assignment of the Contract in whole or in part to the Contractor's parent corporation or a company within the same group. Any assignment by the Contractor in breach of this Clause shall be a fundamental breach and shall entitle the Government to immediately and without notice terminate the Contract.

14.2 Any assignment as may be approved by the Government Representative under Clause 14.1 shall be in the prescribed form prepared by the Government.

## **15. Sub-Contracting**

15.1 The Contractor may, subject to the prior written approval of the Government who may impose such conditions as it thinks fit in granting such approval, engage the services of sub-contractors to assist it with its duties under this Contract provided that the Contractor:

- (a) shall not be relieved from any of those duties by engaging any such sub-contractor and shall remain fully liable to the Government for their performance; and
- (b) shall, without argument or delay, first secure legally binding obligations from any such sub-contractor in providing its services to the Contractor and which are

entirely consistent with the performance by the Contractor of its obligations under this Contract (including this Clause).

- 15.2 If the Contractor sub-contracts any part of the Contract or the Services to a third party without prior written approval of the Government, the Government may immediately and without notice terminate the Contract.

## **16. Government Property**

Where any Government property is issued to the Contractor under the Contract, the Contractor shall be responsible for the due return of all such property. Should any such property be lost or damaged from any cause whatsoever while in the possession or control of the Contractor or its servants, workmen or agents, the Contractor shall pay for the same at total original cost plus 20% as liquidated damages and not as penalty. A count of the articles or material in the possession of the Contractor may be made at any time by the Government Representative and the Contractor shall render such assistance as is necessary for this purpose.

## **17. Government Premises/Contractor's Premises**

- 17.1 The Contractor shall ensure that all persons engaged by it in carrying out the Services keep to such parts of Government premises as are necessary for the due discharge of the Contractor's obligations under the Contract.
- 17.2 Where the Services are carried out on the Contractor's premises such premises shall be open to inspection by the Government Representative at all reasonable times.

## **18. Relationship of the Parties**

The Contractor enters into the Contract with the Government as an independent Contractor only and shall not represent itself as an employee, servant, agent or partner of the Government.

## **19. Liability for Damages & Indemnity**

- 19.1 The Government and its employees or agents shall not be under any liability whatsoever for or in respect of:-
- (a) any loss of or damage to any of the Contractor's property or that of its employees or agents however caused (whether by any Negligence of the Government or any of its employees or agents or otherwise); or
  - (b) any injury to or death of any of the Contractor's employees or agents save and except any such injury or death caused by the Negligence of the Government or any of its employees or agents.
- 19.2 The Contractor shall indemnify the Government and its employees or agents against

any claim or demand made against or liability incurred (including all costs, charges or expenses whatsoever) by the Government or any of its employees or agents in respect of:

- (a) any loss, damage, injury or death referred to in Clause 19.1 (save and except for injury or death caused by the Negligence of Government or any of its employees or agents); and
- (b) any loss or damage sustained by or any injury to or death of any third party in consequence of any Negligence of the Contractor or any of its employees or agents.

19.3 The Contractor shall indemnify the Government against any loss of or damage to any property of the Government or of any of its employees or agents or any injury to any employee or agent of the Government arising out of the Negligence of the Contractor or any of its employees, sub-contractors or agents.

19.4 In the event of any of the Contractor's employees or agents suffering any injury or death in the course of or arising out of the Contract and whether there be a claim for compensation or not, the Contractor shall within 3 clear days give notice in writing of such injury or death to the Government Representative.

19.5 For the purposes of this Clause, 'Negligence' shall have the same meaning as that assigned to it in Section 2(1) of the Control of Exemption Clauses Ordinance (Cap.71).

## **20. Probity**

20.1 The Contractor acknowledges it has been reminded that:

- (a) dishonesty, theft and corruption on its part or that of its officers, employees, agents or sub-contractors are criminal offences and may lead to prosecution under section 9 of the Prevention of Bribery Ordinance (Cap. 201), sections 17, 18D and 19 of the Theft Ordinance (Cap. 210) and section 161 of the Crimes Ordinance (Cap. 200); and
- (b) the soliciting or accepting of advantages, as defined in the Prevention of Bribery Ordinance is not permitted.

20.2 The Contractor shall inform its officers, employees (whether permanent or temporary), agents and sub-contractors that the soliciting or accepting of advantages (as defined in the Prevention of Bribery Ordinance (Cap 201)) is not permitted. The Contractor shall also caution its officers (including directors), employees and agents and sub-contractors against soliciting or accepting any hospitality, entertainment or inducement which may impair their impartiality in relation to the selection of its sub-contractors, if any, or the supervision of the work of the sub-contractors.

20.3 The Government shall have the right to terminate the entire Contract or partially terminate the Contract depending on the election of the Government in the event that the Contractor or any of its officers, employees, agents and sub-contractors is convicted of an offence under the Prevention of Bribery Ordinance (Cap. 201), the

Theft Ordinance (Cap. 210) or the Crimes Ordinance (Cap. 200).

## **21. Conflict of Interest**

21.1 The Contractor shall during the Contract Period and for six (6) months thereafter:

- (a) ensure that it (including each and every officer, employee and agent of the Contractor) and each of its sub-contractors and each of their respective employees, officers and agents engaged in the discharge of the obligations hereunder, and each of their respective associates and associated persons (collectively “Restricted Group”) shall not undertake any business, activity, service, task, or job or do anything whatsoever for its own account (whether on its own or in conjunction with another person(s) in a joint venture or partnership or other business entity) or for or on behalf of another person (other than in the proper performance of the Contract) which conflicts or which may be seen to conflict with the Contractor’s duties or obligations under the Contract without the prior written approval of the Government; and
- (b) forthwith notify the Government in writing of all or any facts which may reasonably be considered to give rise to a situation where the interests (of whatsoever nature) of the Contractor or any other member of the Restricted Group, conflict or compete, or may be seen to conflict or compete, with the Contractor’s duties or obligations under the Contract.

21.2 The Contractor shall ensure that itself and each other member of the Restricted Group shall keep themselves informed and that each other member of the Restricted Group shall inform the Contractor and keep it informed regularly of all facts which may reasonably be considered to give rise to a situation in which its and/or their interests conflict or compete, or may be seen to conflict or compete, with the Contractor’s obligations under this Contract.

21.3 In the Contract:

(i) “associate” of a person means:

(1) a relative or partner of that person; or

(2) a company one or more of whose directors is in common with one or more of the directors of that person;

(ii) “associated person” of a person means:

(1) any person who has control, directly or indirectly, over the second-mentioned person;

(2) any person who is controlled, directly or indirectly, by the second-mentioned person; or

(3) any person who is controlled by, or has control over, the person mentioned in

(1) or (2) above;

(iii) “control” over another person (“person under control”) means the power of a person to secure:

(1) by means of the holding of shares or interests or the possession of voting power in or in relation to that person under control or any other person;

(2) by virtue of powers conferred by any constitution, memorandum or articles of association, partnership, agreement or arrangement (whether legally enforceable or not) affecting that person under control or any other person; or

(3) by virtue of holding office as a director in that person under control or any other person;

that the affairs of the person under control are conducted in accordance with the wishes of that person exercising control;

(iv) “director” means any person occupying the position of a director by whatever name called and includes a de facto or shadow director;

(v) “relative” means the spouse, parent, child, brother or sister of the relevant person, and, in deducing such a relationship, an adopted child shall be deemed to be a child both of the natural parents and the adopting parent and a step child to be a child of both the natural parents and the step parent; and

(vi) “Restricted Group” has the meaning given to it in Clause 21.1 above.

## **22. Confidentiality**

22.1 The Contractor shall not disclose and shall treat as proprietary to the Government confidential all Government data, any other information, reports, documents, plans, records, data (including any personal particulars records and Personal Data (as defined in the Personal Data (Privacy) Ordinance (Cap. 486)), database, code or particulars (a) furnished or disclosed by or on behalf of the Government or by any other person to the Contractor; or (b) otherwise is accessible by or available to the Contractor in the course of performing the Contract; or (c) any deliverables, advice, recommendations, reports or any other materials containing information belonging to the Government (collectively “Confidential Information”) in whatever form or media. The restrictions on disclosure contained in this Clause shall not apply to the disclosure of any Confidential Information if:

(i) such disclosure to any person employed, used or engaged by the Contractor in performing the Contract is made in circumstances where such disclosure is necessary in the reasonable opinion of the Contractor for the performance of the Contractor’s duties and obligations under the Contract, provided that the Contractor has imposed on the said person employed, used or engaged an absolute and legally binding obligation to the Contractor to refrain from disclosing the Confidential Information to a third party;

(ii) such Confidential Information is already known to the recipient other than as a

result of disclosure by the Contractor or any other member of the Restricted Group;  
or

- (iii) such Confidential Information is or becomes public knowledge other than as a result of disclosure by the Contractor or any other member of the Restricted Group;
- (iv) such disclosure is made in circumstances where such disclosure is required pursuant to any laws of Hong Kong or an order of a court of Hong Kong; or
- (v) with the prior consent in writing of the Government.

22.2 Without prejudice to any other provision of the Contract, the Contractor shall indemnify and keep each of the Government, its assigns successors-in-title and authorized users from and against everything which the Government (or any of its assigns or successors-in-title or authorized users) may suffer or incur directly or indirectly as a result of or arising from or in connection with or in relation to:

- (i) a breach of confidence (whether under the Contract or general law) by the Contractor or any other member of the Restricted Group;
- (ii) any actions or claims made in respect of information subject to the Personal Data (Privacy) Ordinance (Cap. 486), which action and/or claim would not have arisen but for the act, negligence or omission of the Contractor or any of its employees, agents or sub-contractors in connection with the performance of this Contract.
- (iii) any act done or omission in the performance of the Contract that contravenes the Unsolicited Electronic Messages Ordinance (Cap. 593).

22.3 The Contractor shall use the Confidential Information solely for the purposes of this Contract. The Contractor shall not, at any time whether during the Contract Period or after the expiry or termination (howsoever occasioned) of the Contract, use, disclose, publish or reproduce, and shall procure and ensure each person who may be imparted with any Confidential Information in accordance with Clause 22.1 above shall not use, disclose, publish or reproduce, the Confidential Information for any other purposes without the Government's prior written consent.

22.4 When requested by the Government, the Contractor shall forthwith require any of its officers or employees or agents or sub-contractors as the Government may stipulate, and such other persons to whom disclosure is made pursuant to Clause 22.1 above, to execute a written undertaking in favour of the Contractor and the Government in a form to be determined by the Government agreeing to the restrictions attached to the Confidential Information set out in this Clause and the Contractor agrees to provide certified true copies of any such undertakings to the Government within fourteen (14) days from the date of request by the Government. The Contractor further agrees that, if so required by the Government, it will, at its own cost and expense, take such actions and steps as are lawful and necessary to enforce such undertaking in the event of any breach thereof by anyone who has executed such undertaking.

22.5 The Contractor shall establish and maintain all necessary security measures and procedures for the safe custody of the Confidential Information in the Contractor's possession or under its control and to prevent unauthorized access thereto or use

- thereof.
- 22.6 The Contractor shall not, and shall ensure that no other member of the Restricted Group will, save to the extent necessary for performing the Contract, peruse, retain possession or control of, or duplicate, any Confidential Information or any copy thereof (in whatsoever media or format).
- 22.7 The Contractor shall ensure that each of its employees, agents, sub-contractors, and any other persons involved in the performance of this Contract are aware of and comply with the provisions of this Clause and the Official Secrets Ordinance (Cap. 521).
- 22.8 The Contractor shall promptly notify the Government of, and give the Government all reasonable assistance in connection with, any proceedings which the Government may institute against any persons pursuant to any of the provisions in this Clause.
- 22.9 The Contractor acknowledges that any unauthorised disclosure or use of the Confidential Information can cause irreparable harm and significant injury to the Government, the degree of which may be difficult to ascertain or that damages may not be an adequate remedy. Accordingly, the Contractor agrees that the Government shall have the right to obtain and be immediately granted an injunction prohibiting any breach of this Clause and/or specific performance ensuring the compliance of this Clause in light of any threatened or actual breach of this Clause, without prejudice to its other rights and claims including those available under the Contract or at law arising from such breach.
- 22.10 Without prejudice to the generality of the foregoing provisions, the Contractor further undertakes that it shall not at any time itself or through any associate or associated person or employee, sub-contractor or agent use, sell, license, sub-license, create, develop or otherwise deal in any Confidential Information.
- 22.11 The Government may request the Contractor in writing at any time that any Confidential Information disclosed pursuant to the terms of this Clause and any copies, analyses, compilations and extracts thereof whether in hard copies, electronic format or other media be returned, destroyed and/or deleted with a written statement to the effect that upon such return, destruction and/or deletion it has not retained in its possession or under its control, either directly or indirectly, any Confidential Information in whatever form and medium. The Contractor shall comply with any such request from the Government within seven (7) days of receipt of such request.
- 23. Contract Deposit**
- 23.1 Should the actual contract value stipulated in the Letter of Conditional Acceptance exceed HK\$1.4 million, the Contractor shall furnish a Contract Deposit to the Government within fourteen (14) days from the date of receipt of Letter of Conditional Acceptance, an amount equivalent to two percent (2%) of the actual contract value as security for the due and faithful performance of the Contract. The Contract Deposit may be payable either in cash or in the form of a banker's guarantee in substantially the form as appears in **Appendix A** to this Part issued by a bank in Hong Kong holding a valid banking licence under the Banking Ordinance (Cap. 155) as stipulated in Clause

6.2 of Schedule 6 of Part 5 – Schedules.

- 23.2 Upon the expiry or sooner termination of the Contract and on condition that all the Contractor's obligations have been performed and discharged to the satisfaction of the Government and subject to the Government's exercise of its right to make any deduction from the Contract Deposit under Clause 23.3, the Government shall refund the balance of the Contract Deposit, if paid in cash, to the Contractor, without interest. If a banker's guarantee is provided, such guarantee shall be discharged or released on condition that all the Contractor's obligations shall have been observed and complied with to the satisfaction of the Government Representative and after the recovery of any sums due from the Contractor to the Government.
- 23.3 If the Contractor shall be in breach of any provision of the Contract, without prejudice to any other rights or remedies the Government has or may have against the Contractor, the Government may deduct from the Contract Deposit (and in the event that the Contract Deposit is paid by the way of a banker's guarantee, to call on the banker's guarantee the amount) of any costs, damages, losses or expenses incurred or suffered by the Government as a result of (whether directly or indirectly) such breach by the Contractor, and any sums that are due to the Government under the Contract whether or not demand has been made.
- 23.4 The Contract Deposit shall be wholly forfeited to the Government in the event of the Contract being terminated in accordance with the terms hereof (save in the case of termination by notice pursuant to Clause 6.1).
- 23.5 If any deduction is made by the Government from the Contract Deposit or a call is made on the banker's guarantee during the Contract Period, the Contractor shall, within twenty-one (21) days on demand in writing by the Government Representative, deposit a further sum, or reinstate the level or extent of the banker's guarantee in a sum equal to the amount so deducted or so called which further sum shall be added to the residue of and form part of the Contract Deposit, or procure the issuance of a fresh banker's guarantee.
- 23.6 If the Contractor fails to replenish the Contract Deposit in accordance with Clause 23.5, without prejudice to any other rights or remedies which the Government has or may have against the Contractor, the Government may terminate the Contract forthwith by notice in writing to the Contractor.

## **24. Exchange of Correspondence**

- 24.1 This Contract is arranged on behalf of AFCD and payment in respect of the services provided thereof shall be arranged by AFCD. To enable speedy payment to be made, invoices and correspondence concerning payment shall be forwarded to the Director of AFCD. The Government shall not be held responsible for any delay in payment if invoices and correspondence concerning payment are not properly addressed.
- 24.2 The Contractor should note that any correspondence on any contractual matters shall be addressed to the Director of AFCD (Attn.: Supplies Officer) at facsimile: (852) 2735 4516 for processing.

- 24.3 Correspondence on technical matters may be exchanged between the Contractor and the Director of AFCD (Attn.: Systems Manager) at facsimile: (852) 2110 2934 provided that any such correspondence is copied to the Director of AFCD (Attn.: Supplies Officer) in accordance with Clause 24.2 above.

**25. Severability**

In the event that any provision of the Contract or any part of any such provisions shall at any time be adjudged to be invalid, unlawful, illegal, voidable or otherwise howsoever unenforceable under any applicable law of Hong Kong, such provision or such part of such provision, as the case may be, to but only to the extent required by such law, shall be severed from the Contract and rendered ineffective so far as possible without modifying the remaining provisions thereof.

**26. Time of the Essence**

Time shall be of the essence of the Contract, both as regards the times, dates and periods mentioned and as to any times, dates and periods as may be substituted by agreement in writing by the Government and the Contractor.

**27. Non-waiver**

No failure, delay, forbearance, or indulgence by the Government and other parties relating to the exercise of any right, power, privilege or remedy provided under this Contract or at law or in equity shall operate as a waiver of such right, power, privilege or remedy or as a waiver of any preceding or succeeding breach by Government and other parties to this Contract, nor shall any single or partial exercise of any right, power, privilege or remedy preclude any other or further exercise of such or any other right, power, privilege or remedy provided under this Contract or the laws of Hong Kong (all of which are several and cumulative and are not exclusive of each other).

**28. Corrupt Gifts**

- 28.1 If the Contractor or any employee or agent of the Contractor shall be found to have committed an offence under the Prevention of Bribery Ordinance (Cap. 201) or any subsidiary legislation made thereunder or under any law of a similar nature in relation to the Contract or any other Government contracts, the Government Representative may, on behalf of the Government, summarily terminate the Contract, without entitling the Contractor to any compensation therefor.
- 28.2 The Contractor shall be liable of all expenses necessarily incurred by the Government as a result of termination of the Contract by the Government Representative under Clause 28.1 above.

**29. Publicity**

The Contractor shall submit to the Government Representative all advertising or other publicity material relating to the Contract or the products supplied or other work done in connection with the Contract wherein the Government's name is mentioned or language used from which a connection with the Government can reasonably be inferred or implied. The Contractor shall not publish or use any advertising or other publicity material without the prior written consent of the Government Representative.

### **30. Governing Law and Jurisdiction**

The Contract shall be governed by and construed in accordance with the laws of Hong Kong and the parties hereby agree to submit to the exclusive jurisdiction of the courts of Hong Kong in relation to any matters arising out of the Contract.

### **31. Service of Notice**

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Contract or such other address as the recipient may designate by notice given in accordance with the provisions of this Clause. Any such notice may be delivered by hand or by pre-paid letter or facsimile and shall be deemed to have been served if by hand when delivered, if by post 48 hours after posting and if by facsimile when dispatched.

### **32. Insurance**

32.1 The Contractor shall throughout the Contract Period and at its own cost take out and maintain a public liability insurance ("Insurance Policy") with a minimum indemnity amount of HK\$10,000,000 per incident and for an unlimited number of claims arising during the Preparation Period from injury to or death of any persons and for loss or damage to any properties whatsoever where such injury, death, loss or damage (as the case may be) is caused by or arises out of any act, negligence or default of the Contractor or its employees, agents or sub-contractors.

32.2 The Insurance Policy shall:

- (a) be for the benefit in the name of the Contractor;
- (b) contain a clause whereby the insurer shall irrevocably and unconditionally waive any right of subrogation or any other right or claim against the Government; and
- (c) be issued by an insurance company authorized to carry on the relevant insurance business under the Insurance Companies Ordinance (Cap. 41).

32.3 Upon commencement of the Contract, the Contractor shall deposit with the Government Representative for record, and immediately upon renewal, copies of such policies of insurance, or if not available, copies of the insurance certificates, together with the receipt of payment of the current premium, certified as true and correct by the project manager.

32.4 Under no circumstances whatsoever shall the Government be responsible for the

premium payable under the Insurance Policy.

- 32.5 The Contractor shall conform to the terms and conditions of the Insurance Policy and all reasonable requirements of the insurer in connection with the settlement of claims, the recovery of losses and the prevention of accidents. The Contractor shall not do or permit or suffer to be done any act or omission whereby any of the Insurance Policy shall be rendered void or voidable, or which would otherwise amount to a breach of the Insurance Policy. The Contractor shall bear the economic consequences of, and indemnify the Government in full from and against any loss and liability which may arise from any failure of the Contractor to observe and comply with this Clause.

### **33. Illegal Workers**

The Contractor undertakes not to employ illegal workers in the execution of this Contract or any other Government contracts. Should the Contractor be found to have employed illegal workers in breach of this undertaking, the Government Representative may, on behalf of the Government, by notice, terminate this Contract pursuant to Clause 6.2 of this Part.

### **34. Contracts (Rights of Third Parties) Ordinance**

The parties hereby declare that nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of this Contract pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623).

### **35. Force Majeure**

- 35.1 If a party of this Contract is prevented by an event of Force Majeure, this Contract or such part thereof strictly to the extent of such prevention shall be suspended during the subsistence of such event of Force Majeure commencing from a date to be agreed between the parties (“Suspension due to Force Majeure”), provided the other party is satisfied that the claim of an event of Force Majeure Event has materially prevented and/or will continue to materially prevent such claiming party from performing its obligations under this Contract or such part thereof. The party so prevented shall as soon as possible give notice in writing to the other party of the full particulars of the event of Force Majeure including its nature, extent, how the event of Force Majeure has and/or will materially prevent it from performing this Contract or such part thereof, and likely duration of such material prevention.
- 35.2 Should the performance by the Contractor of its obligations under this Contract be prevented by Force Majeure, without prejudice to the generality of the above, whilst the Suspension due to Force Majeure subsists:
- (a) the Contractor shall not be required to perform any part of its obligations under this Contract strictly to the extent it is materially prevented from doing so by the event of Force Majeure (“Affected Obligations”) but it shall use its best endeavours to remove or mitigate the effect of the event of Force Majeure on the

Affected Obligations;

(b) the Government may make alternative arrangements for the performance of the Affected Obligations, whether by another person or otherwise, without compensation to the Contractor;

(c) the Contractor shall not be entitled to any payment of money in respect of the Affected Obligations (if any money would have been payable in the first place);

(d) notwithstanding anything in this Contract to the contrary, no compensation shall be payable by either party to the other due to any losses or damage arising from the Suspension due to Force Majeure; and

(e) the Contractor shall continue to fully and punctually perform and observe all of its other obligations which are not affected by the event of Force Majeure in full accordance with the requirements of this Contract including those obligations which are not Affected Obligations, and to that extent, all terms and conditions of this Contract shall continue to apply and be in full force and effect.

35.3 Should the performance by the Contractor of its obligations under this Contract be prevented by Force Majeure for twenty (20) days (either consecutive or in the aggregate) or longer, the Government shall be entitled, at the expiration of such period, to terminate this Contract by not less than ten (10) days' notice in writing to the Contractor.

35.4 In the event that this Contract is terminated pursuant to Clause 35.3 above, the Government shall not be responsible for any claim, legal proceeding, liability, loss (including any direct or indirect loss, any loss of revenue, profit, business, contract or anticipated saving), damages (including any direct, special, indirect or consequential damages of whatsoever nature) or any cost or expense, suffered or incurred by the Contractor arising out of or in relation to the termination, but the Contractor shall be entitled to receive payment for provision of the Services up to the date of termination of this Contract.

35.5 Subject to Clauses 35.2 and 35.3, in the event that the performance of obligations under this Contract is delayed by Force Majeure, the parties shall diligently endeavour to achieve expeditiously the normal pursuit of this Contract and to make up for the time lost.

### **36. Retention of Records**

The Contractor must keep and maintain until 6 years after the expiry of the Contract, or such longer period as may be agreed by the parties, full and accurate records of the Contract including the Services provided under it, all expenditure reimbursed by the Government, and all payments made by the Government. If requested by the Government, the Contractor must afford the Government or its representative access to the records as may be requested by the Government.

**37. Assistance in Legal Proceedings**

- 37.1 If and whenever requested to do so by the Government Representative, the Contractor must provide to the Government all relevant information, documents (including documentation and statements from staff) and other assistance in connection with any inquiry, investigation, arbitration, tribunal hearings or court proceedings in which the Government may become involved or any internal disciplinary hearing of the Government that arises out of or in connection with the Contract or the Contractor's presence at the Government's premises. If requested by the Government, the Contractor must arrange for relevant staff to give evidence at such inquiries, investigations, arbitrations, hearings or proceedings.
- 37.2 Where the Contractor or any employees, agents or contractors of the Contractor become aware of an incident, accident or other matter which may give rise to a claim or legal proceedings by a third party against the Government or the Contractor or in respect of the Contract, it must notify the Government Representative immediately in writing giving full details of such incident, accident or matter as the Government Representative may require.

**38. Entire Contract**

This Contract constitutes the whole agreement between the parties thereto and supersedes any previous agreements or arrangements between them relating to the subject matter hereof. The Contractor acknowledges that in entering into the Contract, it has not relied on any statements, warranties or representations given or made by the Government.

**39. Admission of Contractor Personnel to Government Premise**

- 39.1 Upon request from time to time by the Government, the Contractor shall provide to the Government a list of the names, posts, staff identity card numbers, addresses and telephone numbers of all Contractor's employees, agents, sub-contractors and those employees and agents of the aforementioned sub-contractors (collectively "Relevant Personnel") who may at any time require admission on behalf of the Contractor to any premises occupied by the Government for the purposes of the Contract if so required by the Government Representative, and in that event such list shall specify the capacities in which those persons are employed by or connected with the Contractor and shall contain such other particulars as the Government Representative may reasonably require.
- 39.2 The Contractor shall ensure that while any of the Relevant Personnel is on the Government's premises they will conform to the Government's normal codes of staff and security practice.
- 39.3 The Contractor shall require all Relevant Personnel, save for those exempted, to present vaccination record of at least the first dose of COVID-19 vaccine prior to their entry into indoor government premises which are their places of work, or for work-related purposes (including for meetings and for fulfillment of duties). The number

- of vaccine doses required may be revised by prior written notice from the Government to the Contractor in the light of the development of COVID-19 epidemic situation.
- 39.4 Exemption from the requirement to present vaccination record will be granted to (a) those who are medically unfit for COVID-19 vaccination as supported by a valid medical certificate; and (b) pregnant staff with prior exemption to be granted by the Government on a case-by-case basis. The exempted categories of Relevant Personnel mentioned in this Clause may be revised by prior written notice from the Government to the Contractor.
- 39.5 For the purpose of Clauses 39.3 and 39.4 above, the Contractor shall comply with the entry requirements of Government premises, implementation approaches, requirements on the vaccination record and other relevant documentations to be presented, consequences of non-compliance, maintenance and updating of the register of vaccination status, and all other necessary requirements as determined by the Government by prior written notice from the Government to the Contractor.
- 39.6 The Contractor shall ensure that the Relevant Personnel will have given consent to the Contractor to pass the personal data in relation to Clauses 39.3 and 39.4 above to authorised persons of the Government for the purposes of the provisions of this Clause 39 and other provisions of the Contract.
- 39.7 The Government Representative reserves the right to refuse to admit to the Government premises any person, whose admission would be, in the reasonable opinion of the Government Representative, undesirable.
- 39.8 In the event that the Contractor fails to comply with this Clause 39 and it is determined that such failure is prejudicial to the interests of the Government, the Government Representative may thereupon terminate the Contract pursuant to Clause 6.2 of the Conditions of Contract.

**APPENDIX A****FORM OF BANKER'S GUARANTEE FOR PERFORMANCE OF CONTRACT**

THIS GUARANTEE is made the ..... day of .....  
BETWEEN .....of  
....., a  
bank within a meaning of the Banking Ordinance (Cap. 155) (hereinafter called the "Guarantor")  
of the one part and The Government of the Hong Kong Special Administrative Region  
(hereinafter called the "Government") of the other part.

**WHEREAS**

(A) By a contract (hereinafter called the "Contract") dated the ..... day  
of ..... made between .....  
of .....  
(hereinafter called the "Contractor") of the one part and the Government of the other part  
(designated as Agriculture, Fisheries and Conservation Department Contract No. ....  
of ..... ), the Contractor agreed and undertook to perform the Provision of Metro  
Ethernet Services for the Agriculture, Fisheries and Conservation Department of the Government  
upon the terms and conditions of the Contract.

(B) The Guarantor has agreed to guarantee in the manner and on the terms and conditions  
hereinafter appearing, the due and faithful performance of the Contract by the Contractor.

Now the Guarantor HEREBY AGREES with the Government as follows:-

- (1) Where applicable, words and expressions used in this Guarantee shall have the  
meaning assigned to them under the Contract.
- (2) In consideration of the Government entering into the Contract with the Contractor-
  - (a) The Guarantor hereby irrevocably and unconditionally guarantees the due and  
punctual performance and discharge by the Contractor of all of his, her and their  
obligations and liabilities under the Contract and the Guarantor shall pay to the  
Government on demand and without cavil or argument all monies and discharge  
all liabilities which are now or at any time hereafter shall become due or owing  
by the Contractor to or in favour of the Government under or in connection with  
the Contract together with all costs, charges and expenses on a full indemnity  
basis which may be incurred by the Government by reason or in consequence of  
any default on the part of the Contractor in performing or observing any of the  
obligations terms conditions stipulations or provisions of the Contract.
  - (b) The Guarantor, as a principal obligor and as a separate and independent obligation  
and liability from its obligations and liabilities under sub-clause (a) above,  
irrevocably and unconditionally agrees to indemnify and keep indemnified the  
Government against and shall pay to the Government on demand and without  
cavil or argument all losses, damages, costs, charges and expenses on a full  
indemnity basis suffered or incurred by the Government arising from or in  
connection with the failure of the Contractor to perform fully or promptly any of  
his, her or their obligations terms conditions stipulations or provisions of the

Contract.

- (c) The Guarantor further agrees that all dividends, compositions and payments which the Government may at any time receive from the Contractor or from his, her or their estate or estates, whether in liquidation, bankruptcy or otherwise, in respect of such all losses, damages, costs, charges and expenses shall be taken and applied by the Government as payments in gross, and that this Guarantee shall stand good in respect of the balance to the full amount of .....
- (3) This Guarantee shall not be affected by any change of name or status in the company, firm or individual described as "the Contractor" or where "the Contractor" is a partnership, any change in the partners or in its constitution.
- (4) The Guarantor shall not be discharged or released from this Guarantee by any arrangement made between the Government and the Contractor or by any alteration in the obligations imposed upon the Contractor by the Contract or by any waiver or forbearance granted by the Government to the Contractor as to payment, time, performance or otherwise whether or not such arrangement, alteration, waiver or forbearance may have been or is made or granted with or without knowledge or assent of the Guarantor.
- (5) Without prejudice to Clause 4 above, the obligations of the Guarantor under this Guarantee shall remain in full force and effect and shall not be affected or discharged in any way by, and the Guarantor hereby waives notice of or assent to:
- (a) any suspension, termination, amendment, variation, novation or supplement of or to the Contract from time to time (including without limitation extension of time for performance);
  - (b) any provision of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
  - (c) the termination of the Contract or of the engagement of the Contractor under the Contract for any reason;
  - (d) any forbearance, variation, extension, discharge, compromise, dealing with exchange, waiver or renewal in respect of any right of action or remedy that the Government may have, now or after the day of this Guarantee, against the Contractor and/or the negligence, failure, omission, indulgence or delay by the Government in enforcing any right, power, privilege to or remedy available to the Government in relation to the obligations of the Contractor set out in the Contract;
  - (e) the voluntary or involuntary liquidation, bankruptcy, dissolution, sale of assets, receivership, general assignment for benefit of creditors, insolvency, reorganization arrangement, composition, or other proceedings of or affecting the Contractor or its assets, or any change in the constitution of the Contractor;
  - (f) any assignment, novation or sub-contracting by the Contractor of any or all of its obligations set out in the Contract;
  - (g) without prejudice to the generality of the foregoing, any fact or event (whether similar to any of the foregoing or not) which in the absence of this provision would

or might constitute or afford a legal or equitable discharge or release of or defence to the Guarantor, other than the express release of its obligations.

(6) This Guarantee shall extend to any variation, novation of or amendment to the Contract and to any agreement supplemental thereto agreed between the Government and the Contractor and for the avoidance of doubt, the Guarantor hereby authorizes the Government and the Contractor to make any such amendment, variation, novation or supplemental agreement without its notice or assent.

(7) This Guarantee shall have immediate effect upon execution and is a continuing security. This Guarantee shall cover all of the obligations and liabilities of the Contractor under the Contract and shall remain in full force and effect and irrevocable until-

- (a) the date falling three months after the expiry of Contract; or
- (b) the date on which all the obligations and liabilities of the Contractor under the Contract have been duly carried out, completed and discharged in accordance with the Contract,

whichever is the later.

(8) This Guarantee is in addition to and shall not merge with or otherwise prejudice or affect any contractual or other right or remedy or any guarantee, indemnity, lien, pledge, bill, note, charge or any other security which the Government may at any time hold (collectively "Other Security") and this Guarantee may be enforced by the Government without first having recourse to any of the Other Security or taking any steps or proceedings against the Contractor, and notwithstanding any release, waiver or invalidity of the Other Security.

(9) Any demand, notification or certificate given by the Government specifying amounts due and payable under or in connection with any of the provisions of this Guarantee shall be conclusive and binding on the Guarantor.

(10) The obligations expressed to be undertaken by the Guarantor under this Guarantee are those of primary obligor and not as a surety.

(11) This Guarantee shall be governed by and construed according to the laws for the time being in force in the Hong Kong Special Administrative Region of the People's Republic of China ("Hong Kong") and the Guarantor agrees to submit to the exclusive jurisdiction of the Courts of Hong Kong.

(12) All documents arising out of or in connection with this Guarantee shall be served:

- (a) upon the Government, at the Agriculture, Fisheries and Conservation Department of 5/F., Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Kowloon, Hong Kong, Director of Agriculture, Fisheries and Conservation marked for the attention of Supplies Officer, facsimile number (852) 2735 4516;
- (b) upon the Guarantor, at \_\_\_\_\_, Hong Kong, marked for the attention of \_\_\_\_\_, facsimile number \_\_\_\_\_.

(13) Documents to be served under this Guarantee shall be deemed to have been duly served by one party if sent by letter or fax addressed to the other party at the address stated above or to the facsimile number set out above. The documents so served shall be effective (a) on the date of delivery if hand-delivered; (b) on the date of transmission if sent by facsimile; and (c) if despatched by mail (whether registered or not), on the day on which they are tendered for delivery by the postal authority in Hong Kong.

(14) The aggregate amount of the Guarantor's liability under this Guarantee shall not exceed .....

IN WITNESS whereof the said Guarantor ..... has caused its Common Seal to be hereunto affixed the day and year first above written.

\* The [Common Seal/Seal] of the said )  
Guarantor was hereunto affixed )  
in the presence of ..... )  
..... )  
[Name(s)], [Title(s)] )

@ Signed Sealed and Delivered )  
for and on behalf of and as )  
lawful attorney of the Guarantor )  
under power of attorney date )  
..... and deed of delegation )  
dated ..... )  
by ..... )  
[Name], [Title] )  
and in the presence of ..... )  
..... )  
[Name], [Title] )

\* Please delete as appropriate

@ See the Powers of Attorney Ordinance Cap. 31

Note : When bank guarantees are executed under power of attorney, a photocopy of the power of attorney, certified on each page by a Hong Kong solicitor that it is a true and complete copy of the origin must be submitted.

**Provision of Metro Ethernet Services for  
the Agriculture, Fisheries and Conservation Department**

**PART 5 – SCHEDULES**

**Contents**

Schedule 1 – Company/ Business Organization Details

Schedule 2 – Non-collusive Tendering Certificate

Schedule 3 – Statement of Compliance

Schedule 4 – Execution Plan

Schedule 5 – Price Schedule

Schedule 6 – Payment Discounts and Contract Deposit Payment Method

**Schedule 1 – Company/Business Organization Details**1.1. **Company/Business Organization Status**

[Please refer to Clause 11 of Part 3 – Terms of Tender.]

A Tenderer should provide the following details:

- (a) Name and address of the company/business organization:

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- (b) Shareholders/partners/proprietor of the company/business organization and their percentage of ownership:

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- (c) Number and date of expiry of the company/business' Business Registration Certificate:

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- (d) A copy of the Business Registration Certificate, Memorandum and Articles of Association, Certificate of Incorporation or other constitutional documents or documents evidencing its business status (Note: The name of company/business organization shown in the documents as required under this Clause shall be the same as the one stated in the Offer to be Bound).

- (e) A copy of relevant document showing the authorized person(s) who sign(s) the Part 7 - Offer to be Bound has/have the authority to sign for and on behalf of the Tenderer.

1.2. **Organization and Technical Support**

[Please refer to Clause 11 of Part 3 – Terms of Tender.]

A Tenderer should provide the following information in respect of the organization structure of a Tenderer and the Licensees separately:

- (a) Detailed description on the company's organization setup, especially the maintenance and technical support team:

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- (b) Capacities of maintenance personnel:

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- (c) Capacities of technical support personnel to carry out installation and commissioning work:

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1.3 User Reference

[Please refer to Clause 12 of Part 3 – Terms of Tender.]

A Tenderer should provide a list of government users to whom similar services have been provided by the Tenderer (whether alone or in partnership with a Licensee):

(a) Name of government user(s):

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(b) Name, address and telephone number for contact:

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(c) Scope of services and equipment installed:

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(d) Dates of installation:

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(e) Serviceability / availability figures for the last twelve months immediately before the Tender Closing Date:

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N.B.: Please use separate sheet if space is inadequate.

**Schedule 2 – Non-collusive Tendering Certificate**  
[Please refer to Clause 10 of Part 3 – Terms of Tender.]

1. I/We, for and on behalf of (name of the Tenderer) \_\_\_\_\_ of (address(es) of the Tenderer(s)) \_\_\_\_\_ refer to the Government’s invitation to tender for the Contract (“Invitation to Tender”) and my/our Tender in response to the Invitation to Tender.

Non-collusion

2. I/We represent and warrant that in relation to the Invitation to Tender:
- (a) My/Our Tender was prepared genuinely, independently and made with the intention to accept the Contract if awarded;
  - (b) My/Our Tender was not prepared with any agreement, arrangement, communication, understanding, promise or undertaking with any person (including any other Tenderer or competitor) regarding:
    - (i) prices;
    - (ii) methods, factors or formulas used to calculate prices;
    - (iii) an intention or decision to submit, or not to submit, any Tender;
    - (iv) an intention or decision to withdraw any Tender;
    - (v) the submission of any Tender that does not conform with the requirements of the Invitation to Tender;
    - (vi) the quality, quantity, specifications or delivery particulars of the products or services to which the Invitation to Tender relates; and
    - (vii) the terms of my/our Tender,

and I/we undertake that I/we will not, whether before or after the award of the Contract, enter into or engage in any of the foregoing.

3. Paragraph 2(b) of this certificate shall not apply to agreements, arrangements, communications, understandings, promises or undertakings with:
- (a) the Government;
  - (b) a joint venture partner with which I/we have submitted my/our Tender, and such joint venture arrangement has already been notified to the Government in my/our Tender;
  - (c) my/our consultants or sub-contractors, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular consultancy arrangement or sub-contract;

- (d) my/our professional advisers, provided that the communications are held in strict confidence and limited to the information required for the adviser to render their professional advice in relation to my/our Tender;
- (e) insurers or brokers for the purpose of obtaining an insurance quote, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular insurance arrangement;
- (f) banks for the purpose of obtaining financing for the Contract, provided that the communications are held in strict confidence and limited to the information required to facilitate that financing; and
- (g) any person other than the Government, provided that the Government has given prior written consent.

#### Disclosure of subcontracting

4. Without prejudice to other requirements set out in the Tender Documents concerning sub-contracting arrangement, in particular, the requirement to seek the Government's prior written approval before sub-contracting, I/We understand that I/we are required to disclose all proposed sub-contracting arrangements for the Contract to the Government in my/our Tender, including those which will be entered into after the Contract is awarded. I/We warrant that I/we have duly disclosed and will continue to disclose such arrangements to the Government.

#### Consequences of breach or non-compliance

5. I/We understand that in the event of any breach or non-compliance with any representations, warranties and/or undertakings in this certificate or in Clause 10.1 in Part 3 - Terms of Tender, the Government may exercise any of the rights under Clause 10.3 to 10.5 in Part 3 - Terms of Tender in addition to and without prejudice to any other rights or remedies available to it against me/us.
6. Under the Competition Ordinance (Chapter 619 of the Laws of Hong Kong), bid-rigging is serious anti-competitive conduct. I/We understand that the Government may, at its discretion, report all suspected instances of bid-rigging to the Competition Commission (the "Commission") and provide the Commission with any relevant information, including but not limited to information on my/our Tender and my/our personal information.

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

**Schedule 3 – Statement of Compliance**

[Please refer to Clause 29 of Part 3 – Terms of Tender.]

Notes:

1. The Tenderer shall repeat each Clause in Part 6 – Specifications, provide responses on whether the Tenderer can and will comply and give reference as to where verification can be found.
2. This Schedule is essential for technical compliance evaluation and the core of the Contract. **If a Tenderer expressly confirms non-compliance with regard to any requirement in the Specifications, its tender will not be considered further.**
3. The format for each compliance statement shall be as follows :-

[clause no.]      [original clause content]

*Response* : [Comply/ Not Comply]

[remarks if required]

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_

(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

**Schedule 4 – Execution Plan**

[Please refer to Appendix A of Part 3 – Terms of Tender]

Tenderer shall provide detailed information on the respective aspects and items in Execution Plan which shall demonstrate the Tenderer’s ability to coordinate and deliver the Service promptly with quality assurance measures.

1. User Acceptance Test Plan

- (a) A clear and concise template to set out the Acceptance Test requirements stipulated in Part 6 – Specifications

\_\_\_\_\_

\_\_\_\_\_

- (b) Testing schedule for the Locations for which offer is made

\_\_\_\_\_

\_\_\_\_\_

2. Escalation Plan

- (a) Procedures for handling system failure

\_\_\_\_\_

\_\_\_\_\_

- (b) Communication channel outside office hours/during bad weather conditions

\_\_\_\_\_

\_\_\_\_\_

3. Innovative Suggestions

- (a) Type I – directly relevant to the Services

(Suggestions to enhance the performance and delivery of the Service directly (e.g. provision of power surge protection to ensure service sustainability in adverse weather conditions) shall be proposed. They may not necessarily be technology-related and may be application of innovative technology, innovative application of existing technology, or any ideas or suggestions not envisaged in the Contract but are directly relevant to, effective and practicable in improving the delivery of the Service as compared with how the service will be delivered under this Tender Documents)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

- (b) Type II – not directly relevant to the Services but can bring positive values to Government or the society

(Suggestions which may not be directly relevant to the Service but which can bring about positive values or benefits to the Government or public at large (e.g. effective ways to facilitate power saving to enhance green performance in the network exchange building facilities) shall be proposed. They may not necessarily be technology-related and may be application of innovative technology, innovative application of the existing technology, or any ideas or suggestions not envisaged in the Contract which can bring positive values or benefits to the Government or public at large)

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For the submission of Type I and Type II Innovative Suggestions, Tenderers shall highlight the proposed innovative suggestions and explain clearly what benefits/positive values their proposed innovative suggestions can bring about in their submissions to facilitate tender evaluation. Tenderers may be requested to provide supporting documents or a demonstration to prove the practicability of their innovative suggestions. During the demonstration, Tenderers are not allowed to provide additional information not contained in their original tender submissions.

The Execution Plan, subject to any modification as the Government may agree in awarding the Contract, shall form part of the Contract.

**Schedule 5 - Price Schedule**

## 1. Pricing Model

The charges payable by the Government for the Services shall be as follows. All Services items are on demand only and are subject to the issuance of an Order by AFCD:

- i) Cost of new Port setup and commissioning, or Port re-configuration due to change of bandwidth that involves change of Host/Client Port type  
= Port Setup Charge, (C)
- ii) Monthly Rental of Client Ports  
= Monthly Port Rental and Bandwidth Charge for Clients Ports, (F)
- iii) Cost for Port re-configuration due to change of bandwidth or VLAN property that involves no change of Client Port type  
= Re-configuration Charge, (D)
- iv) Cost for internal relocation of Host/Client Port that involves no change of Host/Client Port type  
= Internal Relocation Charge, (G)
- v) Cost for internal relocation of Host/Client Port that involves change of Host/Client Port type  
= Port Setup Charge, (C) + Internal Relocation Charge, (G)
- vi) Monthly Rental of Host Ports  
= Monthly Port Rental and Bandwidth Charge for Host Ports, (I)

where

(C) & (G) shall be indicated in Clause 4.1;

(D) shall be indicated in Clause 4.2;

(F) shall be indicated in Clause 4.3; and

(I) shall be indicated in Clause 4.4.

2. If any of the above Services items are to be offered free of charge, put “0” in the corresponding entries of the tables in Clause 4 herein.
3. The cost related information is used for cost evaluation purpose. The quantity and bandwidth may change according to the actual requirement. The information provided in this Schedule 5 is for Tenderer’s reference only to which the Government does not bound itself to adhere.

## 4. Prices

## 4.1 Host/Client Port Charge

The Host/Client Port Charge shall only be dependent on the Host/Client Port type (that is, Ethernet or Fast Ethernet) and independent on other factors such as distance between the Host/Client Port and the nearest exchange. There are two kinds of Host/Client Port Charge as tabulated below.

<b>Host/Client Port type</b>	<b>Port Setup Charge, (C) (*HK\$/US\$)</b>	<b>Internal Relocation Charge, (G) (*HK\$/US\$)</b>
Ethernet (E)		
Fast Ethernet (FE)		

## Remarks:

- i) Port Setup Charge is payable only under the following situation:
  - (a) First time Port installation or
  - (b) Change of Port type such as Ethernet to Fast Ethernet Port, or vice versa.
- ii) Port Setup Charge and Internal Relocation Charge will be required for relocating a Port from the existing premises to another premise if the type of Host/Client Port is changed.

## 4.2 Re-configuration Charge

Re-configuration Charge shall be a one-off charge per particular Port for change of bandwidth or VLAN property. The charge shall be independent of Client Port type or bandwidth subscribed.

<b>Re-configuration Charge, (D) (*HK\$/US\$)</b>

## Remarks:

- i) Only one entry of Re-configuration Charge shall be payable to the Contractor if the AFCD submits a written request for change of both bandwidth and VLAN property of the same Port to be performed on the same day by the Contractor.
- ii) There shall be no Re-configuration Charge payable when Host/Client Port Charge in Clause 4.1 is incurred.

\* Delete where inapplicable

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

## 4.3 Monthly Rental of Client Ports

Bandwidth in Client Ports refers to the speed of data flow supported by the connection between a Host Port and a Client Port in either of the two directions simultaneously. The Monthly Rental shall only be dependent on the bandwidth subscribed.

Client Port Type	Bandwidth (Mbps)	Monthly Rental of Client Port, (F) (*HK\$/US\$)
Ethernet	1	
Ethernet	2	
Ethernet	3	
Ethernet	4	
Ethernet	5	
Ethernet	6	
Ethernet	7	
Ethernet	8	
Ethernet	9	
Ethernet	10	
Fast Ethernet	11	
Fast Ethernet	12	
Fast Ethernet	13	
Fast Ethernet	14	
Fast Ethernet	15	

## 4.4 Monthly Rental of Host Ports

Bandwidth in Host Ports refers to the speed of data flow supported by the connection between a Host Port and all Client Ports in either of the two directions simultaneously. The Monthly Rental shall only be dependent on the bandwidth subscribed.

Host Port Type	Bandwidth (Mbps)	Monthly Rental of Host Port, (I) (*HK\$/US\$)
Fast Ethernet	20	
Fast Ethernet	40	
Fast Ethernet	60	
Fast Ethernet	100	

\* Delete where inapplicable

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

## 5. Cost breakdown for provision of the Services

## 5.1 Client Ports

Tenderers shall indicate in the tables below the Remote Sites for which offer is made by marking in the column “Make Offer”. For those Remote Sites with offer made, Tenderers shall mark in the column “First Time Installation” if they are **not** the existing service provider for the site(s). The unit costs in the tables below **MUST** be the same as the itemized prices submitted under Clause 4 herein. Port Setup Charge (C) shall be induced for those site(s) marked with “First Time Installation”. Monthly Rental (F) shall be induced for those site(s) marked with “Make Offer”. Re-configuration Charge (D) shall be induced for those site(s) marked with “Re-configuration”.

**Tenderer should note the Essential Requirements as stipulated in Clause 4.1(b) of Terms of Tender that they must have ME service coverage to the specific Remote Sites to which the offer is made.**

No.	Site Code	Name	Port Type	Bandwidth (Mbps)	Make Offer (✓)	First Time Installation (✓)	Re-configuration (✓)	Service Commencement Month	Service Period (Months) (a)	Monthly Rental (*HK\$/US\$) (b)	Subtotal Monthly Rental (c) = (a) x (b)
1.	AATO	Asia Airfreight Terminal Office (HK Airport)	E	6				Sep 2022	28		
2.	AFCD AO	AFCD Airport Office	E	8				Sep 2022	28		
3.	CPCT	Cathay Pacific Cargo Terminal (HK Airport)	E	6				Sep 2022	28		
4.	CSWWFO	Cheung Sha Wan Wetland and Fauna Conservation Office	FE	15				<b>Nov 2024</b>	<b>2</b>		
5.	DAF	District Agricultural Office	E	3				Sep 2022	28		
6.	HYW_CEBI	Heung Yuen Wai Cargo Examination Building Inbound	E	8				<b>Dec 2022</b>	<b>25</b>		
7.	HYW_PT B	Heung Yuen Wai Passenger Terminal Building	E	6				<b>Dec 2022</b>	<b>25</b>		
8.	HZMB_BCF	Hong Kong – Zhuhai – Macao Bridge Boundary Crossing Facilities	E	6				Sep 2022	28		
9.	LMCCP	Lok Ma Chau Control Point	E	2				Sep 2022	28		
10.	LVNP	Long Valley Nature Park	E	8				<b>Dec 2023</b>	<b>13</b>		
11.	LWICO	Lo Wu Import Control Office	E	2				Sep 2022	28		
12.	MPO_SKGO	Sai Kung Marine Park Office	E	4				Sep 2022	28		
13.	NDTWM	North District Temporary Wholesale Market	E	2				<b>Apr 2024</b>	<b>9</b>		
14.	NTSAMC	NT South Animal Management Centre	E	6				Sep 2022	28		
15.	SKFO	Sai Kung Fisheries Office	E	1				Sep 2022	28		

Continued on next page

Name of Tenderer : \_\_\_\_\_

 Authorized Signatory: \_\_\_\_\_  
 (Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

No.	Site Code	Name	Port Type	Bandwidth (Mbps)	Make Offer (✓)	First Time Installation (✓)	Re-configuration (✓)	Service Commencement Month	Service Period (Months) (a)	Monthly Rental (*HK\$/US\$) (b)	Subtotal Monthly Rental (c) = (a) x (b)
16.	ST10	Super Terminal 1 Office (HK Airport)	E	6				Sep 2022	28		
17.	STPQS	Shatin Plant Quarantine Station	E	3				Sep 2022	28		
18.	SWC	Shenzhen Western Corridor office	E	2				Sep 2022	28		
19.	TKLOC_PB610	Ta Kwu Ling Operation Centre PB610	E	6				Sep 2022	28		
20.	TWAMO	Tsuen Wan Animal Management Office	E	6				Sep 2022	28		
21.	TWMCO	Tsuen Wan Marine Conservation Office	FE	15				<b>Nov 2022</b>	<b>26</b>		
22.	WPMO	Wetland Park Maintenance Office	E	6				<b>Apr 2024</b>	<b>9</b>		
23.	ABDMC	Aberdeen Management Centre & Ranger Office	E	2				Sep 2022	28		
24.	ABDVC	Aberdeen Visitor Centre	E	3				Sep 2022	28		
25.	AFO_FMD	Aberdeen Fisheries Office - Fisheries Management Division	FE	15				Sep 2022	28		
26.	ATFO	Au Tau Fisheries Office	E	8				Sep 2022	28		
27.	CSWTWPM	Cheung Sha Wan Temporary Wholesale Poultry Market	E	4				Sep 2022	28		
28.	CSWWFM	Cheung Sha Wan Wholesale Food Market	FE	12				<b>Dec 2023</b>	<b>13</b>		
29.	CSWWFMT103	Cheung Sha Wan Wholesale Food Market [Room T103]	E	2				Sep 2022	28		
30.	CSWWFMT205	Cheung Sha Wan Wholesale Food Market [T204&205]	E	10				Sep 2022	28		
31.	CSWWFMT213	Cheung Sha Wan Wholesale Food Market [Room T213]	E	4				Sep 2022	28		
32.	CSWWFMT219	Cheung Sha Wan Wholesale Food Market [Room T219]	E	6				<b>Jan 2023</b>	<b>24</b>		
33.	CSWWFMTW2	Cheung Sha Wan Wholesale Food Market [Room W2]	E	4				Sep 2022	28		
34.	FCC	Fire Control Centre (Kowloon Hills)	E	2				Sep 2022	28		
35.	HHWMPVC	Hoi Ha Wan Marine Park Visitor Centre	E	6				<b>Jun 2023</b>	<b>19</b>		
36.	HKAMC	Hong Kong Animal Management Centre	E	8				Sep 2022	28		
37.	HZMB_PCB	Hong Kong – Zhuhai – Macao Bridge Passenger Clearance Building	E	6				Sep 2022	28		
38.	KHMC	Kowloon Hills Management Centre & Ranger Office	E	2				Sep 2022	28		
39.	KLNAMC	Kowloon Animal Management Centre	E	8				Sep 2022	28		
40.	LNEC	Lion Nature Education Centre (Sai Kung)	E	1				Sep 2022	28		
41.	MOSMC	Ma On Shan Management Centre	E	2				Sep 2022	28		
42.	MPTPMC	Marine Parks Tai Po Management Centre	E	6				Sep 2022	28		
43.	MPWMC	Marine Parks (West) Management Centre	E	10				Sep 2022	28		
44.	NSRO	Nam Shan Ranger Office	E	2				Sep 2022	28		
45.	NTNAMC	New Territories North Animal Management Centre	E	8				Sep 2022	28		

Continued on next page

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Date : \_\_\_\_\_

No.	Site Code	Name	Port Type	Bandwidth (Mbps)	Make Offer (✓)	First Time Installation (✓)	Re-configuration (✓)	Service Commencement Month	Service Period (Months) (a)	Monthly Rental (*HK\$/US\$) (b)	Subtotal Monthly Rental (c) = (a) x (b)
46.	PTCMC	Pak Tam Chung Management Centre & Ranger Office	E	3				Sep 2022	28		
47.	QBMC	Quarry Bay Management Centre	E	2				Sep 2022	28		
48.	SKCPVC	Sai Kung Country Park Visitor Centre	E	2				<b>Jun 2023</b>	<b>19</b>		
49.	SMMC	Shing Mun Management Centre & Ranger Office	E	2				Sep 2022	28		
50.	SMRHO	Shing Mun Ranger Head Office	E	10				<b>Dec 2022</b>	<b>25</b>		
51.	SSBL	Sheung Shui Branch Laboratory - Sheung Shui Slaughterhouse	E	4				Sep 2022	28		
52.	STMC	Sham Tseng Management Centre	E	2				Sep 2022	28		
53.	TAILUNGPB13	Tai Lung Experimental Station - Farm Development Division	E	8				Sep 2022	28		
54.	TAILUNGPB2	Tai Lung Experimental Station - Crop Development Division	FE	15				Sep 2022	28		
55.	TAILUNGSIS	Tai Lung Experimental Station - Slope & Irrigation Section	E	2				<b>Jan 2023</b>	<b>24</b>		
56.	TCAMC	Tung Chung Au Management Centre & Ranger Office	E	3				Sep 2022	28		
57.	THMC	Tsiu Hang Management Centre	E	2				Sep 2022	28		
58.	TKLFO	Ta Kwu Ling Fisheries Office	E	6				Sep 2022	28		
59.	TKLOC_B432	Ta Kwu Ling Operation Centre B432	E	6				<b>Dec 2023</b>	<b>13</b>		
60.	TMC	Twisk Management Centre & Ranger Office	E	2				Sep 2022	28		
61.	TMTMC	Tai Mei Tuk Management Centre & Ranger Office	E	2				Sep 2022	28		
62.	TTGMC	Tai Tong Management Centre & Ranger Office	E	2				Sep 2022	28		
63.	TTMC	Tai Tam Management Centre & Ranger Office	E	2				Sep 2022	28		
64.	TTNFIU	Tai Tong Nursery Unit	E	2				Sep 2022	28		
65.	VETLAB	Tai Lung Veterinary Laboratory	FE	15				<b>Mar 2024</b>	<b>10</b>		
66.	WKIED	West Kowloon Import and Export Division Office	E	6				Sep 2022	28		
67.	WOODSIDE	Woodside Biodiversity Education Centre	E	3				Sep 2022	28		
68.	WPEC	Wetland Park Exhibition Centre	E	8				Sep 2022	28		
69.	WWFM	Western Wholesale Food Market	FE	12				<b>Dec 2023</b>	<b>13</b>		
<b>Total Bandwidth of Client Ports:</b>								<b>Total Monthly Rental of Client Ports:</b>			

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

## 5.2 Bandwidth Requirements for Host Ports

Tenderers have to provide two dedicated backbone links / Host Ports connecting to HQs if offer is made for one or more Client Ports as specified in Clause 4.1. The bandwidth requirement for the dual Host Ports should follow the following table:

<b>Total Bandwidth of Client Ports (Mbps)</b>	<b>Bandwidth Requirement for EACH of the Host Ports Connecting to HQs (Mbps)</b>
Below 70	20
70-149	40
150-199	60
200 or above	100

If the Contract is awarded to the Contractor to provide one or more Client Ports under the Contract, the Contractor shall provide two dedicated backbone links / Host Ports connecting to HQs.

For evaluation purpose, the Service Commencement Month of Host Ports would be the same as the earliest Service Commencement Month of the Client Ports for which offer is made. The exact commencement date of Services for each of the Connection would be subject to further confirmation in writing from the Government.

## 5.3 Estimated Contract Value

One-off Cost:

Number of NEW Host ports (M) = \_\_\_\_\_

Number of NEW Client ports (N) = \_\_\_\_\_ (Client Ports marked with “First Time Installation” in Clause 5.1)

Number of ports with Re-configuration (R) = \_\_\_\_\_ (Client Ports marked with “Re-configuration” in Clause 5.1)

**Total One-off Cost (O) = (M + N) x (C) + (R) x (D) = \_\_\_\_\_**Monthly Rental:

Total Bandwidth of Client Ports = \_\_\_\_ Mbps (summation of bandwidth for which offer is made in Clause 5.1)

Bandwidth Requirements for Host Ports = 2 x \_\_\_\_\_ Mbps (map against table in Clause 5.2)

Monthly Rental of Host Ports (RH) = 2 x \_\_\_\_\_ = \_\_\_\_\_  
(itemized price submitted under Clause 4.4)

Service Commencement Month of Host Ports = \_\_\_\_\_ (The earliest Service Commencement Month amongst the Client Ports for which offer is made)

Service Period of Host Ports (MH) = \_\_\_\_\_ months (from Service Commencement Month of the Host Ports to the Expiry Date)

Total Monthly Rental of Host Ports (TH) = (RH) x (MH) = \_\_\_\_\_

Total Monthly Rental of Client Ports (TC) = \_\_\_\_\_ (summation of Subtotal Monthly Rental for which offer is made in Clause 5.1)

**Total Monthly Rental (TM) = (TH) + (TC) = \_\_\_\_\_****Estimated Contract Value = (O) + (TM) = \_\_\_\_\_**

\* Delete where inapplicable

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

## 5.4 Illustration

The following are the illustrations for the completion of Schedule 5. There is no indication of the acceptance of prices by the Government.

Case 1 – Tenderer, who is the existing service provider for Site No. 1 – 22, makes offer to one new site and upgrade bandwidth of one existing site.

Host/Client Port type	Port Setup Charge, (C) (*HK\$/US\$)	Internal Relocation Charge, (G) (*HK\$/US\$)
Ethernet (E)	5,000	5,000
Fast Ethernet (FE)	5,000	5,000

Re-configuration Charge, (D) (*HK\$/US\$)
500

Client Port Type	Bandwidth (Mbps)	Monthly Rental, (F) (*HK\$/US\$)
Ethernet	1	800
Ethernet	2	1,200
Ethernet	3	1,500
Ethernet	4	2,000
Ethernet	5	2,300
Ethernet	6	2,500
Ethernet	7	2,800
Ethernet	8	3,000
Ethernet	9	3,200
Ethernet	10	3,400
Fast Ethernet	11	3,600
Fast Ethernet	12	3,800
Fast Ethernet	13	3,900
Fast Ethernet	14	3,950
Fast Ethernet	15	4,000

Host Port Type	Bandwidth (Mbps)	Monthly Rental, (I) (*HK\$/US\$)
Fast Ethernet	20	2,600
Fast Ethernet	40	4,600
Fast Ethernet	60	6,600
Fast Ethernet	100	8,600

No.	Site Code	Name	Port Type	Bandwidth (Mbps)	Make Offer (✓)	First Time Installation (✓)	Re-configuration (✓)	Service Commencement Month	Service Period (Months) (a)	Monthly Rental (*HK\$/US\$) (b)	Subtotal Monthly Rental (c) = (a) x (b)
1	AATO	Asia Airfreight Terminal Office	E	6	✓			Sep 2022	28	2,500	70,000
2	AFCDAO	AFCD Airport Office	E	8	✓			Sep 2022	28	3,000	84,000
3	CPCT	Cathay Pacific Cargo Terminal	E	6	✓			Sep 2022	28	2,500	70,000
4	CSWWFO	Cheung Sha Wan Wetland and Fauna Conservation Office	FE	15	✓			<b>Nov 2024</b>	<b>2</b>	4,000	8,000
5	DAF	District Agricultural Office	E	3	✓			Sep 2022	28	1,500	42,000
6	HYW_CEBI	Heung Yuen Wai Cargo Examination Building Inbound	E	8	✓			<b>Dec 2022</b>	<b>25</b>	3,000	75,000
7	HYW_PTB	Heung Yuen Wai Passenger Terminal Building	E	6	✓			<b>Dec 2022</b>	<b>25</b>	2,500	62,500
8	HZMB_BCF	Hong Kong – Zhuhai – Macao Bridge Boundary Crossing Facilities	E	6	✓			Sep 2022	28	2,500	70,000
9	LMCCP	Lok Ma Chau Control Point	E	2	✓			Sep 2022	28	1,200	33,600
10	LVNP	Long Valley Nature Park	E	8	✓			<b>Dec 2023</b>	<b>13</b>	3,000	39,000
11	LWICO	Lo Wu Import Control Office	E	2	✓			Sep 2022	28	1,200	33,600
12	MPO_SKGO	Sai Kung Marine Park Office	E	4	✓		✓	Sep 2022	28	2,000	56,000
13	NDTWM	North District Temporary Wholesale Market	E	2	✓			<b>Apr 2024</b>	<b>9</b>	1,200	10,800
14	NTSAMC	NT South Animal Management Centre	E	6	✓			Sep 2022	28	2,500	70,000
15	SKFO	Sai Kung Fisheries Office	E	1	✓			Sep 2022	28	800	22,400
16	ST1O	Super Terminal 1 Office (HK Airport)	E	6	✓			Sep 2022	28	2,500	70,000
17	STPQS	Shatin Plant Quarantine Station	E	3	✓			Sep 2022	28	1,500	42,000
18	SWC	Shenzhen Western Corridor office	E	2	✓			Sep 2022	28	1,200	33,600
19	TKLOC_PB610	Ta Kwu Ling Operation Centre PB610	E	6	✓			Sep 2022	28	2,500	70,000
20	TWAMO	Tsuen Wan Animal Management Office	E	6	✓			Sep 2022	28	2,500	70,000
21	TWMCO	Tsuen Wan Marine Conservation Office	FE	15	✓			<b>Nov 2022</b>	<b>26</b>	4,000	104,000
22	WPMO	Wetland Park Maintenance Office	E	6	✓			<b>Apr 2024</b>	<b>9</b>	2,500	22,500
37	HZMB_PCB	Hong Kong – Zhuhai – Macao Bridge Passenger Clearance Building	E	6	✓	✓		Sep 2022	28	2,500	70,000
<b>Total Bandwidth of Client Ports:</b>				<b>133</b>				<b>Total Monthly Rental of Client Ports:</b>			<b>1,229,000</b>

One-off Cost:

Number of NEW Host ports (M) = 0

Number of NEW Client ports (N) = 1 (Client Ports marked with “First Time Installation” in Clause 5.1)

Number of ports with Re-configuration (R) = 1 (Client Ports marked with “Re-configuration” in Clause 5.1)

**Total One-off Cost (O) = (M + N) x Port Setup Charge (C) + (R) x Re-configuration Charge (D) = 1 x HK\$5,000 + 1 x HK\$500 = HK\$5,500**

Monthly Rental:

Total Bandwidth of Client Ports = 133 Mbps (summation of bandwidth for which offer is made in Clause 5.1)

Bandwidth Requirements for Host Ports = 2 x 40 Mbps (map against table in Clause 5.2)

Monthly Rental of Host Ports (RH) = 2 x HK\$4,600 = HK\$9,200 (itemized price submitted under Clause 4.4)

Service Commencement Month of Host Ports = Sep 2022 (The earliest Service Commencement Month amongst the Client Ports for which offer is made)

Service Period of Host Ports (MH) = 28 months (from Service Commencement Month of the Host Ports to the Expiry Date)

Total Monthly Rental of Host Ports (TH) = (RH) x (MH) = HK\$9,200 x 28 = HK\$257,600

Total Monthly Rental of Client Ports (TC) = HK\$1,229,000 (summation of Subtotal Monthly Rental for which offer is made in Clause 5.1)

**Total Monthly Rental (TM) = (TH) + (TC) = HK\$257,600 + HK\$1,229,000 = HK\$1,486,600**

**Estimated Contract Value = (O) + (TM) = HK\$5,500 + HK\$1,486,600 = HK\$1,492,100**

Case 2 – Tenderer, who is NOT existing service provider, makes offer to four sites in the Airport area.

Host/Client Port type	Port Setup Charge, (C) (*HK\$/US\$)	Internal Relocation Charge, (G) (*HK\$/US\$)
Ethernet (E)	5,000	5,000
Fast Ethernet (FE)	5,000	5,000

Client Port Type	Bandwidth (Mbps)	Monthly Rental, (F) (*HK\$/US\$)
Ethernet	1	400
Ethernet	2	800
Ethernet	3	1,200
Ethernet	4	1,600
Ethernet	5	2,000
Ethernet	6	2,400
Ethernet	7	2,700
Ethernet	8	3,000

Host Port Type	Bandwidth (Mbps)	Monthly Rental, (I) (*HK\$/US\$)
Fast Ethernet	20	2,000
Fast Ethernet	40	4,000
Fast Ethernet	60	6,000
Fast Ethernet	100	8,000

No.	Site Code	Name	Port Type	Bandwidth (Mbps)	Make Offer (✓)	First Time Installation (✓)	Re-configuration (✓)	Service Commencement Month	Service Period (Months) (a)	Monthly Rental (*HK\$/US\$) (b)	Subtotal Monthly Rental (c) = (a) x (b)
1	AATO	Asia Airfreight Terminal Office (HK Airport)	E	6	✓	✓		Sep 2022	28	2,400	67,200
2	AFCD AO	AFCD Airport Office	E	8	✓	✓		Sep 2022	28	3,000	84,000
3	CPCT	Cathay Pacific Cargo Terminal (HK Airport)	E	6	✓	✓		Sep 2022	28	2,400	67,200
16	STIO	Super Terminal 1 Office (HK Airport)	E	6	✓	✓		Sep 2022	28	2,400	67,200
<b>Total Bandwidth of Client Ports:</b>				26				<b>Total Monthly Rental of Client Ports:</b>		285,600	

One-off Cost:

Number of NEW Host ports (M) = 2

Number of NEW Client ports (N) = 4 (Client Ports marked with “First Time Installation” in Clause 5.1)

Number of ports with Re-configuration (R) = 0 (Client Ports marked with “Re-configuration” in Clause 5.1)

**Total One-off Cost (O) = (M + N) x Port Setup Charge (C) + (R) x Re-configuration Charge (D) = 6 x HK\$5,000 = HK\$30,000**

Monthly Rental:

Total Bandwidth of Client Ports = 26 Mbps (summation of bandwidth for which offer is made in Clause 5.1)

Bandwidth Requirements for Host Ports = 2 x 20 Mbps (map against table in Clause 5.2)

Monthly Rental of Host Ports (RH) = 2 x HK\$2,000 = HK\$4,000 (itemized price submitted under Clause 4.4)

Service Commencement Month of Host Ports = Sep 2022 (The earliest Service Commencement Month amongst the Client Ports for which offer is made)

Service Period of Host Ports (MH) = 28 months (from Service Commencement Month of the Host Ports to the Expiry Date)

Total Monthly Rental of Host Ports (TH) = (RH) x (MH) = HK\$4,000 x 28 = HK\$112,000

Total Monthly Rental of Client Ports (TC) = HK\$285,600 (summation of Subtotal Monthly Rental for which offer is made in Clause 5.1)

**Total Monthly Rental (TM) = (TH) + (TC) = HK\$112,000 + HK\$285,600 = HK\$397,600**

**Estimated Contract Value = (O) + (TM) = HK\$30,000 + HK\$397,600 = HK\$427,600**

**Schedule 6 – Payment Discounts and Contract Deposit Payment Method**6.1 Payment Discounts

Tenderer is requested to indicate in the space provided below what discount it would allow on the tendered prices if payment for each consignment is made in full within:

- (a) Seven (7) clear working days from date of receipt of invoice or from the Acceptance Date, whichever is the later: \_\_\_\_\_% discount.#
- (b) Fourteen (14) clear working days from date of receipt of invoice or from the Acceptance Date, whichever is the later: \_\_\_\_\_% discount.#
- (c) Twenty-eight (28) clear working days from date of receipt of invoice or from the Acceptance Date, whichever is the later: \_\_\_\_\_% discount.#

N.B.: Please refer to Clause 15 of Part 3 – Terms of Tender before completing the above. Any prompt payment discount offered by Tenderer will NOT be taken into consideration in the tender price assessment.

(# fill “0” if no discount is offered)

6.2 Contract Deposit

[Please refer to Clause 21.2 of Part 3 – Terms of Tender and Clause 23 of Part 4 – Conditions of Contract]

I/We am/are prepared to pay the Contract Deposit by \* Banker’s Guarantee / Cash / Not applicable (if the actual contract value is below HK\$1.4 million)

(\*delete whichever are appropriate)

Name of Tenderer : \_\_\_\_\_

Authorized Signatory: \_\_\_\_\_  
(Name, Title and Signature)

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Date : \_\_\_\_\_

– End of Schedules –

**Provision of Metro Ethernet Services for  
the Agriculture, Fisheries and Conservation Department**

**PART 6 – SPECIFICATIONS**

**Contents**

1. General
2. Service Requirements
3. Reliability and Availability Requirements
4. Environmental Requirements
5. Installation Requirements
6. Access Facilities, In-building Access and Blockwiring
7. Maintenance Services Requirements

Annex 1 – Details of Remote Sites

Annex 2 – Reliability and Availability Requirements

Annex 3 – Acceptance Test

## 1. General

- 1.1 All requirements in this Part are essential.
- 1.2 The Contractor shall provide the Services (including the necessary equipment) for connecting Remote Sites to HQs. The Contractor shall seek written confirmation from the Government Representative before commencing the Services.
- 1.3 The Contractor shall provide the Services according to the topology illustrated in Figure 1.

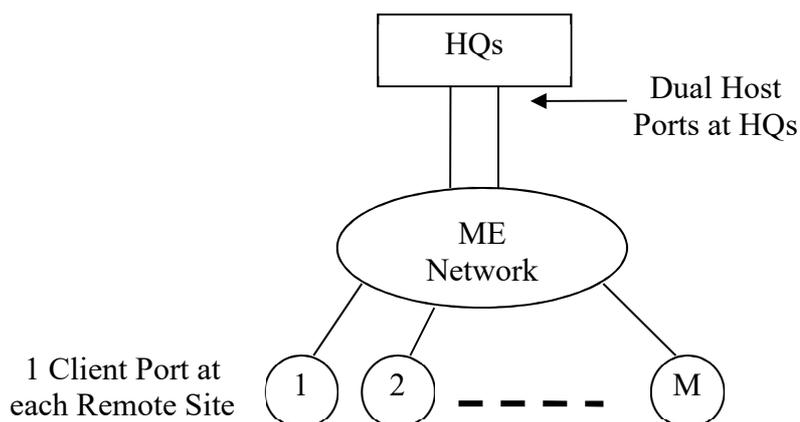


Figure 1 – High level topology of the Services

## 2. Service Requirements

- 2.1 The Contractor shall install two Host Ports, with diversity from two different exchanges, at HQs before Service Commencement Month. The Host Ports shall be connected to the Cisco Integrated Services Router. The dual connections are mutual backup for each other so that in case either one connection fails, the Remote Sites will still be connected to the HQs with another connection. The Contractor shall refer to Figure 1 herein for details.
- 2.2 The Contractor shall install one Client Port, which would be connected to the Cisco Integrated Services Router, at each Remote Site before Service Commencement Month. The Contractor shall refer to Figure 1 herein for details.
- 2.3 The Contractor shall use their own customer access network to deliver the Services and shall not make use of a connection in part or in whole owned by any other Fixed Network Operator(s) to form the customer access network for any Connection.
- 2.4 The Services shall cover end-to-end communication connection(s) to allow network traffic primarily in TCP/IP to traverse from one node (port) to another and between HQs and Remote Sites.
- 2.5 The Services shall provide OSI layer 2 circuits enabling the transfer of Ethernet frames defined in IEEE 802.3 and independent of the users' choice of protocols of OSI layer 3 and above layers.

- 2.6 The Services shall provide private connection. Data transmitted across the WAN network shall not be accessible to third parties, e.g. other subscribers of the Contractor's ME services.
- 2.7 The data transmission throughput for upstream and downstream on any connection shall be symmetric, full duplex and maintained at the specified bandwidth figures at all time.
- 2.8 The Services shall include the provision of proper connection at installation locations with RJ-45 interfaces for connecting AFCD's owned network equipment.
- 2.9 The Services shall support transmission of IPSec tunnel packets that have been deployed at the existing communication links connecting HQs and Remote Sites.
- 2.10 The Services shall support IEEE 802.1Q VLAN standard. IEEE 802.1Q VLAN tagging shall be in line with those configured at the existing hub ports of CPE, and the range of VLAN taggings should be customizable to suit the AFCD's network.
- 2.11 The Services shall support Ethernet frames of at least 1,500 bytes without fragmentation.
- 2.12 The customer access bandwidth of individual port at HQs and Remote Sites shall be upgradeable upon request in a flexible manner and in granular increments of 5Mbps (up to 150Mbps) and 1Mbps (up to 20Mbps) per port respectively. There shall be no major technology change or hardware upgrade in the CPE for the bandwidth upgrade.
- 2.13 The whole end-to-end network path shall be wired to disable any wireless transmission in any part of the network path.
- 2.14 When a port is sending frames at a rate within the subscribed bandwidth, the maximum amount of packet loss shall be less than 0.5%.

### **3. Reliability and Availability Requirements**

- 3.1 The requirements of reliability and availability of the Connection are specified in Annex 2. The Contractor shall meet such requirements.
- 3.2 The setup of new Host Port, Client Port or re-configuration of Connection shall induce no service interruption to the other existing Connection.
- 3.3 The Contractor shall put in place internal control procedures to assure no data from third party can leak into AFCD's Connection.
- 3.4 The Contractor shall not capture traffic from the Connection or tap other equipment on the Connection unless prior written consent was obtained from AFCD for necessary operation and monitoring the reliability and availability of Connection.

### **4. Environmental Requirements**

- 4.1 The network equipment provided by the Contractor for the Connection shall provide protection to prevent damage to the CPE due to power spike or over voltage leading from the connection wires by lightning strikes during adverse weather conditions at the

Remote Sites, where appropriate and subject to AFCD's agreement in writing.

## **5. Installation Requirements**

- 5.1 The Contractor shall be responsible for the supply, installation and commissioning of the Connection.
- 5.2 The Contractor shall provide their staff with all the necessary tools and test-gear for the provision and commissioning of the Connection during the Acceptance Test.
- 5.3 The Contractor shall affix coded labels on all the cables/equipment used for this installation and a record shall be provided to indicate clearly the type of cables, the sizes of cable, the cable routing, the cable termination, etc.
- 5.4 The Contractor shall wire fiber/cable with proper cover to network cabinets at HQs and Remote Sites.
- 5.5 The costs of supply, installation and commissioning of the Connection shall be stipulated in Schedule 5 of Part 5 – Schedules. The Contractor is required to provide the services of installation and commissioning all year round including daytime 0900 - 1800 hours on public holidays and Sundays and 24 hours on weekdays and Saturdays.
- 5.6 The Contractor shall contact AFCD regarding the details of the sites and site visits.
- 5.7 The Contractor shall be responsible for the provision and, if necessary, migration of Services from the existing service provider and for monitoring and controlling various related processes, including but not limited to the following activities:
  - (a) Ensure timely delivery of Services to the Locations;
  - (b) Co-ordinate with AFCD, building management of Locations, and if necessary, existing service provider and other relevant parties towards the delivery of Services in a manner that incurs minimal interruption to the operation of AFCD;
  - (c) Formulate an installation plan with the AFCD to ensure the smooth delivery of Services; and
  - (d) Monitor and control the various related processes according to the installation plan.
- 5.8 The Contractor shall perform any work which is necessary to facilitate the provision of the Services, and any work which is generally required to be performed in accordance with the accepted trade and engineering practice even though such work may not be explicitly mentioned herein.
- 5.9 On completion of work specified in Clause 5.8 above, the Contractor shall remove all rubbish and scrap materials resulting from their work and reinstate any previously affected installation.

- 5.10 Should there be any damage to other installation resulting from the work specified in Clause 5.8 above the Contractor shall be held responsible for making the damage good and/or performing other necessary remedial tasks at its own cost and expense.

## **6. Access Facilities, In-building Access and Blockwiring**

- 6.1 The Contractor shall utilize existing riser-duct and horizontal trunk provided by the Government for laying the cables. In the event that the existing cable routing facilities are fully occupied, insufficient or inapplicable, the Contractor shall be responsible for any addition or modification of cable routing facilities such as trunkings/conduits.
- 6.2 The Contractor shall ensure the availability of in-building facilities and access facilities for Contractor's cables leading to the Locations. Lack of access facilities shall not be accepted as reason for delay or failure in provision of Services. Any claim for additional cost by the Contractor will not be accepted.

## **7. Maintenance Services Requirements**

### **7.1 General**

- 7.1.1 The Contractor shall submit a detailed description of the organization of the proposed maintenance team including the relevant qualifications/experiences of the team members and its capacity to carry out the maintenance of the Connection.
- 7.1.2 The Contractor shall provide maintenance service 24 hours a day and 7 days a week to the AFCD for the subscribed Connection without additional charge. The maintenance costs shall be included in the Monthly Rental stipulated in Schedule 5 of Part 5 – Schedules.
- 7.1.3 The Contractor shall serve a written notice about the details of scheduled maintenance to AFCD two weeks in advance and shall not carry out the details of the scheduled maintenance without obtaining a written consent from AFCD.
- 7.1.4 The Contractor shall conduct a preventive maintenance / connection monitoring on any Connection at any time as requested at least one week in advance by AFCD. The frequency of such preventive maintenance shall not be more than once a year for each Connection under normal situation.
- 7.1.5 The Contractor shall provide a monthly summary report on the performance of the Connection including but not limited to the event summaries on the preventive and corrective maintenance and the calculation of the Actual Serviceability Level in accordance with Annex 2.
- 7.1.6 The Contractor shall provide its staff with the necessary tools, equipment, transportation and other facilities for effective maintenance at its own costs and expenses.
- 7.1.7 The Contractor shall ensure adequate internal control procedure in place for changes and maintenance of the Connection.

## 7.2 Corrective Maintenance

- 7.2.1 The Contractor shall provide a telephone hotline available round the clock for AFCD to report fault and to enquire the status of recovery works.
- 7.2.2 The Contractor shall report to AFCD about fault of the Connection and contact related parties to be specified within one hour after the failure has occurred. The Contractor shall also maintain an updated contact list of the related parties as specified by AFCD for fault reporting.
- 7.2.3 The Contractor shall provide emergency maintenance service 24 hours a day and 7 days a week and shall submit procedures for reporting which include the name of the contact person and his phone and/or pager number.
- 7.2.4 The maintenance staff from the Contractor shall forthwith perform diagnosis upon notice of any fault in the Connection and replace faulty equipment on site if necessary in order to restore normal service as soon as possible.
- 7.2.5 The Contractor shall provide on-site support and maintenance services for any faults reported. The mean time to restore service shall NOT be more than 4 hours from the time a fault is reported by the Government Representative or an outage is detected by Contractor, whichever is earlier.
- 7.2.6 The Contractor shall deliver Fault Investigation Reports (FIR) to AFCD within 3 working days after the Connection is resumed from fault. Information to be included in the FIR shall be referred to Annex 2.

**Annex 1 – Details of Remote Sites**

Particulars of the Remote Sites such as bandwidth, service commencement month, port type, are set out below.

No.	Site Code	Name	Address	Contact Tel. No.	Port Type	Bandwidth (Mbps)	Service Commencement Month	Service Period (Months)
1	AATO	Asia Airfreight Terminal Office	Rm.113, 1/F, Terminal 2, Asia Airfreight Terminal ,10 Chun Ping Road ,Hong Kong International Airport, Chek Lap Kok, New Territories	2182 1001 2183 1240	E	6	Sep 2022	28
2	AFCD AO	AFCD Airport Office	3S006, level 3, Passenger Terminal Building, 1 Cheong Hong Road, HK International Airport, Chek Lap Kok, New Territories	2182 1001 2183 1240	E	8	Sep 2022	28
3	CPCT	Cathay Pacific Cargo Terminal	Room B320, 3/F, Cathay Pacific Cargo Terminal, Chun Wan Road, Chek Lap Kok, New Territories	2182 1001 2183 1240	E	6	Sep 2022	28
4	CSWWFO	Cheung Sha Wan Wetland and Fauna Conservation Office	19/F, Peakcastle, 476 Castle Peak Road, Cheung Sha Wan, Kowloon	3468 3701	FE	15	<b>Nov 2024</b>	<b>2</b>
5	DAF	District Agricultural Office	5/F, Yuen Long Government Office, 2 Kiu Lok Square, Yuen Long, New Territories	2476 2424	E	3	Sep 2022	28
6	HYW_CEBI	Heung Yuen Wai Cargo Examination Building Inbound	AFCD 5, G/F, Cargo Examination Building Inbound (CEBI), Heung Yuen Wai, New Territories	2652 6460	E	8	<b>Dec 2022</b>	<b>25</b>
7	HYW_PT B	Heung Yuen Wai Passenger Terminal Building	AFCD 12, 2/F, Passenger Terminal Building (PTB), Heung Yuen Wai, New Territories	2652 6460	E	6	<b>Dec 2022</b>	<b>25</b>
8	HZMB_BCF	Hong Kong – Zhuhai – Macao Bridge Boundary Crossing Facilities	Server Room, 1/F, Building 038, AFCD Office, Hong Kong Boundary Crossing Facilities, Hong Kong Zhuhai Macao Bridge Artificial Island, Tung Chung, Lantau Island, New Territories	3894 7291	E	6	Sep 2022	28
9	LMCCP	Lok Ma Chau Control Point	2/F MTR Lok Ma Chau Station, New Territories	2652 6460 2486 0295	E	2	Sep 2022	28
10	LVNP	Long Valley Nature Park	41, Yin Kong Road, Sheung Shui, New Territories	2631 9120	E	8	<b>Dec 2023</b>	<b>13</b>
11	LWICO	Lo Wu Import Control Office	1/F, Lo Wu Import Office, Lo Wu, New Territories	2652 6460	E	2	Sep 2022	28
12	MPO_SKGO	Sai Kung Marine Park Office	2/F, Sai Kung Government Offices Building, 34 Chan Man Street, Sai Kung, New Territories	3583 4576 3468 3441	E	4	Sep 2022	28
13	NDTWM	North District Temporary Wholesale Market	Sha Tau Kok Road, Lung Yeuk Tau, Luen Wo Hui, Fanling, New Territories	2745 4461	E	2	<b>Apr 2024</b>	<b>9</b>
14	NTSAMC	NT South Animal Management Centre	9, To Shek Path, Shatin, New Territories	2697 2170 2694 0879	E	6	Sep 2022	28

15	SKFO	Sai Kung Fisheries Office	5/F, Sai Kung Government Office, 34 Chan Man Street, Sai Kung, New Territories	2792 3879 9738 0817	E	1	Sep 2022	28
16	ST10	Super Terminal 1 Office	Rm.C107, 1/F, Main Terminal, Super Terminal 1, Hong Kong International Airport, Chek Lap Kok, New Territories	2182 1001 2183 1240	E	6	Sep 2022	28
17	STPQS	Shatin Plant Quarantine Station	9, To Shek Path, Shatin, New Territories	26915616	E	3	Sep 2022	28
18	SWC	Shenzhen Bay AFCD Inbound Building	Shenzhen Bay Control Point Office (Cargo Area), Shenzhen Bay, New Territories	2652 6460 2673 4443	E	2	Sep 2022	28
19	TKLOC_PB610	Ta Kwu Ling Operation Centre PB610	PB610, Ta Kwu Ling Operation Centre, 185 Ping Che Road, Fanling, New Territories	2659 8407	E	6	Sep 2022	28
20	TWAMO	Tsuen Wan Animal Management Office	No. 45 Shiu Wo Street, Tsuen Wan, New Territories	26739372	E	6	Sep 2022	28
21	TWMCO	Tsuen Wan Marine Conservation Office	Unit 01, 22/F, CDW Building, 388 Castle Peak Road, Tsuen Wan, New Territories.	3468 5903	FE	15	<b>Nov 2022</b>	<b>26</b>
22	WPMO	Wetland Park Maintenance Office	Wetland Park Road, Tin Shui Wai, New Territories	2617 5105 26175209	E	6	<b>Apr 2024</b>	<b>9</b>
23	ABDMC	Aberdeen Management Centre	PB620, Aberdeen Reservoir Road, Aberdeen, Hong Kong Island	2553 7545	E	2	Sep 2022	28
24	ABDVC	Aberdeen Visitor Centre	Aberdeen Reservoir Road, Aberdeen, Hong Kong Island	2552 1875	E	3	Sep 2022	28
25	AFO_FMD	Aberdeen Fisheries Office	Room 207, Aberdeen Fisheries Office, 100A Shek Pai Wan Road, Aberdeen, Hong Kong Island	2552 7907	FE	15	Sep 2022	28
26	ATFO	Au Tau Fisheries Office	Milestone 27, Castle Peak Road, Au Tau, Yuen Long, New Territories	2873 8353	E	8	Sep 2022	28
27	CSWTWPM	Cheung Sha Wan Temporary Wholesale Poultry Market	1 & 4 Hing Wah Street, Cheung Sha Wan, Kowloon	2742 8095	E	4	Sep 2022	28
28	CSWWFM	Cheung Sha Wan Wholesale Food Market	36 Yen Chow Street West, Cheung Sha Wan, Kowloon	2307 9232 2307 9218	FE	12	<b>Dec 2023</b>	<b>13</b>
29	CSWWFMT103	Cheung Sha Wan Temporary Wholesale Food Market (T103)	Room T103, 38 Yen Chow Street West, Cheung Sha Wan, Kowloon	2150 7167	E	2	Sep 2022	28
30	CSWWFMT205	Cheung Sha Wan Wholesale Food Market (T204&205)	Room T205, 38 Yen Chow Street West, Cheung Sha Wan, Kowloon	2728 3182	E	10	Sep 2022	28
31	CSWWFMT213	Cheung Sha Wan Wholesale Food Market (T213)	Room T213, 38 Yen Chow Street West, Cheung Sha Wan, Kowloon	2954 4798	E	4	Sep 2022	28
32	CSWWFMT219	Cheung Sha Wan Wholesale Food Market (T219)	Room T219, 36 Yen Chow Street West, Cheung Sha Wan, Kowloon	2150 6992	E	6	<b>Jan 2023</b>	<b>24</b>
33	CSWWFMW2	Cheung Sha Wan Wholesale Food Market (Room W2)	Room W2, 36 Yen Chow Street West, Cheung Sha Wan, Kowloon	2729 6215	E	4	Sep 2022	28

34	FCC	Fire Control Centre (Kowloon Hills)	Kowloon Hills Fire Control Centre, Piper's Hill Road, Lai Chi Kok, Kowloon	2728 1211	E	2	Sep 2022	28
35	HHWMPVC	Hoi Ha Wan Marine Park Visitor Centre	333, Hoi Ha Road, Sai Kung, New Territories	3468 3454 6108 8253	E	6	<b>Jun 2023</b>	<b>19</b>
36	HKAMC	Hong Kong Animal Management Centre	No. 688, Victoria Road, G/F, Pokfulam, Hong Kong Island	2550 9211 2550 9556 2550 0656	E	8	Sep 2022	28
37	HZMB_PCB	Hong Kong – Zhuhai – Macao Bridge Passenger Clearance Building	G/F Zone F Passenger Clearance Building, Hong Kong Zhuhai Macao Bridge Artificial Island, Tung Chung, Lantau Island, New Territories	3894 7291	E	6	Sep 2022	28
38	KHMC	Kowloon Hills Management Centre	Kowloon Hills Management Centre & Ranger Office, Piper's Hill Road, Lai Chi Kok, Kowloon	2361 3934 2386 0667	E	2	Sep 2022	28
39	KLNAMC	Kowloon Animal Management Centre	102 Sung Wong Toi Road, Kowloon	2362 6988 2362 3547 2362 6415	E	8	Sep 2022	28
40	LNEC	Lion Nature Education Centre	Tsiu Hang, Hiram's Highway, Sai Kung, New Territories	2792 4437 2428 7137	E	1	Sep 2022	28
41	MOSMC	Ma On Shan Management Centre	Leung Yau Road, Ma On Shan, New Territories	2641 0411	E	2	Sep 2022	28
42	MPTPMC	Marine Parks Tai Po Management Centre	2/F, 3 Yu On Street, Sam Mun Tsai, Tai Po, New Territories	2664 8250 2662 0652	E	6	Sep 2022	28
43	MPWMC	Marine Parks (West) Management Centre	101 Wu Shan Road, Tuen Mun Area 44, Joint-user Complex , Tuen Mun , New Territories	2458 1095 2150 6877	E	10	Sep 2022	28
44	NSRO	Nam Shan Ranger Office	Nam Shan Forestry GDN, No.12 South Lantau Road, Mui Wo, Lantau Island, New Territories	2988 8927 2984 8191	E	2	Sep 2022	28
45	NTNAMC	New Territories North Animal Management Centre	No.13 Jockey Club Road, Shek Wui Hui, Sheung Shui, New Territories	2672 1194 2670 5630 3124 0381	E	8	Sep 2022	28
46	PTCMC	Pak Tam Chung Management Centre	PB911, Pak Tam Chung Management Centre, Tai Mong Tsai Road, Sai Kung, New Territories	2792 5218	E	3	Sep 2022	28
47	QBMC	Quarry Bay Management Centre	Mount Parker Road, Quarry Bay, Hong Kong Island	2564 3368	E	2	Sep 2022	28
48	SKCPVC	Sai Kung Country Park Visitor Centre	531, Tai Moong Tsai Road, Pak Tam Chung, Sai Kung, New Territories	27923730	E	2	<b>Jun 2023</b>	<b>19</b>
49	SMMC	Shing Mun Management Centre	Shing Mun Road, Tsuen Wan , New Territories	2489 8598	E	2	Sep 2022	28
50	SMRHO	Shing Mun Ranger Head Office	Shing Mun Ranger Head Office, Shing Mun Road, Tsuen Wan, New Territories	2429 7755	E	10	<b>Dec 2022</b>	<b>25</b>

51	SSBL	Sheung Shui Slaughterhouse	Sheung Shui Slaughterhouse, Chuk Wan Street Area 2B, New Territories	2790 9669 2464 6402	E	4	Sep 2022	28
52	STMC	Sham Tseng Management Centre	Tsing Lung Tau, Lung Yu Road, Tsuen Wan, New Territories	2491 9485	E	2	Sep 2022	28
53	TAILUNGPB13	Tai Lung Experimental Station - Farm Development Division	PB13, Tai Lung Experimental Station Lin Tong Mei, Fan Kam Road, Sheung Shui, New Territories	2464 1953	E	8	Sep 2022	28
54	TAILUNGPB2	Tai Lung Experimental Station - Crop Development Division	Rm 12, PB2, Tai Lung Experimental Station, Lin Tong Mei, Fan Kam Road, Sheung Shui, New Territories	2668 0197 2670 1161	FE	15	Sep 2022	28
55	TAILUNGSIS	Tai Lung Experimental Station - Slope & Irrigation Section	PB555, Tai Lung Experimental Station, Lin Tong Mei, Fan Kam Road, Sheung Shui, New Territories	2671 6323 9307 4335	E	2	<b>Jan 2023</b>	<b>24</b>
56	TCAMC	Tung Chung Au Management Centre	2 1/2 Milestones, Tung Chung Road, Tung Chung, Lantau Island, New Territories	2988 8201 9126 2182	E	3	Sep 2022	28
57	THMC	Tsiu Hang Management Centre	Pak Kong Road, Pak Kong, Sai Kung, New Territories	2792 3823	E	2	Sep 2022	28
58	TKLFO	Ta Kwu Ling Fisheries Office	Block A, Ta Kwu Ling Fisheries Office, 185 Ping Che Road, Fanling, New Territories	2150 6802	E	6	Sep 2022	28
59	TKLOC_B432	Ta Kwu Ling Operation Centre B432	B432, Ta Kwu Ling Operation Centre, Ping Che Road, Fanling, New Territories	2659 8407	E	6	<b>Dec 2023</b>	<b>13</b>
60	TMC	Twisk Management Centre	Twisk Ranger Office, Route Twisk, Tsuen Wan, New Territories	2490 4677	E	2	Sep 2022	28
61	TMTMC	Tai Mei Tuk Management Centre	Tai Mei Tuk Management Centre & Ranger Office, Tai Mei Tuk, Tai Po, New Territories	2664 4185 2948 2979	E	2	Sep 2022	28
62	TTGMC	Tai Tong Management Centre	Tai Tong Management Centre & Ranger Office, Tai Tong Shan Road, Yuen Long, New Territories	2475 8774	E	2	Sep 2022	28
63	TTMC	Tai Tam Management Centre	Tai Tam Reservoir Road, Hong Kong Island	2812 1861	E	2	Sep 2022	28
64	TTNFIU	Tai Tong Nursery Unit	Tai Tong Shan Road, Yuen Long, New Territories	2475 8741	E	2	Sep 2022	28
65	VETLAB	Tai Lung Veterinary Laboratory	Lin Tong Mei, Fan Kam Road, Sheung Shui, New Territories	2672 1341 2671 8339	FE	15	<b>Mar 2024</b>	<b>10</b>
66	WKIED	West Kowloon Import and Export Division Office	B2/F West Kowloon Terminus / AFCD, Kowloon	3894 7291	E	6	Sep 2022	28
67	WOODSIDE	Woodside	No. 50 Mount Parker Road, Quarry Bay, Hong Kong Island	26701025	E	3	Sep 2022	28
68	WPEC	Wetland Park Office	Wetland Park Road, Tin Shui Wai, New Territories	2617 5105 26175209	E	8	Sep 2022	28
69	WWFM	Western Wholesale Food Market	8 Fung Mat Road, Sai Wan, Hong Kong Island	2803 7006 2803 7012	FE	12	<b>Dec 2023</b>	<b>13</b>

## **Annex 2 – Reliability and Availability Requirements**

The Contractor shall provide the Services in compliance with the required Serviceability Level and Mean Time Between Failure (MTBF) specified below for each Connection to be set-up:

### 1. Criteria

- 1.1 The Serviceability Level for each calendar month (“Given Period”) of each Connection shall be at least 99.95 %.
- 1.2 The Mean Time Between Failure (MTBF) for the Given Period of each Connection shall be at least 720 hours.

### 2. Definition of Terms

#### 2.1 Total (Clock) time, (T)

Total (Clock) time (T) means the total clock time for the Given Period.

#### 2.2 Scheduled maintenance, (S)

Scheduled maintenance (S) means the actual total number of hours spent for scheduled maintenance of the Connection during which all or a part of the Ports will be unavailable to the Government in a Given Period.

#### 2.3 Excess Scheduled maintenance, (X)

If (S) is in excess of 24 hours for the Given Period, the Excess scheduled maintenance (X) will be equal to the total amount of time for (S) minus 24 and (S) is set to 24 hours for calculation of Scheduled available time for Services (W). If (S) is less than or equal to 24 hours, (X) will be set to zero for calculation of Scheduled available time for services (W).

#### 2.4 Scheduled available time for Services, (W)

$$= (T) - (S)$$

This is the amount of time when the subscribed Services shall be available to AFCD for the Given Period.

#### 2.5 Number of system breaks, (M)

Number of service breaks (M) means the total number of occurrences of the event (other than the scheduled maintenance) that the subscribed Connection becomes unavailable since the Acceptance Date in case there has been no service break that has caused liquidated damages to be payable to the Government pursuant to Clause 11 of Part 4 – Conditions of Contract before the end of a Given Period.

Otherwise, (M) means the total number of occurrences of the event (other than the scheduled maintenance) that the subscribed Connection becomes unavailable since the last service break that has caused liquidated damages to be payable to

the Government pursuant to Clause 11 of Part 4 – Conditions of Contract (in which the calculation of the total number of occurrences of the event that the subscribed Connection becomes unavailable shall include the last service break that has caused liquidated damages to be payable to the Government pursuant to Clause 11 of Part 4 – Conditions of Contract).

## 2.6 Total service down time, (N)

Total service down time, (N) means the total sum of the time in which the Contractor fails to provide the Connection to the Government to the satisfaction of the Government in a Given Period in which the number of hours spent in each service break shall be counted from the start of the service break to the time when the Connection is resumed to the satisfaction of the Government.

## 2.7 Actual Serviceability Level

$$= (W - N - X) / W \times 100\%$$

It is the percentage of net serviceable time over the total scheduled available time of the subscribed Connection via the Port for the Given Period.

## 2.8 Actual MTBF

The Contractor is regarded as having conformed to the Committed MTBF specifications if (M) calculated on the last day of a Given Period is equal to 0 or 1.

Actual MTBF equals the elapsed time since the Acceptance Date to the end of a Given Period in number of hours, or 720 hours whichever is larger, divided by (M) if there is no service break that caused liquidated damage payable to the Government pursuant to Clause 11 of Part 4 – Conditions of Contract before the end of a Given Period.

Otherwise, Actual MTBF equals the elapsed time since the last service break that has caused liquidated damages to be payable to the Government pursuant to Clause 11 of Part 4 – Conditions of Contract to the end of a Given Period in number of hours, or 720 hours whichever is larger, divided by (M).

## 3 Fault Investigation Report

3.1 For the purpose of measuring Actual Serviceability Level and Actual MTBF, the Contractor shall record all fault incidents in a Fault Investigation Report (FIR) which shall contain at least the following information:

- The date and time the Contractor is notified of the fault;
- The date and time of arrival of the Contractor's maintenance personnel at the Locations (as needed);
- The identifications of faulty connection or service, type, serial number, and description of the failing component (if any);
- The date and time repair starts;

- The date and time repair ends;
- The description of faults and causes, if known;
- The corrective action taken, including any parts that have been replaced;  
and
- The preventive actions taken or to be taken.

3.2 The Contractor shall submit the FIR to AFCD in a manner as stipulated in Clause 7.2.6 of Part 6 – Specifications.

### **Annex 3 - Acceptance Test**

1. The Contractor shall notify AFCD when the Connection is ready for the Acceptance Test to be conducted by the Contractor in accordance with the terms and conditions of this Contract.
2. The Acceptance Test consists of a Connectivity Test and a Reliability Test as detailed below for each individual connection in the Services.
3. The Connectivity Test shall be carried out in four phases. Failure in any of the phases as stipulated in Clauses 3.1 to 3.4 herewith will render the Connectivity Test a failure.
  - 3.1. In phase 1, the Contractor shall prove to the satisfaction of AFCD that the bandwidth subscribed is actually being provisioned. The Contractor has to provide the testing equipment (e.g. BER Tester, etc.) to serve the purpose.
  - 3.2. In phase 2, the Government Representative shall conduct the following extended ping test:

Source: AFCD HQs core router  
Destination: AFCD Remote Site edge router  
Number of tries: 3 times consecutive  
Number of ping packets to send in each try: 1,000  
Packet size: 1,500 bytes  
Timeout per packet: 2ms

Phase 2 is considered passed if the aggregated success rate among the 3 trials is at least 99.5% and the average round-trip-delay is no more than 50ms, i.e. two times the maximum latency of 50ms.
  - 3.3. In phase 3, the Government Representative shall conduct the similar ping test as in phase 2 except that the Source and Destination were interchanged.

The passing condition of Phase 3 is the same as that of Phase 2.
  - 3.4. In phase 4, the Government Representative shall conduct the fail-over test for any one of the dual backbones in HQs. The test is passed if another backbone automatically takes up all the traffic so that the connection between remote sites and HQs is maintained.
4. The Reliability Test shall be carried out after passing of the Connectivity Test. AFCD will run network traffic on the Services for four (4) consecutive weeks. For each port installed, the Reliability Test is considered passed if the total system breakdown time (the total sum of the time spent in all system breaks in which the Contractor fails to provide the ME services to AFCD's satisfaction) shall be no more than 20 minutes in the 4-week test period. The time spent in each system break shall be counted from the start of the system break to the time when the ME services resumed to the satisfaction of AFCD.

5. AFCD will inform the Contractor when the Connectivity Test or Reliability Test fails. The Contractor shall rectify the problems and commence the test again until the Acceptance Test is passed.
6. Rental charges are not payable for any period before the date the Acceptance Test is passed.

**Provision of Metro Ethernet Services for  
the Agriculture, Fisheries and Conservation Department**

**PART 7 – OFFER TO BE BOUND**

1. Unless otherwise specified, all capitalized terms and expressions appearing herein shall have the meaning as given to them as in the Interpretation part of the Tender Document.
2. Having read the Tender Documents and in consideration of the Government agreeing to evaluate my/our Tender in accordance with the Tender Documents, I/we, as/for and on behalf of the Tenderer named herein-below, agree to be bound by the terms and conditions as stipulated therein and do hereby agree to provide the Services during the Contract Period at the prices quoted by me/us in the Price Schedule in Schedule 5 of the Tender Documents free of all other charges on the terms and conditions specified in my/our Tender and the Tender Documents.
3. I/We, for myself/ourselves and the Tenderer named herein-below hereby warrant that the provision of Services or any of them by me/us/the Tenderer will not infringe any intellectual property rights including any patents, designs or trade marks, any copyright or trade secrets and confidential information protected under the laws of Hong Kong or elsewhere in the world.
4. I/We, the undersigned, am/are duly authorized by the Tenderer named below to sign this Offer to be Bound and submit the Tender.

Name of the Tenderer: \_\_\_\_\_

Name of the authorized signatory/ies: \_\_\_\_\_

Post and title of the authorized signatory/ies: \_\_\_\_\_

Signature of the authorized signatory/ies: \_\_\_\_\_

Dated this ..... day of ....., 20 .....

- Note : (a) **All the particulars required above** shall be completed in ink or typescript.  
(b) Tenderers should refer to Clause 5.8 of Part 3 – Terms of Tender for the meaning of authorized signatory and signature.