

## **PART B**

### **TERMS OF TENDER**

1. Interpretation

1.1 In this document and the invitation to tender, unless the context otherwise requires:

**“Tenancy Agreement”** means the Tenancy Agreement to be entered into between the Government and the Tenant for the running of the Shop at Hong Kong Wetland Park for a fixed term of 24 months comprising the following documents:

- (a) the Tenancy Agreement duly executed by both parties;
- (b) First Schedule containing details of Monthly Fee;
- (c) Second Schedule containing the layout plan of the Shop;
- (d) Third Schedule containing the detailed price list of sales item subject to any further changes as may be agreed between the parties;
- (e) Fourth Schedule containing the special conditions of the Tenancy Agreement;
- (f) Fifth Schedule containing the design parameter of the Shop at Hong Kong Wetland Park.
- (g) Sixth Schedule containing the list of furniture and equipment provided by the Landlord; and
- (h) Seventh Schedule containing the list of items to be sold by the Tenant on behalf of the Landlord at the Shop.

References to “tenancy” means the tenancy granted under the Tenancy Agreement;

**“Building Authority”** means the Building Authority as defined in the Building Ordinance, Cap. 123;

**“Business”** means the Tenant’s business as described in Special Condition 3.1 of the Special Conditions set out in the Fourth Schedule of the Tenancy Agreement;

**“Fees Proposal”** means a fees proposal to be submitted pursuant to paragraph 7.1 of the Notes for Tenderer;

**“Government Representative”** means the Director of Agriculture, Fisheries and Conservation acting for and on behalf of the Government or any officer authorised to act on his behalf for the purpose of this tender;

<b>“Government”</b>	means the Government of the Hong Kong Special Administrative Region of the People’s Republic of China;
<b>“Hong Kong Wetland Park”</b>	means the Hong Kong Wetland Park situated at Wetland Park Road, Tin Shui Wai, New Territories, Hong Kong;
<b>“Landlord”</b>	means the Chief Executive on behalf of the Government of the Hong Kong Special Administration Region;
<b>“Monthly Fee”</b>	means the Monthly Fee as agreed in this tender as specified in the First Schedule;
<b>“Premises”</b>	means the premises, particulars of which are set out in the First Schedule;
<b>“Proposal”</b>	means the tender to be lodged or lodged by a Tenderer in response to this invitation to tender comprising a Technical Proposal and a Fees Proposal; references to “tender” means “Proposal”;
<b>“Project Coordinator”</b>	means the person so designated and is authorised to represent the Government in all matters pertaining to this invitation to tender;
<b>“Schedules”</b>	means the Schedules attached to the tender documents;
<b>“Shop”</b>	means the Souvenir Shop at Hong Kong Wetland Park as delineated in the Figure 3 plan in the Second Schedule;
<b>“Shop Area”</b>	means the area of “the Shop” as specified and as delineated in the Figure 3 plan in the Second Schedule;
<b>“Successful Tenderer”</b>	Means the Tenderer who obtains the highest combined score in the tender assessment;
<b>“Technical Proposal”</b>	means a Technical proposal submitted pursuant to paragraph 7.1 of the Notes for Tenderer;
<b>“Tenant”</b>	means the Tenderer whose Proposal(s) for tenancy of the Premises is accepted, and with whom the Landlord enters into a Tenancy Agreement;
<b>“Tender Closing Date”</b>	means the latest date (Hong Kong time) by which the Proposal must be lodged;
<b>“Tenderer”</b>	means a person who submits a Proposal in response to this invitation to tender.

2. Execution of Tenancy Agreement

If a tender is accepted, the Successful Tenderer shall be the Tenant, and he shall within 14 days of being called upon by the Director of Agriculture, Fisheries and Conservation so to do sign/execute the Tenancy Agreement and pay a Security Deposit equivalent of the first three calendar months' Monthly Fee at least seven (7) days before execution or signing of this agreement. Where the successful tender has been made on behalf of a principal, the principal shall himself sign/execute the Tenancy Agreement. Where the successful tender has been made by or on behalf of a partnership, each partner shall himself sign/execute the Tenancy Agreement. If the Tenant shall fail to sign/execute the Tenancy Agreement within the time limit as aforesaid, the Government may either enforce or cancel the tender. On cancellation the sum forwarded with the Tenant's tender as a deposit shall without prejudice to the Government's right of action for damages for breach of contract, be wholly forfeited to the Government and the Government shall be at liberty to grant the tenancy or invite tenders or otherwise deal with the premises at such time and in such manner as the Government shall deem fit.

3. Restrictions of Tender

Tenders will only be accepted from persons who will occupy the Premises for their own use and no assignment, underletting or parting with the possession of the Premises or any part will be permitted.

4. Tender Deposit

All Tenderers must forward with their tender a Banker's Draft/Cashier's Order for the amount of the first month's Monthly Fee payable to the Government of the Hong Kong Special Administrative Region as Tender Deposit. The Tender Deposit shall be forfeited if Tenderer fails or refuses to carry out his tender should such tender be accepted. The Tender Deposit will be refunded to unsuccessful Tenderers after the commencement of Tenancy Agreement entered into between the Government and the Successful Tenderer but the Tender Deposit of the Successful Tenderer will be transferred to the Tenancy Agreement as payment of the first month's Monthly Fee.

5. Date of Possession

Subject to the due signature or execution of the Tenancy Agreement and to the payment of the said Security Deposit as hereinbefore provided, possession of the premises will be given to the Successful Tenderer. The date on which possession will be so given and on which the period of the tenancy shall commence will be notified by a letter from the Director of Agriculture, Fisheries and Conservation.

6. State of Premises

The Tenant shall accept the Premises in the state and condition in which they are at the date on which possession is given.

7. Commencement Date of Business

The Tenant shall commence the operation of the Business upon the commencement of the tenancy. The Monthly Fee will be payable by the Tenant from the date of the commencement of the tenancy.

8. Undisclosed agent

The person who signs a tender as Tenderer shall be deemed to be acting as a principal unless he discloses therein that he is acting as an agent only, in which case he shall also disclose therein the name and address of his principal.

9 Security Deposit

The Tenant shall at least seven (7) days before execution or signing whichever is earlier of the Tenancy Agreement or at such time as shall be directed by the Landlord deposit with the Landlord a deposit (hereinafter referred to as 'the Security Deposit') equivalent of **three months' Monthly Fee** as security for the due performance of The Tenancy Agreement. This deposit shall be forfeited to the Landlord if the Tenant fails to comply with any of the provision of the Tenancy Agreement and any monies due to the Landlord but unpaid by the Tenant after the due date for payment thereof may be deducted by the Landlord from such deposit without determination of the Tenancy Agreement.

10. Change or Withdrawal of Proposal

10.1 A Tenderer must not withdraw, change (including by way of addition or qualification) or otherwise do anything which affects its Proposal after the Tender Closing Date

10.2 If a Tenderer purports to change or withdraw its Proposal (other than in accordance with these tender documents), then the Government may, in its absolute discretion, elect to treat the change or withdrawal as ineffective (in which case, the Government may, in its absolute discretion, accept the Proposal in the form originally lodged).

10.3 The Tenderer will be liable for and must indemnify the Government against any losses and liabilities suffered or incurred by the Government as a result of any change or the withdrawal of a Proposal (other than in accordance with these tender documents).

11. Exclusion of Claims against Government

Each Tenderer accepts:

- (a) it must at its own cost and expense, satisfy itself as to all matters and things relevant to its Proposal from its own investigations and sources;
- (b) that while any information and documentation provided for or on behalf of the Government for the tender process have been prepared in good faith, they have not been independently verified or checked for completeness and the Government does not warrant the adequacy, accuracy or completeness of such information or documentation and does not accept any liability or responsibility as to, or in relation to the adequacy, accuracy or completeness of the information contained in the tender documents or any other written or oral information which is, has been or will be provided or made available to any Tenderer(s);
- (c) at no time before, during or after the tender process has the Government (through its Associate or otherwise) made any promise, representation or committed any conduct or practice which creates or gives rise to any expectation on the part of the Tenderer concerning or in relation to the tenancy of the Premises, any potential business prospect of the HKWP, number of visitors to HKWP, and the profitability of the Shop; and
- (d) no Tenderer shall have any claim whatsoever against the Government in connection with:
  - (i) any costs, expenses or other liabilities or losses incurred or suffered by the Tenderer in preparing a Proposal or otherwise in connection with a Proposal or the operation of the Business;
  - (ii) the Government exercising at its absolute discretion, any discretion or right it has under or in connection with these tender documents or in connection with the operation of the Business; or
  - (iii) any of the matters or things relevant to the operation of the Business in respect of which any Tenderer must satisfy itself under these tender documents.

12. Government's Discretion

Notwithstanding anything in the tender documents to the contrary, the Government may conduct the process for the evaluation of tenders or selection of the Successful Tenderer in connection with the operation of the Business in such manner as it thinks fit and, without limitation, may at its absolute discretion (without any obligation to do so):

- (a) cancel or suspend the tender process at any time by notice in writing to Tenderers;
- (b) provide to all Tenderers any further information provided to a particular Tenderer including in response to queries regarding the tender process;
- (c) in its evaluation and assessment of Proposals:

- (i) apply such criteria and criteria weightings as the Government sees fit; or
  - (ii) disclose any part of a Tenderer's Proposal to any third party who is required to consider it in connection with the assessment of the Proposal (including, without limitation, the Government's financial and legal advisors); or
  - (iii) accept any Proposal (whether or not conforming);
  - (iv) reject any Proposal which does not comply with the required formats as specified in submission requirements in the Notes for Tenderer, the Schedules, the Proforma 1 and 2 of Appendix II; or
  - (v) refrain from accepting a tender which has the highest Fees Proposal;
- (d) decide at any time not to proceed with the tender process, undertake by itself or to have any other person (be it a public body or a third party Tenant) to operate the Shop or any part of the Shop;
  - (e) at any time seek further information or clarification of any part of its Proposal and to attend meetings with the Government for such purposes as deemed necessary;
  - (f) at any time prior to the selection of Tenderers vary the tender process by way of written notice to all registered Tenderers known to the Government in the form of addendum as described in paragraph 13 below;
  - (g) at any time vary its requirements for the operation of the Business by notice to all registered Tenderers known to the Government in the form of addendum as described in paragraph 13 below; and
  - (h) negotiate with any of the Tenderers on the terms of their Proposal(s).

13. Additions and Amendments to Tender

The Government reserves the right to amend these tender documents at any time prior to selection of Tenderers. Any amendment to these tender documents will be in writing in the form of addendum and will be forwarded by post to all persons known to the Government to be in receipt of these tender documents, including those which have registered with the Project Coordinator.

14. Consent to Disclosure

- 14.1 The Government shall have the right to disclose, without further reference to the successful Tenderer, whenever it considers appropriate or upon request by any third party (written or otherwise) information on the awarded Contract, the name and address of the successful Tenderer, description of Services, wage levels, working hours, and working days per month for the successful Tenderer's employees including those of its agents or Sub-contractor and the Contract value.

- 14.2 In submitting a tender offer, each Tenderer irrevocably and unconditionally authorizes the Government to make and consents to the Government making any of the disclosure aforesaid. Furthermore, the Government shall have the right to require the successful Tenderer to display wage levels and working conditions, including working hours of their employees, ensuring that their employees (which shall also include those of the successful Tenderer's agents or subcontractors) are being informed of such. The mode of display shall be such as may be specified by the Government from time to time.
- 14.3 Tenderers should approach the Government in advance of the submission of a Proposal about information or material that the Tenderer considers to be proprietary or confidential with a view to clarifying the status of such information. In the absence of written agreement to the contrary between the Government and the Tenderer, information and materials submitted by a Tenderer will not be considered to be proprietary or confidential.

15. Confidentiality

All materials, data and other information furnished by or on behalf of the Government in connection with the tender shall be treated as confidential information. The Tenderer and its employees, sub-contractors, agents or drivers shall not, during the continuance of the tender or at any time thereafter, disclose to any person the terms and conditions of the tender, or any confidential information, PROVIDED that the restrictions on disclosure contained in this paragraph shall not apply:

- (i) to the disclosure of any information to any person in circumstance where such disclosure is necessary for the performance of the Tenderer's and its employees', sub-contractors' or drivers' duties and obligations under the tender;
- (ii) to the disclosure of any information already known to the recipient other than as a result of disclosure by the Tenderer, its associates or associated persons or the team;
- (iii) to the disclosure of any information which is or becomes public knowledge other than as a result of disclosure by the Tenderer, its associates or associated persons or the team;
- (iv) to the disclosure of any information in circumstances where such disclosure is required pursuant to any law or order of a court of competent jurisdiction;
- (v) to the disclosure of any information to the Tenderer's professional advisers who receive the same under the aforesaid duty of confidentiality; and
- (vi) the Tenderer further agrees that, if so required by the Government, it shall take all such steps as are lawful and necessary to enforce such undertakings.

16. Unauthorised Communications

16.1 Communications (including promotional or advertising activities) with staff of the Government or the Government involved in the tender process are not permitted except with the prior, written consent of the Government. Unauthorised communications with such persons may, in the absolute discretion of the Government, lead to disqualification of a Tenderer.

16.2 Every Tenderer must:

- (a) in preparing and lodging any Proposal, comply with all applicable laws and legal requirements; and
- (b) without limiting paragraph (a):
  - (i) not engage in any activities that may be perceived as, or that may have the effect of, influencing the outcomes of the tender process in any way, including the offering of any incentives, gifts or other favours to any person who is in any way involved with the tender process or in a position to influence the evaluation of Proposals;
  - (ii) not disclose any part of its Proposal to any other Tenderer;
  - (iii) not collude with, accept any commission from, or offer any commission to, any other Tenderer; or
  - (iv) not enter into any improper or anti-competitive contract, arrangement or understanding with any person in relation to the submission of its Proposal, or contents of its Proposal.

17. Improper Assistance

17.1 Tenderers must not seek or obtain the assistance of employees or agents of the Government or the Government in the preparation of their Proposals. The Government may, in its absolute discretion, disqualify a Tenderer that it believes to have sought or obtained such assistance.

17.2 The Government does not permit any of the employees, consultants and agents to accept any advantage in connection with the assessment or selection of the Successful Tenderer and the negotiations, award and execution of the Tenancy Agreement. The offer of an advantage to any employee, consultant or agent of the Government with a view to influencing the assessment or selection of the Successful Tenderer and/or the negotiations, award or execution of the Tenancy Agreement may constitute an offence under the Prevention of Bribery Ordinance (Cap. 201). Any such offence committed by



the Tenderer or its employees, consultants or agents will render its Proposal null and void and the Tenancy Agreement (if entered into), may be terminated by the Government without compensation or liability on the part of the Government.

18. Personal Data Provided

- 18.1 The personal data of the Tenderer (in the case he is an individual) or of any individual provided in a Proposal will be used for tender evaluation and contract award purposes. If insufficient and inaccurate information is provided, the Proposal may not be considered.
- 18.2 The personal data provided in a Proposal may be disclosed to other government departments and non-government organizations.
- 18.3 Tenderers or those individuals to whom the personal data belong have the right of access and correction with respect to personal data provided. The right of access includes the right to obtain a copy of the personal data provided in the Proposal.
- 18.4 Enquiries concerning the personal data collected by means of the tender, including the making of access and corrections, should be addressed to the Personal Data Privacy Officer of the Landlord.

19. Offers to be Binding

- (a) 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 discovered an error in its tender after the tender has been deposited, the Tenderer may correct the same in a separate letter. No request for adjustment or variation whatsoever will be allowed or entertained after the Tender Closing Date.
- (b) Should it be found on examination by the Government after the Tender Closing Date that a Tenderer has made errors in the figures stated in its tender that may have significant effect on the tender, the Tenderer may be informed of the errors and asked to confirm in writing whether it is prepared to abide by the corrected figures.

**FIRST SCHEDULE**

*(Please complete and insert this Schedule into the “Fees Proposal Envelope”)*

Particular of the Premises

All that piece or parcel of ground situated at the Hong Kong Wetland Park, Tin Shui Wai, New Territories, Hong Kong and known as Souvenir Shop of the Hong Kong Wetland Park comprising an area of 300 m<sup>2</sup> or thereabout as the same is for the purpose of identification only shown coloured pink on the Figure 3 plan in the Second Schedule hereto.

Monthly Fee

The Monthly Fee shall be Dollars \_\_\_\_\_  
(HK\$ \_\_\_\_\_) per month commencing on the first month of the tenancy, and payable in advance by the Tenant on the 1<sup>st</sup> day of every month to the Landlord at Agriculture, Fisheries and Conservation Department Headquarters, 5<sup>th</sup> floor, Cheung Sha Wan Government Offices, Kowloon.

Term and Date of Commencement of the Tenancy

The term of the tenancy will be twenty four (24) months commencing on the date of the Tenancy Agreement.

Purposes of which the Premises may be used

The Premises may be used for the purpose of a Souvenir Shop for:

- (a) sale of souvenir items and goods and hire of equipment and goods as agreed by the Landlord and specified in the Third Schedule at prices or charges not exceeding the prescribed prices or charges in the Third Schedule. Any modification of the list of souvenir items, goods or equipment or of the prescribed prices or charges in the Third Schedule shall be subject to the prior written approval of the Landlord; and
- (b) sale of souvenir items, publications, articles and goods and hire of equipment and goods as may be required or approved by the Landlord.

Name of Tenderer \_\_\_\_\_ Date \_\_\_\_\_

Name of Authorized Representative: \_\_\_\_\_

Signature of Tenderer Or Authorized Representative\*: \_\_\_\_\_

(with firm/company chop)

*\*Delete as appropriate*

**SECOND SCHEDULE**

**SOUVENIR SHOP OF HONG KONG WETLAND PARK AT TIN SHUI WAI, N.T.**

**FIGURES**

- Figure 1      Master Layout Plan of Hong Kong Wetland Park
- Figure 2      Ground Floor Plan of Visitor Centre of HKWP
- Figure 3      Location of Shop Area

**Figure 1 Master Layout Plan of Hong Kong Wetland Park**

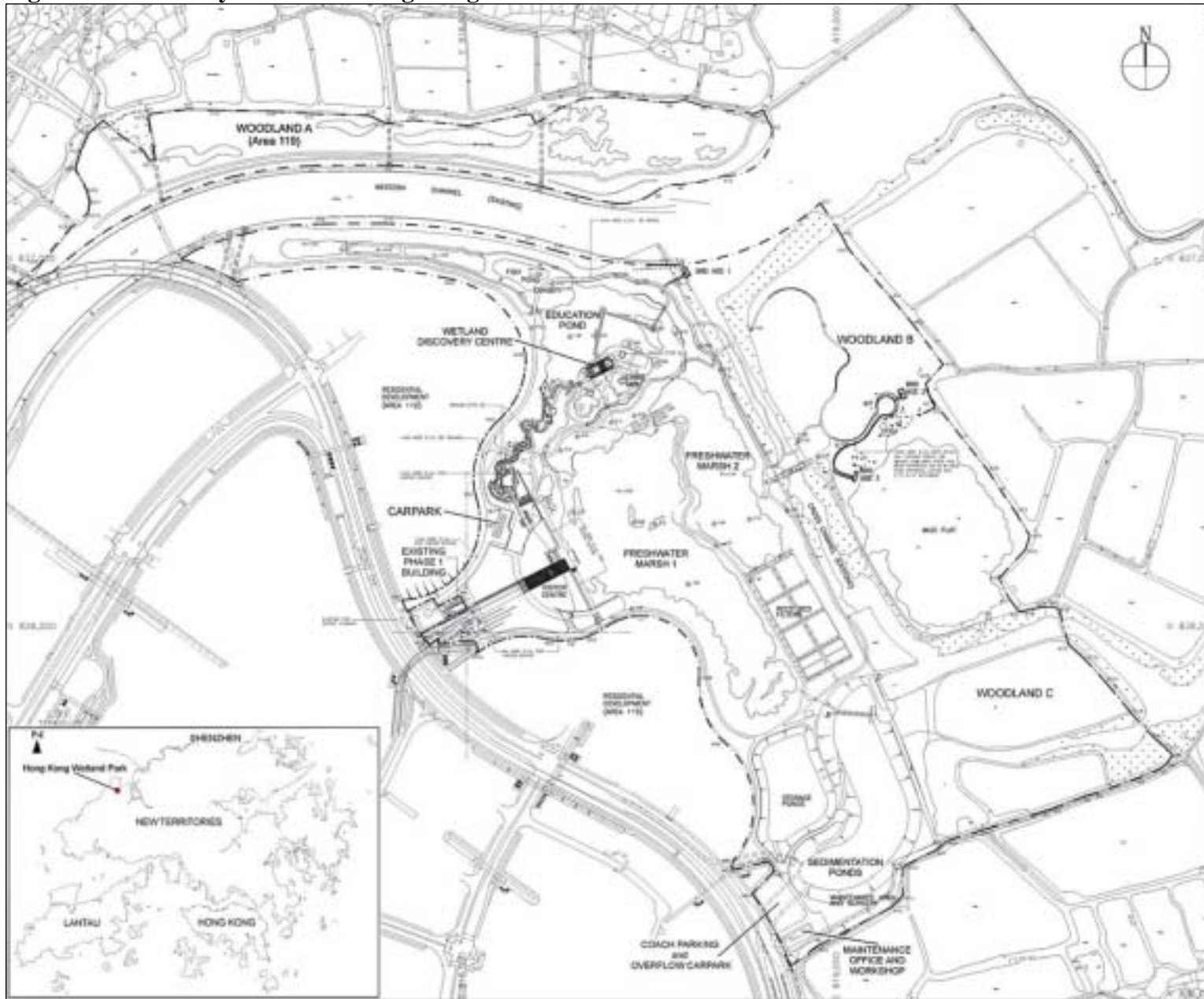
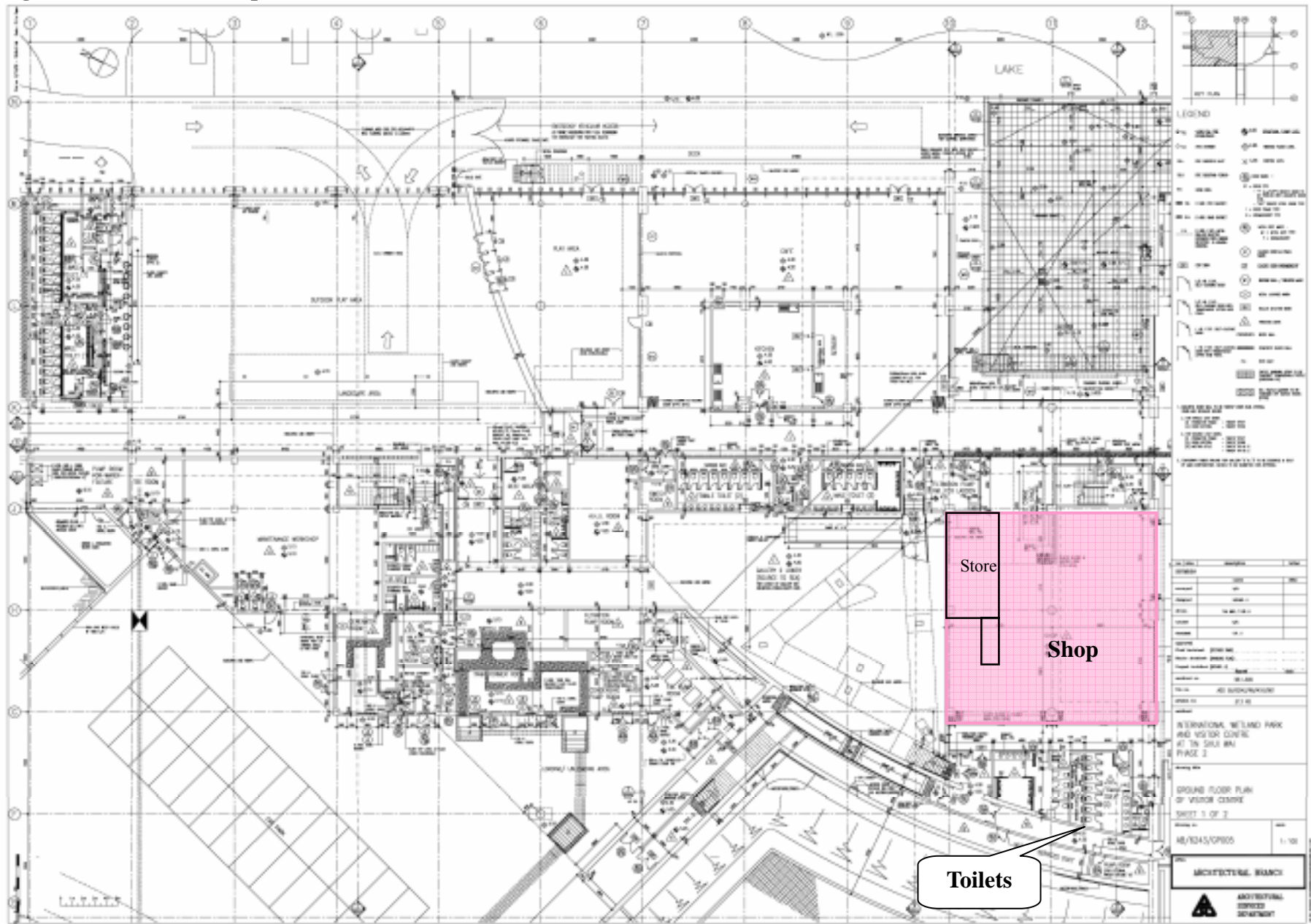



Figure 2 Ground Floor Plan of Visitor Centre of HKWP





 Shop Area

**THIRD SCHEDULE**

Souvenir Items and Goods for Sale and Equipment for Hire  
at Souvenir Shop of Hong Kong Wetland Park,  
Tin Shui Wai, New Territories, Hong Kong

*(Please fill in the suggested retail price against the proposed commodities to be sold at the Shop and submitted in the “Technical Proposal Envelope”)*

[Date]

A. Souvenir items and goods to be sold at the Souvenir Shop by the Tenant:

Description of souvenir items  
and goods

Unit Price

*(Please fill in the details)*

*(Please fill in the details)*

B. Equipment for hire

Description of Equipment:

Hire Charges

Binocular

\_\_\_\_\_ per day/hour

*(Please fill in the details)*

*(Please fill in the details)*

The souvenir items, goods and equipment listed above must be sold or hired at prices or charges not exceeding their prescribed prices or charges. The list of prices and charges must be prominently displayed at the Souvenir Shop at all times.

Authorized signature & company chop: \_\_\_\_\_

Name of person authorized to sign tender: \_\_\_\_\_

Name of Tenderer (English): \_\_\_\_\_

(Chinese): \_\_\_\_\_

Tel. No.: \_\_\_\_\_ Fax. No.: \_\_\_\_\_ Date: \_\_\_\_\_

**SEVENTH SCHEDULE**

List of Existing Stocks to be sold by the Tenant  
on behalf of the Landlord  
at Souvenir Shop of Hong Kong Wetland Park,  
Tin Shui Wai, New Territories, Hong Kong

A. Existing Stocks of the Landlord at the time of Commencement of the Tenancy.

Description of Commodities(List of existing stocks to be updated by  
Landlord at the time of commencement of the Tenancy.) Unit Price

Chi. White Dolphin	中華白海豚	HK\$38.00
Green Turtles in HK	迢迢千里	HK\$38.00
Knowing Corals	認識珊瑚	HK\$38.00
SK HK's Scenic Gem	西貢風光	HK\$50.00
HK Mountains	香港山嶺	HK\$50.00
The Central NT	新界中部風光	HK\$50.00
Galleria-Nat in Focus	生生不息 - 攝影篇	HK\$50.00
Eco-diary - Plants	生態日記 - 植物篇	HK\$50.00
	放眼大自然系列 04 雀鳥	HK\$50.00
	放眼大自然系列 04 植物	HK\$50.00
	放眼大自然系列 04 蜻蜓	HK\$50.00
	放眼大自然系列 04 蝴蝶	HK\$50.00
HK Marine Environt	一百個愛香港的理由 - 香港的海洋環境	HK\$50.00
	飛羽神思	HK\$50.00
Forest in the Water	漫步水上森林	HK\$50.00
Venturing Wetlands	濕地探索	HK\$50.00
	郊野情報 - 生態篇	HK\$50.00
Plants of HK	香港稀有及珍貴植物	HK\$60.00
HK Marine Parks	海岸情報—公園篇	HK\$60.00
Reefs in HK	海岸情報—珊瑚篇	HK\$60.00
HK Reef-bldg Corals	海岸護理系列 - 香港人工魚礁與岩礁魚類	HK\$60.00
HK Landforms	香港地貌	HK\$80.00
Dragonflies of HK	香港蜻蜓圖鑑	HK\$80.00
FW Fish of HK	魚魚得水 - 香港淡水魚圖鑑	HK\$80.00
Amphibians of HK	蛙蛙世界	HK\$80.00
Apprec. Wild Birds	觀鳥背後	HK\$80.00
Lantau Island-Its Beaut.	大嶼最美	HK\$100.00
HK Butterflies	郊野情報 - 蝴蝶篇	HK\$100.00
Hiking All in One	香港行山通	HK\$110.00



Hong Kong Eco-Map	香港生態地圖	HK\$120.00
Field Guide-H. C.	香港石珊瑚圖鑑	HK\$120.00
Magnetic Bookmarks (I)	磁石書籤 綠	HK\$24.00
Magnetic Bookmarks (II)	磁石書籤 藍	HK\$24.00
Water Bottle	水壺	HK\$32.00
Kids Photographer	光影術師	HK\$48.00
Outing Hints Puzzles	郊遊熱點砌圖	HK\$10.00
Crocodile Puzzles	反斗小寶貝砌圖	HK\$10.00
Magnetic Bookmarks (III)	香港飛色磁石書籤 蝶	HK\$30.00
Magnetic Bookmarks (nocturnal)	磁石書籤 夜行動物	HK\$30.00
Hat (Logo)	香港濕地公園帽	HK\$100.00
Mascot- Jacana	金屬扣 (鳥)	HK\$4.00
Mascot-Frog	金屬扣 (蛙)	HK\$4.00
Pins - HKWP Logo	扣針-香港濕地公園	HK\$4.00
Pins - Fiddler Crab	扣針-招潮蟹	HK\$4.00
Pins - Tree Frog	扣針-樹蛙	HK\$4.00
Pins - dragonfly	扣針-蜻蜓	HK\$4.00
Pins - mudskipper	扣針-彈塗魚	HK\$4.00
Coffee Mug	咖啡杯	HK\$10.00