

## **FOURTH SCHEDULE**

### **SPECIAL CONDITIONS**

REFERRED TO IN CLAUSE 2(o) AND 4(g) OF THIS AGREEMENT

#### **1 Commencement Date of Business Provision**

- 1.1 The Tenant shall commence the operation of the business of a souvenir shop (“the Shop”) at the premises upon the commencement of the term of the tenancy and the business of the Shop (“the Business”) as described in Special Condition 3 below.

#### **2 Hours of Business**

- 2.1 Subject to the terms and conditions of this agreement, the Tenant shall carry out the Business at all time when the Hong Kong Wetland Park (HKWP) is open to the public, except when otherwise authorized by the Landlord, and at such times as may be permitted and prescribed by the Landlord in accordance with Reg. 13A of the Country Parks and Special Areas Regulations.
- 2.2 The Tenant shall keep the premises open for the Business at all time during the Business hours as set forth in above clause 2.1 hereof and without prejudice to the generality of the foregoing any suspension of the Business for a period of more than 3 consecutive days without prior consent of the Landlord shall constitute a material breach of this agreement entitling the Landlord to determine this agreement forthwith and to retake possession of the premises without notice to the Tenant PROVIDED that the Tenant shall not be entitled to claim for any compensation in whatsoever form in respect thereof.

#### **3 Business, Management and Operation of the Shop**

- 3.1 The Tenant shall provide at its own cost a variety of gifts, memorabilia, souvenirs, publications and other goods and commodities for sale to the visitors. The list of souvenir items and goods for sale at the Shop and the prices for these items and goods chargeable are set out in the Third Schedule. Any subsequent revisions to these items or prices shall first be approved by the Landlord in writing.
- 3.2 The Tenant shall provide free service to display and sell certain Agriculture Fisheries and Conservation Department (AFCD) or Country and Marine Parks Authority (CMPA) souvenirs, publications or articles or goods at the Shop as and when directed by the General Manager/Wetland Park for the Landlord, where such souvenirs, publications or articles or goods are produced or manufactured by the agents of the AFCD or CMPA, transported to the Shop at the cost of the AFCD or CMPA, and the sale price of such souvenirs and goods are to be determined solely by the Landlord or

the General Manager/ Wetland Park of the HKWP PROVIDED that any sale proceeds received shall be handled and processed by the Tenant on behalf of the Landlord.

3.3 The Tenant shall provide the following free service to the Landlord:

- (a) to sell at the Shop all existing stocks of the Landlord at the time of the commencement of tenancy as specified in the Seventh Schedule on behalf of the Landlord and at prices specified in the Seventh Schedule PROVIDED THAT any sale proceeds received shall be handled and processed by the Tenant on behalf of the Landlord; and
- (b) to provide at the Shop hiring service for audio-guide headphones of the Landlord to visitors of the HKWP on the following terms and conditions:
  - (i) the audio-guide headphones together with the built-in anti-theft device shall be provided and made available for hire by the Landlord;
  - (ii) the Landlord shall be responsible for the maintenance and repair of the audio-guide headphones;
  - (iii) the Tenant shall be responsible for the storage, cleansing, recharging and keeping of check in/out record of the audio-guide headphones;
  - (iv) the hire of audio-guide headphones to visitors of the HKWP shall be free of hiring charges but subject to such terms and conditions of hire as may be prescribed by the Landlord in writing; and
  - (v) the Tenant shall collect a sum as specified by the Landlord in writing from any person who hires the audio-guide headphone by way of deposit as security for the due return of the audio-guide headphone and the due performance and observance by such person of the terms and conditions of hire.

3.4 The Tenant shall at its own cost provide and make available for hire at the Shop binoculars and other equipment as specified in the Third Schedule to visitors of the HKWP at hiring charges as specified in the Third Schedule. Any changes to such hiring charges shall be subject to prior written approval of the Landlord.3.5 The Tenant shall at its own cost provide hiring service for binoculars to visitors of the HKWP, the charges of such hiring of binocular shall be specified on the Third Schedule of the Agreement and any change of such charge shall be subject to prior approval from the Landlord.

3.5 Subject to the prior written approval of the Landlord, the Tenant may enter consignment agreement with any suitable and reputable person for the sale at the Shop of souvenir items of wetland theme upon such terms and conditions which the Landlord may impose.

3.6 The Tenant is required to –

- (a) maintain all the existing fitting, decorations, furniture and equipment provided by the Landlord in proper and orderly manner. The Tenant may install additional furniture and equipment at its own cost, but the Tenant is required to submit the schedule of all furniture and equipment to be installed to the Landlord for written approval prior to the commencement of any work within the premises, and the Landlord may impose such conditions as he thinks fit in granting such approval.
- (b) ensure that the Shop is kept clean and tidy and offer a pleasant ambience at all times;
- (c) keep proper records of all the revenue generated from the Shop.

3.7 In respect of operation and management of the Shop, the Tenant is required to meet the following targets throughout the term of the tenancy:

<b>Performance Indicator</b>	<b>Target</b>
Compliance with all the relevant statutory and licensing requirements	All the time
Compliance with the theme and design concept set for the Shop	All the time
Maintaining the Shop in full operation during HKWP opening hours in accordance with Special Condition 2.1	All the time

#### **4 Customer Care**

4.1 The staff of the Tenant shall be required to exhibit at all time the necessary knowledge, skills, attitude and behaviour so as to deliver high quality customer services.

4.2 All the staff of the Tenant are required to –

- (a) wear the uniform as approved by the Landlord, including name badges in a prominent position at all time;
- (b) be tidily dressed;
- (c) treat customers with courtesy and respect;
- (d) be friendly, welcoming and helpful;

- (e) deal with customers promptly and politely;
  - (f) show patience, understanding and sensitivity in dealing with customers' problems; and
  - (g) project a positive image of the HKWP.
- 4.3 The Tenant must establish expedient, fair and equitable means to promptly and properly deal with all complaints from customers and other referring bodies.

## **5 Conduct of Business**

- 5.1 The Tenant shall conduct his Business only in the area of the Shop (the Shop Area) and shall not use, cause, suffer or permit to be used any area of the HKWP except with written approval from Landlord.
- 5.2 The Tenant shall maintain the premises with an efficient and adequate service of a style, type and quality to the satisfaction of the Landlord.
- 5.3 The Tenant shall use the premises only for the Business and shall not use, cause, suffer or permit to be used the premises or any part thereof as sleeping quarters or domestic premises or for any other purpose.

## **6 Tenant's Warranties & Undertakings**

The Tenant warrants and undertakes: -

- 6.1 To operate and maintain to the satisfaction of the Landlord the Shop for the supply, sale and hire of souvenir items, goods and equipment as provided for in Special Condition 3 above.
- 6.2 To maintain at the Tenant's own cost the decoration at the Shop as at the date when vacant possession of the premises is given to the Tenant. Subject to the prior written approval of the Landlord, the Tenant may redecorate the Shop as the Tenant may consider necessary or as may be required by the Landlord. The Tenant shall maintain the Shop as well as the decoration and/or redecoration of the Shop throughout the term of the tenancy in good repair and condition (fair wear and tear excepted) to the satisfaction of the Landlord PROVIDED THAT:"
- (i) any consent given by the Landlord under this Special Condition 6.2 shall not make the Landlord responsible for any damages or claims arising from defects in design and quality of the decoration of the premises carried out by the Tenant.

- (ii) the Tenant shall:
  - (1) submit to the Landlord and the Director of Architectural Services (DAS) all plans and specifications (including perspective drawings, plan drawings and electrical schematic drawings) (hereafter collectively referred to as “the Plans”) for consent prior to the commencement of any decoration works to the premises;
  - (2) to decorate the premises in accordance with the Plans as approved under this Special Condition 6.2.(ii)(1) and in all respects to the satisfaction of the Landlord and no amendment, variation, alternation, modification or substitution shall be made without the prior written consent of the Landlord and DAS;
  - (3) not to commence any decoration work prior to the requisite consent and approval having been obtained pursuant to Special Condition 6.2.(ii) (2); and
- 6.3 To maintain all the existing fitting, decorations, furniture and equipment provided by the Landlord as listed in the Sixth Schedule in proper and orderly manner. If the Tenant consider it necessary to furnish and provide additional equipment and furniture for the efficient operation of the Business, such equipment and furniture shall be of a design and safety standard to the satisfaction of the Landlord.
- 6.4 To keep and maintain at all times all the equipment and furniture more particularly referred to in Special Condition 6.3 in good repair and condition (fair wear and tear excepted) to the Landlord's satisfaction and to replace the same or any of the same with new ones whenever necessary or when the Landlord reasonably demands.
- 6.5 To name the Shop as the parties hereto may mutually agree, or in default of agreement as the Landlord at its absolute discretion may prescribe, at any time and from time to time. Save and except as permitted or directed by the Landlord, such name shall not be changed.
- 6.6 To remove forthwith from display and not to sell or provide hiring services for or continue to sell or provide hiring services for any goods or equipment to which the Landlord has notified its objection to the Tenant as being inconsistent with the objectives of the Business or the Landlord.
- 6.7 Not to charge for any item for sale or hire in the Shop any prices in contravention of the provision of this agreement.
- 6.8 To ensure that during the opening hours of the Shop there is provided and maintained an efficient and adequate service of a style, type and quality to the satisfaction of the Landlord. Without prejudice to the generality of the foregoing, the Tenant shall at all times ensure that the services provided at the Shop shall at all times suffice to meet

the reasonable needs of the users of the HKWP and its facilities including but not limited to members of the general public, persons attending functions and activities being held in the HKWP and group visitors to the HKWP.

- 6.9 To provide a capable and suitably trained employee of the Tenant to be stationed at the Shop during normal office hours and whose duties shall be as a supervisor of the Business of the Tenant at the HKWP. The responsibility of such supervisor shall be to monitor the operation and the service of the staff of the Shop and to liaise with the Landlord on the Tenant's behalf on matters relating to the operation of the Shop.
- 6.10 To provide to the satisfaction of the Landlord sufficient staff to man the Shop all of which staff to be properly trained and supervised in their duties to the satisfaction of the Landlord.
- 6.11 To equip the staff with uniforms of a design and material approved by the Landlord and to ensure that such uniforms are to be worn by the staff when on duty and at all times kept clean, tidy and well fitting.
- 6.12 To ensure that a high standard of customer service be maintained and all staff do conduct themselves in a courteous manner to the satisfaction of the Landlord.
- 6.13 Not to provide accommodation in the Shop in excess of the number as permitted by the Landlord for the Shop or otherwise than as in accordance with the layout as approved by the Landlord therefor.
- 6.14 Not to cause, suffer or permit any floor show or other entertainment whatsoever to be staged in or from any part of the Shop without the prior written approval of the Landlord which approval may be revoked at any time by the Landlord at its absolute discretion.
- 6.15 Not to infringe any copyright in respect of any music or other entertainment whatsoever provided in or from the Shop. To indemnify and keep indemnified the Landlord, the Landlord and all their servants and agents against all actions, claims, proceedings, demands, liabilities, costs and expenses in respect of any infringement or alleged infringement of copyright in the Shop.
- 6.16 To comply with the relevant provisions of the Smoking (Public Health) Ordinance Cap. 371, and of all regulations made thereunder and for the time being in force, for displaying in a prominent position a sufficient number of signs to indicate that smoking is prohibited in the area. Such signs shall be of a design and size as the Landlord may approve or prescribe and shall be maintained at all times by the Tenant in good and legible condition.
- 6.17 Save and except where the Landlord at its absolute discretion may permit or require, not to set aside or reserve the whole or any part of the Shop for the exclusive use of any person or organisation or for any other purpose or function.

- 6.18 Save and except where the Landlord at its discretion may permit or require, not to exhibit or otherwise howsoever display or cause, suffer or permit to be exhibited or displayed any advertisement or any other materials whatsoever of an advertising nature in or from either the inside or outside.
- 6.19 To submit to the Landlord for its prior approval all publicity, promotional or advertising material whatsoever (whether or not the same is to appear in written form) relating to the Business or any part thereof and, if so required by the Landlord, to comply with all reasonable requests of the Landlord for the inclusion in such materials references to the HKWP, its facilities and/or the functions and activities to be held therein.
- 6.20 Without prejudice to the generality of Special Condition 6.19, not to exhibit or otherwise howsoever display or cause, suffer or permit to be exhibited or displayed any advertisement or any other materials whatsoever of an advertising nature relating to any tobacco or tobacco related products.
- 6.21 To arrange for the delivery to the Shop of all supplies and the removal therefrom of all refuse and rubbish daily to such a nominated refuse collection point in the HKWP in such manner and at such time or times as may be approved or prescribed by the Landlord at any time and from time to time. Provided however that the Landlord shall have the right to stop any such delivery and removal at any time if it shall at the time of the view that such act has caused or is likely to cause inconvenience or disturbance to the management of the HKWP or any part thereof or to any of the functions or activities held in or at the HKWP or any part thereof.
- 6.22 To provide to customers receipts for purchase.
- 6.23 To make good any loss or damage to the HKWP or any part thereof or any facilities or other fixture or fitting therein not being the property of the Tenant which may arise as a result of the operation of the Business or any other act, neglect or default of the Tenant or any of its servants or agents.
- 6.24 To keep and maintain proper books of account including ledgers, supporting vouchers, receipts etc. and other records/documents in respect of the Business and in respect of the Gross Monthly Receipts of the Shop separately. To cause all such books of account and records/documents to be made up on a monthly basis and retain the same for at least three years.
- 6.25 To keep and forward to the Landlord upon request proper accounts and records for the daily and monthly total sales and hire of souvenir items, goods and equipment for and on behalf of the Landlord and to pay to the Landlord the total sale proceeds of such souvenir items, goods and equipment on a daily basis by depositing the sale proceeds no later than one working day after the close of business of the day for the relevant

sale transactions into such Government bank account as the Landlord may specify in writing.

- 6.26 To allow such person or persons as may be authorized by the Landlord for that purpose at all reasonable times upon prior notice access to all books of account and records/documents of the Tenant relating to Gross Monthly Receipts of the Shop and, if required, to make copies of the same.
- 6.27 Upon the earlier termination or within 6 months prior to the expiry of this agreement, to allow the Landlord to release any information relating to gross monthly turnover and Gross Monthly Receipts of the Shop which may be obtained from the Tenant by virtue of this agreement to prospective Tenderers only of the Business, the Shop and/or any part of either or both of the same.
- 6.28 To properly record each and every sale or other payment whatsoever to the Tenant in the course of the Business, to issue receipts for all payments by customers, and to retain a copy of each such receipts for at least three years after the date of the sale or payment, as the case may be.
- 6.29 To accept Visa and Master Card credit cards and all such other internationally recognised credit cards and electronic money as the Landlord and the Tenant may from time to time agree.
- 6.30 To pay and discharge all rates, taxes, fees, charges, assessments, duties, impositions and outgoings whatsoever now or hereafter imposed or charged by lawful authority in respect of the Shop or any part thereof.
- 6.31 To pay and discharge all deposits and charges in respect of electricity and water (including sewage charges) consumed by the Tenant on or in the Shop (including but not limited to electricity charges for the any equipment, machinery and installation whatsoever installed in the Shop and operated from the Tenant's sub-metered electricity supply), charges for sewage services, all charges for telephones installed in the Shop and all costs of installation of all meters in connection therewith. In the event that any such supply is not metered, such amount in respect of electricity and water (including sewage services) consumption as shall be reasonably assessed or estimated by the Landlord.
- 6.32 To pay and discharge all outgoings and expenditure whatsoever which may be incurred by the Tenant in respect of or otherwise howsoever in connection with the Business.
- 6.33 To keep and maintain at all times at the expense of the Tenant the Shop including the flooring, interior plaster or other finishing material to walls floors and ceilings and all fixtures and fittings therein in good clean and proper repair and condition (fair wear and tear excepted) and as may be appropriate from time to time to paint and decorate the Shop.



- 6.34 If so required by the electricity company, to repair or replace at the expense of the Tenant all the electrical wiring installations and fittings installed by the Tenant within the Shop and all such electrical wiring installations and fittings of the Tenant, if any, in any other part of the Shop.
- 6.35 To maintain to the reasonable satisfaction of the Landlord the Shop and its immediate vicinity in a clean, tidy and serviceable condition. If the Landlord in its reasonable opinion considers that the Tenant has failed to clean and service the Shop or any part thereof the Landlord may give written notice to the Tenant to carry out within 48 hours or such longer period as the Landlord in its reasonable opinion may allow the necessary cleaning and servicing work in the Shop. In the event that the Tenant fails to carry out the work as directed, the Landlord may without further notice close the Shop or any part thereof for a period not exceeding 2 days on any one occasion to cause the said area and its immediate vicinity to be cleaned and serviced and the Tenant shall pay the cost thereof to the Landlord on demand.
- 6.36 To take all reasonable precautions to protect the Shop from damage by fire, storm, typhoon and the like.
- 6.37 To permit the Landlord or any of its servants or agents with or without workmen at all reasonable times to enter upon the Shop or any part thereof to carry out repairs and works thereto and to any fixtures, fittings, installations and equipment whatsoever therein owned by the Landlord and to view the condition and state of repair thereof.
- 6.38 To execute all repairs and work required to be done upon written notice given by the Landlord as soon as practicable. If the Tenant shall not complete such repairs or works within one Month (or sooner, if required) after service of such notice, the Landlord may enter upon the Shop or any part thereof to execute such repairs and works. The cost incurred by the Landlord therefore shall be paid by the Tenant to the Landlord on demand.
- 6.39 Not to make or cause, permit or suffer to be made any alteration in or addition to the Shop or to the electrical wiring installation or to Landlord's fixtures and fittings or to install any plant apparatus or machinery therein without having first obtained the written consent of the Landlord. Not to cut maim or injure or cause permit or suffer to be cut maimed or injured any doors windows walls structural members or other fabric thereof. Any application by the Tenant for the Landlord's consent under this sub-clause shall be accompanied by a plan showing the proposed changes. The Landlord shall be entitled to prescribe the maximum weight and location of any safe and other heavy equipment and to require that the same stand on supports of such dimensions and material to distribute the weight as the Landlord may deem necessary.
- 6.40 Not to use or cause, suffer or permit to be used the Shop or any part thereof for any purposes whatsoever other than the carrying on of the Business by the Tenant on its own account.

- 6.41 To remove from the Shop and not to permit to return hereto and not to continue to employ at any of the Shop without the prior consent in writing of the Landlord any employee to whose employment on or in the Shop the Landlord has notified its objection on security, medical, health or other reasonable grounds.
- 6.42 Not to carry on business in or from or otherwise howsoever use or cause suffer or permit to be used for any purposes whatsoever any part of the HKWP which is outside the Shop without the prior written consent of the Landlord.
- 6.43 Save and except with the prior permission of the Landlord, not to cause suffer or permit any of its servants or agents to enter into any part of the HKWP outside the Shop where the general public does not have access.
- 6.44 Not to cause or permit or suffer to be caused on or in the Shop or any part thereof any sound or noise or any other act or thing which may be or become a nuisance or annoyance or which may cause damage to the Landlord, members of the public using the HKWP, any other tenants or licensees of any part of the HKWP, or the owners or occupiers of any adjoining property.
- 6.45 Not to keep or store or cause or permit to be kept or stored in the Shop any dangerous goods within the meaning of the Dangerous Goods Ordinance for the time being in force.
- 6.46 To carry out and comply with all such ordinances, regulations by-laws and rules and all such notices and requirements of the appropriate Landlord authorities and departments and to obtain and renew all such permits and licences as may be applicable to or required for or otherwise howsoever in connection with or in relation to the Business and the Shop and to indemnify and keep the Landlord indemnified against any breach by the Tenant of any of the same.
- 6.47 Not to cause permit or suffer any part of the Shop to be used for gambling or for any illegal or immoral or improper purposes.
- 6.48 Not to assign, mortgage, charge, demise, underlet, part with the possession of, or otherwise dispose of the Shop or any part thereof or any interest therein. Not to permit or suffer any arrangement or transaction whereby any person who is not a party to this agreement obtains the use, possession, occupation or enjoyment of the Shop or any part thereof whether or not any rental or other consideration is given. All the rights and obligations under this agreement shall be personal to the Tenant named in this agreement and unless previously approved in writing by the Landlord (which approval the Landlord may give or withhold at its absolute discretion) the following acts or events shall be deemed to be breaches of this Special Condition 6.48: -
- (i) The Tenant shall become bankrupt or being a company shall enter into liquidation whether compulsory or voluntary (save for the purpose of

reconstruction or amalgamation) or shall enter into any composition with his creditors or suffer any distress or execution to be levied upon his goods.

- (ii) The giving by the Company of a Power of Attorney or similar authority whereby the donee of the Power obtains the right to use, possess, occupy or enjoy the Shop or any part thereof or does in fact use, possess, occupy or enjoy the same.
- (iii) Any arrangement or transaction whatsoever and howsoever effected whereby any third party obtains any right or interest in or the management, operation or control of the Business or any part thereof.
- (iv) Any change of the Tenant's business name.

- 6.49 Not to install or use in the Shop or any part thereof any plant, apparatus, machinery or equipment which requires any additional electrical mains wiring without having first obtained approval from the Landlord or which consumes electricity neither metered through the meters from which the Tenant's consumption of electricity is calculated nor generated by the Tenant's own generator or generators the use of which has previously been approved by the Landlord.
- 6.50 Unless and until prior written permission has been obtained from the Landlord, not to use or permit to be used the Shop or any part thereof as sleeping quarters or to allow any person to remain in the Shop overnight. Permission to remain in the Shop overnight shall only be given to enable the Tenant to post watchmen to look after the contents of the Shop and the names and the Hong Kong Identity Card Numbers of the watchmen shall first be registered with the Landlord prior to its giving such permission.
- 6.51 Not to keep or permit or suffer to be kept in the Shop or any part thereof any animals or pets and to take all such steps and precautions to the reasonable satisfaction of the Landlord to prevent the Shop or any part thereof from becoming infested by any pests or vermin.
- 6.52 Not to place or leave or cause, suffer or permit to be placed or left in any part of the HKWP (including but not limited to fire exits, common areas, stairways, landings and passages of any such buildings) any boxes, furniture, rubbish, chattels or any other materials or otherwise in any way to encumber, obstruct or block the same.
- 6.53 Not to exhibit or display within or on the exterior of the Shop or any part thereof any writing, sign, signboard or other device whether illuminated or not which may be visible from outside the Shop or any part thereof without the prior written consent of the Landlord.

- 6.54 Not to do or cause or suffer or permit to be done any act or thing whereby the policy or policies of insurance on the premises of which the Shop forms part against damage by fire or liability to third parties for the time being subsisting may become void or voidable or whereby the rate of premium or premia thereon may be increased, and to repay to the Landlord on demand all sums paid by the Landlord by way of increased premium or premia thereon and all expenses incurred by the Landlord in and about any renewal of such policy or policies rendered necessary by a breach of this sub-clause.
- 6.55 To keep the whole of the Shop including all structures fixtures and fittings within the Shop fully insured against loss or damage by fire or otherwise with such insurers as the Landlord may at its discretion approve or prescribe to the satisfaction of the Landlord and the insurance cover shall be in such amount as the Landlord shall from time to time stipulate and the insurance policy shall contain a clause to the effect that the insurance cover thereby effected and the terms and conditions thereof shall not be cancelled modified or restricted without the prior written consent of the Landlord and in the event of any loss or damage to the Shop including any structures fixtures and fittings comprising the Shop to forthwith make a claim on such policy and to cause all monies received by the virtue of such insurance to be laid out in reinstating and rebuilding the Shop including structures fixtures and fittings comprising the Shop.
- 6.56 The Landlord 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 Tenant's property or that of his employees or agents however caused (whether by any Negligence of the Landlord or any of its employees or agents or otherwise);
  - (b) any injury to or death of any of the Tenant's employees or agents save and except any such injury or death caused by the Negligence of the Landlord or any of its employees or agents.
- 6.57 The Tenant shall indemnify the Landlord and its employees or agents against any claim or demand made against or liability incurred (including all cost, charges or expenses whatsoever) by the Landlord or any of its employees or agents in respect of:
- (a) any loss, damage, injury or death referred to in Special Condition 6.57 (save and except injury or death caused by the Negligence of the Landlord or any of its employees or agents);
  - (b) any loss or damage sustained by or any injury to or death of any third party in consequence of any Negligence of the Tenant or any of its employees or agents.
- 6.58 The Tenant shall indemnify the Landlord against any loss of or damage to any property of the Landlord or of any of its employees or agents or any injury to or death

of any employee or agent of the Landlord arising out of the Negligence of the Tenant or any of his employees or agents.

- 6.59 The Tenant shall effect a policy of insurance in the name of the Landlord and the Tenant against all claims, demands or liability as aforesaid in this Special Condition 6 with an insurance company approved by the Landlord (which approval shall not be unreasonably withheld) the insurance cover of which shall be in such amount as the Landlord shall from time to time stipulate and shall continue such insurance and shall when required, deposit with the Landlord for safe keeping such policy of insurance together with the receipt of payment of the current premium.
- 6.60 If the Tenant shall fail to effect and keep in force the insurance referred to or any other insurance which he may be required to effect under the terms of this agreement then and in any such cases the Landlord may effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount so paid by the Landlord as aforesaid from any moneys due or which may become due to the Tenant or recover the same as a debt due from the Tenant.
- 6.61 In the event of any of the Tenant's employees or agents suffering any injury or death in the course of or arising out of this agreement and whether there be a claim for compensation or not, the Tenant shall within seven (7) clear working days give notice in writing of such injury or death to the Landlord.
- 6.62 For the purposes of this Special Condition 6 "Negligence" shall have the same meaning as that assigned to it in section 2(1) of the Control of Exemption Clause Ordinance, Cap. 71.
- 6.63 To give notice to the Landlord of any damage that may be suffered to the Shop and of any accident to or defects in the Shop or the water pipes, gas pipes, electrical wiring or fittings, fixtures or other facilities installed or provided by the Landlord in the Shop.
- 6.64 To remove at the cost of the Tenant any structures erections partitions and other alterations if required by the Building Authority as defined in the Buildings Ordinance, Cap. 123 or other competent Government departments or other competent authority in exercise of their powers whether or not the same were or have been put up by the Tenant with the consent of the Landlord and to make good all damages caused by such removal. The Landlord shall not be responsible to the Tenant for any loss suffered by the Tenant as a result of such removal.
- 6.65 To pay upon demand the repair or replacement cost of the Landlord's fixtures and installations found damaged or lost at any time or at the end or sooner determination of the term hereby created; not to allow repairs to fixtures and installations to be done by workers other than employees of the Architectural Services Department without permission in writing of the Landlord and subject to the standard of such repairs being

acceptable to the Assistant Director (Property Services) of the Architectural Services Department.

- 6.66 To conform to all fire regulations relating to the Shop and to provide and maintain in the Shop adequate hand fire extinguishers and to afford to the Director of Fire Services access and facilities to test the said extinguishers as and when he sees fit.
- 6.67 To yield up the Shop together with the Landlord's fixtures and installations and other fixtures, fittings and additions (if any) therein and thereto at the expiration or sooner termination of this agreement in good clean and serviceable repair and condition (fair wear and tear excepted) in accordance with the stipulations herein contained. Provided always that where the Tenant has made any alterations or installed any fixtures or additions to the Shop with or without the Landlord's written consent the Landlord may at its discretion require the Tenant to reinstate or remove at the Tenant's own expense such alterations fixtures or additions or such part or portion thereof as the Landlord may require and to make good and repair in a proper and workmanlike manner any damage to the Shop and the Landlord's fixtures and installations as a result thereof before delivering up the Shop to the Landlord. The Tenant shall be entitled to remove its own trade fixtures and trade equipment. The Tenant shall make good all damage to the Shop including damage to the fittings and decoration within the Shop and the HKWP caused by such removal to the reasonable satisfaction of the Landlord.
- 6.68 Upon the end or sooner termination of this agreement, to forthwith vacate from the Premises and, subject to Special Condition 6.67 to deliver up to the Landlord the Premises in a good clean and serviceable repair and condition (fair wear and tear excepted) failing which the Landlord shall be at liberty to take such steps as may be necessary to remove any person or property therein and thereafter to dispose of any of the property so removed in such manner as the Landlord at its discretion may see fit without any liability whatsoever whether towards the Tenant or otherwise.
- 6.69 If the Tenant shall fail to carry out any of its obligations or duties under this agreement and the Landlord executes such obligations or duties on the Tenant's behalf, the Tenant shall pay to the Landlord any costs incurred by the Landlord.

## **7 Cleansing, Collection and Disposal of Refuse and Litter**

- 7.1 The Tenant shall provide and keep in good and hygienic condition dustbins in such numbers and of such a type as shall be approved by the Landlord and shall collect all refuse and litter therein.
- 7.2 Subject to Special Condition 6.21, the Tenant shall arrange at least once every day or at a frequency as prescribed by the Landlord at any time and from time to time for the removal and disposal of all refuse and litter thus collected in the course of his

Business. Such refuse and litter shall be collected in polyethylene bags, or in any other containers approved by the Landlord and shall be properly disposed of at least once every day to such a refuse collection point inside or outside the HKWP nominated by the Landlord or to such places as shall be specified by the Landlord at any time and from time to time in such manner as approved or prescribed by the Landlord.

- 7.3 If the Landlord in its reasonable opinion considers that the Tenant has failed to remove and dispose such refuse and litter and satisfactorily clean and service the Shop Area or any part thereof, the Landlord may give written notice to the Tenant to carry out within twenty-four hours or such longer period as the Landlord in its reasonable opinion may allow the necessary cleaning and servicing work in the Shop Area. In the event that the Tenant fails to carry out the work as directed, the Landlord may without further notice close the Shop Area or any part thereof for a period not exceeding three (3) days on any one occasion to cause the said area and its immediate vicinity to be cleaned and serviced and the Tenant shall pay the cost thereof to the Landlord on demand and shall remain liable to pay the Monthly Fee to the Landlord without any deduction.
- 7.4 The Tenant shall not place or leave or cause, suffer or permit to be placed or left in any part of the HKWP (including but not limited to fire exits, common areas, stairways, landings and passages of the HKWP) any boxes, furniture, rubbish, chattels or any other materials or otherwise in any way to encumber, obstruct or block the same.

## **8 Tenant's Employees or Agents**

- 8.1 The Tenant shall require all persons employed at the Shop Area to submit to such medical examination at such places and times as may be prescribed by a registered medical practitioner and shall not employ or shall cease to employ at the Shop Area any person found by the medical practitioner to be likely to spread a communicable disease.
- 8.2 The Tenant shall ensure that his managerial or supervisory staff shall be in attendance at the Shop Area at all times when his staff are at work.
- 8.3 The Tenant shall be responsible for the good conduct of his employees, contractors or agents while they are in the Shop Area, and shall ensure that they will behave accordingly.
- 8.4 The Landlord shall be entitled to demand on reasonable grounds, including but not limited to medical health, security and disciplinary grounds, the removal or replacement of any of the Tenant's employees or agents.
- 8.5 The Landlord shall in no circumstances be liable either to the Tenant or to his employees or agents in respect of any liabilities, losses or damages occasioned by

- such removal as stipulated in Special Condition 8.4 and the Tenant shall fully indemnify the Landlord against any claim made by such employees or agents.
- 8.6 The Landlord shall be entitled to refuse to admit to the HKWP or any part thereof for the purposes of the agreement any person employed by the Tenant, or by the Tenant's agents, whose admission will be, in the reasonable opinion of the Landlord, undesirable.
- 8.7 Any removal demanded or refusal made under Special Conditions 8.4 and 8.6 shall not be construed as a breach of the agreement by the Landlord and the Tenant shall continue to carry out his obligations under the agreement.
- 8.8 The Tenant shall provide a sufficient quantity of clean clothes with clear identifications of his Business and of a type approved by the Landlord for the use of his employees at the Shop Area.
- 8.9 The Tenant shall provide lockers for the staff to store their clothing and personal effects and not to allow personal effects such as clothing, footwear, luggage, umbrellas and other articles to be stored or left in any room.
- 8.10 The Tenant shall ensure that at all times when his employees are at work or on duty in the Shop Area they shall wear such clothes in a clean and tidy manner.
- 8.11 The Tenant shall ensure that all persons employed by him in carrying out the agreement shall keep to such parts of the HKWP as are necessary for the due discharge of the Tenant's obligation under the agreement.
- 8.12 The Tenant shall maintain a proper current and accurate record of all his employees or agents employed for the carrying out of the Business. Such record shall include the name, Hong Kong Identity Card number, grade and salary, age and photograph of each employee.
- 8.13 Such record shall be produced for inspection by the Landlord on request.
- 8.14 The Tenant shall not employ any person who are forbidden in law of Hong Kong Special Administrative Region or not entitled for whatever reasons to undertake any employment in Hong Kong Special Administrative Region in the execution of this agreement or any other contract of the Government. If there is any breach of this Special Condition 8.14 by the Tenant, the Landlord may, by notice in writing terminate this agreement and the Tenant is not entitled to claim any compensation. The Tenant shall be responsible for any expenses or loss that the Landlord may incur or suffer due to the breach of this clause by itself.
- 8.15 Unless otherwise approved by the Landlord, all workers and staff employed by the Tenant for the execution of this agreement shall be local residents to be engaged in Hong Kong Special Administrative Region. Any contravention of this Special Condition 8.15 shall be deemed as a major breach of the agreement which shall entitle the Landlord to terminate the agreement by giving fourteen (14) days' notice to the Tenant.



- 8.16 The Tenant shall be liable for all expenses necessarily incurred by the Landlord as a result of the termination of this agreement.
- 8.17 All personal data obtained for this tenders will be used for the purpose of this agreement.
- 8.18 All monies or other items of value found by the Tenant's employees and/or agents in carrying out the Business in the Shop Area shall be handed to the Landlord's management in the HKWP as soon as possible and a written receipt obtained therefrom.

## **9 Publicity and Advertisement**

- 9.1 The Tenant shall not publish or use any advertising or other publicity materials or perform any act with an advertising nature in relation to his Business except with the prior written consent of the Landlord.
- 9.2 Save and except where the Landlord at its discretion may permit or require, the Tenant shall not exhibit or display, or cause, permit or suffer to be exhibited or displayed either inside or outside the Shop Area any advertisement or any other materials whatsoever (such as writings, signs, signboards or any other devices whether illuminated or not which may be visible from inside or outside the Shop Area or any part thereof) of any advertising nature.
- 9.3 Without prejudice to the generality of Special Condition 9.2, the Tenant shall not exhibit or display, or cause, permit or suffer to be exhibited or displayed either inside or outside the Shop Area any advertisement or any other materials whatsoever (such as writings, signs, signboards or any other devices whether illuminated or not which may be visible from inside or outside the Shop Area or any part thereof) of any advertising nature relating to any tobacco or tobacco related products.

## **10 Notice to be Displayed or Circulated in the HKWP**

- 10.1 If the Tenant proposes to display or circulate any notices requiring his employees, agents or the public to comply with the rules and regulations of the Landlord, the Landlord or other competent authority or for the purpose of the operation of his Business under the agreement, he shall first seek the prior written consent of the Landlord and such consent can be withdrawn at any time at the discretion of the Landlord. All notices displayed or circulated by the Tenant in the HKWP shall be written in both English and Chinese.

## **11 Electricity Supply**

- 11.1 The Tenant, if so permitted by the Landlord, may consume electricity from supply points which is available at the HKWP to operate his Business and shall pay all fees and charges in connection therewith.
- 11.2 Check meters are to be installed at the Tenant's expense to measure the total power consumption within the Shop Area. The Tenant is responsible for the proper functioning and maintenance of the check meters. Schedule of meter reading is to be approved by the Landlord. Records of the concerned meter readings should be verified and submitted to the Landlord on demand.
- 11.3 If electricity supply point is not available to the Tenant or permission to use available supply point is not granted or withdrawn, the Tenant shall at his own expenses install and provide his own source of electricity supply required for his Business and pay all fees and charges in connection therewith.
- 11.4 Any installation of wiring and lighting fittings, and all other electrical works, be it permanent or temporary, shall be approved by the Landlord and the works shall be carried out by qualified electricians registered under the Electricity (Registration) Regulations (Cap. 406) and to the satisfaction of the Landlord and such installation shall thereupon become the property of the Landlord. The Tenant shall be responsible to maintain and repair such installation at his own expense as well as to remove the same should the Landlord so direct.

## **12 Air-conditioning System**

- 12.1 The Landlord shall use its best endeavours to provide the Shop Area with air-conditioned ventilation during the opening hours on each day and to maintain the same in good repair and condition. Provided always that the Landlord shall in no event whatsoever be held responsible for any failure or interruption of any central air-conditioning service from any cause whatsoever or for any damage or loss (direct or indirect) whatsoever caused thereby. Provided further that notwithstanding any failure or interruption as aforesaid, all payments payable under this agreement shall remain payable in full at all times and no compensation shall be payable by the Landlord to the Tenant or others by reason of such failure or interruption.
- 12.2 In the event of the Tenant wishing to install private air-conditioning units in the Shop Area or any part thereof with the prior written consent of the Landlord, the Tenant shall comply with the directions and instructions of the Landlord regarding installation and shall at his own expense be responsible for their periodic inspection, maintenance and repair and for the replacement of defective wiring and the Tenant shall be strictly liable for any damage caused by the installation operation or removal of such units. Provided further that in the event of undue noise vibration or heat being

caused or generated by any air-conditioning units installed hereunder the Landlord may require the Tenant to remove or replace such installations forthwith and to make good any loss or damage to the Shop Area or the HKWP caused thereby. The Tenant agrees to make adequate provision to ensure against the dripping of water from the air-conditioning units to the detriment of the fabric of the HKWP or to the annoyance of the Landlord or any third parties and to ensure that such water be collected and discharged within the Shop Area. Any damage to the fabric of the HKWP resulting from a breach of this provision shall be made good by the Tenant.

- 12.3 In carrying out any approved work hereunder the Tenant, his servants, agents, shall obey and comply with all instructions and directions which may be given by the Landlord in connection with the carrying out of such work.

### **13 Rights Reserved by Landlord**

- 13.1 The Landlord reserves the right to suspend at its sole discretion the Tenant's Business by closing the Shop Area for a specified period of not more than seven (7) days at any one time if the Landlord is of the opinion that the Tenant is in breach of any of the terms and conditions of the agreement and in such event the Tenant shall remain liable to pay the Monthly Fee in full during such period of suspension. The Landlord shall not be liable for any loss suffered or expenses incurred by the Tenant due to such suspension.
- 13.2 The Landlord reserves the right to close the HKWP in whole or in part, including the Shop Area and/or to suspend the Business by reason of fire or storm or damage (not being the result of willful default or misconduct or negligence of the Tenant, his employees or agents) or pandemic diseases, an act of God or repair or maintenance or building modification or for any other reasons at any time and for whatever period or periods during the term of the tenancy. The Landlord shall not be liable for any loss suffered or expenses incurred whatsoever by the Tenant due to such closure or suspension.
- 13.3 In connection with Special Condition 13.2, if the demand of such closure or suspension of Business by the Landlord is due to maintenance or building modification, the Landlord will give the Tenant one month advance notice before the commencement date of such closure and suspension, if it is practicable in the circumstances.
- 13.4 For the avoidance of doubt, nothing expressed or implied in the agreement shall be regarded as in any way negating, prejudicing or otherwise restricting the right of the Landlord to authorize any person or organisation to bring into the Shop Area or distribute freely therein any commodities for use whatsoever. The Tenant is not entitled to claim for any compensation or prohibition for whatsoever cause resulting from the grant of the said permission and authorization. The Tenant shall continue to

carry on his Business on any day covered by such permission if he is not required to suspend his Business.

- 13.5 During the twelve months immediately preceding the expiry of this agreement, the Landlord reserves the right to allow any prospective Tenderers to enter and view the Shop Area at any reasonable time upon prior notice having been given to the Tenant.

#### **14 Stock, Sale and Hire of Commodities**

- 14.1 Unless otherwise specified in the agreement, the Tenant shall provide for sale and hire sufficient stock of souvenir items, goods and equipment stipulated in the Third Schedule and of a standard to the satisfaction of the Landlord.
- 14.2 The Tenant shall not sell or put up for hire any souvenir items, goods and equipment not listed in the Third Schedule unless with prior approval of the Landlord. Any alteration of these souvenir items, goods and equipment may only be made after obtaining the prior written approval of the Landlord.
- 14.3 The Tenant shall abide by any directions as to the quality of the commodities or offered for sale or hire at the Shop Area as may be given by the Hong Kong Consumer Council.
- 14.4 The maximum price to be charged for all commodities to be supplied, sold and hired at the Shop shall be listed in the Third Schedule and any modification of the prescribed price should be subject to the prior written approval of the Landlord.
- 14.5 The Tenant shall provide to customers receipts for commodities sold specifying the commodities and the respective price.

#### **15 Display of Commodity Prices**

- 15.1 The Tenant shall prominently display at all times the prices for commodities in respect of the Business at the Shop Area. The displays must be in both Chinese and English and shall be put up in such form, manner and at such locations as shall be approved or prescribed by the Landlord.

#### **16 Erection of Structure**

- 16.1 The Tenant shall not allow or permit any structure to be erected in or on the Shop Area and its immediate vicinity except those stipulated in Special Condition 15 hereof and one signboard bearing the words for the Business in both English and Chinese approved in writing by the Landlord.

- 16.2 The size and location of the signboard shall be those approved or prescribed by the Landlord in writing.

## **17 Watchman**

- 17.1 The Tenant shall not allow any person to remain in the Shop Area overnight without the permission of the Landlord in writing. Such permission to remain in the Shop Area overnight shall only be given to enable the Tenant to post watchman to look after the contents of the Shop Area.
- 17.2 The Tenant shall ensure the watchman possesses a valid security personnel permit issued under the Security and Guarding Services Ordinance (Cap. 460). The Tenant shall submit to the Landlord for approval the name and Hong Kong Identity Card number of such watchman.
- 17.3 The Tenant shall immediately remove such person from the Shop Area if the Landlord notifies the Tenant in writing of the withdrawal of its approval for such person to stay overnight in the Shop Area.

## **18 Store of Dangerous Goods and Prohibited Goods**

- 18.1 The Tenant shall not keep, store or cause, permit or suffer to be kept or stored in the Shop Area any dangerous or prohibited goods or liquid petroleum gas or any other types of fuel within the meaning of the Dangerous Goods Ordinance (Cap. 295) or any arms, ammunition, explosives or combustible substance.

## **19 Fire Fighting Equipment**

- 19.1 The Tenant shall provide and maintain in proper and serviceable condition fire fighting equipment to the satisfaction of the Landlord and comply with any directions issued by the Director of Buildings or the Director of Fire Services in connection with the Shop Area.

## **20 Landlord Premises, Property, Machinery & Equipment**

- 20.1 When the Landlord premises, property, machinery or equipment is provided for the Tenant under the agreement, the Tenant shall keep and maintain the same in good, clean and serviceable condition (fair wear and tear excepted), and shall be responsible for the due and immediate return of all such premises, property, machinery and

equipment in good repair, clean and serviceable condition (fair wear and tear excepted) at any time upon request by the Landlord and/or at the end or sooner termination of the agreement.

- 20.2 The Tenant shall not make any alteration or addition to the premises, property, machinery and equipment provided by the Landlord therein without the prior permission in writing by the Landlord and shall not carry out the repairs to the same without first obtaining the prior approval of the Landlord. If such approval is obtained, the repair works shall be carried out by qualified persons approved by the Landlord and to a standard acceptable to the Landlord. Provided always that where the Tenant has made any alterations or installed any fixtures or additions to the Shop Area with or without the Landlord's written consent, the Landlord may at its discretion require the Tenant at the Tenant's expenses to reinstate or remove such alterations, fixtures or additions or such part or portion thereof as the Landlord may require and to make good and repair in a proper and workmanlike manner any damage to the Shop Area and the Landlord's fixtures and installations as a result thereof before delivering up the Shop Area to the Landlord.
- 20.3 The Tenant shall remove at the cost of the Tenant any structures erections partitions and other alterations if required by the Building Authority or other competent Government departments or competent authority in exercise of their powers whether or not the same were or have been put up by the Tenant with the consent of the Landlord and to make good all damages caused by such removal. The Landlord shall not be responsible to the Tenant for any loss suffered by the Tenant as a result of such removal.
- 20.4 The Tenant shall be entitled to remove his own trade fixtures and trade equipment subject to the Tenant making good all damages to the Shop Area including damage to the fittings and decoration within the Shop Area and the HKWP caused by such removal to the satisfaction of the Landlord. Failing which the Landlord shall be at liberty to take such steps as may be necessary to remove any person or property therein and thereafter to dispose of any of the property so removed in such manner as the Landlord at its discretion may see fit without any liability whatsoever whether towards the Tenant or otherwise.
- 20.5 The Tenant shall be liable to the Landlord for any damage or loss to the premises, property, machinery and equipment provided by the Landlord. If any part of the premises, property, machinery or equipment is found damaged or lost, as the case may be, in whatsoever scale and from whatsoever cause while in the possession or control of the Tenant, the Tenant shall pay the cost for all repair or replacement of the same to the Landlord.
- 20.6 All of the premises, property, machinery and equipment so provided for Tenant under the agreement, shall remain the property of the Landlord, as the case may be, and the Landlord reserves the right to take stock checking of the same at any time and the Tenant shall provide every assistance to the Landlord for this purpose.

- 20.7 The Tenant shall accept the premises, the Shop Area and the Landlord's provisions in the state and condition in which possession is given.

## **21 Government Property**

- 21.1 When Government property is provided to the Tenant under the Tenancy Agreement, the Tenant shall be responsible for the due return of all such property. Should any such property be lost or damaged as a result of the Tenant's action or inaction while in the possession or control of the Tenant or his servants, agents or contractors, the Tenant shall replace or repair the property at the Tenant's own cost. A count of the articles or materials in the possession of the Tenant may be made at any time by the Landlord and the Tenant shall render such assistance as is necessary for this purpose.
- 21.2 For the avoidance of doubt, upon demand of the Landlord or termination of this agreement the Tenant shall forthwith return to the Landlord all unsold items of the souvenirs and goods and all items of equipment for hire provided by the Landlord pursuant to Special Conditions 3.2 and 3.3. All return items shall be in good and marketable condition. The Landlord reserves the right to reject any of the returned items which are found to be defective, damaged, spoiled or soiled and the Tenant shall indemnify the Landlord for any damage or loss suffered or incurred by the Landlord due to these returned items."

## **22 Arrangement during Epidemic illness**

- 22.1 In the event of illness of any epidemic nature breaking out, the Tenant shall comply with all such orders, arrangements or regulations as may be issued by the Government of the Hong Kong Special Administrative Region with a view to stamping out the same. The Tenant shall comply with any instructions issued by the Government of the Hong Kong Special Administrative Region regarding measures to be adopted to prevent or control diseases of any kind.

## **23 Access Granted to the Tenant**

- 23.1 The Landlord shall grant access of the HKWP or any part thereof to the Tenant as may be necessary for him to perform his obligations under the agreement, provided that the Landlord shall be entitled to close the Shop Area or any part thereof or to prohibit any vehicular access to the HKWP at any time and for any period if the Landlord considers it prudent and expedient to do so. Such closure should not be deemed to be a breach of the agreement by the Landlord and the Landlord shall not be liable for any loss suffered or expenses incurred by the Tenant due to such closure.

- 23.2 Upon such closure or prohibition of access or on demand of the Landlord, the Tenant and his employees and agents shall forthwith suspend the Business, remove the plant, equipment, materials and vehicle under the control of the Tenant from the Shop Area.
- 23.3 The access offered under this clause, unless approved otherwise by the Landlord, will only be limited to the business hours of the Shop.

## **24 Inconvenience or Annoyance Caused at the HKWP**

- 24.1 The Tenant shall ensure that his employees, agents or contractors shall perform their duties in an orderly manner and in as quiet a manner as may reasonably be practicable having regard to the nature of the duties being performed by them.
- 24.2 The Tenant shall use his best endeavours to avoid causing nuisance or annoyance to the users using the HKWP or to the Landlord's staff or agents working there while carrying out his Business. The Landlord shall be, without prejudice to any rights it has under the agreement and without releasing or discharging the Tenant of his obligations hereunder and without compensation whatsoever to the Tenant, entitled to suspend the Business or by whatever means the Landlord may consider suitable to stop the Tenant so as to prevent him from causing further nuisance to the users of the HKWP and the Landlord's staff or agents working there.
- 24.3 The Tenant shall not place or leave, or cause, suffer or permit to be placed or left any of his trade equipment, stores, provisions, furniture, fixtures, fittings chattels or other things whatsoever at any places within the HKWP other than the Shop Area or otherwise howsoever encumber or encroach such places and shall forthwith remove the same to a place designated by the Landlord if the Landlord in its opinion considers that they may cause encumbrance or encroachment. In the event of any breach of this Special Condition 24.3 and without prejudice to any other rights and remedies which the Landlord has or may have under the agreement, the Landlord shall be entitled to take all such steps as may be necessary to forthwith remove any such encumbrance or encroachment thereby constituted and without notice to the Tenant to seize and dispose of any such property in such manner as the Landlord may see fit without any liability whether towards the Tenant or any person otherwise and the Tenant shall pay the Landlord on demand all the costs in relation with such removal and/or disposal which are incurred by the Landlord.

## **25 Inspection & Rejection**

- 25.1 The Business carried on by the Tenant shall be subject to inspection by the Landlord at any time.
- 25.2 Without prejudice to any other rights provided under the agreement, the inspection officer or the Landlord may reject any action undertaken by the Tenant or result of



such action, which does not strictly conform to the terms and conditions of the agreement.

- 25.3 Within 24 hours of being notified in writing of the rejection of any action undertaken by the Tenant or result of such action the Tenant shall take necessary action to rectify such rejected action or result of action to the satisfaction of the Landlord.
- 25.4 If the Tenant shall fail to rectify such rejected action or result of action, the Landlord may without prejudice to any other rights and remedies available to the Landlord carry out and complete such rectification by its own staff or by its agents. All costs and expenses whatsoever which may be incurred by the Landlord thereof shall be recoverable in full from the Tenant forthwith on demand. The normal working hours for the staff of the Landlord are, with the exception of public holidays, from 0900 to 1700 hours from Mondays to Fridays and from 0900 to 1200 hours on Saturdays. If such rectification is carried out by the staff of the Landlord outside these normal working hours, the Tenant shall be responsible for the overtime remuneration, subsistence allowances and travelling expenses of such staff.

## **26 Tenant's Act, Default, etc.**

- 26.1 Any act, default, neglect or omission of any employee, agent or invitee of the Tenant shall be deemed to be the act, default, neglect or omission of the Tenant.
- 26.2 It shall be regarded as a default, if the Tenant -
- (1) shall have abandoned the agreement;
  - (2) shall persistently or flagrantly neglect to carry out his obligations under the agreement; or
  - (3) shall fail to carry out all or any of the rectification as stipulated in Special Condition 24.3 hereof within the time specified.
- 26.3 Without prejudice to any other rights provided for under the agreement, the Landlord is entitled to claim indemnity from the Tenant against any and all losses, claim, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the Landlord may sustain or incur or which may be brought or established against it as a result of the Tenant's default.
- 26.4 Notwithstanding the above provision, the Landlord may as its own discretion terminate the agreement in accordance with Special Condition 27 hereof as a result of the Tenant's default.

## **27 Termination**

- 27.1 Without prejudice to any right or action or remedy which shall have accrued or shall accrue thereafter to the Landlord, the Landlord may at any time by notice summarily terminate the agreement without entitling the Tenant to compensation in any of the following events-
- (1) if the Tenant fails or neglects to observe or perform any of the terms and conditions of the agreement or fails to pay any of the sums payable by the Tenant under the agreement or in the case of a breach capable of being remedied, will have failed within fourteen (14) days or such longer period as the Landlord may allow after the receipt of a notice in writing from the Landlord so to do to remedy the breach (such notice shall contain a warning of the Landlord's intention to terminate the agreement);
  - (2) if the Tenant shall become bankrupt or being a company shall enter into liquidation whether compulsory or voluntary (save for the purpose of reconstruction or amalgamation), or shall enter into any composition with his creditors or suffer any distress or execution to be levied upon his goods, or the tenant assigns or purports to assign all or any part of the burden or benefits of the agreement, or a petition is filed for the bankruptcy or winding up of his business otherwise than for the purpose of a reconstruction or amalgamation previously approved by the Landlord in writing; or
  - (3) if the Tenant, being a company, passes a resolution, or the court makes an order, or a receiver or manager is appointed on behalf of the debenture holders, or circumstances which entitle the Court or debenture holders to appoint a receiver or manager have arisen, for the liquidation of the Tenant's assets.
- 27.2 Notwithstanding any provision to the contrary, the tenancy hereby created may be terminated at any time by either party giving to the other not less than three (3) calendar months' notice in writing to that effect to expire at any time. The Landlord shall be entitled at its sole discretion to terminate the agreement on grounds of the Tenant's unsatisfactory performance assessed by the Landlord in accordance with the performance indicators set out in Special Condition 3.7 hereof.
- 27.3 If the Landlord shall at any time be prevented from performing the agreement by force majeure, then the agreement shall terminate immediately but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of any of the terms and conditions of the agreement.
- 27.4 For the purpose of Special Condition 27.3, "force majeure" means acts of God, strikes, lockouts, acts of war, civil disorders, outbreak of contagious disease or zoonotic disease (including but not limited to bird flu), Government laws, order or regulations or other similar or different events or contingencies beyond the reasonable control of the respective parties. For these purposes an event shall not be deemed to be within the control of the Landlord on the ground that the Landlord could have prevented that

event by acceding to any unreasonable demands of an authority, corporation, trade union, association or person.

- 27.5 If the Shop Area or any part thereof other than the storage facilities and management offices shall be rendered unfit for use by any cause whatsoever not attributable to any act, omission or default on the part of the Tenant or any of its servants or agents, the obligation of the Tenant to carry on the Business shall be suspended until such part or parts shall have been again rendered fit for use. If the period of suspension exceeds fourteen (14) days then the Monthly Fee hereby agreed to be paid or a proportionate part thereof shall abate until the Shop Area or any part thereof shall have been rendered fit for use. If such part or parts shall not be rendered fit for use within three (3) months of the date of the occurrence of the event rendering the same unfit, then either party hereto shall be entitled at any time before the same are so rendered fit to terminate this agreement by notice in writing to the other but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach. Notwithstanding the above the Landlord shall have the sole right to determine whether the Shop Area or any part thereof has become unfit for use.
- 27.6 For the avoidance of doubt, it is hereby expressly agreed and declared that notwithstanding anything contained herein, the Landlord shall not in any circumstances whatsoever be required or otherwise obliged to repair or reinstate the Shop Area or any part thereof rendered unfit for use by any cause whatsoever if the Landlord shall be of the opinion that it is not practicable or reasonable to do so. The Landlord shall not be liable to any compensation to the Tenant to any such unfit for use of the Shop Area.

## **28 Effect of Termination**

- 28.1 At the end or sooner termination of the agreement-
- (1) the Tenant shall immediately deliver up vacant possession of the Shop Area including the appliances, furniture, fixtures and fittings provided by the Landlord or the Landlord therein in good repair (fair wear and tear excepted) and in clean and hygienic condition. Provided always that where the Tenant has made any alteration or installed any fixtures or additions to the Shop Area with or without the Landlord's consent, the Landlord may at its discretion require the Tenant to reinstate or remove at the Tenant's own expense such alterations, fixtures, fittings or additions or such part or portion thereof as the Landlord may require and to make good and repair in a proper and workmanlike manner any damage to the Shop Area and to the Landlord's fixtures and installations thereof before delivering up the Shop Area to the Landlord.
  - (2) the Tenant shall at his own expense forthwith retreat all his employees or agents and remove from the Shop Area all his fixtures, fittings, structures,

materials, machinery, equipment, plant and all other properties which the Landlord does not desire to take over. The Tenant shall at his own expense make good any damage to any part of the premises or the HKWP, property, machinery and equipment of the Landlord, which are caused by such retreat or removal.

- (3) the Tenant shall return the premises, property, machinery and equipment provided by the Landlord under the agreement in the manner as stipulated in Special Condition 20.1.
- (4) if the Tenant shall fail to comply with Special Condition 28.1(2), the Landlord may forthwith enter the Shop Area to remove any persons therein, or to remove any fixtures and fittings so installed or erected, or any property, materials, machinery and equipment found therein and to effect the necessary repair and cleansing work so as to keep the HKWP in a good repair and clean and serviceable condition. The Landlord reserves the right to take over or to dispose of in whatsoever manner it deems appropriate and without any liability and compensation whether towards the Tenant or any other party any fixtures and fittings so installed or erected and any chattels not collected or removed by the Tenant upon the termination of the agreement. All costs, losses, damages or expenses incurred by the Landlord as a direct or indirect result of the breach of the agreement under this Special Condition 28 shall be recoverable as a debt due from the Tenant.

28.2 Any termination of the agreement howsoever occasioned 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 hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

## **29 Recovery of Sums Due**

29.1 Wherever under the agreement any sum of money shall be recoverable from or payable by the Tenant, the same may be deducted from any sum then due or which at any time thereafter may become due to the Tenant under this or any other agreement with the Landlord or from the deposit paid under Clause 5 of the Tenancy Agreement in cash or Banker's Draft or Cashier's Order, or in the form of a Banker's Guarantee issued by a bank under Section 16 of the Banking Ordinance (Cap. 155).

## **30 Licence, Permit and/or Certificate**

30.1 This agreement does not confer exemption from all licensing requirements pertaining to the Business of the Tenant.

- 30.2 The Tenant shall apply to the appropriate authorities to obtain or renew, as the case may be, all licences, permits and certificates required by the laws of Hong Kong Special Administrative Region for the operation of his Business. The Tenant shall make no claim of any kind whatsoever against the Landlord in the event of the Tenant's failure or inability for any reason to obtain or renew any such licences, permits or certificates.
- 30.3 It will be unlawful for the Tenant to operate his Business without the licences, permits and/or certificates as required by the laws of Hong Kong Special Administrative Regions notwithstanding the granting of this agreement by the Landlord. The Tenant shall not provide any service or for sale of any food and non-food items for which any licence, permit and/or certificate is so required by law without first obtaining such licences, permits and/or certificates.
- 30.4 Since it will necessarily take time for the relevant authorities to consider and decide on an application for the requisite licence, permit or certificate, the Tenant agrees and accepts that there will be no abatement or reduction of the Monthly Fee on the ground that the Tenant cannot operate his Business pending the consideration of his applications and issuance or renewal of the relevant licences, permits and/or certificates.
- 30.5 The Tenant shall observe and comply with the conditions of any licence, permit, certificate issued to him in relation to the performance of the agreement.

### **31 Applicability of Country Parks and Special Areas Regulations**

- 31.1 This agreement is subject to the provisions of the Country Parks and Special Areas Regulations (Cap. 208A), which are applicable to the HKWP, the premises, the Shop Area and the Business.

### **32 Compliance with Law & Landlord Requirements**

- 32.1 The Tenant shall observe and comply with all applicable laws of Hong Kong Special Administrative Region and requirements or regulations imposed from time to time by the relevant authorities in connection with the performance of his obligations under the agreement.

### **33 Service of Notice**

- 33.1 Any notice to be given herein shall be in writing and shall be sent to the address of the recipient set out in this agreement or to such other address as either party shall notify the other in writing. Notice may be delivered personally or by post, by courier, by facsimile or telex.

33.2 Any notice shall be deemed given -

- (1) When left at the address of the recipient if delivered by hand during normal business hours;
- (2) One working day after despatch by post; or
- (3) When successfully despatched by telex or facsimile.

#### **34 Waiver of Remedies**

34.1 No forbearance, delay or indulgence by either party in enforcing the provisions of the agreement shall prejudice or restrict the rights of that party. Nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to the party and each such right, power or remedy shall be cumulative.

34.2 Acceptance of any payment by the Landlord shall not be deemed to operate as a waiver by the Landlord of any right to proceed against the Tenant in respect of any breach, non-observance or non-performance by the Tenant of any of the terms and conditions of this agreement on the Tenant's part to be observed and performed.

34.3 No condoning, excusing or overlooking by the Landlord of any default, breach, non-observance or non-performance by the Tenant of any of the obligations of the Tenant hereunder shall operate as a waiver of the Landlord's rights hereunder in respect of any continuing or subsequent default, breach or non-observance or non-performance.

#### **35 Severability**

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

35.2 If at any time any one or more provisions hereof shall be adjudged to be invalid or illegal in any respect under any applicable law of Hong Kong Special Administrative Region, the validity, legality or enforceability of the remaining provisions hereof shall not in any way be thereby impaired or affected.

- 35.3 Where, however, the provisions or any such applicable law of Hong Kong Special Administrative Region may be waived, they are hereby waived by the parties hereto to the full extent permitted by such law to the end that the agreement shall be valid, binding and enforceable in accordance with its terms and conditions.

### **36 Relationship of the Parties**

- 36.1 Nothing in the agreement shall be construed as in any way constituting a partnership between the parties.
- 36.2 Neither party shall without the prior approval in writing of the other commit that other party to any obligation other than those prescribed in this agreement.

### **37 Arbitration**

- 37.1 If any dispute or difference shall arise between the parties hereto touching any matter or thing connected with the agreement the same may be referred, following written notice of the existence of the dispute or difference given by one party to the other, to a single arbitrator, sitting in the Hong Kong Special Administrative Region, who shall arbitrate the dispute or difference in accordance with the provisions of the Arbitration Ordinance (Cap. 341) or any related statutory enactments thereof for the time being in force. The award of the arbitrator shall be final and binding on both parties.

### **38 Entire Agreement**

- 38.1 The agreement embodies the entire understanding of the parties and supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to the subject matter thereof. No addition to or modification of any provision of the agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized representative of each of the parties.

### **39 Legal Costs**

- 39.1 Each party shall bear its own legal costs on this agreement and its counterpart.