

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

Tender for the Provision of Services

Tender Ref. : AFCD/NR/01/22

TENDER FORM

Contract No. : _____

LODGING OF TENDER

To be acceptable as a tender, this form, properly completed in triplicate and enclosed in a sealed plain envelope marked “**Tender for the Provision of Habitat Management and Related Services at Sha Lo Tung**”

and addressed to the Chairman, Tender Opening Committee, Government Logistics Department

must be deposited in the Government Logistics Department

Tender Box situated on Ground Floor, North Point Government Offices,
333 Java Road, North Point, Hong Kong

before 12:00 noon (time) on 29 September 2022 (date) (Hong Kong time). Late tenders will not be accepted.

INTERPRETATION

PART 1 — TERMS OF TENDER

PART 2 — CONDITIONS OF CONTRACT

PART 3 — SERVICE SPECIFICATIONS

PART 4 — SCHEDULES

Dated this 19 day of August 2022

(CHAN Kin Fung)
Government Representative

PART 5 — OFFER TO BE BOUND

- 1. Having read the Tender Documents, I/We, the Tenderer mentioned below, agree to be bound by all of the terms and conditions as stipulated therein.
- 2. I/We, the Tenderer mentioned below, do hereby agree to carry out all and any of the Services at the Unit Price(s) quoted by me/us in the Price Proposal free of all other charges, subject to and in accordance with the terms and conditions of the Tender Documents.

*Signed by the Tenderer / Signed by an authorised signatory for and on behalf of the Tenderer :
.....
Name of the Tenderer :
.....
Name and title of the authorised signatory (where applicable) :
.....
Date :
.....

PART 6 — MEMORANDUM OF ACCEPTANCE

On behalf of the Government of the Hong Kong Special Administrative Region,

I
(Name and position of officer)

accept your Tender for the Contract relating to the following Item(s). A copy of each document constituting the Contract is hereby attached for identification purposes.

.....
.....
.....

Dated this day of 20

Signed by the said in the presence of :
.....

INTERPRETATION

In the documents issued by the Government in connection with this Invitation to Tender and the Contract that is made pursuant to this Invitation to Tender, unless otherwise defined or the context otherwise requires:

1.1 The following expressions bear the same meanings as set out below:

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| “Alternative Authentication Method” or “AAM” | means the use of an Identification Code for the submission of a Tender via the e-Tender Box in lieu of the use of a digital certificate; |
| “Contract” | means the contract made between the Government and the Contractor for the supply of the Services on the terms and conditions set out in the Tender Documents, the Tender submitted by Contractor (to the extent accepted by the Government), the Memorandum of Acceptance issued by the Government to that Contractor, and the attachments to any of the above; |
| “Contract Deposit” | means the sum of money deposited by the Contractor by cheque, cashier’s order or in the form of banker’s guarantee referred to in Clause 9 of the Terms of Tender and Clause 11 of the Conditions of Contract; |
| “Contract Period” | means, subject to early termination or extension provided for in the Contract, the period specified in the Clause 1.1 of the Conditions of Contract; |
| “Contractor” | means the Tenderer whose Tender is accepted by the Government; |
| “Contract Manager” | means the contract manager appointed by the Contractor to act as its representative for and on its behalf with responsibility for the overall administration of the provision of Services required in the Service Specifications; |
| “Contractor’s Employees” or “Staff” | means the Skilled Workers, the Supervisors, the Contract Manager and any one or more employees of the Contractor who is/are deployed by the Contractor to perform the Services under the Contract; |
| “Deliverable” or “Deliverables” | has the meaning given to it in Clause 1(a) of Section 4 of the Service Specifications; |
| “Estimated Contract Price” | means the Service Fee; |
| “Electronic Record” | has the meaning given to it under the ETO; |
| “Electronic Tendering” | means the making and submission of a Tender through the e-Tender Box whether through the use of a digital certificate or |

through the use of an Identification Code;

“e-Tender Box” or “ETB” means the electronic tendering platform of the information technology system known as “Procurement and Contract Management System” or “PCMS” of the GLD for ETB Users to view tender notices and tender documents, and prepare and submit tenders electronically whether through the use of a digital certificate or an Identification Code;

“ETB User” means a person who has registered with the PCMS whether as a GLD supplier, or a GLD subscriber, or a person who is for the time being just an applicant to become a GLD supplier up to the time of the notification of the result of its application;

“ETO” means the Electronic Transactions Ordinance (Cap. 553);

“Force Majeure Event” means:

- (a) any supervening outbreak of war affecting Hong Kong and/or any other parts of the PRC, hostilities (whether war be declared or not), invasion, acts of foreign enemies, rebellion, revolution, military or usurped power, overthrow (whether by external or internal means) of the Government and/or the government of the PRC, civil war, riot, civil disturbances, fire if not caused or contributed to by the Contractor, its related persons (as defined in Clauses 18.6 and 18.7 of the Terms of Tender) or any employee or agent or ex-employee or ex-agent thereof, civil commotion and acts of God; or
- (b) any supervening catastrophic event which is similar to the foregoing if not caused or contributed to by the Contractor, its related persons (as defined in Clauses 18.6 and 18.7 of the Terms of Tender) or any employee or agent or ex-employee or ex-agent thereof;

and which, in any case of (a) or (b) above, prevents the performance of the duties and obligations of any party hereunder;

“General Holiday” or “Public Holiday” means every Sunday and any other day which is a general holiday by virtue of the General Holidays Ordinance (Cap. 149);

“Good Industry Practice” means the standards, practices, methods and procedures conforming to law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances;

“Government” means the Government of the Hong Kong;

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| “Government Property” | means property of whatsoever nature (tangible or intangible) which may be passed to the Contractor or any Contractor’s Employees for performing the Services or otherwise in connection with the Contract; |
| “Government Representative” | means: (a) the Director of Agriculture, Fisheries and Conservation; (b) any officer of the Government specified by the Director of Agriculture, Fisheries and Conservation for the purposes of the Contract; or (c) any other officer authorized by the officer referred to in (b) for the purpose of the Contract. |
| “Hong Kong” | means the Hong Kong Special Administrative Region of the People’s Republic of China; |
| “Identification Code” | means a unique 8 character code generated by the ETB and sent to the email account registered by the ETB User with the PCMS (viz., “registered email account”) upon the request of the ETB User for the submission of a Tender through the use of such code; |
| “Intellectual Property Rights” | means patents, trade marks, service marks, trade names, design rights, copyright, domain names, database rights, rights in know-how, new inventions, designs, processes, and other intellectual property rights of whatever nature and wheresoever arising, whether now known or created in the future, in each case whether registered or unregistered, and include applications for the grant of any such rights; |
| “Invitation to Tender” | means this invitation to tender for the provision of the Services to the Government on and subject to the terms set out in the Tender Documents; |
| “Marking Scheme” | means Annex B of the Tender Documents; |
| “Materials” | means any and all works and materials (including their drafts and uncompleted versions) developed, written or prepared by the Contractor, its employees, agents or sub-contractors in relation to the Services (whether individually or collectively or jointly with the Government) including without limitation, any reports, summaries, models, questionnaires, analyses, papers, documents, records, plans, drawings, formula, tables, charts, data or information collected, compiled, produced or created by the Contractor in relation to the Services recorded or stored by whatever means; |

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| “Original Tender Closing Date” | means the latest date and time specified in the Tender Form as the latest date and time before which Tenders must be deposited with the Government, regardless of whether the date and time has been extended subsequently; |
| “Paper-based Tendering” | means the making and submission of a Tender in paper form in accordance with the “Lodging of Tender” section of the Tender Form; |
| “PRC” | means the People’s Republic of China; |
| “Price Schedule” | means “Part A – Price Proposal and Breakdowns” of Contract Schedule 1; |
| “Services” | means all services to be provided by the Contractor to the Government as specified in this Contract, details of which are set out in the Service Specifications; |
| “Service Area” | means the areas as specified in Clause 3(a) of Section 1 of the Service Specifications; |
| “Service Fee” | means the amount identified as such in Section 1 of the Price Schedule; |
| “Skilled Workers” | means the workers provided by the Contractor and/ or the sub-contractor for provision of the Services required in the Service Specifications who had been trained for operating hand and mechanical grass cutting tools ; |
| “Supervisor” | means the supervisor provided by the Contractor for provision of the Services required in the Service Specifications; |
| “Tender” | means an offer to provide the Services as submitted by a Tenderer in response to the Invitation to Tender; |
| “Tenderer” | means the person whose particulars are set out in the “Offer to be Bound”; |
| “Tender Closing Date” | means the latest date and time specified in the Tender Form as the latest date and time before which Tenders must be deposited with the Government, as the same may be extended by the Government pursuant to any applicable provision in the Tender Documents; |
| “Tender Documents” | has the meaning given to it in Clause 1 of the Terms of Tender; |
| “Tender Form” | means: (a) in the case of a Tender submitted in paper form, the Tender Form issued for the Invitation to Tender; and (b) in the case of a Tender submitted electronically, the tender form available on the e-Tender Box for completion |

electronically;

- “Tender Submission Date” means the date of the Offer to be Bound;
- “Tender Validity Period” means the period of time described in Clause 3.4(b) of the Terms of Tender during which the Tender is to remain open;
- “terms and conditions of use of the PCMS and the e-Tender Box” means all those terms and conditions for the use of the PCMS and the e Tender Box from time to time published on the website of the e Tender Box including the “Terms and Conditions of Use of the PCMS and the e Tender Box” and the “e-Tender Box System and File Attachment Requirements” in the version prevailing immediately prior to the Tender Closing Date;
- “Website of the e-Tender Box” means the website of the following address:
<https://pcms2.gld.gov.hk>;
- “working day” means Monday to Friday other than a public holiday; and
- “WTO GPA” means the Agreement on Government Procurement of the World Trade Organization.

1.2 The following rules of interpretation apply:

- (a) references to statutes or statutory provisions means references to those statutes or statutory provisions as replaced, amended, modified or re-enacted from time to time, and includes all subordinate legislation made under those statutes;
- (b) words importing the singular includes the plural and vice versa; words importing a gender includes all other genders; references to any person includes any individual, firm, body corporate or unincorporate (wherever established or incorporated);
- (c) headings are inserted for ease of reference only and do not affect the construction of the Tender Documents or the Contract;
- (d) references to a document:
- (i) include all schedules, appendices, annexures and other materials attached to such document; and
 - (ii) mean the same as from time to time amended or supplemented in accordance with the terms of the Tender Documents or the Contract;
- (e) references to “Tenderer” or “Contractor” include its permitted assigns, successors, or any persons deriving title under them;
- (f) references to “Government” include its assigns, successors-in-title and persons deriving title under them, regardless of whether or not any of these persons are mentioned separately in the relevant provisions;

- (g) references to “law” and “regulation” include any constitutional provisions, treaties, conventions, ordinances, subsidiary legislation, orders, rules and regulations having the force of law and rules of civil and common law and equity;
 - (h) any word or expression to which a specific meaning has been attached in any part of the Tender Documents bear such meaning whenever it appears in the same and other parts of the Tender Documents;
 - (i) a time of a day means a reference to Hong Kong time;
 - (j) references to “normal business hours” mean 0900 to 1800 hours;
 - (k) references to a day mean a calendar day;
 - (l) references to a month or a monthly period mean a calendar month;
 - (m) any negative obligation imposed on any party means if it were also an obligation not to permit or suffer the act or thing in question, and any positive obligation imposed on any party means if it were also an obligation to procure that the act or thing in question be done;
 - (n) any act, default, neglect or omission of any employee, licensee, agent or sub-contractor of the Contractor is deemed to be the act, default, neglect or omission of the Contractor;
 - (o) words importing the whole are treated as including a reference to any part of the whole;
 - (p) the expressions “include” and “including” shall be constructed without limitation to the works following;
 - (q) words and expressions extend to their grammatical variations and cognate expressions where those words and expressions are defined in the Tender Documents or by reference to any other definition;
 - (r) references to “writing” include typewriting, printing, lithography, photography, facsimile and the printed out version of a communication by electronic mail and other modes of representing and reproducing words in a legible form; and
 - (s) where a general obligation in the Tender Documents or the Contract is followed by more specific obligations, the general obligation is not construed restrictively by reference to the specific obligations or deemed to be fully performed by reason only that the specific obligations have been performed.
 - (t) the expressions “public body” and “public officer” have the meanings given to them in the Interpretation and General Clauses Ordinance (Cap. 1). The expression “officer” has the meaning given to it the Companies Ordinance (Cap. 622).
- 1.3 Nothing in the Contract shall be taken to restrict, derogate from or otherwise interfere with any power or duty, or the exercise or performance of any power or duty conferred or imposed by or under any law upon the Government or any person in the service of the Government.
- 1.4 All rights and powers of the Government under the Contract may be exercised by the Government Representative. If any provision of the Contract provides for a determination of

any matter by the Government or the Government Representative, the determination made by the Government or the Government Representative (as the case may be) is, in the absence of manifest error, final and conclusive.

- 1.5 Unless otherwise expressly stated, all provisions of the Tender Documents shall apply regardless of whether Paper-based Tendering or Electronic Tendering is used for the submission of the Tender or formation of the Contract.

PART 1

TERMS OF TENDER

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**The Government of Hong Kong Special Administrative Region
Agriculture, Fisheries and Conservation Department**

Provision of Habitat Management and Related Services at Sha Lo Tung

PART 1

TERMS OF TENDER

1. Tender Documents

These tender documents identified as “Tender for the Provision of Habitat Management and Related Services at Sha Lo Tung” comprise the following:-

- (a) Tender Form;
- (b) Interpretation;
- (c) Part 1 - Terms of Tender;
- (d) Part 2 - Conditions of Contract;
- (e) Part 3 - Service Specifications (with Annexes A to F);
- (f) Part 4 - Contract Schedules 1 to 5;
- (g) Part 5 - “Offer to be Bound”; and
- (h) Part 6 - Memorandum of Acceptance.

(collectively “Tender Documents”). Each of the above Tender Documents is referred to by their names as stated above throughout the Tender Documents and the Contract.

2. Invitation to Tender

- 2.1 Tenders are invited for the provision of all of the Services subject to and in accordance with the Tender Documents.
- 2.2 A Tenderer should read the Tender Documents carefully prior to submitting a Tender. A Tenderer should ensure that it understands all requirements of the Tender Documents.
- 2.3 A Tenderer should obtain such independent advice from its own advisers as it considers appropriate.
- 2.4 A Tenderer should check the numbers of pages of the Tender Documents. If it finds any missing or indistinct pages, it should inform the Government Representative immediately so that the same can be rectified.
- 2.5 A Tenderer will be regarded to be thoroughly conversant with all aspects of the Tender Documents (including the Contract) and in general to have obtained all necessary information of any circumstances which may influence or affect its Tender or its performance of the Contract. The Government does not assume any liability in

respect of any errors or mistakes made by a Tenderer or any neglect or failure of a Tenderer to obtain any information or clarification relating to the provision of the Services to the Government in accordance with the Contract.

- 2.6 No error, mistake, neglect or failure by a Tenderer shall affect any provision of the Tender Documents (including the Contract) or relieve the Tenderer from any of its obligations or liabilities under the Tender Documents (including the Contract). For the avoidance of doubt, a successful Tenderer shall not be entitled to any additional payment, compensation, exemption from compliance or observance, or allowance by reason of any such error, mistake, neglect or failure. If a Tenderer is awarded the Contract, it shall not be excused from any obligation or liability under the Contract as a consequence of any misinterpretation by it of any provision in the Tender Documents of the Contract.
- 2.7 Information, statistics, forecasts and estimated requirement of the Services set out in the Tender Documents are provided for reference only. The Government does not warrant or represent that the information, statistics and forecasts are complete, true or accurate. The Government's actual requirements of the Services may vary depending on the actual need of the Agriculture, Fisheries and Conservation Department and the successful Tenderer must accept any increase or decrease of the stated estimates.
- 2.8 By submitting a Tender, a Tenderer will be regarded to have agreed to all terms and conditions set out in the Tender Documents.

3. **Tender**

3.1 General

- (a) Save in accordance with the terms of the Tender Documents, a Tenderer must not alter any provision of the Tender Documents.
- (b) A Tenderer shall note that a two envelope system is adopted in this Invitation to Tender. Regardless of whether Paper based Tendering or Electronic Tendering is used, the Tenderer shall submit its Tender in two (2) separate proposals, one as the proposal for price information and another as the technical information as detailed in Clause 3.2(b) below.
- (c) Counter-proposals by a Tenderer may, at the absolute discretion of the Government, render its Tender to be disqualified and not to be considered.
- (d) A Tender may not be considered if false, inaccurate, incorrect or incomplete information is given in the Tender.
- (e) A Tenderer must submit its completed Tender together with all information and documents required under the Tender Documents or relevant to its Tender in accordance with the terms of the Tender Documents.
- (f) If a Tenderer submits a Tender by Electronic Tendering, the Tenderer must, in addition to compliance with the Tender Documents, observe and comply with all terms and conditions of use of the PCMS and the e-Tender Box as set out in or referred to in the e-Tender Box.

- (g) All documents submitted by a Tenderer to the Government in relation to its Tender must be **original documents or certified true copies of the original documents**. In the case of Electronic tendering, the Tenderer must submit the original documents or certified true copies of the original documents in electronic format as part of its Tender via the e-Tender Box. If a Tenderer fails to comply with this requirement or fails to provide such verification as the Government may require to prove the authenticity of a document submitted, the Government may not further consider the Tender.

3.2 Preparation

- (a) The Tender must:
- (i) be completed in English or Chinese. The Government will not consider a Tender that is completed in any other language;
 - (ii) be submitted together with all proposals, documents and information required under the Tender Documents or relevant to its Tender in accordance with the terms of the Tender Document in one of the following manners. A Tender submitted through any method other than Paper-based Tendering or Electronic Tendering will not be considered.

Paper-based Tendering

The Tender must be completed in ink or typescript and must be submitted in triplicate in accordance with the “Lodging of Tender” section of the Tender Form.

Electronic Tendering

The Tender must be submitted in accordance with the terms and conditions of use of the PCMS and the e-Tender Box and through the e-Tender Box through the use of any one type of digital certificates recognized by and uploaded to the e-Tender Box or through an Identification Code.

- (iii) be submitted, for Paper-based Tendering, in a sealed envelope clearly marked **“Tender Reference: AFCD/NR/01/22 – Provision of Habitat Management and Related Services at Sha Lo Tung”** which should contain the following two envelopes clearly marked Envelope A and Envelope B on the outside:
 - (1) Documents relating to the price information, i.e. the original copy and two copies of the Contract Schedule 1 that are fully completed, signed, stamped with company chop, should be enclosed in a sealed envelope clearly marked “Envelope A” and **“Tender Reference: AFCD/NR/01/22 – Provision of Habitat Management and Related Services at Sha Lo Tung – Price Information”**; and
 - (2) Documents relating to the technical information, i.e. the original copy and two copies of all other remaining information, the duly signed “Offer to be Bound”, forms, schedules other than Contract Schedule 1 and documents required by the Tender Document **but without any indication on the prices for provision of the Services**, should be enclosed in another sealed envelope clearly marked “Envelope B” and

“AFCD/NR/01/22 – Provision of Habitat Management and Related Services at Sha Lo Tung – Technical Information”.

- (iv) for Electronic Tendering, be regarded to have submitted by a Tenderer or authorised to have been submitted by a Tenderer if it is submitted in any one of the following ways:
- (1) submission of the Tender via the e-Tender Box through the use of an Identifications Code; or
 - (2) submission of the Tender via the e-Tender Box through the use of such type of digital certificate recognised by the ETB, and uploaded by the Tenderer to the ETB.
- (v) for Electronic Tendering, its Tender proposals for technical information and price information be submitted by the Tenderer as separate attachment files in accordance with a two-envelope system as specified below –
- (1) documents relating to the price information as stated in Clause 3.2 (b)(i) should be using the file name “envelope2.doc”; and
 - (2) documents relating to the technical information as stated in Clause 3.2 (b)(ii) should be using “technical.doc” as the file name or other file name except “envelope2.doc”.
- (b) Tenderers must complete (if applicable) and submit the following documents together with all necessary information including documentary evidence in its Tender in **triplicate**:-
- (i) **Price Information** shall comprise the following:
 - (1) Contract Schedule 1 – Price Schedule;
 - (ii) **Technical Information** shall comprise the following:
 - (1) a duly signed “Offer to be Bound”;
 - (2) Contract Schedule 2 – Information and Status of Tenderer;
 - (3) Contract Schedule 3 – Background and Experience of Tenderer’s Employee;
 - (4) Contract Schedule 4 – Execution Plan;
 - (5) Contract Schedule 5 –Non-collusive Tendering Certificate;
 - (6) the information and documents referred to in Clause 4.2 of the Terms of Tender, if applicable;
 - (7) the information and documents referred to in Clause 18.2 of the Terms of Tender;
 - (8) documentary proof of the Tenderer’s claim of experience as requested in Annex A and Contract Schedule 3;
 - (9) a photocopy of the valid Business Registration Certificate of the Tenderer as requested in Contract Schedule 2;
 - (10) a photocopy of the Certificate of Incorporation or the latest Certificate of Change of Name (if any) or its equivalent (if the Tenderer is incorporated outside Hong Kong) of the Tenderer; and
 - (11) a photocopy of the relevant document (e.g. written authorisation for an authorised person of a sole proprietor, a partner of a partnership, or the

board resolutions or minutes for the director of a body corporate) showing that the authorised person, partner or director (as the case may be) who signs the Offer to be Bound has the authority to sign it for and on behalf of the Tenderer.

- (c) Any failure to complete or submit the documents and/or information in a form or manner required under Clause 3.2(b) above may, at the absolute discretion of Government, render a Tender non-conforming and not to be further considered. However, a Tenderer should note that **its Tender will not be considered further if, by the Tender Closing Date, the Tenderer fails to provide the following (save that if there is any omission of any unit rate quotation as mentioned in (iii) below, the Government may elect to treat that the Item covered by the missing unit rate quotation as free of charge for the Tenderer's confirmation and if not confirmed, the Tender will not be considered further):**
- (i) a duly signed "Offer to be Bound" (for Paper-based Tendering);
 - (ii) the box signifying the Tenderer's agreement with "Offer to be Bound" have been checked (for Electronic Tendering);
 - (iii) a Contract Schedule 1 with the unit rate quotations in Sections 1 and 2 of Part A of the Price Schedule duly completed ; and
 - (iv) an Execution Plan in Contract Schedule 4 containing information covering one or more but not necessarily all item(s) as required in Notes 2 to 4 of the Marking Scheme.
- (d) The Tenderer should note that the e-Tender Box only accepts the use of the types of digital certificates specified in the e-Tender Box for submission of Tenders and must be duly submitted by the Authorised User of the digital certificate used by the Tenderer to submit its Tender.
- (e) If any attachment to a Tender submitted via the e-Tender Box:
- (i) does not comply with the terms and conditions of use of the PCMS and the e-Tender Box;
 - (ii) is found to be contaminated with Virus; or
 - (iii) is corrupted or otherwise not readable or printable into readable text by the Government,

and such non-compliance of file format, Virus contamination, or file corruption has resulted in failure to submit the relevant proposal, document or information as described in Clauses 3.2(c)(ii), 3.2(c)(iii) or 3.2(c)(iv) above by the Tender Closing Date, the Tender will not be considered further and its Tender will be notified of such.

- (f) In the case where the Tenderer uses a digital certificate for the submission of Tender via the e-Tender Box, the Government will verify the validity of the Tenderer's digital certificate with the relevant certification authority which has issued such digital certificate. If the directory service or revocation list service of that certification authority or its contractor is/are not available for any reason, the Government may postpone the verification process until such time when the directory service or revocation list service (as the case may be) of the certification authority or its contractor is/are resumed or when the Tender is opened, whichever is the later. If the verification process is postponed, the Tenderer will be informed of this through an on-screen message and an on-line acknowledgement

of the Tender.

- (g) A Tender will not be considered further if the digital certificate used by a Tenderer for submission of Tender via the e-Tender Box is found invalid (i.e. expired, revoked, or it is not a digital certificate recognized in the e-Tender Box for submission of Tenders) upon verification.

3.3 Prices

- (a) A Tenderer must quote all the prices requested for in the Tender Documents in Hong Kong dollars. Such prices must be net prices allowing for all discounts except the payment discount to be quoted in Part C of Contract Schedule 1. The prices must cover all expenses incidental to the due and proper performance of the Contract by the Contractor. Under no circumstances will the Government compensate the Contractor for any loss incurred in the fluctuation of the currency in which the prices are quoted.
- (b) A Tenderer must quote fixed prices which must remain valid for the whole Contract Period. A Tender with any price variation clause, including one based on foreign exchange market fluctuation, will not be considered further.
- (c) A Tenderer should make sure that all prices quoted in its Tender are accurate before it submits the Tender. The Tenderer will be bound by the Tender prices quoted in its Tender if the Tender is accepted by the Government. Under no circumstances will the Government be obliged to accept any request for price adjustment on any ground (including any mistake made in prices quoted).
- (d) Prices quoted by a Tenderer must only be shown in the Price Schedule.
- (e) Payment to a successful Tenderer from a place outside Hong Kong will be made by telegraphic transfer. A Tenderer from a place outside Hong Kong is therefore required to provide the banking details in Contract Schedule 2.

3.4 Tenders to Remain Open

- (a) A Tender once submitted by a Tenderer will be binding on the Tenderer.
- (b) A Tender must remain valid and open for acceptance for not less than 120 days after the Tender Closing Date.
- (c) If a Tenderer does not state in its Tender the period for which the Tender is to remain valid and open for acceptance, the Tender Validity Period of that Tender will be 120 days after the Tender Closing Date.

- (d) If a Tenderer offers in its Tender a period that is shorter than 120 days, the Government will clarify with the Tenderer concerned, in which case the Tenderer must confirm compliance with Clause 3.4(b) above within 5 working days or such other period as specified by the Government without any other change to the Tender (except any change made in response to any clarification by the Government pursuant to Clause 3.7 of the Terms of Tender). If the Tenderer fails to confirm compliance with Clause 3.4(b) above within the specified deadline or, despite confirming compliance therewith, introduces any change to the Tender not in response to any clarification by the Government pursuant to Clause 3.7 of the Terms of Tender, its Tender will not be considered further.

3.5 Tender Closing Date

- (a) For paper-based tendering, a Tender must be deposited in the tender box as specified in the Tender Form before the Tender Closing Date. **Late Tenders will not be considered.**
- (b) For Electronic Tendering, transmission of a Tender through the e-Tender Box must be successfully completed in accordance with the requirements of the e-Tender Box before the Tender Closing Date. Save as otherwise provided for in the Tender Documents, a Tender will **not** be considered if the relevant proposal, document or information as described in Clauses 3.2(c)(ii), 3.2(c)(iii) or 3.2(c)(iv) of the Terms of Tender is not successfully and completely transmitted through the e-Tender Box before the Tender Closing Date.
- (c) In case Tropical Cyclone Warning Signal No. 8 or above is hoisted or a Black Rainstorm Warning Signal or “extreme conditions after super typhoons” announced by the Government is/are in force for any duration between 0900 and 1200 hours on the date and time specified in the “LODGING OF TENDER” section of the Tender Form, the Tender Closing Date referred to in the Tender Form and at the e-Tender Box will be extended to 1200 hours on the following working day on which no Tropical Cyclone Warning Signal No. 8 or above is hoisted nor a Black Rainstorm Warning Signal is in force for any duration between 0900 and 1200 hours.
- (d) In case of blockage of the public access to the location of the tender box at any time between 0900 and 1200 hours on the date and time specified in the “LODGING OF TENDER” section of the Tender Form, the Government will announce extension of the Tender Closing Date until further notice. Following removal of the blockage, the Government will announce the extended closing time as soon as practicable. The above announcements will be made via press release on the website of Information Services Department (<http://www.info.gov.hk/gia/general/today.htm>).

3.6 Cancellation of Tender

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

3.7 Request for Information

- (a) If the Government considers that (i) clarification in relation to any Tender is necessary, (ii) or a document or a piece of information, other than the document or information set out in Clause 3.7(b) below, is missing from any Tender, it may request the Tenderer to make the necessary clarification, or submit the required document or information. Each Tenderer must thereafter within five (5) working days or such other period as specified in the request submit such clarification, information or document in the form required by the Government. A Tender will not be considered further if complete information or document is not provided by the deadline specified in the request, or in the case of clarification, such clarification is not provided by such deadline or is not acceptable to the Government. As an alternative to seeking clarification or further information or document, the Government may not consider the Tender further or may proceed to evaluate the Tender on an “as is” basis.
- (b) The document and information not covered by Clause 3.7(a)(ii) are:
- (i) in case of Paper-based Tendering, a duly signed “Offer to be Bound”;
 - (ii) a Contract Schedule 1 with the unit price quotations in Section 1 and 2 of the Price Schedule duly completed; and
 - (iii) an Execution Plan in Contract Schedule 4 .
- (c) The Government will not consider any clarification or information submitted by a Tenderer (whether or not submitted at the request of the Government) if the Government considers that such clarification or information would alter the Tenderer’s Tender in substance or give the Tenderer an advantage over other Tenderers.

3.8 Tenderer’s Commitment

All Tenders, information and responses from a Tenderer must be submitted in writing. Each of them is the representation of the Tenderer and will, if accepted by the Government, be incorporated into and made part of the Contract in such manner as the Government considers appropriate. The Government reserves the right not to consider a Tender that directly or indirectly attempts to preclude or limit the effect of this Sub-clause.

3.9 Documents of Unsuccessful Tenderers

The Government may destroy all documents submitted by unsuccessful Tenderers three (3) years after the Contract has been constituted under Clause 7 of the Terms of Tender.

3.10 Consent to Disclosure

- (a) The Government may disclose, whenever it considers appropriate, to the public or upon request by any member of the public (which may have been a Tenderer) without any further reference to or consent from the successful Tenderer, particulars of the Services to be provided by the successful Tenderer, the date of the award, the name and address of the successful Tenderer and the Estimated Contract Price.

- (b) Nothing in this Clause 3.10 will prejudice the Government's power to disclose whenever it considers appropriate information of any nature whatsoever (whether or not specified in this Clause 3.10) if the disclosure is made under any one of the following circumstances:
- (i) the disclosure of any information to any public officer or public body, as defined in the Interpretation and General Clauses Ordinance (Cap. 1) or any other person employed, used or engaged by the Government (including agents, advisers, contractors and consultants);
 - (ii) the disclosure of any information already known to the recipient;
 - (iii) the disclosure of any information which is public knowledge;
 - (iv) the disclosure of any information in circumstances where such disclosure is required pursuant to any law of Hong Kong, or an order of a court of Hong Kong or a court or tribunal with competent jurisdiction; or
 - (v) without prejudice to the power of the Government under Clause 3.10(a) above, to the extent the information relates to a Tenderer, with the prior written consent of that Tenderer.

3.11 Personal Data Provided

- (a) All personal data provided in a Tender will be used by the Government for the purposes of the Invitation to Tender and all other purposes arising from or incidental to it (including for the purposes of tender evaluation, the award of the Contract and resolution of any dispute arising from the Invitation to Tender).
- (b) By submitting a Tender, a Tenderer is regarded to have agreed to, and to have obtained from each individual whose personal data is provided in the Tender, his consent for the disclosure, use and further disclosure by the Government of the personal data for the purposes set out in Clause 3.11(a) above.
- (c) An individual to whom personal data belongs and a person authorized by him in writing has the right of access and correction with respect to the individual's personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486). The right of access includes the right to obtain a copy of the individual's personal data provided in the Tender.

3.12 Tender Addenda

The Government may issue addendum to the terms and conditions set out in the Tender Documents before the Tender Closing Date. The addendum will be posted on the Agriculture, Fisheries and Conservation Department website at **www.afcd.gov.hk**. Tenderers are advised to check the said website from time to time for any issue of addendum and the contents thereof.

3.13 Unreasonably Low Price

Without prejudice to the generality of the Terms of Tender, the Government may require a Tenderer who in the opinion of the Government has submitted an unreasonably low price to justify and demonstrate that it is capable of carrying out and completing the Contract. The Government may reject the Tender if the Tenderer fails to so justify and demonstrate to the Government's satisfaction.

4. Tenderer's Background, Experience, Information and Status

4.1 Tenderers shall complete and submit Contract Schedule 2 on information and status of Tenderers, Contract Schedule 3 on background and relevant experience of its proposed nominees of the Staff in providing the Services, and Contract Schedule 4 on implementing its Execution Plan.

4.2 If a Tenderer is incorporated outside Hong Kong, it must, if required and at its own cost, provide a legal opinion in form and substance satisfactory to the Government and issued by a lawyer duly qualified to practise the laws of the place of incorporation of the Tenderer and acceptable to the Government on the following issues and any other issues as may be required by the Government:

(a) the Tenderer is duly incorporated and validly existing under the laws of the place of the Tenderer's incorporation, and that the Tenderer has full power, capacity and authority to carry on the business as it is now conducting and to provide the Services to the Government on the terms and conditions of the proposed Contract;

(b) the Tenderer has the full power, authority and legal capacity to:

(i) execute and submit its Tender and to incur the liabilities and perform the obligations under the Tender Documents; and

(ii) enter into and execute the Contract and to incur the liabilities and perform the obligations thereunder;

(c) the proposed Contract with the Government will, upon its formation pursuant to Clause 7.3 of the Terms of Tender, constitute the legal, valid and binding obligations of the Tenderer in the place of its incorporation and is enforceable against the Tenderer in accordance with its terms;

(d) the execution, delivery and performance of its Tender and the proposed mode of execution, delivery and performance of the Contract (if awarded to the Tenderer) have been duly authorised by all necessary corporate action of the Tenderer, and does not violate any provision of any applicable law, regulation or decree of the Tenderer's place of incorporation, or the Memorandum and Articles of Association or similar constitutional documents of the Tenderer;

(e) no authorisations, consents, approvals are required from any governmental authorities or agencies or other official bodies in the place of incorporation in connection with the execution and delivery of the Tenderer's Tender, or the performance by the Tenderer of its obligations under the Tender Documents and the Contract;

- (f) the Tenderer's Tender and the Contract (if awarded to the Tenderer) need not be registered or filed in the place of incorporation in order to secure their validity and/or priority;
- (g) there is no restriction under the laws of the place of the Tenderer's incorporation affecting the Tenderer's obligations under the Tender Documents and the Contract;
- (h) the choice of the laws of Hong Kong to govern the Tender Documents and the Contract is a valid choice of laws and would be recognised and given effect to by the courts of the place of incorporation of the Tenderer; and
- (i) it is not necessary under the laws of the place of incorporation of the Tenderer that the Government be licensed, qualified or otherwise registered in such place of incorporation in order to enable it to enforce its rights under the Tender Documents and the Contract.

5. **Essential and Other Requirements**

Tenderer must meet all of the essential and other requirements in Annex A. **Failure to comply with any of the essential requirements in Annex A will render the Tender invalid and the Tender will not be considered further.**

6. **Criteria of Assessment**

- 6.1 All tenders will initially be checked against the documents and information required in Clause 3.2(c) of the Terms of Tender and essential requirements stated in Annex A. Tenders that fail to submit complete set of documents and information nor meet all of the essential requirements will not be further considered. Tenders that has met all requirements stated in Annex A will be evaluated according to the Marking Scheme specified in Annex B. A technical to price weighting of 70:30 will be adopted for tender evaluation whereby price assessment will be conducted only after technical assessment. Tenders with the highest combined score will normally be selected to provide the Services.
- 6.2 A Tenderer is requested to indicate in the space provided in Part C – Payment Discounts of Contract Schedule 1 what discounts it will allow on the Service Fee by instalment if payment is made in full within a specified period of time. Any payment discount offered by a Tenderer will not be taken into consideration in the tender price assessment, except when there is more than one Tenderer fully capable of undertaking the Contract and offering the same highest combined score.
- 6.3 Notwithstanding anything herein to the contrary, the Government is not bound to accept the Tender with the lowest price offer or the Tender with the highest combined score or any Tender and reserves the right to accept any Tender at any time within the Tender Validity Period.

7. **Award of Contract**

- 7.1 The Government will issue to the successful Tenderer by either post or facsimile transmission a letter notifying conditional acceptance of offer (“the Letter”), subject to the following conditions precedent:

- (a) delivery of the Contract Deposit to the Government pursuant to Clause 9; and
 - (b) other conditions as the Government may specify therein.
- 7.2 Upon issuance of the Letter, unless the expiry date of the Tender Validity Period of the Tender of the successful Tenderer is a date which is 14 days or more after the date of the Letter, such expiry date must be automatically extended to the date which is 14 days from the date of the Letter.
- 7.3 Upon and subject to the successful Tenderer having duly complied with Clause 7.1 hereof, the Government will issue the Memorandum of Acceptance notifying fulfillment of the conditions precedent and the Contract is deemed to have been formed on the date of the issuance of the Letter.
- 7.4 If the conditions precedent set out in Clause 7.1 above are not satisfied, the Government will be at liberty to award the Contract to another Tenderer, cancel this Invitation to Tender with or without conducting a fresh tender exercise or take such appropriate action as the Government deems fit. Without prejudice to the foregoing, if the successful Tenderer fails to deliver the Contract Deposit to the Government pursuant to Clause 9, such failure may prejudice its future standing as a Government contractor or service provider.
- 7.5 Tenderers who do not receive any notification within the Tender Validity Period should assume that their Tenders have not been accepted.
- 7.6 Tenderers are reminded that funding approval has not been obtained for this tender invitation by the time of tender issuance. The Letter would only be issued to the successful Tenderer unless and until funding is secured.

8. **Financial Assessment**

- 8.1 If the Estimated Contract Price of a Tender exceeds HK\$15 million, the Tenderer has to demonstrate its financial capability before it can be considered for the award of the Contract. For this purpose, the Tenderer is required to submit the following documents for financial vetting upon request by the Government:
- (a) originals (or copies certified by its auditors) of the accounts of the Tenderer audited by a certified accountant or a public accountant registered under the Professional Accountants Ordinance (Cap. 50) for the three (3) years prior to the Tender Closing Date. The audited accounts must comply with the following requirements:
 - (i) the audited accounts must be prepared on the same basis for each year in accordance with accounting principles generally accepted in Hong Kong and the disclosure requirements of the Companies Ordinance (Cap. 622);
 - (ii) the latest audited accounts must be for the period ending no more than eighteen (18) months before the Tender Submission Date;
 - (iii) the audited accounts (as the case may be) must contain the directors' report, auditors' report, statement of financial position (also referred to as balance sheet), statement of profit or loss and other comprehensive income (also referred to as income statement), statement of changes in equity, statement

- of cash flows and notes to the accounts;
 - (iv) all such accounts must have been audited by certified public accountants (practising) or for a non-Hong Kong company, by auditors recognised by its local law;
 - (v) if any such accounts are in a language other than Chinese or English, translations, certified as accurate by the respective consulate or a notary public registered in Hong Kong, must be provided;
- (b) management accounts with a period ending not more than three (3) months before the Tender Submission Date if this has not been covered by the latest audited accounts. The accounts must be prepared on the same basis in accordance with accounting principles generally accepted in Hong Kong. They must be certified by (i) the sole proprietor, partners or directors of the Tenderer, or (ii) certified public accountants or other accountants acceptable to the Government;
- (c) projected statement of profit or loss and other comprehensive income and statements of cash flows of the Contract for each contract year and the pre-operating period (if applicable) and, if possible, those of the company during the Contract Period, setting out the revenue, details of operating expenses, capital expenditure including the initial investments and the sources of finance, and other particulars showing how the Tenderer will deal with the Contract. The projected accounts and statements must comply with the following requirements:
- (i) they should be certified by the company's chief executive;
 - (ii) the assumptions used in preparing the projections should be reasonable and must be clearly stated. All the supporting schedules and detailed calculations should also be provided;
 - (iii) the assumptions by the Government included in the Tender Documents must be reflected in the Tenderer's projections;
- (d) original letters from bankers, where applicable, confirming lines of credit facilities available to the Tenderer and the current undrawn/ unutilised balances of such credit facilities on or after a specified date (shortly before the Tender Submission Date or a date fixed by the Government) and stipulating the expiry date of the facilities;
- (e) copies (certified by the sole proprietor, partners, directors or company secretary of the Tenderer) of letters of undertaking, minutes of board meetings or returns of allotment of shares to support injection of capital, where applicable; and
- (f) written confirmation from a guarantor that it is willing to provide financial support or guarantee to the Tenderer, where applicable.
- 8.2 Tenderers must upon the request in writing by the Government provide the documents mentioned in Clause 8.1 and any other financial and corporate information as required by the Government for assessment of the financial capability of the Tenderer to undertake the Contract within the time stipulated in the written request by the Government.

9. **Contract Deposit**

- 9.1 The successful Tenderer must pay the Contract Deposit either by cheque, cashier's order or in the form of a banker's guarantee. Each Tenderer should state clearly in Part B of Contract Schedule 1 the method of providing the Contract Deposit. If the successful Tenderer fails to do so, it will be regarded to have undertaken to pay the Contract Deposit to the Government by cheque or cashier's order.
- 9.2 If the Estimated Contract Price payable by the Government to the successful Tenderer exceeds HK\$1.4 million but is less than or equals to HK\$15 million, as security for the due and faithful performance of the Contract by the successful Tenderer, the successful Tenderer must deposit with the Government, within twenty-one (21) days from the date of the Letter, a Contract Deposit equivalent to 2% of the Estimated Contract Price.
- 9.3 If the Estimated Contract Price payable by the Government to the successful Tenderer exceeds HK\$15 million, as security for the due and faithful performance of the Contract by the successful Tenderer, the successful Tenderer must deposit with the Government, within twenty-one (21) days from the date of the Letter, a Contract Deposit equivalent to 2% (if it passes the financial vetting) or 5% (if it fails the financial vetting or where the financial information available is inadequate for a meaningful assessment of the Tenderer's financial capability) of the Estimated Contract Price.
- 9.4 If the successful Tenderer elects to pay the Contract Deposit by way of a banker's guarantee, the banker's guarantee must comply with the following:
- (a) it must be issued by a bank that holds a valid banking licence granted under the Banking Ordinance (Cap. 155) and acceptable to the Government;
 - (b) unless otherwise agreed by the Government, it must be on the terms set out at Annex D; and
 - (c) the banker's guarantee must come into effect on the date of commencement of the Contract Period unless another date is specified in the Letter.
- 9.5 The Contract Deposit, whether paid by way of cheque, cashier's order or banker's guarantee will be returned to the Contractor or released in accordance with the Contract.

10. **Contractors' Performance Monitoring**

If a Tenderer is awarded the Contract, its subsequent performance will be monitored and may be taken into account when its future offers for other tenders/quotations exercises are evaluated.

11. **New Information**

A Tenderer should inform the Government in writing immediately of any factor which might affect its ability to meet any requirements of the Tender Documents. The Government reserves the right not to consider a Tenderer's Tender further if the Tenderer's continued ability to meet such requirements is in doubt.

12. **Costs of Tender**

- 12.1 A Tenderer must submit its Tender at its own cost and expense. The Government will not be liable for any costs and expenses whatsoever incurred by a Tenderer in connection with the preparation or submission of its Tender, including all costs and expenses relating to (a) communication or negotiations with or providing presentation or demonstration to the Government, (b) site visits or surveys made by the Tenderer, and (c) presenting the Tenderer's equipment to the Government Representative during the site visits, whether before or after the Tender Closing Date.
- 12.2 Tenderers are reminded that funding approval has not been obtained for this tender invitation and the Government is not responsible for their costs of preparing the bids.

13. **Warning against Bribery**

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

14. **Tender Briefing**

A tender briefing will be held at 9:30 am on 25th August 2022 (Thursday). Tenderers are advised to attend the tender briefing in order to determine the scale and costs of the Services to be provided. Interested parties who wish to attend are requested to complete the reply slip at Annex C and fax it to the Director of Agriculture, Fisheries and Conservation (Attn: Nature Reserve Officer (Management 3)) at fax number 2377 4427 or email address of pui_yu_yuen@afcd.gov.hk **on or before 2 pm (Hong Kong time) on 24th August 2022 (Wednesday).** Each Tenderer can register not more than two (2) persons for the tender briefing.

15. **Enquiry**

- 15.1 Any enquiries from the Tenderer concerning the Tender Documents should be in writing and reach the address or fax number below at least five (5) working days prior to the Tender Closing Date.

the Director of Agriculture, Fisheries and Conservation
(Attn : Nature Reserve Officer (Management 3))
Agriculture, Fisheries and Conservation Department
7/F, Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road, Cheung Sha Wan, Kowloon, Hong Kong
Fax: 2377 4427

Email: pui_yu_yuen @afcd.gov.hk

- 15.2 Unless otherwise expressly stated by the Government in writing, any response by the Government (whether oral or written) to any enquiry by a prospective Tenderer is for information only. No such response will constitute a representation or warranty by the Government of any nature whatsoever (whether express or implied).
- 15.3 After lodging a Tender with the Government, the Tenderer should not attempt to initiate any further contact, whether direct or indirect, with the Government on its Tender or the Tender Documents.
- 15.4 All communications given or made by the Government or a Tenderer in relation to the Invitation to Tender must be in writing and sent or delivered to the other party in the manner provided in Clause 24 of the Conditions of Contract, save that the Government may, by prior notice to a Tenderer, require the Tenderer to send or deliver a written communication by post or facsimile only. A Tenderer should note that the Government will not accept the use of a postal box as the Tenderer's correspondence address for any purpose whether before or after the award of the Contract.

16. **Warranty against Collusion**

- 16.1 By submitting a Tender, a Tenderer is regarded to have represented and warranted to the Government that in relation to the Invitation to Tender:
- (a) save with the prior written consent of the Government, it has not communicated and will not communicate to any person other than the Government the amount of any price submitted in its Tender;
 - (b) it has not fixed and will not fix the amount of any price submitted in its Tender by arrangement with any person;
 - (c) it has not made and will not make any arrangement with any person as to whether it or that other person will or will not submit a Tender; and
 - (d) it has not otherwise colluded and will not otherwise collude with any person in any manner whatsoever in the tendering process.
- 16.2 In the event that a Tenderer is in breach of any of the representations and/or warranties in Clause 16.1, the Government will be entitled to, without compensation to any person or liability on the part of the Government:
- (a) reject the Tenderer's Tender;
 - (b) if the Government has accepted the Tender, withdraw its acceptance of the Tender; and
 - (c) if the Government has entered into the Contract with the Tenderer, terminate the Contract.
- 16.3 By submitting a Tender, a Tenderer is regarded to have undertaken to indemnify and keep indemnified the Government against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations and/or

warranties in Clause 16.1.

- 16.4 A breach by a Tenderer of any of the representations and/or warranties in Clause 16.1 may prejudice its future standing as a Government contractor or service provider.
- 16.5 Clause 16.1 has no application to a Tenderer's communications in strict confidence with its own insurers or brokers to obtain an insurance quotation for computation of the prices quoted in its Tender, or with its professional advisers, consultants or sub-contractors to solicit their assistance in preparation of its Tender.
- 16.6 The rights of the Government under Clauses 16.2 to 16.4 are in addition to and without prejudice to any other rights or remedies available to it against the Tenderer.
- 16.7 Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Cap. 619). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance. The Tenderer shall complete and submit to the Government a Non-collusive Tendering Certificate (in the Form set out in Contract Schedule 5).

17. **Negotiations**

The Government reserves the right to negotiate with any Tenderer the terms of the Tenderer's Tender and conditions of the Contract.

18. **Government Discretion**

- 18.1 Notwithstanding anything to the contrary in this Tender Documents, the Government reserves the right to disqualify a Tenderer on grounds including any one of the following:
- (a) a petition is presented or a proceeding is commenced which has not been withdrawn as at the Tender Closing Date or an order is made or a resolution is passed for the winding up of the Tenderer;
 - (b) the Tenderer has made or submitted a false, inaccurate or incomplete statement or representation or a forged document in the Tender or in any subsequent submission by the Tenderer or communication between the Government and the Tenderer since submission of that Tender;
 - (c) a claim is made alleging or the Government has grounds to believe that any thing(s), service(s) or material(s) to be supplied or recommended by the Tenderer in its Tender infringe or will infringe any Intellectual Property Rights of any person;
 - (d) the Tenderer, who were in anytime within thirty-six (36) months prior to the Tender Closing Date or between the Tender Closing Date and the award of the Contract, has made significant or persistent breaches or deficiencies in the performance of any substantive requirement or obligation under any Government or other contracts;

- (e) the Tenderer has been convicted of a serious crime or offence;
- (f) the Government has grounds to believe that the Tenderer or a director or management staff of the Tenderer or those of the related person of the Tenderer is guilty of professional misconduct that adversely reflect on the commercial integrity of the Tenderer during a period of five (5) years preceding the Tender Closing Date and up to the time of Contract award;
- (g) the Tenderer has failed to pay taxes to the Government during a period of five (5) years preceding the Tender Closing Date and up to the time of Contract award; or
- (h) the Tenderer has attempted to limit or avoid its responsibility in contract, tort or otherwise for failing to exercise the skill and care required by the Contract, or reasonably expected of the Tenderer/Contractor under the Contract in the Tender or in any subsequent submission by the Tenderer or communication between the Government and the Tenderer since submission of the Tender.

18.2 For the purposes of Clause 18.1, each Tenderer must provide at the time of submission of its Tender (and thereafter up to the time of award in relation to any event occurring between the time of submission and the time of award) all information at least in relation to itself that is reasonably relevant to facilitate the Government's determination as to whether to exercise its right of disqualification, including but not limited to the following:

- (a) details of any petition or proceeding mentioned in Clause 18.1(a);
- (b) details of conviction of the Tenderer in Hong Kong or any overseas jurisdictions in respect of (i) serious offences; and (ii) other crimes or offences involving bribery, false accounting, corruption, dishonesty or employment handed down any time during a period of five (5) years preceding the Tender Closing Date and thereafter up to the time of award;
- (c) details of all infringement claims as mentioned in Clause 18.1(c); and
- (d) details of all breaches or performance deficiencies of the Tenderer or a related person as mentioned in Clause 18.1(d).

If none of the events as mentioned in Clauses 18.2(a) to 18.2(d) above has ever occurred within the applicable period as mentioned above, the Tenderer must provide a statement to that effect at the time of submission of its Tender. If found missing, the Government reserves the right to seek clarification pursuant to Clause 18.3 below.

18.3 In addition to the information mentioned in Clause 18.2, the Government reserves the right to request from a Tenderer and take into account all information about:

- (a) the Tenderer itself;
- (b) any of the directors or management staff of the Tenderer who conduct similar business as the Tenderer or whose businesses any of which is similar to the business of the Tenderer; and

- (c) any of the related persons of the Tenderer and of any directors and management staff of the related persons who conduct similar business as the Tenderer or whose businesses any of which is similar to the business of the Tenderer.

to facilitate the Government's determination as to whether to exercise its right of disqualification under Clause 18.1.

- 18.4 If the Tenderer fails to comply with the request made by the Government pursuant to Clause 18.3 above within such time as required by the Government or has otherwise submitted false, inaccurate or incomplete information, the Government may disqualify the Tenderer.
- 18.5 In providing the information required under Clauses 18.2 and 18.3 above, the Tenderer may show cause to satisfy the Government that the petition, proceedings, conviction record, infringement claim, breach or performance deficiency, or professional misconduct does not cast doubt on the fitness, propriety or capability of the Tenderer to perform the Contract.
- 18.6 If the Tenderer is a company, the expression "related person" of the Tenderer includes any one of the following:
- (a) a shareholder (corporate or individual) which directly or indirectly owns 50 percent or more of the issued share capital of the Tenderer ("majority shareholder");
 - (b) a holding company or a subsidiary of the Tenderer;
 - (c) a holding company or a subsidiary of a majority shareholder of the Tenderer; and
 - (d) a company in which a majority shareholder (being an individual) of the Tenderer directly or indirectly owns 50 percent or more of its issued share capital or controls the composition of its board of directors.

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

- 18.7 If the Tenderer is a sole proprietor or partnership, the expression "related person" includes any one of the following:
- (a) any partner of the Tenderer (if it is a partnership);
 - (b) the spouse, parent, child, brother or sister of the Tenderer, and, in deducing such a relationship, an adopted child will be deemed to be a child both of the natural parents and the adopting parent, and a step child to be a child of both the natural parent and of any step parent; and
 - (c) a company in which the Tenderer or any partner of the Tenderer beneficially directly or indirectly owns 50 percent or more of its issued share capital or controls the composition of its board of directors.

18.8 References to related persons, directors and management staff of the Tenderer or of a related person include persons who were in such capacity at the time of the incident referred to in Clauses 18.1(d), 18.1(e), 18.1(f), 18.1(g) or Clause 18.2(b).

19. **Complaints about Tendering Process or Contract Award**

A Review Body on Bid Challenges under the WTO GPA has been set up by the Government to deal with challenges made against alleged breaches of the WTO GPA. The relevant procedures for handling bid challenges are set out in the Rules of Operation of the Review Body which are available for inspection at the Secretariat of the Review Body located at the Trade and Industry Department. They may also be sent to the interested parties upon request to the Secretariat of the Review Body. In the event that a Tenderer believes that a breach of the WTO GPA has occurred, the Tenderer may, within 10 working days after it knew or reasonably should have known the basis of the challenge, lodge a challenge to the Review Body on the alleged breaches of the WTO GPA. Nevertheless the Tenderer is encouraged to seek resolution of its complaint in consultation with the procuring department before lodging a complaint to the Review Body. In such instances, the procuring department will accord impartial and timely consideration to any such complaint, in a manner that is not prejudicial to obtaining corrective measures through the Review Body. The Review Body may receive and consider a late challenge but a challenge will not be considered if it is filed later than 30 working days after the basis of the challenge is known or reasonably should have been known to the Tenderer.

20. **Environmental-friendly Measures**

20.1 Tenderers are requested to minimize the impact of their activities on the environment.

20.2 The following environment-friendly measures are recommended to be adopted in the preparation of documents relating to a Tender and the future performance of the Contract:

- (a) all documents should be printed on both sides and on recycled paper. Paper that exceeds 80 gsm should not be used for the text;
- (b) use of plastic laminates, glossy covers or double covers should be avoided as far as possible. If art board paper has to be used as document covers, recyclable non-glossy paper should be used; and
- (c) single line spacing should be used and excessive space in the margins and in between paragraphs should be avoided.

PART 2**CONDITIONS OF CONTRACT****CONTENTS**

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CONDITIONS OF CONTRACT

1. Contract Period

- 1.1 The Contractor must provide the Services to the Government for a period of **24 months commencing from 1 January 2023**, or a date to be specified by the Government, whichever is later, subject to early termination or extension provided for in the Contract (“Contract Period”).
- 1.2 The Government may, by serving on the Contractor not less than one (1) month’s advance notice in writing extend the Contract for a period up to an aggregate maximum of six (6) months on the same terms and conditions contained in the Contract. The extended Contract Period commences immediately upon the expiry of the current Contract Period. During each month of the extended Contract Period, for those Items of Services to be performed with the quantity to be specified per 12 months of the Contract Period in Part A of the Price Schedule, the quantity of such Items of Services shall be pro rata adjusted by dividing the quantity by 12. The unit rate originally applicable for the specified quantity of each 12-month period shall also be adjusted on a pro rata basis by dividing the unit rate by 12. For those Items of Services which are to be performed throughout the 24-month Contract Period, the monthly rate shall be applicable to each month of the extended Contract Period.
- 1.3 The Contractor must agree to the extension of the Contract made under Clause 1.2 hereof when the Government exercises its right to extend the Contract.

2. Services to be Provided and Variation of Services

- 2.1 The Contractor must provide the Services with Contractor’s Employees in accordance with the terms and conditions of the Contract (including but not limited to the Service Specifications, the Conditions of Contract and the Contract Schedules) at such time and in such manner as the Government Representative may specify from time to time and to the satisfaction of the Government Representative.
- 2.2 The Contractor must observe and comply with any directions or instructions given by the Government Representative.
- 2.3 Each Contractor’s Employee must devote all of his or her respective time, attention and energy to carry out the Services and subject to any directions as may be given by the Government from time to time.
- 2.4 The Contractor’s Employees may be required to work over-time or in places other than the Service Area as may be directed by the Government Representative or as driven by the demands of work, urgency of task or operational needs.
- 2.5 The Contractor must not extend the Services beyond the requirements specified in the Contract except as directed in writing by the Government Representative. However, the Government Representative may at any time during the Contract Period by notice in writing require the Contractor to alter, amend, omit, add to, or otherwise vary any of the Services and/or the Contract Period (including without limitation the area to be covered, the quantity to be performed and/or the manpower to be provided), and the Contractor must carry out such variations, and be bound by the same conditions, so far as are applicable, as though the said variations were stated in the Contract.

- 2.6 Where a variation has been made to the Contract, the amount to be added to or deducted from the Service Fee in accordance with that variation is determined in accordance with the unit rates specified in the Price Schedule so far as the same may be applicable. Where unit rates are not contained in the Price Schedule, or are not applicable, such amount will be such sum as is reasonable in the circumstances.
- 2.7 The Government may, on giving the Contractor not less than fourteen (14) days' prior written notice, require the Contractor to suspend the performance of all or part of the Services and/or to reduce the number of staff deployed for the Services for such time or times and in such manner and for such period or periods as the Government may specify in the notice and without cause. Notwithstanding Clause 10.1 below, where all of the Services are suspended, the Government will not pay and will not be liable to pay for the suspended services during the suspension period. If only part of the Services are suspended, and/or where the number of staff deployed for the Services is reduced as required by the Government, Service Fee will be adjusted in accordance with the rate specified in Sections 1 and 2 of the Price Schedule on a pro rata basis. Such Service Fee will only be payable upon the Government Representative's written acceptance of the deliverables in relation to those Services in accordance with Clause 10.1 below.
- 2.8 Without prejudice to Clauses 2.5 and 2.6, the Government may at any time during the Contract Period by giving (and any additional payment shall be one the unit rate specified in Section 2 of Part A of the Price Schedule unless otherwise agreed):
- (a) Three (3) days' notice in writing require the Contractor to provide additional Supervisor or Skilled Worker at such places, in such manner and at such times as the Government Representative may specify;
 - (b) not less than two (2) hours' verbal notice (to be properly documented subsequently) require the Contractor to provide additional Supervisor or Skilled Workers to carry out emergency or other special services at any locations in the Service Area.

3. **Non-exclusive Contract**

Nothing in the Contract will preclude the Government from procuring all or any of the Services from any other person.

4. **Service Level and Service Specifications**

- 4.1 The Contractor must provide the Services in a timely and professional manner and must conform to the standards generally observed in the industry for similar services and the specific requirements as set out in this Contract.
- 4.2 The Contractor must comply with all the provisions in the Service Specifications during the continuance of the Contract.
- 4.3 The Contractor acknowledges and agrees that it has been supplied with sufficient information to enable it to provide the Services. The Contractor will not be entitled to any additional payment nor be excused from any liability under the Contract as a consequence of any misinterpretation by the Contractor of any matter or fact relating to the Service Specifications or any other provisions of the Contract.

- 4.4 The Contractor further acknowledges that the Government relies on the skill and judgment of the Contractor in the provision of the Services and the performance of its obligations under the Contract.
- 4.5 The Contractor must perform its obligations under the Contract:
- (a) with appropriately experienced, qualified and trained personnel and with all due care, skill and diligence; and
 - (b) in accordance with Good Industry Practice.
- 4.6 Time will be of the essence as regards each provision of the Services.
- 4.7 Notwithstanding any provision of the Contract, due provision of any Services to the Government will not be regarded to have taken place unless and until such Services are accepted by the Government.

5. **Regulations of Contractor and the Contractor's Employees**

- 5.1 The Contractor must be responsible for the efficient performance of the Contract and for the good conduct of the Contractor's Employees while they are performing duties for the Government.
- 5.2 The Contractor must: -
- (a) ensure that all Contractor's Employees are efficient, honest and acceptable to the Government in terms of ability, working attitude and personal behaviour;
 - (b) ensure that all Contractor's Employees satisfy the qualification and experience requirements and possess any skills and expertise set out in the Service Specifications;
 - (c) ensure that all Contractor's Employees perform competently and behave to the satisfaction of the Government Representative;
 - (d) ensure that all Contractor's Employees abide by the Government's instructions and any law and regulations applicable to the provision of Services;
 - (e) immediately notify in writing the Government Representative of any acceptance of advantage, bankruptcy or disclosure of confidential information affecting the Contractor's Employees.
- 5.3 The Contractor must assign one of its employees as the Contractor Representative to liaise and attend meetings with the Government from time to time for the Services under the Contract. The Contractor must not replace or substitute the Contractor Representative without obtaining prior consent from the Government.
- 5.4 The appointment or replacement of any Contractor's Employee to undertake any part of the Services will not relieve the Contractor from any liability or obligation under this Contract and the Contractor will be responsible for the acts, omissions, defaults and neglects of any Contractor's Employee as if they were the acts, omissions, defaults or neglects of the Contractor.

- 5.5 The Contractor must provide proper training and instructions from time to time for all staff on all matters concerned with the Services.
- 5.6 The Contractor must comply with all applicable laws and regulations. In particular, the Contractor must:
- (a) comply with the Employment Ordinance (Chapter 57 of the Laws of Hong Kong) and the Immigration Ordinance (Chapter 115 of the Laws of Hong Kong). The Contractor must not employ any persons who are forbidden by the laws of Hong Kong or are not entitled to undertake any employment in Hong Kong;
 - (b) make its own arrangements to provide Mandatory Provident Fund Schemes to its employees in accordance with the provisions of the Mandatory Provident Fund Schemes Ordinance (Chapter 485 of the Laws of Hong Kong); and
 - (c) comply with the requirements of the Occupational Safety and Health Ordinance (Chapter 509 of the Laws of Hong Kong) and any other legal provisions pertaining to the health and safety of the personnel, Government staff and others who may be affected by its performance of Services.
- 5.7 The Government Representative will from time to time during the term of this Contract carry out security checks on any of the Contractor's Employees.
- 5.8 The Contractor must secure, obtain and maintain at its own cost throughout the Contract Period all governmental authorisations, approvals, permits or licences which may be required or necessary in connection with the performance of the Contract.
- 5.9 Any drawings and specifications reasonably required for the Contractor's guidance in the execution of the Contract will be provided by the Government free of charge but must be returned to the Government in good order on completion of the Contract.
- 5.10 If, at the request of the Contractor, assistance of any Government staff is provided after normal business hours, the Contractor must be responsible for the overtime remuneration, subsistence allowances and travelling expenses of such Government staff directly engaged in such assistance.
- 5.11 The Contractor shall pay all taxes, duties, fees, charges, assessments of any nature levied by relevant governmental authorities and to pay the fines and penalties imposed for any offence or infringement by the Contractor under any laws or regulations in connection with the performance of the Contract.

6. **Subsequent Employment**

The Contractor must not restrain any Contractor's Employee from the employment by the Government or any other company to provide services for the Government upon the completion or termination of the employment contract between the Contractor's Employee and the Contractor. If the Government Representative has reason to believe that the Contractor is in breach of this clause, the Government Representative may at its absolute discretion demand the Contractor to remove such restraint within seven (7) working days. Otherwise, the Government may exercise the right to forthwith terminate this Contract.

7. **Liabilities and Indemnities**

- 7.1 Neither the Government nor any of its employees or agents will be liable for:
- (a) any loss of or damage to any of the Contractor's property or that of its employees or agents (whether or not caused by any Negligence of the Government or its employees or agents); or
 - (b) any injury to or death of any of the Contractor's employees or agents, except where such injury or death was caused by the Negligence of the Government or any of its employees or agents.
- 7.2 Without prejudice to any other provision of the Contract, the Contractor must indemnify each of the Government and its employees and agents (each an "Indemnified Person") against:
- (a) any and all claims (whether or not successful, compromised, settled, withdrawn or discontinued, in whole or in part), actions, investigations, demands, proceedings or judgments, joint or several, threatened, brought or established against an Indemnified Person ("Claims"); and
 - (b) any and all liabilities, losses, damages, costs, charges or expenses (including (i) all legal fees and other awards, costs, payments, charges and expenses and (ii) any loss or damage sustained by or any injury to or death of any person in consequence of any Negligence of the Contractor or any of its employees, sub-contractors or agents) which an Indemnified Person may pay or incur as a result of or in relation to any Claims,
- which in any case arise directly or indirectly in connection with or out of:
- (i) the performance or breach of any provisions of the Contract by the Contractor, its employees, agents or sub-contractor if any;
 - (ii) the negligence, recklessness, tortious acts or wilful omission of the Contractor, its employees, agents or sub-contractor if any;
 - (iii) any Warranty which is incorrect, inaccurate, incomplete or misleading;
 - (iv) any default, unauthorised act or wilful misconduct of the Contractor, its employees, agents or sub-contractor if any;
 - (v) any claim that the use or possession of the Materials infringes the Intellectual Property Rights of any person; or
 - (vi) the non-compliance by the Contractor, its employees, agents or sub-contractor(s) with any applicable law, or regulation, order or requirement of any government agency or authority.
- 7.3 The indemnity under Clause 7.2 does not apply to any injury or death caused by the Negligence of an Indemnified Person.
- 7.4 In the event of any person suffering any injury or death in the course of or arising out of the Contract and whether there be a claim for compensation or not, the Contractor must verbally inform the Government Representative as early as practicable and deliver to the Government a written report within seven (7) working days after the occurrence of the

injury or death, or on an earlier date specified by the Government Representative.

- 7.5 For the purposes of this Clause, “Negligence” has the same meaning as that assigned to it in section 2(1) of the Control of Exemption Clauses Ordinance (Chapter 71 of the Laws of Hong Kong).
- 7.6 The indemnities, payment and compensation given in pursuance of the Contract by the Contractor will not be affected or reduced by reason of any failure or omission of the Government in enforcing any of the terms and conditions of the Contract.

8. **Replacement of Contractor’s Employees**

- 8.1 The Government has the right to require the Contractor to immediately replace any of the Contractor’s Employees if:
- (a) the Government, in its reasonable opinion, finds the Contractor’s Employee unsuitable on grounds including but not limited to dishonesty, habitual neglect in the discharge of his duties, unbecoming behaviour, suspected commission of crime or other misconduct, mental or physical incapacity, and/or failure to comply with Government directive regarding performance of the Contract; or
 - (b) the Government, in its opinion, finds the Contractor’s Employee incompetent or incapable of performing the Services.
- 8.2 Upon receipt of the notice from the Government, the Contractor must nominate the substitutes or replacements for the Government’s consideration (the number of nominated substitutes or replacements should be twice the number of Contractor’s Employees removed or to be replaced). The Contractor must be solely responsible for all direct, indirect and consequential costs or losses that may arise from such substitution or replacement.
- 8.3 The Contractor must ensure that each of the nominated substitutes or replacements referred to in Clause 8.2 hereof satisfies the requirements on qualification, skills and experience specified in the Service Specifications and of no less favourable qualification/ experience, and will be available immediately. In the event that the Government Representative, in its judgment, is not satisfied with any of the nominated substitutes or replacements, the Contractor must forthwith provide other candidates to the Government Representative until a suitable replacement is selected.

9. **Personnel Records**

- 9.1 The Contractor must seek consent from the Contractor’s Employees to disclose their personal data, records and photographs to the Government Representative.
- 9.2 The Contractor must sign an employment agreement with each of the Contractor’s Employees containing at least the employment period, rest day arrangements, maximum net working hours for each day of work and wages. The parties to the employment agreement must consent to the production of the employment agreement and all documents relating to the employment to the Government upon request.
- 9.3 The Contractor must keep proper record of the written employment agreements including any amendments or deletion and the payments to each of the Contractor’s Employees.

Payments must be made by way of autopay for proper record keeping purpose.

- 9.4 The Government reserves the right to, at any time, request the Contractor to produce evidence that such written employment agreements mentioned in Clause 9.2 hereof have been entered into and that the employment conditions have been complied with, including production of employment agreements for inspection. All records stated in this Clause must be readily available for inspection by the Government Representative.

10. Payment for Services

- 10.1 In consideration of the Contractor's due and proper performance of all its obligations in accordance with the Contract to the satisfaction of the Government, the Government will pay the Contractor the Service Fee by instalments in accordance with the following milestones. Invoice of each payment shall only be issued by the Contractor to the Government after the written acceptance by the Government of all the Deliverables submitted by the Contractor corresponding to that instalment:

| Instalment | Invoice Date | % of Service Fee Quoted in Price Schedule |
|-------------------|---|--|
| 1 | On acceptance of the Inception Report | 10 |
| 2 | On acceptance of the 1 st – 3 rd Monthly Progress Reports | 10 |
| 3 | On acceptance of the 4 th - 6 th Monthly Progress Reports | 10 |
| 4 | On acceptance of the 7 th - 9 th Monthly Progress Reports | 10 |
| 5 | On acceptance of the 10 th - 12 th Monthly Progress Reports | 10 |
| 6 | On acceptance of the 13 th - 15 th Monthly Progress Reports | 10 |
| 7 | On acceptance of the 16 th - 18 th Monthly Progress Reports | 10 |
| 8 | On acceptance of the 19 th – 21 st Monthly Progress Reports | 10 |
| 9 | On acceptance of the 22 nd – 24 th Monthly Progress Reports | 5 |
| 10 | On acceptance of the Completion Report and handover of all Deliverables | 15 |

(Where there is any extension of the Contract Period, the added amount of the Service Fee to be calculated in accordance with Clause 1.2 shall be payable each month of the extended Contract Period after acceptance of the Monthly Progress Report for that month).

- 10.2 Payment will be made direct to the Contractor's bank account in Hong Kong.
- 10.3 The Contractor must submit an invoice to the Government Representative within seven (7) working days after the written acceptance by the Government of the Deliverables required as stated in Clause 10.1 above is issued or as otherwise directed. Unless otherwise provided, payment will be made after the receipt of invoices and only upon certification by the Government Representative that the Services have, in all respects, been performed in accordance with the terms and conditions of the Contract and to the satisfaction of the Government Representative.

10.4 Unless the Government Representative otherwise notifies in writing, all invoices and correspondence concerning payment must be addressed to the Director of Agriculture, Fisheries and Conservation in the manner described below:

Address - Agriculture, Fisheries and Conservation Department
7/F Cheung Sha Wan Government Offices,
303 Cheung Sha Wan Road,
Cheung Sha Wan, Kowloon
(Attn: Nature Reserve Officer (Management 3))

Fax No. - 2377 4427

The Government will not be liable for any delay in payment if invoices and correspondence are not so addressed.

10.5 The Service Fee will be inclusive of all fees, costs, charges, expenses and disbursements incurred by the Contractor for provision of the Services. Apart from the Service Fee, under no circumstances whatsoever will the Government be liable to pay to the Contractor or any other person any money. All Services must be performed by the Contractor at its sole cost, subject to the payment of the Service Fee only.

10.6 Notwithstanding any provision of the Contract, the Government is entitled to withhold payment of all or any part of the Service Fee and any other sum payable by the Government to the Contractor under the Contract if:

- (a) the Contractor fails to observe or perform any provision of the Contract;
- (b) the Government disputes on any reasonable ground its obligation to pay the amount in question;
- (c) the Government has reasonable grounds to believe that the Contractor is or will be liable to the Government under any provision of the Contract for the loss or damage suffered by the Government; or
- (d) withholding of payment is required by any applicable law.

10.7 No payment made by the Government under the Contract will prejudice or carry any implication whatsoever on any rights or cause of action which has accrued or may accrue, or any remedy available, to the Government in respect of any breach of the Contract by the Contractor.

10.8 The Government shall not be held responsible or liable for any delay in payment and no interest or other surcharge or any other payment howsoever described shall be charged to the Government due to (a) invoices not having been issued in accordance with this Clause 10, or (b) the amount billed in the invoices not having been duly calculated in accordance with the provisions of the Contract (including without limitation not having taken into account all applicable deductions, set-off or withholding), or (c) the Contractor disputing any deductions or set-off or withholding made by the Government pursuant to the Contract, or (d) any invoice or correspondence being improperly addressed contrary to the requirements stipulated in the Contract. Each invoice shall include all deductions, set-off and withholding which may be made pursuant to the terms of the Contract and shall show

the net amount payable. If the Contractor does not render an invoice charging a correctly stated net amount due to its failure to take into account all appropriate deductions, set-off or withholding or otherwise, the Government may, but is not obliged to, pay the net amount which duly takes into account all appropriate deductions, set-off and withholding.

11. **Contract Deposit**

- 11.1 If the Contractor fails to comply with any provision of the Contract or any amount is due or payable by the Contractor to the Government, the Government may deduct from the Contract Deposit or call on the banker's guarantee (as the case may be) to recover the amount of costs, losses, damages or expenses suffered or incurred by the Government relating to such failure, or to recover the amount due or payable, in each case irrespective of whether or not a demand for payment has been made against the Contractor.
- 11.2 The Contract Deposit (whether paid in cheque or cashier's order or in the form of the banker's guarantee) may be deducted or called on by the Government without the Government first having recourse to any other security or rights or taking any other steps or proceedings against the Contractor or any other person, and may be enforced for any balance due after resorting to any one or more other means of obtaining payment or discharge of the monies, obligations and liabilities owed by the Contractor to the Government.
- 11.3 If any deduction is made by the Government from the Contract Deposit or a call is made on the banker's guarantee any time prior to the expiry or termination of the Contract, the Contractor must, within twenty-one (21) days after the date of the written demand by the Government, deposit a further sum or provide a further banker's guarantee, in a sum equal to the amount so deducted or so called, which further sum will be added to the residue and form part of the Contract Deposit. If the Contractor is required to provide a further banker's guarantee under this Clause, the further banker's guarantee must comply with the requirements in Clause 9.4(a) and (b) of the Terms of Tender and will come into operation on the date of its execution.
- 11.4 If the Contractor fails to comply with Clause 11.3, the Government may terminate the Contract immediately.
- 11.5 Upon the expiry or termination of the Contract:
- (a) if the Contract Deposit is paid by cheque or cashier's order, the Government will, after deducting the sums due from the Contractor to the Government, return the balance of the Contract Deposit in cheque and without interest to the Contractor three (3) months after completion of all the obligations under the Contract by the Contractor to the Government's satisfaction, or the expiry or termination of the Contract, whichever is the later;
 - (b) if the Contract Deposit is paid by way of a banker's guarantee, the banker's guarantee will be discharged and released in accordance with its terms.

12. **Insurance Policy**

- 12.1 The Contractor must effect and maintain throughout the Contract Period a policy or

policies of insurance exclusively for the Contract in respect of the Service Area in the name of the Contractor with the Government as an added insured providing an adequate level or to a maximum indemnity amount of at least HK\$10,000,000, whichever is higher. The said insurance policy / policies shall cover all risks which may be incurred by the Contractor or the Government or their respective employees, agents in connection with the performance or attempted performance of its obligations under the Contract, including death, personal injury, loss of or damage to property or any other loss. The insurance policy / policies must provide that the insurance company will waive all claims of subrogation which it may otherwise have against the Government as the added insured. Such insurances must include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor. The insurance company or companies must be authorised under the Insurance Companies Ordinance (Cap. 41).

- 12.2 Without prejudice to Clause 12.1, the Contractor must effect and maintain employer's liability insurance in respect of all its employees and other staff in accordance with all applicable legal requirements.
- 12.3 If required by the Government, the Contractor must deliver to the Government copies of all insurance policies referred to in the Contract together with receipts or other evidence of payment of the latest premium due under the policies.
- 12.4 If the Contractor fails to give effect to or maintain any insurance required under the Contract, the Government may make such alternative arrangements as it considers appropriate to protect its interests and may recover from the Contractor the costs of putting such in place and maintaining such arrangements.
- 12.5 No provision in any insurance and no amount of insurance covered will relieve the Contractor of any liability under the Contract. It is the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability under the Contract.
- 12.6 In the occurrence of any event which may give rise to any liability of an insurer of any of insurance policies referred to in the Contract, and regardless of whether there be a claim against the Contractor or the Government for compensation or not, the Contractor must within seven (7) clear working days give notice in writing of such event to Government Representative.

13. **Termination and Effects of Termination**

- 13.1 Without prejudice to any rights and claims of the Government under the Contract or otherwise at law, the Government will be entitled to forthwith terminate the Contract if any of the following events occurs –
 - (a) the Contractor fails to observe or perform any of the terms and conditions of the Contract or pay any of the sums payable by the Contractor under the Contract, or (in the case of a breach capable of being remedied but not otherwise) the Contractor has failed to remedy the breach to the satisfaction of the Government Representative within seven (7) days (or such longer period as the Government Representative may, in its sole discretion, allow) after the issuance by the Government Representative to the Contractor of a request in writing (such request to contain a warning of the Government's intention to terminate the Contract) requiring it to do so;

- (b) any warranties, undertakings, representations or information made or given by the Contractor to the Government in connection with the Tender or the Contract is incomplete, false or misleading;
- (c) the Contractor abandons the Contract in part or in whole;
- (d) the Contractor is found to have employed illegal workers in the execution of this Contract; or
- (e) the Contractor, any officer (including director), employee, agent or sub-contractor of the Contractor commits an offence under the Prevention of Bribery Ordinance (Cap. 201) or any law of a similar nature in relation to the Contract or any other contract made by the Contractor with the Government.

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

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

13.3 Notwithstanding anything herein to the contrary, the Government may at any time during the Contract Period, at its option and without cause, terminate the Contract by giving the Contractor one (1) month's prior written notice of such termination.

13.4 Upon expiry or early termination of the Contract (howsoever occasioned), the Contract shall be of no further force and effect, but without prejudice to

- (a) the Government's rights and claims under the Contract or otherwise at law against the Contractor arising from antecedent breaches of the Contract by the Contractor (including any breach(es) which entitle the Government to terminate the Contract);

- (b) any rights, claims or liabilities of either party accrued prior to such expiry or termination nor will it affect the continued existence or validity of any provisions of the Contract which is expressly or which in their context by implication intended to survive such expiry or termination; and
- (c) provisions of the Contract which are expressed to be, or otherwise (in the opinion of the Government) are capable of being performed or observed after the date of such expiry or earlier termination that shall survive the same and shall continue to be binding on the parties and shall remain in full force and effect.

13.5 If the Contract is terminated by the Government (other than pursuant to Clause 13.3 or Clause 16.6) and the Government makes other arrangements for the provision of any Services, the Government may recover from the Contractor: (a) any amount in excess of the Estimated Contract Price (which would have been payable to the Contractor had the Contract not been terminated) incurred by the Government in engaging another contractor to complete the uncompleted Services and all costs and expenses incurred in making the arrangements for the same including conducting tender for the uncompleted Services; and (b) any additional expenditure incurred by the Government in connection with any breach(es) of this Contract by the Contractor or occurrence of any event referred to in Clause 13.1. If the Contract is so terminated, until the Government has established the final cost of making other arrangements contemplated under this Clause, no further payments will be made by the Government to the Contractor for the Services provided by the Contractor prior to termination.

13.6 On the expiry or termination of the Contract for any reason, the Contractor must:

- (a) immediately return to the Government all documents containing confidential information, personal data and such other information, property and materials in the possession or under the control of the Contractor or any of its sub-contractors and agents, which was obtained or produced in the course of providing the Services;
- (b) assist and co-operate with the Government to ensure an orderly transition of the provision of the Services to such person specified by the Government Representative and/or the completion of any work-in-progress;
- (c) within twenty-eight (28) days of the date of termination compile and submit to the Government a report of all relevant information, facts, data, findings and conclusions in respect of the Services which have been provided up to the effective date of termination; and
- (d) promptly provide all information concerning the provision of the Services which may reasonably be requested by the Government for the purposes of adequately understanding the manner in which the Services have been provided or the purpose of allowing the Government or a replacement contractor to conduct due diligence.

13.7 Save as otherwise expressly provided for in the Contract, no compensation whatsoever (including compensation for any loss or expense arising from any consequential loss or damage, or loss of opportunity, suffered or incurred by the Contractor) will be payable by the Government to the Contractor as a result of any early termination of the Contract by the Government save that in the case of termination under Clause 13.3, for any unpaid instalment of the Service Fee which falls before the termination shall be paid within 14 days after such termination.

14. Government Property

When Government property is issued to the Contractor under the Contract, the Contractor will be responsible for the due return of all such property. Should any such property be lost or damaged from any cause whatsoever while in the possession or control of the Contractor or his servants, workmen or agents, the Contractor must pay an amount equal to its acquisition costs (subject to normal depreciation on such basis as determined by the Government) plus all administrative costs incurred by the Government for replacing such lost or damaged property. A count of the articles or material in the possession of the Contractor may be made at any time by the Government Representative and the Contractor must render such assistance as is necessary.

15. Publicity

15.1 The Contractor must not during or after the expiry or termination of the Contract use the Government's name in any document, publication, advertisement or publicity material without the prior written consent of the Government.

15.2 Subject to Clause 15.1, the Contractor must submit to the Government Representative for approval all the proposed advertising or other publicity material relating to the Contract wherein the Government's name is mentioned or from which a connection with the Government can reasonably be inferred or implied.

15.3 Notwithstanding any consent or approval given under Clause 15.1 or 15.2, whenever required by the Government, the Contractor must cease using any advertisement or publicity material relating to the Contract wherein the Government is mentioned or from which a connection with the Government can reasonably be inferred or implied.

16. Force Majeure

16.1 If the Contractor becomes aware of any matter likely to constitute a Force Majeure Event, the Contractor shall forthwith notify the Government in writing concerning such matter and provide the Government with all relevant information as the Government may request. Within three (3) days after the occurrence of a Force Majeure Event, the Contractor must notify the Government in writing of the full particulars of the Force Majeure Event including its nature, extent and likely duration of its effect on the Contractor's ability to perform its obligation under the Contract. In the event that the Government is satisfied that a Force Majeure Event has occurred which has materially prevented and/or will continue to materially prevent it from performing its obligations under the Contract, the Government may on its own issue a notice to the Contractor requiring the Contractor to suspend all or any of the obligations under the Contract to the extent of such prevention. A notice issued by the Contractor or the Government pursuant to this Clause is hereinafter referred to as the "Suspension Notice". Where the Government is not so satisfied about any alleged claim of a Force Majeure Event, there shall be no suspension of the obligations of the Contractor due to Force Majeure.

16.2 Following the issue of a Suspension Notice by the Contractor or the Government, the Contractor must keep the Government informed at reasonable intervals, and upon the request of the Government, of:

- (a) the likely duration of the relevant Force Majeure Event and of its effect on the Contractor's ability to perform its obligations under the Contract;

- (b) the actions taken or proposed to be taken by the Contractor to mitigate or minimise the effects of that Force Majeure Event; and
- (c) any other matters relevant to that Force Majeure Event or the Contractor's performance affected by that Force Majeure Event.

16.3 To the extent that the performance of obligations by the Contractor under the Contract is prevented by a Force Majeure Event, the Contractor's performance of such obligations will, subject to Clause 16.4, be suspended to that extent from the date of the Suspension Notice. Notwithstanding anything in the Contract to the contrary, as soon as the Government issues a Suspension Notice to the Contractor, the Contractor must forthwith suspend the performance of the obligations to the extent specified in the Suspension Notice.

16.4 During the suspension of any obligations under Clause 16.3:

- (a) the Contractor must use its best endeavours (including incurring any reasonable expenses and re-deploying its manpower and resources) to remove or mitigate the effect of each Force Majeure Event on the Contractor's performance of the obligations under the Contract;
- (b) the Government may make alternative arrangements for the performance of any suspended obligations, whether by another person or otherwise; and
- (c) the Contractor will not be entitled to any cost, fee or charge or such pro rata portion thereof in respect of the suspended obligations for the suspended period.

16.5 As soon as the relevant Force Majeure Event has ended, the Contractor must forthwith notify the Government, or the Government may on its own, after consultation with the Contractor, by notice in writing to the Contractor, determine the appropriate date for resuming the performance of any obligations of the Contractor suspended due to the relevant Force Majeure Event ("Resumption Date"). The Contractor must immediately after the termination of the Force Majeure Event or with effect from the Resumption Date as determined by the Government in the aforesaid manner resume performance of the suspended obligations in accordance with the terms and conditions of the Contract. In the event of any disagreement between the Government and the Contractor on the appropriate Resumption Date, the Government's decision will be final in the absence of manifest error.

16.6 Should suspension of the performance by the Contractor of its obligations under the Contract persist or be likely to persist as a result of a Force Majeure Event, the Government will be entitled to terminate the Contract forthwith.

17. Confidentiality and Protection of Personal Data

17.1 The Contractor must treat as proprietary to the Government and confidential all information, documents, materials and data (including any personal particulars records and personal data (as defined in the Personal Data (Privacy) Ordinance (Cap. 486)), in whatever form or media, which the Government has for the purposes of or in the course of performing the Contract, supplied, made available or communicated to the Contractor or which may come to the Contractor's knowledge or be accessible by the Contractor in the course of carrying out the Services and all advices, recommendations, documents, materials and data given by the Contractor to the Government under the Contract ("Confidential Information").

- 17.2 Without prejudice to any other provision of the Contract, the Contractor must indemnify and keep the Government and its authorised users fully and effectively indemnified against any and all actions, damages, costs, claims, demands, expenses (including the fees and disbursements of lawyers, agents and expert witnesses) and any awards and costs which may be agreed to be paid in settlement of any proceedings and liabilities of any nature arising from or incurred by reason of:
- (a) a breach of confidence (whether under the Contract or general law) by the Contractor or any of its employees, agents or sub-contractors;
 - (b) any actions or claims made in respect of information subject to the Personal Data (Privacy) Ordinance, which action and/or claim would not have arisen but for the act, negligence or omission of the Contractor or any of its employees, agents or sub-contractors in connection with the performance of the Contract; and
 - (c) any act done or omission in the performance of the Contract that contravenes the Unsolicited Electronic Messages Ordinance (Cap. 593).
- 17.3 The Contractor must use the Confidential Information solely for the purposes of the Contract. The Contractor must not, at any time whether during the Contract Period or after the expiry or termination (howsoever occasioned) of the Contract, use (or allow to be used) the Confidential Information for any other purposes without the Government's prior written consent.
- 17.4 The Contractor must not disclose the Confidential Information to any third parties except where such disclosure is made to any person employed, used or engaged by the Contractor in performing the Contract in circumstances where such disclosure is necessary in the reasonable opinion of the Contractor for the performance of the Contractor's duties and obligations under the Contract, provided that the Contractor has imposed on the said person employed, used or engaged an absolute and legally binding obligation to the Contractor to refrain from disclosing the Confidential Information to a third party.
- 17.5 The Contractor undertakes to take all necessary measures for the protection of the Confidential Information and to prevent any unauthorised disclosure or leakage of the Confidential Information.
- 17.6 The Contractor must comply with any disclosure restrictions and conditions of use of the Confidential Information as may be stipulated by the Government from time to time.
- 17.7 The Contractor must ensure that each of its employees, agents, sub-contractors, and any other persons involved in the performance of the Contract are aware of and comply with the provisions of this Clause 17 and the Official Secrets Ordinance (Cap. 521).
- 17.8 The provisions of this Clause 17 will survive the expiry or termination of the Contract and will continue in full force and effect notwithstanding such expiry or termination.

18. Relationship of the Parties

The Contractor enters into the Contract with the Government as an independent contractor only and nothing in the Contract will create a contract of employment, a relationship of agency or partnership, or a joint venture between the Government and the Contractor. Unless otherwise expressly provided for in the Contract, neither party is authorised to act in the name of, or on

behalf of, or otherwise bind the other party.

19. **Assignment and Sub-Contracting**

- 19.1 Unless otherwise provided for in the Contract, the Contractor must not, without the prior written consent of the Government, assign, transfer, sub-contract or otherwise dispose of any of its interests, rights, benefits or obligations under the Contract.
- 19.2 If the Contractor proposes to appoint any sub-contractor, it must submit the proposed sub-contract to the Government for approval. The Government reserves the right to determine the terms and conditions of the sub-contract before granting any permission for sub-contracting. A certified copy of the sub-contract must be deposited with the Government within seven (7) days after the effective date of the sub-contract.
- 19.3 The Contractor must remain fully liable and must not be relieved from any of its obligations hereunder by entering into any sub-contract for the performance of any part of the Contract and the Contractor must be responsible for the acts, defaults or neglect of any sub-contractor, its employees and agents.
- 19.4 Without prejudice to any other rights, actions or remedies available to the Government, the Contractor must ensure that any default on the part of its sub-contractor(s) must be readily remedied.

20. **Entire Contract**

- 20.1 The Contract constitutes the whole agreement between the parties thereto and supersedes any previous agreements or arrangements between them relating to the subject matter hereof. The Contractor acknowledges that in entering into the Contract, it has not relied on any statements, warranties or representations given or made by the Government.
- 20.2 All of the provisions of the Contract must remain in full force and effect notwithstanding the completion of the Services (except insofar as those obligations which have been fully performed).

21. **Severability**

If any provision of the Contract is found by any authority or court of competent jurisdiction to be illegal, invalid or unenforceable, such illegality, invalidity or unenforceability must not affect the other provisions of the Contract, all of which must remain in full force and effect.

22. **Waiver**

- 22.1 No failure, delay, forbearance or indulgence by any party to the Contract to exercise any right, power or remedy available to it under the Contract or at law or in equity must operate as a waiver thereof; nor must any single or partial exercise of the same preclude any other or further exercise thereof or the exercise of any other right, power or remedy. A right or a remedy of each party under the Contract will be cumulative and not exclusive of any other rights, power or remedies provided by the Contract, at law or in equity. Without limiting the foregoing, no waiver by any party of any breach by the other party of any provision hereof will be deemed to be a waiver of any subsequent breach of that or any other provision

hereof.

22.2 Without prejudice to the generality of Clause 22.1, any right of termination of the Contract or any other right, power or remedy of whatsoever nature conferred upon the Government under the Contract will be exercisable by it in addition to and without prejudice to any other rights and remedies available to it under the Contract or at law (and, without prejudice to the generality of the foregoing, will not extinguish any right to damages to which the Government may be entitled in respect of the breach of the Contract) and no exercise or failure to exercise a right of termination will constitute a waiver by the Government of any other right, power or remedy.

23. **Contracts (Right of Third Parties) Ordinance**

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

24. **Notices**

24.1 Each notice, demand, correspondence or other communication given or made under the Contract by a party must be in writing and delivered or sent to the other party at its postal address, facsimile number or email address set out below (or such other postal address, facsimile number or email address as the addressee has by not less than seven (7) working days' prior written notice specified to the other party).

To the Contractor: At the address, facsimile number or email address as specified in the "Offer to be Bound".

To the Government: Nature Reserve Division
Agriculture, Fisheries and Conservation Department
6/F Cheung Sha Wan Government Offices
303 Cheung Sha Wan Road
Cheung Sha Wan, Kowloon
Fax No.: 2314 2802
Email: ws_chow@afcd.gov.hk
Attention: Senior Nature Reserve Officer

24.2 Such notices, demands, invoices, correspondence or other communications must be addressed as provided in Clause 24.1 and, if so addressed, will be deemed to have been duly given or made as follows:

- (a) if sent by personal delivery during normal business hours on a working day, upon delivery at the address of the relevant party;
- (b) if sent by post, four (4) days (for any place in Hong Kong) and seven (7) days (for any place outside Hong Kong) after the date of posting;
- (c) if sent by facsimile during normal business hours on a working day, when despatched with confirmed receipt as evidenced by the transmission report generated at the end of the transmission of such facsimile by the facsimile machine used for such transmission;

- (d) if sent by email, when actually received in a form readable by an individual.

25. **Governing Law**

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

26. **Occupational Safety and Health**

26.1 The Contractor must comply with the Government Representative's prevailing policies, guidelines and procedures safeguarding occupational safety and health of staff deployed at the Service Area. The Contractor must ensure that whenever it is so required, comprehensive assessment and management of risks to occupational safety and health of the staff deployed at the Service Area will be undertaken. Based on such assessment, adequate measures must be taken to guard against such risks. The Contractor must provide experienced supervisory staff to give proper training, supervision and instructions to its staff. The Contractor must ensure that all staff deployed to execute the Services:-

- (a) are properly trained, competent and efficient in carrying out the duties as stipulated in the Service Specifications;
- (b) must be fully aware of any potential risks that may exist through the undertaking of their duties and follow policies and guidelines that may be in force from time to time concerning occupational safety and health;
- (c) take all reasonable steps to ensure their safety, and the safety of others, in the discharge of their duties;
- (d) must report all incidents and dangerous occurrences to the Government Representative; and
- (e) are provided with uniforms made of dry-fit fabric with moisture management treatment, of who need to undertake outdoor work in summer. The fabric must be thin knitting fabric providing good water vapour permeability and ultraviolet protection function. The shirt shall be light-coloured and loose-fitting.

26.2 If the Contractor fails to comply with Clause 26.1 or with the reasonable requests of the Government Representative, it may be asked to vacate the Service Area and other government premises pending an inquiry to be conducted by the Government Representative.

26.3 If the Contractor fails to comply with Clause 26.1 or fails to achieve any applicable safety standards, it may be debarred from participating in future tender/quotation exercises of the Government.

27. **Warranties and Representations**

27.1 The Contractor warrants, represents and undertakes that:

- (a) the Contractor and its sub-contractors, their employees and agents must have the necessary training, skill, experience, qualifications, licenses, and expertise to provide the Services on the terms and conditions set out in the Contract;
- (b) the Contractor must carry out the Services with all due diligence and in a timely, safe, proper, skillful and workmanlike manner;
- (c) the Services must conform in all respects to the Service Specifications and conditions under the Contract;
- (d) it must not employ any illegal workers or to allow the staff to bring unauthorised workers, e.g. family members, especially children, to carry out its obligations under the Contract;
- (e) the Contractor has full power, capacity and authority to enter into the Contract and to perform its obligations under the Contract;
- (f) the Contract constitutes valid, legally binding obligations of the Contractor enforceable in accordance with its terms;
- (g) all authorisations, approvals, consents, licences, exemptions and other requirements of any governmental, administrative or other authority or body in any relevant jurisdiction which are required to authorise the Contractor to execute, deliver and perform the Contractor's obligations under the Contract (including where its procedures so require, the consent of its parent company) have been duly and unconditionally obtained and are in full force and effect and the use of the Services by the Government will not contravene any applicable laws;
- (h) all information supplied, and statements and representations made by or on behalf of the Contractor in or in relation to its Tender and the Contract are true, accurate and complete;
- (i) no claim is being made and no litigation, arbitration or administrative proceeding is presently in progress, or to the best of the Contractor's knowledge and belief, pending or threatened against it or any of its assets which will or might have a material adverse effect on its ability to perform its obligations under the Contract;
- (j) it is not subject to any contractual obligation, compliance with which is likely to have a material adverse effect on its ability to perform its obligations under the Contract;
- (k) no proceedings or other steps have been taken and not discharged (nor to the best of its knowledge, are threatened) for the winding up of the Contractor or for its dissolution or for the appointment of a receiver, liquidator, manager or similar office in relation to any of the Contractor's assets or revenue;
- (l) it owns, has obtained and is able to obtain, valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract;
- (m) it has not done or omitted to do anything which could have a material adverse effect on its assets, financial condition or position as an ongoing business concern or on its ability to fulfil its obligations under the Contract; and

- (n) it is not allowed to deduct wages unlawfully, e.g. fees/costs for name badges, uniform, tools, training and consumables etc. or to deduct any staff's wages to recover any Contract sum deducted by Government for unsatisfactory contract performance.

- 27.2 The warranties, representations and undertakings, expressed or implied, contained in this Clause and other provisions of the Contract (collectively, "Warranties" and each, a "Warranty") are true without limitation in time.
- 27.3 Each of the Warranties is separate and independent and without prejudice to any other Warranty, and is not limited by reference to or inference from any other Warranty or any other provision of the Contract.
- 27.4 Unless otherwise expressly excluded from or provided to the contrary in the Contract, the rights, duties and liabilities imposed on a service provider and the rights conferred on the party contracting with the service provider under the Supply of Services (Implied Terms) Ordinance (Cap. 457) apply to bind the Contractor and the Government respectively.

28. **Variations**

Subject to the provisions of the Contract, no waiver, cancellation, alteration or amendment of or to the provisions of the Contract will be valid unless made by an instrument in writing and duly signed by the Contractor and the Government.

29. **Government Premises**

- 29.1 The Contractor must ensure that all persons engaged by him in carrying out the Contract remain at such parts of Government premises as are necessary for the due discharge of the Contractor's obligations under the Contract.
- 29.2 Without prejudice to Clause 29.1, the Government Representative may at its sole discretion provide to the Contractor storage space and office space, in form of modular house, free of charge in the Service Area for storage of materials provided by the Contractor and handling routine administration work if such space is available.
- 29.3 The Contractor, the Contractor's Employees or agents shall use the storage space and office space provided by the Government Representative under Clause 29.2 (if any) solely for the purpose of facilitating the Contractor's performance of this Contract during the Contract Period. Any permission to use the said storage space and office space must cease upon the expiry or early termination of the Contract, or at such earlier time as may be specified by the Government Representative by fourteen (14) days' notice in writing to the Contractor.
- 29.4 The Contractor must not use any space provided to it for conducting any fee-charging activities, without the prior written consent of the Government Representative. The Government Representative reserves its right to terminate the Contract if any fee-charging, illegal or unauthorized activities are conducted by the Contractor without prior written consent of the Government Representative and the Contractor is not entitled to claim any compensation.

- 29.5 Nothing in this Contract creates any tenancy or licence of whatsoever nature in favour of the Contractor, the Contractor Personnel or agent. The Government retains the right to enter and use the storage and office space at any time without the need to obtain any consent from the Contractor.
- 29.6 The Contractor must keep the said storage space and office space clean, tidy, in reasonably good state of repairs and properly secured, as appropriate. The storage space and office space can neither be used for storage of plant debris nor dangerous goods unless exempted under the Dangerous Goods (General) Regulations (Cap. 295B). The Contractor must not erect or install any fixtures or fittings at the storage space except with the Government's prior written consent.
- 29.7 Upon the expiry or sooner termination of the Contract, the Contractor must remove, at its own expense and within such time as specified by the Government Representative, all properties, chattels, fixtures or fittings erected in the Service Area by the Contractor and to make good any damages to the Government's properties which are caused by the erection of such fixtures or fittings or their removal. If the Contractor fails to do so, the Government will be entitled to remove and dispose of any properties, chattels, fixtures or fittings left in the Service Area in any manner as deemed appropriate by the Government Representative (including sale and abandonment) without incurring any liability by the Government towards the Contractor (including the payment of any compensation to the Contractor), and to carry out works to repair any damages caused to the Government's properties by the Contractor, at no further notice. All costs, losses, damages or expenses incurred by the Government as a direct or indirect result of the breach of this Clause must be recoverable as a debt due from the Contractor.
- 29.8 The safety of any facilities, tools, materials, equipment, vehicles and other vessels used by the Contractor and brought alongside or onto Government premises must be the responsibility of the Contractor who must indemnify the Government in respect of any losses or damages to any Government premises caused by such facilities, tools, materials, equipment, vehicles and other vessels.
- 29.9 In the provision of the Services, the Contractor may be required to use machines and equipment such as tracked trolley or powered tillers. The Contractor must ensure that only properly trained, qualified and licensed staff can operate such machines and equipment and must provide safety measures to the staff during operation. Upon request, the Contractor must present documentary proof of the said qualification of the staff, such as certificates or licences, to the satisfaction of the Government Representative.

30. Contractor's Equipment, Materials and Tools

- 30.1 During the Contract Period, the Contractor must provide, install and maintain in good working order, at its own expense, all equipment, materials and tools for staff, including but not limited to those mentioned in the Service Specifications and Execution Plan for the safe, proper and efficient performance of the Services. All equipment, materials and tools must be clean, safe, of good working condition, free of excessive noise, odour or emission, and properly maintained. All equipment, materials and tools must be available for inspection and trial use by the Government Representative at any time and in such manner as the Government Representative may specify.

- 30.2 If the Government Representative is of the opinion that the equipment is inadequate or obsolete, the Contractor must repair or replace the equipment within a reasonable time, or the Government Representative may effect such repair or replacement and deduct any amount as paid by the Government Representative from any money due or which may become due to the Contractor or recover the same as a debt due from the Contractor.
- 30.3 All equipment, materials and tools used in the performance of the Services must be properly stored in locations assigned by the Government Representative after use so that they will not be unsightly or cause obstruction to the visitors of the Service Area or affect the wildlife.
- 30.4 The Government must not be liable for any loss of or damage howsoever caused to such equipment, materials, tools or vehicles used by the Contractor and brought alongside or into the Service Area or any part thereof as the case may be.
- 30.5 All chemicals and fertilisers used by the Contractor must be ecologically friendly. The Contractor must not use any chemical of corrosive or harmful nature which may cause any personal injury, injury to wildlife or property damage to Sha Lo Tung.
- 30.6 The Contractor must not use any electrical equipment in such manner that will overload the fuses in the Service Area. Particular attention must be given to the maintenance of equipment in order that it does not run below rated speed and draw excessive electricity current. Double adaptors will not be permitted.
- 30.7 The Contractor must not introduce any exotic species to the Service Area without prior written approval from the Government Representative or otherwise as specified in the Service Specifications.
- 30.8 The Contractor must ensure that all its staff, agents and sub-contractors exercise their utmost care to avoid contamination to the electrical fittings, farmland and water with chemical or agent during performance of the Services.
- 30.9 The Contractor must provide and display at its own expense warning signs and cordon off the area as appropriate, including but not limited to those bearing the words “Habitat Maintenance in Progress (生境保養進行中)”, in connection with the performance of the Services. The Contractor must take all associated safety measures to ensure the prevention of damage to Government property or property from any persons and injury to any persons.

31. **Probity**

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

- 31.2 The Contractor must inform its officers, employees (whether permanent or temporary), agents and sub-contractors that the soliciting or accepting or offering any form of advantages (as defined in the Prevention of Bribery Ordinance (Cap. 201)) is not permitted. The Contractor must also caution its officers, employees and agents and sub-contractors against soliciting or accepting any hospitality, entertainment or inducement which may impair their impartiality in relation to this Contract, or if any, the selection of and supervision of the work of its sub-contractors.
- 31.3 The Government may terminate the Contract immediately if the Contractor or any of its officers, employees, agents and sub-contractors is convicted of an offence under the Prevention of Bribery Ordinance (Cap. 201), the Theft Ordinance (Cap. 210) or the Crimes Ordinance (Cap. 200).
- 31.4 The Contractor must within two (2) weeks after the commencement of the Contract draw up and submit a staff code of conduct to the Government Representative including, among other probity issues, a statement explicitly prohibiting its sub-contractor (if any) and the Contractor's Employees from soliciting or accepting or offering any form of advantages in discharging his duties under the Contract. It must ensure that its sub-contractor (if any) and Contractor's Employees are well aware of the prohibited acts explicitly stated in Clause 31.2 and of the staff code of conduct. The code of conduct should form part of the employment contract to ensure acknowledgement and compliance by the Contractor's Employees.
- 31.5 The Contractor must inform its officers, employees (whether permanent or temporary), agents and sub-contractors to avoid and declare any actual or perceived conflict of interest when performing the Services.

32. **Disclosure of Information**

The Contractor hereby irrevocably authorises, consents and agrees that the Government may, whenever it considers appropriate or upon request by any person (written or otherwise) and without any further reference to the Contractor, disclose to any person in such form and manner as the Government considers fit:

- (a) the Services provided or to be provided by the Contractor;
- (b) the Estimated Contract Price and any other fees, cost and expense payable to the Contractor pursuant to the Contract;
- (c) the price proposal submitted prior to the date of the Contract by the Contractor to the Government in relation to the Services; and
- (d) the engagement by the Government of the Contractor under the Contract and the name and address of the Contractor and persons appointed or engaged by the Contractor to assist in the performance of the Contract.

33. **Retention of Records**

The Contractor must keep and maintain until seven (7) years after the expiry of the Contract, or such longer period as may be agreed by the parties, full and accurate records of the Contract including the Services provided under it, all expenditure reimbursed by the Government, and all payments made by the Government. If requested by the Government, the Contractor must afford

the Government or its representative access to the records as may be requested by the Government.

34. Assistance in Legal Proceedings

34.1 If and whenever requested to do so by the Government Representative, the Contractor must provide to the Government all relevant information, documents (including documentation and statements from staff) and other assistance in connection with any inquiry, investigation, arbitration, tribunal hearings or court proceedings in which the Government may become involved or any internal disciplinary hearing of the Government that arises out of or in connection with the Contract or the Contractor's presence at the Government's premises. If requested by the Government, the Contractor must arrange for relevant staff to give evidence at such inquiries, investigations, arbitrations, hearings or proceedings.

34.2 Where the Contractor or any employees, agents or contractors of the Contractor become aware of an incident, accident or other matter which may give rise to a claim or legal proceedings by a third party against the Government or the Contractor or in respect of the Contract, it must notify the Government Representative immediately in writing giving full details of such incident, accident or matter as the Government Representative may require.

35. Recovery of Sums Due

Where the Contractor has incurred any liability to the Government, whether at law or in equity and whether such liability is liquidated or unliquidated, the Government may set off, whether by way of equitable set off or at common law the amount of such liquidated liability and a reasonable estimate of the amount of any unliquidated liability, against any sum then due or which at any time thereafter may become due from the Government to the Contractor under the Contract or any other contract made between the Government and the Contractor.

36. Arrangement During Epidemic Illness

In the event of an out-break of any disease or epidemic, the Contractor shall comply with all such orders, arrangements or regulations as may be issued or imposed by the Government with a view to stamping out the same. The Contractor shall comply with any instructions issued by the Government regarding measures to be adopted to prevent or control diseases of any kind.

37. Innovative Suggestions

37.1 The Government may, at its absolute discretion, accept one or more of the Innovative Suggestions submitted by the successful Tenderer in its Tender as found in the version of the Execution Plan attached to the Memorandum of Acceptance (“Accepted Innovative Suggestions”). The Accepted Innovative Suggestions shall form an integral part of the Contract.

37.2 The Contractor warrants that it shall perform the Contract in full compliance with all Accepted Innovative Suggestions. In the event that the Contractor fails to deliver any of the Accepted Innovative Suggestions, the Contractor shall, subject to Clauses 37.3 and 37.4, pay to the Government a sum of money calculated according to the following formula as liquidated damages for EACH of such Accepted Innovative Suggestions which it fails to deliver within each 12 months of the Contract Period (“Contract Year”):

$$LD = OF \times W(T) \times \frac{M(IS)}{M(TP)} \times \frac{P(NIS)}{P(CY)}$$

where

- LD = the sum of money to be paid to the Government as liquidated damages
- OF = the sum of such portion of the Service Fee payable for the Contract Year (before any adjustment upward or downward; and before any deduction) during which the Contractor fails to comply with the relevant Accepted Innovative Suggestion
- W(T) = the weighting, expressed as a percentage, of the technical assessment in the overall marking scheme
- M(IS) = the marks that would be given to one (1) Innovative Suggestion in accordance with the marking scheme (regardless of whether marks are actually given to the relevant Accepted Innovative Suggestion that the Contractor fails to deliver) (viz, 5 marks for Innovative Suggestion Type I and 1 mark for Innovative Suggestion Type II)
- M(TP) = the maximum technical marks for the Technical Proposal in the marking scheme (viz., 88 marks)
- P(NIS) = The duration where the subject Innovative Suggestion is not delivered during the Contract Year
- P(CY) = The duration where the subject Innovative Suggestion should be in place in the Contract Year

The amount calculated in accordance with the above formula represents a reasonable sum proportionate to the Government’s legitimate interest in the enforcement of the relevant Accepted Innovative Suggestion.

37.3 For any given point of time within the Contract Period, the number of Accepted Innovative Suggestions which the Contractor fails to deliver and upon which liquidated damages are payable under Clause 37.2 shall not exceed the maximum number of Innovative Suggestions to which marks could be awarded to a tenderer in the tender evaluation process (viz., 3 for Innovative Suggestions Type I and 3 for Innovative Suggestions Type II).

- 37.4 The aggregate amount of liquidated damages payable pursuant to Clause 37.2 for the whole of the Contract Period may not exceed 15 per cent of the Estimated Contract Price (before any adjustment, upward or downward).
- 37.5 The liquidated damages payable pursuant to Clause 37.2 shall be deducted from the next instalment of the Service Fee payable upon issue by the Government's notification for such non-compliance. In the event that the non-compliance occurs in the last Contract Year of the Service Period, the deduction will be made from the last instalment or from the Contract Deposit.

38. **Order of Precedence**

- 38.1 In the event of, and only to the extent of, any conflict or inconsistency amongst or between any provisions of the Contract, the following order of precedence must be applied, but only in so far as is necessary to resolve that conflict or inconsistency:
- (a) the Conditions of Contract;
 - (b) the Service Specifications;
 - (c) the Terms of Tender;
 - (d) the Interpretation;
 - (e) the Contract Schedules;
 - (f) other Tender Documents which forms part of the Contract; and
 - (g) any other materials which were submitted by the Contractor as part of its Tender and attached to the Contract.
- 38.2 The Materials are items to be prepared and/or supplied by the Contractor pursuant to requirements of the Contract. They must form part of the Contract. Notwithstanding, unless the Parties agree in writing in the manner specified in Clause 28 of the Conditions of Contract, no Materials must seek to waive, alter, cancel or amend any provisions of any documents listed in Clause 38.1 above. No general approval of, or signature by, the Government of any such Material must be taken as agreement or approval of any such waiver, cancellation, alteration or amendment, unless the Government expressly acknowledges and agrees on a case-by-case basis to this effect. This must apply even if any such Material is signed or given approval after the Date of Tender Acceptance.

PART 3

SERVICE SPECIFICATIONS

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SERVICE SPECIFICATIONS

Section 1 Background and Objective

1. Background

- (a) Sha Lo Tung (SLT), an upland valley surrounded by Pat Sin Leng Country Park as an enclave, is identified as one of the twelve Priority Sites for enhanced conservation in view of its high ecological significance under the New Nature Conservation Policy (NNCP) promulgated in 2004. Since 2018, Green Power has been restoring and enhancing wetland habitats in SLT through Management Agreement by conducting habitat management work, ecological surveys and preventive measures against vandalism. After the non-in-situ land exchange has recently been completed in 2022, AFCD will implement the conservation work at Sha Lo Tung in order to promote long-term conservation management of the ecologically significant habitats in SLT.
- (b) The area of SLT covered by the approved SLT Outline Zoning Plan (OZP) (No. S/NE-SLT/4) consists of streams and riparian habitats, abandoned wet and dry agricultural lands, natural marshes and artificial wetlands, grasslands, shrublands, secondary woodlands and fung shui woods. The land of high ecological importance largely falls on land currently zoned "Conservation Area", "Site of Special Scientific Interest" and "Green Belt" on the OZP (Figure 1 in Annex F).
- (c) Ecologically Important Stream (EIS) at SLT supports a high diversity of dragonfly, freshwater fish and amphibian species. Being an important breeding site for some of the rare odonates and amphibians, the natural stream courses and associated riparian habitat are designated as SSSI zone in the SLT OZP for conservation of the dragonflies alongside other aquatic wildlife. It is important to protect and maintain these habitats by controlling the spread of invasive alien species, poaching and human disturbances.
- (d) In order to enhance the habitat diversity, appropriate management of the wetland habitats restored from old abandoned paddy fields including the rain-fed eco-pond and restored marshes in the Intensive Wetland Management Zone are essential (see Figure 2 in Annex F for map).
- (e) The SLT also faces invasion by invasive alien species including Mikania and Apple Snail which adversely impact native species. It is critical to control them regularly and timely to avoid the spreading of the species.

2. Objective

The Contractor shall carry out habitat management and ecological monitoring services at SLT, so as to maintain and enhance the diversity and quality of habitats, flora and fauna at SLT according to the standards described below. In addition, the Contractor should also conduct patrol and surveillance monitoring against illegal activities e.g. poaching in SLT. Furthermore, the Contractor shall conduct public education programmes to raise public awareness on the importance of the ecological value of SLT.

3. Service Area

- (a) The conservation management work under this Contract will be carried out within the area covered by SLT OZP which is shown in Figure 1 in Annex F (the “Service Area”).
- (b) The Contractor shall intensively manage around 6 ha of habitats in the Intensive Wetland Management Zone and around 17 ha of Riparian Zone with a view to maintaining and enhancing the overall ecological value of SLT, and to provide foraging, roosting and breeding habitats for odonates, amphibians, and other wetland-associated species. For the Woodland Management Zone and Buffer Zone, the Contractor shall manage the vegetation to avoid the spread of invasive alien floral and faunal species.

Section 2 Staffing Requirements and Performance

- (a) All requirements concerning the minimum number, experience and qualifications of the Staff as set out in Annex A shall be deemed incorporated herein but if any proposal or specification set out in Contract Schedule 3 exceeds such requirement, Contract Schedule 3 shall prevail. All nominees specified in Contract Schedule 3 shall be employed on a full-time basis throughout the Contract Period to perform the Services and shall not be replaced unless with the prior written approval of the Government. References in Annex A to “Original Tender Closing Date” shall mean the date of proposed replacement in the case of any nominee proposed in Schedule 3 is proposed to be replaced by another person.
- (b) If the Contractor needs to suspend its duties during the period under inclement weather conditions e.g. when tropical cyclone signal No. 8 or above is hoisted or when black rainstorm warning is issued or when “extreme conditions after super typhoons” is announced by the Government, the Contractor shall resume duty within two hours after the lowering of tropical cyclone signal No. 8 or above, or after the black rainstorm warning or “extreme conditions after super typhoons” has been cancelled.
- (c) Owing to seasonality, typhoon, inclement weather and other special events, the amount of management work may vary. The Contractor must make necessary allowance and provide adequate resources to cope with the amount of increased / reduced work. These must include but not be limited to an increase in effort in replanting, adjusting water inlets/outlets to pond and marshes, as the Government Representative may direct from time to time. The Contractor must not be entitled to any additional payment in respect of these services.
- (d) The Contractor must provide any other information and documentation as may be requested by the Government Representative relating to the deployment of manpower for the provision of the Services.

- (e) The Contractor must not deploy any person other than the person approved by the Government Representative prior to the commencement of the Contract Period to discharge the duties of a Contract Manager as set out in this Contract. The Contract Manager must be in charge of the performance of the Services and must have the full authority to act on behalf of the Contractor, including the authority to make all decisions for the Contractor regarding the provision of the Services and to receive instructions from the Government Representative. The Contract Manager must be the sole contact point in all communications and exchanges with the Government and must be responsible for receiving instructions from the Government Representative. The Contract Manager must be contactable and available to receive the Government's instructions at all times during the Contract Period. If the Contract Manager resigns or for whatever reasons that he could no longer execute his duties, the Contractor must immediately assign a replacement and inform the Government Representative for the Government's approval.
- (f) The Contract Manager must:
- (i) act and respond promptly to any instructions given or queries made by the Government Representative;
 - (ii) be contactable by mobile phone at all times during the Contract Period;
 - (iii) upon being requested by the Government Representative, accompany the Government Representative to the locations specified by the Government Representative to inspect the performance of the Services;
 - (iv) give proper training, supervision and guidance, including but not limited to identifying common exotic species in fields, to the staff in performing the Services;
 - (v) attend meetings convened by the Government Representative to which he may be summoned, including regular monthly meetings, and must advise on all matters relating to the provisions of the Services, including its performance, progress of work and any improvement/ mitigation measure(s) taken, under this Contract at no extra cost.
 - (vi) prepare and submit the notes of meeting within five (5) working days after each meeting to the Government Representative.
- (g) Without prejudice to any other provisions of this Contract, the Contract Manager must:
- (i) conduct checks at the Service Area at such frequency as agreed by the Government Representative and record the findings of his checks in a record book;
 - (ii) provide the record book for the Government Representative's inspection whenever requested by the Government Representative;
 - (iii) if required by the Government Representative, attend and participate in meetings arranged by the Government Representative in relation to the Services (including meeting with any persons, groups or associations specified by the Government Representative to resolve complaints or discuss any aspect of the Services); and
 - (iv) if required by the Government Representative, prepare a written report on any aspect of the Services within a timeframe as instructed by the Government Representative.
- (h) The Contractor shall employ skilled and knowledgeable staff that are trained and suitable to complete the tasks as required in Section 3. The Contractor shall also provide sufficient staff to implement the tasks set out these Service Specifications and those listed in the Inception Report approved by the Government during the Contract Period. The team shall include at least three (3) Skilled Workers each of whom shall possess plant identification knowledge, and has been trained for operating hand and mechanical grass cutting tools, and has at least one (1) year of relevant working experience in wetland vegetation management or landscaping.

- (i) The Contractor shall be responsible for any necessary transportation (e.g. vehicle) of its Staff and equipment from and to the site at its own expenses for them to complete the tasks as required.
- (j) The Contractor must collect all litter and unwanted materials generated in an environmentally friendly manner as instructed by the Government Representative and remove and dispose all litter and unwanted materials properly in bags (to be supplied by the Contractor) or approved containers immediately, except those recyclables collected. The bags for collecting the litter and unwanted materials that the Contractor used must be made of bio-degradable materials. The Contractor must sort/ place all recyclables properly into appropriate approved containers or bags.

Section 3 Habitat Management, Ecological Monitoring and Related Services

1. General Principles

- (a) The Contractor shall carry out the tasks as specified in these Service Specifications either throughout the Contract Period or for such quantities as stated in Part A of the Price Schedule depending on the stipulation in the Price Schedule. In the event of any inconsistency between these Service Specifications and the Price Schedule in terms of quantity, the latter shall prevail.
- (b) The Contractor is required to adopt an adaptive approach in managing the habitats of the SLT with a view to maintaining and enhancing the habitats and biodiversity particularly enriching groups of target species of conservation concern (i.e. dragonflies, amphibians and fish).
- (c) At any time during the Contract Period, the habitat management work of the Contractor must be subject to inspection by the Government Representative. Based on the results of the inspection, the Government Representative may provide instructions to the Contractor on the management regime of specific plots or habitat types, irrespective of the Inception Report. The Contractor must also closely monitor its performance in various habitats to meet the requirement of Services. In case irregularities are identified, such as pests and diseases, damaged bunds, etc., the Contractor must take mitigation measures within five (5) working days or the timeframe to be specified by the Government Representative.

2. Description and Objectives of different Management Zones

The Contractor shall be responsible for management work within the following four Management Zones (see Figure 2 in Annex F): (1) Intensive Wetland Management Zone, (2) Riparian Zone, (3) Woodland Management Zone and (4) Buffer Zone. The three Village Zones stipulated under the approved SLT OZP and the Agriculture Zones (see Figure 2 in Annex F) will be excluded from the Service Area of this Contract.

| | |
|--|---|
| <p>Intensive Wetland Management Zone (~6ha)</p> | <p>The Intensive Wetland Management Zone consists of (a) an eco-pond, (b) two parcels of restored marshes on the northeast of Cheung Uk, (c) natural marshes south of Cheung Uk, west of Lei Uk Lo Wai as well as in the southwestern part of SLT (see Figure 2 in Annex F). The core functions of this zone are storing water from natural precipitation and nearby natural streams and marshes together with enhancing heterogeneity of wetland habitats for freshwater-dependent species such as odonates, amphibians, and so on. The Contractor shall manage the water level and vegetation to maintain an open water habitat in the eco-pond and marshy habitat in the restored marshes for dragonflies and amphibians.</p> <p>The Contractor shall monitor and manage the spread of invasive alien species by manual selective removal to alleviate the habitat degradation in the restored and natural marshes in this zone.</p> |
| <p>Riparian Zone (~17ha)</p> | <p>Three Ecologically Important Streams (EIS) with the riparian area fall within the SSSI Zone in SLT which are important habitats and breeding ground of numerous wildlife such as butterflies, dragonflies, amphibians and birds.</p> <p>The Contractor shall control the spread of invasive alien species along the streams and the fringe of marshes by active removal as agreed by the Government Representative. The Contractor shall also conduct camera surveillance and other measures against poaching or habitat destruction.</p> |
| <p>Woodland Management Zone (~10ha) and Buffer Zone (~19ha)</p> | <p>The Contractor shall control the spread of invasive alien species along the woodland fringe of the Woodland Management Zone and within Buffer Zones by regular removal as agreed by the Government Representative.</p> |

3. Key Tasks and Specifications

I. Habitat Management Work in Intensive Wetland Management Zone (IWMZ)

Eco-pond and restored marshes (around 1.2ha) (refer to Figure 3a in Annex F)

Bund maintenance and Water control

- (a) The eco-pond and restored marshes in IWMZ are fed by natural precipitation and two irrigation ditches connecting to nearby natural stream and marsh. Water supply into IWMZ depends on the natural hydro-periods and weather condition. The Contractor should propose a water abstraction protocol to be agreed by the Government to ensure proper use of water resources, and a water reservation plan to maintain the ecological baseline in IWMZ in case of prolonged dry weather occurs.
- (b) The Contractor should maximise the heterogeneity of habitats by planting different suitable plants and adopt appropriate management approaches, and maintain appropriate water levels for different growth stages of plants.
- (c) All existing bunds of the eco-pond and restored marshes should be maintained and vegetation control should be carried out whenever necessary. If a bund is damaged, the Contractor must repair it within seven (7) working days. No external soil or mud should be used unless approved by the Government Representative.
- (d) The Contractor shall inspect all water control facilities (including water pipes across the earth bunds and open irrigation ditches; refer to Figure 3b in Annex F for layout illustration) and desilt where needed to maintain a free flow of water in the eco-pond and marshes. The Contractor shall monitor weekly and control water level in the eco-pond and marsh M2 by adjusting inlets and outlets of water control structures according to the water abstraction protocol to be agreed with the Government Representative. The Contractor shall also inspect and prevent accidental trapping of fauna inside the open irrigation ditches.

Control of Invasive Alien Species

- (e) Invasive alien species that are commonly encountered in this zone include *Mikania micrantha* (Mikania), *Ipomoea cairica* (Cairo Morning Glory) and Apple Snail (mainly in the eco-pond and restored marshes). The Contractor must closely monitor the distribution and abundance of any invasive alien species in IWMZ and formulate a strategic plan for removal to be agreed by the Government Representative. In case invasive alien species are found, the Contractor must take appropriate physical control. The distribution and abundance of invasive alien species within the zone shall be monitored and reported monthly to the Government Representative in order to determine if attendance requires adjustment.
- (f) Invasive alien plant species shall be removed four (4) times each year of the Contract Period, with three (3) rounds of vegetation control to be carried out during wet season (April – October) and one (1) round during dry season (November – March). All sites selected for clearance shall be revisited and any re-growth of Mikania (non-flowering stems) be removed immediately.
 - i. Mikania must be cleared manually by slashing it with hand tools or mechanically by using a brushcutter. The stem should be cut off as close to the ground as possible and the aerial part should be removed, packed in bag and disposed of properly. The clearance of Mikania must be performed before its fruiting period to prevent further spreading. For sections hanging on trees or structures, the aerial part shall

- be cut and cleared to about 3 metres from ground level, by hand or hand-held tools as approved by the Government Representative, and the roots shall be manually pulled out. The “Nature Conservation Practice Note No. 01 – Clearing Mikania” promulgated by the AFCD must be observed on the clearance of Mikania.
- ii. Cairo Morning Glory (*Ipomoea cairica*) must be hand-picked or slashed with hand tools. The stem should be cut off as close to the ground as possible and the aerial part should be removed, packed in bag and disposed of properly.
- (g) The Contractor shall strategically control the Apple Snails in the eco-pond and restored marshes so as to effectively reduce the spread of this invasive alien species in SLT. The Contractor shall prepare a removal strategy with removal schedule and manpower allocation to be agreed by the Government. Adults and eggs of Apple Snails shall be removed manually once it is found. At least eighty (80) man-days should be allocated for monitoring and removal of Apple Snails per year of the Contract Period. Where necessary, lime powder or camellia seed powder can be applied in the water with all safety precautionary measures adopted, but these measures must be avoided during the breeding season of amphibians. Collected Apple Snails and their eggs shall be disposed properly. The estimated weight of Apple Snails removed each month shall be reported.
 - (h) The Contractor must ensure that its staff wear proper personal protective gears throughout the action of control as necessary.

Vegetation Management

- (i) Vegetation management within the eco-pond and restored marshes as well as on the earth bunds shall be conducted four (4) times each year of the Contract Period, with three (3) rounds to be carried out during wet season (April – October) and one (1) round during dry season (November – March).
- (j) The Contractor shall manage and control the emergent vegetation within the eco-pond to maintain an open water habitat suitable for odonates (of at least 75% open water). The vegetation within the restored marshes M2 and M3 shall also be managed and controlled to maintain marshy habitat suitable for dragonflies, birds and amphibians.
- (k) The Contractor shall maintain, cultivate or plant a variety of species and ensure that the total vegetation coverage will be at least 50% of each marsh cell in M2 and M3. The Contractor shall provide a detailed planting and maintenance plan in the Inception Report to be agreed with the Government Representative.
- (l) The Contractor shall control the vegetation (in water as well as on earth bunds) by physical cutting and selective hand-picking as agreed by the Government Representative prior to the start of the work. No chemical or fire shall be used for vegetation clearance, weeding operation or disposal of any cut materials such as undergrowth, leaves, grass and small branches.
- (m) Planting of native floral species should be conducted to enhance conservation value of the zone by enriching microhabitats or minimising human disturbances from adjoining hiking footpath. The Contractor shall provide a detailed planting and maintenance plan in the Inception Report to be agreed with the Government Representative.
- (n) All seedlings and tools shall be supplied by the Contractor and the Contractor shall ensure adequate quarantine and clear of invasive species. Aquatic plants could be transplanted from local colonies within the Service Area subject to agreement by the Government Representative and details shall be elaborated in the Inception Report. List of plants that can be considered include but are not limited to *Boehmeria nivea*, *Floscopa scandens*, *Cyperus spp.*, *Persicaria spp.*

- (o) The Contractor may enhance the biodiversity of SLT by creating or providing suitable device or setting such as dragonfly perches and nest boxes as agreed by the Government Representative.

Natural marshes (around 5.5ha) (refer to Figure 3a in Annex F)

- (p) Invasive alien species that are commonly encountered in the natural marshes in IWMZ include *Mikania micrantha* (Mikania) and *Ipomoea cairica* (Cairo Morning Glory). The Contractor must closely monitor the coverage of invasive alien species in the key natural marshes and formulate a strategic plan for appropriate physical control to be agreed by the Government Representative.
- (q) Two (2) rounds each year of the Contract Period of alien species control work shall be conducted in the wet season (April – October) to minimize the habitat disturbance. The coverage of invasive alien species in these natural marshes shall be reported to identify key removal areas and agreed by the Government Representative at least one week before the commencement of actual vegetation control work. Areas of vegetation control shall be revisited regularly to check if there is any re-growth of invasive alien species.
- (r) In case transplantation of wetland plants is found necessary to restore the habitat, the Contractor must provide a detailed work plan in the Inception Report to be agreed by the Government Representative before implementation.
- (s) The Contractor must ensure that its staff wear proper personal protective gears throughout the action of control as necessary.

II. Vegetation Management Work Outside IWMZ

- (a) Control of invasive alien plants:

- (i) Woodland Management Zone (WMZ), Buffer Zone (BZ) and Riparian Zone (RZ) (a total of about 3,000m in length; see Figure 4 in Annex F)

Invasive alien species in WMZ, BZ and RZ (exclude 3 metres from each side of stream water surface) (mainly *Mikania micrantha* and *Ipomoea cairica*) shall be removed along the fringe area four (4) times each year of the Contract Period. Three (3) rounds of vegetation control shall be carried out during wet season (April – October) and one (1) round during dry season (November – March). All sites selected for clearance shall be revisited to remove any re-growth of *Mikania* (non-flowering stems). The removal methodology of *Mikania micrantha* and *Ipomoea cairica* shall follow Clause 3I(f)(i) – (ii).

- (ii) Within streams and a 3m-wide embankment on each side of the stream in Riparian Zone (RZ) (a total of about 2,160m in length, see Figure 5 in Annex F)

Selected sections in the streams shall be cleared of invasive alien plants, mainly *Mikania micrantha* and *Hydrocotyle ranunculoides*. To minimise the disturbance during the breeding season of odonates as well as Hong Kong Newt, the removal in these areas shall be done in March only and the dates of work shall be agreed by the Government Representative. *Mikania micrantha* and free-floating, emergent and submerged parts of *Hydrocotyle ranunculoides* in the stream and within 3 metres from the edge of the water shall be picked by hand or slashed by hand-held tools. The stem should be cut off as close to the ground as possible and the aerial part should be removed, packed in bag and

disposed of properly. The removal methodology of *Mikania micrantha* shall follow Clause 3I(f)(i) – (ii).

- (iii) Planting of native floral species may be conducted on selected areas in the Buffer Zone and at the fringe of the Woodland Management Zone to enhance conservation value of SLT by enriching microhabitats and alleviating further spread of invasive exotic species. The Contractor shall provide a detailed planting and maintenance plan in the Inception Report to be agreed with the Government Representative.

(b) Maintenance of fire breaks:

- (i) In order to reduce fire risk, fire breaks shall be created at specific graveyards and urn shelters in SLT (a total of about 500 square metres in area; see Figure 6 in Annex F for location of graveyards and urn shelters).
- (ii) The Contractor shall cut grasses, vines and undergrowth around shrubs/trees within around 3m surrounding the concrete part of the graveyards or urn shelters, which shall be cut to within approximately 25mm from the ground level on slope or flat ground as directed by the Government Representative. All trees/shrubs over 0.5m high within the area shall be retained within the area if not otherwise directed by the Government Representative.
- (iii) All cut materials from the area should be raked up and removed and cut materials such as grass, vines and undergrowth should be disposed of in a suitable location as agreed by the Government Representative.
- (iv) Grass cutting for firebreaks shall be conducted two (2) times each year of the Contract Period, one week before Ching Ming Festival (i.e. late March) and one week before Chung Yeung Festival (i.e. late September).

(c) Maintenance of access:

- (i) The Contractor shall remove trash and manage grasses and other vegetation along the footpaths or access paths to maintain access for ecological surveys and public use (see Figure 7 in Annex F). Grass cutting for these footpaths shall be conducted six (6) times each year of the Contract Period, four (4) times in wet seasons (April – October) and twice (2) in dry season (November – March).
- (ii) All grass, vines and weed should be cut to within approximately 50mm from ground level at a width of 0.3m along both sides of all footpaths except “Footpath 2” as shown in Figure 7 in Annex F (i.e. “Footpath 1”, “S1 Footpath” and “Tai Po Country Trail”, a total length of about 1,900m). Hanging branches and undergrowth to a height of 2m, measuring vertically from ground within 0.5m from both sides of the path shall be cleared.
- (iii) For “Footpath 2” (see Figure 7 in Annex F), all grass, vines and weed should be cut to within approximately 50mm from ground level at a width of 3m along the existing mud track (a total length of about 430m). Hanging branches and undergrowth to a height of 2m measuring vertically from ground and within 0.5m from both sides of the path shall be cleared.
- (iv) All cut materials from the area shall be swept to spread evenly over the cut area immediately after cutting and if considered necessary by the Government Representative, shall be bagged and properly disposed of.
- (v) Grass growing around trees and shrubs shall be cut using nylon-cord rotary machines or other appropriate machines, or manually, and care shall be taken not to damage the plants nearby.

- (vi) All grass cutting machines used shall be installed with suitable protective guards of approved materials to eliminate splinters and flung-off objects. Under no circumstances shall the protective guards be removed from grass-cutting machines in operation. Rotary blade machines both hand-held and wheeled shall not be used or operated without approved guards or with inadequate, damaged or wrongly/poorly-fitted guards. The Government Representative reserves the right to direct the immediate removal of such unsafe machines from work sites and any subsequent monetary claim to the Contractor concerned in case of its delay in completion of Services due to consequence of such removal of machines shall be to the Contractor's disadvantage and liability.
- (vii) The Contractor shall be responsible to take every safety precaution to eliminate danger to its workmen, the general public and property of others.
- (viii) The Contractor shall at all times ensure that its Staff wear safety boots, goggles and reflective safety vests whenever they are operating grass-cutting machines.
- (ix) All rare plant species of any size and habitats for wildlife shall be observed for protection and retained by reporting to the Government Representative before continuation of work.

III. Habitat Mapping and Ecological Monitoring

Habitat Mapping

- (a) In order to monitor the habitat changes and provide baseline data for management decision, the Contractor shall produce aerial photographs using Unmanned Aircraft System (UAS) and produce two (2) orthophotos covering the whole Service Area in SLT each year of the Contract Period, one in wet season (April – September) and one in dry season (October – March).
- (b) Based on the aerial photos taken by UAS, the Contractor shall conduct ground truthing to delineate habitats within the area. Field visits shall be conducted during the wet season (April – September) each year of the Contract Period.
- (c) Then the Contractor shall produce one (1) habitat map of the Service Area showing different types of habitats and calculating their respective areas. Wetland habitats shall be identified (e.g. streams, marshes, ponds, etc.).
- (d) Detailed survey methodology (including the type of UAS to be used for taking aerial photographs, the flight plan, and compliance of relevant ordinance and safety guidelines, so on) and ground truthing shall be elaborated in the Inception Report to be agreed with the Government Representative.
- (e) The Contractor shall also take safety measures as appropriate to prevent any personal injury or property damage. The UAS pilot must be in possession of documentary evidence from the pilot's insurance company that the UAS carry appropriate insurance cover.

Ecological Monitoring of Representative Habitats

- (f) The Contractor shall conduct a series of flora and fauna surveys in SLT as specified below covering all habitat types in SLT (i.e. the whole Service Area). The frequency for each taxa group is tabulated as below. Detailed survey methodology and transects shall be elaborated in the Inception Report to be agreed with the Government Representative.

| Taxa groups to be covered | Number of surveys in wet season (April – October of each 12-month period of the Contract Period) | Number of surveys in dry season (November – March of each 12-month period of the Contract Period) |
|------------------------------|--|---|
| Odonates (Adults and larvae) | 6 | 4 |
| Butterflies | 5 | 1 |
| Fireflies | 2 | 0 |
| Freshwater fish | 3 | 3 |
| Herpetofauna | 4 | 2 |
| Birds | 3 | 3 |
| Mammals | 2 + Throughout whole period with the use of camera traps | |
| Plants | 1 | |

IV. Surveillance Against Irregularities for Service Area

(a) Camera Surveillance

- (i) Motion-activated cameras are provided and installed by the Government to detect any suspected poachers at fifteen (15) locations in SLT.
- (ii) The Contractor shall monitor the photo or video records of all cameras daily over the Contract Period for any irregularities or human presence.
- (iii) The Contractor shall inform the Government Representatives, within three (3) days after data retrieval, of any detection of human disturbance with information including detection date and time and the photo records.
- (iv) The Contractor shall report to the Government Representatives as soon as possible of any detection of damage, vandalism or theft with information including detection date and time and the photo records.
- (v) The Contractor shall be responsible for replacing and/or installing new cameras as instructed by the Government Representative in case of camera failure or loss. The Contractor may suggest re-location of cameras upon agreement with the Government Representative.

(b) Patrol and Trap search in Riparian Zone

- (i) The Contractor shall conduct patrol and trap search monthly along the selected stream channels and the adjoining 3-metre bank area on each side of the stream (see Figure 5 in Annex F). Traps are any device or enclosure that is designed to catch and retain animals, including but not limited to cage trap, funnel trap, pitfall trap, net, hook and snare.
- (ii) The surveyor shall endeavour to search through all vegetation and thickets where traps may be hidden therein. The Contractor shall dismantle all unauthorised traps found during the search and remove it from the stream.
- (iii) Each trap search shall be performed by at least two (2) surveyors for safety reason. A trap search schedule shall be drawn up and agreed by the Government Representative.
- (iv) The Contractor shall make field records and provide report for each search. Field records including the survey date, start and end time, start and end coordinates, trap type, trap quantity, trap condition (new/old), presence of bait, species and quantity of trapped animals and their condition, photo records of the stream and any trapped animals. The Contractor shall return a copy of the field report sheet to the Government Representative within one (1) week after each survey.

- (v) Any protected wild animals listed under the Schedule 2 to the Wild Animals Protection Ordinance (Cap. 170) or scheduled species under the Protected of Endangered Species of Animals and Plants Ordinance (Cap. 586) accidentally injured by the traps and deemed unsuitable for immediate release shall be handed over to the Government Representative as soon as possible. Any other trapped animals found alive and in good condition shall be released on site.
- (vi) Type and approximate dimension of any trap found, photo record, GPS location and other details (e.g. presence of baits or trapped animals, etc.) shall be reported to the Government Representative as soon as possible and the trap shall be properly handled as agreed with the Government Representative.
- (vii) All trash spotted during trap search shall be collected and disposed of properly.

(c) Irregularities and Rectification

- (i) The Contractor must monitor the physical integrity of habitats and condition of plants in SLT, and report the monitoring results in the progress reports.
- (ii) In case any irregularities are identified, such as abnormal growth of plants due to pests, diseases or changes in environmental conditions and damage of the physical characteristics of habitats, the Contractor must immediately notify the Government Representative the irregularities identified. The Contractor must seek prior approval from the Government Representative on the measures to be undertaken within two (2) working days after identifying the irregularities. The Contractor must document the irregularities identified and mitigation measures taken, and report as appropriate. Upon approval of the rectification proposal by the Government Representative, the Contractor must carry out the rectification within five (5) working days or the timeframe as specified by the Government Representative.

V. Public Education Programmes

(a) Guided tours

- (i) The Contractor shall coordinate and organise at least twenty (20) day tours and at least five (5) night tours (each tour consisting of no less than ten (10) and no more than twenty (20) participants), visiting SLT, each year of the Contract Period.
- (ii) The Contractor shall ensure that the guided tour cover, without limitation, introduction of Sha Lo Tung's ecology, indigenous culture, heritage and conservation needs.
- (iii) Each tour shall be led by two (2) staff and one of them shall hold a valid first aid certificate. The guided tours shall be conducted in a safe manner, including responding with first aid and attending to the group's needs if incidents arise.
- (iv) These guided tours will be offered to individuals and special groups for free with two-way transportation between Tai Po and SLT to be provided by the Contractor.
- (v) The Contractor shall propose the plan, including route and schedule for the guided tours, in the Inception Report for approval by the Government.
- (vi) If the target number of participants and/or format of tour is required to be adjusted, agreement from the Government Representative should be sought in advance.

(b) Volunteer events

- (i) The Contractor shall coordinate and organise at least three (3) public volunteer events at SLT each year of the Contract Period. Each event should consist of no less than fifteen (15) participants.
- (ii) The Contractor shall ensure the participants are able to volunteer in and experience ecological enhancement works at SLT by encouraging them to remove invasive alien species (say Mikania and Apple Snail) with hand tools. The Contractor shall also cover, without limitation,

introduction of Sha Lo Tung's ecology, indigenous culture, heritage and conservation needs, in the event.

- (iii) Each event shall be led by at least two (2) staff and one of them shall hold a valid first aid certificate. The volunteer work shall be conducted in a safe manner, including responding with first aid and attending to the group's needs if incidents arise.

(c) Outreach talks

- (i) The Contractor shall arrange and organise at least five (5) on-site / off-site school talks for primary and/or secondary schools and to have a total of at least five hundred (500) student participants each year of the Contract Period.
- (ii) The talks aim to increase students' recognition of the unique ecological values of SLT and introduce the objectives and achievements of the habitat enhancement works conducted at SLT.
- (iii) Each talk shall last for at least 30 minutes. E-learning/ webinar may also be organised in place of on-site school talk, subject to agreement with the Government Representative in advance. The Contractor shall bear any costs and expenses that arise from the corresponding arrangements on the format of talk.
- (iv) The Contractor is required to prepare and deliver school talks to the students which are suitable for their ages, and in accordance with the instruction given by the Government Representative.
- (v) The Contractor shall propose the Inception Report and schedule for the talks in the Inception Report for approval by the Government.

(d) Website production and Publicity materials

- (i) The Contractor is required to promote the activities as described in Clauses 3V (a) to (c) above in an appropriate manner to recruit sufficient participants. The Contractor shall also proactively contact primary or secondary schools to promote the school talks.
- (ii) The Contractor shall design, produce and host a thematic website to be maintained throughout the Contract Period to raise public awareness to the uniqueness of SLT and showcase the conservation efforts. The website should include but is not limited to the following contents: SLT's history, geography, ecology and species of conservation concern, importance of its habitats, threats, conservation works conducted/being conducted and public education activities. Information about recruitment for public activities should be updated timely. The website shall consist of English and Traditional Chinese versions with at least eight (8) pages each.
- (iii) Copywriting for both English and Traditional Chinese versions as well as the design concept shall be provided to the Government Representative for approval prior to design of layouts. The Contractor shall then prepare the design layouts together with photos and/or videos for approval by the Government Representative prior to production.
- (iv) All materials involved, created or to be created in the provision of Services, including but not limited to education, publicity and presentation materials, props, display and source files are owned / to be owned by AFCD. Unauthorized use of the materials for the purpose other than the provision of Services may violate the copyright regulation.

(e) Other Requirements

- (i) The Contractor shall be responsible for purchasing suitable insurance for the participants to cover any accidents arising from the guided tours and volunteer events.
- (ii) The Contractor is required to record the number of participants and take photos and/or videos for record purposes in each event and these records shall be submitted to the Government Representative in the Monthly Progress Report as stipulated in Clause 3(a) in Section 4 below.
- (iii) The Contractor's Employees shall wear appropriate clothing for conducting or participating in the activities as described in Clauses 3V (a) to (c).

- (iv) If at any time any incidents occurred, the Government Representative shall have the discretion to change the monthly schedule of the guided tours and volunteer events in light of operational needs or the incidents that have arisen, by notifying the Contractor three (3) working days in advance.

4. Equipment

- (a) The Government shall provide a temporary storage area for the Contractor's Employees and storage of equipment and tools.
- (b) The Contractor must arrange and ensure, at its own expense, that all necessary equipment are in good conditions at all times during the Contract Period for discharging the Services.
- (c) The Contractor will be allowed to use simple hand tools and powered tools, e.g. hoe, spade, rake, hand saw, sickle, augers and sprayer, etc. The Contractor must obtain prior approval from the Government Representative on the methodology of works involving use of machinery in SLT.
- (d) The Contractor must be responsible for the training of its personnel and agent for operating all the equipment, and the provision of all safety equipment and measures required for its personnel and agent to perform the Services.
- (e) Notwithstanding any other provisions of the Contract, the Contractor must provide sufficient equipment at its own expense for discharging the Services.

5. Plant Debris and Unwanted Plant Materials

- (a) Notwithstanding any other provisions of the Contract, the Contractor must provide sufficient manpower and resources at its own expense for treating plant debris and unwanted plant materials during the Contract Period. The Contractor must consider the following treatment methods for debris and unwanted plant materials:
 - (i) Green manure;
 - (ii) Composting; and
 - (iii) Mulching.
- (b) The Contractor must note that open burning of any plant debris and unwanted plant materials is prohibited under the Forests and Countryside Ordinance (Cap. 96).

6. Prohibition

- (a) The Contractor must ensure that the following activities are prohibited in SLT:
 - (i) keeping pets or feeding any wild animals;
 - (ii) smoking;
 - (iii) causing any disturbance to wildlife;
 - (iv) planting any trees without approval by the Government Representative; or
 - (v) erecting any temporary or permanent structures without approval by the Government Representative.

7. Estimated Quantity

- (a) For those scopes of Services as stated in Section 1 of Part A of the Price Schedule with the quantity specified on a task basis, the Contractor must ensure that it shall perform all such number of these tasks throughout each 12 months of the Contract Period and unless already specified in these Service Specifications, the frequency for performing them shall be evenly spread out over each 12-month period.

Section 4 Deliverables

1. Deliverable Schedule

- (a) The Contractor must prepare the following deliverables, for comments/agreement by the Government Representative in accordance with the timeframe set out in the following table (each a “Deliverable” and collectively referred to as “Deliverables”). Detailed requirements of the Deliverables are provided in the ensuing paragraphs.

| Item | Deliverable | Submission Deadline |
|-------------|-------------------------|--|
| 1. | Inception Report | Within fourteen (14) working days after the commencement of the Contract Period; and |
| 2. | Monthly Progress Report | Within five (5) working days after the end of each month of the Contract Period |
| 3. | Completion Report | Within ten (10) working days after the end of the Contract Period |

2. Inception Report

- (a) The Contractor must submit an Inception Report detailing, including but not limited to, the duties and responsibilities of all Contract’s Employees, habitat management and planting plans, detailed methodology of ecological surveys, detailed plans of public education activities, and a monthly work schedule for the whole Contract Period. The Inception Report must comply with the specifications for the Services in full for the Government Representative’s approval.

3. Monthly Progress Report

- (a) The Contractor must submit monthly progress reports to document the tasks completed supported with site photos and amendments on work schedule or plans, if any, with justification.

4. Completion Report

- (a) The Contractor must submit Completion report to summarise its work detailing, including but not limited to its habitat management performance, results and data analysis of habitat mapping and ecological monitoring, surveillance of irregularities, outcomes of public education programmes, management of manpower, handling of complaint(s), improvement/ mitigation measure(s) taken during the Contract Period.

Annex A**Essential Requirements****1. *Joint Venture***

1.1 Tender submitted by a joint venture (either incorporated or unincorporated) will not be considered.

2. *Requirements on the Proposed Contract Manager, the Proposed Supervisors and the Proposed Skilled Workers*

2.1 It is an essential requirement that a Tenderer must propose one (1) Contract Manager possessing the following qualification and experience as at the Original Tender Closing Date:

- (a) an undergraduate degree in ecology, environmental science, biology, geography or related disciplines issued by a registered post-secondary institution; and
- (b) an aggregate of not less than five (5) years' full-time working experience in wetland management in the twelve (12)-year period immediately preceding the Original Tender Closing Date; and
- (c) an aggregate of not less than five (5) years' full-time working experience at managerial or supervisory level in the twelve (12)-year period immediately preceding the Original Tender Closing Date.

2.2 It is an essential requirement that a Tenderer must propose not less than two (2) Supervisors, and each supervisor must possess the following qualification and experience as at the Original Tender Closing Date:

- (a) an undergraduate degree in ecology, environmental science, biology, geography or related disciplines issued by a registered post-secondary institution; and
- (b) an aggregate of not less than two (2) years' full-time working experience in wetland management and ecological surveys or environmental education in the twelve (12)-year period immediately preceding the Original Tender Closing Date; and
- (c) an aggregate of not less than two (2) years' full-time working experience at supervisory level in the twelve (12)-year period immediately preceding the Original Tender Closing Date.

2.3 It is an essential requirement that a Tenderer must propose not less than three (3) Skilled Workers, and each Skilled Worker must possess an aggregate of not less than one (1) year's full-time working experience in wetland vegetation management or landscaping in the twelve (12)-year period immediately preceding the Original Tender Closing Date.

- 2.4 **Any Tenderer who does not satisfy any of the essential requirements set out in Clauses 2.1 to 2.3 above will be disqualified and its Tender will not be further considered.**
- 2.5 A Tenderer must submit documentary proof to prove that each of the proposed Contract Manager, Supervisors and Skilled Workers possess the required qualification and experience specified in Clauses 2.1 to 2.3 above. The Government is not bound to count any experience claimed by a Tenderer if documentary proof is not provided.

Annex B

**Marking Scheme for the
Provision of Habitat Management and Related Services at Sha Lo Tung**

1 The Marking Scheme

- 1.1 The Government will use a marking scheme in assessing Tenders which have met all “Essential Requirements” stipulated in Annex A. A technical to price weighting of 70:30 will be adopted for tender evaluation whereby price assessment will be conducted only after technical assessment. All Tenders will be assessed according to the marking scheme and assessment criteria in Sections 2 and 3. The Tender with the highest combined score will normally be recommended for acceptance.

2. Technical Assessment

- 2.1 The maximum total technical marks are one hundred (100) and are divided into seven (7) Assessment Criteria. There is no overall passing mark for the total marks scored in the Technical Assessment. Passing marks of 17.5 is set for Assessment Criteria (1) to (3) of Section A, which is 25% of the maximum mark of Section A (excluding the marks reserved for innovative suggestions). **Any Tenders failing to attain the passing mark under Assessment Criteria (1) to (3) of Section A will not be considered further.** The Tender which has passed the technical assessment and attained the highest technical mark will be awarded a weighted technical score of seventy (70), while the weighted technical mark for other Tenders which have passed the technical assessment will be calculated by the formula in Clause 2.5 below.
- 2.2 The submission for the Execution Plan, excluding related annexes and documentary proof, shall not be more than one hundred (100) pages in A4 size paper for text (with margin not less than 25 mm and character font size not less than 12). For the avoidance of doubt, pages exceeding the specified limit and/or not complying with the specified requirements on margin and/or font size will be considered in the tender evaluation but marks will be deducted from the total technical marks as follows:

| | |
|---|---|
| Each excessive page | 0.5 marks per page (subject to a maximum of 5 marks) |
| Non-compliance with the margin requirement | 0.5 marks |
| Non-compliance with the font size requirement | 0.5 marks |

- 2.3 The submission for Sections B, C and D of the marking scheme shall be in separated pages from that of Section A of the marking scheme and in A4 size paper for text (with margin not less than 25 mm and character font size not less than 12). The submission for Sections B of the marking scheme shall include but not limited to the documentary proof and statement for fulfilling the Services requirement. The pages submitted for Section B of the marking scheme would not be accumulated to the limitation of pages as specified at Clause 2.2 above.
- 2.4 The Assessment Criteria and respective marks/ standard scores are set out below:

| Assessment Criteria (See Note 1) | | Maximum Mark | Unit Mark (M) | Standard Score (S) (See Note 1) | | | | | | Mark Scored (M x S) | Passing Mark |
|---|---|--------------|---------------|------------------------------------|---|---|---|---|---|---------------------|--------------|
| | | | | 5 | 4 | 3 | 2 | 1 | 0 | | |
| Section A - Execution Plan | | | | | | | | | | | |
| (1) | Operation Plan (See Notes 2 and 5) | 35 | 7 | | | | | | | | 17.5 |
| (2) | Resource and Supervision Plan (See Notes 3 and 5) | 25 | 5 | | | | | | | | |
| (3) | Contingency and Transition Plan (See Notes 4 and 5) | 10 | 2 | | | | | | | | |
| (4) | Innovative Suggestion | | | | | | | | | | |
| | (a) Type I – directly relevant to the Services (See Note 6) | 15 | 5 | | | | | | | | – |
| | (b) Type II – not directly relevant to the Services but can bring positive values or benefits to the Government or public (See Note 7) | 3 | 1 | | | | | | | | – |
| | Sub-total for Section A | 88 | | | | | | | | | – |
| Section B - Experience and Qualification | | | | | | | | | | | |
| (5) | Experience of the Proposed Contract Manager (See Note 8) | 4 | 1 | | | | | | | | – |
| (6) | Experience of the Proposed Supervisors (See Note 9) | 4 | 1 | | | | | | | | – |
| (7) | Experience of the Proposed Skilled Workers (See Note 10) | 4 | 1 | | | | | | | | – |
| | Sub-total for Section B | 12 | | | | | | | | | – |
| | Total Technical Mark | 100 | | | | | | | | | – |

- 2.5 A Tender which has passed technical assessment will be considered as a “conforming tender”. A maximum weighted technical score of seventy (70) will be allocated to the conforming tender with the highest total technical mark, while the weighted technical score for other conforming tenders will be calculated by the following formula –

$$\text{Weighted Technical Score} = 70 \times \frac{\text{Total technical mark of the conforming tender being assessed}}{\text{The highest total technical mark among the conforming tenders}}$$

[Note: The weighted technical score of each Tender will be rounded to the nearest 2 decimal places. Figures with the value at the third decimal place larger than or equal to 0.005 will be rounded up by adding 0.01 to the figures and curtailing the third decimal place onward whereas figures with the value at the third decimal place below 0.005 will be rounded down

by curtailing the third decimal place onward without changing the value at the second decimal place.]

Explanatory Notes for Technical Assessment

Note 1 : for Assessment Criteria (1) to (7)

Tenderer's proposal, experience and qualification will be rated as follows:

For Assessment Criteria (1), (2) and (3)

Standard score of 5, 4, 3, 2, 1 or 0 will be awarded.

For Assessment Criteria (4)(a) and (4)(b)

Standard score of 3, 2, 1, or 0 will be awarded.

For Assessment Criteria (5), (6) and (7)

Standard score of 4, 3, 2, 1, or 0 will be awarded.

Note 2: for Assessment Criterion (1) – Operation Plan

The Operation Plan shall cover the following seven items (a) to (g):

- (a) the strategy and methodology of the overall habitat management and related services in the Service Area in meeting the requirements of the Services;
- (b) the strategy and methodology on the management of the Intensive Wetland Management Zone in the Service Area, including but not limited to bund maintenance and hydrological control, monitoring and control of diseases, pests and invasive exotic species, selection of plants, planting preparation and schedule, in meeting the requirements of the Services;
- (c) the strategy and methodology on vegetation management in the Riparian Zone, Woodland Management Zone and Buffer Zone under this Services, including but not limited to provision of grass cutting, control of diseases, pests and invasive exotic species, selection of plants, planting preparation and schedule, in meeting the requirements of the Services;
- (d) the strategy and methodology on habitat mapping and ecological monitoring in the Service Area, including but not limited to survey methodology, transect planning, and data collection, in meeting the requirements of the Services;
- (e) the strategy and methodology on irregularity surveillance in the Service Area in meeting the requirements of the Services;
- (f) the strategy and methodology on public education programmes in meeting the requirements of the Services; and
- (g) the strategy and methodology on fertilisation and handling of plant debris and unwanted plant materials.

Note 3: for Assessment Criterion (2) – Resource and Supervision Plan

The Resource and Supervision Plan shall cover the following five items (a) to (e):

- (a) an organisation chart showing the off-site management/ supporting staff and on-site supervisory/

- frontline staff for this Contract, including the allocation of duties and responsibilities of the proposed workforce, in meeting the requirements of the Services;
- (b) a staff deployment plan, including the number of Supervisors and Skilled Workers required and the number of man-days required in different months/ seasons, in meeting the requirements of the Services;
 - (c) a training plan, including work safety, responses or mitigation measures when encountering wildlife in the fields, for supervisory and frontline staff in meeting the requirements of the Services;
 - (d) a resource plan, including the list of equipment and tools and their maintenance, in meeting the requirements of the Services; and
 - (e) a recruitment plan, including recruitment of the Supervisors and Skilled Workers, deployment of human resources and meeting the requirement of manpower in different seasons and weather, in meeting the requirements of the Services.

Note 4: for Assessment Criterion (3) – Contingency and Transition Plan

The Contingency and Transition Plan shall cover the following items (a) to (d):

- (a) the strategy and methodology on handling contingency or emergency situations, such as prolonged flooding and drought, fire and accident;
- (b) the strategy and methodology on deployment of additional resources and equipment for the Services within a short period of time;
- (c) the mechanism on maintaining close communication with the Government Representative, especially during the contingency or emergency situation; and
- (d) a transition plan, including arrangement and timeframe of (i) recruitment and deployment of human and other resources upon commencement of the Contract; and (ii) handing over of duties and equipment, upon expiry of this Contract.

Note 5: for Assessment Criteria (1), (2) and (3)

- (a) Standard scores will be given to Assessment Criteria (1), (2) and (3) in accordance with the following six-grade approach –
 - 5 – The proposed plan is **practical** and with **detailed information** on **all** items as well as **proposals** that could effectively **enhance/ improve the quality/ performance of the Services** on **over half** of the items of the respective plan as required in Notes 2 to 4 above.
 - 4 – The proposed plan is **practical** and with **detailed information** on **all** items as well as at least **one proposal** that could effectively **enhance/ improve the quality/ performance of the Services** on **one or more (but less than half)** of the items of the respective plan as required in Notes 2 to 4 above.
 - 3 – The proposed plan is **practical** and with **detailed information** on **all** items of the respective plan as required in Notes 2 to 4 above.
 - 2 – The proposed plan is **practical** and with **detailed information** on **over half** of the items and with brief information covering the remaining items of the respective plan as required in Notes 2 to 4 above.
 - 1 – The proposed plan is **practical** and with **detailed information on at least one but no more than half** of the items and **brief information on all remaining** items of the respective plan as required in Notes 2 to 4 above.
 - 0 – The proposed plan is **impractical** or **fails** to provide information on **any one** of the items of

the respective plan as required in Notes 2 to 4 above.

- (b) The meaning of “over half” of the items of the respective plan as required in Notes 2 to 4 are as follow:

| | Operation Plan | Resource and Supervision Plan | Contingency and Transition Plan |
|-------------------|----------------|-------------------------------|---------------------------------|
| Over half (items) | 4 | 3 | 3 |

- (c) For the avoidance of doubt, proposal(s) that could effectively enhance/ improve the quality/ performance of the Services to be assessed under Assessment Criteria (1), (2) and (3) will normally not alter the existing or conventional mode of service delivery, e.g. shortening the response time when the level of service fails to meet the requirements set out in the contract, increasing the percentage of time meeting the level of service required in the contract, etc. “Innovative suggestions” to be assessed under Assessment Criteria (4)(a) to (4)(b) are suggestions that are not featured in the existing or conventional mode of service delivery.
- (d) All practical information included in the proposed Execution Plan submitted by the successful Tenderer under Assessment Criteria (1) to (3) shall form part of the Contract to the extent as accepted by the Government.

Note 6: for Assessment Criterion (4)(a) – Type I – Innovative suggestions directly relevant to the Services

- (a) Marks will be given if the proposed innovative suggestions are directly relevant to, effective and practicable in improving the delivery of the Services as compared with the conventional mode of service delivery adopted by the Government in general.
- (b) Type I innovative suggestions shall cover any of the following items –
- (i) adoption of technology to enhance service delivery in habitat management, e.g. use of automated equipment for water level control;
 - (ii) adoption of technology to monitor the performance of service, e.g. use of drone for monitoring vegetation coverage;
 - (iii) adoption of technology to enhance service delivery in enhancing surveillance efficiency of Sha Lo Tung, e.g. use of big data for collecting and analysing environmental condition and trigger prompt response; and
 - (iv) any other benefits which are relevant to habitat conservation management.
- (c) Standard scores will be given in accordance with the following rule:
- 3 – **Three (3) or more practicable** innovative suggestions covering any of the items as required in (b) of this Note above are proposed.
 - 2 – **Two (2) practicable** innovative suggestions covering any of the items as required in (b) of

this Note above are proposed.

- 1 – **One (1) practicable** innovative suggestion covering any of the items as required in (b) of this Note above is proposed.
- 0 – **No practicable** innovative suggestion covering any of the items as required in (b) of this Note above is proposed.

(d) Paragraph (c) of Note 5 above is also applicable to this Note.

(e) Marks will not be given to any innovative suggestion which is related to labour benefit measures, e.g. cash allowance, cash/ coupon bonus/ award and additional leaves, or a Tenderer will neither be capable of nor responsible for implementation.

(f) An innovative suggestion that scores marks under Type I will not earn marks again under Type II and vice versa. If the Tender Assessment Panel (“TAP”) considers that the same innovative suggestion could earn marks under Types I and II, it will be taken as scoring marks under Type I only. Each innovative suggestion will be counted once, irrespective of the number of improvements/positive values/benefits involved.

(g) Tenderers shall highlight the proposed innovative suggestions with all of the following details –

- (i) the type (i.e. Type I or Type II) of innovative suggestion which each of them belongs to;
- (ii) sufficient details on what improvements/ benefits/ positive values to which their proposed innovative suggestions can bring about; and
- (iii) how they are to be implemented,

in their submissions to facilitate tender evaluation. If a Tenderer fails to specify item (i) above, it will be deemed as proposed under Type I.

(h) Tenderers shall submit the following information for demonstrating the effectiveness and practicability of the innovative suggestions. Marks will not be given if the Tenderers only propose a concept without sufficient details. The information that shall be provided by the Tenderers includes the following –

- (i) if the suggestion is concerned with a kind of technology, equipment, tool, system, material, facility and vehicle, etc.: scope of the services involved, details on how to implement, specifications, catalogues, features, functions, quantity, coverage, locations and outcome, etc. as appropriate;
- (ii) if the suggestion is concerned with a kind of measure, service, scheme and activity, etc.: the objective, scope of the services involved, details on how to implement, functions, quantity, monetary value, scale, coverage, locations, frequency, duration, outcome and number of target beneficiaries, etc. as appropriate and
- (iii) if the suggestion is related to manpower: the objective, scope of the duties involved, details on how to implement, work shifts (full time or part time), posts, recruitment method, means to approach the target candidates, quantity, monetary value, scale, coverage, locations, frequency, duration, outcome and number of target beneficiaries, etc. as appropriate.

(i) Tenderers may be requested to provide supporting documents or a demonstration to prove the practicability of their innovative suggestions. All proposed innovative suggestions will be

assessed on the basis of the information provided in the tender submissions and factual supporting documents (e.g. test reports/ certificates) provided by the Tenderers upon request by the Government. The demonstration will not be taken into account in marking. It only serves as a means to enable members of the TAP to have a better understanding of the innovative suggestions proposed by the Tenderers. During the demonstration, Tenderers are also not allowed to provide additional information not contained in their original tender submissions.

- (j) All practicable innovative suggestions accepted by the Government shall form part of the Contract.

Note 7: for Assessment Criterion (4)(b) – Type II – Innovative suggestions not directly relevant to the Services but can bring positive values or benefits to the Government or public

- (a) Marks will be given if the proposed innovative suggestions, though not directly relevant to the Services, can bring about positive values/benefits to the Government or public at large.
- (b) Type II innovative suggestions shall contribute to any of the following positive values –
- (i) to contribute to the local community and promote ecosystem services, e.g. social and cultural function to the nearby local community;
 - (ii) to enable the Service Area as a test bed to foster research and development opportunities by tertiary institutes, non-governmental organisations, start-ups or young entrepreneurs for sustainable development of ecologically important sites;
 - (iii) to promote carbon neutrality and consumption of fewer resources and reduction of wastes, and make the society more environmental friendly.
- (c) Standard scores will be given in accordance with the following rule:
- 3 – **Three (3) or more practicable** innovative suggestions contributing to any of the positive values as listed in (b) of this Note above are proposed.
 - 2 – **Two (2) practicable** innovative suggestions contributing to any of the positive values as listed in (b) of this Note above are proposed.
 - 1 – **One (1) practicable** innovative suggestion contributing to any of the positive values as listed in (b) of this Note above is proposed.
 - 0 – **No practicable** innovative suggestion contributing to any of the positive values as listed in (b) of this Note above is proposed.

- (d) Paragraph (c) of Note 5 and paragraphs (e) to (j) of Note 6 above are also applicable to this Note.

Note 8: for Assessment Criterion (5) – Experience of the Proposed Contract Manager

- (a) Assessment will be based on the experience, apart from that stated in the essential requirements, possessed by the proposed Contract Manager set out in the Tenderer's Contract Schedule 3. A Tenderer which fails to propose a Contract Manager meeting the essential requirements by the Tender Closing Date will not be considered further.

- (b) Standard scores will be given to Assessment Criterion (5) in accordance with the following rule –
- 4 – The proposed Contract Manager possessing working experience meeting all the following two requirements –
 - (i) have an aggregate of more than eleven (11) years' full-time working experience at managerial or supervisory level in the twelve (12)-year period immediately preceding the Original Tender Closing Date;
 - (ii) have an aggregate of more than eleven (11) years' full-time working experience in wetland management in the twelve (12)-year period immediately preceding the Original Tender Closing Date; and
 - 3 – The proposed Contract Manager possessing an aggregate of more than nine (9) to eleven (11) years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
 - 2 – The proposed Contract Manager possessing an aggregate of more than seven (7) to nine (9) years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
 - 1 – The proposed Contract Manager possessing an aggregate of more than five (5) to seven (7) years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
 - 0 – The proposed Contract Manager possessing an aggregate of five (5) years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above
- (c) In respect of (i) and (ii) of this Note above, if a proposed Contract Manager's years of experience for requirements (i) and (ii), a standard score will be given to each requirement and an average will be taken. For instance, if the proposed Contract Manager has six (6) years of experience in (i) and ten (10) experience in (ii), the average score will be 2.
- (d) If more than one Contract Managers are proposed by a Tenderer, standard score will be given according to the Contract Manager scoring a lower standard score.

Note 9: for Assessment Criterion (6) – Experience of the Proposed Supervisors

- (a) Assessment will be based on the working experience, apart from those stated in the essential requirements, possessed by the proposed Supervisors set out in the Tenderer's Contract Schedule 3. A Tenderer which fails to propose at least two Supervisors meeting the essential requirements by the Tender Closing Date will not be considered further.
- (b) Standard scores will be given to Assessment Criterion (6) in accordance with the following rule –
- 4 – The proposed Supervisor possessing working experience meeting the following two requirements –
 - (i) have an aggregate of more than five (5) years' full-time working experience at supervisory level in the twelve (12)-year period immediately preceding the Original Tender Closing Date;
 - (ii) have an aggregate of more than five (5) years' full-time working experience in wetland habitat management in the twelve (12)-year period immediately preceding the Original Tender Closing Date; and
 - 3 – The proposed Supervisor possessing an aggregate of more than four (4) but five (5) or less years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
 - 2 – The proposed Supervisor possessing an aggregate of more than three (3) but four (4) or less years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
 - 1 – The proposed Supervisor possessing an aggregate of more than two (2) but three (3) or less years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
 - 0 – The proposed Supervisor possessing an aggregate of two (2) years' full-time experience in the twelve (12)-year period immediately preceding the Original Tender Closing Date for each of the two (2) working experience requirements listed in (i) and (ii) of this Note above.
- (c) The principles of counting experience of a proposed Contract Manager at paragraph (c) of Note 8 are applicable to this Note.

- (d) A final standard score will be calculating by taking the average of the total standard scores of the two Supervisors. If more than two Supervisors are proposed by a Tenderer, average standard score will be given according to the two Supervisors scoring the lowest standard scores.

Note 10: for Assessment Criterion (7) – Experience of the Proposed Skilled Workers

- (a) Assessment will be based on the working experience, apart from those stated in the essential requirements, possessed by the proposed Skilled Workers set out in the Tenderer's Contract Schedule 3. A Tenderer which fails to propose at least three (3) Skilled Workers meeting the essential requirements by the Original Tender Closing Date will not be considered further.
- (b) Standard scores will be given to Assessment Criterion (7) in accordance with the following rule:
- 4 – The proposed Skilled Workers possessing an aggregate of more than five (5) years' relevant working experience in wetland vegetation management or landscaping in the twelve (12)-year period immediately preceding the Original Tender Closing Date.
 - 3 – The proposed Skilled Workers possessing an aggregate of more than three (3) but less than five (5) years' full-time working experience in wetland vegetation management or landscaping in the twelve (12)-year period immediately preceding the Original Tender Closing Date.
 - 2 – The proposed Skilled Workers possessing an aggregate of more than two (2) but less than three (3) years' full-time working experience in wetland vegetation management or landscaping in the twelve (12)-year period immediately preceding the Original Tender Closing Date.
 - 1 – The proposed Skilled Workers possessing an aggregate of more than one (1) but less than two (2) years' full-time working experience in wetland vegetation management or landscaping in the twelve (12)-year period immediately preceding the Original Tender Closing Date.
 - 0 – The proposed Skilled Workers possessing an aggregate of more than one (1) year full-time working experience in wetland vegetation management or landscaping in the twelve (12)-year period immediately preceding the Original Tender Closing Date.

- (c) The principles of counting experience of a proposed Contract Manager at paragraph (c) of Note 8 are applicable to this Note.
- (d) A final standard score will be calculating by taking the average of the total standard scores of the three Skilled Workers. If more than three Skilled Workers are proposed by a Tenderer, the final standard score will be calculated by the three Skilled Workers with the highest standard scores.

3. *Price Assessment*

- 3.1 The price assessment is based on the Estimated Contract Price of a Tender which has passed the technical assessment.
- 3.2 A maximum weighted price score of 30 will be allocated to the conforming Tender with the lowest Estimated Contract Price, while the weighted price score for other conforming Tenders will be calculated by the following formula –

$$\text{Weighted Price Score} = 30 \times \frac{\text{The lowest Estimated Contract Price among the conforming tenders}}{\text{Estimated Contract Price of the conforming tender being assessed}}$$

[Note: The weighted price score of each Tender will be rounded to the nearest 2 decimal places according to the rounding method as shown in the Note under Clause 2.5 above.]

4. *Combined Score*

- 4.1 The combined score of a conforming tender will be determined by the following formula –

$$\text{Combined Score} = \text{Weighted Technical Score} + \text{Weighted Price Score}$$

- 4.2 Normally, the Tender with the highest combined score will be recommended for acceptance subject to the requirement that the Government is satisfied that the recommended tender is fully (including technically, commercially and financially) capable of undertaking the Contract, and that the recommended Tender is the most advantageous to the Government in accordance with the tender provisions. If two or more Tenders obtain the same highest combined score, the Tender which obtains the highest weighted technical score will be recommended for acceptance.

Annex C**Reply Slip for Tender Briefing**

To : Director of Agriculture, Fisheries and Conservation
 (Attn: Nature Reserve Officer (Management 3)))
 (Fax: 2377 4427)
 (Email: pui_yu_yuen@afcd.gov.hk)

Tender Ref : AFCD/NR/01/22
Provision of Habitat Management and Related Services at Sha Lo Tung

To facilitate your tender preparation, a tender briefing will be arranged as follows. Please complete this reply slip and return by fax (Fax No.: 2377 4427) or email (Email Address: pui_yu_yuen@afcd.gov.hk) **on or before 2 p.m. on 24th August 2022 (Wednesday)**.

Date : 25th August 2022 (Thursday)
Time : 9:30 a.m. – 10:30 a.m.
Assembly Place : Room 701A, Cheung Sha Wan Government Offices

* I will attend the tender briefing as scheduled.

* I will NOT attend the tender briefing as scheduled.

* Remarks: Please put a tick (✓) in the box as appropriate

| | Full name of Attendee(s) | Post Title |
|-------------------|--------------------------|------------|
| Mr./Mrs./Miss/Dr. | _____ | _____ |
| Mr./Mrs./Miss/Dr. | _____ | _____ |
| Name of Company | _____ | _____ |
| Telephone No. | _____ | |
| Fax No. | _____ | |

Annex D**Form of Banker's Guarantee for the Performance of a Contract**

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

WHEREAS

(A) By a contract (hereinafter called the "Contract") dated the <day> of <month year> made between <Name of Contractor> of <Address of Contractor> (hereinafter called the "Contractor") of the one part and the Government of the other part (designated as the Agriculture, Fisheries and Conservation Department Contract No. AFCD/NR/01/22), the Contractor agreed and undertook to provide the Services upon the terms and conditions of the Contract.

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

Now the Guarantor HEREBY AGREES with the Government as follows:

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

- (c) The Guarantor further agrees that all dividends, compositions and payments which the Government may at any time receive from the Contractor or from his, her or their estate or estates, whether in liquidation, bankruptcy or otherwise, in respect of all such losses, damages, costs, charges and expenses shall be taken and applied by the Government as payments in gross, and that this Guarantee shall stand good in respect of the balance to the full amount of _____.

(3) This Guarantee shall not be affected by any change of name or status in the company, firm or individual described as "the Contractor" or where "the Contractor" is a partnership, any change in the partners or in its constitution.

(4) The Guarantor shall not be discharged or released from this Guarantee by any arrangement made between the Government and the Contractor or by any alteration in the obligations imposed upon the Contractor by the Contract or by any waiver or forbearance granted by the Government to the Contractor as to payment, time, performance or otherwise whether or not such arrangement, alteration, waiver or forbearance may have been or is made or granted with or without knowledge or assent of the Guarantor.

(5) Without prejudice to Clause 4 above, the obligations of the Guarantor under this Guarantee shall remain in full force and effect and shall not be affected or discharged in any way by, and the Guarantor hereby waives notice of or assents to:

- (a) any suspension, termination, amendment, variation, novation or supplement of or to the Contract from time to time (including without limitation extension of time for performance);
- (b) any provision of the Contract being or becoming illegal, invalid, void, voidable or unenforceable;
- (c) the termination of the Contract or of the engagement of the Contractor under the Contract for any reason;
- (d) any forbearance, variation, extension, discharge, compromise, dealing with exchange, waiver or renewal in respect of any right of action or remedy that the Government may have, now or after the day of this Guarantee, against the Contractor and/or the negligence, failure, omission, indulgence or delay by the Government in enforcing any right, power, privilege to or remedy available to the Government in relation to the obligations of the Contractor set out in the Contract;
- (e) the voluntary or involuntary liquidation, bankruptcy, dissolution, sale of assets, receivership, general assignment for benefit of creditors, insolvency, reorganisation arrangement, composition, or other proceedings of or affecting the Contractor or its assets, or any change in the constitution of the Contractor;
- (f) any assignment, novation or sub-contracting by the Contractor of any or all of its obligations set out in the Contract;
- (g) without prejudice to the generality of the foregoing, any fact or event (whether similar to any of the foregoing or not) which in the absence of this provision would or might constitute or afford a legal or equitable discharge or release of or defence to the Guarantor, other than the express release of its obligations.

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

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

(a) the date falling three (3) months after the expiry of the Contract; or

(b) the date on which all the obligations and liabilities of the Contractor under the Contract have been duly carried out, completed and discharged in accordance with the Contract,

whichever is the later.

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

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

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

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

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

(a) upon the Government, at the Agriculture, Fisheries and Conservation Department of 7/F, Cheung Sha Wan Government Offices, 303 Cheung Sha Wan Road, Hong Kong marked for the attention of Director of Agriculture, Fisheries and Conservation, facsimile number (852) 2377 4427;

(b) upon the Guarantor, at _____, Hong Kong, marked for the attention of _____, facsimile number _____.

(13) Documents to be served under this Guarantee shall be deemed to have been duly served by one party if sent by letter or fax addressed to the other party at the address stated above or to the facsimile number set out above. The documents so served shall be effective (a) on the date of

delivery if hand-delivered; (b) on the date of transmission if sent by facsimile; and (c) if despatched by mail (whether registered or not), on the day on which they are tendered for delivery by the postal authority in Hong Kong.

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

- (15) The Guarantor hereby acknowledges that
 - (a) the Guarantor should read and fully understand, with the benefit of independent legal advice if necessary, the terms and conditions of this Guarantee before entering into this Guarantee.; and
 - (b) no Government officer is authorised to advise on, make representations regarding or amend (other than by a written instrument signed by both the Guarantor and the Government) the terms and conditions of this Guarantee.

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

* The [Common Seal/Seal*] of the said)
 Guarantor was hereunto affixed and)
 signed by)
)
 [Name & Title])
 duly authorised by its board of)
 directors.....)
)
 in the presence of)
)
 [Name & Title]

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

* Please delete as appropriate

@ See Powers of Attorney Ordinance (Chapter 31 of the Laws of Hong Kong)

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

Annex E**Guidance Note GN-1
(Environmental Protection)**

Contractors are encouraged to minimise the impact of their activities on the environment and to observe the following requirements in particular:

- Comply with all applicable legal and other requirements on environmental protection.
- Control the use of materials and resources (e.g. electricity, fuel, chemicals, paper, etc.) to minimise their consumption and unnecessary wastage. Use environment-friendly alternatives where possible during your daily operations.
- Store properly all materials/chemicals to prevent any spillage and leakage.
- Minimise the production of solid waste and chemical waste.
- Ensure all solid waste is properly handled, stored and disposed of in an efficient and sensitive manner to avoid any spillage and leakage. In particular, all chemical waste should be handled, stored and disposed of in accordance with the applicable legal requirements.
- Ensure proper and regular maintenance of all vehicles used for the purpose of conducting business, including controlling their noise and emissions.
- Minimise all air emissions and noise generation where practicable.
- Ensure all waste water is discharged in accordance with the applicable legal requirements.
- Reuse and recycle waste wherever possible.

Figure 1 – Service Area at Sha Lo Tung

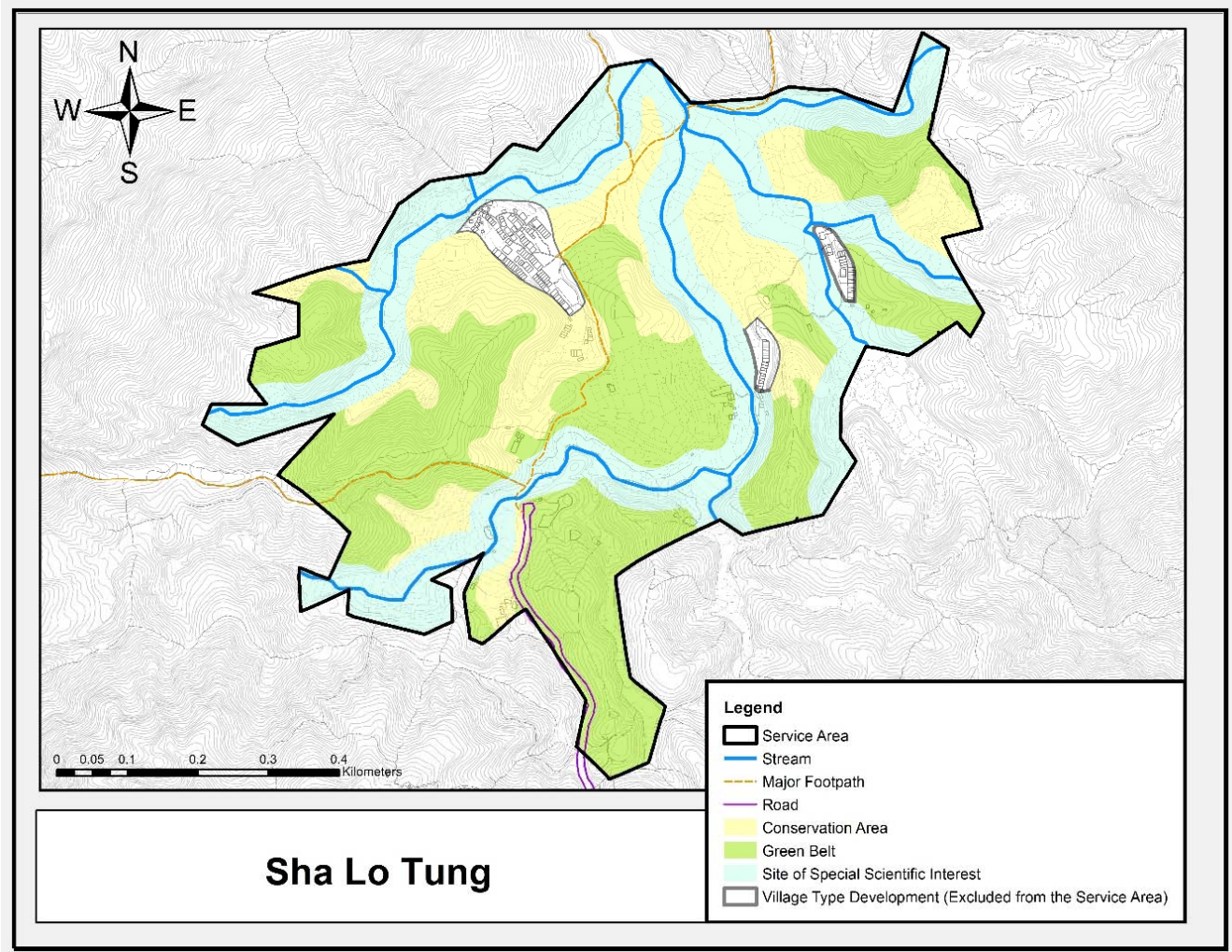
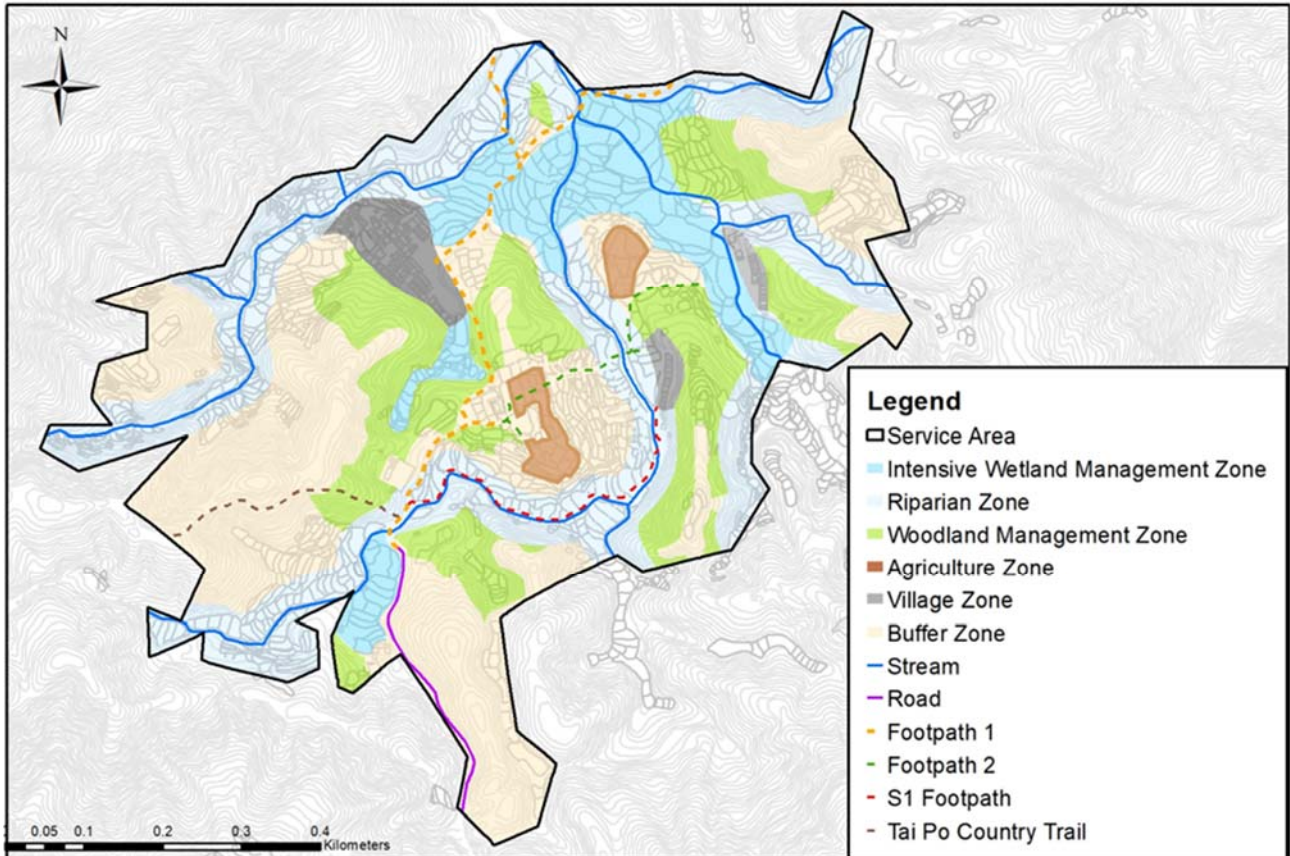


Figure 2 – Management Zones of Sha Lo Tung



*Village Zone and Agriculture Zone are excluded from the Service Area

Figure 3a – Coverage of “Eco-pond and Restored Marshes” and “Natural Marshes” in the Intensive Wetland Management Zone

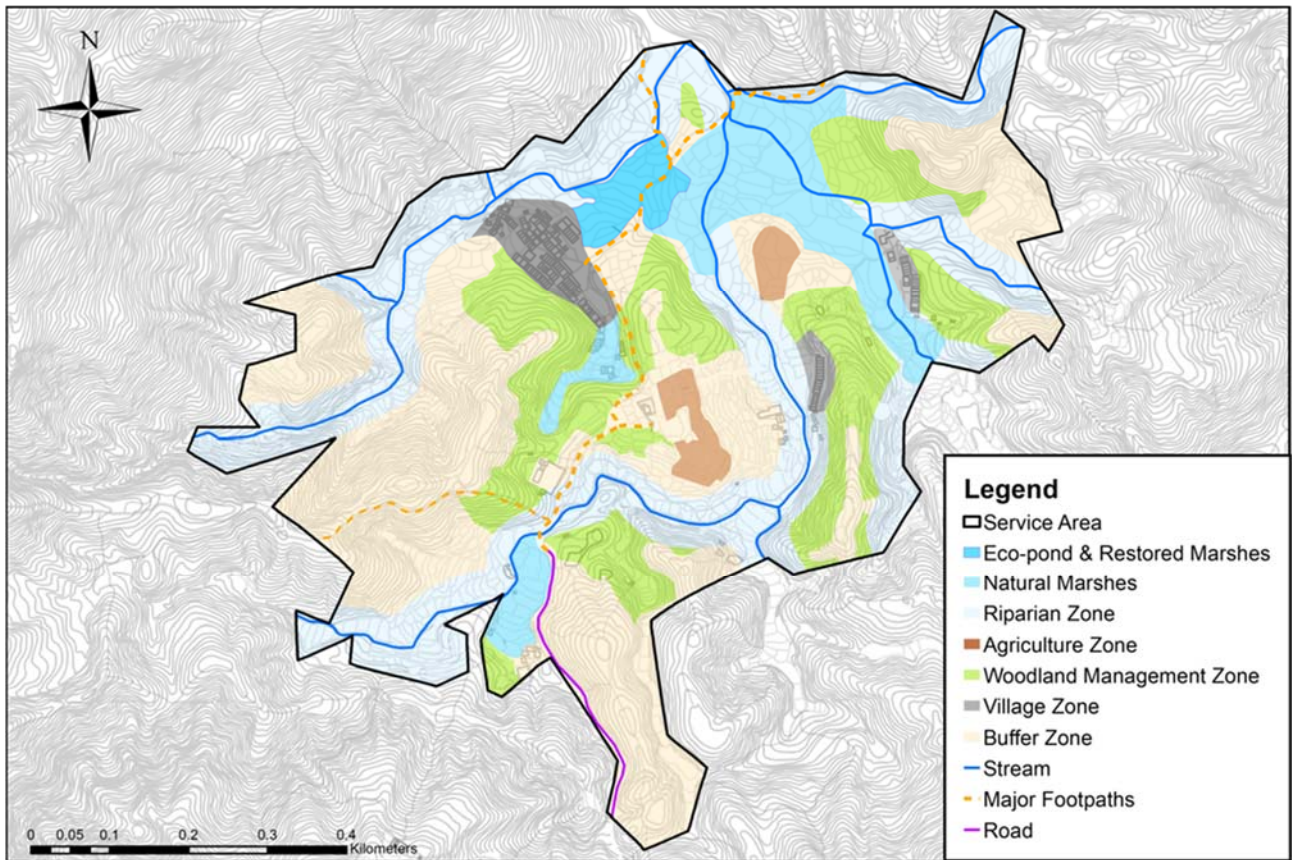


Figure 3b – Indicative Layout of the Water Control Facilities in the in the Eco-pond and Restored Marshes of the Intensive Wetland Management Zone

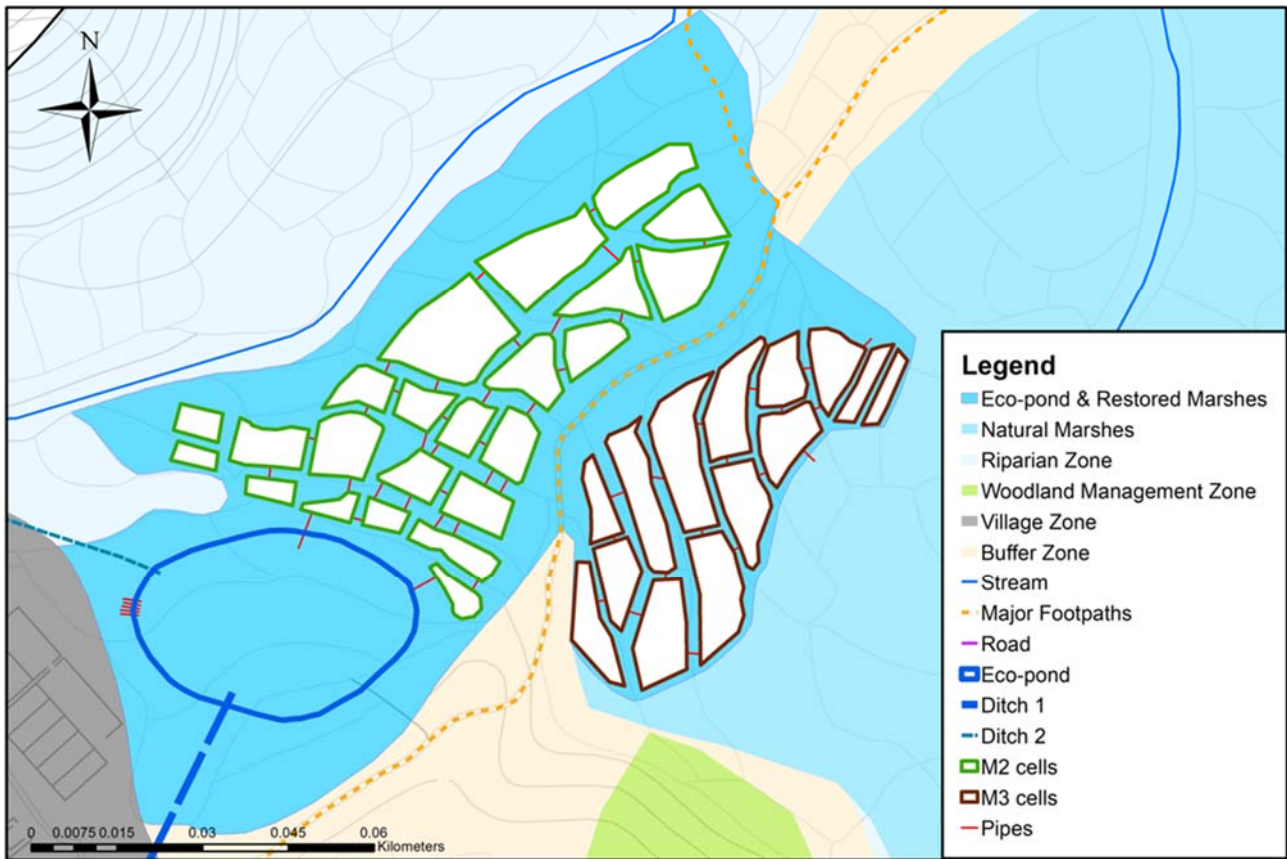


Figure 4 – Location Map of Woodland Fringe Management in Woodland Management Zone, Buffer Zone and Riparian Zone

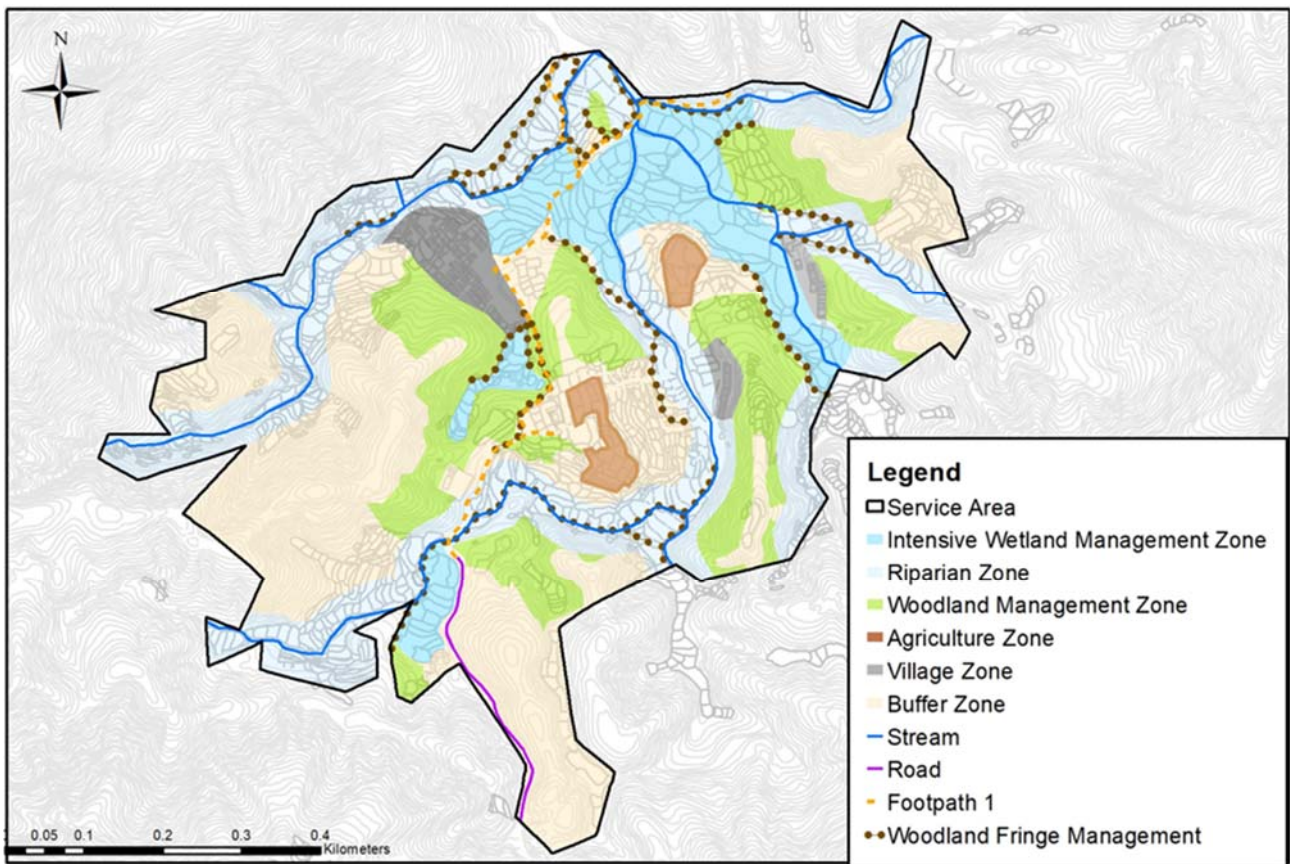


Figure 5 – Location Map of Stream Sections Requiring Vegetation Management and Patrol in Riparian Zone

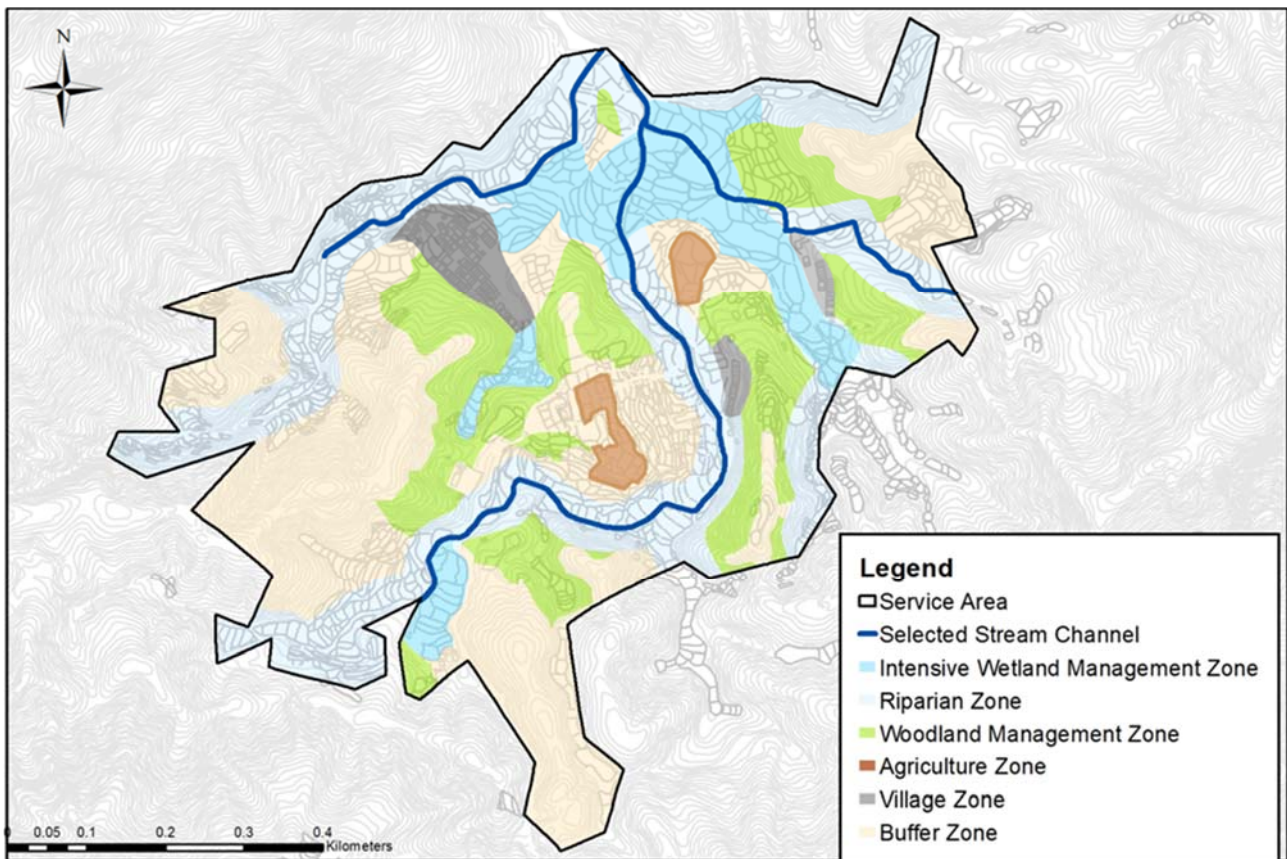


Figure 6 – Location Plan of Graveyards and Urn Shelters that require Fire Breaks Maintenance by Grass Cutting in Sha Lo Tung

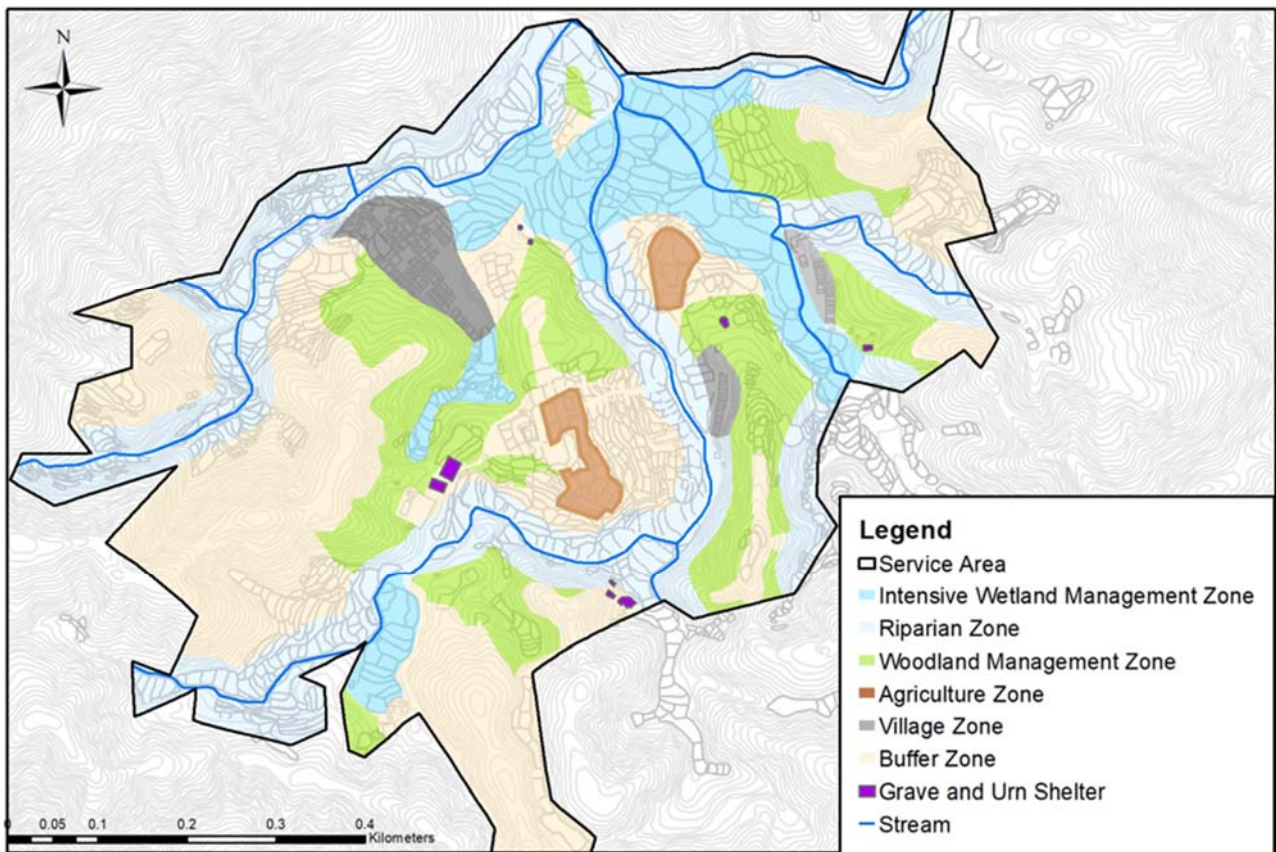
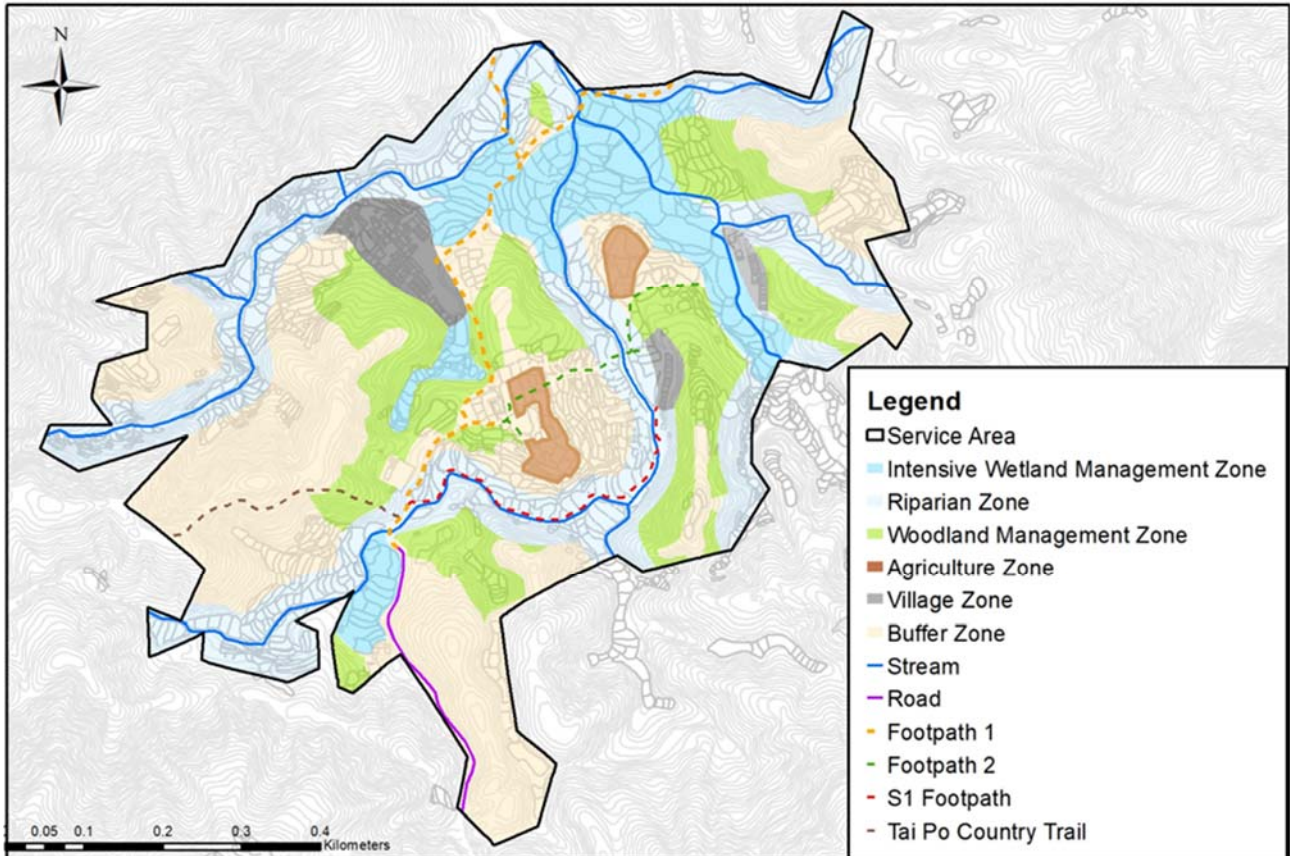


Figure 7 – Location Plan of Access Maintenance by Grass Cutting in Sha Lo Tung



PART 4
SCHEDULES

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CONTRACT SCHEDULE 1 – PRICE SCHEDULE

CONTRACT SCHEDULE 2 – INFORMATION AND STATUS OF TENDERER

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TENDERER'S EMPLOYEE

CONTRACT SCHEDULE 4 – EXECUTION PLAN

CONTRACT SCHEDULE 5 – NON-COLLUSIVE TENDERING CERTIFICATE

CONTRACT SCHEDULE 1
PRICE SCHEDULE

(To be completed and returned together with the tender submission)

Part A – Price Proposal and Breakdowns

Section 1 - Estimated Contract Price (Use separate sheets if required)

Task I Habitat Management Work within IWMZ (as more particularly specified in Section 3(I) of the Service Specifications (“Section (I)”))

| Item | Description of Items | Estimated Quantity Required over each 12-month period of the Contract Period (A1) | Unit Rate for each 12-month period covering all quantity of service items of (A1) (HK\$) (B1) | Sub-total ((B1) x 2) (HK\$) |
|---|---|--|--|------------------------------------|
| I-1 | Bund maintenance and water control in eco-pond & restored marshes (service items (a) – (d) in Section 3(I)) | 12 months | | |
| I-2 | Control of alien plant species and vegetation management work in eco-pond & restored marshes (service items (e) – (o), except (g), in Section 3(I)) | For each service item as specified opposite, 4 times | | |
| I-3 | Control of Apple Snails in in eco-pond & restored marshes (item (g) in Section 3(I)) | 80 man-days | | |
| I-4 | Control of alien plant species and vegetation management work in natural marshes (service items (p) – (s) in Section 3(I)) | For each service item as specified opposite, 2 times | | |
| Total amount payable for Task I (HK\$) | | | | (C1) |

Name of Tenderer in English: _____

CONTRACT SCHEDULE 1
PRICE SCHEDULE

(To be completed and returned together with the tender submission)

Task II Vegetation Management Work outside IWMZ (as more particularly specified in Section 3(II) of the Service Specifications (“Section 3(II)”)

| Item | Description of Items | Estimated Quantity Required over each 12-month period of the Contract Period (A2) | Unit Rate for each 12-month period covering all quantity of service item of (A2) (HK\$) (B2) | Sub-total ((B2) x 2) (HK\$) |
|--|---|--|---|------------------------------------|
| II-1 | Control of invasive alien species along fringe areas in WMZ, BZ and RZ (service item (a)(i) in Section 3(II)) | 4 times | | |
| II-2 | Control of invasive alien species in Riparian Zone (service item (a)(ii) in Section 3(II)) | 1 time | | |
| II-3 | Maintenance of fire breaks (service item (b) in Section 3(II)) | 2 times | | |
| II-4 | Maintenance of access (item (c) in Section 3(II)) | 6 times | | |
| Total amount payable for Task II (HK\$) | | | | (C2) |

Name of Tenderer in English: _____

CONTRACT SCHEDULE 1
PRICE SCHEDULE

(To be completed and returned together with the tender submission)

Task III Habitat Mapping and Ecological Monitoring (as more particularly specified in Section 3(III) of the Service Specifications (“Section 3(III)”))

| Item | Description of Items | Estimated Quantity Required over each 12-month period of the Contract Period (A3) | Unit Rate for each 12-month period covering all quantity of service items of (A3) (HK\$) (B3) | Sub-total ((B3) x 2) (HK\$) |
|---|--|--|--|------------------------------------|
| III-1 | Habitat mapping (service items (a)-(e) in Section 3(III)) | As stated in the Service Specifications for the service items specified opposite | | |
| III-2 | Ecological monitoring (service item (f) in Section 3(III)) | The quantity as stated in the table set out in Section 3(III)(f) | | |
| Total amount payable for Task III (HK\$) | | | | (C3) |

Task IV Surveillance Against Irregularities (as more particularly specified in Section 3(IV) of the Service Specifications)

| <u>Item</u> | <u>Description of Items</u> | Estimated Quantity Required over the Contract Period of 24 months (A4) | Unit Rate per month (HK\$) (B4) | <u>Sub-total ((A4) x (B4)) (HK\$)</u> |
|--|--|---|--|--|
| IV-1 | Surveillance against irregularities (items (a)-(c) in Section 3(IV)) | 24 months | | |
| Total amount payable for Task IV (HK\$) | | | | (C4) |

Name of Tenderer in English: _____

CONTRACT SCHEDULE 1
PRICE SCHEDULE

(To be completed and returned together with the tender submission)

Task V Public Education Programmes (as more particularly specified in Section 3(V) of the Service Specifications)

| Item | Description of Items | Estimated Quantity Required over each 12-month period of the Contract Period (A5) | Unit Rate for each 12-month period covering all quantity of service item of (A5) (HK\$) (B5) | Sub-total ((B5) x 2) (HK\$) (C5) |
|---|---|--|---|---|
| V-1 | Guided tours (item (a) in Section 3(V)) | 25 times | | |
| V-2 | Volunteer events (item (b) in Section 3(V)) | 3 times | | |
| V-3 | Outreach talks (item (c) in Section 3(V)) | 5 times | | |
| V-4 | Website production and publicity materials (item (d) in Section 3(V)) | Throughout the 12-month period | | |
| Total amount payable for Task V (HK\$) | | | | (C5) |

| | |
|---|---------------|
| Total Amount for the Services for 24 months ("Service Fee" or "Estimated Contract Price") = (C1)+(C2)+(C3)+(C4)+(C5) | (HK\$) |
|---|---------------|

Name of Tenderer in English: _____

CONTRACT SCHEDULE 1
PRICE SCHEDULE

(To be completed and returned together with the tender submission)

Section 2 – Rates for Provision of Additional Services on an “as-and-when-required” Basis

| <u>Type of Staff</u> | Unit Rate per man-day (HK\$) |
|-----------------------------|-------------------------------------|
| Supervisor | |
| Skilled Worker | |

Note: The unit rate shall be used for calculation of an addition or reduction of the number of staff specified in Section 2(a) of the Service Specifications if and when required by the Government Representative in exercise of its powers under the Contract including Clause 2 of the Conditions of Contract.

Name of Tenderer in English: _____

CONTRACT SCHEDULE 1
PRICE SCHEDULE

(To be completed and returned together with the tender submission)

Part B – Method of providing the Contract Deposit

If the Contract is awarded to us, we shall pay to the Government the Contract Deposit by
* cheque / Cashier's Order / banker's guarantee.

* Delete as appropriate.

Part C – Payment Discount

1. Tenderers are requested to indicate in the spaces provided below what discounts they would allow on an instalment of the Service Fee or other amount payable under the Contract (if any) if payment is made in full within –
 - (a) 14 working days from the date of receipt of an invoice or from the due date for such payment as specified in the Contract, whichever is the later: _____% discount;
 - (b) 28 working days from the date of receipt of an invoice or from the due date for such payment as specified in the Contract, whichever is the later: _____% discount.
2. Tenderers are requested to insert the word “Nil” in the spaces provided above if they do not offer any payment discount.
3. Tenderers are requested to ensure that no more than two (2) digits after the decimal places are quoted for the above discount.
4. The period of 14 or 28 working days for payment discount shall be calculated from the date of the receipt by the Government of an invoice or the date the relevant payment falls due, whichever is the later.
5. Any payment discount offered by a Tenderer will not be taken into consideration in the tender price assessment, except when there is more than one Tenderer fully capable of undertaking the Contract and offering the same Estimated Contract Price.

Name of Tenderer in English: _____

CONTRACT SCHEDULE 2
INFORMATION AND STATUS OF TENDERER
 (To be completed and returned together with the tender submission)

Please submit the following information (please attach separate sheets if space is insufficient).

1. Name of the Tenderer in :
 English (in Block Letters) : _____
 Name of the Tenderer in :
 Chinese : _____
2. Address of Registered Office : _____
3. Present Business : _____

4. Tenderer's Response to the Government's Enquiries

Please fill in the name, telephone and fax number of its contact person in case that clarification of its Tender is required under Clause 3.7(a) of the Terms of Tender.

- (a) Name of Contract Person : _____
- (b) Post title of Contract Person : _____
- (c) Telephone number : _____
- (d) Fax number : _____
- (e) Authorised Signature & :
 Company Chop of Tenderer : _____

6. Please attach a photocopy of the company's valid Business Registration Certificate (if any).

7. Number of Tenderer's employees currently engaged in providing services:

8. Particulars of Company (e.g. year of establishment, shareholders, no. of workers employed, liability, annual turnover, etc.):

CONTRACT SCHEDULE 2
INFORMATION AND STATUS OF TENDERER
 (To be completed and returned together with the tender submission)

9. Bank Account Details for Payment of the Services:

- (a) Banker's Name : _____
- (b) Banker's Address : _____
- (c) Name of Account : _____
- (d) Account Number : _____
- (e) Authorised Signature & Company Chop of Tenderer : _____
 Name and Post Title of _____
- (f) Person Authorised to Sign : _____
 Tender (in block letters) _____

10. Information required under Paragraph 18.2 of the Terms of Tender:

- * (a) I/We confirm that none of the events as mentioned in Paragraphs 18.1(a) to 18.1(g) of the Terms of Tender has ever occurred.
- * (b) I/We confirm that the following event(s) as mentioned in Paragraphs 18.1(a) to 18.1(g) of the Terms of Tender has occurred:

Note: * Please delete whichever is not applicable.

| Date | Details of the Event |
|------|----------------------|
| | |
| | |
| | |
| | |

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

Tenderers shall refer to the requirements on the proposed Contract Manager, the proposed Supervisors and the proposed Skilled and Knowledgeable Workers set out in Annex C.

1. Qualification of the Proposed Contract Manager

Please provide the qualification of the proposed Contract Manager and his/her related discipline obtained preceding the Original Tender Closing Date. Please provide documentary proof of the qualification claimed (e.g. copy of graduation certificate etc.).

| Qualification and Discipline | Full Name of Issuing Authority | Date Obtained |
|-----------------------------------|--------------------------------|---------------|
| | | |
| | | |
| | | |
| | | |
| (Use separate sheets if required) | | |

Name of Tenderer in English: _____

2. Experience of the Proposed Contract Manager

Part 4 – Schedules (Contract Schedule 3)

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

Please provide details of the proposed Contract Manager's experience in providing the following services during the twelve (12)-year period immediately preceding the Original Tender Closing Date, including details of the contracts that he has performed (with client's name, contract period and size of fields involved). Please provide documentary proof of the experience claimed (e.g. copy of contract, invoice etc.)

Full-time Working Experience in Wetland Management

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|---|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Full-time Working Experience in Managerial or Supervisory Level

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|---|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Name of Tenderer in English: _____

3. Qualification of the Proposed Supervisors

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

Please provide the qualification of the proposed Supervisors and their related discipline obtained preceding the Original Tender Closing Date. Please provide documentary proof of the qualification claimed (e.g. copy of graduation certificate etc.).

Proposed Supervisor 1

| Qualification and Discipline | Full Name of Issuing Authority | Date Obtained |
|-----------------------------------|--------------------------------|---------------|
| | | |
| | | |
| | | |
| (Use separate sheets if required) | | |

Proposed Supervisor 2

| Qualification and Discipline | Full Name of Issuing Authority | Date Obtained |
|-----------------------------------|--------------------------------|---------------|
| | | |
| | | |
| | | |
| (Use separate sheets if required) | | |

Name of Tenderer in English: _____

4. Experience of the Proposed Supervisors

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

Please provide details of each of the proposed Supervisor's experience in providing the following services during the twelve (12)-year period immediately preceding the Original Tender Closing Date, including details of the contracts that he has performed (with client's name, contract period and size of fields involved). Please provide documentary proof of the experience claimed (e.g. copy of contract, invoice etc.).

Proposed Supervisor 1

Full-time Working Experience in Wetland Management

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Full-time Working Experience in Supervisory Level

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Name of Tenderer in English: _____

Proposed Supervisor 2

Full-time Working Experience in Wetland Management

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Full-time Working Experience in Supervisory Level

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Name of Tenderer in English: _____

5. Experience of the Proposed Skilled Workers

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

Please provide details of each of the proposed Skilled Worker's experience in providing the following services during the twelve (12)-year period immediately preceding the Original Tender Closing Date, including details of the contracts that he has performed (with client's name, contract period and size of fields involved). Please provide documentary proof of the experience claimed (e.g. copy of contract, invoice etc.).

Proposed Skilled Worker 1

Full-time Working Experience in Wetland Vegetation Management or Landscaping Industry

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Name of Tenderer in English: _____

Proposed Skilled Worker 2

Full-time Working Experience in Wetland Vegetation Management or Landscaping Industry

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER'S EMPLOYEE

(To be completed and returned together with the tender submission)

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Proposed Skilled Worker 3

Full-time Working Experience in Wetland Vegetation Management or Landscaping Industry

| Details of Contract / Project (with Client's name, if any) | Contract / Project Period (DD/MM/YYYY) |
|---|--|
| | |
| | |
| | |
| (Use separate sheets if required) | |
| Total Relevant Years of Experience | |

Name of Tenderer in English: _____

CONTRACT SCHEDULE 4
EXECUTION PLAN

(To be completed and returned together with the tender submission)

Tenderers shall refer to the requirements on the Execution Plan set out in Annex B.

Part A

1. Operation Plan (Please attach)

2. Resource and Supervision Plan (Please attach)

3. Contingency Plan (Please attach)

4. Innovative Suggestions (Please attach; also see Part B)

Name of Tenderer in English: _____

CONTRACT SCHEDULE 4
EXECUTION PLAN

(To be completed and returned together with the tender submission)

Part B

Schedule of Innovative Suggestions

(Please refer to Note 7 and 8 of the Explanatory Notes for Marking Scheme for details.)

Tenderers shall provide details of the proposed innovative suggestions in the following tables. If there is not enough space, please use supplementary sheets if necessary.

Assessment Criterion (4)(a) Type 1 – Improving the Delivery of the Services

| Proposed innovative suggestions | Brief description on improvements/benefits/positive values that can bring about | How to implement | Supporting documents (if any) |
|---------------------------------|---|------------------|-------------------------------|
| | | | |
| | | | |
| | | | |

Assessment Criterion (4)(b) Type II – Not Directly Relevant to the Delivery of the Services

| Proposed innovative suggestions | Brief description on improvements/benefits/positive values that can bring about | How to implement | Supporting documents (if any) |
|---------------------------------|---|------------------|-------------------------------|
| | | | |
| | | | |
| | | | |

Name of Tenderer in English: _____

CONTRACT SCHEDULE 5
NON-COLLUSIVE TENDERING CERTIFICATE
 (To be completed and returned together with the tender submission)

To: the Government

Dear Sir/ Madam,

Non-collusive Tendering Certificate

1. I/We, (name of the Tenderer) _____ of
 (address(es) of the Tenderer(s)) _____

refer to the Government's invitation to tender for the Contract ("Invitation to Tender") and my/our Tender in response to the Invitation to Tender.

Non-collusion

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

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

CONTRACT SCHEDULE 5
NON-COLLUSIVE TENDERING CERTIFICATE
(To be completed and returned together with the tender submission)

3. Paragraph 2(b) of this certificate shall not apply to agreements, arrangements, communications, understandings, promises or undertakings with:
- (a) the Government;
 - (b) a joint venture partner with which I/we have submitted my/our Tender, and such joint venture arrangement has already been notified to the Government in my/our Tender;
 - (c) my/our consultants or sub-contractors, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular consultancy arrangement or sub-contract;
 - (d) my/our professional advisers, provided that the communications are held in strict confidence and limited to the information required for the adviser to render their professional advice in relation to my/our Tender;
 - (e) insurers or brokers for the purpose of obtaining an insurance quote, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular insurance arrangement;
 - (f) banks for the purpose of obtaining financing for the Contract, provided that the communications are held in strict confidence and limited to the information required to facilitate that financing; and
 - (g) any person other than the Government, provided that the Government has given prior written consent.

Disclosure of subcontracting

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

Consequences of breach or non-compliance

5. I/We understand that in the event of any breach or non-compliance with any representations, warranties and/or undertakings in this certificate or in Clause 16.1 of the Terms of Tender, the Government may exercise any of the rights under Clause 16.2 to 16.4 of the Terms of Tender in addition to and without prejudice to any other rights or remedies available to it against me/us.

CONTRACT SCHEDULE 5
NON-COLLUSIVE TENDERING CERTIFICATE
(To be completed and returned together with the tender submission)

6. Under the Competition Ordinance (Chapter 619 of the Laws of Hong Kong), bid-rigging is serious anti-competitive conduct. I/We understand that the Government may, at its discretion, report all suspected instances of bid-rigging to the Competition Commission (the “Commission”) and provide the Commission with any relevant information, including but not limited to information on my/our Tender and my/our personal information.

Authorised Signature & Company Chop :

Name and Title of Person Authorised to Sign
Tender :

Name of Tenderer in English (in Block
Letters) :

Tel No.: _____

Fax. No.: _____

Date: _____

