

**THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
AGRICULTURE, FISHERIES AND CONSERVATION DEPARTMENT
TENDER FOR THE PROVISION OF SERVICES**

Tender Ref. : *AFCD/NR/01/25* **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 Provision of Proactive 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 22 January 2026 (date) (Hong Kong time). Late Tenders will not be accepted.

INTERPRETATION

PART 1 — TERMS OF TENDER WITH ANNEXES A TO E

PART 2 — CONDITIONS OF CONTRACT

PART 3 — SERVICE SPECIFICATIONS WITH APPENDICES A TO B

PART 4 — CONTRACT SCHEDULES 1 TO 5

PART 5 — OFFER TO BE BOUND

PART 6 — MEMORANDUM OF ACCEPTANCE

Dated this 5 day of December 20 25

..... (CHAN Kin Fung)
Government Representative

Tender Ref.: AFCD/NR/01/25

PART 5 — OFFER TO BE BOUND
(PLEASE SIGN AND SUBMIT THIS PART 5
WITHOUT CHANGING THE ORIGINAL TEXT)

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 rate(s) quoted by me/us in the Price Schedule 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 :

Notes:

- (i) For Paper-based Tendering, the Offer to be Bound to be submitted shall be Part 5 of this Tender Form or a printed copy from a softcopy of Part 5 of this Tender Form or a photocopy or a scanned copy of such hardcopy or printed copy. Any manner of reproduction of Part 5 of this Tender Form (including copy-typing) to be submitted as the Offer to be Bound shall not be acceptable and the Tender with the non-conforming Offer to be Bound will **not be considered further**.
- (ii) For Paper-based Tendering, this Part 5 – Offer to be Bound shall be signed (containing an original signature) and submitted in the Tender before the Tender Closing Time. This signed Part 5 – Offer to be Bound to be submitted must not be a photocopy of the original, otherwise, **the Tender will not be considered further**.
- (iii) In compliance with the restriction set out in Clause 22.1(b) of the Terms of Tender, the Tenderer shall not make any alteration to the original text set out in this Part 5 – Offer to be Bound, otherwise **the Tender will not be considered further**. Deleting inapplicable word “I/we” or “me/us” or the alternative wording denoted by # above is however not to be treated as an alteration.

Tender Ref.: AFCD/NR/01/25

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 Group(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:

| <u>Expressions</u> | <u>Definitions</u> |
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| “Accepted Innovative Suggestions” | means those innovative suggestions proposed by the Contractor (as found in Part B of the Execution Plan (Contract Schedule 4)) and accepted by the Government in the version attached to the Memorandum of Acceptance for identification purposes; |
| “AFCD” | means the Agriculture, Fisheries and Conservation Department of the Government; |
| “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; |
| “Completion Report” | has the same meaning as in Section 4 of the Service Specifications; |
| “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 in cash or in the form of banker’s guarantee referred to in Clause 10 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; |
| “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” | means the Tenderer whose Tender is accepted by the Government; |

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| “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; |
| “designated bank account” (in upper or lower case) | means the bank account the details of which shall be provided by the Contractor under Clause 10.10 of the Conditions of Contract; |
| “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; |
| “Environmental Protection, Sustainability, Social Responsibility or Governance Proposal” or “ESG Proposal” | means a proposed measure or arrangement that will improve environmental protection, sustainability or social responsibility or governance which may but need not be directly relevant to the procurement covered by this Invitation to Tender, but which can bring about positive value(s) and/or benefit(s) to the Government or the public at large; |
| “essential requirement” | means a requirement specified in the Tender Documents which is identified as an essential requirement or a requirement in relation to which it is stated in the Tender Documents that the non-compliance by a Tender or a Tenderer as at the Tender Closing Time will lead to that Tender or Tenderer not being considered further (or the Tender or Tenderer being disqualified); |
| “Estimated Contract Price” | means in relation to an Item, as specified in Section 1 of the Price Schedule, the unit rate for that Item over each 12-month period of the Contract Period multiplied by the estimated quantity of such Item over each 12-month period of the Contract Period, and further multiplied by two (i.e. two 12-month periods in the Contract Period); |
| “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 supplier on the GLD notification lists, or a GLD subscriber, or a person who is for the time being just an applicant to become a supplier on the GLD notification lists up to the time |

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| | of the notification of the result of its application; |
| “ETO” | means the Electronic Transactions Ordinance (Chapter 553 of the Laws of Hong Kong); |
| “Faster Payment System” or “FPS” | means the Faster Payment System operated by the Hong Kong Interbank Clearing Limited; |
| “Force Majeure Event” | means: <ul style="list-style-type: none"> (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 Clause 19.6 and 19.7 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 Clause 19.6 and 19.7 of the Terms of Tender) or any employee or agent or ex-employee or ex-agent thereof; <p>and which, in any case of (a) or (b) above, prevents the performance of the duties and obligations of any party hereunder;</p> |
| “FPS proxy” | means the Hong Kong Identity Card number or FPS identifier registered with the FPS and linked with a bank or a stored value facility to be provided by the Contractor under Clause 10.10 of the Conditions of Contract for receiving payment via FPS; |
| “General Holiday” or “Public Holiday” (in upper or lower case) | means every Sunday and any other day which is a general holiday by virtue of the General Holidays Ordinance (Chapter 149 of the Laws of Hong Kong); |
| “GLD” | means the Government Logistics Department of the Government; |
| “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 Special |

Administrative Region;

- “Government Property” means all property, equipment, data, documents, information, text, drawings, pictures, diagrams, images, sound or music, source codes and any other materials 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 PRC;
- “Hong Kong dollars” means the lawful currency of Hong Kong;
- “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;
- “Inception Report” has the same meaning as in Section 4 of the Service Specifications;
- “Independent Accredited Laboratory” means a laboratory which:
- (a) is accredited for the required scope as specified in the Tender Documents under the Hong Kong Laboratory Accreditation Scheme (HOKLAS) operated by Hong Kong Accreditation Service or under other accreditation scheme operated by any one of the laboratory accreditation bodies with which HOKLAS has concluded mutual recognition agreements/arrangements or such other accreditation as may be specified in the Interpretation (Supplement);
 - (b) must not be the same entity as the Tenderer or the Contractor; and
 - (c) must not be an associate or associated person (as defined in Clause 18.3 of the General Conditions of Contract) of the Tenderer or the Contractor;

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| “Innovative Suggestion” (in upper or lower case) | means a Pro-innovation Proposal or an ESG Proposal; |
| “Inspecting Officer” | means the officer appointed by the Government Representative for the purpose of inspecting the Services performed in pursuance of the Contract; |
| “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 whether now known or created in future (of whatever nature and wherever arising) and in each case whether registered or unregistered, and including 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; |
| “Items” | means the services specified in the column of the table with heading “Description of Items” in Part A of the Price Schedule with a unique item number, and shall be inclusive of all related services and subject matters specified in the Contract; |
| “Marking Scheme” | means Annex B to the Terms of Tender; |
| “Materials” | means any and all works and materials of whatsoever nature (including their drafts and uncompleted versions) developed, written, prepared, produced, created, collected, compiled or provided by or on behalf of or for the Contractor, its employees, agents or sub-contractors in relation to the Services or for the purposes of the Contract (whether individually or collectively or jointly with [others]) including without limitation, the Deliverables and any other reports, summaries, models, questionnaires, analyses, papers, advice, recommendations, documents, records, plans, props, designs, drawings, photographs, pictures, diagrams, images, videos, sound, music, formula, tables, charts, databases, computer source codes, compilation of data or information, data or information collected, compiled, produced or created by the Contractor, its employees, agents or sub-contractors in relation to the Services or for the purposes of the Contract, recorded or stored by whatever means; |
| “Original Tender Closing Date” | means the latest date specified in the Tender Form as the latest date before which Tenders must be deposited with the Government, regardless of whether the date has been extended subsequently; |

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| “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; |
| “Parties” (in upper or lower case) | means the Government and the Contractor; and “Party” (in upper or lower case) means any one of them; |
| “Payment Officer” | means the public officer identified as such in Clause 16.6 in the Terms of Tender; |
| “Pro-innovation Proposal” | means a proposal that adopts any one or more of the following: technological means / arrangements /work process / solutions / equipment that can enhance efficiency, effectiveness and productivity of the Services; |
| “Progress Report” | has the same meaning as in Section 4 of the Service Specifications; |
| “PRC” | means the People’s Republic of China; |
| “Price Schedule” | means “Part A – Price Proposal and Breakdowns” of Contract Schedule 1; |
| “Services” | means any or 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 payable by the Government to the Contractor for the provision of the Services in the manner as stated in Clause 10 of the Conditions of Contract; |
| “Services” | means any or 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; |
| “Skilled Workers” | means the workers provided by the Contractor and/ or the sub-contractor for provision of the Services required in the Service Specifications whose requirements are set out in Clause (h) in Section 2 of the Service Specifications; |
| “Specified Tender Box” | means the tender box specified in the “Lodging of Tender” section of the Tender Form or, where applicable, other places assigned by a Government officer for depositing bulky tenders; |
| “stored value facility” (in upper or lower case) | has the meaning as set out in section 2A of the Payment Systems and Stored Value Facilities Ordinance (Chapter 584 of the Laws of Hong Kong); |

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| “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; |
| “Tender Closing Date” | means the latest date specified in the Tender Form as the latest date before which Tenders must be deposited with the Government, as the same may be extended by the Government from time to time whether in accordance with Clause 3.5(c) or (d) of the Terms of Tender or otherwise; |
| “Tender Closing Time” | means the time on the Tender Closing Date before which Tenders must be deposited with the Government in the manner stipulated in the Tender Form as the same may be extended from time to time whether in accordance with Clause 3.5(c) or (d) of the Terms of Tender or otherwise; |
| “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; |
| “Tenderer” | means the person whose particulars are set out in the “Offer to be Bound”; |
| “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; |
| “Total Estimated Contract Price” | means an amount equal to the summation of the Estimated Contract Prices for all such Item(s) which have been awarded to the Contractor; |
| “Virus” | means a subversive computer programme or piece of code that may corrupt or erase computer data files and/or change the normal behaviour of a computer; |

- “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 the following:
- (a) a public holiday; or
 - (b) a day on which:
 - (i) Tropical Cyclone Warning Signal No. 8 or above is hoisted; or
 - (ii) Black Rainstorm Warning Signal or “extreme conditions” announced by the Government is/are in force.
- “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 (Chapter 1 of the Laws of Hong Kong). The expression “officer” has the meaning given to it the Companies Ordinance (Chapter 622 of the Laws of Hong Kong).
- 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 Proactive 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 Proactive Habitat Management and Related Services at Sha Lo Tung” comprise the following:-

- (a) Tender Form;
- (b) Interpretation;
- (c) Part 1 - Terms of Tender (with Annexes A to E);
- (d) Part 2 - Conditions of Contract;
- (e) Part 3 - Service Specifications (with Appendices A to B);
- (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 the 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 and are not figures to which the Government binds itself to adhere. 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 AFCD 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.
- 2.9 The provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Invitation to Tender and a Tender submitted by a Tenderer in response to this Invitation to Tender.

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) A Tender may not be considered by the Government if:
- (i) false, inaccurate, incorrect or incomplete information is given in the Tender; or
- (ii) any proposal, document or information requested in the Tender Documents is not furnished in full in the Tender.
- (d) 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.

- (e) 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.
- (f) Apart from Part 5 “Offer to be Bound” of the Tender Form (which, in the case of Paper-based Tendering, must be originally signed by or on behalf of the Tenderer as required under Clause 3.2(c)(i) below, all documents submitted by a Tenderer to the Government in relation to its Tender shall be **original documents or copies of the original documents that were certified to be true and complete by the person(s) who are specified to sign “Offer to be bound” (“certified true copy”)**. In the case of Electronic Tendering, the Tenderer shall 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 submitted only a photocopy without any certification, the Government reserves the right to request a certified true copy after the Tender Closing Date. The Tender may not be considered further if the certified true copy is not provided.

3.2 Tender Preparation and Submission

- (a) A Tender:
 - (i) must be completed in English or Chinese and in accordance with other requirements of the Tender Documents. The Government will not consider a Tender that is completed in any other language. Where a supporting document in its original form is in a language other than English or Chinese, the Tenderer shall provide translation of that supporting document from the language into English;
 - (ii) must 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. 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 quadruplicate (i.e. four sets of identical documents) in accordance with the “Lodging of Tender” section of the Tender Form. The Tenderer shall ensure that all the four sets of Tenders submitted by it are identical. The Government may pick just any one set for the evaluation and for Contract formation purpose on the assumption that all four sets are identical.

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) must be submitted, for Paper-based Tendering, in a sealed envelope clearly

marked “**Tender Reference: AFCD/NR/01/25 – Provision of Proactive 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 three copies of the Contract Schedule 1 that are fully completed and should be enclosed in a sealed envelope clearly marked “Envelope A” and “**Tender Reference: AFCD/NR/01/25 – Provision of Proactive 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 three 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/01/25 – Provision of Proactive Habitat Management and Related Services at Sha Lo Tung – Technical Information**”.
- (iv) for Paper-based Tendering, will be regarded to have been submitted by a Tenderer or authorised to have been submitted by a Tenderer (as the case may be) if the submitted Part 5 “Offer to be Bound” of the Tender Form is signed by a director of the Tenderer (which is a company) or one or more persons who are duly authorised by the Tenderer signing the Tender for and on behalf of the Tenderer.
- (v) for Electronic Tendering, will be regarded to have been submitted by a Tenderer or authorised to have been submitted by a Tenderer (as the case may be) 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. Save in the case where the Tenderer is a partnership, a Tenderer shall use a digital certificate which is issued in its name as appearing in the applicable document mentioned in Clause 3.2(k)(i) or (ii) above; otherwise the Tender will not be considered further. In the case that the Tenderer is a partnership, the Tenderer may use a digital certificate issued in the name of one of its partners (or a general partner in the case of a limited partnership), or a digital certificate issued in the name of the partnership; otherwise the Tender will not be considered further.
- (vi) for Electronic Tendering, its Tender proposals for technical information and price information must 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 “envelope1.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 “envelope1.doc”.
- (b) Tenderers must complete (if applicable) and submit the following documents together with all necessary information including documentary evidence in its Tender in **quadruplicate**:-
- (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 and its Employees;
- (4) Contract Schedule 4 – Execution Plan;
- (5) Contract Schedule 5 –Non-collusive Tendering Certificate;
- (6) the information and documents referred to in Clause 19.2 of the Terms of Tender;
- (7) documentary proof of the Tenderer’s claim of experience and qualifications as required in Contract Schedule 3;
- (8) notwithstanding the deeming provision specified in Clause 3.2(a)(iv) and (v) of the Terms of Tender, a certified extract of the Tenderer’s board resolution or other documentary evidence acceptable to the Government demonstrating the Tenderer’s authorisation and approval for the submission of its Tender. This requirement shall always be applicable to a Tenderer which is a company regardless of the mode of submission of Tender. The name of the person authorised to sign the Offer to be Bound as shown in the aforesaid board resolution or documentary evidence (as the case may be) shall be the same as shown in the Offer to be Bound, failing which the Government reserves the power to seek clarification; and
- (9) the following documents as required in Contract Schedule 2:
- A. a certified true copy of the letter issued by the Inland Revenue Department of the Government recognising the tax-exemption status of the Tenderer under section 88 of the Inland Revenue Ordinance (Chapter 112 of the Laws of Hong Kong);
- B. a certified true copy of the Tenderer’s certificate of incorporation or registration and certificate of change of name (if any) or equivalent documents issued by the authority of its place of incorporation or registration; and
- C. a certified true copy of the Tenderer’s constitutional document or governing instrument.

- (c) Any failure to complete or submit the documents and/or information in a form or manner required under Clause 3.2(b) above (except for any of those set out in Clause 3.2(b)(i)(1), 3.2(b)(ii)(1) and (4)) 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 Part 5 "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) unit rate quotations in Sections 1 and 2 of the Price Schedule (Contract Schedule 1) duly completed; and
 - (iv) an Execution Plan (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) In these Terms of Tender, there are also requirements for the submission of documents and/or information, whereby it is provided that if not supplied before the Tender Closing Time, or upon subsequent request of the Government after the Tender Closing Time, the Tender will **not** be considered further. Even so, for this type of documents and/or information, the Government is not obliged to make any request for resubmission after the Tender Closing Time. If the Government chooses not to do so, or even if the Government chooses to do so but the Tenderer fails to supply the missing document or information, the Tender will also **not** be considered further.
- (e) For all other proposals, documents and information which do not fall within Clause 3.2(c) or (d) above, the Government reserves the right to seek submission under Clause 3.7 of the Terms of Tender or evaluate the Tender on an "as is" basis.
- (f) The Innovative Suggestions comprising the Pro-innovation Proposals and/or ESG Proposals in Part B of the Execution Plan (Contract Schedule 4) are, amongst others, those items which fall within Clause 3.2(e) above. They shall be submitted as part of its Tender before the Tender Closing Time or otherwise the Government will evaluate the Tender on an "as is" basis. However, the Government may, but is not obliged to, request clarification or submission of any factual information or document to support any claim or proposal in the Innovative Suggestions under Clause 3.7 below.
- (g) 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.
- (h) 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 Tenderer will be notified of such.

- (i) 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.
- (j) 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.
- (k) When completing the Tender Documents (including the Offer to be Bound section of the Tender Form), each Tenderer shall ensure that the name of the Tenderer is the same as the name shown in:
 - (i) if the Tenderer is a company incorporated in Hong Kong:
 - (1) the Certificate of Incorporation of the Tenderer; or
 - (2) if there is a change of name of the Tenderer since the date of its Certificate of Incorporation, the latest Certificate of Change of Name of the Tenderer; or
 - (3) its business name as shown in the current business registration certificate of the Tenderer;
 - (ii) if the Tenderer is incorporated, formed or established outside Hong Kong, a document equivalent to that described in Clause 3.2(k)(i)(1), (i)(2), (i)(3) above (as the case may be) issued by a governmental or competent authority of the place where the Tenderer is incorporated, formed or established.
 - (iii) Nothing in this Clause shall limit the Government's absolute right to determine or to request any other information/supporting documents in connection with or arising out of this Invitation to Tender.

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, including without limitation, the Accepted Innovative Suggestion no matter it is in relation to or do not concern any Item. No separate amount shall be payable for any Accepted Innovative Suggestion.
- (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 all prices and other proposals offered 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). The Tenderer may not initiate any request for amendment of its Tender after the Tender Closing Time on any ground (including any mistake made in the Tender). On the other hand, in the event of any apparent arithmetical or typo mistake or inconsistency in a Tender, pursuant to Clause 3.7 of the Terms of Tender, the Government may, but is not obliged to, ask the Tenderer to clarify, or to confirm another figure to replace the original figure. Where the Tenderer's clarification is not provided or not satisfactory, or the Tenderer refuses to confirm such other figure, or where the Government does not elect to seek clarification or confirmation from the Tenderer, the Government reserves the power to proceed to evaluate the Tender on an as is basis (i.e., in the form as originally submitted prior to the Tender Closing Time) or disqualify the Tenderer on ground that it has provided erratic or inconsistent proposals or quotations for proper evaluation.
- (d) Prices quoted by a Tenderer must only be shown in the Price Schedule. The Tenderer shall not submit any separate price quotation including any innovative suggestions where it is not expressly asked to do so in the Price Schedule. Any separate price quotation submitted in contravention of the aforesaid restriction shall be disregarded and will not form part of the Contract, or otherwise the Tender will be disqualified.
- (e) Payment to the successful Tenderer under the Contract will be made either by bank transfer into the designated bank account or through the FPS proxy. The details of the designated bank account or FPS proxy (depending on the election by the successful Tenderer) shall be provided by the successful Tenderer to the Government in Part D of Contract Schedule 1. No other mode of payment will be entertained unless agreed by the Government.
- (f) Payment through the FPS proxy will not be available to an overseas Tenderer which does not have a bank account or FPS proxy in Hong Kong. By default, all amounts payable under the Contract to such successful Tenderer will be made by telegraphic transfer into the Tenderer's overseas designated bank account.

3.4 Tenders to Remain Open

- (a) A Tender once submitted by a Tenderer will be binding on the Tenderer. By submitting a Tender, the Tenderer shall be deemed to have represented to the Government that it has done so as the principal but not as an agent of any other person. If the Tenderer submits a Tender as an agent on behalf of another person, full disclosure must be made in the Tender.
- (b) A Tender must remain valid and open for acceptance for not less than one hundred and eighty (180) 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 one hundred and eighty (180) days after the Tender Closing Date.
- (d) If a Tenderer offers in its Tender a period that is shorter than one hundred and eighty (180) days, the Government will clarify with the Tenderer concerned, in which case the Tenderer must confirm compliance with Clause 3.4(b) above within five (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 Time

- (a) For Paper-based Tendering, a Tender must be deposited in the Specified Tender Box before the Tender Closing Time. A Tender deposited in the Specified Tender Box at or after the Tender Closing Time, or a Tender not deposited in the Specified Tender Box, 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 Time. 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 Time.
- (c) In case Tropical Cyclone Warning Signal No. 8 or above is hoisted or a Black Rainstorm Warning Signal or “extreme conditions” announced by the Government is/are in force for any duration between 0900 and 1200 hours on the date specified in the “LODGING OF TENDER” section of the Tender Form, the latest date and time before which Tenders are to be deposited in the Specified Tender Box and at the e-Tender Box will be extended to 1200 hours on the next working day.
- (d) In case of blockage of the public access to the location of the Specified 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 Time 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 of the Government (<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 Time 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 part of the Tender is necessary, or (ii) 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, but is not obliged to, request the Tenderer to make the necessary clarification, or submit the required document or information. Each Tenderer must thereafter within five (5) working days from the date of the request 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 Part 5 "Offer to be Bound";
 - (ii) unit rate quotations in Section 1 and 2 of the Price Schedule (Contract Schedule 1) duly completed; and
 - (iii) an Execution Plan in Contract Schedule 4.
- (c) (Applicable to Paper-based Tendering) For the avoidance of doubt, if the original signature is missing from Part 5 "Offer to be Bound" of the Tender Form or the entire Part 5 "Offer to be Bound" is missing from the Tender, the Tenderer will be disqualified and no request for resubmission will be made. Otherwise, for any other missing information to be completed in Part 5 "Offer to be Bound" or in relation to any ambiguity (including in relation to the signature), the Government may, but is not obliged to, seek clarification from the Tenderer under Clause 3.7(a) above. In the case that the date is missing from the Offer to be Bound, it shall be deemed that the date shall be the Tender Closing Date and no request for clarification will be made.
- (d) 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.

- (e) By submitting a Tender in response to this Invitation to Tender, the Tenderer gives consent to the Government to obtain from:

(a) any person whose particulars are required in the Tender Documents to be set out by the Tenderer in its Tender; and

(b) any issuing body of any of the test reports/ certificates or documentary evidence required in the Tender Documents,

all information which the Government considers appropriate and relevant to the evaluation of the Tender including information to verify the legitimacy, completeness, authenticity and accuracy of any information or document submitted by the Tenderer. If any consent from any other person is required for the Government to obtain any of the aforesaid information or document, the Tenderer undertakes that it can obtain such consent when required by the Government. Further, upon request by the Government, the Tenderer shall provide a written authorisation to the Government if such written authorisation is needed for the Government to obtain information and/or document(s) from the person or issuing body referred to in Sub-clauses (a) and (b) above.

3.8 Tenderer's Commitment

All Tenders, information and responses from a Tenderer must be submitted in writing. Each of them is the offer, commitment and 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 8 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 engagement by the Government of the successful Tenderer under the Contract, the name and address of the successful Tenderer and the Total 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 in relation to or concerning any Tenderer (successful or unsuccessful) or its Tender (whether or not specified in this Clause 3.10) and including information recorded in

whatever media) if the disclosure is made under any one of the following circumstances (even if disclosure may also mean the information will at the same time, or subsequently, become public information):

- (i) the disclosure of any information to any public officer or public body, as defined in the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong) 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 (including because of any disclosure under Clause 3.10(b)(ii) above);
- (iv) the disclosure of any information in circumstances where such disclosure is required pursuant to any law of Hong Kong, a request made by the Review Body mentioned in Clause 20 below, or an order of a court of Hong Kong or a court or tribunal with competent jurisdiction;
- (v) the disclosure of any information regarding anti-competitive collusive conduct to the Competition Commission of Hong Kong (and other authorities as relevant); or
- (vi) 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, or the disclosure pursuant to Clause 3.10 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 (Chapter 486 of the Laws of Hong Kong). The right of access includes the right to obtain a copy of the individual's personal data provided in the Tender.
- (d) Enquiries concerning the personal data collected by means of the Invitation to Tender, including the making of access and corrections, should be addressed to the Personal Data Privacy Officer of the AFCD.

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 AFCD's 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.

3.14 Modification of Tender

(a) Before the Tender Closing Time, a Tenderer who has lodged a Tender may modify its Tender as considered necessary.

(b) Paper-based Tendering

Any modification to the submitted Tender considered necessary by the Tenderer shall be the subject of a separate letter accompanying the Tender. Figures and words shall not be altered or erased; any modification shall be effected by striking the incorrect figure or word and inserting the correct figure or word in manuscript above the original figure or word. All such amendments shall be initialled by the Tenderer in manuscript.

(c) Electronic Tendering

In case of modification to the submitted Tender, the Tenderer shall submit either a complete set of the revised Tender superseding the original Tender, or just the revisions to the original Tender. Either way, this shall be stated clearly in the submission.

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

4.1 Tenderers must complete and submit the information and documents required in 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, formed or established outside Hong Kong, 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, formation or establishment (as the case may be) of the Tenderer and acceptable to the Government may be requested by the Government. The legal opinion, if required, should be made available upon request during the Tender Validity Period. Upon such request, the Tenderer shall provide such legal opinion covering the following issues and any other issues as may be required by the Government:

- (a) the Tenderer is duly incorporated, formed or established and validly existing and in good standing under the laws of the place of the Tenderer's incorporation, formation or establishment 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. By "validly existing and in good standing", it is meant that no event mentioned in any of the Clauses 13.2(a) to (e) of the Conditions of Contract or any event which has an equivalent effect to any such event has occurred in relation to the Tenderer;
- (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 19 of the Terms of Tender, constitute the legal, valid and binding obligations of the Tenderer in the place of its incorporation, formation or establishment and is enforceable against the Tenderer in accordance with its terms; without prejudice to the generality of the foregoing, where an Electronic Record is used in the formation of the Contract (whether with or without any electronic or digital signature), the Contract shall not be denied legality, validity or enforceability on the sole ground that an Electronic Record was used for that purpose;
- (d) the submission of its Tender and the 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, formation or establishment, or the Memorandum (if any) 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, formation or establishment 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, formation or establishment 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, formation or establishment 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;

- (i) the judgment handed by the courts of Hong Kong after the adjudication of any dispute arising from the Contract will be recognised and given effect to by the courts of the place of incorporation, formation or establishment of the Tenderer; and
- (j) it is not necessary under the laws of the place of incorporation, formation or establishment of the Tenderer that the Government be licensed, qualified or otherwise registered in such place of incorporation, formation or establishment in order to enable it to enforce its rights under the Tender Documents and the Contract.

4.3 The Government may require a Tenderer to provide, at its own expense, additional legal opinion satisfactory to the Government in all respects issued by a lawyer duly qualified to practise the laws of the place of incorporation, formation or establishment of the Tenderer and acceptable to the Government on any other matters arising from its Tender. Where the opinion on the question specified in Clause 4.2(i) above is negative or otherwise subject to qualifications not satisfactory to the Government, the additional legal opinion shall opine that any ruling made by the arbitrator under the arbitration provision set out in Clause 4.4 below will be recognised and given effect to by the courts of the place of incorporation, formation or establishment of the Tenderer (“additional opinion on arbitration”). Together with the additional opinion on arbitration to be provided, the Tenderer shall also be required to provide a confirmation in writing that in consideration of the award of the Contract, it agrees that Clause 35 of the Conditions of Contract shall be replaced by the arbitration clause in Clause 4.4 below.

4.4 Where the opinion on the question specified in Clause 4.2(i) above is negative or otherwise subject to qualifications not satisfactory to the Government, subject to the obtaining of the additional opinion on arbitration as mentioned in Clause 4.3 above, Clause 35 of the Conditions of Contract shall be deemed deleted and replaced by the following:

“35.1 The Parties shall first refer any dispute or difference arising out of or in connection with the Contract to mediation in accordance with The Government of the Hong Kong Special Administrative Region Mediation Rules prevailing at the time.

35.2 If the said dispute or difference is not settled by mediation according to Clause 35.1 above, the said dispute or difference shall be adjudicated by arbitration to be held in accordance with the Hong Kong International Arbitration Centre Domestic Arbitration Rules prevailing at the time when a notice of arbitration is issued by a Party (“Arbitration Rules”) except that regardless of whether the Arbitration Rules providing anything to the contrary, unless the Parties otherwise agree in writing: (a) the arbitration hearing must be held in Hong Kong and that the Arbitration Ordinance (Chapter 609 of the Laws of Hong Kong) shall apply to the arbitration (including the whole of Schedule 2); and (b) without prejudice to section 18(2) of the Arbitration Ordinance, the Government may on its own disclose any information relating to (i) the arbitral proceedings under the arbitration agreement; and (ii) an award made in those arbitral proceedings, under any of the circumstances mentioned in 3.10(b) of the Terms of Tender”.

5. **Essential Requirements**

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

6. **Site Visits**

- 6.1 For the purposes of evaluating whether the Tenderer will be capable of performing the Contract, the Government may, at its own costs, conduct site visit(s) to any premises including the premises of the Tenderer (including its registered office and warehouse) and/or the premises of the Tenderer's sub-contractor, with or without prior notice, whether by the Government Representative or any person appointed by the Government. The Tenderer shall make all necessary arrangements to facilitate such site visit(s) and shall complete the contact details including the address(es) of its office and/or sub-contractor's office (if any), facsimile number and email address in the Contract Schedule 2.
- 6.2 The making of any such site visit does not imply that the Tenderer will be awarded the Contract.

7. **Criteria of Assessment**

- 7.1 All tenders will initially be checked against the documents and information required in Clause 3.2(c)(i) to (iv) of the Terms of Tender and essential requirements stated in Annex A to the Terms of Tender. Tenders that fail to submit a complete set of required documents and information nor meet all of the essential requirements will not be further considered. Tenders that have met all requirements stated in Annex A to the Terms of Tender will be evaluated according to the Marking Scheme specified in Annex B to the Terms of Tender. 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.
- 7.2 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.
- 7.3 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.

8. **Award of Contract**

- 8.1 The Government will send a letter notifying conditional acceptance of offer ("Letter") to the successful Tenderer's address or facsimile number (as the case may be) specified in Contract Schedule 2 by either post or facsimile transmission, subject to the following conditions precedent:
- (a) delivery of the Contract Deposit to the Government pursuant to Clause 10 of the Terms of Tender; and
 - (b) other conditions as the Government may specify therein.

- 8.2 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 fourteen (14) days or more after the date of the Letter, such expiry date must be automatically extended to the date which is fourteen (14) days from the date of the Letter.
- 8.3 Upon and subject to the successful Tenderer having duly complied with Clause 8.1 hereof to the satisfaction of the Government, the Government will issue the Memorandum of Acceptance notifying fulfilment of the conditions precedent and the Contract is deemed to have been formed on the date of the issuance of the Letter.
- 8.4 If the conditions precedent set out in Clause 8.1 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 10, such failure may prejudice its future standing as a Government contractor or service provider.
- 8.5 Tenderers who do not receive any notification within the Tender Validity Period should assume that their Tenders have not been accepted.
- 8.6 Where an Electronic Record is used in the formation of the Contract (whether with or without any electronic or digital signature), the Contract shall not be denied validity or enforceability on the sole ground that an Electronic Record was used for that purpose.

9. **Financial Assessment**

- 9.1 If the Estimated Contract Price for all Items 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 audited financial statements of the Tenderer, and the audited consolidated accounts of the group if the Tenderer is a subsidiary of another company, for three (3) years prior to the Tender Submission Date. The audited financial statements must comply with the following requirements:
 - (i) the audited financial statements 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 (Chapter 622 of the Laws of Hong Kong);
 - (ii) the latest audited financial statements must be for the period ending no more than eighteen (18) months before the Tender Submission Date;
 - (iii) the audited financial statements (as the case may be) must contain the directors' report, auditors' report, statement of financial position (also referred to as balance sheet), statement of comprehensive income (also referred to as income statement), statement of changes in equity, statement of cash flows and notes to the financial statements;
 - (iv) all such financial statements must have been audited by certified public accountants (practising) (as defined in section 2 of the Accounting and Financial Reporting Council Ordinance (Cap. 588)) or for a non-Hong Kong

- company, by auditors recognised by the laws of the place of incorporation of the company;
- (v) if any such financial statements 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;

Remarks: Unaudited accounts are acceptable only if the Tenderer is an unincorporated business where audited accounts are not mandatorily required, or the Tenderer is a newly established business where the first accounts are not yet available. For unincorporated businesses, tax records such as profits tax assessment issued by the Inland Revenue Department of the Government for the past three (3) financial years (if available) shall be provided. The unaudited accounts and tax records must be certified by the directors of the Tenderer, certified public accountants or other accountants acceptable to the Government.

- (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 financial statements. The accounts must be prepared on the same basis in accordance with accounting principles generally accepted in Hong Kong. They must be certified by directors of the Tenderer, or (ii) certified public accountants or other accountants acceptable to the Government;
- (c) projected statement of 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 perform the Contract. The projected statements must comply with the following requirements:
- (i) they should be certified by a member of the governing body of the Tenderer;
 - (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 a member of the governing body or company secretary of the Tenderer) of letters of undertaking, minutes/resolutions of board meetings of its governing body 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.

- 9.2 Tenderers must, upon the request in writing by the Government, provide the documents mentioned in Clause 9.1 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.

10. **Contract Deposit**

- 10.1 The successful Tenderer must pay the Contract Deposit either in cash or by way of a banker's guarantee in the form of **Annex D** to the Terms of Tender. 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 in cash. For the successful Tenderer, and if the Contract Deposit is paid in cash, the successful Tenderer shall also indicate how the Contract Deposit (if any is remaining) shall be repaid to the successful Tenderer under Clause 11.9 of the Conditions of Contract.
- 10.2 If the Total Estimated Contract Price payable by the Government to the successful Tenderer exceeds HK\$1.36 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 two percent (2%) of the Total Estimated Contract Price.
- 10.3 If the Total 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 Total Estimated Contract Price.
- 10.4 If the successful Tenderer elects to pay the Contract Deposit by way of a banker's guarantee, the proposed guarantor and the form and substance of the banker's guarantee must be subject to the acceptance of the Government. Without prejudice to the generality of the foregoing, 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 (Chapter 155 of the Laws of Hong Kong) and acceptable to the Government;
 - (b) unless otherwise agreed by the Government, it must be on the terms set out at Annex D to the Terms of Tender; 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.
- 10.5 The balance of the Contract Deposit, whether paid by way of cash (if any is remaining) or banker's guarantee shall be returned to the Contractor or released in accordance with the Contract.

11. **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 or quotation exercises are evaluated.

12. **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.

13. **Cost of Tender**

13.1 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 and the doing of all acts required for the purpose of this Invitation to 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.

13.2 Tenderers are reminded that funding approval has not been obtained for this Invitation to Tender and the Government is not responsible for their costs of preparing the bids.

14. **Warning against Bribery**

14.1 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 (Chapter 201 of the Laws of Hong Kong). Any such offence committed by a Tenderer or any of its officers (including directors), employees or agents will render its Tender null and void.

14.2 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 (Chapter 201 of the Laws of Hong Kong) 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.

15. **Tender Briefing**

15.1 A tender briefing will be held at **2:30 pm on 15th December 2025 (Monday)**. 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 to the Terms of Tender 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 12th December 2025 (Friday). Each Tenderer can register

not more than two (2) persons for the tender briefing.

- 15.2 In case Tropical Cyclone Warning Signal No. 8 or above is hoisted or a Black Rainstorm Warning Signal or “extreme conditions” announced by the Government is/are in force for any duration three (3) hours before the tender briefing time mentioned in the above clause, the tender briefing will be rescheduled and registered parties with reply slip submitted by the above deadline would be informed by the Government Representative of the rescheduled briefing arrangement in due course.

16. **Enquiry**

- 16.1 Any enquiries from the Tenderer concerning the Tender Documents up to the date of lodging its Tender must 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

- 16.2 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), and no invitation is made by the Government to any Tenderer or potential Tenderer to rely on such statement. No such statement shall form part of the Tender Documents or alter, negate or constitute a waiver of any provision of the Tender Documents.
- 16.3 After lodging a Tender with the Government, the Tenderer must not attempt to initiate any further contact, whether direct or indirect, with the Government on its Tender or the Tender Documents. The Government shall have the sole right to initiate any such further contact and all such contacts and any replies of the Tenderer thereto shall be in writing or formally documented in writing.
- 16.4 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.
- 16.5 All communications in relation to the Invitation to Tender shall be conducted directly between the Government and the Tenderer unless the Government elects to contact any proposed sub-contractor, customer or client of the Tenderer, related person (as defined in Clauses 19.6 and 19.7 of the Terms of Tender) of the Tenderer, director or management staff of the Tenderer or those of the related person (as defined in Clauses 19.6 and 19.7 of the Terms of Tender) of the Tenderer or any other person directly.

- 16.6 For the payment instruction as specified in Clause 10.10 of the Conditions of Contract, it shall be provided to Nature Reserve Officer (Management 3) (i.e. “Payment Officer”) with the contact details as stated in Clause 16.1 above.

17. Warranty against Collusion

- 17.1 The Tenderer must ensure that the Tender is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person (except as provided in paragraph 3 of the Non-collusive Tendering Certificate referred to in Clause 17.2 below), regarding, amongst other things, price, tender submission procedure or any terms of the Tender. Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Chapter 619 of the Laws of Hong Kong). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.
- 17.2 The Tenderer shall complete and submit to the Government a Non-collusive Tendering Certificate (in the form set out in one of the Schedules titled as such) as part of its Tender.
- 17.3 In the event that a Tenderer is in breach of any of the representations, warranties and/or undertakings in Clause 17.1 above or in Non-collusive Tendering Certificate submitted by it under Clause 17.2 above, the Government shall 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 Tenderer’s Tender; and
 - (c) if the Government has entered into the Contract with the Tenderer, terminate the Contract under Clause 13.1 of the Conditions of Contract.
- 17.4 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, warranties and/or undertakings in Clause 17.1 above or in Non-collusive Tendering Certificate submitted by it under Clause 17.2 above.
- 17.5 A breach by a Tenderer of any of the representations, warranties and/or undertakings in Clause 17.1 above or in Non-collusive Tendering Certificate submitted by it under Clause 17.2 above may prejudice its future standing as a Government contractor or service provider.
- 17.6 The rights of the Government under Clauses 17.3 to 17.5 above are in addition to and without prejudice to any other rights or remedies available to it against the Tenderer.

18. Negotiations

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

19. **Government Discretion**

19.1 Notwithstanding anything to the contrary in the 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 any time prior to the Contract award or an order is made or a resolution is passed for the winding up or bankruptcy of the Tenderer or a related person 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) in the event of (i) a claim or an allegation by any person, or a ruling or judgment by a court, or decision by a competent tribunal or arbitration body that any thing(s), service(s) or material(s) to be supplied or recommended by the Tenderer in its Tender infringes any Intellectual Property Rights or any other rights of any person (“IPR infringement”) (and in the case of any claim or allegation, it was made any time during a period of seven (7) years preceding the Tender Closing Date and up to the time of Contract award); or (ii) the Government having grounds to believe there is or will be such IPR infringement; or (iii) an agreement has been entered into whether by the Tenderer or any other person to settle or compromise any claim or allegation about IPR infringement (regardless of whether on an admission basis or non-admission basis) which agreement is still valid and subsisting at any time during a period of seven (7) years preceding the Tender Closing Date and up to the time of Contract award;
- (d) any time during the thirty-six (36) months prior to the Tender Closing Date or between the Tender Closing Date and the award of the Contract, the Tenderer or a related person of the Tenderer (as defined in Clauses 19.6 and 19.7 below and including those who were in such capacity any time within the same period, i.e., thirty-six (36) months prior to the Tender Closing Date or between the Tender Closing Date and the award of the Contract) has committed significant or persistent default(s) or deficiency(ies) in the performance of any requirement or obligation under any other Government contract regardless of the procurement department of such other Government contract, regardless of whether the default(s) or deficiency(ies) led to the actual termination of the relevant Government contract and regardless of whether such default(s) or deficiency(ies) occur(s) before or after the termination or expiry of the relevant Government contract, and in the case of the latter, provided that the default(s) or deficiency(ies) relate(s) to any provisions which survive such termination or expiry, and regardless of whether such default(s) or deficiency(ies) has/have been remedied (“Contract Default(s)”); and the Government Representative in its sole judgment is satisfied that such Contract Default(s) cast(s) a reasonable doubt on the capability of the Tenderer to perform the Contract to be awarded in this Invitation to Tender;

- (e) (i) the Tenderer; or (ii) a related person of the Tenderer; or (iii) a director or management staff of the Tenderer or those of the related person of the Tenderer, has been convicted by the final judgment (i.e. judgment not subject to any appeal to a higher court prior to the Contract award) in respect of one or more serious offences including conviction of 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 Contract award;
- (f) in the event of the professional misconduct or acts or omissions having been committed during a period of five (5) years preceding the Tender Closing Date and up to the time of Contract award that adversely reflect on the commercial integrity of the Tenderer or a related person of the Tenderer or a director or management staff of the Tenderer or those of the related person of the Tenderer; professional misconduct includes any breach of the Good Industry Practice;
- (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;
- (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; or
- (i) the Government considers that the Tenderer will not be capable of fulfilling the terms of the Contract.

The grounds specified in Clauses 19.1(a) to 19.1(i) above are separate and independent, and shall not be limited by reference to or inference from the other of them.

19.2 For the purposes of Clause 19.1 above, 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 in relation to itself and its related person or its director or management staff (which 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 19.1(a);
- (b) details of conviction as mentioned in Clause 19.1(e) in Hong Kong or any overseas jurisdictions;
- (c) details of all infringement claims, allegations, rulings, judgments, decisions or settlement agreements as mentioned in Clause 19.1(c);
- (e) details of all Contract Defaults as mentioned in Clause 19.1(d); and

- (f) details of any professional misconduct or act or omission as mentioned in Clause 19.1(f) above;
- (g) details of any failure to pay taxes as mentioned in Clause 19.1(g) above;
- (h) attempts to limit or avoid its responsibility as mentioned in Clause 19.1(h); and
- (i) the anticipated Tenderer's inability of fulfilling the terms of the Contract as mentioned in Clause 19.1(i).

If none of the events as mentioned in Clauses 19.1(a) to 19.1(h) 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 19.3 below.

19.3 In addition to the information mentioned in Clause 19.2 above, the Government reserves the right (but not obligation) to request from a Tenderer, proposed sub-contractor, customer or client of the Tenderer, a related person (as defined in Clauses 19.6 and 19.7 of the Terms of Tender) of the Tenderer, a director or management staff of the Tenderer or those of the related person (as defined in Clauses 19.6 and 19.7 of the Terms of Tender) of the Tenderer, or any other person or independent sources, such other information that is reasonably relevant to facilitate the Government's determination as to whether to exercise its right of disqualification under Clause 19.1.

19.4 If the Tenderer fails to comply with the request made by the Government pursuant to Clause 19.3 above within such time as required by the Government, the Government may disqualify the Tenderer pursuant to Clause 19.3 of the Terms of Tender. If the Tenderer has submitted false, inaccurate or incomplete information, the Government may disqualify the Tenderer pursuant to Clause 19.1(b).

19.5 In providing the information required under Clauses 19.2 and 19.3 above, the Tenderer may show cause to satisfy the Government that in relation to any of the events as mentioned in Clauses 19.1(a) to 19.1(h) above, even if it has occurred, it does not cast doubt on the fitness, propriety or capability of the Tenderer to perform the Contract to be awarded in this Invitation to Tender.

19.6 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 beneficially 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 (being a company) of the Tenderer; and

- (d) a company in which a majority shareholder (being an individual) of the Tenderer directly or indirectly beneficially 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 (Chapter 622 of the Laws of Hong Kong).

- 19.7 References to related persons, directors and management staff of the Tenderer or of a related person in any of the applicable Sub-clause of Clause 19.1 above include persons who were in such capacity at the time of the incident referred to in any Sub-clause of Clause 19.1; or
- 19.8 Notwithstanding anything to the contrary in the Tender Documents, the Government reserves the right to disqualify a Tenderer on the grounds that the Tenderer has engaged, is engaging, or is reasonably believed to have engaged or be engaging in acts or activities that are likely to cause or constitute the occurrence of offences endangering national security or otherwise the exclusion is necessary in the interest of national security, or is necessary to protect the public interest of Hong Kong, public morals, public order or public safety.

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

- 20.1 The tendering process is subject to internal monitoring to ensure that the relevant contract is awarded properly and fairly. Any Tenderer who feels that its Tender has not been fairly evaluated may write to the Director of the AFCD who will personally examine the complaint and refer it to the approving authority or relevant tender boards for consideration if the complaint relates to the tendering system or procedures followed. The Tenderer should lodge the complaint within three (3) months after the award of Contract.
- 20.2 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 of the Government. 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 ten (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 AFCD before lodging a complaint to the Review Body. In such instances, the AFCD shall accord impartial and timely consideration to any such complaint, in a manner that is not prejudicial to obtaining corrective measures through the Review Body. The Review Body may receive and consider a late challenge but a challenge will not be considered if it is filed later than thirty (30) working days after the basis of the challenge is known or reasonably should have been known to the Tenderer.

21. **Environmental-friendly Measures**

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

21.2 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.

22. **Counter-Proposals**

22.1 The Tenderer must not submit any proposal that has the effect of varying or modifying (a) any essential requirements specified in the Tender Documents; (b) all provisions in the Tender Documents concerning the preparation, submission and evaluation of Tenders and award of Contract which shall mean all provisions in all Tender Documents (excluding only (i) those provisions which are not identified as essential requirements in the Service Specifications (if any) and (ii) the Conditions of Contract).

22.2 The Tenderer must not directly or indirectly attempt to preclude or limit the effect of any requirements or instructions set out in the Tender Form, these Terms of Tender or the Schedules.

22.3 If a Tenderer fails to comply with Clause 22.1 or 22.2 above, subject to any clarification which the Government may, but is not obliged to, seek from the Tenderer, its Tender will not be further considered.

22.4 Counter-proposal to other provisions of the Tender Documents not specified in Clause 22.1 or 22.2 above, whilst not strictly disallowed, is not encouraged. If the Tenderer wishes to submit one or more counter-proposals to any provision in the Tender Documents not of the types specified in Clause 22.1 or 22.2 above (“Counter-Proposals”), the Counter-Proposals shall be submitted in the following manner:

- (a)
 - (i) for Paper-based Tendering, the Counter-Proposals shall be attached to Part 5 “Offer to be Bound” of the Tender Form; or
 - (ii) for Electronic Tendering, the Counter-Proposals shall be attached as a separate attachment and identified as such;
- (b) the original provisions which the Counter-Proposals relate to shall be fully recited before the proposed alteration or deletion;
- (c) the proposed alteration to the original provisions shall be underlined and shall bear the corresponding clause number of the original provisions unless it is an addition;
- (d) if it is an addition, the additional provisions shall be underlined;
- (e) words to be deleted shall be crossed out by a single line only; and

- (f) an explanation shall be given below the alteration or deletion and put in square brackets “[]”.

22.5 Unless the Government otherwise agrees, Counter-Proposals that are not submitted in accordance with Clause 22.4 above will not be considered by the Government and will not be regarded as forming part of the Tender submitted by a Tenderer. In such event, the Tenderer shall be deemed to have agreed to the original provisions to which the Counter-Proposals relate and the Government will continue to consider the Tenderer's Tender on this basis.

22.6 Notwithstanding and without prejudice to the aforesaid, the Government may, but is not obliged to, negotiate with the Tenderer any Counter-Proposal. The Government may at its absolute discretion reject any Counter-Proposal. If the Government does elect to negotiate with a Tenderer concerning a Counter-Proposal, and if after such negotiation, the Tenderer is unwilling to withdraw such Counter-Proposal, or otherwise revise it on terms acceptable to the Government, its Tender may not be considered further. Any accepted Counter-Proposal following from a successful negotiation shall be deemed as part of the Tenderer's Tender and forms part of the Contract and shall be binding on the Tenderer if the Contract is eventually awarded to it.

23. **Licence to use the materials submitted by Tenderers**

A Tender once submitted will become the property of the Government. Tenders of unsuccessful Tenderer may be destroyed in accordance with Clause 3.9 of the Terms of Tender. In consideration of the Government considering its Tender, without prejudice to all other rights and powers of the Government under the Tender Documents (including in particular its right to disclose information in the Tenders) and under the Contract, each Tenderer hereby grants and shall at the Tenderer's cost procure that the lawful owner or authorised person of the relevant Intellectual Property Rights will grant, to the Government, its assigns, successors-in-title and authorised users, a royalty-free, non-exclusive, irrevocable, sub-licensable, transferable, world-wide, unrestricted right and licence to use or exercise all or any Intellectual Property Rights subsisting in its Tender (including the doing of any acts restricted by the copyright set out in sections 22 to 29 of the Copyright Ordinance (Chapter 528 of the Laws of Hong Kong)) for the purposes of tender evaluation, contract management, the disclosure made pursuant to Clause 3.10 of the Terms of Tender and for all other purposes incidental thereto or in connection therewith (including resolution of any dispute arising from the Invitation to Tender). Such right and licence shall continue to subsist so long as all or any Intellectual Property Rights subsist in the Tender (or any part thereof) under any applicable law, including the laws of Hong Kong. Where there is any presentation or demonstration, the aforesaid right and licence shall extend to such presentation and/or demonstration to be conducted by the Tenderer.

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 eligibility of the Tenderer

- 2.1 A charitable organisation exempted from tax under section 88 of the Inland Revenue Ordinance (Chapter 112 of the Laws of Hong Kong) having a legal personality, which must be as at the Original Tender Closing Date:
- (a) registered under the Registered Trustees Incorporation Ordinance (Chapter 306 of the Laws of Hong Kong); or
 - (b) formed or registered under the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) or the former Companies Ordinance (as defined in section 2(1) of the Companies Ordinance) as a company, overseas company or registered non-Hong Kong company; or
 - (c) a Post Secondary College registered under the Post Secondary Colleges Ordinance (Chapter 320 of the Laws of Hong Kong) or established, incorporated or continued under an ordinance; or
 - (d) established or incorporated under an ordinance.
- 2.2 **Any Tenderer which does not satisfy any of the essential requirements set out in Clause 2.1 above will be disqualified and its Tender will not be further considered.**

3. Requirements on the Proposed Contract Manager and the Proposed Supervisors

- 3.1 It is an essential requirement that a Tenderer must propose one (1) Contract Manager possessing the following qualifications 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 three (3) years' full-time working experience in wetland management in the twenty (20)-year period immediately preceding the Original Tender Closing Date; and
 - (c) an aggregate of not less than one (1) year's full-time working experience at managerial or supervisory level in the twenty (20)-year period immediately preceding the Original

Tender Closing Date.

- 3.2 It is an essential requirement that a Tenderer must propose not less than two (2) Supervisors, and each Supervisor must possess the following qualifications 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 one (1) year's full-time working experience in wetland management and ecological surveys or environmental education in the twenty (20)-year period immediately preceding the Original Tender Closing Date; and
 - (c) an aggregate of not less than one (1) year's full-time working experience at supervisory level in the twenty (20)-year period immediately preceding the Original Tender Closing Date.
- 3.3 **Any Tenderer which does not satisfy any of the essential requirements set out in Clauses 3.1 and 3.2 above will be disqualified and its Tender will not be further considered.**

Annex B

**Marking Scheme for the
Provision of Proactive 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 the “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 six (6) Assessment Criteria. There is no overall passing mark for the total marks scored in the Technical Assessment. A passing mark of 13.5 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 deduction 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 Section B of the marking scheme shall be in separate 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 statements for fulfilling the Services requirements. The pages submitted for Section B of the marking scheme shall not be counted towards the page limit specified in 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 – Strategy and methodology to deliver objectives of the project (See Notes 2 and 5) | 30 | 6 | | | | | | | | 13.5 |
| (2) | Resource and Supervision Plan – Deployment and supervision of manpower and resources for implementation (See Notes 3 and 5) | 15 | 3 | | | | | | | | |
| (3) | Contingency and Transition Plan – Strategy to respond to emergency or contingency situations, and transitional arrangements upon project commencement and completion (See Notes 4 and 5) | 10 | 2 | | | | | | | | |
| (4) | Innovative Suggestion | | | | | | | | | | |
| | (a) Pro-innovation Proposals relevant to the delivery of the Services (See Note 6) | 11.4 | 3.8 | | | | | | | | – |
| | (b) ESG Proposals that could bring about positive value / benefits to the Government or the public at large (See Note 7) | 3.6 | 1.2 | | | | | | | | – |
| | Sub-total for Section A | 70 | | | | | | | | | – |
| Section B - Experience and Qualification | | | | | | | | | | | |
| (5) | (a) Relevant experience of the Tenderer in habitat / wetland / vegetation management (See Note 8) | 10 | 2 | | | | | | | | – |
| | (b) Relevant qualifications of the Tenderer in habitat / wetland / vegetation management (See Note 9) | 5 | 1 | | | | | | | | |
| (6) | (a) | (i) Relevant experience of the Proposed Contract Manager (See Note 10) | 4 | 1 | | | | | | | – |
| | | (ii) Relevant qualifications of the Proposed Contract Manager (See Note 11) | 1 | 1 | | | | | | | |
| | (b) | (i) Relevant experience of the Proposed Supervisors (See Note 12) | 8 | 2 | | | | | | | |
| | | (ii) Relevant qualifications of the Proposed Supervisors (See Note 13) | 2 | 2 | | | | | | | |
| | Sub-total for Section B | | 30 | | | | | | | | – |
| | Total Technical Mark | | 100 | | | | | | | | – |

2.5 A Tender which has passed the 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 truncating 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 (6)

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

For Assessment Criteria (1), (2), (3), (5)(a) and (5)(b): 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 (6)(a)(i) and (6)(b)(i): Standard score of 4, 3, 2, or 1 will be awarded.

For Assessment Criteria (6)(a)(ii) and (6)(b)(ii): Standard score of 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, enhancement 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, water management (hydrological control and monitoring, water abstraction and reservation), monitoring, control and/or elimination of diseases, pests and invasive alien species, vegetation management (maintenance, 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 the provision of grass cutting, monitoring, control and/or elimination of diseases, pests and invasive alien species, vegetation management (maintenance, 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 and efforts, and data collection and evaluation, 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 and publicity events including but not limited to details of the guided tours, volunteer events, outreach talks and one additional type of publicity/thematic events such as the nature and scale of the initiatives, proposed schedule, activity and publicity plan, type and number of target audiences, means of post-event/activity evaluation, and so on, 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 arrangements 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 is as follows:

| | 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) – Pro-innovation Proposals

- (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) Innovative suggestions on Pro-innovation Proposals shall cover any of the following items –
 - (i) adoption of nature-based solutions or smart technology to enhance service delivery in habitat management, e.g. restore degraded wetlands to enhance biodiversity and water retention capacity, creation or provision of suitable devices or setup to attract specific fauna or taxa group which enhances the biodiversity for SLT;
 - (ii) adoption of technology to monitor the performance of services, e.g. use of drone or remote sensing for monitoring vegetation coverage or automated equipment for water level control;
 - (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 conditions and triggering prompt response;
 - (iv) introduction of innovative suggestions to run and improve effectiveness of the publicity and public education programmes; or
 - (v) 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** pro-innovation proposals covering any of the items as required in (b) of this Note above are proposed.
 - 2 – **Two (2) practicable** pro-innovation proposals covering any of the items as required in (b) of this Note above are proposed.
 - 1 – **One (1) practicable** pro-innovation proposal covering any of the items as required in (b) of this Note above is proposed.
 - 0 – **No practicable** pro-innovation proposal 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 Assessment Criterion (4)(a) will not earn marks again under Assessment Criterion (4)(b) and vice versa. If the Tender Assessment Panel (“TAP”) considers that the same innovative suggestion could earn marks under both Assessment Criteria (4)(a) and (4)(b), it will be taken as scoring marks under Assessment Criterion (4)(a) 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 proposal (i.e. pro-innovation or ESG) 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 Pro-innovation Proposal.

- (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) – ESG Proposals

- (a) ESG Proposals shall contribute to any of the following positive values –
 - (i) Adoption of measures or arrangements that will improve environmental protection, sustainability or governance / social responsibility, which may but need not be directly related to the project/tender requirements but would bring about positive values/benefits to the Government, or the public at large, e.g. use of green materials/products or promoting waste reduction in the execution of the project; employment of rehabilitated persons for the

project.

(b) Standard scores will be given in accordance with the following rule:

- 3 – **Three (3) or more practicable** ESG proposals contributing to any of the positive values as listed in (b) of this Note above are proposed.
- 2 – **Two (2) practicable** ESG proposals contributing to any of the positive values as listed in (b) of this Note above are proposed.
- 1 – **One (1) practicable** ESG proposal contributing to any of the positive values as listed in (b) of this Note above is proposed.
- 0 – **No practicable** ESG proposal contributing to any of the positive values as listed in (b) of this Note above is proposed.

(c) 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)(a) – Experience of the Tenderer

(a) Assessment will be based on the experience possessed by the Tenderer set out in the Tenderer's Contract Schedule 3.

(b) Standard scores will be given to Assessment Criterion (5)(a) in accordance with the aggregate number of years of relevant working experience held by the Tenderer in habitat management / wetland management / vegetation management of at least 2 ha for each project in the twenty (20)-year period immediately preceding the Original Tender Closing Date as follows:

- 5 – ten (10) years or more
- 4 – eight (8) to less than ten (10) years
- 3 – six (6) to less than eight (8) years
- 2 – four (4) to less than six (6) years
- 1 – one (1) to less than four (4) years
- 0 – less than one (1) year

Note 9: for Assessment Criterion (5)(b) – Qualifications of the Tenderer

(a) Assessment will be based on the qualifications possessed by the Tenderer set out in the Tenderer's Contract Schedule 3.

(b) Standard scores will be given to Assessment Criterion (5)(b) in accordance with the aggregate number of qualifications or professional / trade recognition / awards held or received by the Tenderer relevant to habitat management / wetland management / vegetation management in the twenty (20)-year period immediately preceding the Original Tender Closing Date as follows:

- 5 – five (5) or more
- 4 – four (4)
- 3 – three (3)
- 2 – two (2)
- 1 – one (1)
- 0 – less than one (1)

Note 10: for Assessment Criterion (6)(a)(i) – 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 (6)(a)(i) in accordance with the aggregate number of years of full-time working experience held by the proposed Contract Manager in (i) in wetland management and (ii) at managerial or supervisory level in the twenty (20)-year period immediately preceding the Original Tender Closing Date as follows:

| (i) | (ii) |
|---|---------------------------------------|
| 4 – nine (9) years or more | four (4) years or more |
| 3 – seven (7) to less than nine (9) years | three (3) to less than four (4) years |
| 2 – five (5) to less than seven (7) years | two (2) to less than three (3) years |
| 1 – three (3) to less than (5) years | one (1) to less than two (2) years |

- (c) In respect of (i) and (ii) of this Note above, 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) years of experience in (ii), the average score will be 3.
- (d) If more than one Contract Managers are proposed by a Tenderer, a standard score will be given according to the Contract Manager scoring a lower standard score.

Note 11: for Assessment Criterion (6)(a)(ii) – Qualifications of the Proposed Contract Manager

- (a) Assessment will be based on the qualifications, apart from those stated in the mandatory requirements, possessed by the proposed Contract Manager set out in the Tenderer's Contract Schedule 3.
- (b) Standard scores will be given to Assessment Criterion (6)(a)(ii) in accordance with the following rule:

- 1 – The proposed Contract Manager possessed a postgraduate degree in ecology, environmental science, biology, geography or related disciplines issued by a registered post-secondary institution or received one (1) qualification or professional / trade / academic recognition or award relevant to wetland management in the twenty (20)-year period immediately preceding the Original Tender Closing Date.
 - 0 – The proposed Contract Manager possessed an undergraduate degree in ecology, environmental science, biology, geography or related disciplines issued by a registered post-secondary institution or received no qualification or professional / trade / academic recognition or award relevant to wetland management in the twenty (20)-year period immediately preceding the Original Tender Closing Date.
- (c) If more than one Contract Managers are proposed by a Tenderer, a standard score will be given according to the Contract Manager scoring a lower standard score.

Note 12: for Assessment Criterion (6)(b)(i) – 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 two (2) 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)(b)(i) in accordance with the aggregate number of years of full-time working experience held by each of the proposed Contract Supervisor in (i) in wetland management and (ii) at supervisory level in the twenty (20)-year period immediately preceding the Original Tender Closing Date as follows:
- | | (i) | (ii) |
|---|---|---------------------------------------|
| 4 | – four (4) years or more | four (4) years or more |
| 3 | – three (3) to less than four (4) years | three (3) to less than four (4) years |
| 2 | – two (2) to less than three (3) years | two (2) to less than three (3) years |
| 1 | – one (1) to less than two (2) years | one (1) to less than two (2) years |
- (c) The principles of counting experience of a proposed Contract Manager at paragraph (c) of Note 10 are applicable to this Note.
- (d) A final standard score will be calculated by taking the average of the total standard scores of the two Supervisors. If more than two Supervisors are proposed by a Tenderer, an average standard

score will be given according to the two Supervisors scoring the lowest standard scores.

Note 13: for Assessment Criterion (6)(b)(ii) – Qualifications of the Proposed Supervisors

- (a) Assessment will be based on the qualifications, apart from those stated in the essential requirements, possessed by the proposed Contract Supervisors set out in the Tenderer's Contract Schedule 3. A Tenderer which fails to propose two (2) Supervisors meeting the essential requirements by the Original Tender Closing Date will not be considered further.
- (b) Standard scores will be given to Assessment Criterion (6)(b)(ii) in accordance with the following rule:
 - 1 – The proposed Supervisor possessed a postgraduate degree in ecology, environmental science, biology, geography or related disciplines issued by a registered post-secondary institution or received one (1) qualification or professional / trade / academic recognition or award relevant to wetland management in the twenty (20)-year period immediately preceding the Original Tender Closing Date.
 - 0 The proposed Supervisor possessed an undergraduate degree in ecology, environmental science, biology, geography or related disciplines issued by a registered post-secondary institution or received no qualification or professional / trade / academic recognition or award relevant to wetland management in the twenty (20)-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 11 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, the final standard score will be calculated by the two Supervisors 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/01/25

Provision of Proactive 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 it by fax (Fax No.: 2377 4427) or email (Email Address: pui_yu_yuen@afcd.gov.hk) **on or before 2 p.m. on 12th December 2025 (Friday)**.

Date : 15th December 2025 (Monday)
Time : 2:30 p.m. – 3:30 p.m.
Venue : Room 702, 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 Organisation | _____ | _____ |
| 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/01/23), 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 this Guarantee executed as a deed witness 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, as a continuing obligation, 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, notwithstanding any dispute between the Contractor and the Government or any other person.

- (b) The Guarantor, as a primary obligor and as a separate, continuing 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 Government may place and keep any monies received by virtue of this Guarantee (whether before or after the insolvency or liquidation of the Guarantor or the Contractor) to the credit of a suspense account for so long as the Government may think fit in order to preserve the rights of the Government to sue or prove for the whole amount of its claims against the Guarantor, the Contractor or any other person.

(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 or where "the Contractor" is a company, any change of its member or shareholder or its officers or 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 end of three (3) months from the date of early termination or expiry of the Contract Period; or
- (b) if at the time of expiry or early termination of the Contract Period, there is any outstanding right or claim of the Government, or any outstanding obligation or liability of the Contractor, whether under or arising from or in relation to the Contract, the date on which all such rights and obligations, and claims and liabilities have actually been carried out, completed and discharged (as confirmed by the Government in writing),

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 _____.

The Guarantor may only be amended by an instrument in writing signed by the Guarantor and the Government as represented by the Government Representative

IN WITNESS whereof this Guarantee was executed as a deed and the said Guarantor has caused <its Common Seal/Seal to be hereunto affixed>* <its lawful attorney to execute this Guarantee as a deed>* 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.

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

1. Contract Period
2. Services to be Provided and Variation of Services
3. Non-exclusive Contract
4. Service Level and Service Specifications
5. Regulation of Contractor and the Contractor's Employees
6. Subsequent Employment
7. Liabilities and Indemnities
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9. Personnel Records
10. Payment for Services
11. Contract Deposit
12. Insurance Policy
13. Termination and Effects of Termination
14. Government Property
15. Publicity
16. Force Majeure
17. Confidentiality and Protection of Personal Data
18. Relationship of the Parties
19. Assignment and Sub-Contracting
20. Entire Contract
21. Severability
22. Waiver
23. Contracts (Right of Third Parties) Ordinance
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35. Dispute Resolution and Jurisdiction
36. Assistance in Legal Proceedings
37. Recovery of Sums Due
38. Innovative Suggestions
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41. Intellectual Property Rights
42. United Nations Convention on Contracts for the International Sale of Goods not applicable
43. Conflict of Interest
44. Illegal Workers
45. Execution of Further Documents
46. Order of Precedence

CONDITIONS OF CONTRACT

1. Contract Period

- 1.1 The Contractor shall provide the Services to the Government for a period of **24 months commencing from 1 May 2026**, 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. The Government would state in writing with the specific quantity required under each Item of Services during the extended Contract Period. The unit rate originally applicable for the specified quantity of each 12-month period shall be adjusted on a pro rata basis by dividing the unit rate by the estimated quantity originally required for the specified quantity of each 12-month period. 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 time, attention and energy to carry out the Services and be 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 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. Where the number of staff deployed for the Services is reduced as required by the Government, the 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 the unit rate specified in Section 2 of the Price Schedule unless otherwise agreed):
- (a) Three (3) days' notice in writing require the Contractor to provide additional Supervisor or Skilled Workers 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**

The Contractor acknowledges that it does not have the right to provide the Services to the Government on an exclusive basis and nothing in this Contract confers any such exclusive right. 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 when entering into the Contract, 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. Save to the extent expressly set out in the Contract, the Contractor does not expect, and the Contractor agrees that it is unnecessary for, the Government to do anything to facilitate or assist the Contractor's 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.

4.8 Without prejudice to Clause 4.4 of the Conditions of Contract, if required by the Government, the Contractor shall attend:

- (a) any contract briefing session held by the Government at the time specified in the Conditions of Contract, or if no time is so specified, within fourteen (14) days from the date of the Letter as mentioned in Clause 8 of the Terms of Tender or such other time as the Parties may agree, which aims to acquaint the Contractor with the contractual requirements and obligations; and
- (b) any meetings held by the Government during the Contract Period to discuss the progress, issues and requirements related to the Contract.

5. Regulation 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 to 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 Contract Period carry out security checks on 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.

- 5.12 The Contractor shall, through the Government Representative, keep the Government informed of all matters related to the Contract within the actual or constructive knowledge of the Contractor and shall answer all enquiries received from the Government Representative. To the extent that the Government considers it reasonably necessary and that the information (in whatever media) is in the possession of the Government and is not subject to any confidentiality restriction, the Government may at the request initiated by the Contractor (but not otherwise required in the Contract), provide all such information for the Contractor's guidance in the execution of the Contract free of charge provided such request from the Contractor is made in a timely manner to avoid any delay on the part of the Contractor to perform the Contract. If required by the Government, the Contractor shall return all such information (in whatever media) to the Government upon the expiry or early termination of the Contract.
- 5.13 The Contractor shall be responsible for the completeness and accuracy of all drawings, documents and information supplied by the Contractor to the Government in connection with the Services. Without prejudice to any other provisions of the Contract, the Contractor shall indemnify the Government in accordance with Clause 7.2 of the Conditions of Contract in connection with, any discrepancies, errors or omissions therein.

6. Subsequent Employment

The Contractor must not restrain any Contractor's Employee from 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 his absolute discretion demand the Contractor to remove such restraint within seven (7) working days. Otherwise, the Government may exercise its 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 otherwise); 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 (in the course of employment).
- 7.2 Without prejudice to any other provision of the Contract, the Contractor must indemnify each of the Government, its assigns, successors-in-title, and authorized users (including the employees and agents of the Government (each an "Indemnified Person") from and against:
- (a) all and any liabilities and indebtedness (including liabilities to pay damages or compensation), losses, damage, costs, charges and expenses incurred or suffered by an Indemnified Party of whatsoever nature (including all legal and expert costs, charges and expenses on a full indemnity basis); and

- (b) any and all claims (whether or not successful, compromised, settled, withdrawn or discontinued, in whole or in part), actions, investigations, demands, arbitrations, proceedings or judgments, joint or several, threatened, brought, instituted or established against an Indemnified Person or by an Indemnified Party against any person (collectively, "Claims" and each a "Claim") and everything stated in Sub-clause (a) above incurred or suffered by an Indemnified Party in all and any such Claims, 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 as a result of or in connection with or out of, or which relate in any way to, all or any of the following:

- (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 act of 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, in the performance of the Contract;
- (v) any claim or allegation that the use custody or possession of the Materials or the Third Party Materials, or the enjoyment or exercise of any rights or powers granted under the Contract by any Indemnified Person, or the Contractor's performance of the Contract or the provision of the Materials, Services or Third Party Materials by the Contractor infringes the Intellectual Property Rights or any other rights of any person; or
- (vi) the non-compliance by the Contractor, its employees, agents or sub-contractor(s) (if any) with any applicable law, or regulation, order or requirement of any government agency or authority.

Each of the above is separate and shall be construed independently and shall not prejudice or be limited by reference to or inference from the other of them or other provisions of this Contract.

- 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 shall 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 his 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 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 and subject always to all and any set-off, deductions or withholding, 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 Progress Report | 20 |
| 3 | On acceptance of the 2 nd Progress Report | 20 |
| 4 | On acceptance of the 3 rd Progress Report | 20 |
| 5 | On acceptance of the Completion Report and handover of all Deliverables | 30 |

(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 by the end of the extended Contract Period after acceptance of the Progress Report for that extended Contract Period).

- 10.2 Payment will be made direct to the Contractor's designated bank account.
- 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 within thirty (30) days 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. Unless otherwise agreed, the Service Fee will be directly paid by the Government to the contractor's designated bank account or through the FPS proxy (depending on which payment method it elects) specified in Part D in the Price Schedule (**Contract Schedule 1**).
- 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 and the Accepted Innovative Suggestions. For the avoidance of doubt, where an Accepted Innovative Suggestion does not concern any provision of the Services, all Service Fee payable and/or having been paid under the Contract over the entire Contract Period shall be deemed to cover and shall have covered the charge for such Accepted Innovative Suggestion. No separate charges shall be payable. 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;
 - (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);
 - (c) the Contractor disputing any deductions or set-off or withholding made by the Government pursuant to the Contract;
 - (d) any invoice or correspondence being improperly addressed contrary to the requirements stipulated in the Contract; or

- (e) the payment by bank transfer or telegraphic transfer into the designated bank account or through the FPS proxy (as the case may be) has failed for whatever reason (excluding any fault on the part of the Government).

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.

- 10.9 In the event that the Contractor fails to pay any sum of money on the date it falls due or upon demand by the Government under the Contract, it shall pay interest on such sum to accrue from the due date up to the date of actual payment in full at the rate of 1% above the rate per annum which shall be a simple average of the rates per annum announced by the note-issuing banks of Hong Kong from time to time to be their prime lending rates for Hong Kong dollars. Such interest shall accrue on a daily basis and shall be computed on the basis of a 365-day year ("default interest rate"). For the applicable interest rate when a court judgment or an award from the arbitrator is obtained (if any), the interest rate to accrue on such judgment sum or awarded sum shall be the aforesaid default interest rate, or such rate as may be determined from time to time by the Chief Justice of Hong Kong by order for judgment debt interest (whichever rate is the higher rate).
- 10.10 Subject to Clause 10.12 below, the Contractor shall provide details of either the designated bank account or the FPS proxy (depending on which payment method it elects) to receive the Service Fee and other amounts under the Contract to the Payment Officer within fourteen (14) days from the date of the Letter as mentioned in Clause 8 of the Terms of Tender or such other time as specified by the Government Representative. The Contractor shall use the form prescribed by the Payment Officer to provide all necessary details plus supporting documents as requested in that prescribed form. The contact details of the Payment Officer for providing the aforesaid information shall be as set out in Clause 16.1 of the Terms of Tender.
- 10.11 Depending on the payment instruction to be provided under Clause 10.10 above and provided that the Contractor has provided the necessary details and by the time as specified therein, the Government will pay the Service Fee or any other amount payable under the Contract as per such payment instruction on or before the due date for such Service Fee or such other amount. Otherwise, the Government will not be responsible for any delay in the payment.
- 10.12 Other than payment by bank transfer into the designated bank account or through the FPS proxy, the Government will not accept any other payment method unless the Government agrees in writing on a case by case basis. Furthermore, for an overseas Contractor without any bank account or FPS proxy in Hong Kong, the Government will only make the payment via telegraphic transfer into the designated bank account to be provided under Clause 10.10 above.
- 10.13 For any payment into an overseas designated bank account, whether under this Clause 10, or for the return of the Contract Deposit paid in cash (if any is remaining and if applicable), all charges imposed by the banks outside Hong Kong shall be borne by the Contractor. Regardless of the applicable payment method, any charges imposed by a bank or a stored value facility service provider in Hong Kong or an overseas bank for refusing any payment

even when the payment instruction provided under Clause 10.10 has been followed or for carrying out any special request(s) by the Contractor shall be borne by the Contractor, or the Contractor shall reimburse the Government for the same if the Government has settled such charges with the bank or the stored value facility service provider.

- 10.14 In light of the above, it is incumbent on the Contractor to pay extra care to find out the transaction and storage limits for receiving payment via FPS from its own bank or stored value facility service provider before deciding on the payment method under Clause 10.10 above.
- 10.15 Where the Contractor proposes to make any change to the payment instruction provided under Clause 10.9 above, it shall do so by not less than one month's prior written notice to the Payment Officer attaching another prescribed form as specified in Clause 10.10 duly completed together with the accompanying documents requested therein. Where the Contractor has failed to comply with the foregoing, the Government shall be entitled to treat the existing payment instruction as valid and the Government will not be responsible for any delay arising from the refusal of the relevant bank or stored value facility service provider to accept payment due to invalid payment instruction.

11. Contract Deposit

- 11.1 The Contractor shall pay the Contract Deposit in accordance with Clause 11 of the Terms of Tender. If the Contractor fails to comply with this Clause 11.1, the Government shall have the right to terminate the entire Contract pursuant to Clause 13.1 below or partially terminate the Contract pursuant to Clause 13.6 below.
- 11.2 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.
- 11.3 The Contract Deposit (whether paid in cash 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.
- 11.4 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 10.4(a) and (b) of the Terms of Tender and will come into operation on the date of its execution.
- 11.5 Where the total Service Fee payable for all Services to be procured under the Contract for the whole of the Contract Period is likely to exceed the original Total Estimated Contract

Price, the Government may, by written notice to the Contractor, require the Contractor to submit to the Government such additional amount as further Contract Deposit such that the Contract Deposit shall at all times during the Contract Period be an amount equivalent to two percent (2%) (or five percent (5%), if the Contractor failed in the financial assessment under Clause 9 of the Terms of Tender in the tender evaluation stage) of the revised Total Estimated Contract Price specified by the Government in the notice.

11.6 If a notice is issued by the Government under Clause 11.5 above, the Contractor shall within twenty-one (21) days deliver to the Government the additional amount of further Contract Deposit required in the notice in the form of either cash or a further banker's guarantee. The further banker's guarantee must comply with the requirements in Clauses 10.4(a) to (c) of the Terms of Tender. A further Contract Deposit paid by the Contractor to the Government shall form part of the Contract Deposit.

11.7 If the Contractor fails to comply with Clause 11.4, 11.5 or 11.6 above, the Government shall have the right to terminate the entire Contract pursuant to Clause 13.1 below or partially terminate the Contract pursuant to Clause 13.6 below, depending on the election of the Government.

11.8 Upon the expiry or termination of the Contract:

- (a) if the Contract Deposit is paid in cash, the Government shall, after deducting the sums due from the Contractor to the Government, return the balance of the Contract Deposit (if any), 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. The balance of the Contract Deposit will be returned in accordance with the instruction to be provided by the Contractor under Clause 11.9 below. Otherwise, the Government will return the Contract Deposit in cash (if any is remaining) based on the same payment instructions provided under Clause 10.10 of the Conditions of Contract; and
- (b) if the Contract Deposit is paid by way of a banker's guarantee, the banker's guarantee shall be discharged and released in accordance with the guarantee period as stated therein.

(the applicable period specified in Sub-clause (a) or (b) above is referred to as the "Guarantee Period".)

11.9 For the return of the Contract Deposit then paid in cash (if any is remaining), the Contractor shall provide to the Payment Officer the payment details in the same manner as mentioned in Clause 10.10 of the Conditions of Contract for such payment method applicable to the return of the Contract Deposit in cash at least two (2) months before the scheduled return of such amount (or such other time as the Payment Officer may allow). If the earlier payment instruction provided under Clause 10.10 above shall equally apply to the return of the Contract Deposit, the Contractor shall provide such confirmation in writing to the Payment Officer by the same deadline mentioned above. The Government will not be responsible for any delay in return of the Contract Deposit if the Contractor has failed to provide all necessary information and supporting documents within the time specified in this Clause.

11.10 Where upon expiry of the Guarantee Period, any claim of the Government or any liability of the Contractor, whether under or arising from or in relation to the Contract cannot yet be quantified or finalised, the Government may, without prejudice to its other rights and remedies, pay the entire Contract Deposit or any part thereof (whether in cash or in banker's

guarantee) into a suspense account, for so long as it considers necessary, and pending the quantification or finalisation of the amount of the claim or liability. Upon quantification or finalisation of the amount of all or any claims or liabilities, the Government shall apply the amount in the suspense account in or towards satisfaction of the quantified amount. Where there is any remaining amount in the suspense account after such application, the Government will return the remaining amount to the Contractor without interest. Where the amount in the suspense account is insufficient to cover all or any claims or liabilities, the Government reserves all rights and remedies against the Contractor in respect of such claims and liabilities.

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 (with appropriate cross-indemnity clause as if a separate policy has been issued to each of them) providing an adequate level or to a maximum indemnity amount of at least HK\$10,000,000, whichever is the higher, for each claim or a series of claims arising from one event, but otherwise unlimited in the aggregate indemnity amount for all claims arising during the entire period of insurance, and on such terms and conditions as shall be approved by the Government. 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 Ordinance (Chapter 41 of the Laws of Hong Kong).
- 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 the Government

Representative.

- 12.7 For all insurance policies required under the Contract, the Contractor shall comply with and observe duly and punctually all terms and conditions set out in these policies. The Contractor shall be responsible for lodging claims with the insurance company and shall notify the insurance company within the time period specified in the policy of the occurrence of any event liable to give rise to a claim covered by the relevant insurance policy.

13. **Termination and Effects of Termination**

- 13.1 Save as provided in Clause 13.2 below, without prejudice to any rights and claims of the Government under the Contract or otherwise at law, the Government will be entitled by giving seven (7) days' written notice to the Contractor to terminate the Contract immediately, 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 Services are rejected pursuant to the Contract;
 - (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;
 - (e) the Contractor, any officer (including director), employee, agent or sub-contractor of the Contractor commits an offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) or any law of a similar nature in relation to the Contract or any other contract made by the Contractor with the Government;
 - (f) the Contractor assigns or transfers or purports to assign or transfer all or any part of the Contract or all or any of its rights or obligations thereunder without the prior written consent of the Government; or
 - (g) any event or circumstance occurs which enables the Government to terminate the Contract under any one of the following provision of the General Conditions of Contract:
 - (i) Clause 6 (Subsequent Employment);
 - (ii) Clause 11.1 or 11.7 (Contract Deposit);
 - (iii) Clause 32.3 (Probity);
 - (iv) Clause 16.7 (Force Majeure); or
 - (v) Clause 17.3(c) of the Terms of Tender (Warranty against Collusion).

- 13.2 Notwithstanding anything to the contrary in the Contract, 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 incorporated body, a shareholders' or members' resolution has been passed that it be wound up or dissolved (other than voluntarily for the purpose of bona fide reconstruction or solvent amalgamation, the terms of which have been approved by the government in advance);
 - (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, or any order is made for the Contractor's bankruptcy or winding up or dissolution;
 - (e) an administrator, administrative receiver, receiver or similar officer 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;
 - (g) the Contractor has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security;
 - (h) the continued engagement of the Contractor or the continued performance of the Contract is contrary to the interest of national security;
 - (i) the Government reasonably apprehends that any of the events mentioned in Sub-clauses (a) to (h) above is about to occur;
 - (j) the Government reasonably believes that any Warranty is incorrect, inaccurate, incomplete or misleading;
 - (k) the Government reasonably believes that the Contractor has made a material misrepresentation (including submission of false statement or inaccurate information) during the tendering process of the Contract; or
 - (l) the Government considers that it is in the public interest to terminate the Contract.
- 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 Separate from the event mentioned in Clause 13.1(g)(iv) above and Clause 16.3 below, where there is a Force Majeure Event, the Government may terminate the Contract in part or in whole pursuant to Clause 16.7 below. In case of partial termination of any part but not the whole of the Contract under this Clause 13.4 (including the partial termination of the Contract in relation to one or more Items of the Services), the partial termination shall be referred to as “Partial Termination Due to Force Majeure”.
- 13.5 Notwithstanding anything herein to the contrary, the Government may at any time and from time to time during the Contract Period, at its discretion and without cause, suspend the Contract or any part thereof by giving the Contractor fourteen (14) days’ prior written notice of such suspension. In the case of suspension, the written notice shall specify the period of the suspension (“Suspension Period”) and the scope of the suspension (viz., the Item(s) of the Services to be suspended, which may be all or any of the Items of the Services covered by the Contract) (“Suspended Services”).
- 13.6 Instead of terminating the Contract in relation to all Items of the Services pursuant to Clause 13.1 or 13.2 above, the Government may elect, but is not obliged, to terminate the Contract in relation to any one or more Item(s) of the Services only (“Partial Termination Due to Default”). The term “Partial Termination” may mean a Partial Termination Due to Force Majeure or a Partial Termination by Notice or a Partial Termination Due to Default and in each case a “Partial Termination”. The Item(s) of the Services to which a Partial Termination relates are referred to as “Terminated Services”. The Terminated Services may cover all or any Item(s) of the Services which have not been accepted up to the time of the Partial Termination.
- 13.7 Each of the grounds entitling the Government to terminate the Contract as specified in Clauses 13.1 to 13.4 and 13.6 above and in each Sub-clause of Clauses 13.1 and 13.2 shall be construed independently and shall not be limited or restricted by reference to or inference from any other ground or any other provision of this Contract.
- 13.8 Upon expiry or early termination of the Contract (howsoever occasioned) (“Termination”):
- (a) the Contract shall be of no further force and effect, but without prejudice to:
 - (i) 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);
 - (ii) any rights, claims or liabilities of either party accrued prior to the Termination; and
 - (iii) 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 the Termination that shall survive the same and shall continue to be binding on the parties and shall remain in full force and effect;
 - (b) the Government shall not be responsible for any claim, legal proceeding, liability, loss (including any direct or indirect loss, any loss of revenue, profit, business, contract or anticipated saving), damages (including any direct, special, indirect or consequential damages of whatsoever nature) or any cost or expense, suffered or incurred by the

Contractor arising out of or in relation to the Termination, save that in the case of termination under Clause 13.3 above, for any unpaid instalment of the Service Fee which falls before the termination shall be paid within fourteen (14) days after such termination;

(c) without prejudice to the other rights and claims of the Government including the right to seek indemnity under Clause 7.2 above, in the event of Termination under Clause 13.1 or 13.2 above, the Contractor shall be liable for all losses, damage, costs and expenses incurred by the Government in engaging another contractor to complete the uncompleted Services and all costs and expenses incurred by the Government arising from the Termination including without limitation:

- (i) any amount in excess of the Total 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
- (ii) any additional expenditure incurred by the Government in connection with a default by the Contractor or occurrence of any event referred to in Clause 13.1 or 13.2 (as the case may be).

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 and in accordance with the Contract for which payment has yet to be made by the Government;

- (d) the Contractor shall immediately return to the Government all documents containing confidential information, personal data and such other information, property and materials in the possession, custody 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;
- (e) the Contractor shall assist and co-operate with the Government after the Termination 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;
- (f) the Contractor shall 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;

- (g) at the request of the Government, the Contractor shall enter into and perform all deeds of assignment, transfer or novation in favour of the Government or in favour of any person whom the Government may designate, for the assignment, transfer or novation of any contract, arrangement or other subject matter whatsoever (including without limitation licences in relation to any Intellectual Property Rights) on such terms and conditions as the Government may stipulate; and procure any other third party whom the Government considers necessary for effecting or perfecting such assignment, transfer or novation to enter into and perform any such deeds of assignment, transfer or novation; and
- (h) the Contractor 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.

Further, upon request by the Government and/or in the event of the expiry or termination (howsoever occurred) of the Contract, the Contractor shall at its sole costs and expenses promptly deliver to the Government the Materials (including any drafts and copies thereof) then in the Contractor's custody, control or possession, whether in their completed forms or not.

13.9 Upon a Partial Termination pursuant to Clause 13.4 or 13.6 of the General Conditions of Contract:

- (a) the provisions in the Contract to the extent they apply or concern or relate to the Terminated Services shall be of no further force and effect, but without prejudice to:
 - (i) 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;
 - (ii) the rights and claims which have accrued to a Party prior to the Partial Termination; and
 - (iii) the continued existence and validity of all remaining provisions of the Contract; and
- (b) all of the consequences specified in Clause 13.1 above (apart from Clause 13.8(a) above) shall apply save that (i) references to "Termination" shall mean "Partial Termination"; references to "Services" shall mean the "Terminated Services"; and (ii) for Clause 13.8(c), it shall apply to a Partial Termination Due to Default.

- 13.10 Upon the issue of a suspension notice pursuant to Clause 13.5 of the Conditions of Contract in relation to the Suspended Services for the Suspension Period specified therein (“Suspension”):
- (a) the Contract in relation to the Suspended Services shall be of no force and effect during the Suspension Period but subject to the same provisions set out in Clauses 13.8(a)(i) to (iii) above save that references therein to Termination shall mean Suspension;
 - (b) the Contract in relation to the Suspended Services shall resume immediately upon expiry of the Suspension Period (or such other date as the Government may subsequently stipulate by varying the Suspension Period by serving at least fourteen (14) days’ notice on the Contractor);
 - (c) unless and to the extent waived by the Government Representative in writing, Clauses 13.8(b) and (e) above shall apply in the case of a Suspension save that references therein to Termination shall mean Suspension;
 - (d) the Government has no obligation to pay any outstanding Service Fee (or any part thereof) to the Contractor for any Suspended Services performed but unpaid as at the date when the Suspension comes into effect or at any time during the Suspension Period; and any such obligation shall only resume as the Contract resumes pursuant to Clause 13.10(b) above but strictly on and subject to the terms and conditions of the Contract; any Service Fee paid in advance of the Suspension need not be refunded; no Service Fee shall be payable during the Suspension Period; and
 - (e) the Contractor shall not and has no obligation to perform its obligations in relation to the Suspended Services as at the date when the Suspension comes into effect or at any time during the Suspension Period; and save as directed by the Government in relation to any uncompleted part of the Contractor’s obligations in relation to the Suspended Services as at the date of the Suspension, any such obligation will resume as the Contract resumes pursuant to Clause 13.10(b) above whereupon the Contractor shall resume its obligations in relation to the Suspended Services strictly on and subject to the terms and conditions of the Contract.

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, custody or control of the Contractor or its 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.

Without prejudice to the aforesaid, the Contractor is only permitted to the non-exclusive use of the Government Property for performing the Services but for no other purposes. Any transfer or assignment or licensing or any other manner of dealing by the Contractor or by anyone of the Contractor’s Employees with any Government Property is strictly prohibited. Notwithstanding anything herein to the contrary, the Government makes no representation or warranty that the Government is the owner of all or any Intellectual Property Rights or any other rights in such

Government Property. In the event that any consent or licence from, or any payment to, any person (including a person in whom the Intellectual Property Rights or any other rights in such Government Property are vested) is required for enabling the Contractor to use such Government Property, the Contractor shall be solely responsible for obtaining such consent and licence, and making payment to such person. Without prejudice to the Government's other rights and claims, the Contractor shall indemnify and keep the Government and its authorised users, assigns and successors-in-title fully and effectively indemnified on the terms set out in Clause 7 of the Conditions of Contract for any failure to comply with this Clause.

15. **Publicity**

- 15.1 The Contractor must not, whether before, during or after the expiry or termination of the Contract Period, 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, the Services or other services provided or other work done in connection with the Contract wherein the Government's name is mentioned or language used from which a connection with the Government can reasonably be inferred or implied.
- 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 language used from which a connection with the Government can reasonably be inferred or implied and the Contractor must comply with such request.

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.
- 16.2 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, how the Force Majeure Event has and/or will materially prevent it from performing the Contract or such part thereof, and likely duration of its effect on the Contractor's ability to perform its obligation under the Contract.
- 16.3 In the event that the Government is satisfied with the Contractor's claim of a Force Majeure Event which has materially prevented and/or will continue to materially prevent it from performing its obligations under the Contract or such part thereof, the Contract or such part thereof strictly to the extent of such prevention shall be suspended during the subsistence of such Force Majeure Event commencing from a date to be agreed between the Parties ("Suspension due to Force Majeure"). Where the Government is not so satisfied about any alleged claim of a Force Majeure Event, there shall be no Suspension due to Force Majeure. The Contractor may not allege or claim any event as a Force Majeure Event. Any failure by the Contractor to perform any obligation under the Contract shall be treated as default and entitles the Government to terminate the Contract under any applicable Sub-clause of Clause 13.1 or Clause 13.2 of the Conditions of Contract.

- 16.4 Without prejudice to the generality of Clause 16.3 above, whilst the Suspension due to Force Majeure subsists:
- (a) the Contractor shall not be required to perform any part of its obligations under the Contract strictly to the extent it is materially prevented from doing so by the Force Majeure Event (“Affected Obligations”) but it shall use its best endeavours to remove or mitigate the effect of the Force Majeure Event on the Affected Obligations;
 - (b) the Government may make alternative arrangements for the performance of the Affected Obligations, whether by another person or otherwise, without compensation to the Contractor;
 - (c) the Contractor shall not be entitled to any payment of money in respect of the Affected Obligations (if any money would have been payable in the first place);
 - (d) notwithstanding anything in the Contract to the contrary, no compensation shall be payable by either Party to the other due to any losses or damage arising from the Suspension due to Force Majeure; and
 - (e) the Contractor shall continue to fully and punctually perform and observe all of its other obligations which are not affected by the Force Majeure Event in full accordance with the requirements of the Contract including those obligations which are not Affected Obligations, and to that extent, all terms and conditions of the Contract shall continue to apply and be in full force and effect.
- 16.5 Following the issuance of a notice by the Contractor under Clause 16.1 above which has led to Suspension due to Force Majeure under Clause 16.3 above, 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 of materially preventing the Contractor from performing the Affected Obligations;
 - (b) the actions taken or proposed to be taken by the Contractor to mitigate or minimise the effects of that Force Majeure Event (“Mitigation Actions”); and
 - (c) any other matters relevant to that Force Majeure Event or the Contractor’s performance affected by that Force Majeure Event.
- 16.6 As soon as the relevant Force Majeure Event has terminated or otherwise that the Government considers that the Mitigation Actions have minimised the effect of the Force Majeure Event on the ability of the Contractor to perform the Affected Obligations,, 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 the Affected Obligations (“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 Affected 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.

- 16.7 Should a Suspension due to Force Majeure subsists for more than thirty (30) days or be likely to subsist as a result of a Force Majeure Event, the Government will be entitled, but is not obliged to, to terminate this Contract pursuant to Clause 13.1 of the Conditions of Contract or partially terminate this Contract pursuant to Clause 13.6 of the Conditions of Contract.

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 (Chapter 486 of the Laws of Hong Kong), 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 The restrictions on disclosure contained in this Clause 17.1 shall not apply to the disclosure of any Confidential Information if:
- (a) such disclosure to any person employed, used or engaged by the Contractor in performing the Contract is made in circumstances where such disclosure is necessary in the reasonable opinion of the Contractor for the performance of the Contractor's duties and obligations under the Contract, provided that the Contractor has imposed on the said person employed, used or engaged an absolute and legally binding obligation to the Contractor to refrain from disclosing the Confidential Information to a third party;
 - (b) such Confidential Information is already known to the recipient other than as a result of disclosure by the Contractor or any other member of the Restricted Group; or
 - (c) such Confidential Information is or becomes public knowledge other than as a result of disclosure by the Contractor or any other member of the Restricted Group;
 - (d) such disclosure is made in circumstances where such disclosure is required pursuant to any laws of Hong Kong or an order of a court of Hong Kong; or
 - (e) with the prior consent in writing of the Government.
- 17.3 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 (Chapter 486 of the Laws of Hong Kong), 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 (Chapter 593 of the Laws of Hong Kong).

- 17.4 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.
- 17.5 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 any third parties.
- 17.6 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.
- 17.7 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.
- 17.8 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 (Chapter 521 of the Laws of Hong Kong).
- 17.9 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 is 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) is 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 shall 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 shall not affect the other provisions of the Contract, all of which shall 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 shall operate as a waiver thereof; nor shall 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 above, 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, shall 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 (Chapter 623 of the Laws of Hong Kong).

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 to 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
(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
Fax No.: 2377 4427
Email: pui_yu_yuen@afcd.gov.hk
Attention: 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 shall be governed by and construed in accordance with the laws of Hong Kong .

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) are 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) will take all reasonable steps to ensure their safety, and the safety of others, in the discharge of their duties;
 - (d) will 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. Heat Stroke Prevention

- 27.1 The Contractor shall provide staff who need to undertake outdoor work activities at the Service Area, as appropriate, with either:
- (a) umbrellas for protecting them against sunshine; or
 - (b) wide-brimmed hats for protecting them against sunshine and, upon request, a pair of arm sleeves which are made of thin and vapour permeable fabric with Ultraviolet Protection Factor of at least 50, if long-sleeved working clothes for protecting them against sunshine are not provided.
- 27.2 In addition, the Contractor shall provide each of these staff, upon request, with a portable fan to increase air flow to the staff.

- 27.3 If the Contractor has a duty under this contract to provide portable fans or both portable fans and cooling arm sleeves to specified workers upon request, the Contractor shall also inform such workers of the availability of portable fans or both portable fans and cooling arm sleeves accordingly for their use upon their request.
- 27.4 For staff who need to undertake outdoor work in summer, the Contractor shall provide them with uniforms made of dry-fit fabric with moisture management treatment. The fabric must be thin knitting fabric providing good water vapour permeability and ultraviolet protection function. The working clothes shall be light-coloured and loose-fitting.
- 27.5 Please refer to the guidance notes and lists of cooling products suggested by Labour Department and Occupation Safety and Health Council. (https://www.labour.gov.hk/eng/news/prevention_of_heat_stroke_at_work.htm)

28. **Warranties and Representations**

- 28.1 The Contractor warrants, represents and undertakes that:
- (a) the Contractor and its sub-contractors, their employees and agents shall 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 including without limitation the vesting of the Intellectual Property Rights in the Government, and the granting and/or procuring the grant of the licences to the Government, its authorised users, assigns and successors-in-title in accordance with Clause 41 of the Conditions of 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.

28.2 The Contractor gives consent to the Government ("Consent") to obtain from:

- (a) any person whose particulars are provided or required to be provided by the Contractor under the Contract; and
- (b) any issuing body of any test reports/certificates or documentary evidence required under the Contract,

all information which the Government considers appropriate and relevant for the enforcement and administration of the Contract, including information to verify the legitimacy, completeness, authenticity and accuracy of any information or document submitted by the Contractor. The Consent shall be valid throughout the Contract Period. If any consent from any other person is required for the Government to obtain any of the aforesaid information or document, the Contractor undertakes that it can obtain such consent when required by the Government. Further, upon request by the Government, the Contractor shall provide a written authorisation to the Government if such written authorisation is needed for the Government to obtain information and/or document(s) from the person or issuing body referred to in Sub-clauses (a) and (b) above.

28.3 The warranties, representations, Consent, and undertakings, expressed or implied, contained in this Clause, Clause 41 and other provisions of the Contract (collectively, "Warranties" and each, a "Warranty") are true without limitation in time.

28.4 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.

- 28.5 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.

29. **Variations**

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

30. **Government Premises**

- 30.1 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.
- 30.2 Without prejudice to Clause 30.1, the Government Representative may at his sole discretion provide to the Contractor storage space, in form of modular house, free of charge in the Service Area for storage of materials provided by the Contractor if such space is available.
- 30.3 The Contractor, the Contractor's Employees or agents shall use the storage space provided by the Government Representative under Clause 30.2 (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 shall 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.
- 30.4 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 his 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.
- 30.5 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 at any time without the need to obtain any consent from the Contractor.
- 30.6 The Contractor must keep the said storage space clean, tidy, in reasonably good state of repairs and properly secured, as appropriate. The storage space can neither be used for storage of plant debris nor dangerous goods unless exempted under the Dangerous Goods (General) Regulations (Chapter 295B of the Laws of Hong Kong). The Contractor must not erect or install any fixtures or fittings at the storage space except with the Government's prior written consent.

- 30.7 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 shall be recoverable as a debt due from the Contractor.
- 30.8 The safety of any facilities, tools, materials, equipment, vehicles and other vessels used by the Contractor and brought alongside or onto Government premises shall 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.
- 30.9 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.

31. Contractor's Equipment, Materials and Tools

- 31.1 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.
- 31.2 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.
- 31.3 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.
- 31.4 The Government shall 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.

- 31.5 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.
- 31.6 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.
- 31.7 The Contractor must not introduce any exotic species to the Service Area without the prior written approval from the Government Representative or otherwise as specified in the Service Specifications.
- 31.8 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.
- 31.9 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.

32. Probity

- 32.1 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 (Chapter 201 of the Laws of Hong Kong), sections 17, 18D and 19 of the Theft Ordinance (Cap. 210) and section 161 of the Crimes Ordinance (Chapter 200 of the Laws of Hong Kong);
 - (b) the soliciting or accepting or offering any form of advantages, as defined in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) is not permitted.
- 32.2 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 (Chapter 201 of the Laws of Hong Kong)) 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.
- 32.3 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 (Chapter 201 of the Laws of Hong Kong), the Theft Ordinance (Chapter 210 of the Laws of Hong Kong) or the Crimes Ordinance (Chapter 200 of the Laws of Hong Kong).
- 32.4 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 32.2 and of the staff code of conduct. The code of conduct shall form part of the employment contract to ensure acknowledgement and compliance by the Contractor's Employees.

- 32.5 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.

33. 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 Total 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.

For the avoidance of doubt, the provisions in Clause 3.11 of the Terms of Tender (Personal Data Provided) shall also apply to the personal data provided by the Contractor from time to time during the Contract. References to "Invitation to Tender" in Clause 3.11 of the Terms of Tender include the Contract and references to "Tenderer" include the successful Tenderer (viz., the Contractor). The purposes for which such personal data will be used will be those as set out in Clause 3.11 of the Terms of Tender, and also for enforcement and administration of the Contract, and payment. Disclosure of such personal data may also be made under this Clause above.

34. 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.

35. Dispute Resolution and Jurisdiction

- 35.1 The Parties shall first refer any dispute or difference arising out of or in connection with the Contract to mediation in accordance with The Government of the Hong Kong Special

Administrative Region Mediation Rules prevailing at the time.

- 35.2 If the said dispute or difference is not settled by mediation according to Clause 35.1, a Party may institute litigation in respect of the said dispute or difference. The Parties agree that the courts of Hong Kong shall have exclusive jurisdiction in respect of the said dispute or difference.

36. Assistance in Legal Proceedings

- 36.1 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, mediation, 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 or to participate and/or provide assistance at such mediation.
- 36.2 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.

37. 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.

38. Innovative Suggestions

- 38.1 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 Part B of the Execution Plan under Contract Schedule 4 in the version attached to the Memorandum of Acceptance. The Accepted Innovative Suggestions shall form an integral part of the Contract.
- 38.2 The Contractor undertakes and warrants that it shall carry out all Accepted Innovative Suggestions. In the event that the Contractor fails to carry out in full any of the Accepted Innovative Suggestions in relation to during each 12 months of the Contract Period ("Contract Year"), the Services, or any part thereof or otherwise not relating to any Services, (in each case a "non-complied Accepted Innovative Suggestion"), the Contractor shall, subject to Clauses 38.3 to 38.5, pay to the Government a sum of money calculated according to the applicable formula as liquidated damages for **EACH** of such non-complied Accepted Innovative Suggestions:

- (i) Liquidated damages relating to the Contractor's failure to fully carry out an Accepted Innovative Suggestion in relation to the Services or any part thereof during a Contract Year (**L1**)

$$L1 = C1 \times W(T) \times \frac{M(IS)}{M(TP)}$$

where $C1$ = the Service Fee payable during the Contract Year for the Services or any part thereof in respect of which the Contractor fails to carry out the relevant Accepted Innovative Suggestion(s) (but the amount shall be before the deduction of liquidated damages for all non-complied Accepted Innovative Suggestions covered by this formula)

$W(T)$ = the weighting, expressed as a percentage, of the technical assessment in the overall marking scheme (viz., 70%)

$M(IS)$ = the marks that would be given to one (1) Pro-innovation Proposal or ESG Proposal (as the case may be) in accordance with the Marking Scheme (regardless of whether marks are actually given during tender evaluation to the non-complied Accepted Innovative Suggestion) (viz, 3.8 marks for Pro-innovation proposals and 1.2 marks for ESG proposals)

$M(TP)$ = the maximum technical marks for the Technical Proposal in the marking scheme (viz., 100 marks)

- (ii) Liquidated damages relating to the Contractor's failure to fully carry out an Accepted Innovative Suggestion which is not related to any Services (**L2**)

$$L2 = C2 \times W(T) \times \frac{M(IS)}{M(TP)} \times \frac{P}{CP}$$

where $C2$ = the total amount of Service Fee payable under the whole of the Contract (but the amount shall be before the deduction of liquidated damages for all non-complied Accepted Innovative Suggestions covered by this formula)

$W(T)$ = the weighting, expressed as a percentage, of the technical assessment in the overall marking scheme (viz., 70%)

$M(IS)$ = the marks that would be given to one (1) Pro-innovation Proposal or ESG Proposal (as the case may be) in accordance with the Marking Scheme (regardless of whether marks are actually given during tender evaluation to the non-complied Accepted Innovative Suggestion) (viz, 3.8 marks for Pro-innovation proposals and 1.2 marks for ESG proposals)

$M(TP)$ = the maximum technical marks for the Technical Proposal in the marking scheme (viz., 100 marks)

P = duration of time expressed in number of days during which the Contractor fails to fully carry out the relevant Accepted Innovative Suggestion within the Contract Period up to the day the amount of the liquidated damages is determined for the time being or up to the end of the Contract Period as the case may be

CP = Contract Period expressed in number of days

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.

- 38.3 The number of Accepted Innovative Suggestions which are Pro-innovation Proposals that the Contractor fails to fully carry out and upon which liquidated damages are payable under the applicable formula in Clause 38.2 shall not exceed the minimum number of Pro-innovation Proposals to which full marks could be awarded to a Tenderer in the Marking Scheme (viz., three (3) for Pro-innovation proposals). The same for those Accepted Innovative Suggestions which are ESG Proposals (viz., three (3) for ESG proposals). However, there is no limit on the number of billing periods in respect of which liquidated damages shall be payable under the first formula of Clause 38.2.
- 38.4 The aggregate amount of liquidated damages payable pursuant to the first formula and the second formula in Clause 38.2 shall not exceed 10.5 per cent of the Total Estimated Contract Price.
- 38.5 The liquidated damages payable pursuant to the first formula in Clause 38.2 shall be deducted from the third instalment of the Service Fee payable upon issue by the Government's notification for such non-compliance in the first Contract Year of the Contract Period. In the event that the non-compliance occurs in the last Contract Year of the Contract Period, the deduction will be made from the last instalment or from the Contract Deposit. The Government reserves the right to demand the payment of the liquidated damages from time to time including at the end of the Contract Period whether by setting off from any invoiced amount or from the Contract Deposit. The liquidated damages payable pursuant to the second formula in Clause 38.2 may likewise be deducted in the same manner from any Service Fee or from the Contract Deposit. Alternatively, any such amount shall be settled by the Contractor in cash as per the demand of the Government within seven (7) days.

39. **Inspection**

- 39.1 The Services performed shall be subject to inspection and certification by the Inspecting Officer, and/or the Government Representative, and/or by an Independent Accredited Laboratory (whereupon the passing of any such tests shall be evidenced by a test certificate or laboratory test report certified by the Independent Accredited Laboratory) or other body as specified in the Conditions of Contract and/or the Service Specifications. If not so specified, by default, all Services shall be subject to inspection by the Government Representative and/or the Inspecting Officer.
- 39.2 All costs incurred by the Contractor in complying with this Clause 39 (including those for the appointment of the Independent Accredited Laboratory where applicable) shall be borne by the Contractor and shall not be chargeable to the Government unless and to the extent otherwise expressly specified in the Price Schedule.

- 39.3 In the event that the Contractor, its sub-contractors or any of the Services performed shall fail to comply with any of the requirements of the Contract, or in the event that there is a breach of or non-compliance with any warranty, undertaking or obligation on the part of the Contractor to observe and perform which is capable of remedy, the Government may by notice in writing to the Contractor at any time require the Contractor to make good the failure or remedy the breach at its sole costs and expenses within such time as may be stipulated by the Government in a notice to be issued.

40. Site Visits

The Government may, at any time during the Contract Period, at its own costs, conduct site visit(s) to any premises, including the Contractor's premises (including its registered office and warehouse) and sub-contractor's premises, with or without prior notice, whether by the Government Representative or any person appointed by the Government. The Contractor shall make all necessary arrangements to facilitate such site visit(s).

41. Intellectual Property Rights

- 41.1 The Government shall be the exclusive owner of the Materials. Except for the Third Party Materials, all the Intellectual Property Rights in the Materials shall vest in the Government immediately upon creation. Subject to Clause 41.3 below, the Contractor warrants that such Materials shall be original works created, developed or made by or on behalf of the Contractor.
- 41.2 The Contractor shall not use or allow to be used directly or indirectly the Materials except for the performance of its obligations under the Contract or except with the prior written approval of the Government. "Use" includes any acts restricted by copyright (including reproduction) set out in sections 22 to 29 of the Copyright Ordinance (Chapter 528 of the Laws of Hong Kong).
- 41.3 If any materials of which the Intellectual Property Rights are owned by third parties and incorporated into the Materials or supplied or used by the Contractor in the performance of the Contract ("Third Party Materials"), the Contractor shall identify the Third Party Materials to the Government and keep the Government informed in writing of such Third Party Materials. The Contractor hereby grants or in case it is not empowered to do so, shall at its own costs and expenses procure that there will be granted, in favour of the Government, its authorised users, assigns and successors-in-title a royalty-free, non-exclusive, irrevocable, perpetual, worldwide and sub-licensable licence, for all purposes provided for or contemplated by the Contract, to use (including doing any of the acts restricted by copyright set out in sections 22 to 29 of the Copyright Ordinance (Chapter 528 of the Laws of Hong Kong)) the Third Party Materials.

41.4 The Contractor warrants that:

- (a) prior to the use and incorporation of the Third Party Materials into the Materials or in providing the Services, the Contractor shall have obtained from the third party Intellectual Property Rights owners the grant of all necessary clearances and licences for itself and its authorised users and for the Government, its authorised users, assigns and successors-in-title to use the Third Party Materials in the manner and for any of the purposes contemplated by the Contract. The costs of the above clearances and licences shall be borne by the Contractor;
- (b) the provision of the Materials, Services and Third Party Materials by the Contractor and the use custody or possession by the Government, its authorised users, assigns and successors-in-title of the Materials and the Third Party Materials for any of the purposes contemplated by the Contract does not and will not infringe any Intellectual Property Rights or any other rights of any person; and
- (c) the enjoyment or exercise of any of the rights or powers granted under the Contract by the Government, its authorised users, assigns and successors-in-title will not infringe any Intellectual Property Rights or any other rights of any person.

41.5 The Contractor hereby irrevocably waives and undertakes to procure, at its own costs and expenses, its officers, employees, agents, sub-contractors and all authors and all performers and film directors concerned to irrevocably waive all moral rights (whether past, present or future) in respect of the Materials and Third Party Materials. Such waiver shall operate in favour of the Government, its authorised users, assigns and successors-in-title and shall take effect upon creation of the Materials or upon the grant of the licence to the Government, its authorised users, assigns and successors-in-title or upon the delivery of the Third Party Materials to the Government (as the case may be).

41.6 The Contractor shall at its own costs execute or procure the execution of any further assignments, deeds, licences, documents and instruments and do or procure the doing of any further things as may be required by the Government to give full effect to Clauses 7.2, 17 and 41 of the Conditions of Contract, and shall provide all such assignments, deeds, licences, documents and instruments to the Government within fourteen (14) days from the date of the Government's written request or such longer period as may be agreed by the Government in writing.

41.7 The provisions of this Clause 41 shall survive the expiry or termination of the Contract and shall continue in full force and effect notwithstanding such expiry or termination.

42. United Nations Convention on Contracts for the International Sale of Goods not applicable

The Parties hereby agree that the provisions of the United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract.

43. Conflict of Interest

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

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

In the Contract:

- (a) “associate” of a person means:
 - (i) a relative or partner of that person; or
 - (ii) a company one or more of whose directors is in common with one or more of the directors of that person;
- (b) “associated person” of a person means:
 - (i) any person who has control, directly or indirectly, over the second-mentioned person;
 - (ii) any person who is controlled, directly or indirectly, by the second-mentioned person; or
 - (iii) any person who is controlled by, or has control over, the person mentioned in (i) or (ii) above;
- (c) “control” over another person (“person under control”) means the power of a person to secure:

- (i) by means of the holding of shares or interests or the possession of voting power in or in relation to that person under control or any other person;
 - (ii) by virtue of powers conferred by any constitution, memorandum or articles of association, partnership, agreement or arrangement (whether legally enforceable or not) affecting that person under control or any other person; or
 - (iii) by virtue of holding office as a director in that person under control or any other person;
- (d) “director” means any person occupying the position of a director by whatever name called and includes a de facto or shadow director;
- (e) “relative” means the spouse, parent, child, brother or sister of the relevant person, and, in deducing such a relationship, an adopted child shall be deemed to be a child both of the natural parents and the adopting parent and a step child to be a child of both the natural parents and the step parent; and
- (f) “Restricted Group” has the meaning given to it in Clause 43.1 above.

44. Illegal Workers

The Contractor undertakes not to employ illegal workers in the execution of this Contract or any other Government contracts. Should the Contractor be found to have employed illegal workers in breach of this undertaking, the Government Representative may, on behalf of the Government, by notice, terminate this Contract pursuant to Clause 13.1 of the Conditions of Contract or partially terminate this Contract pursuant to Clause 13.6 of the Conditions of Contract.

45. Execution of Further Documents

The Contractor shall at its own cost and expense do and execute any further things and document(s) (or procure that the same be done or executed) as may be required by the Government to give full effect to the provisions in this Contract and shall provide all such documents and materials to the Government within fourteen (14) days of the date of the Government’s written request or such longer period as may be agreed by the Government in writing.

46. Order of Precedence

46.1 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 shall 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.

46.2 The Materials are items to be prepared and/or supplied by the Contractor pursuant to requirements of the Contract. They shall form part of the Contract. Notwithstanding, unless the Parties agree in writing in the manner specified in Clause 29 of the Conditions of Contract, no Materials shall seek to waive, alter, cancel or amend any provisions of any documents listed in Clause 46.1 above. No general approval of, or signature by, the Government of any such Material shall 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 shall apply even if any such Material is signed or given approval after the date of the Letter as mentioned in Clause 8 of the Terms of Tender.

PART 3**SERVICE SPECIFICATIONS****CONTENTS****Section 1 Background and Objective**

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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 (“MA”) by conducting habitat management work, ecological surveys and preventive measures against vandalism. After the completion of the non-in-situ land exchange in 2022, AFCD, in collaboration with Countryside Conservation Office, is required to implement habitat management and conservation work and to promote long-term conservation of the ecologically significant habitats in SLT.
- (b) The SLT Priority Site 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 areas of high ecological importance are largely zoned “Conservation Area” and “Site of Special Scientific Interest” (“SSSI”) on the approved SLT Outline Zoning Plan (“OZP”) (No. S/NE-SLT/4)(Figure 1 in Appendix A).
- (c) The natural streams at SLT support a high diversity of dragonfly, freshwater fish and amphibian species. Being an important breeding site for some of the rare odonates and aquatic fauna of conservation importance, the stream courses and the 30m buffer strips on both sides of the streams are designated and zoned as SSSI in the respective OZP. It is important to protect and maintain these habitats by deterring unauthorized development, controlling the spread of invasive alien species, poaching and other human disturbances.
- (d) In order to maintain habitat and species diversity at SLT, wetlands, including the rain-fed eco-pond and the artificial marshes restored from old abandoned paddy fields near Cheung Uk, and other natural marshes located in the rest of the Intensive Wetland Management Zone (“IWMZ”) shall be properly managed and enhanced (see Figure 2 in Appendix A for map).
- (e) Other environmental issues, such as terrestrialisation of wetlands, alien species invasion (e.g. Mikania and Apple Snail), poaching and fire risk shall also be monitored and controlled regularly and in a timely manner to better protect and conserve SLT.

2. Objective

The Contractor shall propose effective conservation measures and 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. The Contractor shall propose and adopt best water use and conservation practices in planning, management and operations of SLT. In addition, the Contractor shall also conduct patrol and surveillance monitoring against illegal activities e.g. poaching in SLT. Furthermore, the Contractor shall conduct publicity and 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 government land in the area covered by SLT Priority Site which is shown in Figure 2 in Appendix A (“Service Area”). The Service Area is divided into four management zones as described in Section 3 below.
- (b) With a view to maintaining the freshwater wetland habitats and enhancing the overall ecological value of SLT, the Contractor shall propose and implement proactive conservation measures to intensively manage i) around 5.5ha of wetlands including the eco-pond and the restored marshes created near Cheung Uk under the MA project and of the natural marshes in the rest of the IWMZ; ii) around 19 ha of natural streams and associated buffer in the Riparian Zone spanning across SLT; and iii) to create at least 50m² open water pools within natural marshes to provide additional foraging, roosting and breeding habitats for odonates, amphibians, and other wetland-associated species in the IWMZ.
- (c) For the Woodland Management Zone and Buffer Zone, the Contractor shall manage the vegetation to reduce fire risk and to avoid the spread of invasive alien floral and faunal species at SLT.

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 those requirements, 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 without the prior written approval of the Government Representative. References in Annex A to “Original Tender Closing Date” shall mean the date on which the proposed replacement occurs, in the cases where any nominee 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 or the time specified by the Government Representative.
- (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 any increase / reduction in workload. These 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. No additional payment shall be made in respect of such variations in work.

- (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 he could no longer execute his duties, the Contractor must immediately appoint 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 him 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 knowledge exchange and sharing sessions, 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; and
 - (vii) respond to public enquiries upon request by 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. The list of names and qualification proof for Skilled Workers shall be submitted to the Government Representative no later than one (1) calendar month after the commencement of the Contract.

- (i) The Contractor shall be responsible for any necessary transportation (e.g. vehicle) of its Staff and equipment to and from 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 to the satisfaction of the AFCD and as specified in the Service Specifications throughout the Contract Period unless the service period and/or quantities of a specific task(s) are specified in the Price Schedule. In the event of any inconsistency between the Service Specifications and the Price Schedule in terms of the service period and/or quantity, the latter shall prevail.
- (b) The Contractor is required to adopt an adaptive management approach in managing the habitats of the SLT with a view to maintaining and enhancing the habitats and biodiversity. Particular focus shall be paid on freshwater wetlands, wetland dependent and stream associated species of conservation importance (i.e. dragonflies, amphibians and freshwater fishes).
- (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 propose and take remedial and mitigation measures within five (5) working days or the timeframe to be specified by the Government Representative.
- (d) The Contractor must ensure that its staff are provided and wear proper personal protective gears throughout the action of vegetation or habitat management or invasive alien species control as necessary.

2. Description and Objectives of different Management Zones

The Contractor shall be responsible for proposing and implementing proactive conservation and habitat management work on the Government land within four management zones namely: (1) Intensive Wetland Management Zone, (2) Riparian Zone, (3) Woodland Management Zone, and (4) Buffer Zone as shown in Figure 2 in Appendix A.

The land parcels in the Village Type Development Zone (i.e. “V” zone) stipulated under the approved SLT OZP and in the Agriculture Zones as shown in Figure 2 in Appendix A are excluded from the Service Area of this Contract.

| | |
|---|---|
| Intensive Wetland Management Zone (~5.5ha) | <p>The Intensive Wetland Management Zone consists of (a) an eco-pond and two parcels of restored marshes on the northeast of Cheung Uk (around 1.2ha), and (b) natural marshes south of Cheung Uk, west of Lei Uk Lo Wai as well as in the north and southwestern part of SLT (around 4.3ha) (see Figure 3a in Appendix A). 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 identify, monitor and manage the spread of unwanted terrestrial plants, invasive alien species and vegetation that has overgrown open water by manual removal or other eco-friendly methods to alleviate the habitat degradation in the in this zone.</p> |
| Riparian Zone (~18ha) | <p>Natural streams and the riparian area zoned as “SSSI” in the respective OZP are important habitats and breeding ground of numerous wildlife such as butterflies, dragonflies, amphibians and birds.</p> <p>The Contractor shall identify and control the spread of invasive alien species and overgrown plants 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> |
| Woodland Management Zone (~17ha) and Buffer Zone (~11ha) | <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 vegetation management and removal works as agreed by the Government Representative.</p> |

3. Key Tasks and Specifications

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

The IWMZ covers all natural marshes and the artificial wetlands created in early 2020 under the MA project. The Contractor should design and implement suitable habitat management measures and monitoring to maximise the heterogeneity of habitats and to provide suitable habitat for dragonflies and other wetland-associated species. The Contractor shall also propose and adopt best water use and conservation practices in planning, management and operations of SLT with reference to Appendix B.

Bund maintenance and water control in eco-pond and restored marshes (refer to Figure 3a and 3b in Appendix A)

- (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 the eco-pond and restored marshes depends on the natural hydro-periods and weather condition. The Contractor should ensure proper use of water resources, submit a Water Saving and Reservation Plan to be agreed with the Government Representative to maintain suitable water level in the restored marshes for different growth requirements and stages of wetland plants, aiming to create different microhabitats for the dragonfly and amphibian population, particularly during the onset of the dry season.
- (b) All existing bunds of the eco-pond and restored marshes should be maintained whenever necessary. Vegetation control on earth bunds should be carried out at least 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). The removed vegetation should be properly packed and disposed of off-site to avoid siltation of the wetlands. In addition to regular inspections, ad hoc inspections and reporting shall be arranged after heavy rainstorm and flooding events. If the water control system and pond bunds are damaged, the Contractor must repair them within seven (7) working days or a specified duration as agreed with the Government Representative. No external soil or mud should be used unless approved by the Government Representative.
- (c) The Contractor shall inspect all water control facilities (including water pipes across the earth bunds and open irrigation ditches; refer to Figure 3b in Appendix A for layout illustration) and desilt where needed to maintain a free flow and store water in the eco-pond and marshes. The Contractor shall monitor weekly and control water level including those installed at the eco-pond and marsh M2 by adjusting inlets and outlets of water control structures according to the Water Saving and Reservation Plan to be agreed with the Government Representative. The Contractor shall also inspect and adopt necessary measures to prevent accidental trapping of fauna inside the open irrigation ditches.
- (d) The Contractor shall recommend and adopt best water use and conservation practices, including enhancing water retention period, reduce water evaporation, and minimize weed growth and siltation in the eco-pond and restored marshes, into the works and management of SLT. The Contractor should review and enhance the existing water system in the eco-pond and the restored marshes, explore new water sources to harvest and store water with an aim to extend the inundation period of the wetlands in IWMZ. The recommended practices and the implementation details shall be provided in the Inception Report and subject to agreement by the Government Representative.

Control of invasive alien species, vegetation management and habitat enhancement in IWMZ (refer to Figure 3a in Appendix A)

- (e) Unwanted terrestrial plants and invasive alien species that are commonly encountered in this zone include *Brachiaria mutica*, *Mikania micrantha* (Mikania), *Ipomoea cairica* (Cairo Morning Glory) and *Pomacea canaliculata* (Apple Snail). The Contractor must closely monitor the distribution and abundance of the foregoing and any other unwanted terrestrial, invasive alien species and overgrown plants in IWMZ and formulate a detailed plan for the regular monitoring and removal of the invasive and unwanted species in the Inception Report to be agreed by the Government Representative. In case unwanted terrestrial and invasive alien species are found, the Contractor must take appropriate control actions as per the agreed plan. The distribution and abundance of the unwanted terrestrial and overgrown plants and the invasive alien species within the zone shall be monitored and reported monthly to the Government Representative in order to determine if adjustment of monitoring and control/removal efforts are required.
- (f) A Habitat Management and Enhancement Plan with details of tree/vegetation removal, planting and transplantation of wetland plants and other enhancement measures necessary to enhance and restore the habitats in the IWMZ shall be provided by the Contractor in parallel with the Inception Report to be agreed by the Government Representative before implementation.
- (g) Apple snail and other invasive alien fauna species in IWMZ
 - 1. The Contractor shall monitor, adopt effective measures to remove and strategically control the spread of Apple Snails in the IWMZ. The removal can be conducted manually or by other alternative effective and eco-friendly methods. The Contractor shall prepare a detailed removal plan with removal schedule and manpower allocation in the Inception Report to be agreed by the Government Representative. Adults and eggs of Apple Snails shall be removed once they are found. At least eighty (80) man-days should be allocated for manual removal of Apple Snails per year of the Contract Period. Where necessary, lime powder or camellia seed powder can be cautiously applied at the affected areas outside the breeding season of amphibians subject to the agreement of the Government Representative. Collected Apple Snails and their eggs shall be packed and disposed properly. The manpower deployed and the estimated weight of Apple Snails removed each month shall be recorded and reported monthly.
 - 2. The Contractor shall closely monitor and report on the occurrence of Red Imported Fire Ant and other invasive fauna species in the IWMZ, and propose a removal and monitoring plan with schedule and manpower allocation in the Inception Report. The removal and monitoring plan shall be submitted to and agreed by the Government Representative before implementation.
- (h) Vegetation and habitat management in eco-pond and restored marshes
 - 1. Unwanted terrestrial plants and invasive plants, particularly those mentioned in (e) above, shall be removed at least 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). The removal can be conducted manually or by other alternative effective and eco-friendly methods. All sites selected for clearance shall be revisited and any re-growth of the unwanted and invasive plants should be removed immediately.
 - 1.1 Mikania, if cleared manually, must be conducted 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 for the clearance of *Mikania*.

- 1.2 Other unwanted and invasive plants, including *Ipomoea cairica* and *Brachiaria mutica*, if cleared manually, must be hand-picked or slashed with hand tools. The stem should be uprooted or cut off as close to the ground as possible and the aerial part (and the root part if feasible) should be removed, packed in bag and disposed of properly.
 2. The Contractor shall remove and control spread of unwanted terrestrial and emergent vegetation within the eco-pond to maintain an open water habitat suitable for odonates (of at least 75% open water when water level reaches 20cm or below). The vegetation within the restored marshes M2 and M3 shall also be monitored and controlled to maintain marshy habitat suitable for dragonflies, birds and amphibians.
 3. The Contractor shall maintain, cultivate or plant a variety of wetland species to create a variety of wetland habitats in the marsh cells in M2 and M3. The Contractor shall provide details of planting and maintenance in the Habitat Management and Enhancement Plan to be agreed with the Government Representative. Regular thinning at appropriate level would be required to maintain the agreed wetland plant composition and coverage. Vegetation management measures, such as removal of exotic plants, terrestrial and unwanted wetland-associated plant species (e.g. *Microstegium ciliatum* and *Cyclosorus interruptus*), soil amendment, planting and transplantation of wetland plants shall be conducted within cells in M2 and M3. The retained native wetland plant coverage shall be maintained as <50% to provide open water within the marsh cells during wet season.
 4. The Contractor shall control the vegetation by physical cutting and hand-picking or alternative effective and eco-friendly methods 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.
 5. Provision and planting of at least two (2) species of native flora 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.
 6. All seedlings and tools shall be supplied by the Contractor and the Contractor shall ensure adequate quarantine and eradication 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 *Floscopa scandens*, *Cyperus spp.* and *Persicaria spp.*
- (i) Vegetation and habitat management in natural marshes
1. At least three (3) rounds of vegetation management works, including removal of alien species, terrestrial and unwanted wetland-associated plants and trees (*Microstegium ciliatum*, *Cyclosorus interruptus* and *Glochidion spp.*), shall be conducted each year during the Contract Period, with two (2) rounds in the wet season (April – October) and one (1) round

in the dry season (November – March). The coverage of invasive alien species, unwanted terrestrial plants/trees in these natural marshes and the actions required to remove the unwanted plants and to control spread of the invasive species shall be identified, reported to and agreed by the Government Representative at least one week before the commencement of the actual vegetation management works. Areas of vegetation control shall be revisited and reported at least monthly to check if there is any re-growth of invasive alien and terrestrial species that warrant further removal.

2. To conserve and enhance wetlands, small-scale, deeper open-water pools shall be created within the natural marshes during the first year of the Contract Period. The overall dimension of the open-water pools to be created and maintained shall not be less than 50m². Regular thinning at appropriate level would be required to maintain the agreed wetland plant composition and coverage. Vegetation management measures, such as removal of terrestrial and unwanted wetland-associated plant species (e.g. *Microstegium ciliatum* and *Cyclosorus interruptus*), clearance of exotic plants, soil amendment, planting and transplantation of wetland plants shall be conducted in these pools with <50% native wetland plant coverage during wet season. Details of the equipment and machineries (if necessary) to be used during the open water creation works shall be submitted to and agreed by the Government Representative before commencement of works. Information including the detailed work schedule, location and design of the water pools to be created, works details and equipment/machineries to be used, targeted water depth and water source, planting/transplanting works, vegetation management and pond maintenance works required shall be provided in the Habitat Management and Enhancement Plan to be submitted to and agreed with the Government Representative in parallel with the Inception Report before implementation.

II. Vegetation and Habitat Management Work Outside IWMZ

(a) Control of invasive species and unwanted plants:

- (i) Woodland Management Zone (“WMZ”), Buffer Zone (“BZ”) and Riparian Zone (“RZ”) (see Figure 2 in Appendix A)

Invasive alien, terrestrial and unwanted wetland-associated species in the WMZ, BZ and RZ (excluding 1 metre from each side of stream water surface, except stream bank with paved access) shall be removed along the fringe of the accessible vegetated areas at least 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). The rationale and the locations of the vegetation management and clearance works, of at least 3,000m in length and 1m in width, shall be detailed in the Inception Report and a Review Report before commencement of the 2nd year of the Contract, and submitted to the Government Representative for agreement before implementation. All sites selected for clearance shall be revisited to monitor the effectiveness and to identify areas that requires further removal works (e.g. re-growth of *Mikania* and its non-flowering stems). The removal and monitoring methodology of *Mikania micrantha* and *Ipomoea cairica*, if conducted manually, shall follow Clause 3I(h)(1)1.1 and 1.2.

- (ii) Within streams and a 1m-wide embankment on each side of the stream in Riparian Zone (RZ) (a total of about 2,160m in length, see Figure 4 in Appendix A)

Selected sections in the streams shall be cleared of terrestrial and unwanted wetland-

associated species, overgrown plants and invasive alien plants, including *Mikania micrantha*, *Hydrocotyle ranunculoides* and *Microstegium ciliatum*. To minimise 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. In particular, free-floating, emergent and submerged parts of *Hydrocotyle ranunculoides* in the stream and within 1 metre from the edge of the water without paved access shall be manually uprooted, picked by hand or slashed by hand-held tools. For *Mikania micrantha*, the stem should be cut off as close to the ground as possible. All removed materials should be packed in bags and disposed of properly. The removal methodology of *Mikania micrantha*, if conducted manually, shall follow Clause 3I(h)(1)1.1 and 1.2. Pre-removal aquatic survey should be conducted and caution should be taken to avoid affecting the survival of invertebrate nymphs during the instream vegetation removal works.

- (iii) Site and plant preparation, planting, transplanting and post-planting maintenance of native flora species should be conducted on selected area(s) of around 600 square metres in coverage in the BZ and/or at the fringe of the WMZ to enhance conservation value of SLT by enriching food source and habitat for butterflies and alleviating further spread of invasive exotic species. The Contractor shall provide a detailed site selection, preparation, planting and maintenance plan in the Inception Report to be agreed with the Government Representative before implementation.

(b) Maintenance of fire breaks:

- (i) In order to reduce fire risk, fire breaks shall be created at specific graveyards and urn shelters and their associated access at a width of 1m in SLT (a total of about 650 square metres in area; see Figure 5 in Appendix A for the indicative 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 should be properly packed and disposed of off-site.
- (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 arrange inspection and remove trash and overgrown grasses and other vegetation along the footpaths or access paths to maintain access for ecological surveys and public use (see Figure 6 in Appendix A). Overgrown on the Tai Po Country Trail that requires maintenance shall be reported to the responsible Government department. For the remaining footpaths or access paths in SLT, grass cutting for these footpaths shall be conducted by the Contractor five (5) times each year of the Contract Period, four (4) times in wet seasons (April – October) and one (1) time 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

6 in Appendix A (i.e. “Footpath 1” and “S1 Footpath”, a total length of about 1,600m). 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 6 in Appendix A), 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 collected, properly packed and disposed of off-site.
- (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 are provided with and 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 identified protected and retained with details of the plant protection works reported to the Government Representative before continuation of work.

III. Habitat Mapping and Ecological Monitoring

Habitat Mapping

- (a) In order to monitor 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 – October) and one in dry season (November – March).
- (b) Based on the aerial photos taken by UAS, the Contractor shall conduct ground truthing at areas where changes are detected and produce updated habitat map(s) of the Service Area showing the changes of habitat types and their respective areas. Specific focus shall be paid to the wetland habitats maintained and/or newly created during the Contract Period (e.g. streams, marshes, ponds, etc.).
- (c) 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, etc.) and ground truthing shall be elaborated in the Inception Report to be agreed with the Government Representative.

- (d) The Contractor shall observe relevant guidelines and regulations including those by the Civil Aviation Department and 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 has carry appropriate insurance cover.

Ecological Monitoring of Representative Habitats

- (e) The Contractor shall conduct a series of flora and fauna baseline 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 (Adult) | 8 monthly surveys from March to October | |
| Odonates (Exuviae) | 4 biweekly surveys along stream transects of adult survey in April and May | 0 |
| Odonates (Larvae) | 2 nymph surveys along streams (active search within fix duration along each transect) from September to April of the next year; 2 nymph surveys in natural marshes from September to January of the next year | |
| Butterflies | 5 | 1 |
| Fireflies | 1 | 1 |
| Water beetles | 2 | 0 |
| Freshwater fish | 3 | 3 |
| Herpetofauna | 4 | 2 |
| Birds | Once in May-Aug and Sep-Oct | Once in Nov-Feb and Mar-Apr |
| Mammals | 2 + camera trap surveys throughout the whole project period | |
| Plants | 1 | |

- (f) The Contractor shall plan and conduct additional flora and fauna monitoring surveys at enhanced stream section, marshes, planting areas and other specific habitats specified by the Government Representative to evaluate the effectiveness of the habitat enhancement measures.
- (g) The Contractor shall report the abundance of all surveyed species and provide distribution maps of the species of conservation importance of each taxa group. Methodology of the detailed survey and result analysis with incorporation of previous survey data, as well as the reporting requirement shall be elaborated in the Inception Report to be agreed with the Government Representative.

- (h) The Contractor shall conduct literature review to collect ecological baseline data of SLT and to consolidate a list of species of conservation importance based on the information obtained under the review and the monitoring surveys conducted under the service.

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) to twenty (20) locations in SLT.
- (ii) The Contractor shall monitor the photo and video records of all cameras daily over the Contract Period for any irregularities or human presence.
- (iii) The Contractor shall inform the Government Representatives as soon as practicable and in any case not later than 24 hours 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 Representative 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 providing, 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.
- (vi) The Contractor shall conduct literature review to collect ecological baseline data of SLT and to consolidate a list of species of conservation importance based on the information obtained under the review and the monitoring surveys conducted under the service.

(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 4 in Appendix A). 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 of the Contractor 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 them 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 (Chapter 170 of the Laws of Hong Kong) or scheduled species under the Protected of Endangered Species of Animals and Plants Ordinance (Chapter 586 of the Laws of Hong Kong) 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) 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 and propose rectification and remedial actions. 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. Publicity and Public Education Programmes

The Contractor shall organise a series of public education programmes and publicity events which comprise guided tours, volunteer events and outreach talks and one (1) additional type of publicity /thematic events as described below, with a view to engage at least 650 members of the public in each year of the Contract Period.

(a) Guided tours

- (i) The Contractor shall coordinate and organise at least twenty (20) day tours and at least four (4) 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 SLT'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 shall 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 Representative.
- (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.
- (vii) The Contractor shall propose a plan on how to discourage registered participants from not showing up at the event, for approval by the Government Representative.

(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 three (3) on-site / off-site school talks for primary and/or secondary schools and to have a total of at least three hundred (300) 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 thirty (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 schedule for the talks in the Inception Report for approval by the Government.

(d) Additional publicity/thematic events

- (i) In addition to guided tours, volunteer events and outreach talks described in Clauses 3V (a) to (c) above, the Contractor is required to organise one (1) additional type of publicity/thematic events, in either actual or virtual format, with a view to promote and raise public awareness of the natural beauty and conservation at SLT and enhance knowledge exchange on findings of the project. It could be a single or multiple events in each year of the Contract Period.
- (ii) The additional publicity/thematic events shall attract or reach at least 100 members of general public in each year of the Contract Period.

(e) Website maintenance and Publicity materials

- (i) The Contractor is required to promote the activities as described in Clauses 3V (a) to (d) 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 properly maintain the existing project website and propose how best to make use of the website, as well as social media platforms, to regularly promote the

conservation and education activities of SLT, 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. The publicity materials used shall bear the logos of AFCD, the Countryside Conservation Office of the Government and Countryside Conservation Funding Scheme, and arrangements have to be made to hand over the website with all the contents thereof to the Government or any other party to be advised by the Government upon the end of the Contract at the Government's discretion to ensure their continuity.

- (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) Without prejudice to Clause 41 of the Conditions of Contract, 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 the Government and, except for the Third Party Materials, all Intellectual Property Rights in such materials shall be and remain vested in the Government immediately upon creation. [The Contractor shall not use or allow to be used directly or indirectly such materials except for the performance of its obligations under the Contract or except with the prior written approval of the Government.

(f) Other Requirements

- (i) The Contractor shall be responsible for purchasing suitable insurance for the participants to cover any accidents arising from all the public education programme and publicity events stated in Clauses 3V (a) to (d) above.
- (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 Progress Report as stipulated in Clause 3(a) in Section 4 below.
- (iii) The Contractor shall conduct evaluation after each event of the above public education programme and publicity events stated in Clauses 3V(a) to (d) above. Details of the evaluation shall be elaborated in the Inception Report and shall be subject to agreement of Government Representative.
- (iv) The Contractor's Employees shall wear appropriate clothing for conducting or participating in the activities as described in Clauses 3V (a) to (d).
- (v) If at any time any incidents occurred, the Government Representative shall have the discretion to change the schedule of the activities as described in Clauses 3V (a) to (d) 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 is in good condition 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 and removing plant debris and unwanted plant materials by proper packing and disposal off-site during the Contract Period.
- (b) The Contractor must note that open burning of any plant debris and unwanted plant materials is prohibited under the Forests and Countryside Ordinance (Chapter 96 of the Laws of Hong Kong).

6. Prohibition

- (a) The Contractor must ensure that the following activities are prohibited in SLT unless prior approval/agreement is sought from the Government Representative:
 - (i) keeping pets, trapping or feeding any wild animals;
 - (ii) smoking and use of fire;
 - (iii) use of pesticide and herbicide;
 - (iv) earth works, use of vehicles and machineries at “SSSI” and “CA” zone in the respective OZP;
 - (v) causing any pollution to natural environment and disturbance to wildlife;
 - (vi) removal (except dead and dangerous trees) and planting any trees / vegetation; and erecting any temporary or permanent structures.

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 issuance of the Letter as mentioned in Clause 8 of the Terms of Tender |
| 2. | Progress Reports | Within fourteen (14) working days after the end of every six months of the Contract Period |
| 3. | Completion Report | Within fourteen (14) 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, wetland enhancement plan, detailed methodology of ecological and habitat surveys, surveillance and reporting plan, detailed plans of publicity and public education activities, and a monthly work schedule for the whole Contract Period. The Inception Report must comply with the Service Specifications for the Services in full for the Government Representative’s approval.

3. Progress Reports and Completion Report

- (a) The Contractor must submit half-yearly Progress Reports and one Completion Report to document the tasks completed supported with site photos and amendments on work schedule or plans, if any, with justification(s). Details, including but not limited to its habitat management performance, results and data analysis of habitat mapping and ecological monitoring, surveillance of irregularities, outcomes of publicity and public education programmes, management of manpower, handling of complaint(s), improvement/ mitigation measure(s) taken, during the reporting period should also be covered in the reports.

Appendix A

Figure 1 – Sha Lo Tung Priority Site and OZP Zonings

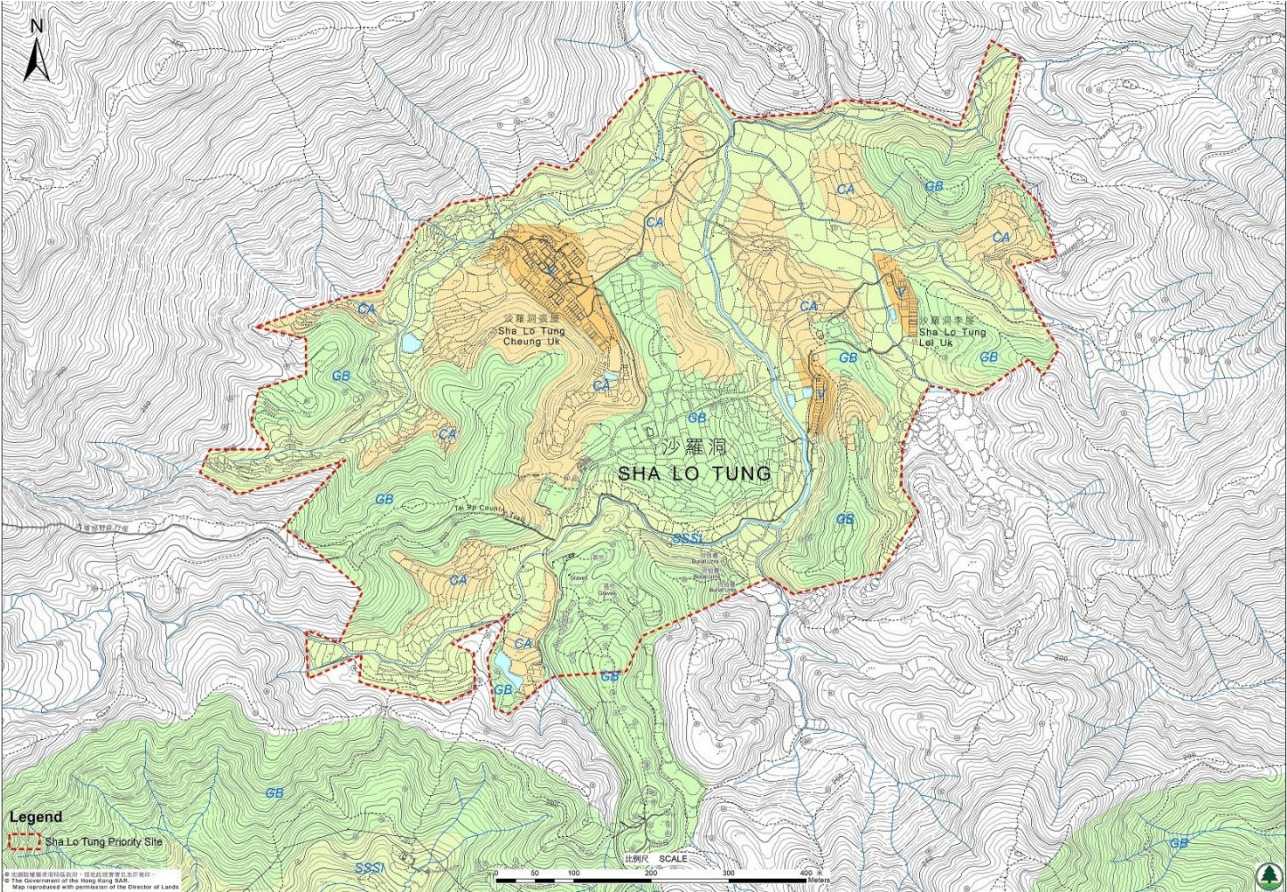
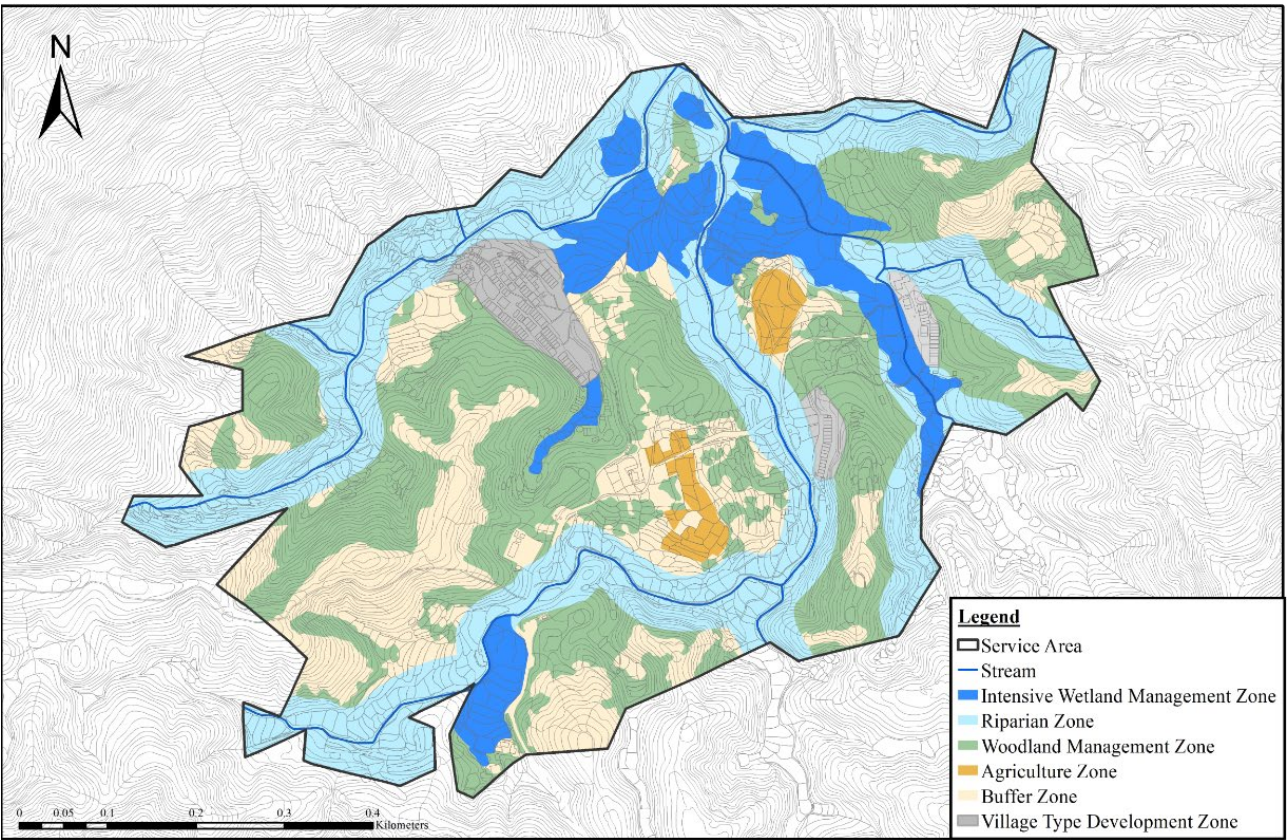


Figure 2 – Management zones in the Service Area at Sha Lo Tung



*Village Type Development 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

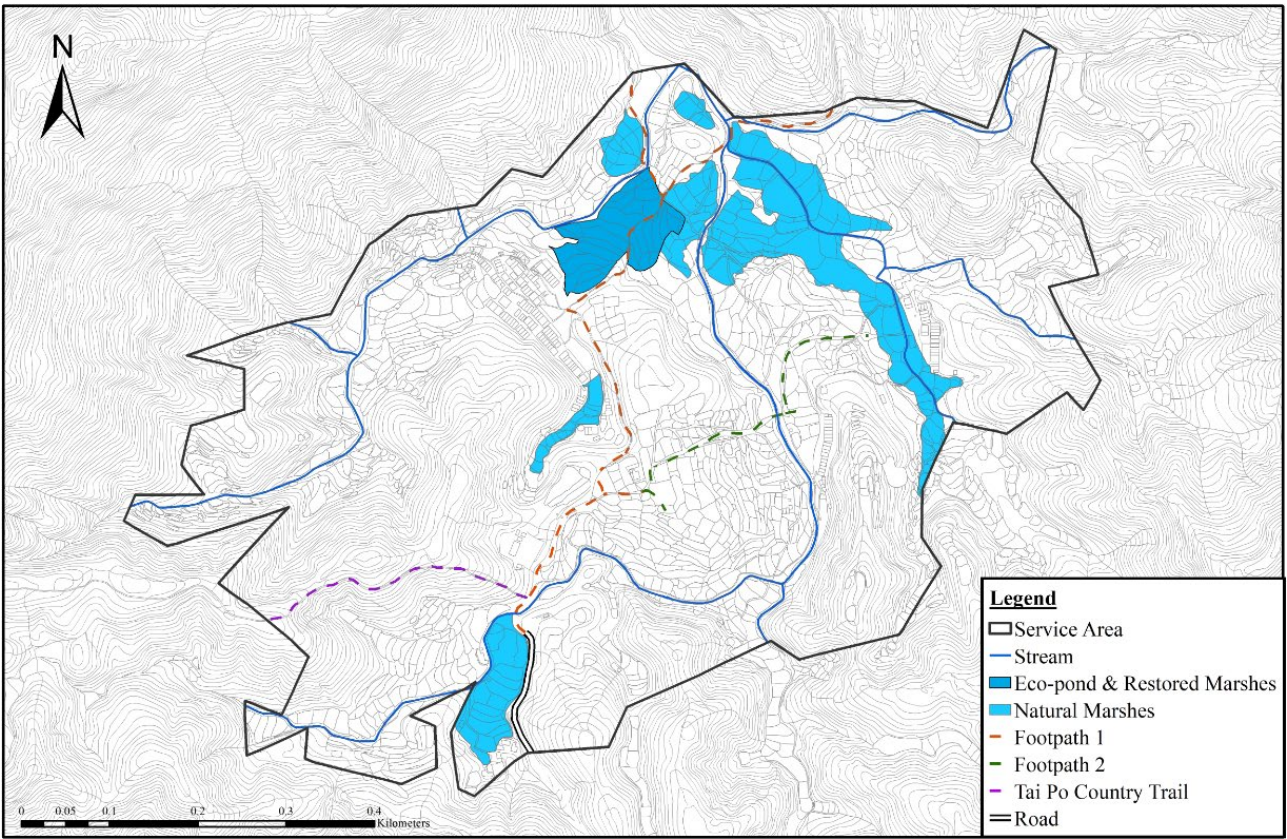


Figure 3b – Indicative Layout of the Water Control Facilities in the Eco-pond and Restored Marshes of the Intensive Wetland Management Zone

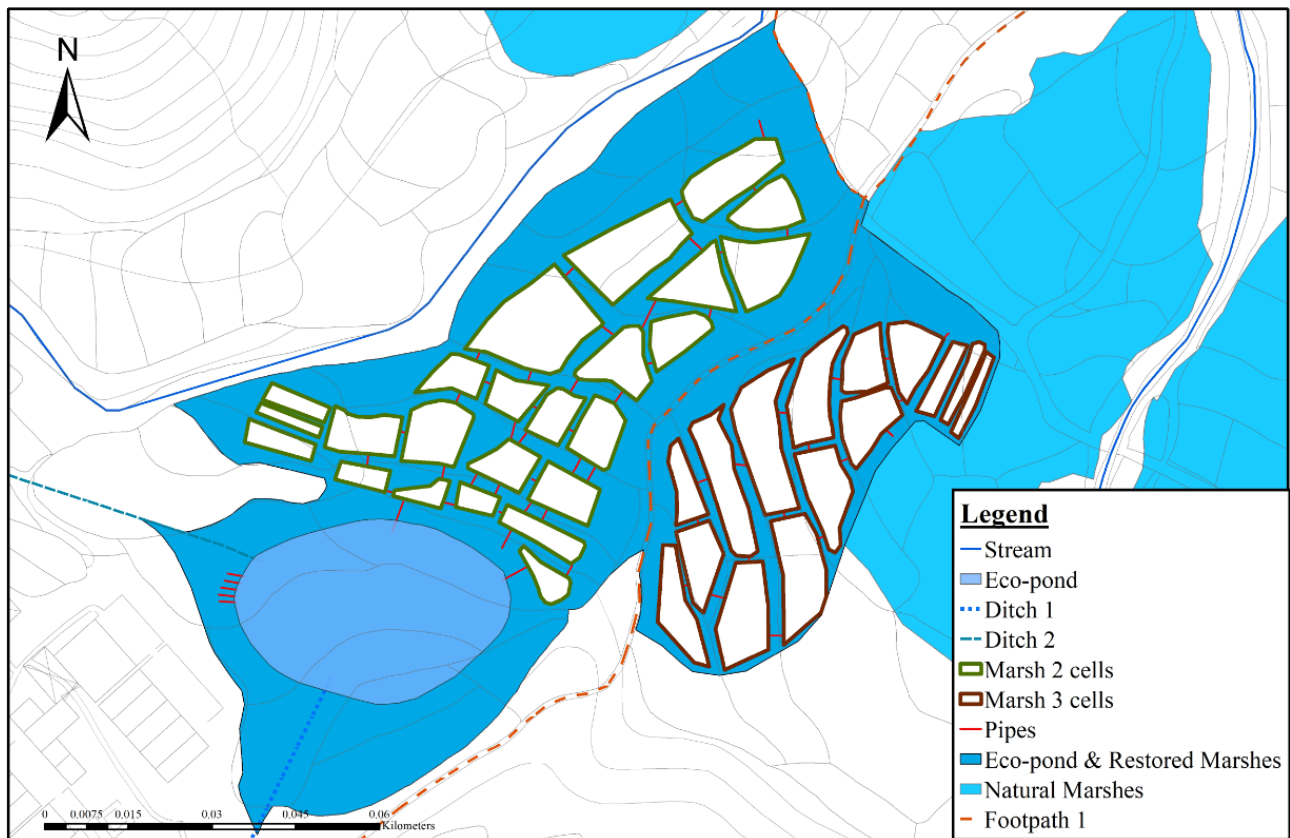


Figure 4 – Map showing the indicative locations of selected stream sections that require vegetation management and patrol in the Riparian Zone

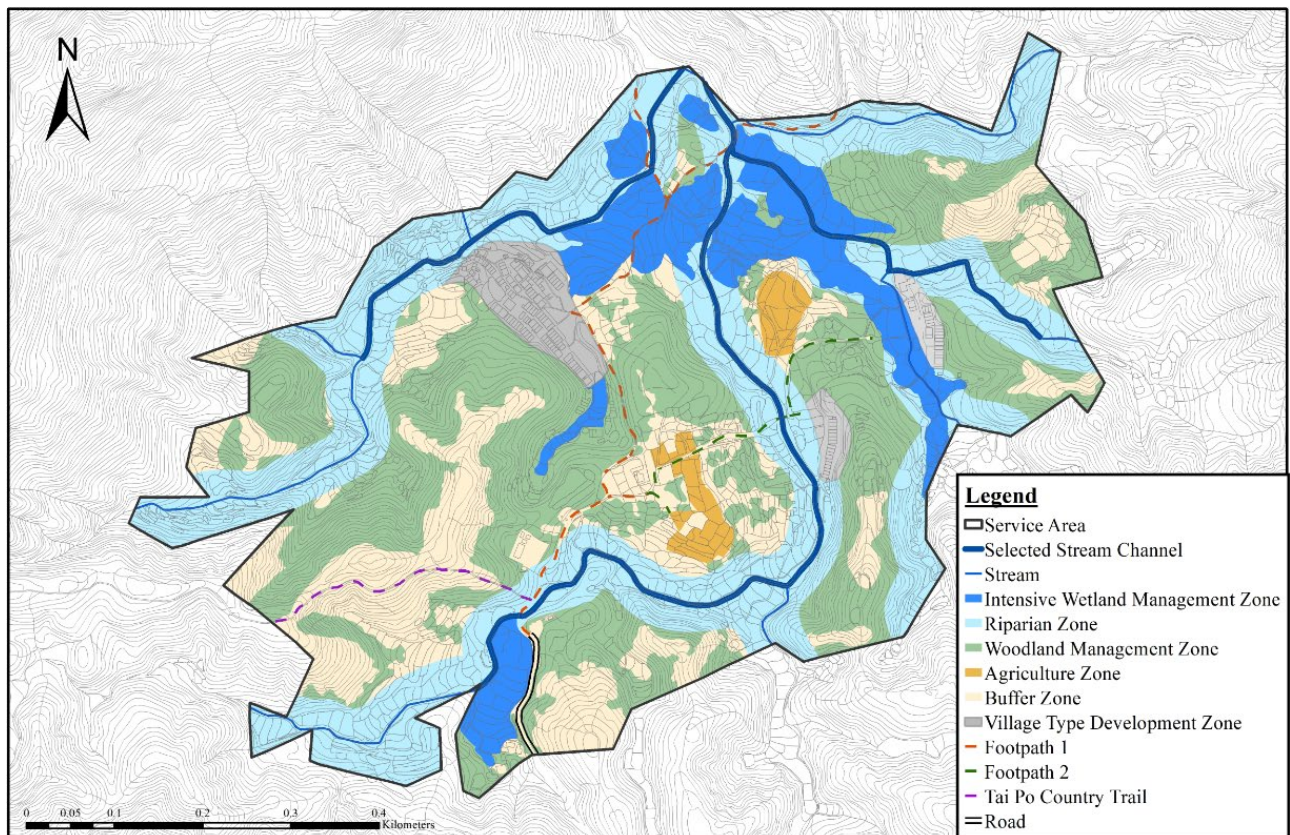


Figure 5 – Map showing the indicative locations of graveyards and urn shelters that require fire breaks maintenance by grass cutting in Sha Lo Tung

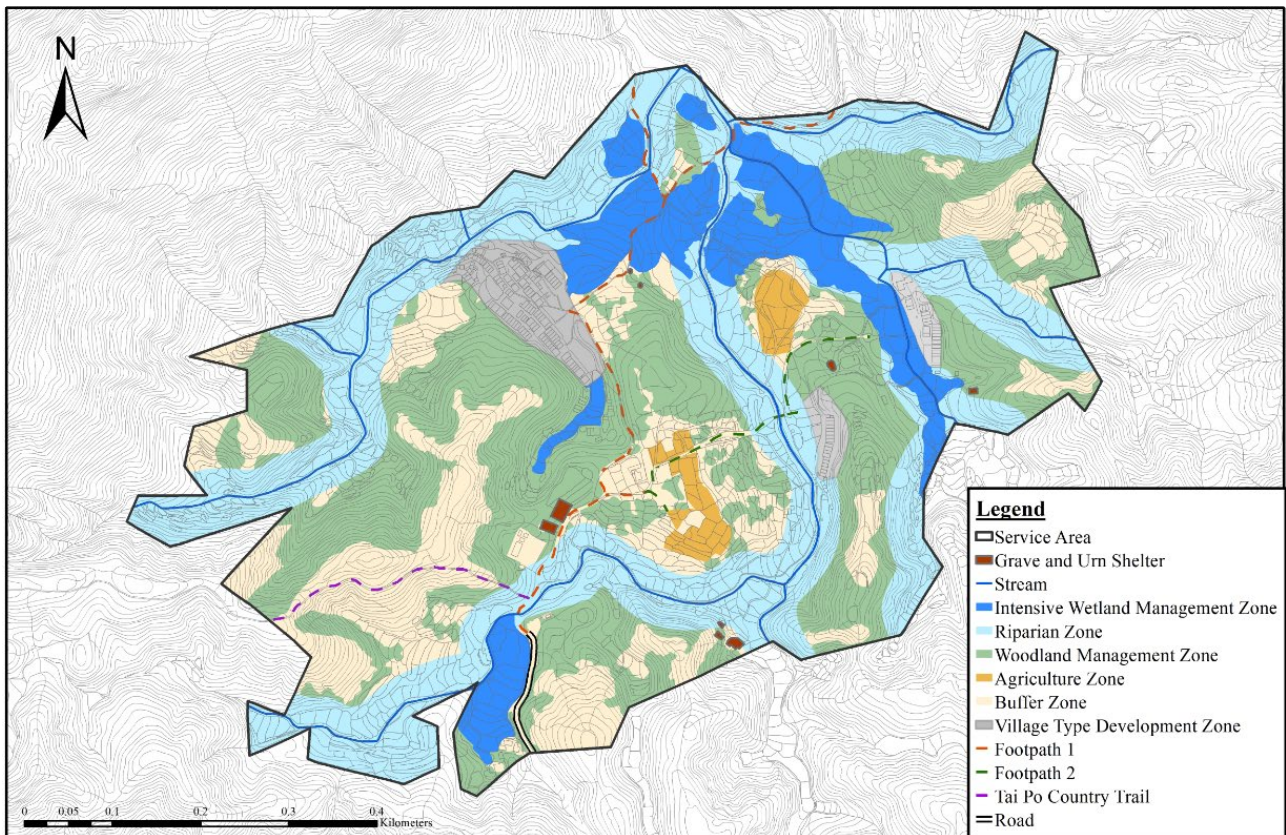
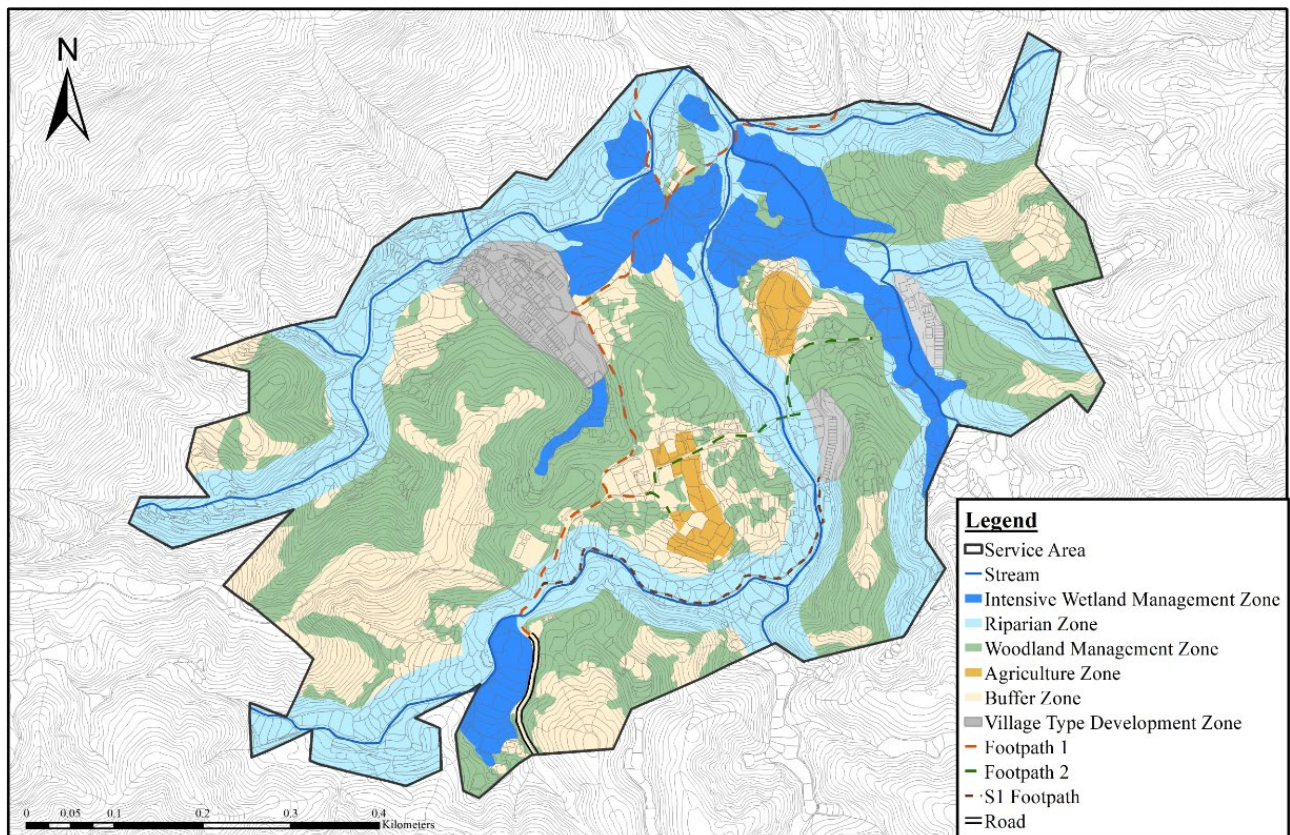


Figure 6 – Map showing the indicative locations of access routes that require maintenance by grass cutting in Sha Lo Tung



Appendix B**Recommended Best Water Use and Conservation Practices at SLT****Objective**

To conserve water resources and maintain the ecological health of SLT

Approaches

1. Adopt a precautionary approach to avoid extracting water from the streams during the dry season; and
2. Apply an adaptive management approach to closely monitor and regularly review the outcomes of the interim measures undertaken, to evaluate their effectiveness and make necessary adjustments.

Recommended Best Water Use and Conservation Practices**1. Sourcing**

Explore new water sources, including but not limited to:

- (i) rainwater harvesting and storage; and
- (ii) deep wells tapping into deep-seated groundwater.

2. Protection

- (i) identify locations of permanent marshes and take measures to minimise weed growth and siltation; and
- (ii) explore the practicability of constructing structures at suitable locations to retain water (such as wells or structures in lower locations to gather water) and restore abandoned weirs.

3. Conservation

Minimise wastage and evaporation:

- (i) explore ways to minimise evaporation from open channels/runnels conveying water from streams and marshes to artificial ponds;
- (ii) avoid damaging the hydric soil layer or hardpans (typically 30 cm beneath soil surface in paddy fields);
- (iii) ensure effective design of water systems, such as the use of underground pipes for long-distance transfer of water; and
- (iv) consider alternative practices that require less or no water in the dry season.

4. Enhancement

Enhance the functionality of:

- (i) fung shui ponds;
- (ii) small agricultural ponds;
- (iii) historical irrigation structures, such as weirs and runnels by mapping their locations and undertaking regular maintenance; and

(iv) removal of organic debris (e.g. cleared vegetation) from SLT to reduce siltation and further impacts on the topography at SLT.

5. Water allocation

- (i) Evaluate competing water needs and allocate water for different uses, particularly in the dry season; and
- (ii) formulate appropriate water abstraction, use and re-use strategies.

6. Wetland creation

Explore the merits and practicability of creating wetland habitats at suitable locations, e.g. by inundating artificial marsh M3 and other areas of lower elevations subject to the outcome of the hydrological studies.

7. Agricultural activities

Locate agricultural activities in lower elevation areas to minimise irrigation water requirements, e.g. at the lower tiers of the terrace fields.

PART 4
SCHEDULES

CONTENTS

CONTRACT SCHEDULE 1 – PRICE SCHEDULE

CONTRACT SCHEDULE 2 – INFORMATION AND STATUS OF TENDERER

CONTRACT SCHEDULE 3 – BACKGROUND AND EXPERIENCE OF TENDERER
AND ITS EMPLOYEES

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 in IWMZ (as more particularly specified in Section 3(3)(I) of the Service Specifications (“Section 3(3)(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(3)(I)) | For each service item as specified opposite, 12 months | | |
| I-2 | Control of Apple Snail and other invasive fauna species in IWMZ (service items (e) and (g) in Section 3(3)(I)) | 80 man-days | | |
| I-3 | Control of unwanted terrestrial, wetland-associated and invasive plant species and vegetation management work in eco-pond & restored marshes (service items (e), (f) and (h) in Section 3(3)(I)) | For each service item as specified opposite, 4 times | | |
| I-4 | Control of unwanted terrestrial, wetland-associated and invasive plant species in natural marshes (service items (e), (f) and (i)(1) in Section 3(3)(I)) | For each service item as specified opposite, 3 times | | |
| I-5 | Creation and maintenance of open water pools in natural marshes (service items (e), (f) and (i)(2) in Section 3(3)(I)) | For each service item as specified opposite, 12 months | | |
| 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 and Habitat Management Work outside IWMZ (as more particularly specified in Section 3(3)(II) of the Service Specifications ("Section 3(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 species and unwanted plants along fringe areas in WMZ, BZ and RZ (service item (a)(i) in Section 3(3)(II)) | 4 times | | |
| II-2 | Control of invasive alien plant and unwanted terrestrial and wetland-associated species in selected stream sections (service item (a)(ii) in Section 3(3)(II)) | 1 time | | |
| II-3 | Planting and maintenance of native species in WMZ and/or BZ for butterflies (service item (a)(iii) in Section 3(3)(II)) | 600 m ² | | |
| II-4 | Maintenance of fire breaks (service item (b) in Section 3(3)(II)) | 2 times | | |
| II-5 | Maintenance of access (item (c) in Section 3(3)(II)) | 5 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(3)(III) of the Service Specifications ("Section 3(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)-(d) in Section 3(3)(III)) | As stated in the Service Specifications for the service items specified opposite | | |
| III-2 | Ecological monitoring of representative habitats (service items (f)-(g) in Section 3(3)(III)) | As stated in the table set out in Section 3(III)(e) | | |
| Total amount payable for Task III (HK\$) | | | | (C3) |

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

| <u>Item</u> | <u>Description of Items</u> | Estimated Quantity Required over each 12-month period of the Contract Period (A4) | Unit Rate for each 12-month period covering all quantity of service items of (A4) (HK\$) (B4) | <u>Sub-total ((B4) x 2) (HK\$)</u> |
|--|---|--|--|---|
| IV-1 | Surveillance against irregularities (items (a)-(c) in Section 3(3)(IV)) | Throughout the 12-month period | | |
| 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 Publicity and Public Education Programmes (as more particularly specified in Section 3(3)(V) of the Service Specifications ("Section 3(3)(V)"))

| 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\$) |
|---|--|--|---|------------------------------------|
| V-1 | Guided tours (item (a) in Section 3(3)(V)) | 24 times | | |
| V-2 | Volunteer events (item (b) in Section 3(3)(V)) | 3 times | | |
| V-3 | Outreach talks (item (c) in Section 3(3)(V)) | 3 times | | |
| V-4 | Additional type of publicity/thematic events (item (d) in Section 3(3)(V)) | 1 job (can be single or multiple events per job) | | |
| V-5 | Website maintenance and publicity materials (item (e) in Section 3(3)(V)) | Throughout the 12-month period | | |
| Total amount payable for Task V (HK\$) | | | | (C5) |

| | |
|---|---------------|
| Total amount for the Services for 24 months (i.e. Total 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 * in cash/by way of a banker's guarantee.

* Delete as appropriate.

N.B.: If a Tenderer does not complete this Part, it will be regarded to have undertaken to pay the Contract Deposit to the Government in cash.

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 and other amounts payable under the Contract (if any) if payment is made in full within –
 - (a) 14 working days counting from the payable date for such amount: _____ % discount;
 - (b) 28 working days counting from the payable date for such amount: _____ % 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 place are quoted for the above discount.
4. Depending on the applicable amount, please refer to Clause 10.3 of the Conditions of Contract for the relevant payable date.
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 Total Estimated Contract Price.

Name of Tenderer in English: _____

CONTRACT SCHEDULE 1
PRICE SCHEDULE

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

Part D – Payment Details

1. Payment Details of the Service Fee

The attention of the Tenderer is drawn to the contents of Clause 10.3 of the Conditions of Contract which stipulates that, unless otherwise specified and agreed, payment will be made to the Contractor's designated bank account or through the FPS proxy. A Tenderer is requested to provide the following information for payment –

Please put only one tick (“√”) in the following box on the method of payment: –

- ☐ Deposit to the Contractor's designated bank account
☐ Through the FPS proxy

For Payment made to the Contractor's designated bank account: –

Banker's Name: _____

Banker's Address: _____

Account Holder's Name: _____
(Must be consistent with the full payee name registered in bank)

Bank Account No.: _____

For Payment made through the FPS proxy: –

Hong Kong Identity Card number or FPS
identifier registered with the FPS:

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. | Principal place of business of the Tenderer (in address form) | |
| 3. | Type of business entity of the Tenderer: | company / incorporation of the trustees / statutory corporation / others (please specify) * (*Please delete whichever is not applicable.) |
| 4. | Present business | |
| 5. | Length of business experience | |
| 6. | Names of the managing director and other directors | |
| 7. | Place and date of incorporation or formation | |
| 8. | Business profile information of the Tenderer including the number and location of full time/contract employees, core business strategies and strengths, and industry expertise | |
| 9. | Names and addresses of banks which are prepared to provide references or other relevant financial data which indicate the financial viability of the Tenderer | |
| 10. | Employee's Compensation Insurance Policy | Name of insurer: Policy no.: Expiry date: |

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

11. Contact details of the Tenderer

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. All correspondence with the Tenderer/Contractor shall be addressed at 11(a), (c) to (e) below. For the purpose of conducting site visit(s), the contact details of the Tenderer shall be specified at 11(g) to (j) below if such contact details are different from those at 11(a) to (e).

(a) Name of Contact Person :

(b) Post title of Contact Person :

(c) Telephone number :

(d) Fax number :

(e) Email address

(f) Authorised Signature &
 Organisation Chop of
 Tenderer :

For the purpose of conducting site visit(s), the contact details of the Tenderer shall be specified at 11(g) to (j) below if such contact details are different from those at 11(a) to (e).

(g) Address :

(h) Telephone number :

(i) Fax number :

(j) Email address :

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

12. Please attach the following documents as required under Clause 3.2(b)(ii)(9) of the Terms of Tender.

- (a) a certified true copy of the letter issued by the Inland Revenue Department of the Government recognising the tax exemption status of the Tenderer under section 88 of the Inland Revenue Ordinance (Chapter 112 of the Laws of Hong Kong);
- (b) a certified true copy of the Tenderer's certificate of incorporation or registration and certificate of change of name (if any) or equivalent documents issued by the authority of its place of incorporation or registration (where applicable); and
- (c) a certified true copy of the Tenderer's constitutional document or governing instrument.

13. A certified extract of board resolution or other documentary evidence acceptable to the Government demonstrating authorisation and approval for the submission of its Tender.

14. A certified copy of a valid business registration certificate issued under the Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong) or documentary evidence showing that the Tenderer is exempted from business registration under the Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong); or if the Tenderer does not carry on business in Hong Kong, the equivalent documents issued by the place of business of the Tenderer (if applicable).

15. Information required under Paragraph 19.2 of the Terms of Tender:

- * **(a)** I/We confirm that none of the events as mentioned in Paragraphs 19.1(a) to 19.1(i) of the Terms of Tender has ever occurred.
- * **(b)** I/We confirm that the following event(s) as mentioned in Paragraphs 19.1(a) to 19.1(i) of the Terms of Tender has/have occurred:

Note: * Please tick (✓) the appropriate box if the statement is confirmed to be correct.

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

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES

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

Tenderers shall refer to the requirements set out in Clause 3.2(b)(ii)(7) and (9) of the Terms of Tender and Annexes A and B to the Terms of Tender.

1. Experience of the Tenderer

Please provide details of the Tenderer's experience in habitat management / wetland management / vegetation management of at least 2 ha for each project during the twenty (20)-year period immediately preceding the Original Tender Closing Date, including details of the contracts that it has performed (with client's name, contract period and size of fields involved). The Tenderer must provide documentary proof of the experience claimed (e.g. copy of contract, invoice, etc.), otherwise the Government is not bound to count any experience claimed by a Tenderer.

Experience in habitat management / wetland management / vegetation management

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

Name of Tenderer in English: _____

CONTRACT SCHEDULE 3**BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES**

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

2. Qualification of the Tenderer

Please provide the qualification or professional / trade recognition / awards received by the Tenderer in habitat management / wetland management / vegetation management or related discipline obtained during the twenty (20)-year period immediately preceding the Original Tender Closing Date. The Tenderer must provide documentary proof of the qualification claimed (e.g. copy of awards, etc.), otherwise the Government is not bound to count any experience claimed by a Tenderer.

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

Name of Tenderer in English: _____

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES

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

3. Experience of the Proposed Contract Manager

Please provide details of the proposed Contract Manager's experience in providing the following services during the twenty (20)-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). The Tenderer must provide documentary proof of the experience claimed (e.g. copy of contract, invoice etc.), otherwise the Government is not bound to count any experience claimed by a Tenderer.

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: _____

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES
 (To be completed and returned together with the tender submission)

4. Qualification of the Proposed Contract Manager

Please provide the qualification of the proposed Contract Manager and his/her related discipline obtained during the twenty (20)-year period immediately preceding the Original Tender Closing Date. The Tenderer must provide documentary proof of the qualification claimed (e.g. copy of graduation certificate, professional/trade recognition/awards received, etc.), otherwise the Government is not bound to count any experience claimed by a Tenderer.

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

Name of Tenderer in English: _____

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES

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

5. Experience of the Proposed Supervisors

Please provide details of each of the proposed Supervisor's experience in providing the following services during the twenty (20)-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). The Tenderer must provide documentary proof of the experience claimed (e.g. copy of contract, invoice etc.), otherwise the Government is not bound to count any experience claimed by a Tenderer.

Proposed Supervisor 1

Full-time working experience in wetland management and ecological surveys or environmental education

| 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: _____

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES
 (To be completed and returned together with the tender submission)

Proposed Supervisor 2

Full-time working experience in wetland management and ecological surveys or environmental education

| 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: _____

CONTRACT SCHEDULE 3
BACKGROUND AND EXPERIENCE OF TENDERER AND ITS EMPLOYEES
 (To be completed and returned together with the tender submission)

6. Qualification of the Proposed Supervisors

Please provide the qualification of the proposed Supervisors and their related discipline obtained during the twenty (20)-year period immediately preceding the Original Tender Closing Date. The Tenderer must provide documentary proof of the qualification claimed (e.g. copy of graduation certificate etc.), otherwise the Government is not bound to count any experience claimed by a Tenderer.

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: _____

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 to the Terms of Tender.

Part A

1. Operation Plan (Please attach)

2. Resource and Supervision Plan (Please attach)

3. Contingency and Transition Plan (Please attach)

4. Innovative Suggestions (Please fill in Part B of Contract Schedule 4 and attach)

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 6 and 7 of the Explanatory Notes for Marking Scheme for details)

Tenderers shall provide details of the proposed innovative suggestions in the following tables. The innovative suggestion, whether it be a Pro-innovation Proposal or an ESG Proposal, shall not just repeat, or be inconsistent with, the requirements of the Tender Documents. If there is not enough space, please use supplementary sheets if necessary.

Assessment Criterion (4)(a) Pro-Innovation Proposals – directly relevant to the Services to be procured under the Contract

| Item no | Proposed innovative Proposals¹ | Brief description on improvements/benefits/positive values to be brought about² | How to implement | Supporting documents (if any) |
|----------------|--|---|-------------------------|--------------------------------------|
| | | | | |
| | | | | |
| | | | | |

Assessment Criterion (4)(b) ESG Proposals – may need not directly relevant to the Services to be procured under the Contract

| Item no | ESG Proposals³ | Brief description on improvements/benefits/positive values to be brought about² | How to implement | Supporting documents (if any) |
|----------------|----------------------------------|---|-------------------------|--------------------------------------|
| | | | | |
| | | | | |
| | | | | |

Note:

1. Please identify the technological means or arrangements or work process or solutions or equipment covered by the Pro-innovation Proposal that can enhance efficiency, effectiveness, and productivity of the Services. If not clearly stated, it shall be assumed that the Pro-innovation Proposal shall apply to all Services.
2. If the Marking Scheme stipulates a list of improvements and/or benefits and/or positive values which Innovative Suggestion must bring about, in order to score marks, the Innovative Suggestion must bring about any one or more such improvements and/or benefits and/or positive values as found in the list.
3. Please identify whether the ESG Proposal is for environmental protection or sustainability OR for social responsibility OR for governance by filling in (E) or (S) or (G) as the case may be. Unless otherwise expressly specified, it shall be assumed that the ESG Proposal shall apply to all Services.

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 17.1 of the Terms of Tender, the Government may exercise any of the rights under Clause 17.3 to 17.5 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.

Signed by the Tenderer / Signed by an
authorised signatory for and on behalf of the :
Tenderer

Name and Title of Person Authorised to Sign :
Tender (where applicable)

Name of Tenderer in English (in Block :
Letters)

Tel No.:

Fax. No.:

Date: