

Annex 1

BCA's PSG Pre-Approval

Terms and Conditions

INTRODUCTION

- A. The Building and Construction Authority, a statutory board constituted under the Building and Construction Authority Act 1999, with its address at 52 Jurong Gateway Road, #11-01, Singapore 608550 (“**BCA**”) supports and administers the Productivity Solutions Grant (“**PSG**”) for the Built Environment sector which aims to:
- a. Help local Small and Medium-sized Enterprises (“**SMEs**”) improve their productivity and automate existing processes through digital solutions and advanced equipment; and
 - b. Nurture vendors to develop advanced equipment to achieve higher productivity in the Built Environment sector and enhance the scalability and marketability of such equipment.
- B. In view of these aims, BCA has initiated a Pre-Approval Appointment Process. Under this Pre-Approval Appointment Process, BCA intends to pre-approve equipment to be supplied by selected vendors appointed as Pre-Approval Vendors, for use by local SMEs in the Built Environment sector who qualify for the PSG.
- C. The Applicant wishes to be appointed as a Pre-Approval Vendor to provide pre-approved equipment, under the Pre-Approval Appointment Process.

TERMS AND CONDITIONS:

1. General

- 1.1 In this Pre-Approval Agreement, unless otherwise required:

“**Appointment Period**” means the period which commences from the start date of the Applicant’s appointment as a Pre-Approval Vendor as stated in the Appointment Letter, until the termination, suspension or withdrawal of the appointment (whichever is applicable), and in the case where the appointment has been suspended, shall also mean any subsequent period during which the appointment is reinstated.

“**Applicant**” means a vendor who applies to be appointed as a Pre-Approval Vendor under the Pre-Approval Appointment Process.

“Application Form” means BCA’s PSG Pre-Approval Equipment Vendor Application Form which an Applicant has to submit to BCA in order to apply to be appointed as a Pre-Approval Vendor.

“Appointment Letter” means BCA’s PSG Pre-Approval Appointment Letter issued by BCA to an Applicant who has been selected by BCA to be a Pre-Approval Vendor.

“AR” means an appointed representative nominated by the Applicant or Pre-Approval Vendor under Clause 3.5 of these Terms and Conditions.

“Change Request” means a request by the Pre-Approval Vendor to BCA under Clause 2.4 of the Guide.

“Confidential Information” means information as defined in Clause 12.1 of these Terms and Conditions.

“Evaluation” means the Evaluation to be conducted according to Clause 4 of these Terms and Conditions.

“Government Agencies” means Organs of State, Ministries, Departments and Statutory Boards of Singapore.

“Guide” means BCA’s PSG Pre-Approval Guide.

“Pre-Approval Appointment Process” means the programme initiated by BCA to provide Pre-Approved Equipment to local SMEs, and the terms and conditions of which are set out in this Pre-Approval Agreement.

“Pre-Approval Vendor” means a vendor who has been appointed by BCA to sell, market, supply, or otherwise provide Pre-Approved Equipment under the Pre-Approval Appointment Process.

“Pre-Approved Equipment” means the equipment that is pre-approved by BCA to be sold, marketed, supplied or otherwise provided by a Pre-Approval Vendor and which is specified in the Appointment Letter.

“Pre-Approval Agreement” means these Terms and Conditions, Application Form, Appointment Letter (where applicable), Guide and such other documents as BCA may issue from time to time, according to Clause 2.2 of these Terms and Conditions.

“**Pre-Approval Requirement(s)**” means the requirement(s) referred to in Clause 4.2 of these Terms and Conditions.

“**Terms and Conditions**” means these BCA PSG’s Pre-Approval Terms and Conditions.

“**Working day**” means every day except for Saturdays, Sundays and public holidays in Singapore.

“**3P Claims**” mean all claims by third parties as defined in Clause 14.1 of these Terms and Conditions.

2. Scope

2.1 These Terms and Conditions are applicable to all Applicants and Pre-Approval Vendors under the Pre-Approval Appointment Process. All Applicants and Pre-Approval Vendors must comply strictly with all the terms and conditions in the Pre-Approval Agreement at all times.

2.2 These Terms and Conditions should be read in conjunction with BCA’s PSG Pre-Approval documents including but not limited to:

- a. BCA’s PSG Pre-Approval Equipment Vendor Application Form (“**Application Form**”);
- b. BCA’s PSG Pre-Approval Appointment Letter (“**Appointment Letter**”) (where applicable);
- c. BCA’s PSG Pre-Approval Guide (“**Guide**”); and
- d. such other documents that BCA may issue from time to time

(collectively referred hereinafter as the “**Pre-Approval Agreement**”).

2.3. The terms and conditions in the Pre-Approval Agreement may be further amended, varied, modified, supplemented and/or replaced unilaterally by BCA at its sole and absolute discretion from time to time, and the Applicant or Pre-Approval Vendor agrees to and shall accept any such variation. BCA shall notify the Applicant or Pre-Approval Vendor of any such variation, which may be by way of an email notification. For the avoidance of doubt, a variation made in

accordance with this clause shall not require consideration for the variation to be binding and enforceable.

- 2.4 In the event of any conflict or inconsistency between any terms of the Pre-Approval Agreement, unless the document expressly provides otherwise, the conflict or inconsistency shall be resolved in the following order of priority:
- a. BCA's PSG Pre-Approval Terms and Conditions;
 - b. BCA's PSG Pre-Approval Appointment Letter (where applicable);
 - c. BCA's PSG Pre-Approval Guide;
 - d. BCA's PSG Application Form;
 - e. All other documents forming part of the Pre-Approval Agreement.

3. Application to be a BCA's PSG Pre-Approval Equipment Vendor

- 3.1 An Applicant shall submit the application using the Application Form, together with all necessary supporting documents. BCA may at its sole and absolute discretion amend the Application Form from time to time as it deems fit.
- 3.2 By submitting the application, the Applicant undertakes to comply with the Pre-Approval Agreement, and represents and warrants that all information contained in the Application Form and all supporting documents and materials are true, accurate, up-to date, and complete.
- 3.3 BCA reserves the right to and may at its sole and absolute discretion choose not to process or not to continue to process any application if any information provided by the Applicant is deemed by BCA to be misrepresented, false, misleading, inaccurate, insufficient, or on such other grounds whatsoever as BCA in its sole and absolute discretion deems fit.
- 3.4 BCA reserves the right to and may at its sole and absolute discretion reject any application without providing the Applicant with any reasons whatsoever for the rejection.
- 3.5 The Applicant or Pre-Approval Vendor shall nominate an Appointed Representative ("**AR**") to liaise with BCA on all matters relating to the Pre-Approval Appointment Process, and to ensure that all the obligations as set out in the Pre-Approval Agreement are fulfilled. The Applicant or Pre-Approval Vendor shall also

keep BCA informed in writing of any changes in relation to the AR within twenty (20) working days of such change.

4. Evaluation

- 4.1 Evaluation may be conducted by BCA (“**Evaluation**”), in respect of:
- a. An Applicant’s application for appointment as a Pre-Approval Vendor; and
 - b. Interim or ad-hoc assessment or audit of the Applicant or Pre-Approval Vendor in respect of the Pre-Approval Appointment Process at BCA’s sole and absolute discretion from time to time.
- 4.2 The Evaluation is based on the requirements of the Pre-Approval Appointment Process set out in the Guide, and may be amended, varied, modified, supplemented and/or replaced by BCA at its sole and absolute discretion from time to time (the “**Pre-Approval Requirements**”).
- 4.3 The Evaluation may include but is not limited to the following:
- a. Technical evaluation on the equipment’s functionality and performance, including a verification of any claim(s) made by the Applicant or Pre-Approval Vendor in relation to the Pre-Approval Appointment Process; and
 - b. An evaluation on any other aspect of the Pre-Approval Vendor, proposed equipment, or Pre-Approved Equipment that BCA at its sole and absolute discretion deems necessary for the purposes of the Pre-Approval Appointment Process.
- 4.4 BCA shall have the sole and absolute discretion to decide whether to conduct an Evaluation by assessing the Applicant or Pre-Approval Vendor in respect of part or all of the Pre-Approval Requirements.
- 4.5 BCA reserves the right to and may at its sole and absolute discretion appoint an external party to conduct any Evaluation on its behalf.
- 4.6 It is the sole responsibility of the Applicant or Pre-Approval Vendor to provide to BCA all relevant and supporting documents, material information, and/or records for the Evaluation, to demonstrate how they have implemented, and fulfilled the Pre-Approval Requirements.

5. Waiver from Pre-Approval Appointment Process Requirements

- 5.1 The Applicant or Pre-Approval Vendor may submit a written application with relevant and supporting documents to BCA to request a waiver of any of the Pre-Approval Requirements that is not applicable to the Applicant or Pre-Approval Vendor.
- 5.2 Any waiver of any specific Pre-Approval Requirement granted by BCA may be subject to any terms and conditions determined by BCA in its sole and absolute discretion, and such waiver will be valid throughout the Appointment Period unless otherwise stated by BCA in writing.
- 5.3 BCA reserves the right to review and rescind the waiver granted to the Applicant or Pre-Approval Vendor under Clause 5.2 of these Terms and Conditions at any time at its sole and absolute discretion.
- 5.4 The Applicant or Pre-Approval Vendor shall inform BCA immediately if any of the condition(s) of the waiver(s) granted by BCA is no longer valid or applicable at any point of time before the end of the Appointment Period. BCA reserves the right to direct the Applicant or Pre-Approval Vendor to undergo an ad-hoc Evaluation. In such a case, BCA shall have the sole and absolute discretion to decide whether to conduct the ad-hoc Evaluation by assessing the Applicant or Pre-Approval Vendor in respect of part or all of the Pre-Approval Requirements.

6. Appointment as Pre-Approval Vendor

- 6.1 An Applicant which BCA has assessed to have passed the Evaluation and met the Pre-Approval Requirements may be appointed as a Pre-Approval Vendor in BCA's absolute and sole discretion.
- 6.2 For the avoidance of doubt, the appointment as a Pre-Approval Vendor by BCA is neither a guarantee nor an endorsement that the equipment provided by the Pre-Approval Vendor is fit for any purposes, and/or free from any defects. BCA is not liable for any loss or damage whatsoever and howsoever incurred by any party arising as a result of the use of, or any representations made in respect of the equipment provided by the Pre-Approval Vendor, even if the equipment is a Pre-Approved Equipment.
- 6.3 The appointment as a Pre-Approval Vendor does not free the Pre-Approval Vendor from its legal responsibility (if any) in case of any loss or damage incurred by any party arising from the use of the Pre-Approved Equipment.
- 6.4 Notwithstanding any requests, BCA reserves the right to and may, at its sole and absolute discretion, choose not to disclose to the Pre-Approval Vendor and its

customers, users, and potential customers of the Pre-Approved Equipment, the detailed findings and assessment made by BCA in conducting the Evaluation.

- 6.5 BCA will notify the Applicant of the outcome of its application and if BCA decides to appoint an Applicant as a Pre-Approval Vendor, BCA shall issue an Appointment Letter to the Applicant.
- 6.6 The Pre-Approval Vendor's right to use the Appointment Letter is subject to the Pre-Approval Agreement. The Pre-Approval Vendor agrees not to assign, charge, licence, transfer or otherwise deal with the Appointment Letter in any way.
- 6.7 The appointment as a Pre-Approval Vendor and this Pre-Approval Agreement cannot be transferred, assigned or novated by the Pre-Approval Vendor under any circumstances.
- 6.8 The appointment as a Pre-Approval Vendor shall be valid until suspended or terminated by BCA. BCA shall have the absolute right to terminate the appointment at any time after the commencement of the Appointment Period according to Clause 9 of these Terms and Conditions.
- 6.9 The appointment as a Pre-Approval Vendor is subject to the Pre-Approval Vendor's continued compliance with the Pre-Approval Agreement including but not limited to the Pre-Approval Requirements.
- 6.10 The Applicant or Pre-Approval Vendor shall inform BCA forthwith if, at any time, it becomes unable to perform its obligations as set out in this Pre-Approval Agreement, or comply with any of the terms and conditions therein. For the avoidance of doubt, such notification shall not be regarded as a waiver by BCA of any default by the Applicant or Pre-Approval Vendor.
- 6.11 Without prejudice to Clause 5 of these Terms and Conditions, BCA may, in its sole and absolute discretion, refuse to appoint an Applicant if:
 - a. the application submitted by the Applicant is not in accordance with the Application Form required by BCA;
 - b. the Applicant fails to satisfy any of the Pre-Approval Requirements, including the failure to submit or make any declarations (if any) required under the Pre-Approval Agreement;

- c. in the event there are any fees payable by the Applicant in relation to the Pre-Approval Appointment Process and the Applicant fails to pay such any outstanding fees as and when they fall due;
- d. the Applicant provides any information to BCA which is misrepresented, false, misleading, inaccurate or insufficient;
- e. the Applicant is in breach of any of the terms and conditions of the Pre-Approval Agreement;
- f. the Applicant fails to make payment that is due and payable to any third party, or if any proceedings for liquidation, insolvency, bankruptcy, receivership, winding up or judicial management of the Applicant has been commenced, or any composition or schemes of arrangement by the Applicant has been made with its creditors;
- g. the Applicant ceases to carry on business;
- h. the Applicant contravenes any applicable laws or regulatory requirements, whether of Singapore or another jurisdiction;
- i. the Applicant suffers a cyberattack or cybersecurity breach, or is the subject of investigations arising out of or in connection with cyberattacks or cybersecurity breaches; or
- j. for any other reason, the BCA in its sole and absolute discretion is of the opinion that it is undesirable to appoint the Applicant as a Pre-Approval Vendor.

7. Non-Compliance with Pre-Approval Agreement

7.1 Without prejudice to any of the BCA's powers and rights to take such action as it deems fit, a Pre-Approval Vendor that fails to abide by any of the terms and conditions in the Pre-Approval Agreement may be given a written warning by BCA. If the Pre-Approval Vendor fails to comply with the demands of the written warning within the timeframe stated by BCA in the written warning, BCA may suspend or terminate the appointment immediately without further notice or reference to the Pre-Approval Vendor.

7.2 For the avoidance of doubt, BCA reserves the right to and may, in its sole and absolute discretion, suspend or terminate the appointment at any time with immediate effect if the Pre-Approval Vendor fails to abide by any of the terms and conditions in the Pre-Approval Agreement, without issuing any prior notice or warning to the Pre-Approval Vendor.

8. Compliance with Applicable Laws

8.1 The Applicant or Pre-Approval Vendor undertakes to and shall comply with all applicable laws and regulatory requirements, whether of Singapore or another jurisdiction.

9. Suspension and Termination of Appointment

9.1 BCA may, in its absolute discretion, terminate or suspend an appointment with immediate effect, if it is satisfied that the Pre-Approval Vendor:

- a. has obtained the appointment by making or causing any false or fraudulent declaration, certification, or representation, either in writing or otherwise;
- b. has given and/or declared false, misleading, misrepresented, or inaccurate information to BCA;
- c. has received three (3) or more written warnings from BCA pursuant to Clause 7.1 of these Terms and Conditions, even if the Pre-Approval Vendor has complied with all the demands of the respective written warnings;
- d. has failed to resolve any complaint(s) by a customer(s) relating to the Pre-Approved Equipment in a timely manner;
- e. has failed to maintain or where BCA suspects that the Pre-Approval Vendor has failed to maintain a standard that complies with the Pre-Approval Requirements;

- f. has failed to submit or make any declaration required under the Pre-Approval Agreement;
- g. has contravened or failed to comply with any of the terms and conditions in the Pre-Approval Agreement;
- h. has failed to provide access to facilities, documents and/or personnel, or to comply with any other requirement imposed by BCA, as may be reasonable and necessary to enable BCA to conduct the Evaluation;
- i. has failed to rectify any breach of the terms and conditions of the Pre-Approval Agreement or such other requirements imposed by BCA in connection with Pre-Approval Appointment Process in time;
- j. in the event there are any fee(s) payable by the Applicant in relation to the Pre-Approval Appointment Process and where the Pre-Approval Vendor has failed to pay any such fees as and when they fall due payable;
- k. has failed to make payment that is due and payable to any third party, or if any proceedings for liquidation, insolvency, bankruptcy, receivership, winding up or judicial management of the Pre-Approval Vendor has been commenced, or any composition or schemes of arrangement by the Pre-Approval Vendor has been made with its creditors;
- l. has contravened any applicable laws or regulatory requirements, whether of Singapore or another jurisdiction;
- m. is or has become the subject of any investigations by the relevant authorities arising from any alleged offence or wrongdoing by the Pre-Approval Vendor and/or its officers;
- n. has suffered a cyberattack or cybersecurity breach, or is the subject of investigations arising out of or in connection with cyberattacks or cybersecurity breaches; or
- o. is or has been, in BCA's exercise of its sole and absolute discretion, deemed unfit to continue to be appointed as a Pre-Approval Vendor and/or commits or has committed any act or omission that brings BCA or the Pre-Approval Appointment Process into disrepute.

- 9.2 In addition and without prejudice to Clause 9.1 of these Terms and Conditions, BCA may, in its sole and absolute discretion, suspend or terminate an appointment without cause by giving the Pre-Approval Vendor twenty (20) working days written notice of such termination.
- 9.3 In the event of a suspension or termination of appointment under Clauses 9.1 or 9.2 of these Terms and Conditions, the Pre-Approval Vendor will be informed in writing by BCA of the suspension or termination of appointment. The written notice will be sent to the contact address of the Pre-Approval Vendor provided to BCA in the Application Form.
- 9.4 The Pre-Approval Vendor whose appointment has been suspended may have its appointment reinstated, subject to any terms and conditions, including any Evaluation, that BCA may impose in its sole and absolute discretion.
- 9.5 BCA may, at any time and for such reason as it deems fit, vary the period for which the Pre-Approval Vendor's appointment has been suspended.
- 9.6 The Pre-Approval Vendor may voluntarily withdraw from the appointment by giving BCA written notice of its intention to withdraw the appointment and reason(s) for the withdrawal, at least twenty (20) working days in advance.
- 9.7 In the case of a termination or suspension of appointment, upon BCA's written notice to the Pre-Approval Vendor of such termination or suspension and until such appointment is reinstated (if applicable), or in the case of a withdrawal of appointment, upon the Pre-Approval Vendor's notice to BCA of such withdrawal, the Pre-Approval Vendor shall:
- a. immediately cease to hold itself out as and/or refer to itself as a Pre-Approval Vendor;
 - b. within ten (10) working days notify its customers in writing that it is no longer a Pre-Approval Vendor or will no longer be a Pre-Approval Vendor after the requisite notice period (as the case may be);
 - c. immediately cease its use of Confidential Information received from BCA, act in accordance with the said notice from BCA, return all Confidential Information received from BCA and securely destroy and erase all copies of Confidential Information held by the Pre-Approval Vendor, its staff and agents; and

d. within ten (10) working days return the original Pre-Approval Appointment Letter to BCA.

9.8 Where pursuant to this Pre-Approval Agreement, the Pre-Approval Vendor has been appointed, or the appointment suspended or terminated by BCA, or withdrawn by the Pre-Approval Vendor, BCA may at its sole and absolute discretion publish a notification of the appointment, suspension, termination, or withdrawal (as the case may be).

9.9 Termination or suspension of the appointment of a Pre-Approval Vendor by BCA (pursuant to any provision of the terms in the Pre-Approval Agreement), or the withdrawal of the appointment by the Pre-Approval Vendor shall not:

a. release the said Pre-Approval Vendor from any obligation or liability which, at the time of such termination or expiration, has already accrued or which is attributable to a period prior to such termination or expiration of the Appointment Period, and shall include, without limitation, the Pre-Approval Vendor's obligations in respect of all contracts for the sale, marketing, supply or otherwise provision of the Pre-Approved Equipment to PSG applicants, including to meet all delivery and quality standards in respect of the same, and where applicable, in accordance with the Pre-Approval Agreement; nor

b. affect any of BCA's rights and remedies under the Pre-Approval Agreement, at law or in equity.

9.10 In the event the appointment of a Pre-Approval Vendor is terminated by BCA, the Pre-Approval Vendor shall not be permitted to submit a new application under this Pre-Approval Appointment Process within a period of one (1) year from the date of termination.

10. Access to Records, Information and Documents

10.1 The Pre-Approval Vendor shall:

a. upon BCA giving the Pre-Approval Vendor five (5) working days' written notice, permit BCA, and/or their appointed agents full and free access to the Pre-Approval Vendor's place of operation, Pre-Approved Equipment, other equipment supplied by the Pre-Approval Vendor, sites in which such Pre-Approved Equipment or equipment are located or used, for the purposes of the Pre-Approval Appointment Process; and

- b. within seven (7) working days from BCA's written request, provide all relevant information in written form, as may be required by BCA for the purpose of conducting the Evaluation(s) under Clause 4 of these Terms and Conditions, monitoring the results of the Pre-Approval Appointment Process (including any benefits, productivity gains or effect on the customer(s) arising from the use of the Pre-Approved Equipment), any investigations (including but not limited to suspected fraud or abuse of the Pre-Approval Appointment Process, and any suspected criminal or regulatory offences) , and any other purpose determined by BCA in its sole and absolute discretion. For the avoidance of doubt, BCA shall have the sole and absolute discretion to determine whether a particular purpose falls within this Clause 10.1(b).

- 10.2 The Pre-Approval Vendor shall allow BCA and/or their appointed agents to inspect, copy or make extracts from any registers, statements, books, documents, papers, and information accessed or required by BCA for the purposes under Clause 10.1 of these Terms and Conditions.

11. Undertakings of the Applicant or Pre-Approval Vendor

- 11.1 The Applicant or Pre-Approval Vendor shall furnish to BCA in a timely manner all relevant information and documentation relating to the Applicant's or Pre-Approval Vendor's proposed equipment for the purpose of BCA's evaluation of the application for appointment as a Pre-Approval Vendor.
- 11.2 The Applicant or Pre-Approval Vendor shall inform BCA forthwith if, at any time, it becomes unable to perform its obligations as set out in this Pre-Approval Agreement, or comply with the terms and conditions therein. For the avoidance of doubt, such notification shall not be regarded as a waiver by BCA of any default by the Applicant or Pre-Approval Vendor.
- 11.3 The Applicant or Pre-Approval Vendor warrants and undertakes to the BCA that:
 - a. the Applicant or Pre-Approval Vendor shall not contravene any applicable laws or regulatory requirements, whether of Singapore or another jurisdiction, or cause BCA to be in breach of any applicable laws or regulatory requirements;
 - b. the Applicant or Pre-Approval Vendor's Pre-Approved Equipment does not violate or infringe any intellectual property rights, or any right of privacy or publicity of any third party or any other right of any person or entity;

- c. the Applicant or Pre-Approval Vendor will immediately notify BCA of any material changes to any information provided to BCA in connection with the Pre-Approval Appointment Process including but not limited to any change in respect of information provided in the Application Form, or of the Pre-Approved Equipment offered;
- d. the Applicant or Pre-Approval Vendor will keep a record of any material defects reported to and remedial actions taken by the Applicant or Pre-Approval Vendor, if any, relating to the Pre-Approved Equipment and make such record available to BCA upon BCA's request;
- e. the Applicant or Pre-Approval Vendor will keep a record of all material feedback, complaints, and remedial actions, if any, relating to the Pre-Approved Equipment and make such record available to BCA upon BCA's request; and
- f. the Applicant or Pre-Approval Vendor will comply with such other requirement or conditions as may be stipulated by BCA and/or the relevant authorities from time to time.

12. Confidentiality

12.1 Save as expressly provided herein, "**Confidential Information**" means any information received or obtained in connection with the Pre-Approval Appointment Process, including but not limited to:

- a. all information, materials and documents supplied by the Applicant or Pre-Approval Vendor to BCA under the Pre-Approval Appointment Process

but does not include any of the following:

- b. information that was already known to or in the possession of BCA prior to disclosure by the Applicant or Pre-Approval Vendor;
- c. information which is independently learned or developed by BCA without use of any of the information disclosed by the Applicant or Pre-Approval Vendor to BCA under the Pre-Approval Appointment Process;
- d. information which is received by BCA from a third party who has the right to disclose such information and/or who is not bound by duties or obligations of confidentiality to the Applicant or Pre-Approval Vendor;

- e. information that is or becomes publicly available without BCA's breach of the Pre-Approval Agreement; and
- f. information that the Applicant or Pre-Approval Vendor has given or gives its authorisation for BCA's release or use.

12.2 Subject always to Clause 12.3 of these Terms and Conditions, BCA agrees and undertakes:-

- a. not to disclose or make available any Confidential Information, in whole or in part, to any person or party whom the Applicant or Pre-Approval Vendor notifies BCA in writing;
- b. to take reasonable precautions to prevent unauthorised access to Confidential Information by any person or party; and
- c. to notify the Applicant or Pre-Approval Vendor in writing as soon as reasonably practicable upon discovery of any unauthorised use or disclosure of Confidential Information by BCA, and to co-operate with the Applicant or Pre-Approval Vendor in a reasonable way to help the Applicant or Pre-Approval Vendor regain possession of the Confidential Information, and prevent further unauthorised use and/or disclosure of the same.

BCA shall have the sole and absolute discretion to determine if its acts or omissions carried out under this clause are reasonably practicable or reasonable (as the case may be).

12.3 BCA may use the Confidential Information or disclose the same:

- a. To evaluate the Applicant's or Pre-Approval Vendor's compliance with the requirements of the Pre-Approval Appointment Process, including but not limited to the Evaluation referred to in Clause 4 of these Terms and Conditions and any investigations (including but not limited to suspected fraud or abuse of the Pre-Approval Appointment Process, and any suspected criminal or regulatory offences);
- b. To monitor or benchmark the Applicant's or Pre-Approval Vendor's performance and/or the performance of the Pre-Approval Appointment Process;

- c. To perform any of its rights, obligations and/or responsibilities under this Pre-Approval Agreement;
 - d. To facilitate the performance of (a), (b) and/or (c) above by a third party appointed by BCA for the purposes of the Pre-Approval Appointment Process;
 - e. For any purpose, with the prior written consent of the Applicant or Pre-Approval Vendor;
 - f. If required to do so pursuant to any applicable law or regulatory requirement, subpoena, order of court or pursuant to other judicial or administrative process, except that BCA shall give reasonable notice of any such disclosure to the Applicant or Pre-Approval Vendor;
 - g. To such of its officers, employees and/or professional advisors who need to know the same for the purpose(s) of Pre-Approval Appointment Process or for seeking advice on any matter arising out of the Pre-Approval Agreement or the Pre-Approval Appointment Process; or
 - h. To the Government, as and when required by law or by the Government to do so.
- 12.4 BCA shall not be liable for any damages or losses suffered by the Applicant or Pre-Approval Vendor as a result of any disclosure of Confidential Information by BCA, its directors, shareholders, officers, employees, personnel, agents or contractors, other than due to the wilful default or gross negligence of BCA or its representatives.
- 12.5 The Applicant or Pre-Approval Vendor, its staff and agents shall keep confidential and shall not disclose to any third party:
- a. information relating to its application for the appointment as a Pre-Approval Vendor, until such appointment is made or the application is rejected by BCA;
 - b. all correspondences between the Applicant or Pre-Approval Vendor and BCA and contents thereof; and
 - c. any other information that BCA expressly requires the Applicant or Pre-Approval Vendor to keep confidential and not disclose to any third party.

13. Exclusion and Limitation of Liability

13.1 BCA shall in all situations whatsoever not be liable to the Applicant or Pre-Approval Vendor or its proprietors, directors, shareholders, officers, employees, personnel, agents or contractors for any claims, expenses, losses or damages (including solicitors' fees) whether directly or indirectly suffered by the Applicant or Pre-Approval Vendor or its proprietors, directors, shareholders, employees, personnel, agents or contractors (whether or not such claims, expenses, losses or damages have been informed by Applicant or Pre-Approval Vendor to BCA) as a consequence of:

- a. the Pre-Approval Vendor's appointment, the Evaluation and/or BCA's assessment of the Applicant's or Pre-Approval Vendor's compliance with the Programme Requirements;
- b. BCA's decision to appoint, refuse to appoint, or suspend or terminate the appointment, for any reason whatsoever; or
- c. any act or omission on the part of the Applicant or Pre-Approval Vendor, or its proprietors, directors, shareholders, officers, employees, personnel, agents or contractors.

14. Indemnity

14.1 The Applicant or Pre-Approval Vendor agrees and undertakes to indemnify BCA and its directors, shareholders, officers, employees, personnel, agents or contractors fully against all claims, expenses, losses or damages (including solicitors' fees) whether directly or indirectly suffered by BCA including but not limited to all claim(s) by any third parties against BCA and its directors, shareholders, officers, employees, personnel, agents or contractors ("3P Claims"), arising from any act or omission on the part of the Applicant or Pre-Approval Vendor, or its proprietors, directors, shareholders, officers, employees, personnel, agents or contractors, including but not limited to the Applicant's or Pre-Approval Vendor's appointment and/or the Applicant's or Pre-Approval Vendor's breach of any of the terms in the Pre-Approval Agreement.

15. Governing Law and Dispute Resolution

15.1 This Pre-Approval Agreement shall be governed by and construed in accordance with the laws of the Republic of Singapore.

15.2 Any dispute arising out of or in connection with this Pre-Approval Agreement, including any questions regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in the English language

by a sole arbitrator in accordance with the arbitration rules of the Singapore International Arbitration Centre for the time being in force which rules are deemed to be incorporated by reference to this Clause 15.2.

16. Miscellaneous

- 16.1 The invalidity, illegality or unenforceability of any part of the Pre-Approval Agreement shall not affect the validity, legality and enforceability of the other parts of the Pre-Approval Agreement.
- 16.2 No third party shall have any right to enforce any of the provisions under the Contracts (Right of Third Parties) Act 2001.
- 16.3 Clauses 10, 13 and 14 herein and any provision of the Pre-Approval Agreement that expressly or by implication is intended to come into or continue in force on or after the termination or expiry of the Pre-Approval Agreement, shall survive termination or expiry of the Pre-Approval Agreement.
- 16.4 These Terms and Conditions together with the other documents in the Pre-Approval Agreement form the entire agreement between the Applicant or Pre-Approval Vendor and BCA with respect to the matters stated herein.