

## PART 2 - CONDITIONS OF CONTRACT

### 1. DEFINITIONS

1.1 In these Conditions of Contract, unless the context otherwise requires:

- (a) “**CLC Ltd**” means the Centre for Liveable Cities Limited, a company limited by guarantee with the primary role to support the mission of the Centre for Liveable Cities (CLC), a division of the Ministry of National Development (MND), to distil, create and share knowledge on liveable and sustainable cities.
- (b) “**Contract**” means the resulting contract between CLC Ltd and the Contractor for the provision of the Goods and Services as a result of CLC Ltd’s acceptance of the Contractor’s Tender Offer which terms and conditions are contained in the following:
  - (i) the Cover Letter;
  - (ii) the Instructions to Tenderers;
  - (iii) the Contractor's Tender Offer;
  - (iv) these Conditions of Contract;
  - (v) the Requirement Specifications;
  - (vi) the Letter of Acceptance;
  - (vii) any correspondence exchanged between CLC Ltd and the Contractor which is agreed to by CLC Ltd in writing as amplifying, supplementing, modifying or replacing the Invitation to Tender or the Contractor’s Tender Offer; and
  - (viii) any formal agreement executed between the Parties relating to the provision of the Goods and Services; andincluding all schedules and annexes to such documents as relevant.
- (c) “**Contractor**” means the Tenderer whose Tender Offer has been accepted by a Letter of Acceptance issued by CLC Ltd.
- (d) “**Control**” means, with respect to a person (i) the right to exercise, directly or indirectly, at least 50 per cent of the voting rights attributable to the shares of the controlled person or (ii) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person.
- (e) “**Goods**” means all goods proposed in the Contractor’s Tender Offer as being capable of meeting or exceeding the Requirement Specifications and accepted

in the Letter of Acceptance which the Contractor is required to supply under the Contract, including technical documentation, parts or units thereof.

- (f) “**GST**” means goods and services tax charged under the GST Act.
- (g) “**GST Act**” means the Goods and Services Tax Act 1993.
- (h) “**IP**” means patents, copyright, trademarks, service marks, trade names, domain names, get-ups, inventions, registered and unregistered design rights, database rights, integrated circuit topography, geographical indications and all other similar rights of whatever nature wherever in the world arising, in each case:
  - (i) whether registered or not;
  - (ii) including any applications to protect or register such rights;
  - (iii) including all renewals and extensions of such rights or applications;
  - (iv) whether vested, contingent or future; and
  - (v) wherever existing.
- (i) “**Invitation to Tender**” means the invitation to participate in the tender for the supply of Goods and Services and comprises all the tender documents forwarded to the Tenderer, inclusive of the Covering Letter, Form of Tender, Instructions to Tenderers, Conditions of Contract, Requirement Specifications, Evaluation Criteria and any other documents and forms enclosed.
- (j) “**Letter of Acceptance**” means the letter issued by CLC Ltd accepting the Contractor’s Tender Offer in accordance with the terms under the Instructions to the Tenderer.
- (k) “**Losses**” means all liabilities, losses, damages, actions, claims, demands, costs (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs and all other professional costs and expenses on a full indemnity basis), settlement sums and sums paid in satisfaction of a court, arbitral or expert award.
- (l) “**Parties**” means CLC Ltd and the Contractor, and “**Party**” means any one of them.
- (m) “**Personnel**” in relation to a person, means a director, officer, employee or agent of that person, or any individual engaged by that person under a contract for service.
- (n) “**Price Schedule**” means the schedule of prices for Goods and Services proposed in the Contractor’s Tender Offer in Annex E of the Invitation to Tender and accepted in the Letter of Acceptance.

- (o) “**Requirement Specifications**” means the specifications set out in Part III of the Invitation to Tender and any amendments or additions to the aforesaid as may be mutually agreed in writing between the Parties from time to time.
- (p) “**S\$**”, “**\$**” or “**SGD**” means the lawful currency of Singapore.
- (q) “**Service Personnel**” means all Personnel (including Personnel of the Subcontractors) provided by or to be provided by the Contractor to perform the Contract.
- (r) “**Services**” means the services proposed in the Contractor’s Tender Offer as being capable of meeting or exceeding the Requirement Specifications and accepted in the Letter of Acceptance which the Contractor is required to provide under the Contract.
- (s) “**Subcontractor**” means any person, firm or company engaged by the Contractor to perform any part or parts of the Contractor’s obligations and includes the Subcontractor’s duly appointed representatives, successors and permitted assignees and the Subcontractor’s subcontractors.
- (t) “**Tender Offer**” means the offer submitted by the Tenderer to provide Goods and Services to CLC Ltd in response to the Invitation to Tender, and other documents submitted by the Tenderer and accepted in writing by CLC Ltd as modifying such offer submitted by the Tenderer.
- (u) “**Tender Price**” in respect of any of the Goods or Services, means the sum specified in the Price Schedule (as may be varied in accordance with the Contract) for the provision of such Goods or Services under the Contract.
- (v) “**Tenderer**” means a person or its permitted assignees and successors offering to provide the Goods and Services pursuant to the Invitation to Tender, and shall be deemed to include two or more persons if appropriate.

1.2 In the Contract, unless a contrary intention appears:

- (a) words importing the singular only shall also include the plural and vice versa where the context requires;
- (b) the headings are for convenience of reference only and shall not be taken into consideration for the purpose of interpretation;
- (c) references to a person include any company, limited liability partnership, partnership, business trust, unincorporated association or government agency (whether or not having separate legal personality);
- (d) a reference in the Contract to “including” shall not be construed restrictively but shall mean “including without prejudice to the generality of the foregoing” and “including but without limitation”;

- (e) any reference to any legislation shall be deemed a reference to such legislation as amended or revised from time to time and be deemed to include any subsidiary legislation made under such legislation;
- (f) “month” means calendar month and “day” means calendar day; and
- (g) for the purposes of computing time, a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done.

## **2. SCOPE OF CONTRACT**

- 2.1 The Contractor must carry out and complete the provision of all items of Goods and Services in accordance with the Contract.

## **3. CARE AND DILIGENCE**

- 3.1 The Contractor must with due care and diligence carry out its obligations to CLC Ltd under the Contract.
- 3.2 The Contractor acknowledges and accepts that CLC Ltd relies on the skill and judgment of the Contractor and also upon the accuracy of all representations and statements made and advice given by the Contractor in the delivery of the Goods and performance of the Services under the Contract.

## **4. REMOVAL AND REPLACEMENT**

- 4.1 CLC Ltd may reject any Goods that are found on delivery, or upon installation where installation is required, to be:
  - (a) not in accordance with the Contract; or
  - (b) defective or of unsatisfactory quality or not fit for the ordinary uses contemplated by CLC Ltd,

(collectively, the “**Rejected Goods**”), and the Contractor must:

- (i) provide a replacement for the Rejected Goods immediately at the Contractor’s own expense; and
- (ii) collect the Rejected Goods at the Contractor’s own expense within seven (7) days after the date of notification by CLC Ltd and failing which, CLC Ltd shall have the right:
  - (A) to claim from the Contractor storage charges and other expenses incurred in relation to the Rejected Goods until collection by the Contractor or disposal in accordance with sub-clause (B) below, whichever is earlier; and

- (B) if the Rejected Goods are not collected after **one (1)** month after the date of notification by CLC Ltd, to dispose of the Rejected Goods in any way CLC Ltd deems fit and claim all expenses incurred thereby from the Contractor,

and CLC Ltd shall be entitled to claim from the Contractor all costs and damages incurred by CLC Ltd as a result of the Rejected Goods.

- 4.2 CLC Ltd may reject any Services that are not performed in accordance with the Contract or with reasonable care, skill and diligence, and if so required by CLC Ltd, the Contractor must re-perform such rejected Services at the Contractor's own expense.
- 4.3 Where any Goods or Services are rejected by CLC Ltd pursuant to Clause 4.1 or Clause 4.2 or pursuant to any other provision of law, the Contractor shall be deemed to have completely failed to deliver such Goods and perform such Services.
- 4.4 Notwithstanding anything to the contrary, the risk of loss, damage or deterioration of Rejected Goods (whether rejected pursuant to this Clause 4 or otherwise) shall be borne by the Contractor at all times and possession shall be deemed to have never passed to CLC Ltd.

## **5. PAYMENT**

- 5.1 The Contractor must invoice CLC Ltd after receipt by CLC Ltd of all the Goods and Services.
- 5.2 Subject to compliance with Clause 5.1, CLC Ltd must pay the Contractor within **thirty (30)** days after the date of the invoice by any electronic payment mode as CLC Ltd may decide (e.g. Interbank GIRO, PayNow, FAST transfer), or such other mode of payment as CLC Ltd and the Contractor may agree. The Contractor must provide CLC Ltd with the relevant payment details for such mode of payment within **thirty (30)** days after the date of the Letter of Acceptance.
- 5.3 No payment shall be considered as evidence of the quality of the Goods or Services to which such payments relate or a waiver of any default on the part of the Contractor in the performance of its obligations, nor shall it relieve the Contractor from its other obligations under the Contract.
- 5.4 CLC Ltd shall not be required to pay for expenses or cost of whatever nature other than those expressly set out in the Contract or otherwise expressly agreed to in writing by CLC Ltd.
- 5.5 The Contract Price is exclusive of any GST chargeable on the provision of goods and services to CLC Ltd by the Contractor under the Contract. If the Contractor is a taxable person under the GST Act, CLC Ltd must reimburse the Contractor for any GST chargeable by the Contractor on the provision by the Contractor of goods or services under the Contract.
- 5.6 Any invoice or other request for payment of monies due to the Contractor under the Contract must, if it is a taxable person for the purpose of the GST Act, be in the same

form and contain the same information as if it were a tax invoice for the purposes of any subsidiary legislation made under the GST Act.

## **6. TAXES, FEES AND DUTIES**

- 6.1 The Contractor shall be responsible for all corporate and personal income taxes, customs fees, duties, fines, levies, assessments and other taxes payable by the Contractor or its Personnel in carrying out its obligations under the Contract.
- 6.2 If CLC Ltd receives a request from the tax authorities or otherwise decides to pay on behalf of the Contractor or the Contractor's Personnel, or to withhold payments from the Contractor in order that CLC Ltd may subsequently so pay, any of the abovementioned taxes, fees, duties, fines, levies and assessments (“**Taxes**”), the Contractor agrees that CLC Ltd may deduct such Taxes from payment due to the Contractor and forward the balance to the Contractor without any obligation to gross up such payment or pay the Contractor any amount so withheld.
- 6.3 In the event that withholding taxes are imposed by the tax authorities on any payment due under the Contract, the Contractor must bear all such withholding taxes and CLC Ltd may deduct such taxes from payment due to the Contractor and forward the balance to the Contractor without any obligation to gross up such payment or pay the Contractor any amount so withheld.

## **7. DELAY IN DELIVERY AND PERFORMANCE**

- 7.1 If the Contractor fails to deliver any Goods or complete the performance of any Services by the date(s) specified in the Contract, CLC Ltd shall have the right (in addition to and without prejudice to all other rights or remedies available, including CLC Ltd’s right to terminate the Contract pursuant to Clause 11.1), to cancel all or any such Goods or Services from the Contract without compensation and obtain them from other sources (the “**Replacement Goods and Services**”) and all increased costs thereby incurred shall be borne by the Contractor provided that the quantity of the Replacement Goods and Services so obtained shall not exceed the quantity stated in the Contract.

## **8. COMPLIANCE WITH LAW**

- 8.1 The Contractor must, at its own cost, obtain and maintain all licences, permits, certifications, approvals, registrations and authorisations without any restriction or qualification whatsoever so as to enable the Contractor to fulfil all its obligations under the Contract.
- 8.2 The Contractor must, in performing its obligations under the Contract, comply with all applicable laws and shall keep CLC Ltd indemnified against all penalties and liabilities of every kind for the breach of any such laws.

## 9. INTENTIONALLY LEFT BLANK

## 10. GIFTS, INDUCEMENTS AND REWARDS

10.1 CLC Ltd shall be entitled to immediately terminate or rescind the Contract and recover from the Contractor the amount of any Losses resulting from such termination or rescission if:

- (a) any Contractor Representative has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for:
  - (i) doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Contract; or
  - (ii) showing favour or disfavour to any person in relation to any contract with CLC Ltd; or
- (b) any Contractor Representative has engaged in any activity or conduct that has resulted or will result in a violation of any Anti-Corruption Laws.

10.2 In this Clause 10:

**“Anti-Corruption Laws”** means:

- (a) Chapter 9 of the Penal Code 1871;
- (b) the Prevention of Corruption Act 1960; and
- (c) any other applicable law including any foreign law which:
  - (i) prohibits the conferring of any gift, payment or other benefit on any person or any Personnel or adviser of such person; or
  - (ii) is broadly equivalent to the laws set out in paragraph (a) or (b) or which has as its objective the prevention of corruption.

**“Contractor Representative”** means any of the following:

- (a) the Contractor;
- (b) any person employed by the Contractor; or
- (c) any person acting on behalf of the Contractor (whether with or without the knowledge of the Contractor).

## 11. TERMINATION

11.1 If any of the following events occur, CLC Ltd shall have the right (in addition to and without prejudice to all other rights or remedies available, including the right to claim

damages) to terminate the Contract with immediate effect by written notice to the Contractor:

- (a) an Event of Default has occurred (not being a default covered by any other sub-clause of Clause 11.1) and:
  - (i) the Contractor fails to remedy the Event of Default within three (3) days after the date of the written notice from CLC Ltd to do so; or
  - (ii) the Event of Default is not capable of being remedied within a reasonable time;
- (b) the Contractor is in breach of any of its obligations under the Contract, and such breach results, or is likely to result, in damage to the reputation of CLC Ltd;
- (c) the Contractor is in material breach of any of its obligations under the Contract;
- (d) a breach by the Contractor of Clause 8 (Compliance with Law) or Clause 17 (Subcontract, Transfer and Assignment);
- (e) a breach by the Contractor of Clause A3 (Confidentiality and Security).

11.2 If any of the following events occur, CLC Ltd shall, to the extent permitted by law, be entitled to terminate the Contract with immediate effect by written notice to the Contractor, and the Contractor shall have no claim for any damages or compensation:

- (a) the Contractor is unable to pay its debts as and when they fall due;
- (b) where the Contractor is a company or a limited liability partnership, a receiver, liquidator or provisional liquidator is appointed over any undertaking or property of the Contractor or an order is made or a resolution is passed for winding-up or dissolution without winding-up (other than for the purpose of amalgamation or reconstruction) of the Contractor;
- (c) where the Contractor is a partnership, the Contractor is dissolved or has a bankruptcy order made against it;
- (d) where the Contractor is an individual, the Contractor becomes bankrupt or dies;
- (e) legal proceedings alleging insolvency are brought against the Contractor;
- (f) any application is made for the winding-up, bankruptcy or dissolution of the Contractor; or
- (g) the Contractor enters into any composition or arrangement with creditors.

11.3 If the Contract is terminated, the following shall apply:

- (a) termination shall be without prejudice to any rights or obligations of either Party which has accrued prior to such termination and any obligation which expressly or by implication is intended to come into or continue in force on or after such



termination;

- (b) the Contractor must forthwith refund to CLC Ltd all amounts paid to the Contractor under the Contract, less the price of the Goods and Services which have been accepted by CLC Ltd as at the date of termination;
- (c) the Contractor must immediately deliver property belonging to or provided by CLC Ltd pursuant to the Contract and all deliverables prepared by the Contractor for the Contract (including works-in-progress if so requested by CLC Ltd). Works-in-progress shall be paid on a pro-rated basis except that in the case of termination pursuant to Clause A8, the payment shall be as determined in accordance with Clause A8.2 to Clause A8.5.
- (d) in the event of a termination pursuant to Clause 11.1 or 11.2, CLC Ltd shall have the right to engage another person to provide the remaining Goods and Services to be provided under the Contract, and any additional costs and expenses incurred must be paid by the Contractor, and the Contractor must give reasonable assistance to the incoming contractors; and

11.4 For the purposes of this Clause 11:

“**Event of Default**” means any breach (whether material or not) by the Contractor of any of its obligations under the Contract.

11.5 Nothing in this Clause 11 shall be deemed to prejudice any other rights or remedies available to CLC Ltd against the Contractor for any breach of the Contractor’s obligations whether under the Contract or at law or in equity.

## 12. FORCE MAJEURE

12.1 Neither Party shall be liable for any failure to perform its obligations under the Contract if the failure results from events which are beyond its reasonable control (“**Force Majeure Event**”), except that whenever possible the affected Party shall resume that obligation as soon as the factor or event occasioning the failure ceases or abates. For the purposes of the Contract, “**Force Majeure Event**” shall include acts of God, acts of civil or military authority, civil disturbance, wars, strikes, fires, epidemics or pandemics, and other catastrophes.

12.2 If the effect of any Force Majeure Event continues for a period exceeding three (3) months, CLC Ltd may at any time thereafter give notice to the Contractor to terminate the Contract with immediate effect without being liable to the Contractor in damages or compensation.

12.3 If a Force Majeure Event occurs, the Contractor or CLC Ltd (as the case may be) shall for the duration of such Force Majeure Event be relieved of any obligation under the Contract as is affected by the Force Majeure Event except that the provisions of the Contract shall remain in force with regard to all other obligations under the Contract which are not affected by the Force Majeure Event.

12.4 Failure of the Contractor's Subcontractors or suppliers to perform their obligations shall not be regarded as events beyond the reasonable control of the Contractor.

### **13. CORRESPONDENCE**

13.1 Any notice ("**Notice**") shall be in writing and shall be deemed to have been duly given when it is delivered by hand or by prepaid registered post or electronic mail to the Party as follows:

(a) in the case of the Contractor, the address and electronic mail address set out in the Tender Offer; and

(b) in the case of CLC Ltd, the address and electronic mail address stated in the Covering Letter of the Invitation to Tender.

13.2 Either Party may change its address and electronic mail address referred to above by giving the other Party written notice of the change.

13.3 A Notice sent by electronic mail shall be deemed not to have been received if the sender receives, within 24 hours after sending such electronic mail, a notification that such electronic mail has not been successfully delivered.

### **14. LANGUAGE**

14.1 The Contractor must ensure that all data, documents, descriptions, diagrams, books, catalogues, instructions, markings for the Goods and correspondence are written in readily comprehensible English language.

### **15. INTENTIONALLY LEFT BLANK**

### **16. INDEPENDENT CONTRACTOR**

16.1 For the purposes of the Contract, the Contractor shall be, and shall be deemed to be, an independent contractor and not an agent or employee of CLC Ltd.

### **17. SUBCONTRACT, TRANSFER AND ASSIGNMENT**

17.1 The Contractor must not, without the prior written consent of CLC Ltd, subcontract its obligations, or transfer or assign the benefit of the whole or any part of the Contract.

17.2 The Contractor shall be responsible for the acts, defaults, negligence and omissions of its Subcontractors and their Personnel.

### **18. DEFAULT INTEREST**

- 18.1 If the Contractor defaults in the payment when due of any sum payable under the Contract its liability shall be increased to include interest on such sum from the date when such payment is due until the date of actual payment (after as well as before judgment). The interest shall be calculated on a daily basis at a rate per annum of 7.2%.

## **19. REMEDIES**

- 19.1 The rights and remedies of a Party under the Contract are cumulative and are without prejudice and in addition to any rights or remedies such Party may have at law or in equity. No exercise by a Party of any one right or remedy under the Contract, or at law or in equity shall operate so as to hinder or prevent the exercise by it of any other right or remedy under the Contract, at law or in equity.

## **20. VARIATION**

- 20.1 No variation of the Contract shall be of any force unless agreed upon in writing and signed by the authorised signatories of both Parties.

## **21. WAIVER**

- 21.1 No failure or delay on the part of any Party in exercising any right under the Contract, or at law or in equity, shall operate as a release or waiver thereof.
- 21.2 No waiver of any breach of the Contract shall be deemed to be a waiver of any other or of any subsequent breach.
- 21.3 Any waiver granted under the Contract must be in writing and may be given subject to conditions. Such waiver under the Contract shall be effective only in the instance and for the purpose for which it is given.

## **22. SET-OFF**

- 22.1 Whenever under the Contract any sum of money (including any damages) shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under the Contract or any other agreement with CLC Ltd.

## **23. ENTIRE AND WHOLE AGREEMENT**

- 23.1 The Contract contains the entire and whole agreement between the Parties relating to the subject matter of the Contract.

## **24. SEVERABILITY**

- 24.1 In the event any provision in the Contract is determined to be illegal, invalid or unenforceable, in whole or in part, such provision or part of it shall, to the extent it is

illegal, invalid or unenforceable, be deemed not to form part of the Contract and the legality, validity and enforceability of the remainder of the Contract shall not be affected.

## **25. RIGHTS OF THIRD PARTIES**

- 25.1 A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 2001 to enforce any term of the Contract.

## **26. SURVIVING PROVISIONS**

- 26.1 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract, including Clauses 10 (Gifts, Inducements and Rewards), 11.3 and 11.5 (Termination), 13 (Correspondence), 18 (Default Interest), 19 (Remedies), 21 (Waiver), 22 (Set-off), 23 (Entire and Whole Agreement), 24 (Severability), 25 (Rights of Third Parties), 26 (Surviving Provisions), 27 (Governing Law), 28 (Escalation of Disputes), 29 (Mediation) and 30 (Dispute Resolution), shall survive the termination or expiry of the Contract.

## **27. GOVERNING LAW**

- 27.1 The Contract shall be deemed to be made in Singapore and shall be governed by and construed in accordance with the laws of the Republic of Singapore.

## **28. ESCALATION OF DISPUTES**

- 28.1 In the event of any dispute arising out of or relating to the Contract or its subject matter or formation (a “**Dispute**”), no Party shall proceed to mediation or any form of dispute resolution unless the Parties have referred the Dispute to a senior officer of each Party (each, an “**Officer**”) who shall negotiate in good faith with a view to resolution of such Dispute.
- 28.2 If such Dispute is not resolved by agreement between the Officers within fourteen (14) days after the date of referral of the Dispute to the Officers, any Party may proceed to:
- (a) if the Dispute is within the jurisdiction of the Small Claims Tribunals, refer the Dispute to the Small Claims Tribunals; or
  - (b) give the other Party written notice for mediation as contemplated in Clause 29 (Mediation).

## **29. MEDIATION**

- 29.1 Notwithstanding anything in the Contract, in the event of any Dispute and subject to Clauses 28, 29.3 and 29.4, no Party shall proceed to any form of dispute resolution

unless the Parties have made reasonable efforts to resolve the same through mediation in accordance with the mediation procedure of the Singapore Mediation Centre. The Parties shall be deemed to have made reasonable efforts in accordance with this Clause 29.1 if they have gone through at least one mediation session at the Singapore Mediation Centre.

29.2 A Party who receives a written notice for mediation from the other Party must consent and participate in the mediation process in accordance with this Clause 29.

29.3 The mediation session is to commence no later than **ninety (90)** days after the date of the written notice of mediation failing which either Party may proceed to dispute resolution.

29.4 Clause 29.1 shall not apply to a Dispute referred to the Small Claims Tribunals, provided that:

29.4.1 the Parties attend a consultation session before a Registrar (where the Parties will be given an opportunity to resolve the Dispute amicably) after a claim is filed with the Small Claims Tribunals; and

29.4.2 the proceedings relating to such Dispute are not:

- (i) discontinued by the Registrar pursuant to Section 17(3) of the Small Claims Tribunal Act 1984; or
- (ii) transferred out of the Small Claims Tribunals before or pursuant to such consultation session.

29.5 Failure to comply with Clause 29.1 or 29.2 shall be deemed to be a breach of the Contract.

### **30. DISPUTE RESOLUTION**

30.1 Each Party irrevocably agrees that the courts of Singapore shall have exclusive jurisdiction to settle any Dispute. Each Party irrevocably submits to the jurisdiction of such courts.

## **A1. COMMENCEMENT AND DURATION OF CONTRACT**

A1.1 The Contract shall commence on the date of commencement stated in the Letter of Acceptance or any other formal agreement executed between the Parties, and shall remain in force until project completion upon handover of premises to the landlord.

## **A2. LIMITATION OF LIABILITY**

A2.1 The aggregate liability of the Contractor to CLC Ltd in respect of all breaches under the Contract shall not exceed the Contract Price.

A2.3 The aggregate liability of CLC Ltd to the Contractor in respect of all breaches under the Contract shall not exceed the Contract Price.

A2.4 None of the limitations contained in this Clause A2 shall apply to any claim:

- (a) relating to any death or personal injury;
- (b) relating to any patent, copyright or other intellectual property right infringement; or
- (c) which arises or is increased as a consequence of fraud, fraudulent misrepresentation, wilful misconduct or gross negligence by the Contractor, any Subcontractor, or any of their respective Personnel;

A1.5 Neither Party shall be liable under the Contract in respect of any loss of profit or any indirect or consequential losses.

## **A3 CONTRACTOR'S PERSONNEL**

A3.1 The Contractor must provide all necessary personnel who are competent and have the adequate skills and required professional certifications (where applicable) for the performance of the Contract.

A3.2 Upon request by CLC Ltd, the Contractor must provide the following to CLC Ltd:

- (a) the names and particulars (in such form as may be required by CLC Ltd) of the Service Personnel;
- (b) evidence of the competency and professional certifications of the Service Personnel, in such format as may be required by CLC Ltd; and
- (c) all documents and declarations as CLC Ltd may require for the purposes of security clearance.

A3.3 The Service Personnel shall at all times be subject to CLC Ltd's written approval, and CLC Ltd may at any time object to any previously approved Service Personnel. Where the Contractor has proposed such Service Personnel in its Tender Offer, CLC Ltd's acceptance of the Contractor's Tender Offer shall not constitute its approval of such

Service Personnel, and the Contractor must separately seek CLC Ltd's approval of such Service Personnel.

A3.4 Except as approved by CLC Ltd and subject to such conditions as CLC Ltd may impose, the Contractor must ensure that no Service Personnel commences work on the Contract unless:

- (a) CLC Ltd has given its prior written approval of such Service Personnel pursuant to Clause A3.3; and
- (b) such Service Personnel has obtained the necessary level of security clearance for the category and nature of the work to be handled by such Service Personnel, as required by CLC Ltd from time to time.

A3.5 CLC Ltd shall not be required to provide any reason for objecting to any Service Personnel. If CLC Ltd objects by notice in writing to any Service Personnel, the Contractor must remove such Service Personnel immediately and furnish a suitable and adequate replacement at no additional expense to CLC Ltd within three (3) days.

A3.6 The Contractor undertakes not to change its Service Personnel approved under this Clause A2 without CLC Ltd's consent, which shall not be unreasonably withheld. All new or replacement Service Personnel shall also be subject to the approval of CLC Ltd. The Contractor must not reduce or vary its Service Personnel if this may adversely affect the performance of the Contract, including the progress or quality of the Services.

#### **A4. CONFIDENTIALITY AND SECURITY**

A4.1 Except with the prior written consent of CLC Ltd, the Contractor must:

- (a) treat as strictly confidential and not disclose any Confidential Information to any person, save that Confidential Information may be disclosed to Personnel of the Contractor or its Subcontractors to the extent such disclosure is reasonably necessary for the performance of the Contractor's obligations under the Contract; and
- (b) only use the Confidential Information for the sole purpose of performing the Contractor's obligations under the Contract and must not use it for any other purpose.

A4.2 The Contractor must take all reasonable precautions in dealing with Confidential Information to prevent any unauthorised person from having such access to such Confidential Information. The Contractor must procure that all its Personnel and those of its Subcontractors to whom Confidential Information is to be made available observe the obligations contained in this Clause.

A4.3 The Contractor must not publish or release, and must not allow or suffer the publication or release of, any news item, article, publication, advertisement, prepared speech or any other information or material pertaining to any part of the obligations to be performed under the Contract in any media without the prior written consent of CLC Ltd.

A4.4 For the purposes of this Clause A4, “**Confidential Information**” means any information received or obtained as a result of entering into the Contract (or any agreement entered into pursuant to the Contract), including:

- (a) information which relates to CLC Ltd;
- (b) information which relates to the existence or the provisions of the Contract or of any agreement entered into pursuant to the Contract; or
- (c) any analysis, compilation, note, study, memoranda or other document derived from, containing or reflecting such information,

but does not include information that is:

- (d) or has become public knowledge otherwise than through breach of agreement or other legal obligation or through the default or negligence of the Contractor, any Subcontractor, or any of their respective Personnel;
- (e) lawfully in the possession of the Contractor or already known to the Contractor on a non-confidential basis prior to the Contractor receiving or obtaining such information as a result of entering into the Contract, as evidenced by written records; or
- (f) independently developed by the Contractor.

A4.5 The Contractor shall not be liable for disclosure of Confidential Information in the event and to the extent any Confidential Information is required to be disclosed by the Contractor pursuant to any applicable law, regulations or directives of any relevant government, statutory or regulatory body (including stock exchange) or pursuant to any legal process issued by any court or tribunal of competent jurisdiction, provided the Contractor must, to the extent practicably possible and permissible by law or regulations, give CLC Ltd prompt and prior notice of any such requirement and must cooperate with CLC Ltd to limit the scope of such disclosure to the maximum extent legally possible.

A4.6 No later than five (5) days after the termination or expiry of the Contract:

- (a) the Contractor must:
  - (i) return all Confidential Information received from CLC Ltd for the purpose of the Contract or produced in the course of performing its obligations under the Contract without keeping any copy thereof; and
  - (ii) secure erase and destroy all softcopies of Confidential Information that exist in hard disk, removable storage media and other storage media or facility whatsoever,

provided that the Contractor may retain any Confidential Information as may be required by any applicable law, regulations or directives of any relevant government, statutory or regulatory body (“**Applicable Provisions**”), without



prejudice to its confidentiality obligations in relation to such Confidential Information contained in this Clause A40; and

- (b) the Contractor must upon completion of the obligations under Clause A4.6(a), provide a written confirmation to CLC Ltd that it has complied with Clause 30.1(a). Such written confirmation must (i) include a description of all Confidential Information it is required to retain under the Applicable Provisions, and (ii) cite the specific Applicable Provisions it is relying on to retain such Confidential Information.

A4.7 The Contractor must immediately notify CLC Ltd where the Contractor becomes aware of any breach of this Clause 04 by its Personnel, any Subcontractor or any of the Subcontractor's Personnel and cooperate at its own costs with CLC Ltd to limit the extent and impact of such breach.

A4.8 This Clause A4 shall survive the termination or expiry of the Contract.

## **A5. LOSSES**

A5.1 The Contractor must indemnify and keep indemnified CLC Ltd against any and all Losses sustained, incurred, paid by or suffered by CLC Ltd arising out of or in connection with any act or omission on the part of the Contractor, any Subcontractor or any of their respective Personnel (the "**Contractor Parties**") unless the Contractor can show that:

- (a) it is not due to the Contractor's breach of the Contract; and
- (b) it is not due to the negligent, unlawful or wrongful action or omission, fraud, bad faith, wilful misconduct or breach of any duty of any of the Contractor Parties.

A5.2 This Clause A5 shall survive the termination or expiry of the Contract.

## **A6. OBSOLETE PRODUCT**

A6.1 The Contractor must promptly notify CLC Ltd in writing at least two (2) weeks prior to any of the Goods becoming obsolete (each, an "**Obsolete Product**"), and shall propose an equivalent or improved model to CLC Ltd (the "**Equivalent Product**") at the same or lower price than that payable for the Obsolete Product for CLC Ltd's approval.

A6.2 If CLC Ltd grants its approval in writing that the proposed Equivalent Product shall replace the Obsolete Product, the Obsolete Product shall be deemed to be replaced by such approved Equivalent Product in the Contract, at the approved prices with effect from the date of such written approval. For the avoidance of doubt, if CLC Ltd does not grant its approval in writing, the Contractor is obliged to continue providing such Obsolete Product until CLC Ltd grants its approval for an equivalent or improved model to replace such Obsolete Product.

## **A7. EXIT MANAGEMENT**

A7.1 During the Transition Period, the Contractor must, at its cost and expense, make available to CLC Ltd and any third party succeeding the Contractor appointed by CLC Ltd (“**Incoming Contractor**”) such documents and records and provide such assistance (including briefings and training) as CLC Ltd or the Incoming Contractor may reasonably require to allow an orderly transition to the Incoming Contractor with minimal disruption.

A7.2 In the Contract:

“**Transition Period**” means:

- (a) the period of two (2) weeks before the expiry or termination of the Contract; or
- (b) where the notice period for termination of the Contract is shorter than the period referred to in Clause A7.2(a), the period of two (2) weeks commencing on the date of notice of such termination.

A7.3 This Clause A7 shall survive the termination or expiry of the Contract.

## **A8. INSPECTION**

A8.1 The Contractor must allow CLC Ltd to conduct investigations, audits or inspections at any location in which the Contractor is providing or has provided Goods and Services under the Contract, for the purpose of ensuring proper compliance with the Contract. The costs of conducting any such investigation, audit or inspection shall be borne by the Contractor.

A8.2 The Contractor must cooperate with and provide all support, information and assistance necessary to CLC Ltd or the auditor (including access to the Contractor’s financial records) for the conduct of the investigations, audits or inspections referred to in Clause A8.1 at no charge to CLC Ltd. CLC Ltd shall have the right to conduct spot-checks on the Contractor for the purpose of such investigations, audits or inspections.

A8.3 All investigations, audits or inspections referred to in Clause A8.1 must be in the form of a government audit, or a third-party audit conducted by a reputable audit firm acceptable to CLC Ltd.

## **A9. TERMINATION FOR CONVENIENCE**

A9.1 CLC Ltd shall have the right to terminate the Contract for convenience by giving at least two (2) weeks written notice to the Contractor without having to assign any reason. Upon receipt of such written notice, the Contractor must cease or reduce its work according to the tenor of the notice, and must forthwith take reasonable steps to mitigate its losses consequent thereto. CLC Ltd shall pay to the Contractor the compensation as determined in accordance with Clauses 0 to 0 below (“**Termination Compensation**”). The Termination Compensation shall be in full and final settlement of all liabilities of

CLC Ltd arising out of any termination of the Contract by CLC Ltd pursuant to this Clause 0.

A9.2 Within five (5) days after receiving a written notice pursuant to Clause 0, the Contractor may, subject to Clauses 0 to 0, submit a claim, duly substantiated, to CLC Ltd for compensation.

A9.3 The Contractor must set out its claim in a report on an itemised basis and the report must contain such information that CLC Ltd may reasonably require. The compensation:

- (a) must not exceed the total of the following two components:
  - (i) the reasonable direct costs which the Contractor has reasonably incurred in respect of the terminated portions of the Contract; and
  - (ii) any other reasonable costs reasonably incurred by the Contractor in respect of the terminated portions of the Contract; and
- (b) must, in any event, not be greater than a sum which, in addition to any sum paid or due or becoming due to the Contractor under the Contract, would together exceed the price provided under the Contract for the terminated portion of the Contract.

A9.4 If the Parties fail to reach an agreement on the compensation sum set out in the Contractor's report, the report must be submitted to an independent public accountant or valuer for verification of compliance with Clause 0, with any doubt as to whether the costs were reasonably incurred or were reasonable in amount to be resolved in favour of CLC Ltd. The appointment of such independent public accountant or valuer shall be subject to CLC Ltd's approval, and the cost of such appointment shall be borne by CLC Ltd.

A9.5 CLC Ltd shall pay to the Contractor:

- (a) the compensation sum in the Contractor's report, if such sum is mutually agreed upon between the Parties, within sixty (60) days after such agreement; or
- (b) the compensation sum in the report as verified or varied by the independent public accountant or valuer, if such compensation sum is submitted to an independent public accountant or valuer, within sixty (60) days after the date of CLC Ltd's receipt of the report from the independent public accountant or valuer.