

Civil Aid Service

**Provision of Property Attendant Services to Civil Aid Service Tai Tan Camp
and Wong Shek Water Sports Training Centre Store**

PART 1

TERMS OF TENDER

ALL TENDERERS ARE ADVISED TO READ THE TENDER DOCUMENTS CAREFULLY PRIOR TO PREPARING THEIR SUBMISSION. ANY TENDER WHICH DOES NOT FOLLOW THE INSTRUCTIONS CONTAINED IN THE DOCUMENTS WOULD BE CONSIDERED INCOMPLETE AND MAY NOT BE CONSIDERED FURTHER.

1. Tender Documents

1.1 These Tender Documents consist of a complete set of -

- (a) Tender Form;
- (b) Interpretation;
- (c) Part 1 - Terms of Tender with Annexes and Appendices:
 - Annex A – Tender Evaluation Procedures, Criteria and Marking Scheme;
 - Annex B – Information Schedule;
 - Annex C – Experience of the Tenderer;
 - Annex D – Non-collusive Tendering Certificate;
 - Annex E – Certification of Heat Stroke Prevention Work Plan and Heat Stroke Prevention Work Plan;
 - Annex F – Registration Form for Tender Briefing;
 - Annex G – Contact Details;
 - Appendix A – Requirements of the Financial Information to be Submitted upon Request; and
 - Appendix B – Form of Banker’s Guarantee;
- (d) Part 2 - Conditions of Contract with Attachments:
 - Attachment A – Sample of Statement of Deployment and Wages of Property Attendants and Accountant’s Statement for Payment Application; and
 - Attachment B - 適用於政府服務合約承辦商與其僱員的標準僱傭合約;
- (e) Part 3 - Service Specifications:
 - Schedule A – Service Requirements; and
 - Schedule B – Serving Hours of Property Attendants;

(f) Part 4 - Contract Schedules:

Contract Schedule 1 – Price Schedule;

Contract Schedule 2 – Wages and Working Conditions; and

Contract Schedule 3 – Execution Plan.

(collectively “**Tender Documents**”). Unless otherwise defined in the Interpretation section, each of the above Tender Documents is referred to by their names as stated above throughout the Tender Documents and the Contract.

- 1.2 The Interpretation shall apply to the whole set of the Tender Documents and the Contract unless otherwise expressly stated to the contrary.

2. Invitation to Tender

- 2.1 Tenders are invited for the provision of property attendant services to the Civil Aid Service Tai Tan Camp and Wong Shek Water Sports Training Centre Store as more particularly described in the Service Specifications and on such terms and conditions as set out in the Tender Documents.

- 2.2 Each Tenderer should read the Tender Documents carefully prior to submitting a Tender and ensure that it understands all requirements of the Tender Documents.

- 2.3 Each Tenderer should obtain such independent advice from its own advisers as it considers appropriate.

- 2.4 Each 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 Each 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 or the Contract.

- 2.7 Information, statistics and forecasts set out in the Tender Documents are provided for a Tenderer’s reference only. The Government does not warrant or represent that the information, statistics and forecasts are complete, true or accurate. The Government does not bind itself to adhere to such information, statistics and forecasts.

- 2.8 Without prejudice to Paragraph 2.7 above, the estimated requirement of the Services specified in the Price Schedule or Service Specifications (if any) is/are estimate(s) of the quantity of the Services that may be required by the Government. They are given for a Tenderer's reference only and are not figures to which the Government binds itself to adhere. The Government's actual requirements may vary depending on the actual need of the CAS and the successful Tenderer must accept any increase or decrease of the stated estimates.
- 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.
- 2.10 Each entity shall submit only one Tender. Joint submission is not allowed. No sub-contracting is allowed in this Invitation to Tender. If a single entity submits two or more Tenders or a Tender is jointly submitted by two or more entities or by an unincorporated association or joint venture, all such Tenders will not be considered.

3. Tender Preparation

- 3.1 All Tenders must be completed in English or Chinese and submitted by way of **Paper-based Tendering or Electronic Tendering, otherwise the Tender will not be considered further.**
- 3.2 Tenders with all necessary information including documentary evidences which are necessary for tender evaluation should be submitted in **TRIPLICATE (i.e. three sets of identical documents) for Paper-based Tendering.**
- 3.3 When completing the Tender Documents, any alteration in figures or words should be effected by striking through the incorrect figures or words and inserting the correct figures or words above the original figures or words. All such amendments should be initialed by the Tenderer in ink.
- 3.4 The following items with all of the information and supporting documents required therein or as are necessary for the tender evaluation shall be submitted by the Tenderer in its Tender:
- | | |
|------------------------------------|---|
| (a) Part 5 of the Tender Form | - (for Paper-based Tendering) "Offer to be Bound" section which must be duly signed by the Tenderer in accordance with Paragraph 3.6(a)(i) of the Terms of Tender |
| (b) Annex B to the Terms of Tender | - Information Schedule |
| (c) Annex C to the Terms of Tender | - Experience of the Tenderer |
| (d) Annex D to the Terms of Tender | - Non-Collusive Tendering Certificate |
| (e) Annex E to the Terms of Tender | - Certification of Heat Stroke Prevention Work Plan and Heat Stroke Prevention Work Plan |
| (f) Annex G to the Terms of Tender | - Contact Details |
| (g) Contract Schedule 1 | - Price Schedule |

- (h) Contract Schedule 2 - Wages and Working Conditions
- (i) Contract Schedule 3 - Execution Plan
- (j) a copy of the valid Security Company Licence
- (k) such other documents and information as specified in this Terms of Tender

3.5 When completing the Tender Documents (including the “Offer to be Bound” section of the Tender Form), a Tenderer shall ensure that the name of the Tenderer is the same as the name shown in: -

- (a) the Certificate of Incorporation of the Tenderer; or
- (b) 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
- (c) its business name as shown in the current business registration certificate of the Tenderer.

3.6 **The Tenderer must submit all of the following in its Tender before the Tender Closing Time, OTHERWISE ITS TENDER WILL NOT BE CONSIDERED FURTHER:**

- (a) (i) (for Paper-based Tendering) a duly signed Part 5 “Offer to be Bound” of the Tender Form containing an original manuscript signature by or on behalf of the Tenderer. The Offer to be Bound to be submitted (other than the signature on the Offer to be Bound which must be original) shall be Part 5 of the Tender Form or a printed copy from a softcopy of Part 5 of the Tender Form or a photocopy or a scanned copy of such hardcopy or printed copy. Any manner of reproduction of Part 5 of the 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; or
- (ii) (for Electronic Tendering) the box signifying the Tenderer’s agreement with “Offer to be Bound” of the Tender Form must have been checked;
- (b) Annex E to the Terms of Tender - Certification of Heat Stroke Prevention Work Plan and Heat Stroke Prevention Work Plan;
- (c) the Unit Price as required in Part A of the Price Schedule; and
- (d) the management and supervision plan as required in Contract Schedule 3.

4. Submission of Tenders

4.1 A Tenderer shall submit its completed Tender together with all proposals, documents and information required under the Tender Documents or relevant to its Tender by way of Paper-based Tendering or Electronic Tendering in accordance with the terms of the Tender Documents. **A Tender submitted through a method other than Paper-based Tendering or Electronic Tendering will not be considered.**

(a) Paper-based Tendering

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

(b) Electronic Tendering

The Tender shall be submitted:

- (i) in accordance with the terms and conditions of use of the PCMS and the e-Tender Box; and
- (ii) through the e-Tender Box through the use of any one type of digital certificates recognised by and uploaded to the e-Tender Box or through an Identification Code.

4.2 The Government may not consider a Tender (or will not consider a Tender where it is expressly so stated) if:

- (a) false, inaccurate or incorrect information is given in the Tender; or
- (b) any proposal, document or information requested in the Tender Documents is not furnished in full in the Tender.

4.3 Execution and Submission of Tenders

(a) Paper-based Tendering:

- (i) A Tender submitted through 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 or one or more persons who are duly authorised by the Tenderer signing the Tender for and on behalf of the Tenderer.

(b) Electronic Tendering:

- (i) A Tender submitted through 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 Identification Code; or
 - (2) submission of the Tender via the e-Tender Box through the use of such type of digital certificate recognized by the ETB, and uploaded by the Tenderer to the ETB. A Tenderer shall use a digital certificate which is issued in its name as appearing in the applicable document mentioned in Paragraph 3.5(a), (b) or (c) above; otherwise the Tender will not be considered further.

(ii) If any attachment to a Tender submitted by a Tenderer via the e-Tender Box:

- (1) does not comply with the terms and conditions of use of the PCMS and the e-Tender Box;
- (2) is found to be contaminated with Virus; or
- (3) 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, information as described in Paragraph 3.6(a), (b), (c) or (d) above, by the Tender Closing Time, **the Tender will not be considered further and its Tenderer will be notified of such.**

- (iii) 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 a 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.
- (iv) 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 recognised in the e-Tender Box for submission of Tenders) upon verification.

4.4 Two-Envelope System

A two-envelope system will be adopted for this tender exercise. 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.** For Electronic Tendering, transmission of a Tender through the e-Tender Box shall be successfully completed in accordance with the requirements of the e-Tender Box before the Tender Closing Time.

Regardless of whether Paper-based Tendering or Electronic Tendering is used, the Tenderer shall submit its Tender in two (2) separate proposals, one as technical proposal and another as price proposal.

Paper-based Tendering:

For Paper-based Tendering, each Tenderer is required to submit its Tender in two (2) envelopes clearly labeled **Envelope A** and **Envelope B** respectively on the outside as follows: -

(a) PRICE PROPOSAL

- (i) The price proposal (in triplicate) shall contain
Contract Schedule 1 – Price Schedule
- (ii) The envelope containing the price proposal shall be enclosed in a sealed plain envelope (**Envelope A**) clearly marked:

Envelope A – Price Proposal

Tender Ref.: CAS012025
Tender Subject: Tender for Provision of Property Attendant Services to Civil Aid Service Tai Tan Camp and Wong Shek Water Sports Training Centre Store
Tender Closing Date and Time: 12:00 noon on 29 April 2025

***The envelope should not bear any marking or reference revealing the identity of the Tenderer.**

- (iii) The price proposal submitted by the successful Tenderer will, subject to such modification as may be agreed with the Government, be incorporated into and form part of the Contract.

(b) TECHNICAL PROPOSAL

- (iv) The technical proposal (in triplicate), **shall without any indication on the prices**, contain the following contents together with documentary proof and other information as required for evaluation:

- (1) Part 5 of the Tender Form - “Offer to be Bound” section
- (2) Annex B to the Terms of Tender - Information Schedule
- (3) Annex C to the Terms of Tender - Experience of the Tenderer
- (4) Annex D to the Terms of Tender - Non-collusive Tendering Certificate
- (5) Annex E to the Terms of Tender - Certification of Heat Stroke Prevention Work Plan with Heat Stroke Prevention Work Plan

- (6) Annex G to the Terms of Tender - Contact Details
 - (7) Contract Schedule 2 - Wages and Working Conditions
 - (8) Contract Schedule 3 - Execution Plan
 - (9) a copy of the valid Security Company Licence
 - (10) such other documents and information as specified in this Terms of Tender (except documents and information related to price)
- (v) The envelope containing the technical proposal shall be enclosed in a sealed plain envelope (**Envelope B**) clearly marked:
- Envelope B – Technical Proposal**
- | | |
|-------------------------------|---|
| Tender Ref.: | CAS012025 |
| Tender Subject: | Tender for Provision of Provision of Property Attendant Services to Civil Aid Service Tai Tan Camp and Wong Shek Water Sports Training Centre Store |
| Tender Closing Date and Time: | 12:00 noon on 29 April 2025 |
- *The envelope should not bear any marking or reference revealing the identity of the Tenderer.**
- (vi) The technical proposal submitted by the successful Tenderer will, subject to such modification as may be agreed with the Government, be incorporated into and form part of the Contract.
 - (vii) The Tender comprising both Envelope A and Envelope B should be enclosed in a sealed envelope (Envelope C) addressed to the person specified in the “Lodging of Tender” section of the Tender Form and clearly marked **“Tender for Provision of Property Attendant Services to Civil Aid Service Tai Tan Camp and Wong Shek Water Sports Training Centre Store”**. **Envelope C should not bear any marking or reference revealing the identity of the Tenderer and shall be deposited at the Specified Tender Box before the Tender Closing Time. Late Tenders or Tenders not deposited in the Specified Tender Box will not be considered.**

Electronic Tendering:

- (viii) If this method is used, the Tenderer shall submit the technical proposal and price proposal as **separate attachment files**, using the file names as set out under (i) and (ii) below, in accordance with the manner specified in Paragraphs 4.5(b) and 4.6(d) below of this Terms of Tender:

- (i) Technical Proposal – A Tenderer may use “**Technical**” as file name or other file names **except “Price”**; and
- (ii) Price Proposal – The name of the file **must be “Price”**.

4.5 Tender Closing Time

(a) 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) Electronic Tendering

Transmission of a Tender through the e-Tender Box shall 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 Paragraphs 3.6(a)(ii), 3.6(b), 3.6(c) or 3.6(d) above is not successfully and completely transmitted through the e-Tender Box before the Tender Closing Time.

- 4.6
- (a) In case Tropical Cyclone Warning Signal No. 8 or above is hoisted, or 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.
 - (b) 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 Tender Closing Date, the Government will announce extension of the Tender Closing Date until further notice. Following removal of the blockage, the Government will announce the extended tender closing time as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<http://www.info.gov.hk/gia/general/today.htm>).
 - (c) The Government shall not have or accept any liability, obligation or responsibility whatsoever for any loss of, destruction of or damage to the Tender submission submitted and/or deposited by Tenderers in the Specified Tender Box if such loss, destruction or damage shall be caused by or directly or indirectly due to any outbreak of war, hostilities (whether war be declared or not), invasion, acts of foreign enemies, riot, civil commotion, rebellion, storm or other cause whatsoever beyond the reasonable control of the Government. Following any event which results in such loss, destruction or damage, the Government will announce any arrangements concerning Tender submission as soon as practicable. The above announcements will be made via press releases on the website of Information Services Department (<http://www.info.gov.hk/gia/general/today.htm>).

- (d) If a Tenderer submits a Tender by Electronic Tendering, the Tenderer shall, 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.
- (e) The Government reserves the right to extend at its sole discretion the Tender Closing Date at any time and from time to time.

4.7 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/words shall not be altered or erased; any modification shall be effected by striking the incorrect figure/word and inserting the correct figure/word in ink above the original figure/word. All such amendments shall be initialled by the Tenderer in ink.

- (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.

4.8 Apart from Part 5 “Offer to be Bound” of the Tender Form in the case of Paper-based Tendering, wherever there is any provision in the Tender Documents requiring that the original of any document below to be submitted as part of the Tender,

- (a) In the case of Paper-based Tendering, (i) the Tenderer may submit a photocopy certified to be true and complete by the person(s) specified in Paragraph 4.3(a)(i) above; (ii) in the case of any certificate which is required to be issued by a specified body (for example an independent accredited laboratory or a recognised certification body (if applicable)), the photocopy certificate must be certified as true and complete by that specified body or a lawyer duly qualified to practise in Hong Kong or the laws of the place of incorporation, formation or establishment of the Tenderer; and (iii) if only a photocopy without any certification has been submitted, the Government reserves the right to request a certified true copy as required in (i) or (ii) above (whichever is applicable) (“certified true copy”) after the Tender Closing Time. **The Tender may not be considered further if the certified true copy is not provided;** and

- (b) In the case of Electronic Tendering, the Tenderer shall first submit the certified true copy as described in Paragraph 4.8 (a)(i) or (ii) above (whichever is applicable) in electronic format as part of its Tender via the e-Tender Box. Subsequently, the Government reserves the right to request a certified true copy (hardcopy) after the Tender Closing Time. If only a photocopy without any certification has been submitted in electronic format as part of its Tender via the e-Tender Box, the Government reserves the right to request a certified true copy (hardcopy) after the Tender Closing Time. **The Tender may not be considered further if the certified true copy (hardcopy) is not provided.**

4.9 Discrepancies

In the case of Paper-based Tendering, a Tenderer must ensure that there is no discrepancy between the original and the copies of the Tender Documents submitted to the Government. Should any discrepancies be found, the Tender may not be considered further.

- 4.10 The Government will not be responsible for any mislaid submission or transmission errors. Incomplete Tenders or Tenders submitted in a form or manner other than that described in the preceding sub-Paragraphs of this Paragraph may result in the Tender not being considered further.

5. 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, or status as a service provider of the Government, or as a service provider for a particular service. The Government reserves the right to review the Tenderer's status in the light of any new information relevant to its qualification and not to consider a Tenderer's Tender further if the Tenderer's continued ability to meet such requirements is in doubt.

6. Assessment of Tender

- 6.1 Tenders that are submitted in accordance with these Terms of Tender and are in compliance with all the essential requirements stipulated in the Tender Documents including but not limited to Paragraph 8 below will be evaluated according to the marking scheme specified in **Annex A to the Terms of Tender**. Subject to Paragraph 7 hereof, the Tenderer whose Tender with the highest combined score will normally be selected to provide the Services. Nevertheless, the Government does **not** bind itself to accept the highest combined score or any Tender or to give any reasons for doing so.
- 6.2 Subject to the other provisions of the Tender Documents, if two or more Tenders achieve the same highest combined technical and price score, the Government will normally award the Contract to the Tenderer whose tender obtains the highest weighted technical score.
- 6.3 Tender price will be assessed on the basis of the Estimated Contract Value (i.e. Total amount for Items 1 and 2) quoted by the Tenderer in Part A of **the Price Schedule**. Any prompt payment discount offered by a Tenderer in Part B of **the Price Schedule** will not be taken into consideration in the tender price assessment.

- 6.4 No proposal for sub-contracting of any or all parts of the Services shall be made by the Tenderer in the Tender, Tenderer failing to comply with this sub-clause will result in the Tender not being considered further.

7. Basis of Acceptance

- 7.1 A Tenderer should note that its Tender will be considered on an “overall” basis (i.e. Items 1 and 2 offered by tenderer will be assessed as a whole.) **A Tender with an offer for only Item 1 or Item 2 will result in the Tender not being considered further.**
- 7.2 The Government is not bound to accept the lowest Tender or the highest combined score for a Tender or any Tender. The Government reserves the right to accept all or any part of any Tender at any time within the Tender Validity Period.
- 7.3 Without prejudice to and in addition to the provisions of these terms and conditions, the Government will award the Contract to the Tenderer who meets the following criteria -
- (a) the Government is of the opinion that the Tenderer is fully capable of undertaking the Contract; and
 - (b) the Government considers that, in terms of the evaluation criteria specified in the Tender Documents, the Tender is or appears to be the most advantageous one to the Government.

8. Essential Requirements

8.1 Licence for Security Work

- 8.1.1 A Tenderer must hold a Security Company Licence which shall be valid as at the Original Tender Closing Date. A Tenderer’s Tender will not be considered further if the Tenderer fails to comply with this essential requirement.
- 8.1.2 A Tenderer’s Tender will not be considered further if:
- (a) the Tenderer fails to submit a copy of the valid Security Company Licence before the Tender Closing Time, or within the time which may subsequently be stipulated in the Government’s written request at the Government’s discretion; or
 - (b) the submitted document fails to demonstrate that the Tenderer is in compliance with the requirements stipulated in Paragraph 8.1.1 above; or
 - (c) the Tenderer expressly indicates its non-compliance with the requirements stipulated in Paragraph 8.1.1 above.

8.2 Heat Stroke Prevention Work Plan

- 8.2.1 Since this Contract involves Non-skilled Workers performing duties outdoors, in indoor environment without air-conditioning and/or in the vicinity of heat sources, the Tenderer shall submit a Heat Stroke Prevention Work Plan which shall cover at least the following proposals by the Tender Closing Time–
- (a) making suitable work arrangement such as rescheduling work to cooler periods and cooler places;

- (b) carrying out measures by making reference to the Labour Department's "Guidance Notes on Prevention of Heat Stroke at Work" published on 15 May 2023 at https://www.labour.gov.hk/common/public/oh/Heat_Stress_GN_en.pdf (as may be updated from time to time) covering at least the following:
 - (i) to conduct heat stress risk assessments of heat stress for the specific work taking account of the environmental (such as airflow, temperature), work (such as physical workload) and personal factors (such as heat acclimatisation of employees);
 - (ii) to implement, as far as reasonably practicable, appropriate heat stroke preventive measures (such as installing temporary covers/shelters; providing ventilation equipment, and providing sheltered/ventilated resting places) based on the risk assessment results; and
 - (iii) to arrange hourly rest breaks as appropriate for Non-skilled Workers working outdoors, in indoor environment without air-conditioning and/or in the vicinity of heat sources, based on the recommendations and criteria provided in the "Guidance Notes on Prevention of Heat Stroke at Work", when the Heat Stress Work Warning issued by the Labour Department is in force;
- (c) providing potable water at all times during work;
- (d) providing uniforms with dry-fit properties; and
- (e) providing wide-brimmed hats, arm sleeves or umbrellas.

8.2.2 The Heat Stroke Prevention Work Plan as specified in Paragraph 8.2.1 above must be certified by a registered safety officer who has valid registration as at the Tender Closing Date with the Labour Department under the Factories and Industrial Undertakings (Safety Officers and Safety Supervisors) Regulations (Cap. 59Z) using the form set out in **Annex E** to the Terms of Tender ("Safety Officer Certification"). Details of registered safety officers are available on the Labour Department's homepage at https://www.labour.gov.hk/eng/faq/oshq8_whole.html. **A Tenderer which has failed to submit the Safety Officer Certification signed by a safety officer as aforesaid by the Tender Closing Time will be disqualified and its Tender will not be considered further.**

8.3 Past Convictions

8.3.1 A Tenderer who is convicted of any offence under the relevant sections of the following Ordinances (such offences are collectively referred to as "**Relevant Offences**") is subject to the Debarment Period of a maximum of five years from the date of the Tenderer's last conviction, during which period the Tenderer is debarred from tendering for this Contract. The length of the Debarment Period is determined in accordance with Paragraphs 8.3.4 and 8.3.5 below and may be reviewed under the Review Mechanism in Paragraph 8.3.6 below. The Relevant Offences are as follows –

- (a) any offence under the Employment Ordinance (Cap. 57) or the Employees' Compensation Ordinance (Cap. 282), conviction in respect of which individually carries a maximum fine corresponding to Level 5 or higher within the meaning of Schedule 8 to the Criminal Procedure Ordinance (Cap. 221); or

- (b) Sections 17I(1) or 38A(4) of the Immigration Ordinance (Cap. 115); or
- (c) Section 89 of the Criminal Procedure Ordinance (Cap. 221) and Section 41 of the Immigration Ordinance (Cap. 115) (aiding and abetting another person to breach his condition of stay); or
- (d) Sections 7, 7A, 7AA, 43B(3A), 43BA(5) or 43E of the Mandatory Provident Fund Schemes Ordinance (Cap. 485); or
- (e) any offence under the Occupational Safety and Health Ordinance (Cap. 509) or the Factories and Industrial Undertakings Ordinance (Cap. 59), conviction in respect of which individually carries a maximum fine corresponding to Level 5 or higher within the meaning of Schedule 8 to the Criminal Procedure Ordinance (Cap. 221).

Any Tender submitted by a Tenderer who is so debarred from tendering for this Contract will not be considered.

8.3.2 For the purpose of debarment, a conviction of any of the Relevant Offences will count irrespective of whether it is obtained under a government or private contract and irrespective of the type of services offered under that contract. For the avoidance of doubt, a conviction will still be counted even if it is not obtained under any service contract. Convictions will be counted by the number of summonses convicted.

8.3.3 For the avoidance of doubt,

- (a) a conviction under appeal or review will still be counted as a conviction for the purpose of debarment unless it has been quashed by the court before tender evaluation is conducted; and
- (b) the Tenderer would be treated as having been convicted of a Relevant Offence if any shareholder of the company has been convicted of a Relevant Offence and is currently debarred from tendering for any Non-skilled Worker Contract.

8.3.4 If a sentence of imprisonment of any duration (including a suspended sentence) is imposed by the court on the Tenderer following the conviction of any of the Relevant Offences, the Tenderer shall be subject to a Debarment Period of five years from the date of conviction, irrespective of whether a fine is also imposed.

8.3.5 For a Tenderer convicted of any of the Relevant Offences receiving a sentence other than imprisonment (including a suspended sentence), the applicable Debarment Period shall be determined with reference to the level of maximum fine that the Relevant Offence individually carries under the relevant ordinance in accordance with the following table –

Level of Maximum Fine of the Relevant Offence	Debarment Period
More than \$200,000	5 years from the date of conviction
\$200,000 or below	3 years from the date of conviction

8.3.6 The Debarment Period applicable to the relevant Tenderer shall stand unless and until a revised Debarment Period is determined by the Central Tender Board. The revised Debarment Period, if any, will only be applicable for the purpose of this Invitation to Tender if it is determined by the Central Tender Board under the Review Mechanism on a date before the Tender Closing Date. However, the revised Debarment Period will become invalid as soon as the Tenderer is convicted of any of the Relevant Offences subsequent to the Central Tender Board's determination, and in such a case, the Tenderer is debarred from tendering for this Contract for a period determined in accordance with Paragraph 8.3.4 and 8.3.5 above in regard to that subsequent conviction.

8.3.7 The Tenderer shall submit as part of the Tender the Statement of Convictions setting out particulars of all convictions in respect of the Relevant Offences (if any) for a period of five years immediately preceding the Tender Closing Date. The Statement of Convictions shall be submitted in respect of:

- (a) the Tenderer itself; and
- (b) where applicable, each of its shareholders.

The Statement of Convictions shall be certified by an authorised person of the Tenderer who is duly authorised by the Tenderer to execute contracts with the Government.

8.3.8 If the Tenderer is found to have made false declaration or untruthful revelation in the Statement of Convictions, the Government may, without prejudice to any other rights which it has or may have, disqualify the Tenderer, or if it has been awarded the Contract, terminate the Contract immediately without any compensation whatsoever.

8.4 Demerit Points

8.4.1 If a Tenderer has accumulated three Demerit Points over a rolling period of 36 months, it shall be debarred from tendering for this Contract for a period of five years from the date on which the third Demerit Point was obtained. **Any Tender submitted by a Tenderer who is so debarred from tendering for this Contract will not be considered.**

8.4.2 The record of Demerit Point(s) of a Tenderer will be evaluated under the separate criterion to be known as "Record of Demerit Point(s)" as part of the technical assessment in the marking scheme. Based on the Tenderer's records of Demerit Points in the period of 36 months immediately preceding the Tender Closing Date, the Tenderer will be accorded marks (if any) under this criterion in accordance with the following scale –

Demerit Point accumulated by the Tenderer in the period of 36 months immediately preceding the Tender Closing Date	Marks gained under the "Record of Demerit Points under All Government Contracts" criterion
No Demerit Point	Two standard scores will be assigned to the "Record of Demerit Points under All Government Contracts" criterion
One Demerit Point	One standard score will be assigned to the "Record of Demerit Points under All Government Contracts" criterion
Two Demerit Points	No standard score will be assigned to the "Record of Demerit Points under All Government Contracts" criterion

- 8.4.3 Any Demerit Point which is under appeal to the procuring department of the Government which issued the same will still be counted for the purpose of debarment and for the purpose of Paragraph 8.4.2 above.
- 8.4.4 For the purpose of Paragraphs 8.4.1 and 8.4.2 above, Demerit Point obtained by any shareholder of the company will also be counted.

9. Execution Plan

- 9.1 The execution plan stipulated in the marking scheme at Section A of Annex A to the Terms of Tender consists of management and supervision plan and Innovative Suggestion(s). The Tenderer is required to incorporate the information outlined below into respective parts of its proposed management and supervision plan in Contract Schedule 3.

Management and Supervision Plan

- (i) Organisation chart showing clearly the manpower to be deployed to the Contract, including the Property Attendants and Supervisory Staff, with details of the post title and expertise/qualifications of the Supervisory Staff.
- (ii) Details of the mechanism on (i) checking staff attendance, staff discipline and performance; (ii) auditing the quality of the Services provided; (iii) setting out the monitoring and appraisal system on daily supervision of the Property Attendants for ensuring delivery of quality service; and (iv) dealing with unsatisfactory recurrence of sub-standard services.
- (iii) Details of the Tenderer's training programmes for the Property Attendants for the performance of the Services, including induction, refresher and focused courses (e.g. training for staff who fail to perform or observe discipline).
- (iv) Details of the mechanism in handling complaints and maintaining close communications with the Government Representative(s) effectively.
- (v) Details of staff deployment proposal, setting out clearly the distribution and responsibilities of work of all the Property Attendants to ensure that the number of Property Attendants as specified in the Service Specifications is maintained at all time for carrying out the Services.
- (vi) Details in demonstrating the capability to provide sufficient relief Property Attendants to relieve those on leave (including rest days, holidays and annual leave) and the availability of additional resources during contingency.
- (vii) Level of support and resources available at the time of emergency with details on the number of employees that could be mobilized within a specified timeframe, including the provision of emergency contact numbers, hotlines, commitment to mobilize additional manpower and redeployment of equipment within short notice, and the response time, etc.
- (viii) Details of the management plan to ensure compliance with the Occupational Safety and Health Ordinance and other statutory safety regulations, including provision of equipment to the Property Attendants.

- (ix) Details of contingency plan to cater for the risk of sudden shortage of manpower in case of outbreak of accidents.
 - (x) Details of steps taken to monitor environmental measures (e.g. measures to check and turn off excessive lighting for energy saving) in relation to the Services.
- 9.2 The Tenderer may also include other materials as appropriate to facilitate consideration of its Tender by the Government. The information submitted by the Tenderer in the management and supervision plan as required in Contract Schedule 3 will form part of the Tender to be evaluated by the Government. **Tenderer should note that its Tender will not be considered further if, by the Tender Closing Time, the Tenderer fails to submit the management and supervision plan as required in Contract Schedule 3.**

Innovative Suggestions

- 9.3 Tenderers are encouraged to submit with the Tender its Innovative Suggestions which include Pro-innovation Proposals and ESG Proposals for the purpose of scoring marks under assessment criterion (2) of the Marking Scheme during technical assessment of the Tenders. Tenderers may be requested, at the Government's discretion, to provide supporting documents (e.g. test reports / certificates) to substantiate the practicability and effectiveness of its Innovative Suggestions within 5 working days or such other period as specified in the request. No marks will be given to the Innovative Suggestion if the requested supporting documents are not provided by the deadline specified in the request or are not acceptable to the Government.
- 9.4 The costs of the Pro-innovation Proposals and ESG Proposals shall be included and deemed to have been included in the Estimated Contract Value for the provision of the Services in the Contract. The Pro-innovation Proposal(s) and ESG Proposal(s), if accepted by the Government, shall be implemented by the Tenderer with no additional cost to the Government.
- 9.5 Without prejudice to any other provision of these Terms of Tender, the Government may, at its absolute discretion, accept any one or more Pro-innovation Proposals / ESG Proposals submitted by the successful Tenderer in its Tender. If the management and supervision plan, Pro-innovation Proposal(s) and ESG Proposal(s) is/are accepted by the Government, it/they will be legally binding on the successful Tenderer(s) and form part of the Contract.

10. Working Conditions of the Proposed Non-skilled Workers

10.1 Wage Requirements

- (a) A Tenderer shall note that the committed monthly wages of the Property Attendant to be employed for the Contract **shall not be less than HK\$15,074** which is derived from the average monthly salary of building attendant/guard employed under 3-shift system (8 hours per shift) under Real Estate Maintenance Management (more commonly known as Property Management) as published in Table 220-19013 (Average monthly salaries, average number of normal working hours per day and average number of standard working days per month of supervisory, technical, clerical, service and miscellaneous non-production workers by industry by occupation by sex) (September 2024) as published by the Census and Statistics Department. The Tenderer must pay the committed wage to them as specified or on a pro rata basis for any variations. If the Tenderer fails to comply with the wage

requirements, its tender will not be considered further.

Remarks: For reference of wages payable under different working patterns, Tenderers should refer to the examples in section 19 of the “Guidance Note On Signing of Standard Employment Contract for Employees of Contractors of Government Service Contracts” at **Attachment B** to the Conditions of Contract.

- (b) The successful Tenderer should also note that the monthly wage(s) payable to its Property Attendant during the Contract Period shall not be less than -
 - (i) the monthly wage(s) committed in Contract Schedule 2; or
 - (ii) any adjusted wage level brought about by future revisions of the Statutory Minimum Wage,whichever is the higher.
- (c) A Tenderer is required to state in its Tender the committed monthly wages to be paid to its Property Attendant as required in Contract Schedule 2. In case the Tenderer fails to state the monthly wage in Contract Schedule 2 or the committed monthly wage stated by the Tenderer is less than HK\$15,074,
 - (i) then such wage submitted by the Tenderer will be deemed to be not less than HK\$15,074 for the purpose of tender evaluation. Such presumption will be revoked immediately if the Tenderer fails to confirm in writing the correctness of this presumption upon request by the Government Representative at any time before the tender exercise is completed; and
 - (ii) if the Tenderer offers an amount which is higher than HK\$15,074 in subsequent clarification in writing pursuant to (i), the Tender will only be assessed on the basis that the Tenderer’s committed monthly wage is the same as HK\$15,074. However, the higher wage offered by this Tenderer shall become binding if the Contract is subsequently awarded to this Tenderer.
- (d) In case the Tenderer offers other than a definite committed monthly wage rate for its Property Attendant, the Tender will only be assessed on the basis on the lowest monthly wage stated for evaluation purpose. For the avoidance of doubt, if the lowest monthly wage stated by the Tenderer to its Property Attendant is less than HK\$15,074, Paragraph 10.1(c) above shall prevail.

10.2 Working Hours

- (a) A Tenderer shall note that daily maximum allowable net working hours for each Property Attendant **shall not be more than twelve (12) hours excluding meal break**.
- (b) A Tenderer is required to state in its Tender the daily maximum allowable net working hours for its Property Attendant as required in Contract Schedule 2. If a Tenderer fails to indicate any daily maximum allowable net working hours for its Property Attendant in its Tender before the Tender Closing Time, the Tender will be evaluated but the respective working hours proposed will be deemed to be more than eleven (11) hours excluding meal break for the purpose of tender evaluation. If the

Tenderer offers the daily maximum allowable net working hours of eleven (11) hours or less in a subsequent clarification in writing upon request by the Government Representative at any time before the tender exercise is completed, the Tender will only be assessed on the basis that the daily maximum allowable net working hours offered by the Tenderer is more than eleven (11) hours. However, the smaller number of working hours offered by this Tenderer shall become binding if the Contract is subsequently awarded to this Tenderer. The proposed daily maximum allowable net working hours is on the basis of the net total working hours excluding meal break in respect of a same Property Attendant in a working day.

- (b) In case the Tenderer offers other than a definite number on the daily maximum allowable net working hours for its Property Attendant, the Tender will only be assessed on the basis on the greatest daily maximum allowable net working hours stated for evaluation purpose.

10.3 Other Requirements

A Tenderer shall note that the Property Attendant to be employed for the Contract shall be paid a gratuity, statutory holiday pay and extra wages for working under Tropical Cyclone Warning Signal No. 8 or above in accordance with Clauses 43, 44 and 46 of the Conditions of Contract.

11. Prices Quoted

- 11.1 Each Tenderer shall make sure that all prices and other proposals offered in its Tender are accurate and complete before it submits the Tender. The Tenderer shall be bound by all prices and other proposals offered in its Tender if the Tender is accepted by the Government. 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 Paragraph 19 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 grounds that it has provided erratic or inconsistent proposals or quotations for proper evaluation.
- 11.2 All prices quoted in the Tender shall be in Hong Kong dollars and, if accepted by the Government, shall remain valid and binding for the Contract Period. The Unit Price quoted by the Tenderer for an item shall be all-inclusive of all amounts chargeable for the performance by the Tenderer of all obligations as stated in the Contract for or concerning or in relation to such item.
- 11.3 Unless otherwise specified and agreed, payment will be made by bank transfer to the successful Tenderer. A Tenderer is required to indicate in its tender the details of bank account as stated in **Annex B to the Terms of Tender** for the Government's consideration.

- 11.4 Without prejudice to the generality of the terms and conditions of these Tender Documents, the Government may require a Tenderer who, in the opinion of the Government, has submitted unreasonably low price to justify and demonstrate to the reasonable satisfaction of the Government that such Tenderer is capable of carrying out and completing the Contract. Failing to so justify and demonstrate to the Government's satisfaction would entitle the Government not to consider the Tender further without having the need to give any reason(s) for not considering the Tender.
- 11.5 Prices quoted by a Tenderer shall only be shown in the Price Schedule. In accordance with Paragraph 11.2 above, the Tenderer shall not submit any separate price quotation in relation to any item 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.

12. Tender to Remain Open

- 12.1 Tenders shall remain open for acceptance by the Government for not less than one hundred and fifty (150) days after the Tender Closing Date ("Tender Validity Period"). **Without prejudice to other rights and claims of the Government, where a Tenderer rejects this Tender Validity Period or counter-proposes a shorter validity period, its Tender will not be considered further.**
- 12.2 If a Tenderer withdraws its Tender before expiry of the Tender Validity Period, without prejudice to other rights and claims of the Government, due notice will be taken of the Tenderer's action which may prejudice its future standing as a Government contractor.

13. Negotiation

The Government reserves the right to negotiate with any or all Tenderers in relation to the Tenderer's Tender and/or the Contract.

14. Award of Contract

- 14.1 The successful Tenderer will be notified within the Tender Validity Period (such notification is referred to as "conditional acceptance of tender"). Upon receipt of such conditional acceptance of tender, the successful Tenderer shall be obliged to fulfill all of the following conditions to the satisfaction of the Government within twenty-one (21) days from the date of the conditional acceptance of tender (or such later date as the Government may allow) (regardless of the permissible mode of submission of the Tender, all items specified below shall be delivered first by fax or email to the fax number or email address and subsequently by hand delivery to the physical address specified in the conditional acceptance of tender):
- (i) due delivery to the Government the Contract Deposit in accordance with Paragraph 15 below; and
 - (ii) such other conditions as the Government may stipulate in the conditional acceptance of tender.

- 14.2 Unless and to the extent waived by the Government in writing, upon the fulfillment of all the conditions specified in the conditional acceptance of tender to the satisfaction of the Government by the successful Tenderer, and subject always to the successful Tenderer not being debarred up to the date of the conditional acceptance of tender due to conviction of any of the Relevant Offences under Paragraph 8.3 or accumulation of three (3) or more Demerit Points under Paragraph 8.4, a binding Contract would be deemed to have been constituted between the Government and the successful Tenderer on the date of the conditional acceptance of tender.
- 14.3 The subsequent issuance of the duplicated copy of the Contract with the “Memorandum of Acceptance” at Part 6 of the Tender Form duly completed is entirely a matter of procedural formality.
- 14.4 If the successful Tenderer fails to fulfill any or all of the conditions set out in the conditional acceptance of tender to the satisfaction of the Government (unless and save to the extent they are waived by the Government in writing, if any), or if the successful Tenderer is debarred as described in Paragraph 14.2 above, the conditional acceptance of tender will become void and be of no further force. The Government will disqualify the defaulting Tenderer, and it may, but is not obliged, to (a) award the Contract to any other Tenderer; (b) conduct a fresh tender exercise; or (c) take such appropriate actions as the Government deems fit (including without limitation the cancellation of this tender exercise).
- 14.5 For the avoidance of doubt, the issuance of the conditional acceptance of tender and the fulfillment of all the conditions set out in the conditional acceptance of tender by a Tenderer shall not prejudice the Government’s rights to disqualify a Tenderer on any of the grounds set out in Paragraphs 22.1 and 22.5 of the Terms of Tender.
- 14.6 Any Tenderer who does not receive any notification of the acceptance of its Tender within the Tender Validity Period may deem its Tender as unsuccessful.
15. Submission of Document for Financial Vetting and Contract Deposit
- 15.1 Based on the rates quoted by a Tenderer in Part A of the Price Schedule, an Estimated Contract Value that may be payable by the Government under the Contract during the Contract Period pursuant to the Tenderer’s offer will be determined by the Government.
- 15.2 If the Estimated Contract Value exceeds HK\$15,000,000, the Tenderer has to demonstrate its financial capability before it can be considered for the award of the Contract. The Tenderer is required to provide (upon request) at any time and from time to time the documents and financial information as detailed in **Appendix A** to the Terms of Tender for financial vetting purpose. **A Tenderer shall upon request of the Government provide those documents and financial information stated in Appendix A to the Terms of Tender**, 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. If a request for the provision of documents and financial information is made under this Paragraph 15.2, the Tenderer shall within the time stipulated in the request provide the Government with the documents and information specified in the request. The Government shall be entitled not to consider the Tender further if the Tenderer fails to provide the requisite documents and information to the satisfaction of the Government.

- 15.3 If the Estimated Contract Value exceeds HK\$15,000,000, as security for the due and faithful performance of the Contract by the Contractor, the successful Tenderer shall within twenty-one (21) days after the date of the conditional acceptance of tender referred to in Paragraph 14 hereof or at such other time as shall be directed by the Government, deliver to the Government a Contract Deposit of an amount equivalent to two percent (2%) (if it passes the financial vetting) or six percent (6%) (if it fails to pass the financial vetting or if the financial information available is in the Government's opinion inadequate for a meaningful assessment of the Tenderer's financial capability) as the case may be of the Estimated Contract Value as security for the due and faithful performance of the Contract. The Contract Deposit may be paid either in cash or in the form of a banker's guarantee in Hong Kong dollars, in the form set out in **Appendix B** to the Terms of Tender with only such amendments as may previously have been agreed in writing by the Government.
- 15.4 If the Estimated Contract Value exceeds HK\$1,360,000 but not more than HK\$15,000,000, as security for the due and faithful performance of the Contract by the successful Tenderer, the successful Tenderer shall within twenty-one (21) days after the date of the conditional acceptance of tender referred to in Paragraph 14 hereof or at such other time as shall be directed by the Government, deliver to the Government a Contract Deposit of an amount equivalent to two percent (2%) of the Estimated Contract Value as security for the due and faithful performance of the Contract. The Contract Deposit may be paid either in cash or in the form of a banker's guarantee in Hong Kong dollars, in the form set out in **Appendix B** to the Terms of Tender with only such amendments as may previously have been agreed in writing by the Government.
- 15.5 If a 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 issued under the Banking Ordinance (Cap. 155) and acceptable to the Government;
 - (b) unless otherwise agreed by the Government, it must be on the terms set out at **Appendix B** to the Terms of Tender; and any authorisation used by the bank for the execution of the banker's guarantee shall be acceptable to the Government; and
 - (c) the banker's guarantee shall come into effect on the date of the conditional acceptance of tender.
- 15.6 A Tenderer shall elect the method of providing a Contract Deposit in the Information Schedule at **Annex B** to the Terms of Tender. In the event that the successful Tenderer fails to elect the method of providing a Contract Deposit, it will be assumed that the successful Tenderer will pay the Government the Contract Deposit in cash in accordance with Clause 57.1 of the Conditions of Contract.
16. The Attachments
- 16.1 A Tenderer shall study all attachments to these Tender Documents (including the Annexes, Appendixes, Attachments and Contract Schedules) carefully before submitting its Tenders. The Tenderer shall note that all information and statistics provided by the Government in connection with this tender exercise are for reference only. The Government (including its

servants and agents) gives no warranty, statement or representation, expressed or implied, as to its accuracy, availability, completeness, usefulness or future changes of such statistics and information. A Tenderer should conduct its own independent assessment of the statistics and information. The Government does not accept any liability for the accuracy, completeness or otherwise of such information and statistics.

- 16.2 The estimated quantity of services required as shown in Item 2 of Part A of the Price Schedule is provided solely for the purpose of assessing the amount that might be payable by the Government if emergency or additional services is provided by the successful Tenderer. The estimated quantity must be regarded as information given to the Tenderer for reference only and not as a figure to which the Government binds itself to adhere. The Government does not warrant or undertake that the figures set out in Item 2 of Part A of the Price Schedule are accurate or that the Government will, in respect of each item of emergency or additional services, acquire any of such requirements under the Contract.

17. Tender Addenda

Should the Government require any amendments, clarifications or adjustments to be made to the Tender Documents for the purpose of this tender exercise, the Government will issue to every prospective Tenderer, who has registered with the Government when obtaining copies of the Tender Documents, numbered addenda giving full details of such amendments. The prospective Tenderer shall acknowledge receipt of these addenda. These addenda if comprising an amendment, clarification or adjustment to any provisions of the Contract, shall form a part of the Contract and shall take priority over the documents previously issued.

18. Not Used.

19. The Tenderers' Response to the Government's Enquiries

- 19.1 In the event that the Government determines that clarification of any Tender is necessary, it may, but is not obliged to, request the Tenderer to make the necessary clarification or to provide further information or document. The Tenderer shall thereafter within five (5) working days after the date of the Government's request or such other period as specified in the request submit such clarification, information or document in the form required by the Government. The Government shall be entitled not to consider the Tender further if no clarification, information or document is provided by the above deadline or if the clarification, information or document provided is not acceptable to the Government.
- 19.2 Tenderers shall note that the Government will not consider any clarification submitted by a Tenderer after the Tender Closing Time, irrespective of whether or not the clarification is submitted at the invitation of the Government, if the Government considers that such clarification would alter the Tenderer's Tender in substance or give the Tenderer an advantage over the other Tenderers.
- 19.3 Unless otherwise expressly stated by the Government in writing, any statement whether oral or written made in response to any enquiry made by a prospective Tenderer shall be for information only. No such statement constitutes a representation or warranty of whatsoever nature, express or implied, and no invitation is made by the Government to any Tenderer or prospective Tenderer to rely on the accuracy or completeness of such statement.

Unless in the context of an issued addendum to the Tender Documents, the statement will not be deemed to form part of these Tender Documents and it shall not alter, negate or waive any of the provisions set out in these Tender Documents.

- 19.4 Any excess proposal or information supplied by a Tenderer which goes beyond what has been requested by the Government pursuant to Paragraph 19.1 above will be ignored for the purposes of the tender evaluation or will entitle (but not oblige) the Government not to consider the Tender further.

20. Tenderer's Commitment

All Tenders, proposals, information and responses submitted by each Tenderer shall be the representation of the Tenderer and may be incorporated into and made part of the Contract to be made between the Government and the successful Tenderer in such manner as the Government considers appropriate.

21. Cancellation of the Invitation to Tender Exercise

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

22. Government Discretion

- 22.1 Notwithstanding anything to the contrary in this Tender Documents, the Government reserves the right to disqualify a Tenderer on grounds including any one of the following –

- (a) a petition is presented or a proceeding is commenced which has not been withdrawn 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 anything(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 Paragraph 22.7 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) occurs 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) relates to any provisions which survive such termination or expiry, and regardless of whether such default(s) or deficiency(ies) has been remedied ("Contract Default(s)"); and the Government Representative in its sole judgment is satisfied that such Contract Default(s) casts 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) any failure of the Tenderer to pay taxes to the Government during a period of five (5) years preceding the Tender Closing Date and up to the time of Contract award; or
- (h) the Tenderer has made any restrictions or limitations which seek to limit or avoid the responsibility of the Tenderer 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.

The grounds specified in Paragraphs 22.1(a) to 22.1(h) above are separate and independent, and shall not be limited by reference to or inference from the other of them.

22.2 For the purposes of Paragraph 22.1 above, each Tenderer shall provide at the time of submission of its Tender (and thereafter up to the time of award in relation to any event occurring between the time of submission and the time of award) all information at least in relation to itself and those information in relation to its related person or its director or management staff (which it has knowledge and 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 Paragraph 22.1(a) above;
- (b) details of all infringement claims or allegations or rulings or judgments or decisions or settlement agreements as mentioned in Paragraph 22.1(c) above;
- (c) details of all Contract Defaults as mentioned in Paragraph 22.1(d) above;
- (d) details of conviction as mentioned in Paragraph 22.1(e) above in Hong Kong or any overseas jurisdiction;
- (e) details of any professional misconduct or act or omission as mentioned in Paragraph 22.1(f) above;
- (f) details of any failure to pay taxes as mentioned in Paragraph 22.1(g) above; and
- (g) details of any limitations or restrictions as mentioned in Paragraph 22.1(h) above.

If none of the events as mentioned in Paragraphs 22.1(a) to 22.1(h) above has ever occurred within the applicable period as mentioned in relevant sub-paragraph in Paragraph 22.1, the Tenderer shall 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. The information provided by the Tenderer is not conclusive. The Government may independently verify the veracity and completeness of any information provided. In the case of Contract Default, the Government will form an assessment as to whether or not such Contract Default has occurred.

22.3 In addition to the information mentioned in Paragraph 22.2 above, the Government reserves the right (but not obligation) to request from a Tenderer or a related person of the Tenderer or director or management staff of the Tenderer or those of the related person of the Tenderer or other 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 Paragraph 22.1 above.

22.4 Such information relating to any of the aforesaid persons may include, without limitation details of any claim or allegation of infringement or settlement agreement as referred to in Paragraph 22.1(c); details of any Contract Default referred to in Paragraph 22.1(d); details of any conviction of serious offences referred to in Paragraph 22.1(e); details of any professional misconduct, acts or omissions referred to in Paragraph 22.1(f) and of any failure to pay taxes to the Government referred to in Paragraph 22.1(g) above.

22.5 If the Tenderer fails to comply with the request made by the Government pursuant to Paragraph 22.3 above within such time as required by the Government, the Government may disqualify the Tenderer pursuant to Paragraph 19 of the Terms of Tender. If the Tenderer has submitted false, inaccurate or incomplete information, the Government may disqualify the Tenderer pursuant to Paragraph 22.1(b) above.

22.6 In providing the information required under Paragraphs 22.2 and 22.3 above, the Tenderer may show cause to satisfy the Government that in relation to any of the events as mentioned in Paragraph 22.1 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.

22.7 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 fifty (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; or
- (d) a company in which a majority shareholder (being an individual) of the Tenderer directly or indirectly beneficially owns fifty (50) percent or more of its issued share capital or controls the composition of its board of directors.

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

22.8 References to related persons of the Tenderer, directors and management staff of the Tenderer or those of a related person in any of the applicable sub-paragraph of Paragraph 22.1 above include persons who were in such capacity at such time of the event referred to in that Sub- paragraph.

22.9 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.

23. Disqualification of Tenders

The Government reserves the right not to consider further a Tender that directly or indirectly attempts to preclude or limit the effect of any provisions of these Terms of Tender.

24. Personal Data Provided

24.1 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, resolution of any dispute arising from the Invitation to Tender, and the disclosure pursuant to Paragraph 28 of the Terms of Tender).

24.2 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 Paragraph 24.1 above, or the disclosure pursuant to Paragraph 28 of the Terms of Tender.

- 24.3 An individual to whom personal data belongs and a person authorised by him in writing has the right of access and correction with respect to the individual's personal data as provided for in sections 18 and 22 and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Cap. 486). The right of access includes the right to obtain a copy of the individual's personal data provided in the Tender.
- 24.4 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 Departmental Personal Data Controlling Officer of the Civil Aid Service.

25. Undisclosed Agency

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.

26. Warranty against Collusion

- 26.1 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 Paragraph 26.2 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 (Cap. 619). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.
- 26.2 The Tenderer shall complete and submit to the Government a Non-collusive Tendering Certificate (in the form set out in **Annex D** to the Terms of Tender) as part of its Tender.
- 26.3 In the event that a Tenderer is in breach of any of the representations, warranties and/or undertakings in Paragraph 26.1 above or in the Non-collusive Tendering Certificate submitted by it under Paragraph 26.2 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 59.1 of the Conditions of Contract.
- 26.4 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 Paragraph 26.1 above or in the Non-collusive Tendering Certificate submitted by it under Paragraph 26.2 above.
- 26.5 A breach by a Tenderer of any of the representations, warranties and/or undertakings in Paragraph 26.1 above or in the Non-collusive Tendering Certificate submitted by it under Paragraph 26.2 above may prejudice its future standing as a Government contractor or

service provider.

- 26.6 The rights of the Government under Paragraphs 26.3 to 26.5 above are in addition to and without prejudice to any other rights or remedies available to it against the Tenderer.

27. Warning against Bribery

- 27.1 The offer of an advantage to any Government officer with a view to influencing the award of the Contract is an offence under the Prevention of Bribery Ordinance (Cap. 201). Any such offence committed by a Tenderer or any of its officers (including directors), employees or agents will render its Tender null and void.

- 27.2 The successful Tenderer shall inform its officers, employees (whether permanent or temporary), agents and sub-contractors who are connected with the provision of the Services that the soliciting accepting of advantages, as defined in the Prevention of Bribery Ordinance (Cap. 201) is not permitted. The successful Tenderer shall also caution its officers (including directors), employees and agents and sub-contractors against soliciting or accepting any 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.

28. Consent to Disclosure

- 28.1 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 or any other Tenderer,

- (a) a brief description of the Services provided or to be provided by the successful Tenderer;
- (b) the Estimated Contract Value and any other fees, cost and expense payable to the successful Tenderer pursuant to the Contract;
- (c) the wage and working conditions for the successful Tenderer's employees, people with disabilities ("PWD") (if any), including those of its agents and the contract value;
- (d) information in relation to the Demerit Points given to the Contractor for breaches of the specific contractual obligation under the Contract;
- (d) the engagement by the Government of the successful Tenderer under the Contract and the name and address of the successful Tenderer; and
- (e) the date of award of the Contract.

- 28.2 Nothing in Paragraph 28.1 above shall 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 the information is specified in Paragraph 28.1 above 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):

- (a) the disclosure of any information to any public officer or public body as defined in the Interpretation and General Clauses Ordinance (Cap. 1) or any other person employed, used or engaged by the Government (including agents, advisers, contractors and consultants);
- (b) the disclosure of any information already known to the recipient;
- (c) the disclosure of any information which is public knowledge (including because of any disclosure under Paragraph 28.2(a) above);
- (d) 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, or an order of a court of Hong Kong or a court or tribunal with competent jurisdiction;
- (e) the disclosure of any information regarding anti-competitive collusive conduct to the Competition Commission of Hong Kong (and other authorities as relevant); or
- (f) without prejudice to the power of the Government under Paragraph 28.1 above, to the extent the information relates to or concerns a Tenderer, with the prior written consent of that Tenderer.

28.3 In submitting a bid, each Tenderer irrevocably and unconditionally authorises the Government to make and consents to the Government making any of the disclosure aforesaid. Furthermore, the Government shall have the right to require the successful Tenderer to display wage and working conditions, including working hours, of its employees, PWD and rehabilitated persons (if any), ensuring that its employees (which shall also include those of the successful Tenderer's agents), PWD and rehabilitated persons (if any) are being informed of such. The mode of display shall be such as may be specified by the Government from time to time.

29. The Contractor's 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.

30. Tender Enquiries

30.1 Any enquiries from a prospective Tenderer concerning these Tender Documents (except for those regarding the Service Specifications or technical in nature) up to the Tender Submission Date shall be made in writing, no later than three (3) working days prior to the Tender Closing Date, to –

For Enquiry Regarding Tender Documents

Supplies Officer
Civil Aid Service Supplies Section
4/F, Civil Aid Service Headquarters, 8 To Wah Road, Yau Ma Tei, Kowloon.
Fax No.: (852) 2768 1068

- 30.2 Any enquiries from a prospective Tenderer concerning these Tender Documents regarding the Service Specifications or technical in nature up to the Tender Submission Date shall be made in writing, no later than three (3) working days prior to the Tender Closing Date, to –

For Enquiry Regarding Service Specifications or Technical in nature or Tender Briefing and Site Visit

Operations and Training Officer (Kowloon 2)
Kowloon Section
5/F, Civil Aid Service Headquarters, 8 To Wah Road, Yau Ma Tei, Kowloon.
Fax No.: (852) 2576 3021

- 30.3 After lodging a Tender with the Government, the Tenderer shall not attempt to initiate any further contact, whether direct or indirect, with the Government on its Tender or these 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.

31. **Complaints About Tendering Process or Contract Award**

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 Chief Staff Officer of CAS 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.

32. **Documents of Unsuccessful Tenderer(s)**

The Government may destroy all documents submitted by unsuccessful Tenderers three (3) months after the Contract has been awarded.

33. **Environment Friendly Measures**

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.

34. Offering Gratuities

The Tenderer shall not and shall ensure that its agent and employees shall not offer or give any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) to any agent or employee of the Government. Any breach of or non-compliance with this paragraph by the Tenderer shall, without affecting the Tenderer's liability for such breach or non-compliance, invalidate its Tender, and if the Contract has been awarded to the Tenderer without knowing the breach, the Government shall be entitled to immediately terminate the Contract and claim for all losses and costs incurred.

35. Acceptance of Management and Supervision Plan, Pro-innovation Proposals and ESG Proposals

The Government may, at its absolute discretion, accept all or any part of the management and supervision plan, Pro-innovation Proposal(s) and ESG Proposal(s) submitted by the successful Tenderer in its Tender. The management and supervision plan subject to any modification as may be agreed by the Government upon negotiation and the accepted Pro-innovation Proposal(s) and ESG Proposal(s) shall form an integral part of the Contract.

36. Tender Briefing Session and Site Visit

- 36.1 Interested parties who would like to attend the tender briefing session and site visit shall complete and return the registration form attached in **Annex F** to the Terms of Tender and fax it to the Chief Staff Officer, Civil Aid Service (Attn: Supplies Officer) at the fax number 2768 1068 before 5:00 p.m. on 14 April 2025 (Monday).
- 36.2 Tenderers are strongly advised to attend the tender briefing session and site visit in order to fully acquaint themselves with the requirements of the Government and to determine the scale and costs of the Services to be provided.
- 36.3 The tender briefing session and site visit will be held as follows:-

Tender Briefing

Time : 11:00 a.m.
Date : 15 April 2025 (Tuesday)
Venue : Room 102, CAS Headquarters, 8 To Wah Road, Yau Ma Tei, Kowloon

Site Visit

Time : 3:00 p.m.
Date : 15 April 2025 (Tuesday)
Venue : Classroom, CAS Tai Tan Camp, Pak Tam Road, Tai Tan, Sai Kung,
New Territories

Note: Each Tenderer is advised to send **no more than two (2) representatives** to attend the tender briefing session or site visit.

- 36.4 In case a Black Rainstorm Warning signal or Tropical Cyclone Warning Signal No. 8 or above or “extreme conditions” is hoisted or in force **at or after 7:00 am on the above mentioned date**, the tender briefing session and site visit will be cancelled and the Government will notify interested parties of the arrangement of another tender briefing session and site visit.

37 Counter-Proposals

- 37.1 Counter-proposal to the provisions of the Tender Documents, whilst not strictly disallowed, is not encouraged. The Tenderer must not directly or indirectly attempt to preclude or limit the effect of any requirements specified in the Tender Documents.
- 37.2 If a Tenderer fails to comply with Paragraph 37.1 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.
- 37.3 If the Tenderer wishes to submit one or more counter-proposals to any provision in the Tender Documents not of the types specified in Paragraph 37.1 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 paragraph / 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 “[]”.

- 37.4 Unless the Government otherwise agrees, Counter-Proposals that are not submitted in accordance with Paragraph 37.3 above will not be considered by the Government and will not be regarded to form 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.
- 37.5 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.