

**Official Receiver's Office**

**The Government of the Hong Kong Special Administrative Region**

**TENDER FOR TAKING UP OF APPOINTMENT  
AS PROVISIONAL LIQUIDATORS UNDER  
SECTION 194(1A) OF THE COMPANIES (WINDING UP AND  
MISCELLANEOUS PROVISIONS) ORDINANCE  
(CHAPTER 32 OF THE LAWS OF HONG KONG)**

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**THE GOVERNMENT OF  
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

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SECTION 194(1A) OF THE COMPANIES (WINDING UP AND  
MISCELLANEOUS PROVISIONS) ORDINANCE  
(CHAPTER 32 OF THE LAWS OF HONG KONG)**

**TENDER FORM**

*Tender Ref.:* .....OR/T/2025.....

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**LODGING OF TENDER**

The Tender Documents under the above reference shall include:

- (a) this Tender Form including the Offer to be Bound form below;
- (b) Interpretation;
- (c) Terms of Tender including Annexes I to VIII;
- (d) Conditions of Contract; and
- (e) Work Specifications

(collectively called “**Tender Documents**”), copies of which can be obtained at the Official Receiver’s Office, 10/F, High Block, Queensway Government Offices, 66 Queensway, Hong Kong.

Dated this 16 September 2025.

(Mr. Ernest Lam)

.....  
for Official Receiver

**OFFER TO BE BOUND\***

- 1. Having read the Tender Documents defined above and in consideration of the Official Receiver considering my/our tender submitted herewith, I/We, the Tenderer, agree to be bound by the terms and conditions as stipulated in the Tender Documents. All capitalised terms herein shall have the same meaning as ascribed to them in the Tender Documents save as otherwise specified.
- 2. I/We, the Tenderer, do hereby agree to provide the Services at the fees proposed in the Quotation Sheet at **Annex II** to the Terms of Tender free of all other charges, subject to and in accordance with the terms and conditions of the Tender Documents including without limitation the Conditions of Contract and the Work Specifications.

Full Name of Tenderer\*\*:

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Signature(s):

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Name of the duly authorised signatory(ies):

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Post/title/authorisation of the signatory(ies)\*\*\*:

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Date:

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Note to Tenderers:

- \* In case of Electronic Tendering, the Official Receiver reserves the right to request an original (hardcopy) after the Tender Closing Date.
- \*\* A Tenderer must ensure that the name of the Tenderer shown herein is the same as the one stated in the “Declaration on Details of the Tenderer” at **Annex III** to the Terms of Tender.
- \*\*\* A Tenderer may be required to produce documentary proof of due authorisation of the signatory(ies) to sign this Offer to be Bound for and on behalf of the Tenderer.

## INTERPRETATION

1. In these Tender Documents and the Contract, the following words and expressions have the meaning hereby assigned to them except when the context otherwise requires:-

“Allocation Period”	means the period commencing on the date when the Contract is formed and ending on and inclusive of <b>31 March 2028</b> (both dates inclusive), <b>subject to any extension made pursuant to Clause 15 of the Conditions of Contract.</b>
“Annexes”	means the Annexes attached to the Terms of Tender.
“Appointment Taker”	means the proprietor, partner, director or employee of the Firm who will take up the appointment as a joint and several provisional liquidator or liquidator (unless the court orders otherwise) in a Qualified Case in accordance with this Invitation to Tender.
“connected companies”	<p>two companies are connected:</p> <ul style="list-style-type: none"><li>(i) if one of the companies is a subsidiary or holding company of another company; or</li><li>(ii) if the companies are subsidiaries (direct or indirect) of the same holding company; or</li><li>(iii) if any of the directors of one of the companies immediately before the winding up of that company is or has been the director(s) of the other company.</li></ul> <p>For the purpose of “connected companies”, a “subsidiary” has the meaning defined in section 15 of the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) while a “holding company” has the meaning defined in section 13 of the Companies Ordinance (Chapter 622 of the Laws of Hong Kong).</p>

<p>“Contract”</p>	<p>means a contract to be entered between the Government, as represented by the Official Receiver, and the Firm for the provision of the Services on the terms and conditions as set out in the Tender Documents, subject to such variation as may be agreed by the Official Receiver.</p> <p>References to “the Contract” or “this Contract” shall mean the same Contract as defined above.</p>
<p>“Contract Period”</p>	<p>means the period commencing on the date when the Contract is formed and ending on the date when the Firm has discharged all its obligations in relation to the Services.</p>
<p>“designated bank account” (in upper or lower case)</p>	<p>means the bank account the details of which shall be provided by the Firm under Clause 10(d) of the Conditions of Contract.</p>
<p>“Electronic Record”</p>	<p>has the meaning given to it under the ETO.</p>
<p>“Electronic Tendering”</p>	<p>means the making and submission of a Tender through the e-Tender Box whether through the use of a digital certificate or through the use of an Identification Code.</p>
<p>“e-Tender Box” or “ETB”</p>	<p>means the electronic tendering platform of the information technology system known as “Procurement and Contract Management System” or “PCMS” of the GLD for ETB Users to view tender notices and tender documents, and prepare and submit tenders electronically whether through the use of a digital certificate or an Identification Code.</p>
<p>“ETB User”</p>	<p>means a person who has registered with the PCMS whether as a GLD supplier, or a GLD subscriber, or a person who is for the time being just an applicant to</p>

	become a GLD supplier up to the time of the notification of the result of its application.
“ETO”	means the Electronic Transactions Ordinance (Chapter 553 of the Laws of Hong Kong).
“Firm”	means a Tenderer whose Tender is accepted and to whom the Contract is awarded, and includes its permitted assigns, successors-in-title, or any persons deriving title under it.
“Force Majeure”	<p>means:</p> <p>(a) any outbreak of war, hostilities (whether war be declared or not), invasion, acts of foreign enemies, rebellion, revolution, military or usurped power, overthrow (whether by external or internal means) of the Government, civil war, riot, civil disturbances, pandemic, Severe Acute Respiratory Syndrome affecting Hong Kong, fire, civil commotion or acts of God; or</p> <p>(b) any event which is not caused or contributed to by, and is beyond the control of, the Firm or any employee or agent or ex-employee or ex-agent thereof and none of them can prevent the consequences of such event from happening,</p> <p>and which, in any case of (a) or (b) above, materially prevents the performance of the duties and obligations of the Firm and/or the Government hereunder; and for the avoidance of doubt, any change of law and regulation of whichever jurisdiction shall not be treated as a Force Majeure event.</p>

“full-time employee”	in relation to a Tenderer, means an employee of the Tenderer who works 35 or more hours in a week (excluding daily lunch break) for the Tenderer.
“Government Logistics Department” or “GLD”	means the Government Logistics Department of the Government.
“Government”	means the Government of Hong Kong.
“Government Representative”	means: (a) the Official Receiver; (b) any public officer of the Government authorised by (a) for the purposes of the Contract; and (c) any other public officer authorised by the public officer referred to in (b) for the purposes of the Contract.  The Government may change the Government Representative and/or his post title from time to time as it thinks fit without prior notice to the Firm.
“HKICPA”	means the Hong Kong Institute of Certified Public Accountants, a statutory body incorporated pursuant to the Professional Accountants Ordinance (Chapter 50 of the Laws of Hong Kong).
“Hong Kong”	means the Hong Kong Special Administrative Region of the People’s Republic of China.
“Hong Kong dollars”	means the lawful currency of Hong Kong.
“Identification Code”	means a unique 8-character code generated by the ETB and sent to the email account registered by the ETB User with the PCMS (viz., “registered email account”) upon the request of the ETB User for the submission of a Tender through the use of such code.

“Invitation to Tender”	means this invitation to tender for the provision of the Services to the Government on and subject to the terms set out in the Tender Documents.
“Official Receiver”	means the Official Receiver appointed under section 75 of the Bankruptcy Ordinance (Chapter 6 of the Laws of Hong Kong).
“Panel A Scheme”	means the administrative scheme operated by the Official Receiver for the appointment of qualified persons as liquidators, provisional liquidators or special managers in non-summary compulsory winding-up cases.
“Paper-based Tendering”	means the making and submission of a Tender in paper form in accordance with the “Lodging of Tender” section of the Tender Form.
“Parties” (in upper or lower case)”	means the Government and the Firm; and “Party” (in upper or lower case) means any one of them.
“Payment Officer”	means the public officer identified as such in Clause 10(d) of the Conditions of Contract.
“person”	means any individual, corporation, partnership, firm and unincorporated body.
“PCMS”	means “Procurement and Contract Management System” of GLD.
“Qualified Case”	means the liquidation of a company under compulsory winding up by the court and where section 194(1A) of the Companies (Winding Up and Miscellaneous

	Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) applies.
“Required Subsidy”	means the amount proposed by a Tenderer in its Quotation Sheet at Annex II as the maximum amount of subsidy it will require from the Official Receiver for the performance of the Services in a Qualified Case.
“Services”	means the provision by the Firm of Appointment Takers for appointment as joint and several provisional liquidators under section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and as liquidator (where appropriate) in a Qualified Case in accordance with the Tender Documents, and the performance and discharge of the tasks, duties and requirements as set out therein.
“Tender”	means an offer which is submitted by a Tenderer in response to this Invitation to Tender.
“Tender Closing Date”	means the date specified as such in Clause 9(a)(ii) of the Terms of Tender as the same may be extended by the Government from time to time whether in accordance with Clauses 9(f) or 9(g) of the Terms of Tender.
“Tender Closing Time”	means the time on the Tender Closing Date specified as such in Clause 9(a)(ii) of the Terms of Tender as the latest time before which Tenders must be deposited with the Government, or such time as may be extended by the Government from time to time in accordance with Clauses 9(f) or 9(g) of the Terms of Tender.
“Tender Documents”	has the meaning assigned to it in the Tender Form – Lodging of Tender section.

“Tender Form”	means: (a) in the case of a Tender submitted in paper form, the tender form issued for the Invitation to Tender; and (b) in the case of a Tender submitted electronically, the tender form available on the e-Tender Box for completion electronically.
“Tenderer”	means a person which or who has the capacity to contract and has submitted a Tender in response to this Invitation to Tender.
“terms and conditions of use of the PCMS and the e-Tender Box”	means all those terms and conditions for the use of the PCMS and the e-Tender Box from time to time published on the website of the e-Tender Box including the “Terms and Conditions of Use of the PCMS and the e-Tender Box” and the “e-Tender Box System and File Attachment Requirements” in the version prevailing immediately prior to the Tender Closing Date.
“Virus”	means a subversive computer programme or piece of code that may corrupt or erase computer data files and/or change the normal behaviour of a computer.
“website of the e-Tender Box”	means the website of the following address: <a href="https://pcms2.gld.gov.hk">https://pcms2.gld.gov.hk</a> .
“Working Day” (in upper or lower case)	means a day that is not— (a) a general holiday as defined by section 3 of the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong); (b) a Saturday; (c) a black rainstorm warning day or gale warning day as defined by section 71(2) of the

	<p>Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong); or</p> <p>(d) a day on which Tropical Cyclone Warning Signal No. 8 or above is hoisted, or “extreme conditions” announced by the Government is in force, for any time during the normal business hours.</p>
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2. In these Tender Documents (including the Contract), unless the context otherwise requires, the following rules of interpretation shall apply:
- 2.1 words importing one gender include all genders;
  - 2.2 words importing the singular include the plural and vice versa;
  - 2.3 references to a day refer to a calendar day;
  - 2.4 references to any ordinance, statute, enactment, order, regulation or other similar instrument shall be construed as references to the ordinance, statute, enactment, order, regulation or instrument as amended by any subsequent ordinance, statute, enactment, order, regulation or instrument. References to any ordinance, statute or enactment shall include all subsidiary legislation made thereunder;
  - 2.5 the heading to individual clauses and provisions of the Tender Documents is for ease of reference only and shall not affect the interpretation or construction of the Tender Documents (including the Contract);
  - 2.6 references to a clause, sub-clause, schedule, annex, appendix or attachment by number or letter in a document, and not in conjunction with an ordinance or regulation, shall be construed as a reference to the clause, sub-clause, schedule, annex, appendix or attachment of that number or letter contained in that document;
  - 2.7 references to time and dates in the Tender Documents shall be construed as Hong Kong time and dates;
  - 2.8 any word or expression to which a specific meaning has been attached in any part of the Tender Documents shall bear such meaning whenever it may appear in the same or other

parts of the Tender Documents. Unless otherwise provided, all payments shall be made in Hong Kong currency;

- 2.9 references to “laws” and “regulations” shall include any constitutional provisions, treaties, conventions, ordinances, subsidiary legislation, orders, rules and regulations having the force of law and rules of civil and common law and equity;
- 2.10 any negative obligation imposed on any party shall be construed as if it were also an obligation not to permit or suffer the act or thing in question, and any positive obligation imposed on any party shall be construed as if it were also an obligation to procure that the act or thing in question be done;
- 2.11 any act, default, neglect or omission of any employee, licensee, agent or sub-contractor of the Firm shall be deemed to be the act, default, neglect or omission of the Firm;
- 2.12 words importing the whole shall be treated as including a reference to any part of the whole;
- 2.13 the expressions “include” and “including” shall be construed without limitation to the words following;
- 2.14 words and expressions extend to their grammatical variations and cognate expressions where those words and expressions are defined in the Tender Documents or by reference to any other definition;
- 2.15 references to “in writing” include manuscript, typewriting, printing, lithography, photography, facsimile and the printed out version of a communication by electronic mail, information which can be viewed on the e-Tender Box, and other modes of representing and reproducing words in a legible form;
- 2.16 reference to “original signature” or “originally signed” includes a digital image of a hand-written signature (e.g. a scanned signature);
- 2.17 where a general obligation in the Tender Documents or the Contract is followed by more specific obligations, the general obligation shall not be construed restrictively by reference to the specific obligations or deemed to be fully performed by reason only that the specific obligations have been performed;

- 2.18 references to “Government” shall include its assigns, successors-in-title and persons deriving title under them, regardless of whether or not any of these persons are mentioned separately in the relevant provisions; and
- 2.19 the expression “public officer” has the meaning given to it in the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong). The expression “officer” has the meaning given to it in the Companies Ordinance (Chapter 622 of the Laws of Hong Kong).
3. All rights and powers of the Government under the Contract may be exercised by the Official Receiver acting on behalf of the Government. If any provision of the Contract provides for a determination of any matter by the Government or the Official Receiver, the determination made by the Government or the Official Receiver (as the case may be) shall, in the absence of manifest error, be final and conclusive.
4. Nothing in the Contract shall be taken to restrict, derogate from or otherwise interfere with any power or duty, or the exercise or performance of any power or duty conferred or imposed by or under any law upon the Government or any person in the service of the Government.
5. Where the Firm consists of two or more persons, each of such persons is jointly and severally liable for the due performance of the terms of the Tender Documents and the Contract. Any representation, warranty, declaration, agreement, undertaking and covenant made by the Firm and the obligation of the Firm under or pursuant to the Tender Documents and the Contract is deemed to be made or undertaken jointly and severally by and is binding on such persons jointly and severally. For the avoidance of doubt, payment of the Required Subsidy and other payments to any one of such persons shall discharge the Government’s payment obligations to the Firm under the Tender Documents and the Contract. A notice given to one of such persons is deemed to notice given to all the other persons constituting the Firm.
6. These Tender Documents are available in both the English language and the Chinese language. **The Chinese version is for Tenderers’ reference only.** In the event of any inconsistency between the English version and the Chinese version of these Tender Documents, the English version shall prevail.

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

## **TERMS OF TENDER**

### 1. Invitation to Tender

- (a) Tenders are invited for the provision of the Services in Qualified Cases subject to and in accordance with the terms and conditions in these Tender Documents.
- (b) The Tender Documents may also be downloaded from the website of the e-Tender Box at <https://pcms2.gld.gov.hk/iprod/#/sta00305>.
- (c) Each Tenderer should read the Tender Documents carefully prior to submitting a Tender and ensure that it understands all requirements of the Tender Documents.
- (d) Each Tenderer should obtain such independent advice from its own advisers as it considers appropriate.
- (e) Each Tenderer should check the numbers of pages of the Tender Documents. If it finds any missing or indistinct pages, it should inform Mr. Ernest Lam of the Official Receiver's Office on 2867 2446 immediately so that the same can be rectified.
- (f) 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.
- (g) 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.

- (h) 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.
- (i) Without prejudice to Clause 1(h) above, the estimated number of cases to be allocated is an estimate of the quantity of the Services that may be required by the Official Receiver. 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 Official Receiver and the successful Tenderer must accept any increase or decrease of the stated estimates.
- (j) 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. Tender

- (a) The Tender Documents relate to the appointment of the Firm's Appointment Takers as the joint and several provisional liquidators in place of the Official Receiver in accordance with section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) in Qualified Cases allocated to the Firm by the Official Receiver during the Allocation Period and the provision of the Services by the Firm in Qualified Cases.
- (b) The Annexes attached to these Terms of Tender must not be altered by the Tenderer, and the Tenderer must not put in additional terms and conditions or make its Tender subject to any term or condition not being a term or condition in these Terms of Tender and the Annexes attached hereto. Otherwise, the Tender **will not be considered further**.

- (c) Subject to Clause 5(a) of the Terms of Tender, a Tender may not be considered if complete information is not given with the Tender, or if any particulars and data asked for in the Annexes are not furnished in full, or if false, inaccurate or incorrect information is given in the Tender.
- (d) Each Tenderer shall not submit more than one tender.
- (e) Each Tenderer shall submit its completed Tender in one of the following manners:
  - (i) Paper-based Tendering; or
  - (ii) Electronic Tendering.

A Tender submitted through a manner other than Paper-based Tendering or Electronic Tendering **will not be considered**.

3. Tenders to Remain Open

Tenders shall remain open for 120 days after the Tender Closing Date (“**Tender Validity Period**”).

4. Required Subsidy

- (a) Subject to the satisfactory performance of the Services by the Firm and the Appointment Takers, the Firm shall be paid the Required Subsidy by the Government in accordance with the Contract.
- (b) The Required Subsidy shall be a fixed fee quoted in Hong Kong dollars by the Tenderer in the Quotation Sheet at Annex II with a breakdown of the hourly rate as required therein for performing the Services for each Qualified Case allocated to the Firm.
- (c) Tenderers must ensure that the Required Subsidy is correct and final before submitting their Tenders. Under no circumstances will the Government accept any correction or adjustment or any request thereof whether on grounds that a mistake has been made in assessing the Required Subsidy or other grounds.
- (d) Without prejudice to the generality of the Terms of Tender, the Government may require a Tenderer who in the opinion of the Government has submitted an

unreasonably low price to justify and demonstrate that such a Tenderer is capable of carrying out and completing the Contract. The Government may reject the Tender if the Tenderer fails to so justify and demonstrate to the Government's satisfaction.

- (e) Payment to the successful Tenderer under the Contract will be made by bank transfer into the designated bank account in Hong Kong. The details of the designated bank account shall be provided by the successful Tenderer to the Payment Officer after the Contract award in accordance with Clause 10(d) of the Conditions of Contract. No other mode of payment will be entertained unless otherwise agreed by the Government.

## 5. Tender Submission

- (a) A Tenderer must submit with its Tender:
  - (i) (1) (for Paper-based Tendering) a duly completed and signed Offer to be Bound containing an original signature by the Tenderer or for and on behalf of the Tenderer.
  - (i) (2) (for Electronic Tendering) the box signifying the Tenderer's agreement with Offer to be Bound of the Tender Form duly checked;
  - (ii) a Quotation Sheet as set out in Annex II with the proposed Required Subsidy per Qualified Case;
  - (iii) a duly completed and signed Annex III (Declarations on Details of the Tenderer) (in Form A and Form B);
  - (iv) copies of documents as specified in Annex V (List of documents to be submitted);
  - (v) (a) duly completed and signed Annex(es) VI; and
  - (vi) a duly completed and signed Annex VII (Non-collusive Tendering Certificate).

(b) **Failure to submit the documents or information mentioned in Clauses 5(a)(i) and (ii) above with the Tender by the Tender Closing Time will invalidate the Tender and the Tender will not be considered.**

(c) Subject to Clause 5(b) above, a Tender may not be considered if any of the documents referred to in Clauses 5(a)(iii) to (vi) above are not submitted.

6. Qualification Requirements

A Tenderer must meet all of the requirements in Annex I in order to qualify for tender assessment. Save as otherwise provided, the Tender Closing Time shall be the cut-off time and date in assessing whether the Tenderer meets the requirements. **A Tender that fails to meet any of the requirements in Annex I will not be considered.**

7. Request for Information

(a) In the event that the Government considers that:

(i) clarification in relation to any Tender is necessary; or

(ii) a document or a piece of information (other than the documents or information set out in Clauses 5(a)(i) and (ii)), is missing from any Tender,

it may, but is not obliged to, request the Tenderer concerned to make the necessary clarification, or submit the required document or information. Each Tenderer shall within 5 Working Days from the date of the request or such other period as specified in the request submit such clarification, information or document in the form required by the Government. Without prejudice to Clause 5(c), a Tender **will not be considered further** if complete information or document is not provided as required within 5 Working Days of the request or such other period as specified in the request, or in the case of clarification, such clarification is not provided by such deadline or is not acceptable to the Government. As an alternative to seeking clarification or further information or document, the Government may at its absolute discretion decide to proceed to evaluate the Tender on an “as is” basis or not to consider the Tender further.

- (b) Any excess proposal or information supplied by a Tenderer which goes beyond what has been requested by the Government pursuant to Clause 7(a) 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.
- (c) Tenderers should also note that if the Government considers that any clarification or information submitted by a Tenderer after the Tender Closing Time would alter the Tender in substance or give the Tenderer an advantage over the other Tenderers, the Government will not consider such clarification or information, irrespective of whether the clarification or information is submitted at the request of the Government.
- (d) (For Paper-based Tendering) For the avoidance of doubt, if the original signature is missing from the Offer to be Bound of the Tender Form or the entire Offer to be Bound is missing from the Tender, the Tenderer will be disqualified and no request for resubmission will be made. Otherwise, for any other missing information to be completed in the Offer to be Bound or in relation to any ambiguity (including in relation to the signature), the Government may, but is not obliged to, seek clarification from the Tenderer under Clause 7(a)(i) above. In the case that the date is missing from the Offer to be Bound, it shall be deemed that the date shall be the Tender Closing Date and no request for clarification will be made.

8. Personal and Other Data Provided

- (a) Personal data provided in a Tender will be used 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, contract award and resolution of any dispute arising from this Invitation to Tender and the disclosure pursuant to Clause 22 of the Terms of Tender). If insufficient or inaccurate information is provided, the Tender may not be considered.
- (b) Personal data provided in the Tender may be disclosed to the parties responsible for tender evaluation and/or contract award and/or resolution of any dispute arising from this Invitation to Tender and all other purposes arising from or incidental to it in other Government departments and non-Government organisations.

- (c) Tenderers have the right of access and correction with respect to their own personal data as provided for in sections 18 and 22 of and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong). The right of access includes the right to obtain a copy of the Tenderer's own personal data provided in the Tender.
- (d) Enquiries concerning the personal data collected by means of the Tender, including the making of requests for access and corrections, should be addressed to the Personal Data Privacy Officer of the Official Receiver's Office, 10<sup>th</sup> Floor, High Block, Queensway Government Offices, 66 Queensway, Hong Kong.

9. Completion and Submission of Tender

(a) Paper-based Tendering

- (i) A Tenderer is required to complete the Tender (including all accompanying documents) in ink or typescript, which shall be signed and submitted in **triplicate (i.e. three sets of identical documents)**, enclosed in a **sealed plain envelope** marked "Tender for Taking up of Appointment as Provisional Liquidators under section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong)" and addressed to the Chairman, Government Logistics Department Tender Opening Committee. The Tenderer shall ensure that all the three sets of the Tender submitted by it are identical. The Government may pick just any one set for the evaluation and for contract formation purpose on the assumption that all three sets are identical.
- (ii) The Tender must be deposited in the Government Logistics Department Tender Box situated at Ground Floor, North Point Government Offices, 333 Java Road, North Point, Hong Kong, no later than **12:00 noon on 9 October 2025** (Hong Kong Time). **Late Tenders or Tenders not deposited in the Government Logistics Department Tender Box will not be considered.**
- (iii) 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 Offer to be Bound of the Tender Form is signed in the following applicable manner:

- (1) if the Tenderer is a sole proprietorship, the Tenderer signing the Tender in the name of the Tenderer (or of the sole proprietorship), or a person authorised by the Tenderer signing the Tender for and on behalf of the Tenderer;
- (2) if the Tenderer is a partnership, one or more partner(s) of the Tenderer signing in the name of the partnership (and in the case of limited partnership, that partner must be a general partner); or a person authorised by the partnership, signing the Tender for and on behalf of the Tenderer; or
- (3) if the Tenderer is a limited company, 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) The Tender shall be submitted in accordance with the terms and conditions of use of the PCMS and the e-Tender Box. 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 recognised by the ETB, and uploaded by the Tenderer to the ETB. Save in the case where the Tenderer is a partnership, a Tenderer shall use a digital certificate which is issued in its name as appearing in the applicable document mentioned in Clauses 9(c)(i) or 9(c)(ii) or 9(c)(iii) below; otherwise the Tender **will not be considered further**. In the case that the Tenderer is a

partnership, the Tenderer may use a digital certificate issued in the name of one of its partners (or a general partner in the case of a limited partnership), or a digital certificate issued in the name of the partnership; otherwise the **Tender will not be considered further**.

(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 or information as described in Clauses 5(a)(i)(2) and 5(a)(ii) 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.

- (v) 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 as specified in Clause 9(a)(ii) above. **Save as otherwise provided for in the Tender Documents, a Tender will not be considered** if the documents/information mentioned in Clauses 5(a)(i)(2) and 5(a)(ii) above are not successfully and completely transmitted through the e-Tender Box before the Tender Closing Time.
  
- (c) When completing the Tender Documents (including the Offer to be Bound section of the Tender Form), each Tenderer shall ensure that the name of the Tenderer is the same as the name shown in:
  - (i) if the Tenderer is a company incorporated in Hong Kong:
    - (1) the Certificate of Incorporation of the Tenderer; or
    - (2) if there is a change of name of the Tenderer since the date of its Certificate of Incorporation, the latest Certificate of Change of Name of the Tenderer; or
    - (3) its business name as shown in the current business registration certificate of the Tenderer;
  - (ii) if the Tenderer is a sole proprietorship or a partnership, the current business registration certificate of the Tenderer issued under the Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong); or
  - (iii) if the Tenderer is incorporated, formed or established outside Hong Kong, a document equivalent to that described in Clauses 9(c)(i)(1) or 9(c)(i)(2) or 9(c)(i)(3) or 9(c)(ii) above (as the case may be) issued by a governmental or competent authority of the place where the Tenderer is incorporated, formed or established. In addition, a legal opinion in form and substance satisfactory to the Government and issued by a lawyer duly qualified to practise the laws of the place of incorporation, formation or establishment (as the case may

be) of the Tenderer and acceptable to the Government may be requested by the Government. The legal opinion, if required, shall be made available upon request during the Tender Validity Period. Upon such request, the Tenderer shall provide such legal opinion covering the issues set out in Annex VIII and any other issues as may be required by the Government.

- (d) Every Tender is a formal offer by the Tenderer to perform the Services (including the appointment of the Tenderer's Appointment Takers as joint and several provisional liquidators) in Qualified Cases allocated to the selected Tenderer on the terms and conditions set out in the Contract.
- (e) Submission of Tenders in any manner otherwise than in accordance with Clauses 9(a) and 9(b) above (for example, submission by e-mail or facsimile) **will not be considered**.
- (f) In case Black Rainstorm Warning Signal or Tropical Cyclone Warning Signal No. 8 or above is hoisted, or "extreme conditions" announced by the Government is/are in force, for any duration between 9:00 a.m. and 12:00 noon on the date in Clause 9(a)(ii) above, the Tender Closing Date will be extended to 12:00 noon on the next Working Day.
- (g) (For Paper-based Tendering only) In case of blockage of the public access to the location of the Government Logistics Department Tender Box referred to in Clause 9(a)(ii) at any time between 9:00 a.m. and 12:00 noon 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 Date as soon as practicable. The above announcements will be made via press releases on the website of Official Receiver's Office (<https://www.oro.gov.hk>) and the website of the Government (<https://www.info.gov.hk/gia/general/today.htm>).
- (h) 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 Government Logistics Department 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>).

(i) 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.

(j) Modification of Tender

(i) Before the Tender Closing Time, a Tenderer who has lodged a Tender may, without prejudice to Clauses 2(b) and 4(c) above, modify its Tender as considered necessary.

(ii) Paper-based Tendering

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

(iii) Electronic Tendering

For any modification to the submitted Tender as may be considered necessary by the Tenderer, 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.

10. Assessment of Tender

- (a) In the event of the failure to submit the documents mentioned in Clauses 5(a)(i) and (ii) above, or the failure to meet any of the qualification requirements in Annex I, the Tender **will not be considered** and will not be further processed for evaluation.
- (b) A Tender **will not be further considered or processed** if the Tenderer who submitted such Tender is a firm that has been awarded one or more contracts with the Official Receiver for the provision of any insolvency services or work under other tenders, and during the period between the Tender Closing Time and the date the Official Receiver issues the Letter of Conditional Acceptance (as defined in Clause 11 of the Terms of Tender):
- (i) any one or more of such contracts was terminated by the Official Receiver;  
or
- (ii) in relation to any one or more of such contracts, the Official Receiver has suspended the allocation of cases or work to such Tenderer for any period of 2 months or more by reason of:
- (1) any breach by such Tenderer of any of the terms and conditions of such contract(s); or
- (2) the Official Receiver in her absolute discretion considering the quality of any of the work or services provided under such contract(s) unsatisfactory.
- (c) Subject to sub-clauses (a) and (b) above, Tenders will be assessed on the basis of the Required Subsidy per case and any other matters which the Official Receiver considers relevant and in such manner as the Official Receiver may in her absolute discretion think fit, including (but not limited to) the following matters:
- (i) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is or has been subject to any committal proceedings or proceedings for removal from the office of provisional liquidator, liquidator, receiver or manager, special manager, provisional trustee or

trustee in bankruptcy or any finding of contempt of court or any removal order; or

- (ii) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is or has been subject to any disqualification proceedings or disqualification order made against him under Part IVA of the Companies (Winding up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) or any order under any legislation of Hong Kong or any other jurisdiction having the effect of disqualifying or prohibiting him from any one or more of the following:
  - (I) being a director of a company;
  - (II) being a liquidator of a company;
  - (III) being a receiver or manager of a company's property;
  - (IV) being a trustee in bankruptcy or the equivalent or similar office holder in that jurisdiction;
  - (V) taking part in the management of companies; or
- (iii) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is or has been subject to any proceedings for commission of an offence, or conviction of any offence; or
- (iv) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is or has been subject to any disciplinary proceedings, action or investigation or any disciplinary ruling, finding or sanction by a professional body of any of the professions as mentioned in Clause 1 of Annex I; or
- (v) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is or has been subject to any finding or ruling of the court or result of investigation that he is guilty of any misconduct, misfeasance, breach of duty, breach of trust or breach of any code of ethics or that he is not a fit and proper person to be appointed or act as a provisional

liquidator, liquidator, special manager in a winding-up case or a provisional trustee or trustee in bankruptcy in a bankruptcy case; or

- (vi) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is or has been subject to any restructuring, scheme of arrangement or voluntary arrangement, or becomes bankrupt or is or has been subject to a bankruptcy petition or bankruptcy order or is being wound up or is or has been subject to a winding up petition or winding up order, under the laws of Hong Kong or any other jurisdiction; or
- (vii) whether the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer is in the opinion of the Official Receiver fit and proper to take up the Contract or to provide the Services. The matters that will be taken into account include but not limited to past performance and/or conduct or misconduct of the Tenderer or any proprietor, partner, director or Appointment Taker of the Tenderer in any insolvency services or work as well as their nature and gravity of misconduct (e.g. seriousness and frequency of any unsatisfactory performance and misconduct in the relevant insolvency services or work).

## 11. Acceptance

- (a) A letter of conditional acceptance of offer (“**Letter of Conditional Acceptance**”) will be issued by the Official Receiver to the Tenderer whose Tender is selected.
- (b) Subject to sub-clause (c) below, the Contract will be formed upon the due compliance of the following conditions:
  - (i) the Official Receiver has received from the Tenderer within 7 days from the date of the Letter of Conditional Acceptance (or such other period as may be specified by the Official Receiver in that letter) undertaking(s) in the form at Annex IV signed by the Appointment Takers named in Item VII of Form A at Annex III, with each of the Appointment Takers signing a separate undertaking; and

- (ii) any other conditions as may be stipulated by the Official Receiver in the Letter of Conditional Acceptance.
- (c) The issue of the Letter of Conditional Acceptance shall not constitute the formation of the Contract unless the Official Receiver forms the view that Clauses 6 and 7 of Annex I have been duly complied with and there has not been any material change to the circumstances of the Tenderer which is relevant to the tender assessment and has been made known to the Official Receiver.
- (d) The Letter of Conditional Acceptance will lapse and be of no effect should the Tenderer fail to fulfill any of the conditions in sub-clause (b) above and the Official Receiver shall be at liberty to award the Contract to any other Tenderer, to conduct a fresh tender exercise or to take such appropriate action as the Official Receiver deems fit.
- (e) Tenderers who do not receive any notification within the Tender Validity Period stated in Clause 3 shall assume that their Tenders have not been accepted.
- (f) The Official Receiver is not bound to accept the Tender with the lowest Required Subsidy or any Tender.
- (g) The Official Receiver reserves the right to negotiate with any Tenderer the terms of the Tender and conditions of the Contract.
- (h) Counter-proposals by a Tenderer may, at the absolute discretion of the Government, render its Tender to be disqualified and not to be considered. Counter-proposal is not encouraged.
- (i) Where an Electronic Record is used in the formation of the Contract (whether with or without any electronic or digital signature), the Contract shall not be denied validity or enforceability on the sole ground that an Electronic Record was used for that purpose.

12. Allocation of Qualified Cases

- (a) The Official Receiver estimates that 10 Firms may be appointed to perform the Services. The Official Receiver may adjust the actual number of Firms to be

appointed as the Official Receiver considers appropriate and for this purpose may take into consideration other factors such as offers from Firms stating the same amount of Required Subsidy. The Firms will be allocated Qualified Cases on a rotation basis or on such other basis as the Official Receiver considers appropriate.

- (b) For information, the number of cases allocated under the previous tender exercises in the past years is given below.

<u>Financial Year</u>	<u>Number of Cases</u>
2003-2004	1116
2004-2005	1009
2005-2006	727
2006-2007	477
2007-2008	421
2008-2009	425
2009-2010	528
2010-2011	364
2011-2012	276
2012-2013	297
2013-2014	227
2014-2015	243
2015-2016	248
2016-2017	271
2017-2018	242

<u>Financial Year</u>	<u>Number of Cases</u>
2018-2019	197
2019-2020	164
2020-2021	222
2021-2022	211
2022-2023	258
2023-2024	323
2024-2025	457
2025-2026 (from April 2025 to August 2025)	238

- (c) There is no guarantee on the total number of cases to be allocated to each Firm. The estimated number of cases to be allocated for each of the financial years 2026-2027 and 2027-2028 is in the region of 600. The estimates are provided by the Official Receiver in good faith for the Tenderers' reference only and the Official Receiver does not intend to be bound by any of these estimates and is not obliged to make the allocation of cases on the basis of such estimates.

13. Documents of Unsuccessful Tenderers

Documents of unsuccessful Tenderers including personal data may be destroyed three months after the date the Contract has been awarded.

14. Complaints about Tendering Process or Contract Award

The tendering process is subject to internal monitoring to ensure that the Contract is awarded properly and fairly. Any Tenderer who feels that its offer has not been fairly evaluated may write to the Official Receiver's Office which will examine the complaint and refer it to the approving authority/relevant tender boards for consideration if it relates

to the tendering system or procedures followed. The Tenderer shall lodge the complaint within three months after the award of the Contract.

15. Cancellation of Tender Exercise

Without prejudice to the Government's right to cancel this Invitation to Tender at its absolute discretion or for public interest reason, 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 tender exercise.

16. Warranty against Collusion

- (a) Each Tenderer must ensure that its Tender is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person (except as provided in paragraph 3 of Annex VII – Non-collusive Tendering Certificate referred to in sub-clause (b) below), regarding, amongst other things, price, tender submission procedure or any terms of the Tender. Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Chapter 619 of the Laws of Hong Kong). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.
- (b) The Tenderer shall complete and submit to the Government a Non-collusive Tendering Certificate (in the form set out in Annex VII) as part of its Tender.
- (c) In the event that a Tenderer is in breach of any of the representations, warranties and/or undertakings in sub-clause (a) above or in the Non-collusive Tendering Certificate submitted by it under sub-clause (b) above, the Government shall be entitled to, without compensation to any person or liability on the part of the Government:
  - (i) reject the Tenderer's Tender;
  - (ii) if the Government has accepted the Tender, withdraw its acceptance of the Tender; and

- (iii) if the Government has entered into the Contract with the Tenderer, terminate the Contract.
- (d) By submitting a Tender, each 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 sub-clause (a) above or in the Non-collusive Tendering Certificate submitted by it under sub-clause (b) above.
- (e) A breach by a Tenderer of any of the representations, warranties and/or undertakings in sub-clause (a) above or in the Non-collusive Tendering Certificate submitted by it under sub-clause (b) above may prejudice its future standing as a Government contractor or service provider.
- (f) The rights of the Government under sub-clauses (c) to (e) above are in addition to and without prejudice to any other rights or remedies available to it against the Tenderer.

17. Warning against Bribery

- (a) The offer of an advantage to any Government officer with a view to influencing the award of the Contract is an offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong). Any such offence committed by a Tenderer or any of its officers (including directors) or employees will render its Tender null and void.
- (b) The successful Tenderer shall inform its officers, employees (whether permanent or temporary), agents and sub-contractors who are involved in the provision of the Services that the soliciting or accepting of advantages, as defined in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) is not permitted. The successful Tenderer shall also caution its officers (including directors) and employees 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.

18. Tender Addenda

The Government may issue addendum to the terms and conditions set out in the Tender Documents before the Tender Closing Date. All supplementary information or tender addenda to this Invitation to Tender will be provided in writing by the Government and forwarded to all prospective Tenderers who have registered with the Government when obtaining a copy of the Tender Documents.

19. Tenderer's Commitment

- (a) The Tender, information and responses from a Tenderer must be submitted in writing. Each of them is the offer, commitment and representation of the Tenderer and will, if accepted by the Government, be incorporated into and made part of the Contract in such manner as the Government considers appropriate.
- (b) The Government reserves the right not to consider a Tender that directly or indirectly attempts to preclude or limit the effect of the requirement stated in Clause 19(a) above.

20. 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 exercise. The Government reserves the right not to consider a Tender further if the Tenderer's continued ability to meet such requirements is in doubt.

21. Cost of Tender

A Tenderer shall submit its Tender at its own cost and expense. The Government shall not be liable for any costs and expenses whatsoever incurred by a Tenderer in connection with the preparation or submission of its Tender and the doing of all acts required for the purpose of this Invitation to Tender.

22. Consent to Disclosure

- (a) The Government may disclose, whenever it considers appropriate, to the public or upon request by any member of the public (which may have been a Tenderer) without any further reference to or consent from the successful Tenderer or any

other Tenderer, particulars of the Services to be provided by the successful Tenderer, the date of the award of Contract, the name and address of the successful Tenderer, and the Required Subsidy per Qualified Case.

- (b) Nothing in Clause 22(a) 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 Clause 22(a) 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):
- (i) the disclosure of any information to any public officer or public body as defined in the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong) or any other person employed, used or engaged by the Government (including agents, advisers, contractors and consultants);
  - (ii) the disclosure of any information already known to the recipient;
  - (iii) the disclosure of any information which is public knowledge (including because of any disclosure under Clause 22(b)(i) above);
  - (iv) the disclosure of any information in circumstances where such disclosure is required pursuant to any law of Hong Kong, or an order of a court of Hong Kong or a court or tribunal with competent jurisdiction;
  - (v) the disclosure of any information regarding anti-competitive collusive conduct to the Competition Commission of Hong Kong (and other authorities as relevant); or
  - (vi) without prejudice to the power of the Government under Clause 22(a) above, to the extent the information relates to or concerns a Tenderer, with the prior written consent of that Tenderer.

23. Tenderer's Enquiries

- (a) Any enquiries from the Tenderer concerning the Tender Documents up to the date of lodging its Tender with the Government shall be in writing and shall be submitted no later than 3 Working Days before the Tender Closing Date to:

Official Receiver (Attention: Treasury Accountant (Investigations))

Official Receiver's Office

10<sup>th</sup> Floor, High Block, Queensway Government Offices,

66 Queensway, Hong Kong

Email: oro\_tender\_enquiry@oro.gov.hk

- (b) 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 the Tender Documents. The Government shall have the sole right to initiate any such further contact and all such contacts and any replies of the Tenderer thereto shall be in writing or formally documented in writing.
- (c) Unless otherwise expressly stated by the Government in writing, a statement made by the Government (whether oral or written) in response to any enquiry made by a prospective Tenderer shall be for information only. No such statement shall constitute a representation or warranty by the Government of any nature whatsoever (whether express or implied), and no invitation is made by the Government to any Tenderer or prospective Tenderer to rely on such statement. No such statement shall form part of the Invitation to Tender or alter, negate or constitute a waiver of any provision of the Tender Documents.
- (d) For enquiries on the use of the PCMS, please visit the Government Logistics Department's website at <https://pcms2.gld.gov.hk/iprod/#/home> for access to Frequently Asked Questions, User Guide and technical assistance.

24. Government Discretion

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.

## Annex I – Qualification Requirements

1. The Tenderer must be a sole proprietor, a partnership or a limited company, and must provide at least two Appointment Takers to take up the appointment of joint and several provisional liquidators or liquidators in a Qualified Case in accordance with the Conditions of Contract and the Work Specifications. Each of the Appointment Takers must be:
  - (a) a certified public accountant within the meaning of section 2(1) of the Professional Accountants Ordinance (Chapter 50 of the Laws of Hong Kong); or
  - (b) a solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Chapter 159 of the Laws of Hong Kong); or
  - (c) a current member of The Hong Kong Chartered Governance Institute.
  
2. Each of the Appointment Takers of the Tenderer must satisfy all of the following requirements -
  - (a) each must have at least 3 years of post-qualification experience in the relevant profession; and
  - (b) each must have a minimum of 300 chargeable hours of experience acquired after obtaining the relevant professional qualifications (“**the Qualifying Chargeable Hours**”) during the 3 years immediately preceding the Tender Closing Date -
    - (i) of which, **at least** 150 chargeable hours of experience must be experience in managing corporate insolvency cases either as (I) a liquidator and/or provisional liquidator; (II) a receiver or manager; and/or (III) as a senior associate assisting (I) and/or (II) in the performance of their role related to insolvency work on companies or receiverships of companies. The chargeable hours of experience must have been obtained in at least 4 separate compulsory winding-up of companies which were not connected companies. Within the minimum 150 chargeable hours of experience in (b)(i), no more than 75 hours of experience on receivership will be counted as chargeable hours of experience. A pass in the Hong Kong Institute of Certified Public Accountants Professional Diploma in Insolvency

Programme is regarded as equivalent to 50 hours of insolvency work experience for (b)(i); and

- (ii) the remaining hours of experience shall be on solvent liquidations. However, for the purpose of calculating Qualifying Chargeable Hours, two chargeable hours of solvent liquidations work are deemed to be one chargeable hour only.

3. Of these Appointment Takers provided by the Tenderer, at least one must be the proprietor, or a partner or director of the Tenderer. The other Appointment Taker, if not being a partner or director of the Tenderer, must be a full-time employee of the Tenderer.
4. The Tenderer must have been providing insolvency, accounting, legal or company secretarial services in Hong Kong for at least 3 years immediately preceding the Tender Closing Date.
5. The Tenderer must have at least 10 employees, 5 of them must be full-time employees of the Tenderer. For the purpose of counting these 10 employees, the sole proprietor (in case of the Tenderer being a sole proprietorship), the partners (in case of the Tenderer being a partnership), the directors (in case of the Tenderer being a limited company), and the Appointment Takers of the Tenderer are not included.
6. The Tenderer and its Appointment Takers must not have been (a) disqualified or suspended by the Official Receiver from participating in any tender/quotation exercises conducted by the Official Receiver's Office; or (b) disqualified or suspended by other insolvency agencies or bodies outside Hong Kong from participating in any tender/quotation exercises conducted by them.
7. Where the Tenderer has made one or more contracts with the Official Receiver for the provision of any insolvency services or work, during the period between 10 October 2021 and 9 October 2025:
  - (a) none of such contracts has been terminated by the Official Receiver; and
  - (b) the Official Receiver has not suspended the allocation of cases or work to such Tenderer under any such contracts for any period of 2 months or more, by reason of:

- (i) any breach by the Tenderer of any of the terms and conditions of such contract(s); or
- (ii) the Official Receiver in her absolute discretion considering the quality of any of the work or services provided under such contract(s) unsatisfactory.

**Annex II – Quotation Sheet\***

**Full Name of Tenderer  
(in Block Letters)**

\_\_\_\_\_ (in English)  
\_\_\_\_\_ (in Chinese)

**Required Subsidy per  
Qualified Case**

**HKD** \_\_\_\_\_

**Hourly rate  
per grade of employees,  
sole proprietor, partners,  
company directors and  
Appointment Takers**

	<b><u>Grade</u></b>	<b><u>Hourly Rate</u></b>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____

Note: If there is insufficient space, please give details on a separate sheet to be attached to Annex II.

**Name and Signature of  
proprietor/ partner/  
director\*\* or other signatory  
authorised to sign the Offer  
to be Bound in the Tender  
Form for and on behalf of the  
Tenderer**

\_\_\_\_\_  
\_\_\_\_\_  
**NAME (In Block Letters)**

**Date**

\_\_\_\_\_

\* In case of Electronic Tendering, the Official Receiver reserves the right to request an original (hardcopy) after the Tender Closing Date.

\*\* Please delete as appropriate. In case of limited partnership, the signatory must be a general partner of the Tenderer.

**Annex III – Declaration on Details of the Tenderer (Form A)\***

To: Official Receiver

I. Full Name of Tenderer \_\_\_\_\_

II. Address (in English) \_\_\_\_\_

Address (in Chinese) \_\_\_\_\_

Telephone / Fax \_\_\_\_\_ (Tel) / \_\_\_\_\_ (Fax)

III.  Limited company       Partnership       Sole Proprietorship

IV. Shareholding details in the case of a limited company

Number of issued shares \_\_\_\_\_

Shareholders' information

	<u>Name</u>	<u>Position in the company</u>	<u>Number of shares held</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

V. Details of the proprietor in the case of the Tenderer being a sole proprietorship / partners in case of a partnership / directors in case of a limited company (as applicable)

	<u>Name</u>	<u>Position in the Tenderer</u>	<u>Profession</u> <u>(Certified Public Accountant, Solicitor or Chartered Secretary)</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

VI. Number of employees (full-time / non-full-time) under the Tenderer to perform the Services (excluding those mentioned in item V above and item VII below), **with indexed copies of employment contracts showing the working hours (see Annex V)**

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VII. Details of Appointment Takers (at least two must be provided) of the Tenderer who perform insolvency work, **with indexed copies of the relevant certificates of qualifications (see Annex V)**

	<u>Name</u> ( <u>identical to the name</u> <u>registered with the</u> <u>professional body</u> )	<u>Professional body &amp;</u> <u>membership no.</u>	<u>Position in the</u> <u>Tenderer#</u>	<u>Length of</u> <u>service with the</u> <u>Tenderer</u>	<u>Number of years</u> <u>of post-</u> <u>qualification</u> <u>experience</u>
1.	_____	_____	_____	_____	_____
2.	_____	_____	_____	_____	_____
3.	_____	_____	_____	_____	_____
4.	_____	_____	_____	_____	_____
5.	_____	_____	_____	_____	_____
6.	_____	_____	_____	_____	_____
7.	_____	_____	_____	_____	_____
8.	_____	_____	_____	_____	_____

# *At least one Appointment Taker must be the sole proprietor or a partner or a director of the Tenderer; and the other Appointment Taker, if not being a partner or director of the Tenderer, must be a full-time employee of the Tenderer.*

*Note: If there is insufficient space, please give details on a separate sheet to be attached to Annex III (Form A).*

VIII. Each of the Appointment Takers named under VII above are also required to complete an “Individual Experience Return” (i.e. **Form B**). These returns are to be included in the Tender submission.

For the purpose of verifying the membership status and number of years of post-qualification experience of the Appointment Takers, the Official Receiver may consult the relevant professional bodies. **Each** Appointment Taker must provide a duly signed written consent to the provision of his personal data by the relevant professional bodies to the Official Receiver as

attached in Annex VI. **The Tenderer must procure the persons to provide further consent as and when the Official Receiver requests for the purpose of verifying their membership status and post-qualification experience with the relevant professional bodies. Failure to do so may render the Tender invalid.**

IX. Full name, position and employment nature (full-time / non-full-time) of employees (**excluding** sole proprietor, partners, director(s) and Appointment Takers) employed by the Tenderer to perform the Services.

	<u>Full Name</u> ( <u>identical to the one shown</u> <u>in employment contract</u> )	<u>Position</u>	<u>Full-time / Non-full-time</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____
4.	_____	_____	_____
5.	_____	_____	_____
6.	_____	_____	_____
7.	_____	_____	_____
8.	_____	_____	_____
9.	_____	_____	_____
10.	_____	_____	_____
11.	_____	_____	_____
12.	_____	_____	_____
13.	_____	_____	_____
14.	_____	_____	_____
15.	_____	_____	_____
16.	_____	_____	_____
17.	_____	_____	_____
18.	_____	_____	_____
19.	_____	_____	_____
20.	_____	_____	_____

*Note: If there is insufficient space, please give details on a separate sheet as attachment to Annex III (Form A).*

X. Have been providing insolvency, accounting, legal or company secretarial services in Hong Kong (“**relevant practice**”) for at least 3 years immediately preceding the Tender Closing Date:

Yes  No

Length of period of relevant practice of **the Tenderer** (in years and months) as at the Tender Closing Date: \_\_\_\_\_

XI. Other information:

(i) Whether the Tenderer or any of its Appointment Takers has been convicted of any offence, please indicate:

Yes, details: \_\_\_\_\_

No

(ii) Whether the Tenderer or any of its Appointment Takers is subject to any ongoing disciplinary action or investigation by a professional body of any of the professions as mentioned in Clause 1 of Annex I, please indicate:

Yes, details: \_\_\_\_\_

No

The Tenderer declares and confirms that the information provided above is true and correct. Also, the Tenderer declares that it and its Appointment Takers have satisfied all the applicable requirements in Annex I to the Terms of Tender. The person who signs this Annex is duly authorised by the Tenderer to execute this Annex for and on behalf of the Tenderer.

Signed By \_\_\_\_\_  
Proprietor/Partner/Director\*\* or other authorised signatory to sign for and on behalf of the Tenderer

\_\_\_\_\_  
NAME (In Block Letters)

\_\_\_\_\_  
Full Name of Tenderer in Block Letters

Date: \_\_\_\_\_

\* In case of Electronic Tendering, the Official Receiver reserves the right to request an original (hardcopy) after the Tender Closing Date.

\*\* Please delete as appropriate. In case of limited partnership, the signatory must be a general partner of the Tenderer.

**Annex III – Declaration on Details of the Tenderer (Form B)\***

**Individual Experience Return  
for Appointment Takers**

*(to be submitted pursuant to the requirement at VIII of Annex III – Form A)*

Name of Appointment Taker: \_\_\_\_\_

Please tick and provide the details:

Certified public accountant within the meaning of section 2(1) of the Professional Accountants Ordinance (Chapter 50 of the Laws of Hong Kong)

- Professional body: \_\_\_\_\_

- Membership number: \_\_\_\_\_

- Date of Admission to Membership (MM/YYYY): \_\_\_\_\_

Solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Chapter 159 of the Laws of Hong Kong)

- Professional body: \_\_\_\_\_

- Membership number: \_\_\_\_\_

- Date of Admission to the Roll of Solicitors (MM/YYYY): \_\_\_\_\_

Current member of The Hong Kong Chartered Governance Institute

- Membership number: \_\_\_\_\_

- Date of Admission to Membership (MM/YYYY): \_\_\_\_\_

Position in the Tenderer: \_\_\_\_\_

Working for the Tenderer  
as its full-time employee (Yes/No) \_\_\_\_\_

I. Details of work and chargeable hours involved

	<b>Chargeable hours</b> (in one decimal place)			
	<b>(Year to 9 October)</b>			
	<u>2023</u>	<u>2024</u>	<u>2025</u>	<u>Total</u>
<b>(a) <u>Insolvency Work on companies</u></b>				
Insolvent Voluntary Liquidations	_____	_____	_____	
Compulsory Liquidations	_____	_____	_____	
Appointment of Special Managers	_____	_____	_____	
Others (please specify)	_____	_____	_____	
<b>Total of (a)</b>				=====
<b>(b) <u>Receiverships of companies</u></b>				
Court Appointed Receivers	_____	_____	_____	
Receivers and Managers Under Debentures	_____	_____	_____	
Others (please specify)	_____	_____	_____	
<b>Total of (b), capped at 75 hours</b>				_____
<b>Total hours in (a) and (b) above (at least 150 hours)</b>				=====
<b>(c) <u>Solvent Liquidations</u></b>				
Solvent Voluntary Liquidations	_____	_____	_____	
Others (please specify)	_____	_____	_____	
<b>Total of (c)</b>				=====
<b>Total hours in I (sum of (a), (b) and (c) above)</b>				=====

II. Holder of the HKICPA Professional Diploma in Insolvency Programme (Yes or No)

\_\_\_\_\_

III. Please provide a list of post-qualification experience as separate sheet(s) to Annex III showing the following details of insolvency cases with chargeable hours during the 3 years immediately preceding the Tender Closing Date –

By each Appointment Taker (Name in full: \_\_\_\_\_)

Case number	Name of compulsory winding-up cases (Please mark # for connected companies)	Nature of work performed	Act as liquidator / provisional liquidator (Yes / No)	Number of chargeable hours involved in each case (in one decimal place)		
				(Year to 9 October)		
				2023	2024	2025
<hr/>						

Total chargeable hours in the 3 years immediately preceding the Tender Closing Date  
(capped at the sum of total hours in I(a) and I(b) above)

*Breakdown:*

- (i) Total chargeable hours for compulsory winding-up cases of companies which were connected companies (those marked with # above) in the 3 years immediately preceding the Tender Closing Date
- (ii) Total hours for compulsory winding-up cases of companies which were not connected companies in the 3 years immediately preceding the Tender Closing Date

I declare and confirm that the above information provided is true and correct. Also, I declare that I have not been (a) disqualified or suspended by the Official Receiver from participating in any tender/quotation exercises conducted by the Official Receiver's Office; nor (b) disqualified or suspended by other insolvency agencies or bodies outside Hong Kong from participating in any tender/quotation exercises conducted by them.

Signed By \_\_\_\_\_  
Signature of Appointment Taker

\_\_\_\_\_  
Name in Block Letters

Date: \_\_\_\_\_

\* In case of Electronic Tendering, the Official Receiver reserves the right to request an original (hardcopy) after the Tender Closing Date.

## **Annex IV – Undertaking**

To:

The Government of the Hong Kong Special Administrative Region  
as represented by the Official Receiver (“**Government**”)  
Official Receiver’s Office  
10<sup>th</sup> Floor, High Block, Queensway Government Offices,  
66 Queensway, Hong Kong

Attn: Official Receiver

Re: Appointment as Provisional Liquidators under Section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong)

1. I have read a copy of the Tender Documents of OR/T/2025.
2. Unless otherwise specified, terms and expressions defined in the Tender Documents have the same meaning when used in this Undertaking and all references to clauses are clauses of this Undertaking.
3. I hereby undertake, acknowledge and covenant to the Government that I shall observe and comply with all applicable obligations under the Tender Documents and I agree to be bound by the terms and conditions as stipulated in the Tender Documents as if I were a contracting party to the Contract.
4. Without limiting the generality of my Undertaking herein, I confirm that I have satisfied all the requirements in respect of Appointment Takers as set out in Clauses 1, 2 and 3 in Annex I to the Terms of Tender as evidenced by the declaration as to my experience as set out in Form B in Annex III to the Terms of Tender and copies of documents specified in Annex V submitted with the Tender.

5. I declare and confirm that I have not been:
- (a) disqualified or suspended by the Official Receiver from participating in any tender/quotation exercises conducted by the Official Receiver's Office; or
  - (b) disqualified or suspended by other insolvency agencies or bodies outside Hong Kong from participating in any tender/quotation exercises conducted by them.
6. In relation to any contracts which the Tenderer had made with the Official Receiver for the provision of any insolvency services or work, I further declare and confirm that at any time between 10 October 2021 and 9 October 2025:
- (a) none of such contracts was terminated by the Official Receiver; and
  - (b) the Official Receiver has not suspended the allocation of cases or work to the Tenderer under any such contracts for any period of 2 months or more, by reason of:
    - (i) any breach by the Tenderer of any of the terms and conditions of such contract; or
    - (ii) the Official Receiver in her absolute discretion considering the quality of any of the work or services provided under such contract unsatisfactory.

I undertake to inform the Official Receiver forthwith in the event of the making of any such disqualification, suspension or termination against the Tenderer or me.

7. I undertake to inform the Official Receiver within 14 days of becoming aware of the fact that the Tenderer, or any sole proprietor, partner, director or Appointment Taker of the Tenderer is or has been:
- (a) subject to any committal proceedings or proceedings for removal from the office of provisional liquidator, liquidator, receiver or manager, special manager, provisional trustee or trustee in bankruptcy or any finding of contempt of court or any removal order; or
  - (b) subject to any disqualification proceedings or disqualification order made against him under Part IVA of the Companies (Winding up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) or any order under any legislation of Hong Kong or any other jurisdiction having the effect of disqualifying or prohibiting him from any one or more of the following:

- (I) being a director of a company;
  - (II) being a liquidator of a company;
  - (III) being a receiver or manager of a company's property;
  - (IV) being a trustee in bankruptcy or the equivalent or similar office holder in that jurisdiction;
  - (V) taking part in the management of companies; or
- (c) subject to any proceedings for commission of an offence, or conviction of any offence; or
  - (d) subject to any disciplinary proceedings, action or investigation or any disciplinary ruling, finding or sanction by a professional body of any of the professions as mentioned in Clause 1 of Annex I; or
  - (e) subject to any finding or ruling of the court or result of investigation that he is guilty of any misconduct, misfeasance, breach of duty, breach of trust or breach of any code of ethics or that he is not a fit and proper person to be appointed or act as a provisional liquidator, liquidator, special manager in a winding-up case or a provisional trustee or trustee in bankruptcy in a bankruptcy case; or
  - (f) subject to any restructuring, scheme of arrangement or voluntary arrangement, or becomes bankrupt or is or has been subject to a bankruptcy petition or bankruptcy order or is being wound up or is or has been subject to a winding up petition or winding up order, under the laws of Hong Kong or any other jurisdiction.

This Undertaking has been executed and delivered as a Deed on the date below.

Signed, Sealed and Delivered By

\_\_\_\_\_  
Signature of Appointment Taker

\_\_\_\_\_  
Name in Block Letters

Date

\_\_\_\_\_

### Annex V – List of documents to be submitted

No.	Copies of Documents to be submitted	Submitted*	Attachment No. in this submission
1	A <u>certified true copy</u> of Business Registration Certificate**	<input type="checkbox"/>	_____
2	Company Annual Return	<input type="checkbox"/>	_____
3	Certificate of Incorporation	<input type="checkbox"/>	_____
4	Admission Certificate of Certified Public Accountant within the meaning of section 2(1) of the Professional Accountants Ordinance (Chapter 50 of the Laws of Hong Kong) under the name of the Appointment Takers	<input type="checkbox"/>	_____
5	Admission Certificate of Solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Chapter 159 of the Laws of Hong Kong) under the name of the Appointment Takers	<input type="checkbox"/>	_____
6	Admission Certificate of Membership of The Hong Kong Chartered Governance Institute under the name of the Appointment Takers	<input type="checkbox"/>	_____
7	HKICPA Professional Diploma in Insolvency Programme of the Appointment Takers	<input type="checkbox"/>	_____
8	Documents to substantiate employment status of those employees set out in Annex III (Form A) item IX and Appointment Taker not being a partner or director of the Tenderer set out in Annex III (Form A) item VII (e.g. employment contracts; or record showing the working hours (which term is defined to exclude daily lunch break) and daily lunch break duration of the employees covering the period for at least 1 month prior to the Tender Closing Date <u>certified</u> by the Appointment Takers; or certification of the identities, post titles, full-time/non-full-time position status, total working hours (which term is defined to exclude daily lunch break) per week and daily lunch break duration of the full-time/non-full-time employees <u>certified</u> by the Appointment Takers) <b><i>For submission of employment contracts, if the documents do not expressly indicate the daily lunch break duration, please submit a certification of the daily lunch break duration of the employees <u>certified</u> by the Appointment Takers.</i></b>	<input type="checkbox"/>	_____
9	Consent signed by each Appointment Taker on provision of their personal data by the professional bodies to the Official Receiver	<input type="checkbox"/>	_____
10	Non-collusive Tendering Certificate	<input type="checkbox"/>	_____

\* Please tick as appropriate

\*\* In case of Electronic Tendering, the Official Receiver reserves the right to request a certified true copy (hardcopy) after the Tender Closing Date.

**Annex VI – Statement of Consent for Qualification Verification\***

**Re: Tender for Taking up of Appointment As  
Provisional Liquidators under section 194(1A) of the  
Companies (Winding Up and Miscellaneous Provisions) Ordinance  
(Chapter 32 of the Laws of Hong Kong)  
(Tender Ref: OR/T/2025)**

**(To be signed by EACH Appointment Taker)**

I hereby consent to the professional body indicated below to provide information about:

- (i) my current professional membership status; and
- (ii) the admission date regarding my professional membership,

to the Official Receiver:

- The Hong Kong Institute of Certified Public Accountants. #
- The Law Society of Hong Kong. #
- The Hong Kong Chartered Governance Institute. #
- Others (Please specify): \_\_\_\_\_ . #

I understand that the above information would be processed by the Official Receiver solely for the assessment of a tender submitted to the Official Receiver on the captioned matter. I agree to provide further consent as and when required by the Official Receiver solely for the assessment of the Tender.

# (please tick as appropriate)

Signed By \_\_\_\_\_  
Appointment Taker

\_\_\_\_\_  
NAME (In Block Letters)

\_\_\_\_\_  
Membership number

Date: \_\_\_\_\_

\* In case of Electronic Tendering, the Official Receiver reserves the right to request an original (hardcopy) after the Tender Closing Date.

## **Annex VII – Non-collusive Tendering Certificate\***

To:

The Government of the Hong Kong Special Administrative Region

as represented by the Official Receiver (“**Government**”)

Official Receiver’s Office

10<sup>th</sup> Floor, High Block, Queensway Government Offices,

66 Queensway, Hong Kong

Dear Sir/ Madam,

### **Non-collusive Tendering Certificate**

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

refer to the Government’s invitation to tender for the Contract (“**Invitation to Tender**”)  
and my/our Tender in response to the Invitation to Tender.

Non-collusion

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

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

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

#### Disclosure of sub-contracting

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

#### Consequences of breach or non-compliance

5. I/We understand that in the event of any breach or non-compliance with any representations, warranties and/or undertakings in this certificate or in Clause 16(a) of the Terms of Tender, the Government may exercise any of the rights under Clauses 16(c) to 16(e) of the Terms of Tender in addition to and without prejudice to any other rights or remedies available to it against me/us.

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

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

\_\_\_\_\_

Name of the authorised signatory (where applicable) :

\_\_\_\_\_

Title of the authorised signatory (where applicable) :

\_\_\_\_\_

Date :

\_\_\_\_\_

\* In case of Electronic Tendering, the Official Receiver reserves the right to request an original (hardcopy) after the Tender Closing Date.

**Annex VIII – Issues to be covered in legal opinion**  
**(applicable to Tenderer incorporated, formed or established outside Hong Kong)**

- (a) The Tenderer is duly incorporated, formed or established and validly existing and in good standing under the laws of the place of the Tenderer’s incorporation, formation or establishment and that the Tenderer has full power, capacity and authority to carry on the business as it is now conducting and to provide the Services to the Government on the terms and conditions of the proposed Contract. By “validly existing and in good standing”, it is meant that no event mentioned in Clause 11(a)(vi) of the Conditions of Contract or any event which has an equivalent effect to any such event has occurred in relation to the Tenderer.
- (b) The Tenderer has the full power, authority and legal capacity to:
  - (i) execute and submit its Tender and to incur the liabilities and perform the obligations under the Tender Documents; and
  - (ii) enter into and execute the Contract and to incur the liabilities and perform the obligations thereunder.
- (c) The proposed Contract with the Government will, upon its formation pursuant to Clause 11 of the Terms of Tender, constitute the legal, valid and binding obligations of the Tenderer in the place of its incorporation, formation or establishment and is enforceable against the Tenderer in accordance with its terms; without prejudice to the generality of the foregoing, where an Electronic Record is used in the formation of the Contract (whether with or without any electronic or digital signature), the Contract shall not be denied legality, validity or enforceability on the sole ground that an Electronic Record was used for that purpose.
- (d) The submission of its Tender and the performance of the Contract (if awarded to the Tenderer) have been duly authorised by all necessary corporate action of the Tenderer, and do not violate any provision of any applicable law, regulation or decree of the Tenderer’s place of incorporation, formation or establishment, or the Memorandum (if any) and Articles of Association or similar constitutional documents of the Tenderer.

- (e) No authorisations, consents, approvals are required from any governmental authorities or agencies or other official bodies in the place of incorporation, formation or establishment in connection with the execution and delivery of the Tenderer's Tender, or the performance by the Tenderer of its obligations under the Tender Documents and the Contract.
- (f) The Tenderer's Tender and the Contract (if awarded to the Tenderer) need not be registered or filed in the place of incorporation, formation or establishment in order to secure their validity and/or priority.
- (g) There is no restriction under the laws of the place of the Tenderer's incorporation, formation or establishment affecting the Tenderer's obligations under the Tender Documents and the Contract.
- (h) The choice of the laws of Hong Kong to govern the Tender Documents and the Contract is a valid choice of laws.
- (i) The judgment handed by the courts of Hong Kong after the adjudication of any dispute arising from the Contract will be recognised and given effect to by the courts of the place of incorporation, formation or establishment of the Tenderer.
- (j) It is not necessary under the laws of the place of incorporation, formation or establishment of the Tenderer that the Government be licensed, qualified or otherwise registered in such place of incorporation, formation or establishment in order to enable it to enforce its rights under the Tender Documents and the Contract.

## **CONDITIONS OF CONTRACT**

1. Contracts (Rights of Third Parties) Ordinance

The Parties hereby declare that nothing in this Contract confers or purports to confer on any person not being a Party to this Contract any benefit or any right to enforce any term of this Contract under or pursuant to or for the purposes of the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong).

2. Total Services

The Firm and the Appointment Takers shall perform the Services in accordance with the Contract and the Work Specifications to the satisfaction of the Government.

3. No Assignment and Sub-Contracting

The Firm and the Appointment Takers shall not, without the prior written consent of the Government, assign, transfer or otherwise dispose of any of their interests, rights, benefits or obligations under the Contract or any part thereof. The performance of the Contract by the Firm and the Appointment Takers shall be personal to them. The Firm and the Appointment Takers shall not enter into any sub-contract with any person for the performance of all or any part of the Contract.

4. Qualified Cases to be Allocated to the Firm

During the Allocation Period, the Official Receiver will normally allocate Qualified Cases to the Firm and other Firms which have also been awarded the Contract under the current tender exercise on a rotation basis or such other basis as the Official Receiver considers appropriate in her absolute discretion. The Official Receiver is not bound to allocate an equal number of Qualified Cases to each of the Firms, and there is no guarantee on the total number of Qualified Cases to be allocated to each of the Firms.

5. Security and Undertaking

(a) The Firm must take out and maintain throughout the Contract Period a professional indemnity insurance covering the Services to the satisfaction of the Official Receiver. Where there is any renewal of the professional indemnity insurance, the Firm shall, within 2 months upon the expiry of the prevailing professional

indemnity insurance, provide a copy of the new professional indemnity insurance to the Official Receiver.

- (b) The requirements under Clause 5(a) are requirements independent of and in addition to the requirement on the giving and furnishing of security under section 195 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and rule 47 of the Companies (Winding-up) Rules (Chapter 32H of the Laws of Hong Kong). For the avoidance of doubt, the Firm may, in respect of any of the Qualified Cases allocated to it, be required to give the security pursuant to section 195 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and rule 47 of the Companies (Winding-up) Rules (Chapter 32H of the Laws of Hong Kong) to the satisfaction of the Official Receiver notwithstanding the compliance with Clause 5(a).
- (c) The Firm shall ensure that each of the Appointment Takers of the Firm duly observes and complies with all applicable obligations under the Contract as if he were a party to the Contract. In the event of any changes or addition of Appointment Takers, the Firm shall, in respect of each incoming Appointment Taker, provide the Official Receiver with an undertaking in her favour (in the form set out in Annex IV to the Terms of Tender and duly executed by each such incoming Appointment Taker) and information about the Appointment Taker as set out in Annex III to the Terms of Tender within 7 days of such change or addition of Appointment Takers for the approval by the Official Receiver. Each incoming Appointment Taker and the Firm must ensure that:
  - (i) the requirements as set out in Clauses 1 to 7 of Annex I to the Terms of Tender are satisfied; and
  - (ii) the incoming Appointment Takers have not been (I) disqualified or suspended by the Official Receiver from participating in any tender/quotation exercises conducted by the Official Receiver's Office; or (II) disqualified or suspended by other insolvency agencies or bodies outside Hong Kong from participating in any tender/quotation exercises conducted by them.

6. Conflict of Interest

The Firm as well as each of its Appointment Takers appointed as joint and several provisional liquidators or liquidators in a Qualified Case shall avoid any conflict of interest in performing the Services in any Qualified Case allocated to the Firm. The Firm and its Appointment Takers must inform the Official Receiver forthwith if there is any conflict of interest or a real risk of conflict of interest in the event that the Firm is to handle any Qualified Case allocated or to be allocated to the Firm or that any of the Appointment Takers of the Firm is to be appointed as the provisional liquidator or liquidator in any Qualified Case allocated or to be allocated to the Firm. The decision of the Official Receiver as to whether there is a conflict of interest or real risk of conflict of interest shall be final and conclusive.

7. No Acceptance of Advantages

The Firm as well as each of its Appointment Takers appointed as joint and several provisional liquidators or liquidators in a Qualified Case shall not solicit business and/or accept any advantages or benefit (as defined in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong)) from the company, any of the shareholders or directors of the company, or any creditors or any person in relation to any Qualified Case allocated to the Firm.

8. Fees and Remuneration

(a) In respect of a Qualified Case allocated to the Firm where the Firm's Appointment Takers are appointed and act as the provisional liquidators under section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), and subject to the Official Receiver's right to scrutinize the bills and, if necessary, taxation by the court, the Firm and its Appointment Takers shall, in consideration of the provision of the Services in such Qualified Case, be entitled to be remunerated on a time-cost basis, and to charge such reasonable remuneration out of the assets of the company in accordance with the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong). The actual hourly rate per grade of employees, sole proprietor, partners, directors and Appointment Takers shall in no circumstances be in excess of the rates as stipulated in the Quotation Sheet at Annex II.

- (b) Where the Firm's Appointment Takers are appointed as liquidators pursuant to a summary procedure order under section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) following their appointment as joint and several provisional liquidators in a Qualified Case, subject to the Official Receiver's right to scrutinize the bills and, if necessary, taxation by the court, the Firm and its Appointment Takers shall, in consideration of the provision of the Services as such liquidators in such Qualified Case, be entitled to be remunerated on a time-cost basis, and to charge such reasonable remuneration out of the assets of the company in accordance with the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong). The actual hourly rate per grade of employees, sole proprietor, partners, directors and Appointment Takers shall in no circumstances be in excess of the rates as stipulated in the Quotation Sheet at Annex II.
- (c) If the assets of the company being wound up are insufficient to meet the remuneration as provided in Clauses 8(a) or (b) above, subject to Clause 11(b) below, the shortfall will be met from the Required Subsidy.
- (d) The Required Subsidy shall be calculated and payable strictly on a case-by-case basis. Under no circumstances will such the Required Subsidy or any balance thereof be transferred between cases.
- (e) The Required Subsidy will not be payable in respect of any Qualified Case allocated to the Firm unless a summary procedure order under section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) is made in respect of the Qualified Case. In a Qualified Case where no summary procedure order is made under section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), the fees and remuneration of the Firm and its Appointment Takers whether acting as joint and several provisional liquidators or liquidators shall be paid out of the assets of the company in accordance with the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong).

- (f) Where a summary procedure order has been obtained under section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) in respect of a Qualified Case pursuant to the terms of the Contract, the subsequent rescission of the summary procedure order shall not affect any payment of the Required Subsidy already effected, unless the summary procedure order was obtained by material non-disclosure or misrepresentation to the court.
- (g) Other than those set out in Clauses 8(a) to (f), the Firm and its Appointment Takers shall not be entitled to any other fees or remuneration for the provision of the Services in any Qualified Case. If the assets of the company being wound up and the Required Subsidy, if payable, are insufficient to meet the remuneration as provided in Clauses 8(a) or (b) above, it shall be up to the Firm to consider whether and how to recover the shortfall. In such event, neither the Government nor the Official Receiver shall be liable to pay the shortfall to the Firm or the Appointment Takers.
- (h) Notwithstanding any provision of the Contract, the Government is entitled to withhold payment of all or any part of the Required Subsidy if:
  - (i) the Firm fails to observe or perform any provision of the Contract;
  - (ii) the Government disputes on any reasonable ground its obligation to pay the amount in question;
  - (iii) the Government has reasonable grounds to believe that the Firm is or will be liable to the Government under any provision of the Contract for the loss or damage suffered by the Government;
  - (iv) withholding of payment is required by any applicable laws; or
  - (v) the Firm fails to perform the Services to the satisfaction of the Government.

9. Performance of the Firm

- (a) The performance of the Firm and the Appointment Takers will be monitored by the Official Receiver in terms of the time taken to complete the Qualified Case and the quality of work.
- (b) In respect of a Qualified Case allocated to the Firm by the Official Receiver and for which the Firm's Appointment Takers act as provisional liquidators or liquidators, those Appointment Takers shall act in a fiduciary capacity and shall deal with the property under their control in good faith, with proper care, skill and competence and in a reasonable manner. The Appointment Takers shall complete the Qualified Case by administering the company's estate in accordance with the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) in an expeditious and professional manner. The Firm shall ensure that the Appointment Takers discharge and comply with the aforesaid duties and requirements.
- (c) The Firm and the Appointment Takers shall provide, perform and carry out the Services in all respects with professionally acceptable standards (including ethical standards of the relevant professions) and in compliance with all relevant statutory requirements, the terms and conditions of the Contract and the standard and requirements of the court. For this purpose, the Official Receiver's decision as to what constitutes professionally acceptable standards or whether any of the Services provided, performed or carried out in any Qualified Case meets the professionally acceptable standards or complies with the relevant statutory requirements, the terms and conditions of the Contract or the standard or requirements of the court shall be final and conclusive. The Firm shall comply with any instructions given by the Official Receiver in relation to the provision of the Services from time to time.
- (d) For the avoidance of doubt, in relation to the provision, performance or carrying out of the Services, the act, omission, negligence, breach, default or failure of or by any of the proprietors, partners, directors, Appointment Takers, employees, agents or contractors of the Firm shall be deemed to be the act, omission, negligence, breach, default or failure of the Firm.

- (e) The Firm or its Appointment Takers, in respect of a Qualified Case allocated to the Firm by the Official Receiver, shall complete the Qualified Case by obtaining a release order from the court under section 205 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) in an expeditious and professional manner. If it is expected that a Qualified Case cannot be completed within one year of the appointment of the Appointment Takers as provisional liquidators in that Qualified Case pursuant to section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), the Firm shall submit a report to the Official Receiver before the expiration of the first year of the appointment of the Appointment Takers giving explanations as to why the Qualified Case cannot be so completed.
- (f) The Firm or its Appointment Takers, as joint and several provisional liquidators or liquidators in a Qualified Case, shall submit accounts, not less than twice in each year during their tenure of office, to the Official Receiver pursuant to section 203 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and shall submit together with the first accounts under section 203 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and, if so required by the Official Receiver, with the subsequent accounts, a progress report giving details on what has been done and what needs to be done in relation to the administration of the company's estate, and also an indication with reasons as to whether or not the Qualified Case can be completed within one year of the appointment of the Appointment Takers as provisional liquidators in that Qualified Case pursuant to section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong).
- (g) If the Firm or its Appointment Takers when acting as joint and several provisional liquidators in a Qualified Case fail to comply with Clauses 7(a) or 7(b) of the Work Specifications, the Firm shall compensate the Official Receiver for the additional costs that the Official Receiver has incurred and/or will incur in monitoring the late application for summary procedure order or the delay in holding the first meeting of creditors and contributories in respect of the Qualified Case. If the application for a summary procedure order is made or the first meeting of creditors and contributories

is held more than 6 months after the date of the winding-up order, the Government shall be entitled to deduct HK\$1,000 plus HK\$500 for every full month of delay after the expiry of 6 months from the date of the winding-up order from the Required Subsidy payable for the Qualified Case, and no interim payment of the Required Subsidy will be made. Where necessary, such deduction may also be deducted from the Required Subsidy payable for other Qualified Cases.

- (h) If the Firm or its Appointment Takers when acting as joint and several provisional liquidators in a Qualified Case make an application for a summary procedure order or convene the first meeting of creditors and contributories more than 8 months after the date of the winding-up order and such delay has occurred in respect of 5 or more Qualified Cases allocated to the Firm, in addition to the right of deduction under Clause 9(g), the Official Receiver shall be entitled to suspend the allocation of Qualified Cases to the Firm for such period as the Official Receiver may determine in her absolute discretion.
- (i) If the Firm or its Appointment Takers when acting as joint and several provisional liquidators in a Qualified Case make an application for a summary procedure order or convene the first meeting of creditors and contributories more than 10 months after the date of the winding-up order and such delay has occurred in respect of 5 or more Qualified Cases allocated to the Firm, in addition to the right of deduction under Clause 9(g), the Official Receiver:
  - (i) shall be entitled to suspend the allocation of Qualified Cases to the Firm for such period as the Official Receiver may determine in her absolute discretion; and
  - (ii) may disqualify or suspend the Firm from participating in the next tender/quotation exercise under section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) conducted by the Official Receiver or disqualify or suspend the Firm from participating in any tender/quotation exercises under section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) conducted by the Official Receiver for such period as the Official Receiver thinks fit in her absolute discretion.

- (j) Without prejudice to any of the provisions in Clause 11(a) below and to the right of termination or any other rights and remedies which the Official Receiver may have, the Official Receiver may issue a warning letter to the Firm, if any of the following conditions of the Contract or requirements is breached or has not been complied with:-
- (i) provision of an updated copy of the professional indemnity insurance specified in Clause 5(a) above to the Official Receiver;
  - (ii) giving the security under Clause 5(b) above;
  - (iii) submission of the liquidator's account to the Official Receiver pursuant to section 203 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) specified in Clause 9(f) above;
  - (iv) provision of necessary assistance and completion of a questionnaire as may be required by the Official Receiver when quality audit is conducted in accordance with Clause 14 below;
  - (v) performance of the tasks and duties as are necessary or may be required of a provisional liquidator/liquidator pursuant to the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and comply with Clauses 5, 8 and 9 of the Work Specifications;
  - (vi) provision of all relevant statistics and information and production of any documents in connection with the Qualified Cases as and when required by the Official Receiver under Clause 6 of the Work Specifications;
  - (vii) application to the court for summary procedure order within 3 months of the date of the winding-up order or convening of the meeting of creditors as specified under Clause 7 of the Work Specifications;
  - (viii) report of the conduct of the directors of the wound up company to the Official Receiver in accordance with section 168I(3) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the

Laws of Hong Kong) by submitting Form D1 or D2 as appropriate as provided in section 2 and section 3 of the Companies (Reports on Conduct of Directors) Regulation (Chapter 32J of the Laws of Hong Kong).

- (k) If the Firm fails to comply with or make good the breach or non-compliance in relation to which a warning letter is issued under Clause 9(j) above within such time as may be stipulated in the warning letter in respect of the Qualified Cases allocated to the Firm under the Contract without good cause, the Official Receiver may suspend the allocation of Qualified Cases to the Firm for such period as the Official Receiver may determine in her absolute discretion.

10. Payment Procedures

- (a) The fees and remuneration to the Firm and its Appointment Takers as provisional liquidators or liquidators in any Qualified Case shall be paid in accordance with Clauses 8 and 9 from the net realized assets of the company being wound up according to the order of payments under rule 179 of the Companies (Winding-up) Rules (Chapter 32H of the Laws of Hong Kong).
- (b) Subject to Clauses 8 and 9, the Appointment Takers of the Firm shall as soon as possible and in any event not later than 12 weeks after their appointment as the provisional liquidators under section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) advise the Official Receiver whether it is unlikely that the net realized assets available would be sufficient to pay their fees and remuneration calculated in accordance with Clauses 8 and 9. In the event that the Appointment Takers so advised and after the appointment of the Appointment Takers of the Firm as liquidator under section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), the Government may effect an interim payment of a sum not exceeding 60 percent of the Required Subsidy to the Firm. Further payment, not exceeding the balance of the Required Subsidy and after deduction of any Required Subsidy in accordance with Clause 9(g), if claimed, will be paid upon the completion of the Qualified Case and the Appointment Takers having obtained a release order from the court under section 205 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong). The

Firm shall apply to the Government in writing for the interim or further payment by way of submitting a bill which shall be in such form and contain such particulars as required by the Government. The bill shall also contain a narrative history of the work undertaken so far together with details of the billable hours and the names and grade of staff employed on the liquidation. All claims for payment under this Clause shall be made in such form as the Government may prescribe. Any overpayment of the Required Subsidy shall be reimbursed to the Government.

- (c) Any payment by the Government shall be without prejudice to any right or cause of action which has or may have accrued, or any remedy which may be available to the Government in respect of any breach or non-compliance of the Contract by the Firm and the Appointment Takers.
- (d) The Firm shall provide details of the designated bank account in Hong Kong to receive the Required Subsidy under the Contract to the Payment Officer within fourteen (14) days from the date of the Letter of Conditional Acceptance. The Firm shall use the form prescribed by the Payment Officer to provide all necessary details plus supporting documents as requested in that prescribed form. The Government will not accept any other payment method unless the Government agrees in writing on a case by case basis. The contact details of the Payment Officer for providing the aforesaid information are set out below –

**Payment Officer**

Address: 10th Floor, High Block, Queensway Government Offices, 66 Queensway,  
Hong Kong

Attn: Ms Katy SZETO

Facsimile Number: 2525 3616

Email Address: khtszeto@oro.gov.hk

- (e) Where the Firm proposes to make any change to the payment instruction provided under Clause 10(d) above, it shall do so by not less than one month's prior written notice to the Payment Officer attaching another prescribed form as specified in Clause 10(d) duly completed together with the accompanying documents requested therein. Where the Firm has failed to comply with the foregoing, the Government shall be entitled to treat the existing payment instruction as valid and the Government

will not be responsible for any delay arising from the refusal of the relevant bank to accept payment due to invalid payment instruction.

- (f) Each party shall bear all bank charges, fees, levies and expenses imposed by its own banks and its intermediate banks through which the Required Subsidy is paid or received.

#### 11. Termination of Contract and Suspension

(a) If –

- (i) the Firm or any of the Appointment Takers fails to carry out all or any of the Services to the satisfaction of the Government, including but not limited to any of the Appointment Takers declining to act as provisional liquidator or liquidators in any Qualified Case; or
- (ii) any of the Firm's Appointment Takers continues to act as a provisional liquidator or liquidator in a Qualified Case despite that he has been removed from office as the provisional liquidator or liquidator in the Qualified Case; or
- (iii) the quality of the Services in any Qualified Case allocated to the Firm is unsatisfactory in the sole opinion of the Official Receiver which shall be final and conclusive; or
- (iv) the Firm or any of the Appointment Takers fails to observe or perform any terms and conditions of the Contract (the decision of the Official Receiver as to whether there is a failure to observe or perform shall be final and conclusive) or any representation made or information submitted in its Tender is false or misleading; or
- (v) at any time during the Contract Period, the Firm or any proprietor, partner, director or Appointment Taker of the Firm is or has been:
  - (aa) subject to any committal proceedings or proceedings for removal from the office of provisional liquidator, liquidator, receiver or manager,

special manager, provisional trustee or trustee in bankruptcy or any finding of contempt of court or any removal order; or

- (bb) subject to any disqualification proceedings or disqualification order made against him under Part IVA of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) or any order under any legislation of Hong Kong or any other jurisdiction having the effect of disqualifying or prohibiting him from any one or more of the following:
  - (I) being a director of a company;
  - (II) being a liquidator of a company;
  - (III) being a receiver or manager of a company's property;
  - (IV) being a trustee in bankruptcy or the equivalent or similar office holder in that jurisdiction;
  - (V) taking part in the management of companies; or
- (cc) subject to any proceedings for commission of an offence, or conviction of any offence; or
- (dd) subject to any disciplinary proceedings, action or investigation or any disciplinary ruling, finding or sanction by a professional body of any of the professions as mentioned in Clause 1 of Annex I; or
- (ee) subject to any finding or ruling of the court or result of investigation that he is guilty of any misconduct, misfeasance, breach of duty, breach of trust or breach of any code of ethics or that he is not a fit and proper person to be appointed or act as a provisional liquidator, liquidator, receiver or manager, special manager in a winding-up case or a provisional trustee or trustee in bankruptcy in a bankruptcy case; or
- (vi) the Firm or any proprietor, partner, director or Appointment Taker of the Firm is or has been subject to restructuring, scheme of arrangement,

voluntary arrangement or receivership, or becomes bankrupt or is or has been subject to a bankruptcy petition or bankruptcy order or is being wound up or is or has been subject to a winding up petition or winding up order, under the laws of Hong Kong or any other jurisdiction or suspends or ceases, or threatens to suspend or cease to carry on all or a substantial part of its business; or

- (vii) the Government is given the right to terminate the Contract under any other provision of the Contract, including Clause 16(c)(iii) of the Terms of Tender, Clauses 11(e) and 21(c) below, but excluding Clauses 11(d) and 28(c) below;

without prejudice to any other rights and remedies which the Government and/or the Official Receiver may have, whether under the Contract or otherwise, the Official Receiver may by written notice to the Firm terminate the Contract immediately or with effect from such later date as may be specified by the Official Receiver in the notice.

- (b) Without prejudice to the right of termination or suspension in Clauses 11(a) and (c) and to any other rights and remedies which the Official Receiver may have, whether under the Contract or otherwise, the Official Receiver may, on the occurrence of an event as stipulated in Clauses 11(a)(i), (ii), (iii), (iv), (v), (vi) or (vii) take one or more of the following actions –
  - (i) disqualify the Firm and/or its Appointment Takers from participating in any future tender/quotation exercises conducted by the Official Receiver's Office for such period of time as may be determined by the Official Receiver;
  - (ii) file with the relevant professional bodies complaints of misconduct or breach of contract;
  - (iii) refuse to pay for all or any part of the Services rendered in respect of the Qualified Cases;

- (iv) demand the Firm to refund, and the Firm shall upon such demand refund, all the Required Subsidy and other payments paid to the Firm or such parts thereof in all or such Qualified Cases as the Official Receiver may at her discretion determine;
  - (v) exercise any other rights and remedy as available to the Official Receiver, including the rights and remedies under Clauses 9(g), (h) or (i);
  - (vi) apply to court for removal of the Firm and/or the Appointment Takers from acting as provisional liquidators or liquidators in any Qualified Case already allocated to the Appointment Takers;
  - (vii) suspend the Firm's and/or its Appointment Takers' right to participate in the Panel A Scheme if the Firm or its Appointment Takers are registered members of the Panel A Scheme for such period as the Official Receiver thinks fit in her absolute discretion;
  - (viii) suspend allocation of cases to the Firm and/or the Appointment Takers in other subsisting contracts with the Official Receiver for provision of any insolvency services or work for such period as the Official Receiver thinks fit in her absolute discretion;
  - (ix) disallow any payment of subsidy in respect of any Qualified Cases allocated to the Firm prior to the termination of the Contract;
  - (x) report the conduct of the Appointment Takers to the court under section 204 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong); and
  - (xi) engage other Firms or other service providers to take up the remaining Services.
- (c) Without prejudice to any of the provisions in Clauses 11(a) and (b) above and to any other rights and remedies which the Official Receiver may have, whether under the Contract or otherwise, the Official Receiver may, on the occurrence of any event as stipulated in Clauses 11(a)(i), (ii), (iii), (iv), (v), (vi) or (vii), suspend immediately or by giving a notice in writing of such number of days as the Official Receiver thinks

fit the allocation of Qualified Cases to the Firm until such time or for such period as the Official Receiver may in her absolute discretion determine, and the Official Receiver may arrange for other Firms or any other service providers to take up the Qualified Cases which, if not because of the suspension, may be allocated to the Firm during the Allocation Period. The suspension shall be for such time/period as the Official Receiver sees fit. The suspension can be terminated at any time and in such manner as the Official Receiver considers appropriate.

- (d) The Official Receiver may at any time terminate the Contract, **without cause**, immediately or by giving a notice in writing of such number of days as the Official Receiver thinks fit. In that event, the Official Receiver may at liberty engage other Firms or other service providers to take up the remaining Services and request for return within a stipulated time of any or all Qualified Cases which have been allocated to but, in the opinion of Official Receiver, uncompleted by the Firm (“**Uncompleted Qualified Cases**”) and no payment for any Service rendered in respect of the Uncompleted Qualified Cases shall be made to the Firm. The Government shall not be responsible for any loss or damage to the Firm in connection with, arising from and in relation to such termination.
  
- (e) The Government may terminate the Contract immediately or with effect from such later date as may be specified by the Official Receiver in the notice upon the occurrence of any of the following events:
  - (i) the Firm and/or any of its Appointment Takers has/have engaged or is/are engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security;
  - (ii) the continued engagement of the Firm or the continued performance of the Contract is contrary to the interest of national security; or
  - (iii) the Government reasonably believes that any of the events mentioned above is about to occur.

12. Notices

- (a) Each notice, demand, invoice, correspondence or other communication given or made under the Contract by a party shall be in writing and delivered or sent to the other party at its address or facsimile number, set out below (or such other address or facsimile number, as the addressee has by not less than 7 Working Days' prior written notice specified to the other party).

To the Firm:                      At the address or facsimile number as specified in Annex III submitted by the Firm or at the address or facsimile number as subsequently notified to the Official Receiver by the Firm.

To the Government:        10<sup>th</sup> Floor, High Block, Queensway Government Offices,  
66 Queensway, Hong Kong

- (b) Such notices, demands, invoices, correspondence or other communications shall be addressed as provided in Clause 12(a) and, if so addressed, shall be deemed to have been duly given or made as follows:
- (i) if sent by personal delivery during normal business hours on a Working Day, upon delivery at the address of the relevant party;
  - (ii) if sent by post, 4 Working Days after the date of posting; and
  - (iii) if sent by facsimile during normal business hours on a Working Day, when despatched with confirmed receipt as evidenced by the transmission report generated at the end of the transmission of such facsimile by the facsimile machine used for such transmission.

13. Continuation of Qualification Status

- (a) The qualification requirements in Annex I are continuing requirements with which the Firm and its Appointment Takers shall continue to comply throughout the Contract Period.

- (b) Without prejudice to sub-clause (a) above, during the Contract Period, the Firm must continue to provide insolvency, accounting, legal or company secretarial services in Hong Kong and maintain at least 10 employees, 5 of them must be full-time employees of the Tenderer, and the Appointment Takers of the Firm must continue to manage the insolvency cases as referred to in Clause 2(b)(i) of Annex I.
- (c) Without prejudice to sub-clause (a) above, the Firm shall not change its Appointment Takers without the prior written approval of the Official Receiver.
- (d) Throughout the Contract Period, the Firm shall immediately inform the Official Receiver in writing of any change of circumstances or information which may affect its qualification requirements in Annex I, and any change in any information contained in the Quotation Sheet and Declarations on Details of the Tenderer (Forms A and B) submitted by the Firm.
- (e) The Firm shall provide information and documents regarding its qualification status or continuing compliance with the qualification requirements in Annex I to the satisfaction of the Official Receiver from time to time during the Contract Period as and when required by the Official Receiver.

14. Quality Audit

The Official Receiver may, upon giving not less than 7 days' prior written notice to the Firm or its Appointment Taker (provided that prior notice may be dispensed with in cases with special circumstances such as upon the court's requests), conduct quality audit of any or all the Qualified Cases handled by the Firm and/or its Appointment Takers in the current or previous year. The Official Receiver will usually conduct quality audit of around 5% of the Qualified Cases and this percentage may be adjusted as the Official Receiver considers appropriate. The Official Receiver may also conduct separate quality audit of any individual Qualified Cases as the Official Receiver may determine from time to time. The Official Receiver may conduct the quality audit on the office premises of the Firm and/or its Appointment Takers and/or request the Firm and/or its Appointment Takers to deliver the files and documents to the Official Receiver's Office for quality audit purpose. To facilitate the carrying out of the quality audit, the Firm and/or its Appointment Takers shall provide such assistance to the Official Receiver and/or its authorised representatives in the prescribed format and manner as may be required, including (but not limited to) the giving

of permission to enter the Firm's premises, the completion of any questionnaire that may be required by the Official Receiver, the giving of access to all information possessed or controlled by the Firm and/or its Appointment Takers and recorded or stored by whatever means which the Official Receiver considers relevant to the quality audit, the reproduction of the said information by whatever means and the use of best endeavours to provide answers to questions that may be raised from time to time.

15. Extension of the Allocation Period

- (a) The Official Receiver may extend the Allocation Period by giving written notice to the Firm not less than 30 days before the expiry of the current Allocation Period and the Official Receiver may extend the Allocation Period more than once.
- (b) The aggregate duration of the Allocation Period, including any extension, shall not exceed 30 months.

16. Governing Law

The Contract shall be governed by and construed in accordance with the laws of Hong Kong.

17. Set-off

Where the Firm has incurred any liability to the Government, whether at law or in equity and whether such liability is liquidated or unliquidated, the Government may set off the amount of such liability against any sum then due or which at any time thereafter may become due from the Government to the Firm under the Contract or any other contracts made between the Firm and the Government.

18. Variations

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

19. Entire Agreement

The Contract supersedes all prior agreements, arrangement and undertakings between the parties and constitutes the entire Contract between the parties relating to the subject matter hereof.

20. Severability

In the event that any provision of the Contract or any part of any such provisions shall at any time be adjudged to be invalid, unlawful, illegal, voidable or otherwise howsoever unenforceable under any applicable law of Hong Kong, such provision or such part of such provision, as the case may be, shall, to the extent required by such law, be severed from the Contract and rendered ineffective so far as possible without modifying the remaining provisions hereof.

21. Probity

(a) The Firm acknowledges that it has been reminded that:

- (i) dishonesty, theft and corruption on its part or that of its employees, agents or sub-contractors are criminal offences and may lead to prosecution under section 9 of the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong), sections 17, 18D and 19 of the Theft Ordinance (Chapter 210 of the Laws of Hong Kong) and section 161 of the Crimes Ordinance (Chapter 200 of the Laws of Hong Kong);
- (ii) the soliciting or accepting of advantages, as defined in the Prevention of Bribery Ordinance is not permitted.

(b) The Firm shall inform its officers, employees (whether permanent or temporary) and agents that the soliciting or accepting of advantages (as defined in the Prevention of Bribery Ordinance) is not permitted. The Firm shall also caution its officers, employees and agents 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.

- (c) The Government may terminate the Contract immediately or with effect from such later date as may be specified by the Official Receiver in the notice if the Firm or any of its officers, employees or agents is convicted of an offence under the Prevention of Bribery Ordinance, the Theft Ordinance or the Crimes Ordinance.
- (d) The Firm shall within two (2) weeks after the commencement of the Contract draw up and submit a staff code of conduct to the Government including, among other probity issues, a statement explicitly prohibiting its sub-contractor (if any), or any person employed by it to provide the Services from soliciting or accepting any form of advantages in discharging his duties under the Contract. It shall ensure that its sub-contractor (if any), or any person employed by it to provide the Services is well aware of the prohibited acts explicitly stated in Clause 21(a) and of the staff code of conduct. The code of conduct should form part of the employment contract to ensure acknowledgement and compliance by the employees.

22. Liability and Indemnity

- (a) Neither the Government nor any of its employees or agents shall be under any liability whatsoever for or in respect of:
  - (i) any loss of or damage to any of the Firm's property or that of its employees or agents however caused (whether by any Negligence of the Government or any of its employees or agents or otherwise); or
  - (ii) any injury to or death of the Firm (in the case where the Firm is a natural person) or any of its employees or agents, save and except any such injury or death caused by the Negligence of the Government or any of its employees (in the course of employment).
- (b) Without prejudice to any other provision of the Contract, the Firm shall indemnify each of the Government and its employees and agents (each an "**Indemnified Person**") against:
  - (i) any and all claims (whether or not successful, compromised, settled, withdrawn or discontinued, in whole or in part), actions, investigations,

demands, proceedings or judgments, joint or several, threatened, brought or established against an Indemnified Person (“**Claims**”); and

- (ii) any and all liabilities, losses, damages, costs, charges or expenses (including (aa) all legal fees and other awards, costs, payments, charges and expenses and (bb) any loss or damage sustained by or any injury to or death of any person in consequence of any Negligence of the Firm or any of its employees, sub-contractors or agents) which an Indemnified Person may pay or incur as a result of or in relation to any Claims,

which in any case arise directly or indirectly in connection with, out of or in relation to:

- (aa) the performance or breach of any provisions of the Contract by the Firm, its employees, agents or sub-contractors;
  - (bb) the negligence, recklessness, tortious acts or wilful omission of the Firm, its employees, agents or sub-contractors;
  - (cc) any default, unauthorised act or wilful misconduct of the Firm, its employees, agents or sub-contractor(s);
  - (dd) any claim that the use or possession of the Materials infringes the Intellectual Property Rights of any person; or
  - (ee) the non-compliance by the Firm, its employees, agents or sub-contractor(s) with any applicable law, or regulation, order or requirement of any government agency or authority.
- (c) The indemnity under Clause 22(b) shall not apply to any injury or death caused by the Negligence of an Indemnified Person.
  - (d) For the purposes of this Clause,

“Intellectual Property Rights” means patents, trade marks, service marks, trade names, design rights, copyright, domain names, database rights, rights in know-how, new inventions, designs, processes, and other intellectual property rights whether now known or created in future (of whatever nature and wherever arising)

and in each case whether registered or unregistered and including applications for the grant of any such rights;

“Materials” means any and all works and materials of whatsoever nature (including their drafts and uncompleted versions) developed, written, prepared, produced, created, collected, compiled or provided by or on behalf of or for the Firm, in relation to the Services or for the purposes of the Contract including without limitation, any reports, summaries, models, questionnaires, analyses, papers, advice, recommendations, documents, records, plans, designs, drawings, pictures, diagrams, images, sound, music, formula, tables, charts, databases, computer source codes, compilation of data or information, data or information collected, compiled, produced or created by the Firm, its employees, agents or sub-contractors in relation to the Services or for the purposes of the Contract, recorded or stored by whatever means; and

“Negligence” shall have the same meaning as that assigned to it in section 2(1) of the Control of Exemption Clauses Ordinance (Chapter 71 of the Laws of Hong Kong).

- (e) The indemnities, payment and compensation given in pursuance of the Contract by the Firm shall not be affected or reduced by reason of any failure or omission of the Government in enforcing any of the terms and conditions of the Contract.

23. Dispute Resolution and Jurisdiction

- (a) The Parties shall first refer any dispute or difference arising out of or in connection with the Contract to mediation in accordance with The Government of the Hong Kong Special Administrative Region Mediation Rules prevailing at the time.
- (b) If the said dispute or difference is not settled by mediation according to Clause 23(a) above, a Party may institute litigation in respect of the said dispute or difference. The Parties agree that the courts of Hong Kong shall have exclusive jurisdiction in respect of the said dispute or difference.

24. Assistance in Legal Proceedings

- (a) If and whenever requested to do so by the Government Representative, the Firm shall provide to the Government all relevant information, documents (including documentation and statements from staff) and other assistance in connection with any inquiry, investigation, mediation, arbitration, tribunal hearings or court proceedings in which the Government may become involved or any internal disciplinary hearing of the Government that arises out of or in connection with the Contract or the Firm's presence at the Government's premises. If requested by the Government, the Firm shall arrange for relevant staff to give evidence at such inquiries, investigations, arbitrations, hearings or proceedings or to participate and/or provide assistance at such mediation.
- (b) Where the Firm or any employees, agents or contractors of the Firm become aware of an incident, accident or other matter which may give rise to a claim or legal proceedings by a third party against the Government or the Firm or in respect of the Contract, it shall notify the Government Representative immediately in writing giving full details of such incident, accident or matter as the Government Representative may require.

25. Non-exclusive Contract

Nothing in the Contract shall preclude the Government from procuring any Services from any other service providers.

26. Relationship of the Parties

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

27. Disclosure of Information

- (a) The Firm hereby irrevocably authorises, consents and agrees that the Government may, whenever it considers appropriate or upon request by any person (written or

otherwise) and without any further reference to the Firm, disclose to any person in such form and manner as the Government considers fit:

- (i) a brief description of the Services provided or to be provided by the Firm;
  - (ii) the Required Subsidy and any other fees, cost and expense payable to the Firm pursuant to the Contract;
  - (iii) the engagement by the Government of the Firm under the Contract and the name and address of the Firm; and
  - (iv) the date of award of the Contract.
- (b) Nothing in this Clause 27 or in Clauses 8 and 22 of the Terms of Tender shall imply or be construed that the Government owes any duty of confidentiality to the Firm including without limitation in relation to any information of or concerning this Contract or the Firm or the Services.
- (c) For the avoidance of doubt, the provisions in Clause 8 of the Terms of Tender (Personal and Other Data Provided) shall also apply to the personal data provided by the Firm from time to time during the Contract. References to “Invitation to Tender” in Clause 8(a) of the Terms of Tender include the Contract and references to “Tenderer” or “Tenderers” in Clause 8 of the Terms of Tender include the successful Tenderer (viz., the Firm). The purposes for which such personal data will be used will be those as set out in Clause 8(a) of the Terms of Tender, and also for enforcement and administration of the Contract and payment.

## 28. Force Majeure

- (a) A party affected by an event or events of Force Majeure shall as soon as possible give notice in writing to the other party of the occurrence of the event of Force Majeure. Subject to sub-clauses (b) and (c) below, the affected party may be excused from performance of the obligations under the Contract for so long as such event shall continue.
- (b) In the event that performance of obligations under the Contract is delayed by Force Majeure, the parties shall endeavour to achieve expeditiously the normal pursuit of

the Contract and to make up for the time lost. In all other respects the obligations of the parties under the Contract shall be unaffected.

- (c) If the performance by the Firm of its obligations under the Contract is prevented or affected by the event or events of Force Majeure for a period of twenty-eight (28) consecutive days or longer, the Government shall be entitled, at the expiration of such period, to terminate the Contract by not less than seven (7) days' notice in writing to the Firm.

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

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

## **WORK SPECIFICATIONS**

### 1. Appointment as Joint and Several Provisional Liquidators

Where the Official Receiver allocates a Qualified Case to a Firm, the Official Receiver will appoint two Appointment Takers of the Firm as the provisional liquidators of the company being wound up in that Qualified Case pursuant to section 194(1A) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong). The Firm's Appointment Takers shall take up the appointment as joint and several provisional liquidators in each Qualified Case allocated to the Firm by the Official Receiver during the Allocation Period.

### 2. No Right of Refusal

The Firm and the Appointment Takers shall perform the Services in the Qualified Cases allocated to the Firm by the Official Receiver during the Allocation Period. The Firm shall have no right to reject or to refuse to accept any such allocation.

### 3. Full-time Employees

The Firm and the Appointment Takers shall ensure that all Qualified Cases allocated to the Firm are handled in a professional and expeditious manner. In this regard, the Firm:

- (a) must keep and maintain throughout the Contract Period not less than 10 employees including at least 5 full-time employees. For the purpose of counting these 5 full-time employees, the proprietor (in case of the Firm being a sole proprietorship), the partners (in case of the Firm being a partnership), the directors (in case of the Firm being a limited company) and the Appointment Takers of the Firm are excluded; and
- (b) shall not cause or permit any part of the Services to be carried out by any employee who is not being under its direct employment. All full-time employees employed by the Firm to perform the Services must be stationed in Hong Kong.

### 4. Data Privacy

The Firm shall comply with the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong) in relation to all personal data it is required to handle for performing

the Services (“**the Personal Data**”). Without prejudice to the generality of the foregoing, the Firm shall comply with the following specific requirements:

- (a) The Firm and the Appointment Takers shall provide written guidelines and training for its employees on the secure handling of the Personal Data;
- (b) The Firm and the Appointment Takers shall not keep the Personal Data upon completion of the Services;
- (c) The Firm and the Appointment Takers shall not process, use or disclose the Personal Data other than for the purpose of performing the Services;
- (d) The Firm and the Appointment Takers shall immediately report to the Official Receiver in writing with details on any suspected case of loss, unauthorised or accidental use or disclosure of the Personal Data.

5. Tasks and Duties

- (a) In respect of a Qualified Case allocated to the Firm by the Official Receiver, the Firm’s Appointment Takers acting as the provisional liquidators in that Qualified Case shall, with professionally acceptable standards, perform, discharge and comply with all such tasks, duties and requirements as may be imposed on them pursuant to this Contract and all such tasks, duties and requirements as are necessary or may be imposed on a provisional liquidator under and pursuant to the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), including but not limited to the duty to convene the first meetings of creditors and contributories under section 194(1)(b) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) unless a summary procedure order is granted by the court.
- (b) Where the Firm’s Appointment Takers who acted as joint and several provisional liquidators in a Qualified Case are appointed as the joint and several liquidators of that Qualified Case pursuant to a summary procedure order granted by the court under section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), such Appointment Takers shall, with professionally acceptable standards, perform, discharge and comply with all such

tasks, duties and requirements as may be imposed on them pursuant to this Contract and all such tasks, duties and requirements as may be imposed on a liquidator under and pursuant to the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), until -

- (i) all outstanding matters and issues arising from the Qualified Case have been concluded;
  - (ii) they have obtained a release order from the court under section 205 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong); and
  - (iii) an order for the dissolution of the company has been obtained under section 227 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong).
- (c) In relation to a Qualified Case allocated to the Firm in which the Firm's Appointment Takers have been appointed as liquidators in Clause 5(b) hereof, after the occurrence of the events stated in Clauses 5(b)(i) to (iii) above, such Appointment Takers shall, without additional remuneration or payment, continue to perform such tasks, and provide to the Official Receiver such assistance and information, as may be required by the Official Receiver in relation to or for the purpose of the handling or administration of such Qualified Case, and continue to perform, discharge and comply with such tasks, duties or requirements under the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), including but not limited to dealing with and completing all outstanding matters and issues arising from the Qualified Case for whatever reasons after their obtaining the release order under section 205 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and the order for the dissolution of the company under section 227 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong), and making application under section 290 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong).

6. Statistics and Information

As and when required by the Official Receiver and within such time as the Official Receiver may specify, the Firm shall provide to the Official Receiver all the relevant statistics and information and produce any documents in connection with the Qualified Cases in the prescribed format and manner, including but not limited to the records required to be kept by the Appointment Takers under section 201 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong).

7. Application for Summary Procedure Order

- (a) Subject to sub-clause (b) hereof, the Firm's Appointment Takers, when appointed as joint and several provisional liquidators in a Qualified Case, shall apply to the court within 3 months of the date of the winding-up order of the company in that case for a summary procedure order pursuant to section 227F of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong).
- (b) Where the Firm's Appointment Takers have reasons to believe that the value of the assets of the company will exceed HK\$200,000, they shall forthwith and in any event no later than 12 weeks from the date of the winding-up order, notify the Official Receiver of the same, and shall within 3 months of the date of the winding-up order, arrange to convene the first meeting of creditors and contributories under section 194(1)(b) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) and rule 106 of the Companies (Winding-up) Rules (Chapter 32H of the Laws of Hong Kong) unless the court otherwise directs under rule 106 of the Companies (Winding-up) Rules (Chapter 32H of the Laws of Hong Kong).
- (c) In the event that an application for a summary procedure order pursuant to Clause 7(a) above was made with the court but no summary procedure order is granted by the court within 4 months, the Firm's Appointment Takers shall forthwith inform the Official Receiver and make enquiries with the court and update the Official Receiver the status of the application until the application is disposed of by the court.
- (d) In the event that the application for a summary procedure order made pursuant to Clause 7(a) above is dismissed by the court or the court otherwise refuses to grant a

summary procedure order, subject to the terms of the order of the court, the Firm's Appointment Takers acting as provisional liquidators shall:

- (i) inform the Official Receiver forthwith and in any event no later than 7 days from the date of the relevant order for the dismissal of the application for or the refusal to grant a summary procedure order; and
  - (ii) convene the first meeting of creditors and contributories for the purpose of appointing liquidator within 12 weeks after the court order dismissing the application or refusing the grant of a summary procedure order.
- (e) In the event of the Firm's Appointment Takers applying for rescission of the summary procedure order obtained in any Qualified Case allocated to the Firm, the Firm shall:
- (i) serve on the Official Receiver within 7 days of the lodging of such application a notice in writing setting out therein the basis and justifications for such application together with a statement of the assets realized and liabilities of the wound up company and an estimate of the costs of convening the first meeting of the creditors and contributories for the purposes of appointing a liquidator; and
  - (ii) convene the first meeting of creditors and contributories for the purpose of appointing liquidator within 12 weeks after the summary procedure order is rescinded.
- (f) For the avoidance of doubt, Clauses 9(g), (h) and (i) of the Conditions of Contract do not apply to the convening of the meetings of creditors and contributories provided in sub-clauses (b), (d)(ii), and (e)(ii) above.
- (g) In the event a meeting of creditors or contributories mentioned in sub-clauses (b), (d)(ii) or (e)(ii) above is convened, the Firm's Appointment Takers shall within 7 days from the date of the meeting notify the Official Receiver the result of the meeting, and submit to the Official Receiver a copy of the minutes of the meeting together with a copy of the memorandum of resolutions passed at the meeting that has been filed with the court.

8. Release

The Firm's Appointment Takers shall apply to the court for release under section 205 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) in an expeditious and professional manner after all outstanding matters and issues arising from the Qualified Case have been concluded.

9. Criminal Offences

(a) The Firm's Appointment Takers shall in respect of a Qualified Case allocated to the Firm by the Official Receiver conduct investigation and immediately report to the Official Receiver where there is reason to believe that any offence under the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) and/or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) has been committed by the director. The Firm's Appointment Takers shall take such part and give such assistance, including acting as the witness if required, in relation to the prosecution and/or application for disqualification order conducted in relation to the company being wound up as the Official Receiver may direct.

(b) The Firm's Appointment Takers shall in respect of a Qualified Case allocated to the Firm by the Official Receiver provide all information and give assistance in the prescribed format and manner, including acting as the witness if required, in relation to the prosecution and/or disqualification action against any persons other than the director under the Companies Ordinance (Chapter 622 of the Laws of Hong Kong) and/or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32 of the Laws of Hong Kong) as the Official Receiver may direct.

10. Professional Standards

The Firm and its Appointment Takers shall ensure that the performance of the Firm complies in all respects with (a) the accepted professional standards and ethical guidelines of their relevant professions; and (b) the standard and requirements of the court.

11. Submission of Information and/or Documents

- (a) All the information and/or documents in respect of the Qualified Cases to be submitted by the Firm and/or its Appointment Takers to the Official Receiver under the clauses of the Work Specifications shall be submitted in the prescribed format, manner and through the means (including but not limiting to electronic means through designated application system) as the Official Receiver may from time to time direct.
- (b) The Firm and its Appointment Takers shall register and cause its staff performing the Services to register as users under the Electronic Submission System of Official Receiver's Office, and submit and receive the specified information and/or documents in respect of the Qualified Cases through the system as and when required by the Official Receiver.