

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

1. DEFINITIONS

1.1 In these Terms and Conditions, unless the context otherwise requires:

- a) **"Account Manager"** has the meaning ascribed to it in **Clause 33**.
- b) **"Approved Broker"** means such insurance broker appointed by Company from time to time to determine Vendor Insurance and perform such other task or obligation on behalf of Company in respect of Vendor Insurance as described in **Clause 43.1**. **"Approved Broker"** shall, for the purpose of the Contract, mean Marsh (Singapore) Pte Ltd (UEN: 197200396D) unless Company specifies otherwise in writing.
- c) **"Area"** means the area within the Site upon which Vendor Works (including the delivery, testing, installation and commissioning of the Equipment) is to be undertaken.
- d) **"Claim"** means all claims, liabilities, losses, demands, damages, liens, causes of action of any kind, obligations, costs, judgments, interest and awards (including recoverable legal counsel fees and costs of litigation of the person asserting the Claim), whether arising by law, contract, tort, voluntary settlement or otherwise.
- e) **"Commencement Date"** means such date set out in Vendor Programme by which Vendor is to commence Vendor Works.
- f) **"Completion Deadline"** means in respect of any Milestone, the relevant date specified in Vendor Programme by which Vendor is to perform and complete such Milestone.
- g) **"Company"** means Sengkang Health Pte. Ltd. (UEN No. 201220357K).
- h) **"Contract"** means the resultant contract between Company and Vendor for the supply, installation and commissioning of the Equipment under these Terms, such other terms set out in Company's Letter of Award, and any further documents agreed between the parties in writing.
- i) **"Contract Price"** means the price payable to Vendor for Vendor Works including the supply, installation and commissioning of the Equipment to Company under the Contract.
- j) **"Equipment"** means all the equipment which Vendor is required to supply, install and commission to Company as set out in the RFP, and includes all accompanying or necessary Software.
- k) **"Final Completion Deadline"** means the Completion Deadline specified in Vendor Programme, by which Vendor is to perform and complete all of Vendor Works (but excluding the warranty services set out in **Clause 18**).
- l) **"Force Majeure Event"** has the meaning ascribed to it in **Clause 22.1**.
- m) **"GIRO"** means the Interbank GIRO system of payment and settlement which allows customers of a participating bank, upon successful application for the scheme, to transfer funds, through direct debits and credits, to the account(s) of another customer of other participating banks.
- n) **"GST"** means the goods and services tax chargeable under the Goods and Services Tax Act (Cap.117A).
- o) **"Intellectual Property Rights"** includes but is not limited to any patent, copyright, design right, trade mark, service mark, trade dress, trade name, goodwill, geographical indication, integrated circuit layout-design right, know-how, confidential information, trade secret, any application (whether pending, in process or issued) for any of the foregoing, and any other industrial, intellectual property or protected right similar to the foregoing (whether registered, registerable or unregistered) in any country, in any form, media, or technology now known or later developed.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- p) **"Legal Requirements"** means all laws and regulatory requirements, judgements, injunctions, codes of practice, local or international standards, conditions, directives, policies or measures of any kind on the part of any government, regulatory body, court or competent authority in all applicable jurisdictions and any permits and licences, applicable or necessary for the performance of an activity or undertaking in any applicable jurisdictions from time to time.
- q) **"Letter of Award"** has the meaning ascribed to it in **Clause 2.6 of Section 1**.
- r) **"Loss"** means all losses, liabilities, settlement sums, costs (including, without limitation, legal costs and costs of other professionals), charges, expenses, actions, proceedings, claims and demands.
- s) **"Main Contract"** means the contract between the Government of Singapore and the Main Contractor for the construction, testing, commissioning and completion of the new Integrated Regional Hospital, a Community Hospital and Specialist Outpatient Clinics and other building works under the Project.
- t) **"Main Contractor"** means Penta-Ocean Construction Company Limited (UEN: S65FC1678A), the building contractor engaged and appointed by the Government of Singapore under the Main Contract.
- u) **"Main Contractor Rules"** means the Main Contractor's site or in-house rules from time to time governing access to the Site.
- v) **"Main Contractor Programme"** means the Main Contractor's programme in respect of the Project from time to time.
- w) **"Milestone"** means, in respect of each Phase, each key stage of Vendor Works which is identified as a "Milestone" in Vendor Programme.
- x) **"Minimum Uptime Requirement"** means Company's minimum Uptime requirement as set out in Section 3.
- y) **"Phase"** means each major phase of Vendor Works to be completed by Vendor comprising Phase 1 and Phase 2 respectively, and "Phase" is a reference to any one of them.
- z) **"Phase 1"** means the phase indicated as "Phase 1" in the Vendor Programme in relation to such works undertaken by Vendor prior to the commissioning of the Equipment including the delivery of the Equipment and any assembly, installation [and testing] of the same Vendor.
- aa) **"Phase 2"** means the phase indicated as "Phase 2" in the Vendor Programme in relation to such commissioning and post-commissioning works undertaken by Vendor in respect of the Equipment.
- bb) **"Project"** means the Proposed Development of an Integrated Regional Hospital, a Community Hospital and Specialist Outpatient Clinics on Lot 02019N PT & Lot 02466A PT MK21 at Sengkang East Way / Sengkang East Road / Anchorvale Street (Sengkang Planning Area), Singapore.
- cc) **"SIAC"** has the meaning ascribed to it in **Clause 26.1**.
- dd) **"Singapore Dollar(s)"** and the sign **"S\$"** mean the lawful currency of Singapore.
- ee) **"Site"** means the area known as Lot 02019N PT & Lot 02466A PT MK21 at Sengkang East Way / Sengkang East Road / Anchorvale Street (Sengkang Planning Area), Singapore in respect of which the Project is to be carried out.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- ff) **"Software"** means any computer programmes, applications, or codes which may be ancillary or supplementary to, or necessary for the efficient operation of, the equipment to be supplied to Company by Vendor under the Contract, together with the legitimate license granted by the owners of the Intellectual Property Rights therein; and the media in which the programmes, applications, or codes are stored; together with the accompanying documentation relating to the installation, maintenance and usage of the same.
- gg) **"Request for Proposal"** or **"RFP"** means the request for proposal no. **SKH_MMD_RFP_17_0108_QNJ** for Supply, Delivery, Installation, Testing And Commissioning of Spectrometers, Mass, Laboratory for New Sengkang Hospital issued by Company upon the terms set out in the RFP Documents.
- hh) **"RFP Documents"** means **Section 1, Section 2, Section 3 and Section 4**, and all schedules and appendices thereto, of the RFP. Any reference in the Contract to Section 1, Section 2, Section 3 and/or Section 4 is a reference to the Sections of the RFP.
- ii) **"Terms"** means the terms and conditions set out in this **Section 2** and any amendments and supplement to the same effected in accordance with the terms herein.
- jj) **"Third Party"** means any person that is not a party to the Contract.
- kk) **"TOP Date"** means such date on which a temporary occupation permit for the [Project] has been issued by the relevant authorities pursuant to the Building Control Act (Cap. 29).
- ll) **"Uptime"** means in respect of the Equipment, such period of time during which the Equipment is determined by Company to be capable of productive and error-free operation.
- mm) **"Vendor"** means the party or parties who or which has undertaken to supply, install and commission the Equipment under the Contract, and where there is more than one party who or which has so undertaken, refers to all such parties jointly and severally.
- nn) **"Vendor Programme"** means the programme set out in Appendix 2b of **Section 2**.
- oo) **"Vendor Works"** means all the works undertaken by Vendor in relation to the supply, design, fabrication, installation and the testing and commissioning of the Equipment (and includes, for the avoidance of doubt, the commissioning and testing works set out in **Clauses 6 and 7** respectively), and the performance of all other obligations of Vendor under these Terms from time to time.
- pp) **"Vendor's Agents"** has the meaning ascribed to it in **Clause 31.1**.
- qq) **"Vendor's Personnel"** means the representatives, agents, sub-contractors and employees appointed by Vendor for the purposes of performing the Contract, including but not limited to the Account Manager and the deliverymen appointed pursuant to **Clause 33**.
- rr) **"Warranty Period"** has the meaning ascribed to it in **Clause 18.1**.
- 1.2 Words importing the singular include the plural and *vice versa*. Words denoting the masculine gender shall include, where appropriate, the feminine gender and the neuter gender, and *vice versa*.
- 1.3 Any reference to time is a reference to Singapore time.
- 1.4 Any reference to any legislation, statute or statutory provision in these Terms includes a reference to that legislation, statute or statutory provision as from time to time modified or re-enacted, and to any repealed legislation, statute or statutory provision which it re-enacts (with or without modification), and all regulations, rules and statutory instruments (however described) issued under it.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- 1.5 Unless otherwise expressly provided, any reference in these Terms to a “**Clause**” or a “**Appendix**” is a reference to the relevant clause of, or appendix to, these Terms.
- 1.6 Where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning.

2. OVERVIEW OF VENDOR SCOPE

- 2.1 Subject to, and in accordance with, the provisions of the Contract, Vendor shall have the right and the responsibility to carry out and perform the following services arising from or in connection with the supply of the Equipment under the Contract:

- a) the overall structural engineering, design and construction of the Equipment;
- b) obtaining and arranging for the storage facilities as Vendor deems appropriate for storage of the Equipment prior to its delivery to the Area;
- c) the transportation and delivery of the Equipment to the Area in accordance with **Clause 6**;
- d) the proper assembly and installation of the Equipment within the Area;
- e) testing and commissioning of the Equipment in accordance with **Clause 7**;
- f) the provision of warranty services in respect of the Equipment in accordance with **Clause 18**; and
- g) overall security, protection (including fire protection) and safety in respect of the Equipment at the Area;
- h) such other services, functions, processes, and responsibilities described in these Terms, the Schedules and annexes; and
- i) any other services, functions, processes, and responsibilities not specifically described in these Terms but that are necessary and incidental to the performance of the foregoing Services;

(collectively, the “**Vendor Works**”) upon the terms and conditions contained in the Contract.

- 2.2 General Standards: Subject to, and in accordance with, the provisions of the Contract, Vendor shall be solely responsible for procuring that Vendor Works are at all times performed:

- a) in a manner consistent with the Main Contractor Rules;
- b) in compliance with all Legal Requirements; and
- c) in a manner that is not likely to be injurious to health or to cause damage to property.

- 2.3 Vendor Acknowledgement: Vendor acknowledges that it shall be solely responsible for procuring and maintaining such access rights to the Area from the Main Contractor in accordance with **Clause 3** that are sufficient to:

- a) enable Vendor to perform Vendor Works;
- b) exercise rights of passage over, access to and egress from the Area for the purpose of Vendor performing its obligations; and
- c) enter upon the Area.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- 2.4 Vendor agrees that it has not relied in any way on any information provided by Company or any person acting on behalf of or associated with Company, and Vendor has relied absolutely on its own opinion and professional advice based upon its own independent analysis, assessment, investigation and appraisal in deciding to undertake Vendor Works and / or to enter into the Contract.
- 2.5 Without limiting any other provision in these Terms, if any access right obtained in accordance with **Clause 2.3** is revoked, withdrawn, made subject to any condition, or expires (without having been renewed), Vendor shall:
- a) immediately inform Company in writing of such revocation, withdrawal, condition or expiry, and the impact of that revocation, withdrawal, condition or expiry on Vendor's ability to undertake Vendor Works; and
 - b) promptly do everything necessary to regain or renew those access rights in a manner consistent with these Terms. For the avoidance of doubt, notice given by Vendor under this **Clause 2.5** does not affect Vendor's obligations under the Contract.

3 SITE AND SITE ISSUES

- 3.1 Vendor acknowledges that the Main Contractor has been given full possession of the Site. Accordingly, Vendor shall liaise and coordinate with the Main Contractor in relation to its rights of access set out in **Clause 2** and shall comply with such conditions, security regulations or procedures or directions as may be notified to Vendor or imposed on Vendor by Main Contractor from time to time including the Main Contractor Rules. Vendor shall ensure that all Vendor personnel and subcontractors observe, and comply fully with, such conditions, security regulations or procedures or directions.
- 3.2 Vendor acknowledges that any access licence in respect of the Area shall be solely for the purposes of carrying out Vendor Works and agrees that such access licence shall be subject always to the rights of the Main Contractor (and its subcontractors and consultants) to have access to the Area for the purpose of carrying out the Project.
- 3.3 Vendor shall ensure that all Vendor Works carried out at the Area and / or the Site by or on behalf of Vendor shall be carried out in a manner which does not breach any provisions of the Main Contractor Rules. Vendor is liable for and will indemnify, defend and hold harmless Company, from and against all Claims made against, or any Loss suffered by Company as a result of or in connection with any breach by Vendor of this **Clause 3.3**.
- 3.4 Without prejudice to any other obligation of Vendor under these Terms, Vendor shall be deemed to have:
- a) inspected and examined the Area, the Site and any existing structures or works on, over or under the Site;
 - b) satisfied itself as to the adequacy of the rights of access to and through the Area and the Site and any accommodation it may require for the purposes of fulfilling its obligations under these Terms (such as additional land or buildings outside the Area); and
 - c) satisfied itself as to the nature and condition of the Area and the Site.
- 3.5 Vendor accepts full responsibility for all matters referred to in **Clauses 2 and 3** and Vendor shall not be entitled to make any claim against Company of any nature whatsoever on any grounds including any disruption to Vendor's ability to carry out Vendor Works as a consequence of any delays in the Project undertaken by the Main Contractor.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- 3.6 Vendor shall not hinder or impede progress of the Main Contractor in the execution and completion of the Project. Any loss, expense, costs, damages, liability or claim arising directly or indirectly from any delays in completion of the Project, or any phase or part of the Project, re-working or variations to the building works and/or other works in the Project which have arisen due to or are necessitated by or are intended to cure any default of or breach of contract by Vendor shall be the entire responsibility of and shall be borne by Vendor.
- 3.7 If Vendor needs to mount any of the Equipment onto any such prestressed cables / post tensioned beams in the Area, Vendor shall obtain a qualified person's calculation and endorsements at its own cost.

4. SUPPLY OF VENDOR WORKS AND EQUIPMENT

- 4.1 Vendor shall carry out and complete Vendor Works for each Phase by the relevant Completion Deadline applicable to such relevant Phase.
- 4.2 Time is of the essence for the performance of Vendor's obligations under the Contract and any failure to meet any Completion Deadline for more than 30 days shall for the purpose of **Clause 23.2**, be deemed to be a breach of the Contract which entitles Company to terminate the Contract.
- 4.3 Vendor agrees to supply, install, test and commission the Equipment to Company as per the requirements set out in **Section 3** on these Terms.
- 4.4 The Equipment shall, where relevant, be supplied, installed, test and commissioned by Vendor together with all ancillary cables, plugs, power adapters, operating and maintenance manuals and such other parts, components or items which are necessary for the normal and efficient use of the Equipment, and all such parts, components or items shall be deemed part of the Equipment for the purposes of the Contract, and all warranties and provisions relating to delivery and passing of title and risk under the Contract shall accordingly be applicable thereto. The cost of providing all such parts, components or items shall be deemed to be included in the Contract Price.

5. LIQUIDATED DAMAGES

- 5.1 Vendor shall carry out and complete Vendor Works for each Phase by the relevant Completion Deadline for that Phase as set out in Vendor Programme.
- 5.2 The initial Vendor Programme is set out in Appendix 2b of Section 2. The Parties agree and acknowledge that any change to Vendor Programme shall only be made in accordance with **Clause 24.1**.
- 5.3 The Parties agree that, with regards to any Milestone, if Vendor fails to successfully complete all requirements for that Milestone (as evidenced by Company's issuance of the relevant Acceptance Certificate for that Milestone) by the relevant Completion Deadline, Vendor shall pay to Company as and by way of liquidated damages, the sum equivalent to 0.5% of the Contract Price for each day of delay (including Sundays and Public Holidays) or part thereof after the relevant deadline, subject to a maximum of 10% of the Contract Price.
- 5.4 If Vendor fails to meet any Minimum Uptime Requirement, Company reserves the right to require Vendor to pay, as and for liquidated damages (and not as a penalty), a sum to be calculated at the rate of one half per cent (1/2%) for each day or part thereof that the Equipment fails to satisfy the Minimum Uptime Requirement.
- 5.5 Liquidated damages imposed under **Clause 5** above shall be paid to Company not later than 30 days from the date of issuance of Company's written notification to Vendor informing Vendor of the amount of liquidated damages payable.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

5.6 Company shall be entitled to deduct a sum equivalent to the liquidated damages payable and/or any payment due to Company under **Clause 5** from any monies due or to become due to Vendor failing which the liquidated damages and/or such payments shall be a debt due from Vendor to Company. Company shall be entitled to charge interest on any delayed payment by Vendor at the rate of eight per cent. (8%) *per annum* or the maximum rate of interest permitted by law, if lower.

6 DELIVERY

6.1 Time of delivery is of the essence.

6.2 If Vendor fails to deliver the Equipment by the relevant Completion Deadline, Company shall be entitled, without prejudice to its accrued rights against Vendor for failure of or late delivery, to obtain such Equipment from other sources and in such event to reject late delivery of Vendor's Equipment in favour of delivery by such substitute source, and all additional costs in obtaining such Equipment from such alternative sources, including Company's administrative costs and any positive price differential for the Equipment or such generic substitute or alternatives thereto accepted by Company, shall be borne by Vendor.

6.3 Delivery of the Equipment shall be made to the Area, at the expense of Vendor.

6.4 Company shall not be considered to have accepted delivery of, and delivery shall not be deemed to have occurred for, the Equipment or any part thereof until after Company or its appointed representative has actually inspected the Equipment at the place of delivery under **Clause 6.3** above and ascertained that it appears to be in accordance with the requirements under the Contract, and Company has notified Vendor of the same. Company may reject the Equipment if it is not in full compliance with the requirements under the Contract, and Vendor shall at its own expense immediately take all necessary steps to ensure due compliance.

6.5 In the event that part or all of the Equipment is rejected by Company, Vendor shall, within 3 working days of notification of rejection from Company, collect the same from Company, failing which Company may dispose of such rejected Equipment as it sees fit, **PROVIDED** that if Company sells such rejected Equipment, Company shall account to Vendor for the net proceeds of such sale after deducting all expenses incurred in connection with the sale, subject to the right of Company to set off any amounts owing by Vendor to Company.

6.6 Vendor shall obtain at its own risk and expense all export and import licences and other official authorisation or other documents which may be necessary for the delivery of the Equipment to Company, and shall carry out, where applicable, all customs formalities necessary for the export of the Equipment, for their transit through any country and for their import and delivery to Company.

7 INSTALLATION, TESTING AND COMMISSIONING

7.1 Vendor shall fully acquaint itself with the structural, electrical, plumbing and/or other provisions pertinent to the Equipment to be supplied under the Contract.

7.2 Vendor shall install, test and commission the Equipment in accordance with Vendor Programme.

7.3 The cost of such installation, testing and commissioning (including the cost of procuring and installing any sub-frame supports to mount the Equipment) shall be deemed to be included in the Contract Price. The relevant drawings associated with the installation of the Equipment are appended in Appendix 3D. Such drawings are made available for Vendor's information only and shall in no way relieve Vendor of his responsibilities in obtaining all necessary or relevant information on the exact location and actual levels and dimensions including carrying out any additional checks and verifications at the Site for installation for the Equipment. All costs arising

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

out of or in connection with such checks and verifications shall be borne by Vendor. Vendor shall not be entitled to any extra payment, damages, loss and expense or extension of time arising out of and in connection with any information provided by Company.

- 7.4 Vendor warrants that the installation of the Equipment shall be free from all defects, patent or latent, and that upon completion of installation, the Equipment shall be fully and efficiently operable in compliance with all applicable legal and regulatory requirements when used in accordance with any relevant operating manuals, and shall be fit and safe for its intended uses.
- 7.5 Vendor shall be responsible for and shall make good any damage to any property caused by its employees or agents in the course of installing the Equipment, and shall leave the same in as good a state of repair as it was in prior to the installation.
- 7.6 Vendor shall, in respect of the testing and commissioning of the Equipment to be carried by Vendor under the Contract, be suitably equipped with all necessary test and measuring instruments, which shall be fully calibrated, and shall provide competent personnel who shall test and demonstrate the Equipment in accordance with the instructions of, and in the presence and to the satisfaction of, personnel designated by and representing Company. Any Equipment in respect of which such testing is required shall not be deemed accepted and commissioned until Company notifies Vendor of the same.

8 PASSING OF RISK AND TITLE

- 8.1 Subject always to **Clause 8.2**, title to the Equipment will pass to Company on the TOP Date, free of any encumbrance of Vendor or any Third Party and Company will on such date ("**Title Transfer Date**"), become the owner of such Equipment, upon Company's satisfaction that:
- a) the Equipment has been satisfactorily delivered in accordance with **Clause 6**; and
 - b) there is no damage to the Equipment or any outstanding defects of the same that remain unresolved on the Title Transfer Date.
- 8.2 Vendor shall take full responsibility for the care of, and risk of loss or damage to the Equipment from the time such Equipment has been delivered in accordance with **Clause 6**. Vendor acknowledges and agrees that notwithstanding any Title Transfer Date, risk of loss or damage to the Equipment only passes to Company when the Equipment has been satisfactorily installed, tested and commissioned in accordance with **Clause 7**.
- 8.3 The Parties acknowledge that the consideration for the transfer of title to the Equipment under **Clause 8.1** is included in the Contract Price, and that Vendor shall be entitled to no remuneration or consideration other than the Contract Price in relation to the transfer of title to the Equipment.

9 MARKINGS AND PACKAGING OF EQUIPMENT

- 9.1 Without prejudice to the generality of the foregoing, the Equipment shall be marked in accordance with the instructions of Company or the requirements set out in **Section 3** and all applicable legal and regulatory requirements, and shall be properly packed and secured so as to allow for efficient and convenient transportation of the Equipment without any detriment to the condition of the same.
- 9.2 The Equipment shall be marked and/or packed and secured and delivered in compliance with all applicable legal and regulatory requirements.

10 QUALITY AND STANDARDS

- 10.1 Vendor undertakes in favour of Company that the Equipment supplied shall conform in all respects to the relevant specifications set out in the Contract, and shall be tropicalised and

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

capable of continuous, trouble-free and efficient operation in the ambient non-air-conditioned environment of Singapore.

- 10.2 Vendor further undertakes in favour of Company that the Equipment supplied or to be supplied shall be free from all defects, patent or latent, and fit not only for the purposes for which they may generally be expected to be used for, but also for all relevant purposes notified (whether in writing or orally) to Vendor for the purposes of the Contract, and shall meet the standard of satisfactory quality, as the same is provided in the Sale of Goods Act (Cap. 393). Vendor hereby also acknowledges that it is aware of the purposes for which the Equipment is intended.
- 10.3 Vendor warrants that the Equipment supplied shall in all respects (including the design, manufacture, processing, storage and testing thereof) comply with all legal, regulatory and health and safety requirements, and meet all relevant industry standards, and undertakes to comply at all times with all legal and regulatory requirements and obtain all licences, consents and permits as may be necessary for the supply and delivery of the Equipment from time to time. In the event of a change in legal or regulatory requirements during the course of the supply of the Equipment under the Contract, Vendor undertakes to take all necessary actions for complying with the same, at its own expense and shall not be entitled to any extension of time for any delay thereby caused.
- 10.4 All representations, statements or warranties made or given by Vendor, its servants or agents to Company, whether in writing or orally, regarding the quality or fitness for purpose of the Equipment or any part thereof shall be deemed to be express conditions of the Contract, **PROVIDED** that nothing in such representations, statements or warranties shall entitle Vendor to derogate from, or relieve Vendor in any way of, its obligations to ensure that Equipment supplied comply with all requirements, warranties and conditions in the Contract including **Section 3**.
- 10.5 The exhibition or demonstration of the Equipment by Vendor to Company shall not in any way prejudice the requirements of **Clause 10**, and shall not entitle Vendor to derogate from, or relieve Vendor in any way of, its obligations to ensure that Equipment supplied comply with all requirements, warranties and conditions in the Contract including **Section 3**.
- 10.6 For the avoidance of doubt, Vendor shall be liable to compensate Company for any non-compliance with this **Clause 10**.

11 INSPECTION OF EQUIPMENT IF REQUIRED BY COMPANY

- 11.1 Where inspection of any of the Equipment, whether completed or in the course of production, is required by Company, Vendor shall give or procure for Company free access to the Equipment or the production premises as and when required for that purpose and shall provide without any fees or charges, reasonable assistance and facilities as may be required.

12 STORAGE OF EQUIPMENT

- 12.1 If a particular mode or means of containment is required for the storage of the Equipment, Vendor shall at its own expense provide Company with such instructions and training as may be necessary for the Equipment to be properly stored in full compliance with all legal, regulatory and safety requirements, as well as all relevant industry standards, as may from time to time be applicable thereto, and so as to ensure that the Equipment continue to meet the requirements of **Clause 10**.
- 12.2 In the event of a change in legal, regulatory or safety requirements or industry standards from time to time, Vendor undertakes to inform Company of such changes, and to provide any particular mode or means of containment and such instructions and training as may be necessary for the Equipment to be properly stored in full compliance with all prevailing legal, regulatory and safety requirements, as well as all relevant industry standards.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- 12.3 Vendor accepts that Company relies on Vendor in respect of the provision of the means of containment and instructions and training by Vendor pursuant to **Clauses 12.1 and 12.2** in relation to the storage of the Equipment, and the making of any request or the provision of any means of containment, instruction and training in relation to the same by Company by itself or through any third parties shall not in any way prejudice or affect the reliance placed by Company on Vendor, or the responsibility of Vendor to meet its obligations under **Clauses 12.1 and 12.2**. If Vendor requires separate and additional storage space at the Area and/or the Site for the Equipment prior to delivery or installation of the same, Vendor shall liaise directly with the Main Contractor to procure such additional storage space. Such space may be made available by the Main Contractor at its discretion and may also be subject to such conditions as the Main Contractor may impose.

13 INFORMATION

- 13.1 Vendor shall from time to time provide Company with information regarding the latest developments and availability (whether on the market or from Vendor) of new technology and/or upgraded or improved hardware and/or software which are relevant or related to the Equipment or the intended use of the Equipment. Such information shall be provided to Company in accordance with **Clause 35**.

14 REPORTING

- 14.1 Vendor shall from time to time, upon request by Company, furnish written reports to Company containing such information as Company may require about the Contract, including but not limited to the quantity and/or the value of Equipment purchased by Company (for each line item).

15 DISPOSAL OF EQUIPMENT

- 15.1 Vendor undertakes to remove at its own expense from the premises of Company and/or the Site such Equipment, including any by-products or residue thereof, and regardless of whether the same may be used (wholly or partially), damaged or expired, at such dates and times and in such manner as Company or the Main Contractor may from time to time require, and to dispose of the same, by such mode and means of containment, transportation and disposal as may be prudent or necessary.
- 15.2 Vendor further undertakes to ensure that the removal and disposal of the Equipment pursuant to **Clause 15.1** shall at all times comply with all legal, regulatory and safety requirements, and meet all relevant industry standards, applicable thereto. In the event of a change in legal or regulatory requirements or industry standards from time to time, Vendor shall be required to do all that is necessary for complying with the same, at Vendor's expense.
- 15.3 If a particular mode or means of containment is required for temporary storage, prior to removal and disposal, of any used (wholly or partially), damaged or expired Equipment, including any by-products or residue thereof, Vendor shall at its own expense provide Company and the Main Contractor with the means to so contain the used, damaged or expired Equipment, and such instructions and training as may be necessary for the used, damaged or expired Equipment to be properly stored in full compliance with all legal, regulatory and safety requirements, as well as all relevant industry standards, as may from time to time be applicable thereto.
- 15.4 Vendor accepts that Company relies on Vendor to ensure full compliance with any applicable legal and regulatory requirements in relation to the temporary storage, removal and disposal of the Equipment pursuant to **Clause 15.1**, and the making of any request or the provision of any instruction by Company or the Main Contractor in relation to the same shall not in any way prejudice or affect the reliance placed by Company on Vendor, or the responsibility of Vendor to meet its obligations under **Clause 15.2**.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

16 INDEMNITY

- 16.1 Without prejudice to any other indemnities in these Terms, Vendor shall indemnify, defend and hold harmless Company from and against:
- a) all Loss sustained or incurred by Company arising from loss of or damage to real and / or personal property (including the Equipment, the Site or any property belonging to Company or for which Vendor is responsible) or death and / or personal injury to persons;
 - b) all Loss sustained or incurred by Company under any Legal Requirement (including any breach of statutory duty); and / or
 - (c) any Loss (including legal expenses on an indemnity basis), sustained or incurred by Company in respect of any Claim made against Company by any Third Party,
- and arising from any act, omission, default, breach, performance or non-performance of Vendor Works, negligence, misconduct or fraud of Vendor or that is in any manner connected with, the performance of these Terms.
- 16.2 Without prejudice to any other indemnities in these Terms, Vendor shall indemnify, defend and hold harmless Company against any Claims by Vendor's employees, servants, officers and agents or their personal representatives or dependents arising out of or in connection with the performance of these Terms.
- 16.3 Notwithstanding any other provision of these Terms, except with the prior written consent of Company, Vendor shall not: (i) settle or compromise any cause of action, suit or other proceeding if the settlement or compromise obliges Company to make any payment or bear any liability or be subject to any injunction or other interim measures by reason of such settlement or compromise; (ii) assume any obligation or grant any rights or licences on behalf of Company; or (iii) make any statement at any time admitting liability for or on behalf of Company.

17 REMEDIES FOR INFRINGEMENTS OF INTELLECTUAL PROPERTY RIGHTS

- 17.1 All royalties and fees whatsoever claimable by or payable to any person, firm, corporation or government for or in connection with any Intellectual Property Rights used in respect of the Equipment, or any part or unit thereof supplied under the Contract, shall be deemed to be included in the Contract Price.
- 17.2 Vendor warrants in favour of Company that the Equipment to be supplied to it or any part thereof does not and will not infringe the Intellectual Property Rights of any person. In the event of Company (including for this purpose, every employee, officer or agent of Company) being held liable in any way in respect of any claim (whether for damages, account of profits or otherwise) relating to such Intellectual Property Rights arising out of or referable to Company's acceptance, possession, purchase, use or distribution of the Equipment or any part or unit thereof under the Contract, Vendor shall indemnify Company and its employees and officers against all such claims and costs, charges and expenses in respect thereof.
- 17.3 Without prejudice to Company's right to defend a claim alleging such infringement, Vendor shall, if requested by Company, but at the expense of Vendor, defend such claim. Vendor shall observe Company's directions relating to the defence or negotiation for settlement of the claim.
- 17.4 Company shall, if requested, and at Vendor's expense, provide Vendor with reasonable assistance in the defence of such claim.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

17.5 In the event of any such infringement, Vendor shall at Vendor's own expense and in favour of Company:

- a) procure for Company the right to continue accepting, possessing, purchasing, using or distributing the Equipment; and/or
- b) modify or amend or procure the modification of the Equipment or infringing part thereof so that the same becomes non-infringing without affecting the capacity and performance of the Equipment; and/or
- c) replace the Equipment or infringing part thereof by other Equipment or part thereof of identical capability and performance and of equivalent quality.

Provided always that such actions as aforesaid shall not prejudice or affect any right of action or remedy of Company against Vendor.

17.6 In the event of any actions being contemplated or instituted for alleged infringement of any Intellectual Property Rights, Company reserves the right to cancel immediately its Contract for delivery of the Equipment or parts thereof yet to be supplied to Company and/or return the Equipment or parts thereof already delivered and Vendor shall compensate Company with the Contract Price already paid to Vendor and without prejudice to **Clause 6.2**, Company reserves its right to purchase the Equipment or parts thereof from other sources without prejudice to all or any of the rights of Company's rights as contained in the Contract.

18 EQUIPMENT WARRANTY

18.1 Vendor shall provide, without prejudice to the rights of Company under law and in addition thereto, a warranty period of a minimum of a **twenty-four (24) months**, or such other period Company may require in respect of Equipment delivered to it, commencing from the date of successful commissioning of the Equipment (the "**Warranty Period**"), during which period Vendor shall within 2 days after notification by Company render any necessary repairs to the Equipment on-site, including the replacement of any parts, free of charge.

18.2 If, in the reasonable opinion of Company, the repairs and/or replacement of any parts is unable to, or is unlikely to be able to, restore the Equipment to satisfactory working condition, or if such repair and/or replacement will take an unacceptably long period of time, Vendor shall deliver to Company a replacement for the Equipment free of charge within 1 week of notification from Company of the same.

18.3 If Vendor is unable to replace the Equipment within the stipulated time period under **Clause 18.2**, Vendor shall procure free of charge a suitable and satisfactory temporary replacement for the Equipment within 1 week of notification from Company, which shall be at the disposal of Company until a permanent replacement for the Equipment is delivered to Company.

18.4 Vendor warrants to Company that spare parts and consumables for the Equipment will be available for a period of at least 7 years from the date of delivery of the Equipment. If these become unavailable as a result of product obsolescence, Vendor undertakes to provide economically and functionally viable alternatives. The cost of any spare parts and consumables supplied and/or used in the course of any repairs performed on the Equipment pursuant to this **Clause 18** during the warranty period shall be deemed to be included in the Contract Price.

18.5 The provisions of **Clause 6** shall apply *mutatis mutandis* to the delivery of any replacements for the Equipment.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

19 VENDOR REPRESENTATIONS, UNDERTAKINGS AND WARRANTIES

19.1 Vendor warrants and represents that:

- a) it has the right and authority to supply, install and configure all Equipment to be supplied by Vendor under the Contract in accordance with the terms of the Contract;
- b) the Equipment supplied by Vendor are new from the manufacturer and contains no second-hand, reconditioned or used parts; and
- c) there are no existing restrictions or constraints on its right and authority to supply the Equipment to Company, and that all the Equipment will be free of any claims by Third Parties or from any charges, liens, pledges or other encumbrances.

19.2 Vendor covenants and undertakes that it shall:

- a) comply with:
 - (i) the Main Contractor Rules; and
 - (ii) all Legal Requirements,in relation to the performance of Vendor Works under these Terms.

19.3 Vendor acknowledges and agrees that:

- a) Company has not made any representation, given any advice or given any warranty or undertaking of any kind in respect of:
 - (i) the Contract;
 - (ii) the Project;
 - (iii) the RFP;
 - (iv) any transaction or arrangement contemplated under these Terms or the RFP; and
 - (v) any other matter relevant to Vendor's decision to enter into these Terms.
- (b) Company is not liable, and Vendor has no Claims whatsoever against Company for any Loss or Claim which arises as a consequence of any information or representation provided by Company to Vendor under the documents described in **Clause 19.3(a)** or otherwise, being incomplete, inaccurate or misleading.
- (c) Vendor has not relied in any way on any information provided by, or the skill or judgment of, Company or any person acting on behalf of or associated with Company, and Vendor has relied absolutely on its own opinion and professional advice based upon its own independent analysis, assessment, investigation and appraisal in deciding to undertake Vendor Works and / or to enter into the Contract.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

20 PAYMENT

- 20.1 The Contract Price comprises only of a lump sum fee for the provision of Vendor Works (including the provision of the Equipment):
- a) of such amount as set out in **Section 4**;
 - b) to be paid in accordance with the payment schedule in **Section 4**; and
 - c) payable within 30 days from the date of receipt of Company of Vendor's invoice.
- 20.2 The Contract Price shall constitute the total and exclusive consideration for Vendor Works (including the Equipment), and Vendor agrees that no further sums, fees, payments, charges, royalties, compensation or other charges shall be payable by Company therefor.
- 20.3 Save as expressly provided in the Contract, Vendor shall be responsible for all costs and expenses incurred in carrying out its obligations under the Contract, including all travel expenses (whether within or outside of Singapore) and shall supply, at its sole cost and expense, all resources required for the performance of its obligations under the Contract. Company is not liable for any fees, charges, expenses, costs or other consideration of whatever nature other than those expressly set forth in the Contract.
- 20.4 The Contract Price excludes GST payable in respect of the Contract Price, and Company shall upon making payment of any part of the Contract Price, make payment in respect of GST payable thereon.
- 20.5 In making payment of the Contract Price in accordance with this **Clause 20**, Company shall have the right to set off against the Contract Price any amounts which may be owing to Company from Vendor.
- 20.6 Payments made by Company to Vendor may be effected by way of GIRO, cheque, banker's draft, cashier's order or such other means as Company may notify Vendor in writing from time to time. Where payment of any amount by Company is made by GIRO, the amount shall be deemed to be paid to Vendor when such amount has been deducted from the relevant GIRO account of Company, regardless of whether the corresponding amount has been credited to the GIRO account of Vendor.

21 ASSIGNMENT & SUBCONTRACTING

- 21.1 Vendor shall not subcontract, transfer or assign the Contract or any part, share or interest therein without the prior written consent of Company.
- 21.2 Company shall be entitled to subcontract, transfer or assign the Contract or any part, share or interest therein, at its sole discretion.

22 FORCE MAJEURE

- 22.1 Subject to the provisions of these Terms, Vendor shall not be liable for any failure or delay to comply with Vendor's obligations under the Contract where such failure is caused solely and directly by an Act of God or by any riot, civil commotion, strike, lockout or other labour disturbance, or by any fire, war, acts of foreign enemies or perils of the sea or other perils (other than delays caused by Vendor or Vendor's sub-contractors) beyond the control of Vendor (each an "Force Majeure Event"). Vendor shall immediately notify Company in writing of any force majeure event on Vendor being aware that such Force Majeure Event would cause it to fail or delay in complying with its obligations, PROVIDED that Vendor shall in any event use its best endeavours at all times and notwithstanding the occurrence and/or continuation of any Force Majeure Event to satisfy its obligations to Company whether in whole or in part. For the

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

avoidance of doubt, the preceding best endeavours obligation will require Vendor with respect to any Force Majeure Event that prejudices Vendor's ability to deliver the Equipment only because of lack of or reduced supplies of the Equipment to fill the requirements of Company on a priority basis.

- 22.2 In any event mentioned in **Clause 22.1** Vendor shall, subject to the obligations of Vendor therein set out, for the duration of such Force Majeure Event, be relieved of any obligation under the Contract but only to the extent that the same is directly prevented or delayed by such Force Majeure Event;

PROVIDED that the provisions of the Contract shall remain in force with regard to all other obligations under the Contract which are not affected by such Force Majeure Event;

AND FURTHER PROVIDED that Company may, while the relevant Force Majeure Event continues, attempt to source for the Equipment from any alternative source and to the extent that it is successful shall not be obliged to purchase the same from Vendor but is entitled to do so, and should the Force Majeure Event continue for any significant duration of time such that Company believes in good faith that its interests would be better served in a termination of the Contract that it be entitled to do so by notice in writing to Vendor, whereupon all unfulfilled purchases of the Equipment (otherwise than arising from or in connection with a breach by Vendor, in which case the relevant provisions dealing with such breach shall apply) shall be deemed cancelled without any liabilities to either Vendor or Company, and Vendor shall within 14 days from such notice refund any excess advance payment to Company after deducting the cost of delivered Items at prices stated in the Contract.

23 TERMINATION

- 23.1 Company may, at any time, by giving not less than 30 days' notice to Vendor, terminate the Contract with respect to any Equipment or Vendor Works which have not yet been delivered or performed in accordance with the Terms without being liable therefore in damages.
- 23.2 If Vendor is in default in the performance of the Contract with Company, or in the performance of any other contract arising from the same RFP Proposal by which Vendor entered into the Contract, or fails to fulfil any part of or obligation under the Contract or such other contract, Company shall have the right to terminate the Contract and that other contract with Vendor forthwith, after notification to Vendor of its default, without being liable therefore in damages.
- 23.3 Upon termination of the Contract under this **Clause 23**, the purchase by Company from Vendor of the Equipment and/or Vendor Works shall be deemed cancelled in respect of all Equipment and/or Vendor Works which have not been delivered or performed in accordance with **Clause 6 or 2.1** as the case may be, and Vendor shall have no claim whatsoever against Company in respect of these undelivered Equipment and/or unperformed Vendor Works.
- 23.4 In the event of termination under this **Clause 23**, Vendor shall refund and repay to Company any advance payment received from Company without prejudice to Company's right to claim for damages under the Contract, including without limitation compensation for increased costs in obtaining the Equipment from other sources.

24 VARIATION OF CONTRACT

- 24.1 No variation in the terms of the Contract shall apply thereto unless such variation has first been accepted in writing by both Vendor and Company.
- 24.2 Without prejudice to the generality of **Clause 24.1**, Vendor shall not, in respect of the Contract, supply any upgraded or improved models or variants in substitution of the Equipment, or vary the Contract Price, without the prior agreement in writing of Company.
- 24.3 The provisions of the Contract that are contemplated to be enforceable after the termination of Contract shall survive the termination of the Contract.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

25 BANKER'S GUARANTEE

- 25.1 Vendor shall, prior to the Commencement Date, provide a security deposit or obtain a banker's guarantee from such bank, and in such form and substance acceptable to Company, of a value no less than ten per cent (10%) of the Contract Price, as security for the performance of all its obligations under the Contract, including the payment of liquidated damages under **Clause 5**.
- 25.2 Where the security deposit or banker's guarantee provided or obtained by Vendor pursuant to **Clause 25.1** is of a duration less than the Warranty Period, Vendor undertakes to renew such security deposit or banker's guarantee by the date 30 days prior to its expiry date, for the remaining duration of the Warranty Period.
- 25.3 In the event the banker's guarantee is likely to or may expire at any time during the contract period for whatever reason, Vendor shall without demand, secure a renewal thereof or obtain a fresh banker's guarantee for the same amount and on the same terms as the expiring banker's guarantee and deposit the same with Company. If such renewal or fresh banker's guarantee is not deposited with Company 30 days before the expiry date of the expiring banker's guarantee, Company shall have the right to call upon the bank to pay the sum stated therein.

26 DISPUTE RESOLUTION

- 26.1 Any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination, shall be submitted to mediation at the Singapore Mediation Centre in accordance with its rules and procedures. If and to the extent that such dispute has not been settled by such mediation within 15 days of the commencement of such mediation, it shall be:
- a) referred to and finally resolved by arbitration in Singapore at the Singapore International Arbitration Centre ("**SIAC**") in accordance with the Arbitration Rules of SIAC for the time being in force, which rules are deemed to be incorporated by reference to this **Clause 26**; or
 - b) at the sole option of Company, be submitted to the Courts of Singapore, which jurisdiction Vendor hereby irrevocably submits to.
- 26.2 The tribunal shall consist of one (1) arbitrator to be appointed by the Chairman of the SIAC.
- 26.3 The commencement of any mediation, arbitration or court proceedings under this **Clause 26** shall in no way stop, delay or affect the performance of the obligations of Vendor under the Contract which shall continue without interruption except insofar as such obligations relate to the subject matter of such proceedings.
- 26.4 All mediation, arbitration and court proceedings shall be in the English language.

27 APPLICABLE LAW

- 27.1 The Contract is deemed to be made in Singapore, and will be subject to and governed by and interpreted in accordance with the laws of the Republic of Singapore for every purpose. The application of the United Nations Convention on Contracts for the International Sale of Goods 1980 to each Contract is hereby expressly excluded.

28 LANGUAGE

- 28.1 All business relating to the Contract, both written and oral, shall be conducted in the English language.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

29 RELIANCE

- 29.1 Vendor accepts that Company relies on, inter alia, the skill and judgement of Vendor in relation to the design, description, manufacturing, quality, reliability, function, suitability and performance of the Equipment to be provided, as well as all representations and warranties, written or oral, including those contained in the Contract, given by Vendor, its servants or agents to Company.
- 29.2 The inspection of the Equipment by Company or any representative thereof shall not in any way prejudice or affect the reliance placed by Company on Vendor as provided in **Clause 29.1**.
- 29.3 Neither the exhibition or demonstration of the Equipment by Vendor to Company nor the inspection of the Equipment by Company or any representative thereof shall in any way prejudice or affect the reliance placed by Company on Vendor as provided in **Clause 29.1**.

30 INSOLVENCY

- 30.1 Company may at any time by notice in writing immediately determine the Contract or any unperformed balance of the Contract, without compensation to Vendor in any of the following events:
- a) If Vendor being an individual, or where Vendor is a firm any partner in that firm, shall at any time become bankrupt, or shall have a receiving order or administration order made against him, or shall make any composition or arrangement with or for the benefit of his creditors, or shall make any conveyance or assignment for the benefit of his creditors;
 - b) if Vendor, being a company, shall pass a resolution or the Court shall make an order that Company shall be wound up (otherwise than for the purposes of amalgamation or reconstruction), or if a receiver or manager on behalf of a creditor shall be appointed, or shall propose to Company for a composition in satisfaction of its debts or a scheme of arrangement of its affairs or application to the Court for the appointment of a judicial manager, or if circumstances arise which entitle the Court or a creditor to appoint a receiver or manager or which entitle the Court to make a winding order; or
 - c) if Vendor is unable to pay its debts as and when they fall due, or is considered by Company in its reasonable opinion to be in an adverse financial situation or is otherwise unable to fulfil its obligations under the Contract;

PROVIDED always that such determination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to Company.

- 30.2 Any termination under **Clause 30.1** above shall cancel the purchase by Company from Vendor of the Equipment in respect of all hardware/software which have not been delivered in accordance with **Clause 3**, and shall discharge the parties from any liability for further performance of the Contract, and Company shall be repaid immediately any sums previously paid under the Contract (whether paid by way of a deposit or otherwise) and to recover from Vendor the amount any loss or damage sustained or incurred in Company as a consequence of such termination.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

31 CONFIDENTIALITY

- 31.1 All communications from Company and its officers, representatives and agents to Vendor or Vendor's representatives, agents or servants (collectively, the "**Vendor's Agents**") and all information and other material supplied to or received by Vendor, regardless of whether the same are marked "confidential" unless the same is in the public domain shall be kept confidential by Vendor and used only for the purposes contemplated in the Contract, and Vendor shall ensure that the same shall be kept confidential by each and every of Vendor's Agents, unless or until respectively compelled to disclose by judicial or administrative procedures or in the opinion of its counsel, by other requirements of law, or Vendor can reasonably demonstrate that (a) it is or part of it is, in the public domain, whereupon, to the extent that it is in the public domain, this obligation shall cease or (b) it is required to be furnished to any regulatory agency as part of a public flotation exercise involving Vendor, and in such cases, this obligation shall cease only to the extent required under the respective circumstances, and provided that Vendor notifies Company promptly of the same and the extent of disclosure that Vendor or Vendor's Agents will be effecting.

32 AUTHORISED REPRESENTATIVE

- 32.1 For the purposes of the Contract, Company shall be represented solely as follows, unless otherwise notified to Vendor:

Head of Materials Management Department
Sengkang Health Pte Ltd
c/o Alexandra Hospital
Block 20B Office Block, Level 1,
378 Alexandra Road
Singapore 159964

and Vendor agrees that all notices or other communication in relation to the Contract shall be directed only to the attention of the above representative of Company and not to any other personnel of any other department of Company.

- 32.2 All notices or other communication between Vendor and Company for the purposes of the Contract shall be with the representative of Company set out in or notified in accordance with **Clause 32.1**. No other personnel, employee, officer, agent or contractor of any of Company shall be authorised to issue any notice or communication or make any representation in relation to the Contract.

33 ACCOUNT MANAGER AND DELIVERY STAFF

- 33.1 Vendor shall appoint a suitably qualified account manager ("**Account Manager**") to supervise and coordinate all aspects for the supply of the Equipment and all matters relating to the Contract. The identity and particulars of the Account Manager must be notified to Company in writing and accepted by Company prior to appointment.
- 33.2 For the duration of his appointment as Account Manager, the Account Manager shall be deemed to be the agent of Vendor, with full authority granted by Vendor to handle all matters and make all decisions pertaining to the Contract. Any communications made to the Account Manager shall be deemed to have been made to Vendor.
- 33.3 In the event that the Account Manager or any deliveryman is on an off day, or on leave or medical leave, or leaves the employ of Vendor, or is otherwise unable to perform his duties in respect of the Contract, Vendor must immediately appoint a suitable replacement, provided that the designation of any proposed replacement must also be notified to and accepted by Company in writing prior to his appointment.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

33.5 Vendor shall, at the request of Company, replace the Account Manager and deliveryman or their replacements within 3 calendar days of notice from Company if he is deemed to be unsuitable by Company at its sole discretion. The proposed appointment of any replacement Account Manager must be notified to and approved by Company in writing prior to appointment.

33.6 For the avoidance of doubt, each Account Manager shall remain the employee of Vendor. Vendor shall remain responsible for the wages, Central Provident Fund contributions, insurance, and staff welfare benefits for each Account Manager appointed by Vendor pursuant to this **Clause 33**.

34 REQUIREMENTS FOR VENDOR'S PERSONNEL

34.1 Vendor undertakes to Company that all Vendor's Personnel shall, in performing their duties in relation to the Contract (whether on the premises of Company, at the Site or otherwise), observe the security and safety requirements of Company or the Main Contractor, and comply with such instructions or rules and regulations as may be issued by Company from time to time.\

35 NOTICES

35.1 Any notice or other communication sent by Company shall be in writing, and shall be delivered personally, or sent under registered mail cover to Vendor's address as specified in Vendor's RFP Proposal, or sent by facsimile transmission to the facsimile number of Vendor as specified in Vendor's RFP Proposal.

35.2 Any notice or other communication sent by Vendor to Company shall be in writing, and shall be delivered personally, or sent under registered mail cover, or sent by facsimile transmission to Company at the address or facsimile number (as the case may be) specified in **Clause 32.1** or such other address or facsimile number as may be notified to Vendor from time to time.

35.3 Any notice or communication shall be deemed to have been duly served immediately if delivered personally or transmitted error-free by facsimile transmission, or 2 business days after posting if delivered under registered mail cover.

36 REASONABLENESS

36.1 Vendor acknowledges that the Clauses stated herein are reasonable and that Vendor accepts the same on an informed basis after having (where it deemed necessary) consulted its own advisers.

37 WAIVER

37.1 In the event Company should waive any of its rights under the Contract, Company shall be deemed to have waived those rights only on that particular occasion, and shall have the right to assert in full its rights on any subsequent occasion.

38 SEVERANCE

38.1 The illegality, invalidity, unenforceable of any provision herein shall not affect the legality, validity or enforceability of any other provision.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

39 GIFTS, INDUCEMENTS AND REWARDS

- 39.1 Company shall be entitled to determine the Contract and to recover from Vendor the amount of any loss resulting from such determination, if Vendor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of the Contract with Company or for showing or forbearing to show favour to any person in relation to any contract with Company, or if the like acts shall have been done by any person employed by Vendor or acting on its behalf (whether with or without the knowledge of Vendor) or if in relation to any contract with Company, Vendor or any person employed by him or acting on his behalf shall have committed any offence under Chapter IX of the Penal Code (Cap. 224) or under the Prevention of Corruption Act (Cap. 241) or shall have abetted or attempted to commit such an offence or shall have given any fee or reward the receipt of which is an offence under the Penal Code or the Prevention of Corruption Act.

40 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT

- 40.1 Any person who is not a party to the Contract (whether or not such person shall be named, referred to, or otherwise identified, or form part of a class of persons so named, referred to or identified, in the Contract) shall have no right whatsoever under the Contracts (Rights of Third Parties) Act (Cap. 53B) to enforce the Contract or any of its terms.

41 STATUTORY RIGHTS AND REMEDIES

- 41.1 Nothing herein shall derogate from Company's statutory or common law rights and remedies.

42 TRIPARTITE GUIDELINES ON FAIR EMPLOYMENT PRACTICES

- 42.1 Company is required to adopt the Tripartite Guidelines on Fair Employment Practices as advised by the Tripartite Alliance for Fair Employment Practices and to ensure workers are accorded the terms and conditions as stipulated under the Employment Act (Cap. 91). In addition, workers are to be given a set of their employment contract stating clearly the working hours, the remuneration, the benefits and the like as recommended by the Tripartite Guide on Responsible Outsourcing.

43 VENDOR PROCURED INSURANCE

- 43.1 Without limiting the obligation and responsibilities of Vendor in the Contract, Vendor shall appoint the Approved Broker to procure such insurance coverage or insurance policies, details of which are set out in Appendix 3E of **Section 3**, from an insurer selected or appointed by Company for the purposes of Vendor Works (the "**Vendor Insurance**").
- 43.2 Vendor shall, on and from the Commencement Date, procure and maintain Vendor Insurance for such period of insurance specified in **Section 3**. In the event that the completion of Vendor Works is delayed beyond the Final Completion Deadline, Vendor shall be required to extend the period of insurance by the full period of such delay. For the avoidance of doubt, should Vendor fail to complete Vendor Works within the Final Completion Deadline (or such extended time as may be allowed), any additional premium incurred in extending the period of insurance shall be borne by Vendor.

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

43.3 Notwithstanding the provision by Company of any information, requirement or recommendation in respect of any insurance coverage or insurance policies, or any review by Company of the insurance policies or the receipts and statements of such insurance policies obtained by Vendor:

- a) Company shall not be responsible for the adequacy of the insurance coverage, or any insurance policies, obtained by Vendor (whether or not procured through the Approved Broker);
- b) Vendor remains liable for any failure to comply with its obligations to obtain the required insurance coverage and policies under this **Clause 43** and **Section 3**;
- c) Vendor may, at its sole discretion and cost, take out any other insurance policy or policies which it considers to be necessary to meet its obligations pursuant to the Contract, if in the opinion of Vendor, Vendor Insurance are considered insufficient or inadequate.

43.4 Vendor shall ensure that all Vendor Insurance shall:

- a) where applicable, meet the minimum insurance cover required by applicable law;
- b) be maintained in the names of the parties specified in **Section 3** and shall be composite policies of insurance (and not joint) unless stated otherwise in any case in **Section 3**.
- c) be placed with financially sound and reputable insurers:
 - (i) which are acceptable to Company;
 - (ii) which have an office in Singapore; and
 - (iii) which have at least a Standard and Poor's "A-" rating or equivalent financial standing.
- d) provide that they shall continue in effect and unaltered for the benefit of the insured parties for at least 60 days after written notice by registered mail or fax of any cancellation, change, modification or lapse by reason of non-payment of premiums or instalments or otherwise has been received by the insured parties;
- e) contain provisions that:
 - (i) no claim of any of the insured party under the policy shall be defeated, prejudiced or otherwise affected by any act or omission on the part of any other insured party and the interests of each insured party regardless of any act or omission on the part of any other insured party is insured; and
 - (ii) each policy of insurance which insures the rights and interests of more than one party operates in the same manner as if there were a separate policy with and covering each insured and be without right of contribution from any other insurance which is carried by an insured;
- f) comply with the relevant provisions of **Section 3**.

43.5 Subrogation and Vitiating

- a) Vendor shall:
 - (i) be liable for and will indemnify, defend and hold harmless Company, from and against all Claims made against, or Loss suffered by Company as a result of or

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

in connection with any Claims brought against Company by any of the insurers of the ["All-Risks" insurance policy and/or the professional indemnity insurance policy]; and

- (ii) where Vendor is obliged to effect any Vendor Insurance, not bring any claim or action against Company in respect of any loss or damage in circumstances where Vendor could recover such loss or damage under such insurance (whether or not such insurance has in fact been effected or, if effected, has been vitiated as a result of any act or omission of Vendor, including non-disclosure or under-insurance),
- b) Neither party shall take any action or fail to take any reasonable action or (in so far as it is reasonably within its power) permit or allow others to take or fail to take any action (including failure to disclose any fact) as a result of which any of Vendor Insurance maintained may be rendered void, voidable, unenforceable or suspended or impaired in whole or in part or which may otherwise render any sum paid out under any relevant policy repayable in whole or in part.

43.6 Evidence of Vendor Insurance

- a) Not less than 30 days prior to the expiry or amendment of any relevant Vendor Insurance policy, Vendor shall submit to Company a request for approval from Company of the insurer and the principal terms and conditions of such insurance policy (and any revision to such terms and conditions or change in identity of such insurer), such approval not to be unreasonably withheld or delayed
- b) Vendor shall supply Company with copies of every policy of Vendor Insurance (or such other evidence of Vendor Insurance as may be reasonably required) as soon as it is available or within sixty (60) days of policy inception, together with evidence of payment of the premiums.
- c) If Vendor defaults in insuring or continuing to maintain Vendor Insurance, Company may insure against any risk in respect of which such default has occurred and recover any premiums from Vendor as a debt.
- d) Renewal certificates in relation to the insurances referred to in this **Clause 43.6** shall be obtained as and when necessary and copies (certified in a manner acceptable to Company) shall be forwarded to Company as soon as possible but in any event on or before the renewal date.

44 PERSONAL DATA PROTECTION

- 44.1 The Vendor acknowledges that Company Personal Data is the property of the Company and the Company retains all rights, title and interest to Company Personal Data. The Vendor agrees and undertakes, and shall procure that its personnel, agents and [sub-contractors] (together with the Vendor, each a "Data Handler") agree and undertake, as follows:
 - 44.1.1 any collection or use of Company Personal Data shall be strictly for the provision of the Equipment and/or Services under the Agreement to the Company ("Permitted Purposes");
 - 44.1.2 to the extent that any Data Handler collects, uses or discloses Company Personal Data, such Data Handler shall at its own expense ensure that all necessary consents in accordance with all applicable laws and regulations have been obtained from the relevant individuals;
 - 44.1.3 each Data Handler shall, in respect of any Company Personal Data collected, used, disclosed, accessed and/or processed by such Data Handler in connection with the Contract, comply with any requests, directions or guidelines which the Company may provide from time to time

SECTION 2: TERMS AND CONDITIONS FOR THE SUPPLY OF EQUIPMENT

- for the purpose of ensuring compliance with all applicable laws and regulations and/or any direction from any relevant authority; and
- 44.1.4 upon the termination or expiry of the Agreement, each of the Data Handlers shall deliver to the Company all records relating to any Company Personal Data which it has collected, used or disclosed in connection with the Agreement, and thereafter at its expense return, delete, or destroy such Company Personal Data as required by the Company and in compliance with all applicable laws and regulations.
- 44.2 The Vendor shall defend, indemnify and hold harmless the Company and its directors, employees and personnel (collectively, the “Data Indemnified Persons”) from and against any claim, action, demand or complaint, as well as all liabilities, penalties, losses, costs, damages and expenses which the Data Indemnified Persons may suffer in connection with any breach by any Data Handler of Clause 44 or any Data Handler’s failure to comply with the PDPA. This Clause 44 shall survive the termination or expiry of the Agreement (howsoever caused).
- 44.3 The Vendor shall, and shall procure each of the other Data Handlers keep complete and proper records relating to all collection, use and disclosure of Company Personal Data, all consents relating thereto, and shall upon reasonable notice by the Company provide unrestricted access to such records.
- 44.4 Vendor agrees and undertakes that it shall, at its own expense, procure all necessary consents in accordance with all applicable laws and regulations, including the PDPA, from its directors, officers, employees, personnel, representatives, agents, independent contractors, invitees and/or licensees, who are individuals (collectively, the “Vendor Personnel”), for the collection, use and/or disclosure of any of the Vendor Personnel’s personal data, as defined in the PDPA, by the Company, its related corporations and/or its sub-contractors for the performance of the Agreement. The handling of the Vendor Personnel’s personal data is subject to the SingHealth Data Protection Policy which may be found at www.singhealth.com.sg/pdpa.