

PART 1 - SECTION B
CONDITIONS OF CONTRACT

CONTENTS¹

1	INTERPRETATION AND DEFINITIONS	5
2	CLAUSE REFERENCES	12
3	PRODUCTS AND SERVICES TO BE PROVIDED BY CONTRACTOR	12
4	TERMS OF PAYMENT	14
5	TAXES, FEES AND DUTIES	16
6	TIME FOR PERFORMANCE	17
7	SCHOOL'S OBLIGATIONS.....	17
8	CONTRACTOR'S OBLIGATIONS	17
9	RESPONSIBILITY FOR THE SOLUTION	18
10	MODIFICATION OF SOLUTION.....	19
11	SECURITY DEPOSIT	19
12	PROJECT MANAGEMENT	21
	12.1 The School's Representative.....	21
	12.2 Project Office	21
	12.3 Project Manager and Other Personnel.....	21
	12.4 On-Boarding Process	21
	12.5 Governance Structure.....	21
	12.6 Implementation Plan	22
	12.7 Regular Progress Reports & Meeting.....	22
	12.8 Intentionally left blank.	23
13	CONTRACTOR'S PERSONNEL	23
14	TITLE AND RISK	24
15	SITE PREPARATION	24
16	INFORMATION AND ACCESS	26
17	PRE-DELIVERY CONDITION	26
18	PRE-DELIVERY TESTS.....	26
19	PACKING	27
20	DELIVERY	27
21	INSTALLATION	28
22	ACCEPTANCE TESTS	28
	22.1 Conducting Acceptance Tests	28
	22.2 Notice of Commencement and Completion of Acceptance Tests	29
	22.3 Delay in Acceptance Tests	30
	22.4 Hardware Installation Tests.....	30
	22.5 Delivery and Installation of Software	31
	22.6 Solution Performance Tests	31
	22.7 Failure of Acceptance Tests	32
	22.8 Commissioning Date.....	33
23	LIQUIDATED DAMAGES FOR LATE COMMISSIONING	33
24	PERFORMANCE GUARANTEE PERIOD.....	34
24A	GENERAL TERMS ON LIQUIDATED DAMAGES	35
25	SOLUTION WARRANTY PERIOD	36
26	ADDITIONAL SUPPLIES AND CONSUMABLES.....	36
27	MAINTENANCE.....	38
28	TRAINING	38

¹ Please update this Contents page after finalising all the clauses.

29	DAMAGED ITEM, NON-DELIVERED ITEM, WRONGLY DELIVERED ITEM AND SHORT DELIVERED ITEM	38
30	UNAUTHORISED CODE	39
31	DOCUMENTATION	41
32	LIABILITY OF CONTRACTOR	41
33	PATENT, COPYRIGHT AND OTHER INDEMNIFICATION	41
34	RELOCATION OF SOLUTION	42
35	LANGUAGE	42
36	LOSSES	43
37	LIMITATION OF LIABILITY	44
38	INSURANCE	44
39	CONFIDENTIALITY	44
39A	DATA SECURITY AND PROTECTION	46
39B	INTENTIONALLY LEFT BLANK	47
40	COMPLIANCE WITH LAW	47
40A	COMPLIANCE WITH PROGRESSIVE WAGE MARK REQUIREMENTS	47
41	SUB-CONTRACT, ASSIGNMENT, TRANSFER	50
42	FORCE MAJEURE	51
43	PUBLIC RELEASE OF INFORMATION	51
44	GIFTS, INDUCEMENT AND REWARDS	51
45	APPLICABLE LAW	52
46	VARIATION OF CONTRACT	52
47	CONDITIONS NOT TO BE WAIVED	53
48	TERMINATION OF CONTRACT	53
49	POLICY, SECURITY AND AUDIT	57
	49.1 Policy	57
	49.1A Security	57
	49.2 Compliance Audit and Reviews	57
49A	SECURITY AND DATA BREACH PROCEDURES	58
49B	SECURITY VULNERABILITIES	62
49C	END OF LIFE AND END OF SUPPORT FOR SOFTWARE	63
49D	SECURITY THREATS	64
50	ESCALATION OF DISPUTES	65
50A	DISPUTE RESOLUTION	65
51	INTENTIONALLY LEFT BLANK	65
52	CORRESPONDENCE	65
53	REMEDIES	66
54	CLAIMS FOR EXTRA WORK	66
55	MEDIATION	67
56	CONTRACTS (RIGHTS OF THIRD PARTIES)	67
57	CONSORTIUM	67
58	COEXISTENCE STRATEGY	68
59	OWNERSHIP OF DOCUMENTATION AND DISPOSAL OF DOCUMENTATION UPON TERMINATION OF CONTRACT OR COMPLETION OF CONTRACT	68
60	SET-OFF	69

61	ENTIRE AND WHOLE AGREEMENT	70
62	ISSUANCE OF WRITTEN WARNING BY THE SCHOOL.....	70
63	LIQUIDATED DAMAGES FOR DATA AND SECURITY BREACHES.....	70
64	INTENTIONALLY LEFT BLANK	71

SCHEDULE

SCHEDULE 1: PAYMENT TERMS

SCHEDULE 2: WORKS PROGRAMME

SCHEDULE 3: INTENTIONALLY LEFT BLANK

SCHEDULE 4: BANKER'S GUARANTEE/INSURANCE BOND

SCHEDULE 5: CONFIDENTIALITY & DATA PROTECTION UNDERTAKING

SCHEDULE 5A: DECLARATION

SCHEDULE 6: ACCEPTANCE TEST PROCEDURES

SCHEDULE 7: UNDERTAKING BY OEM

**SCHEDULE 8: DECLARATION ON PROGRESSIVE WAGE (PW) MARK
ELIGIBILITY**

1 INTERPRETATION AND DEFINITIONS

- 1.1 In this Contract (as hereinafter defined), the following words and expressions shall have the meanings set out below unless the context otherwise requires:

“**Acceptance Date**” means the date on which the Solution is accepted by the School pursuant to **Clause 24.6**.

“**Acceptance Tests**” means any test (whether automated or manual, whether functional or non-functional) to be conducted to demonstrate that the part of the Solution that is being tested is capable of meeting or exceeding the project goals, objectives, outcomes and requirements stated in the Requirements Specification, and “**Acceptance Tests**” shall refer to all such tests. f

“**Adviser**” means the person or body appointed by the School. The School pursuant to Clause 22.

“**Application Software**” means the computer programs proposed in the Contractor’s Tender Offer for installation in the Hardware and in conjunction with the System Software, as being capable of meeting or exceeding the requirements in the Requirements Specification.

“**Background IP**” means Intellectual Property which is created prior to or independently of this Contract that is related to the Solution or any part thereof.

“**Commercial Off-The-Shelf Software**” or “**COTS**” means software that is commercially available to the general public and that can be used with little or no modification.

“**Commissioning Date**” means the actual date of commissioning of the Solution referred to in **Clause 22.8** and “**Stipulated Commissioning Date**” means the date the Contractor has stipulated in the Implementation Plan as to when the commissioning of the Solution is to take place.

“**Contract**” means the resulting contract between the School and the Contractor for the provision of the Solution and the Services as a result of the School’s acceptance of the Contractor’s Tender Offer which terms and conditions are contained in the following:

- (a) the Covering Letter;
- (b) the Instructions to Tenderers;
- (c) the Contractor’s Tender Offer;
- (d) these Conditions of Contract;
- (e) the Conditions of Software and Hardware Maintenance and Support;
- (f) the Requirements Specification;
- (g) the Letter of Acceptance;
- (h) [any Purchase Order issued by the School to the Contractor;]
- (i) any correspondence exchanged between the Parties and accepted by the School in writing as amplifying or modifying the Invitation to Tender or the Contractor’s Tender Offer; and

(j) any formal agreement executed between the Parties,

including all schedules and annexes to such documents as relevant.

“Contract Price” means the aggregate price for the Solution and Services required under the Contract (including the price of all options exercised), as may be adjusted from time to time in accordance with the Contract.

“Contractor” means a successful Tenderer whose Tender Offer has been accepted by the School for this project. It includes the Contractor's successors, employees or agents.

“Data” means any representation of information or of concepts regardless of the medium of storage, and includes any personal data.

“Development Price” means the Contract Price, excluding the aggregate price for the Solution and Services required under the Contract (including the price of all options exercised) after the end of the Solution Warranty Period, as may be adjusted from time to time.

“Documentation” means technical specifications, user manuals, operating manuals, process definitions and procedures, and all such other documentation as:

is to be supplied by the Contractor to the School under the Contract;

is relevant to any Service, Hardware or Software;

is required by the School in order to use the Hardware or Software, including any development, configuration, building, deploying, running, maintaining, upgrading and testing of the Hardware or Software; or

has been or shall be generated for the purpose of providing the Services.

“End of Life”, in relation to a software, means the date beyond which the Software Proprietor would no longer market or sell the software or issue new feature updates for the software.

“End of Support”, in relation to a software, means the date beyond which the Software Proprietor would no longer provide support for the software, including not providing releases, updates or software support contracts for the software.

“Factor” means any person:

- (i) listed in the “List of Factoring Companies” at the Vendors@Gov website; and
- (ii) has an approved vendor record in the Vendors@Gov system or other electronic invoicing system maintained by the School.

“Fair Market Value” shall mean the fair market value in Singapore, or where such goods or services are not available in Singapore, in such other country or countries

where such goods or services are available. If the Parties are unable to agree on the Fair Market Value, the Fair Market Value shall be determined by an independent public accountant or valuer approved by the School, whose engagement cost shall be borne equally by the School and the Contractor.

“Government Technology Agency” or **“GovTech”** means the body corporate constituted under the *Government Technology Agency Act 2016*.

“GST” means goods and services tax charged under the GST Act.

“GST Act” means the Goods and Services Tax Act 1993.

“Hardware” means all computer hardware, other peripherals and ancillary equipment together with all cabling within the Solution network, proposed by the Contractor as being capable of meeting or exceeding the requirements in the Requirements Specification and shall include such other equipment as may be agreed in writing between the Parties to be supplied by the Contractor.

“Hardware Installation Date” means the date referred to in **Clause 22.4.6**.

“Hardware Installation Tests” refers to the tests to be conducted on the Hardware under **Clause 22.4**.

“Implementation Plan” means the Implementation Plan referred to in **Clause 12.6**.

“Intellectual Property” or **“IP”** means all intellectual property rights, including patents, registered and unregistered design rights, copyright, trade marks, service marks, domain names, get-ups, inventions, database rights, integrated circuit topography, geographical indications, all rights of whatever nature in computer programs, firmware, micro-code and other computer software and data, and all other rights and privileges of whatever nature wherever in the world arising similar to any of the foregoing, in each case:

- (a) whether registered or not;
- (b) including any applications to protect or register such rights;
- (c) including all renewals and extensions of such rights or applications;
- (d) whether vested, contingent or future; and
- (e) wherever existing.

“Invitation to Tender” means the invitation to participate in the tender for the supply of the Solution and Services and comprises all tender documents forwarded to the Tenderer inclusive of the Covering Letter, Form of Tender, Instructions to Tenderers, Conditions of Contract, Conditions of Software and Hardware Maintenance and Support, Requirements Specification, Guidelines for Tenderers, Evaluation Criteria and any other documents and forms enclosed.

“InvoiceNow” means the nationwide e-invoicing method that facilitates the direct transmission of invoices in a structured digital format across finance systems in Singapore.

“Letter of Acceptance” means the letter issued by the School accepting the Contractor's Tender Offer.

“Life-Span of the Solution” shall be the period of SEVEN (7) years commencing from the Acceptance Date.

“Losses” means all liabilities, losses, damages, actions, claims, demands, costs (including legal costs on a full indemnity basis and experts' and consultants' fees), settlement sums and sums paid in satisfaction of court, arbitral or expert award.

“Maintenance Period” has the meaning given to it under the **Clause 27.2**.

“Maintenance Services” means the software and hardware maintenance and support services which the Contractor is required to provide for the Solution under the Contract.

“Off-loading Point” means the points near the entrances to the respective buildings where the respective parts of the Hardware are to be located.

“Payee” in relation to a Receivable, means the person specified in the Contractor's invoice to the School as the payee of such Receivable.

“Party” means either the School or the Contractor and **“Parties”** means both the School and the Contractor.

“Performance Guarantee Period” means the period referred to in **Clause 24**.

“personal data” has the same meaning given to that term in the Personal Data Protection Act 2012.

“personnel” in relation to a person, means a director, officer, employee or agent of that person, or any individual engaged by that person under a contract for service.

“Price Schedule” means the schedule of prices for the Solution and Services proposed in the Contractor's Tender Offer and accepted by the School in the Letter of Acceptance.

“Project Manager” means the person designated by the Contractor pursuant to **Clause 12.3.1**.

“Purchase Order” means an order issued by the School, making reference to the Contract, to purchase any of the goods or services set out in the Tender Offer.

“Receivables” means the amounts payable by the School to the Contractor under the Contract, subject to the School's rights against the Contractor under the Contract, at

law or in equity, including the School's rights of deduction and set-off.

“Remediation”, when used in the context of a Vulnerability, means the identification and elimination of the Vulnerability, except where elimination is not reasonably possible, in which case it means the implementation of risk mitigating measures to address the Vulnerability, and **“Remediate”** and **“Remediating”** shall be construed accordingly.

“Remediation Plan” has the meaning given to it in **Clause 49B.2**.

“Remediation Report” has the meaning given to it in **Clause 49B.2**.

“Representative” means the person appointed by the School under **Clause 12.1** and any persons appointed by the Representative to assist him or perform such duties or functions as may be delegated to him by the Representative.

“Requirements Specification” means:

- (a) the requirements issued by the School to the supplier(s) for the purpose of inviting the supplier(s) to submit tender offer(s) (including those set out in [Part 2]) and any amendments or additions as may be mutually agreed in writing between the Parties; and
- (b) other specifications as may be mutually agreed in writing between the Parties.

“S\$”, “\$” or “SGD” means the lawful currency of Singapore.

“School” means Singapore Sports School Limited and includes any officer authorized by the Organisation to act on its behalf.

“Security Breach” and **“Security Breach Event”** shall have the meaning given to it in Clause 49A.9.

“Service Personnel” means all personnel (including personnel of the Sub-contractors) provided by or to be provided by the Contractor to perform the Contract.

“Services” means all the services that the Contractor has to perform under this Contract, including where applicable, the Maintenance Services.

“Site” shall mean the physical locations where the various parts of the Solution are to be installed as stated in the Requirements Specification.

“Software” means all software including but not limited to System Software, Program Products, Application Software, and utility programs proposed by the Contractor as being capable of meeting or exceeding the requirements in the Requirements Specification.

“Software Proprietor”, in relation to a software, means the owner and head licensor

of the software.

“Solution” means the computer system including Hardware, Software and Documentation proposed by the Contractor as being capable of working together with the existing systems, hardware and software (including Commercial Off-the-shelf Software that is commercially available to the general public and that can be used with little or no modification) of the School to meet or exceed the requirements stated in the Requirements Specification. The Solution shall include but not be limited to the following components:

- (a) all Hardware required for the Solution to meet the Requirements Specification and the proposal. All hardware components in the Solution shall be capable of working in combination with other components of the Solution;
- (b) all Software, application development tools or utilities required for the Solution to meet the Requirements Specification and the proposal. All software components in the Solution shall be capable of working in combination with other components of the Solution; and
- (c) all Documentation, training and related materials required for the Solution to meet the Requirements Specification and the proposal.

“Solution Installation Date” means the date by which the Solution will be installed and **“Stipulated Solution Installation Date”** means the date the Contractor has stipulated in the Implementation Plan as to when the installation of the Solution is to take place.

“Solution Performance Tests” refers to the tests to be conducted on the Solution pursuant to **Clause 22.6**.

“Solution Warranty Period” shall have the meaning given to it in **Clause 25**.

“Statutory Board” means a body corporate established by or under written law from time to time to perform or discharge any public function under the supervisory charge of a ministry or organ of state.

“Sub-contractors” means any person engaged by the Contractor to perform any part or parts of the Contractor’s obligations and includes the representatives, successors and permitted assigns directly or indirectly appointed by the Sub-contractor.

“System Software” means all files and programs that make up the computer's operating system for the Hardware, and it includes files like libraries of functions, system services, drivers for printers and other hardware, system preferences, and other configuration files and programs like assemblers, compilers, file management tools, system utilities, and debuggers.

“Tenderer” means a person or its permitted assigns and successors offering to provide the Solution, Hardware, Software and Services pursuant to the Invitation to Tender, and shall be deemed to include two or more persons if appropriate.

“**Tender Offer**” means the offer submitted by the Tenderer in response to the Invitation to Tender, and other documents submitted by the Tenderer and accepted in writing by the School as modifying such offer submitted by the Tenderer.

“**Tender Price**” means in respect of the Solution or any of the Services, means the sum specified in the Price Schedule (as may be varied in accordance with the Contract) by the Contractor for the provision of such Solution or Services under the Contract.

“**Third Party Supplier**” means any third party (including any Sub-contractor) that provides or performs any part of the Solution or Services.

“**Unauthorised Code**” means any virus, Trojan Horse, worm, logic bomb or other software routine or hardware components designed to permit unauthorised access, to disable, erase, or otherwise damage software, hardware or data, or to perform any such actions.

“**Vulnerability**” means any actual or potential vulnerability, exploit, flaw, threat or other security concern relating, directly or indirectly, to:

- (a) the Solution or any particular component of the Solution or its implementation into the School’s IT environment;
- (b) the School’s IT system or any particular component of the School’s IT system; or
- (c) the provision of the Services or the operation of the Solution for or on the School’s IT environment,

which adversely affects, or may or has the potential to adversely affect the security of the Solution or any particular component of the Solution or the School’s IT system or environment, and “**Vulnerabilities**” shall be construed accordingly.

“**Works**” means the works to be executed in accordance with this Contract including all permanent and temporary works and any equipment to be supplied, delivered and installed under this Contract.

“**working day**” means a day which is not a Sunday or a public holiday in Singapore.

“**Workplace**” means the physical location where any Services or Maintenance Services are to be provided or where the Contractor’s officers, employees or agents are located.

1.2 In this Contract, unless a contrary intention appears: –

- (a) words importing the singular only shall also include the plural and vice versa where the context requires;
- (b) the headings are for convenience of reference only and shall not be taken into consideration for the purpose of interpretation or construction of this Contract;

- (c) references to a person include any company, limited liability partnership, partnership, business trust, unincorporated association or government agency (whether or not having separate legal personality);
- (d) a reference in this Contract to “including” shall not be construed restrictively but shall mean “including without prejudice to the generality of the foregoing” and “including but without limitation”;
- (e) “month” means calendar month, “week” means calendar week and “day” means calendar day;
- (f) for the purposes of computing time, a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done;
- (g) any reference to any statute or legislation shall be deemed a reference to such statute or legislation as amended or revised from time to time and be deemed to include any subsidiary legislation made under such statute or legislation; and
- (h) the Annexes and Schedules mentioned in and attached to this Contract shall form an integral part of this Contract.

2 CLAUSE REFERENCES

- 2.1 All references to clauses in these Conditions of Contract or any other document, unless otherwise expressly stated, are references to clauses numbered in these Conditions of Contract or the document in which the reference appears respectively.
- 2.2 Where a clause number is quoted, then reference is being made to that clause bearing that clause number and to all the subclauses if any, under that same clause number (E.g. a reference to Clause 8 refers to Clause 8.1 to 8.7 inclusive of all their respective subclauses if any. A reference to Clause 8.1 refers to Clause 8.1(a) to 8.1(d) inclusive of all their respective subclause if any).

3 PRODUCTS AND SERVICES TO BE PROVIDED BY CONTRACTOR

- 3.1 The Contractor hereby agrees to:-
 - (a) supply the Solution to the School free from all encumbrances;
 - (b) prepare the Site for installation;
 - (c) deliver the Solution to and install the Solution at the Site by the Stipulated Installation Date;
 - (d) provide the Solution ready for use by the Stipulated Commissioning Date;

- (e) provide the Documentation in accordance with **Clause 31**;
 - (f) provide training in accordance with **Clause 28**;
 - (g) provide maintenance for the Solution commencing from the installation of the Solution until the end of the Solution Warranty Period; and
 - (h) provide all other services specified by this Contract, upon the terms and conditions hereinafter contained.
- 3.2 The Contractor warrants and shall ensure that the Solution, related operating manuals and Documentation supplied shall be free from all defects (including defects arising out of faulty design, inferior materials, faulty and inferior workmanship), encumbrances, and known Vulnerabilities, and shall be fit for purpose and meet the requirements set out in the Requirements Specification and additional specifications as may be stipulated by the Contractor in its Tender Offer.
- 3.2A Where the Contractor becomes aware that any software that is proposed by the Contractor and used in the Solution would reach the End of Life or End of Support before the end of Solution Warranty Period, the Contractor shall, with the approval of the School, propose, provide and implement suitable replacements at no cost to the School, unless otherwise agreed to by the School.
- 3.2B The Contractor shall provide to the School:
- (a) product roadmaps of all software that is proposed by the Contractor and used in the Solution; and
 - (b) all updates and modifications to such product roadmaps
- as soon as they become available, save in that where the Contractor is the Software Proprietor for the software, the Contractor shall provide such product roadmap as soon as practicable even if such roadmap is not available in the market and shall make reasonable efforts to update such roadmap and provide them to the School as and where necessary and this obligation shall continue up until the end of the Life-Span of the Solution or until the software reaches End of Life or End of Support, whichever is earlier. The product roadmaps provided to the School shall include the upgrade path of the software and where available, the scope of the upgrades and the general timelines for the upgrades.
- 3.3
- (a) The Contractor shall grant, obtain a grant, or transfer to the School as the case may be, an irrevocable, non-exclusive, non-transferable right to use the Software, related operating manuals and Documentation for the Solution free of additional charge in accordance with the terms and conditions of this Contract.
 - (b) Where the Intellectual Property of any Software, related operating manuals and Documentation for the Solution is vested in a third party, the Contractor agrees

there shall be no additional fees, costs or conditions in respect of the School's right to use the Software save as provided for in this Contract.

- 3.4 The Contractor shall designate a common service location for the School to contact for the provision of all the services specified in the Contract.
- 3.5 Regardless of whether a perpetual or non-perpetual licence has been granted, the Contractor declares that the use or operation of any part of the Solution shall not at any time be restricted or interfered with in any manner whatsoever by any means or devices which would require the services of the Contractor or a third party to restore to full use and operation.

4 TERMS OF PAYMENT

- 4.1 Subject to the provisions of this Contract, the School shall pay to the Contractor the Contract Price in the manner prescribed in **Schedule 1**.
- 4.2 Payment by the School shall not be considered as evidence of the quality of the Hardware, Software, Services or Solution to which such payments relate and shall also not be regarded as a waiver of any default by the Contractor in the performance of its obligations, and shall not also relieve the Contractor from its other obligations under the Contract.
- 4.2A If requested by the School, the Contractor shall submit to the School invoices through the electronic invoicing system maintained by the School and such other documents through such means and format as may be specified by the School for the purposes of making payment.
- 4.3 The School shall not be required to pay for expenses or cost of whatever nature other than those expressly set forth in this Contract, unless otherwise expressly agreed to in writing by the School.
- 4.4 The Contract Price is exclusive of any GST chargeable on the supply of goods, services or works to the School by the Contractor under this Contract. If the Contractor is a taxable person under the GST Act, the School shall reimburse the Contractor for any GST chargeable by the Contractor on the supply by the Contractor of goods, services or works under this Contract.
- 4.5 Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if it is a taxable person for the purpose of the GST Act, be in the same form and contain the same information as if it were a tax invoice for the purposes of the regulations made under the GST Act.
- 4.6 The School is agreeable to the Contractor assigning its Receivables to any Factor, subject to the following:
- (a) the Contractor warrants and represents to the School that it has not previously assigned such Receivable to any person other than the Payee of such

Receivable;

- (b) the Contractor shall provide to the School any information in relation to the Payee and the factoring arrangement as the School may from time to time reasonably require;
- (c) such assignment shall be without prejudice to the School's rights against the Contractor under the Contract, at law or in equity, including the School's rights of deduction and set-off;
- (d) the Contractor shall ensure that:
 - (i) each of its invoices for assigned Receivables (each, a "**Factored Invoice**") indicate a Factor as the Payee;
 - (ii) it shall not issue any Factored Invoice indicating a person that is not a Factor as the Payee;
 - (iii) where any Factored Invoice is in respect of goods or services on which GST is chargeable by the Contractor, the Payee is indicated as the payee of the entire amount (including GST) of such Factored Invoice, unless the School agrees otherwise in writing; and
 - (iv) where payment of the Receivable to the Factor is subject to withholding tax under Singapore law, the Contractor shall give prior written notice of this to the School and comply with all reasonable invoicing directions of the School in connection with such withholding;
- (e) the Contractor acknowledges and agrees that:
 - (i) the School shall not be required to verify whether:
 - (A) payment of any Factored Invoice to the Payee is in accordance with a valid factoring arrangement; or
 - (B) the Contractor has complied with Clause 4.6(d);
 - (ii) payment made by the School to the Payee in respect of any Factored Invoice shall constitute a full discharge of the School's payment obligations to the Contractor in respect of such Factored Invoice;
 - (iii) where a Factored Invoice includes GST, payment made by the School to the Payee in respect of such GST shall constitute a full discharge of the School's payment obligations to the Contractor in respect of such GST;
 - (iv) if the Contractor issues a Factored Invoice which indicates a Payee that is not a Factor, the School shall have the right to reject such invoice and require the Contractor to reissue such invoice indicating either the Contractor or a Factor as the Payee; and

- (v) in the event withholding taxes are imposed by the tax authorities on any payment made pursuant to a Factored Invoice and such withholding taxes have not already been withheld by the School by way of deduction without any obligation to gross up, the Contractor shall indemnify and hold the School harmless from and against all such withholding taxes and any other Losses incurred or suffered by the School arising in connection with such withholding tax;
- (f) the Contractor shall ensure that all its invoices that are not factored do not indicate a Factor as the Payee. If the Contractor indicates the Factor as the Payee in any invoice that is not factored, payment made by the School to the Payee in respect of such invoice shall constitute a full discharge of the School's payment obligations to the Contractor in respect of such invoice; and
- (g) the School shall have the right at any time (whether before or after receiving a Factored Invoice) to withdraw its consent to any factoring arrangement by giving notice to the Contractor and the Factor, and upon such withdrawal of consent:
 - (i) the School shall be entitled to pay all Receivables to the Contractor without being liable to the Contractor or the Factor for any Losses; and
 - (ii) the Contractor shall reissue any Factored Invoice if required by the School.

5 TAXES, FEES AND DUTIES

- 5.1 The Contractor shall be responsible for all corporate and personal income taxes, customs fees, duties, fines, levies, assessments and other taxes payable by the Contractor or its personnel in carrying out its obligations under the Contract.
- 5.2 If the School receives a request from the tax authorities or otherwise decides to pay on behalf of the Contractor or the Contractor's personnel, or to withhold payments from the Contractor in order that the School may subsequently so pay, any such taxes, fees, duties, fines, levies and assessments ("**Taxes**"), the Contractor agrees that the School may deduct such Taxes from payment due to the Contractor and forward the balance to the Contractor without any obligation to gross up such payment or pay the Contractor any amount so withheld.
- 5.3 For the avoidance of doubt, if withholding taxes are imposed by the tax authorities on any payment due under this Contract, the Contractor shall bear all such withholding taxes and the School shall be entitled to deduct such taxes from payment due to the Contractor and forward the balance to the Contractor without any obligation to gross up such payment or pay the Contractor any amount so withheld.

6 TIME FOR PERFORMANCE

- 6.1 Time shall be of the essence in this Contract and the Contractor undertakes to supply, deliver, install and commission the Solution by the Stipulated Commissioning Date.

7 SCHOOL'S OBLIGATIONS

- 7.1 Intentionally Left Blank.

- 7.2 If the progress of the Works is delayed due to reasons attributable to the School, the School may, in its discretion, upon application by the Contractor for consideration under this Clause:

(h) require the Contractor to provide a quote of the additional costs and expenses if the Works are to be completed within the same timelines in the Implementation Plan, with such quote comprising only of costs which are reasonably incurred. The Contractor shall not proceed on this basis until the School has agreed on the same; or

(i) extend the affected timelines in the Implementation Plan,

or both, as the School deems reasonable to compensate for the delay. The Contractor shall not be entitled to claim any other loss or expenses incurred for such extensions of time or adjustments.

8 CONTRACTOR'S OBLIGATIONS

- 8.1 The Contractor shall with due care and diligence:

(a) carry out its obligations to the School under this Contract;

(b) ensure that the Solution meets the requirements as set out in the Requirements Specification;

(c) provide all software necessary for the operation of the Solution and the applications as set out in the Requirements Specification; and

(d) do all things which are necessary or reasonably to be inferred from the Contract.

- 8.1A The Contractor shall carry out its obligations in relation to the Services and Works in conformity with the general accepted standards of skill, care and diligence appropriate to the nature of the service rendered.

- 8.2 The Contractor warrants that all Hardware supplied to the School shall be of new manufacture (i.e. not second-hand, re-conditioned, or used items).

- 8.3 Intentionally Left Blank

- 8.4 If the Contractor is not on schedule for any part of this Contract, for any reason not attributable to the School, and thereby reduces any scheduled duration of activities to be carried out by the School under this Contract, the School shall be entitled to a corresponding time extension for completion of such activities at no additional cost to the School, and without prejudice to the Contractor's obligation to complete the Contract in accordance with the Implementation Plan.
- 8.5 In the performance of this Contract, if the Contractor is required to work at Workplaces on the School's premises, the Contractor shall at its own expense within a reasonable period of time, clear away and remove from the Workplaces all surplus materials, rubbish and work of every kind and leave the whole of the Workplaces clean and in workmanlike condition.
- 8.6 Intentionally left blank
- 8.7 Every obligation by the Contractor is taken to include an obligation by the Contractor to ensure that each of its directors, officers, employees, agents, Sub-contractors and others under its control performs or complies with that obligation. Any covenant by the Contractor not to do any act or thing includes an obligation not to allow that act or thing to be done.

9 RESPONSIBILITY FOR THE SOLUTION

- 9.1 The Contractor shall ensure that the Solution will provide the facilities, functions and performance standards set out in the Requirements Specification. If modifications or changes are necessary for the Solution to meet the requirements as stated in the Requirements Specification and the provisions of the Contract, the Contractor shall bear all additional costs involved in modifying or changing the Solution to satisfy these requirements.
- 9.2 The Contractor shall as soon as possible inform and provide the School at no cost whatsoever technical information on new product developments and improvements which may be applicable to the Solution when such technical information becomes available to the Contractor.
- 9.3 The Requirement Specifications which set out the facilities and functions to be provided by the Solution allows the Contractor to choose the manner in which the facilities will be achieved by the selection of hardware or software or a combination of both. It is anticipated that some matters of details may have to be clarified during the early stages of this Contract. In this context, the School reserves the right to issue written clarifications on the Requirements Specification to set out the School's requirements more precisely.
- 9.4 The Contractor shall be deemed to be fully informed of the School's requirements by the Requirements Specification and it shall be the Contractor's duty to clarify before submission of his Tender Offer any inadequacies or insufficiencies in the Requirements Specification having regard to the objective of the School's purchase of the Solution.

- 9.5 If the Solution supplied by the Contractor is inadequate to meet the requirements as stated in the Requirements Specification and the provisions of this Contract, the Contractor shall at its own expense, provide all additional items of equipment and software which are necessary for the Solution to meet such requirements. Any consequential changes must be agreed to by the School in writing.
- 9.6 All equipment and software provided under **Clause 9.5** shall on acceptance by the School become the property of the School and shall be subjected to the same warranty and maintenance by the Contractor as the entire Solution at no additional cost to the School.
- 9.7 Any additional cost incurred in connection with Site preparation, including but not limited to the provision of additional power supply, caused by the additional items of equipment or software supplied under **Clause 9.5** shall be at the Contractor's expense.

10 MODIFICATION OF SOLUTION

- 10.1 No change or modification shall be made to the Solution offered in the Contractor's Tender Offer by the Contractor unless the prior written agreement of the School has been obtained.
- 10.2 The Contractor shall provide written procedures and details of Solution changes or modifications which may have to be implemented during the various stages of the Contract, up to the expiry of the Solution Warranty Period. Such changes or modifications shall not be implemented unless the prior written agreement of the School has been obtained.

11 SECURITY DEPOSIT

- 11.1 Within thirty (30) calendar days commencing from the date of issue of the Letter of Acceptance, the Contractor shall deliver to the School a security deposit of an amount equal to five (5%) per cent of the estimated Development Price (the "Security Deposit") if the Contract is more than S\$500,000, for the due, faithful and complete performance of the Contractor's obligations under the Contract as regards delivery, installation, testing and commissioning of and warranty for the Solution.
- 11.2 The Security Deposit shall either be in the form of cash to be transferred in a form to be approved by the School or, in lieu of cash, a Security Deposit Guarantee.
- 11.3 The cost of obtaining and maintaining such Security Deposit Guarantee shall be borne by the Contractor.
- 11.4 The School reserves the right to require the Contractor to top up the Security Deposit paid under **Clause 11.1** at any time, in order to ensure the total Security Deposit amounts to five per cent (5%) of the Contract Price as adjusted from time to time in accordance with the Contract.

11.4A Intentionally Left Blank

- 11.4B The Contractor shall ensure that the Security Deposit Guarantee remains effective until **three (3)** months after the completion of the Solution Warranty Period and all the Contractor's obligations under the Contract as regards delivery, installation and commissioning of and warranty for the Solution.
- 11.5 If the Contractor's obligations as regards delivery, installation and commissioning of and warranty for the Solution under the Contract are unlikely to be completed before the expiry date of the Security Deposit Guarantee, the Contractor shall without demand, secure its renewal or obtain a new Security Deposit Guarantee for the same amount and on the same terms as the expiring Security Deposit Guarantee but with a validity period ending not less than **three (3)** months after the estimated date of completion of all such obligations under the Contract, and deliver the same to the School. If such renewal or new Security Deposit Guarantee is not deposited with the School at least **thirty (30)** days before the expiry date of the expiring Security Deposit Guarantee, the School shall have the right to call on the expiring Security Deposit Guarantee.
- 11.6 The School may at its sole discretion draw on the Security Deposit to satisfy any amount as may become due to the School under the Contract.
- 11.7 The School shall be entitled to make a demand on the Security Deposit Guarantee as soon as it is satisfied that the conditions for drawing on the Security Deposit have been fulfilled, notwithstanding that the Contractor disputes the same.
- 11.8 The School's rights under this **Clause 11** shall be without prejudice to any other rights and remedies available to the School.
- 11.9 Where the Security Deposit is in the form of cash, the Security Deposit, subject to such deduction as may be made from it by the School, shall be released within **ninety (90)** days from the completion of the Solution Warranty Period and completion of all the Contractor's obligations under the Contract as regards delivery, installation and commissioning of and warranty for the Solution.
- 11.10 The School's obligations to make payments under **Clause 4** are conditional upon the Contractor having provided the Security Deposit in accordance with this **Clause 11**.
- 11.11 In the Contract, "**Security Deposit Guarantee**" means a guarantee in the form set out in **Schedule 4** issued by:
- (a) a bank or insurance company licensed by the Monetary Authority of Singapore;
or
 - (b) a finance company licensed by the Monetary Authority of Singapore,
- under which the issuer guarantees the fulfilment of the terms and conditions of the Contract by the Contractor.

12 PROJECT MANAGEMENT

12.1 The School's Representative

The School shall appoint a person to supervise and liaise with the Contractor for the purpose of the Contract and such person may designate others to assist him in such matters.

12.2 Project Office

The Contractor shall at its own expense establish an office in Singapore, at which the Contractor can be contacted by the School, to coordinate the performance of this Contract.

12.3 Project Manager and Other Personnel

12.3.1 The Contractor shall designate a project manager who shall be primarily responsible for directing and coordinating the supply, delivery and installation of the Solution and all work and services which are to be executed or provided by the Contractor under the Contract and all other matters including contract administration, monitoring of progress, installation and testing of equipment, technical personnel training, logistic support, documentation preparation and operation start-up (the “**Project Manager**”). The Project Manager shall be deemed to be the Contractor's agent in all dealings with the School and all actions of the Project Manager shall be binding on the Contractor.

12.3.2 The Representative shall have direct access to the Project Manager at all times during the performance of this Contract and if the Project Manager is absent from work or out of Singapore for any duration, the Contractor shall designate another employee to perform its duties and functions.

12.4 On-Boarding Process

12.4.1 Prior to the commencement of any work under the Contract and as and when required by the School, the Contractor shall (and shall ensure that each of its personnel and those of its Sub-contractors deployed or engaged to perform any obligations under the Contract will) undergo and comply with such on-boarding process as set out in the Requirements Specification.

12.4.2 Unless permitted by the School, the Contractor shall not permit any of the personnel specified in Clause 12.4.1 above to commence work on the Contract until the on-boarding process referred to in Clause 12.4.1 has been complied with.

12.4.3 Clause 12.4.2 shall be without prejudice to any right of the School to any remedies against the Contractor for its failure to comply with Clause 12.4.1.

12.5 Governance Structure

12.5.1 Throughout the duration of the Contract, and unless otherwise expressly stated in this

Contract, the Contractor shall adhere to such governance structure for the management and oversight of all of the work and activities of the Contractor and its Third Party Suppliers in relation to the Contract as set out in the Contract, including the establishment of, and the participation in, the necessary committees. The Contractor shall, and shall ensure that its Third Party Suppliers (if any) shall if required, participate in the establishment and all activities of the relevant committees under such governance structure.

12.6 Implementation Plan

12.6.1 Within two (2) weeks from the issuance of the Letter of Acceptance, the Contractor shall propose for the School's approval an implementation plan for the School ("**Implementation Plan**"). The Implementation Plan:

- (a) shall be consistent with any implementation plan as may be submitted by the Contractor in its Tender Offer;

shall show the time schedule and sequence of events necessary for the commissioning of the Solution including a delivery schedule for the Documentation and the respective dates for delivery, installation, commissioning and acceptance of the Solution; and

- (c) shall not exceed the time prescribed in **Schedule 2**, unless otherwise agreed by the School.

12.6.2 Unless and until an Implementation Plan is provided under **Clause 12.6**, the Contractor shall perform its obligations according to **Schedule 2** and for this purpose, a reference to this Contract to "Implementation Plan" shall be read as a reference to "Schedule 2".

12.7 Regular Progress Reports & Meeting

12.7.1 The Contractor shall deliver to the Representative regular written progress and status reports in a format approved by the Representative (the "**Progress Reports**"). Unless otherwise stipulated by the School in writing, the Progress Reports shall be submitted on a monthly basis. The Progress Reports shall include the current project status, the expected and actual completion dates of events necessary for the delivery, installation, commissioning and acceptance of the Solution, the activities to be carried out by the School and its Representative, and an indication as to whether the deadlines set out in the Implementation Plan can be met. The submission and acceptance of these reports shall not in any way prejudice the rights of the School to make any claims against the Contractor.

12.7.2 If requested by the School to do so, the Contractor shall provide such samples, demonstrations, presentations and other evidence (documentary or otherwise) reasonably necessary to enable the School to verify the Progress Reports.

12.7.3 The Contractor shall notify the Representative of any expected delay in the performance of this Contract. The Contractor shall refer immediately to the Representative any matter likely to impede the progress of the supply, delivery, installation and commissioning of the Solution.

12.7.4 The Representative may call progress meetings (the “**Progress Meetings**”) at regular intervals during which the Project Manager shall attend and report to the Representative on the progress of the supply, delivery and installation of the Solution and the performance of the Contract and compliance with the Contract requirements. The Progress Meetings shall be held at venues chosen by the Representative. Unless otherwise stipulated by the School in writing, the Progress Meetings shall be held on a monthly basis.

12.8 Intentionally left blank.

13 CONTRACTOR'S PERSONNEL

13.1 The Contractor shall provide all necessary personnel who are suitably qualified and competent and who have adequate skills for the performance of the Works.

13.2 The Contractor shall communicate in writing for the approval of the Representative the names and particulars of all Service Personnel.

13.3 The Contractor shall provide the name and particulars required under **Clause 13.2** in the form required by the Representative.

13.3A The Service Personnel shall at all times be subject to the School’s approval, and the School may at any time object to any previously approved Service Personnel. Where the Contractor has proposed such Service Personnel in its Tender Offer, the School’s acceptance of the Contractor’s Tender Offer shall not constitute its approval of such Service Personnel, and the Contractor shall separately seek the School’s approval of such Service Personnel.

13.4 Except as approved by the School and subject to such conditions as the School may impose, the Contractor shall ensure that no Service Personnel shall commence work on the Contract unless:

- (a) the School has given its prior written approval of such Service Personnel pursuant to Clause 13.3A; and
- (b) such Service Personnel has obtained the necessary level of security clearance for the category and nature of the work to be handled by such Service Personnel, as required by the School from time to time. Such Service Personnel shall, as part of the security clearance, submit such declaration as may be required by the School.

13.5 The Contractor shall take into consideration the time reasonably required for security clearance and ensure that sufficient number of Service Personnel with the necessary level of security clearance is deployed at every stage of the implementation.

13.6 If the School objects by notice in writing to any Service Personnel assigned or designated by the Contractor or by any Sub-contractor to carry out any work or perform

services for the purposes of the Contract who, in the opinion of the School, has misconducted himself or is a security risk or is deemed unsuitable in any way or has failed any security clearance subsequent to the commencement of work on the Contract, the Contractor shall remove such person immediately and furnish a suitable and adequate replacement at no additional expense to the School. If the School has other reasons to believe that any Service Personnel assigned or designated by the Contractor, or its sub-contractors or agents are unsatisfactory in any way, the Contractor and the School shall meet immediately in order to reach a mutually acceptable solution.

- 13.7 The Contractor undertakes not to change its Service Personnel designated under **Clause 13.1** without the School's or the Representative's consent, which shall not be unreasonably withheld. The Contractor shall not alter or reduce the quality of its Service Personnel if this may adversely affect the progress or quality of the Works. In the event that the Contractor wishes to replace its designated Service Personnel, the Contractor shall provide the names and particulars of the replacement Service Personnel in writing to the School or the Representative for the School's or the Representative's (as the case may be) consent. Replacement Service Personnel shall not commence work on the project unless approval is given in writing by the School.
- 13.8 The Contractor shall not, without prior written permission from the Representative, bring any visitor to any Workplace on the School's premises or any Site.

14 TITLE AND RISK

- 14.1 The title to and risk in the Solution, and any part thereof shall pass to the School on the Commissioning Date. The Contractor shall be responsible for insuring the Solution in accordance with **Clause 38.1**.
- 14.2 The Contractor warrants that upon the Commissioning Date and the payment of the corresponding milestone payment, the School shall acquire good clear title to the Solution free from all liens or encumbrances.

15 SITE PREPARATION

- 15.1 In this Clause, the following expressions shall have the following meanings assigned to them:
- "Site Specifications" means the information and specifications for the preparation of the Site for the purposes of delivery, installation and implementation of the Solution as set out by the Contractor in the Tender Offer or as may be provided by the Contractor and approved by the Authority in writing prior to the date of delivery for the Hardware
- 15.2 The School shall at its own expense, prepare the Site in accordance with the Site Specifications and provide such environmental and operational conditions for the efficient working, operation and maintenance of the Solution.

- 15.3 The Contractor shall, upon request from the School, supply such information and assistance as is reasonably required by the School to enable the School to prepare the Site for the installation of the Solution and to provide environmental and operational conditions for the efficient working, operation and maintenance of the Solution. For this purpose, the Contractor shall make available to the School free of charge the advice of a suitably qualified engineer.
- 15.4 In addition to and notwithstanding Clause 15.3, the Contractor undertakes to, within one (1) month of the Letter of Acceptance, provide the School with sufficient information to ensure that there will be, for the purposes of the preparation of the Site and the installation, implementation and proper operation of the Solution:
an adequate supply of electricity as required for the full functioning and operation of the Solution;
- (a) sufficient space and area for the Solution to be installed and deployed;
 - (b) adequate electrical outlets, wiring and fittings;
 - (c) appropriate environmental conditions; and
 - (d) any other requirements as set out in the Requirements Specification.
- 15.5 The Contractor shall, upon request from the School, examine the Site prior to delivery of the Solution. The Contractor shall, as soon as practicable, advise the School as to the suitability of the Site and the adequacy or sufficiency of the preparation of the Site by the Authority.
- 15.6 If the examination referred to in Clause 15.5 reveals the Site to be unsuitable for the purposes of delivery, installation or deployment of the Solution or that the preparation of the Site by the School is inadequate or insufficient, the Contractor shall provide the School with reasons in writing for such finding of unsuitability, inadequacy or insufficiency as soon as practicable and in any event prior to the Hardware Delivery Date. Upon receipt of such notification, the School may:
- (a) rectify the deficiencies in the Site or, if necessary, relocate the Site, and unless the School causes the unsuitability, inadequacy or insufficiency of the Site, the Contractor shall bear the expense of such rectification of the deficiencies in the Site or the relocation of the Site, as the case may be; or
 - (b) terminate the Contract and pursue such remedies as are available under this Contract in accordance with Clause 48.4 (without prejudice to the School's other rights and remedies) or at law in respect of a breach by the Contractor.
- 15.7 In the event that the Site is rectified or relocated by the School pursuant to Clause 15.6:
- (a) upon completion of the rectification or relocation, the Contractor shall re-inspect the Site and the provisions of Clauses 15.5 and 15.6 shall apply to such re-inspection; and

- (b) the School shall have no liability to the Contractor in the event that it cannot accept delivery of the Hardware on the Hardware Delivery Date due to delays caused by the rectification or relocation, and subsequent re-examination arising from the fault of the Contractor.
- 15.8 If the Contractor fails to inspect the Site prior to delivery or such other stipulated date in the Implementation Plan, whether or not such inspection is requested by the School, the Site shall be deemed to have been approved by the Contractor.
- 15.9 If the Site is approved or deemed to have been approved by the Contractor and is subsequently found to be unsuitable for the purpose of delivery, installation or implementation of the Solution, the School may at its option:
 - (a) require the Contractor to meet the cost of any necessary modification to or relocation of the Site; or
 - (b) terminate this Contract and pursue such remedies as are available under this Contract in accordance with Clause 48.4 (without prejudice to the School's other rights and remedies) or at law in respect of a breach by the Contractor.

16 INFORMATION AND ACCESS

- 16.1 The School undertakes to provide the Contractor promptly with any information which the Contractor may reasonably require from time to time to enable the Contractor to proceed expeditiously with the performance of its obligations under the Contract.
- 16.2 The School shall, for the purposes of the Contract, afford to the authorized personnel of the Contractor during normal working hours full and safe access to any Workplace on the School's premises and any Site and shall provide adequate free working space and such other facilities as may be necessary for the installation of the Solution.

17 PRE-DELIVERY CONDITION

- 17.1 The Contractor shall warrant that upon its delivery, each item of the Solution shall be in good working order and will conform to manufacturer's or software proprietor's official published specifications. Such specifications shall be made available upon request at no additional charge to the School.

18 PRE-DELIVERY TESTS

- 18.1 Before delivery of the Hardware to the School, the Contractor shall submit the Hardware to its standard works tests (the "**Works Tests**"). The Contractor shall promptly supply to the School on request copies of the specification of the Works Tests.
- 18.2 The School or its Representative may attend the Works Tests. The Contractor shall give

the School at least seven (7) days' written notice of the date and time at which the Contractor proposes to carry out the Works Tests. If there is any delay or failure by the School or its Representative in attending the Works Tests, the Contractor reserves the right to proceed with the Works Tests and the results of the Work Tests shall be deemed to be accepted by the School.

- 18.3 Upon successful completion of the Works Test, the Contractor shall issue to the School a certificate that the Hardware has passed the same.

19 PACKING

- 19.1 The Contractor shall ensure that all items of the Solution shall be adequately packed and secured in such a manner as to withstand rough handling during transportation and to reach their destination in good condition.
- 19.2 The items must be protected from dust, moisture, climatic or any other factors from the time the items leave the place of manufacture until such time when the items are received by the School.
- 19.3 Any item that is found below standard or damaged owing to inadequate or improper packing shall be repaired or replaced by the Contractor without any charge to the School.
- 19.4 All replacement or repair shall be carried out by the Contractor within the time stipulated by the School immediately upon written notification by the School and regardless of whether any insurance proceeds have been obtained.
- 19.5 The Contractor shall, at the request of the School, give full details on when the items are dispatched and the mode of carriage.

20 DELIVERY

- 20.1 The Contractor shall schedule the delivery and installation events to meet the Stipulated Commissioning Date.
- 20.2 Without prejudice to the generality of **Clause 20.1** the Contractor shall make its own arrangements regarding import and export licenses, storage, insurance, custom and import duties and all matters connected with transportation of the Solution, Hardware, Software, documentation, including but without limitation, the Documentation, equipment, spare parts, materials and other items from their points of origination to the Off-Loading Point.
- 20.3 The Contractor shall be responsible for moving the Hardware from the Off-Loading Point to the Site. If it is necessary for the Contractor to remove any doors, widen any entrances or undertake any structural works of any description, it shall do so at its own expense and with the Representative's written consent, which consent shall not be unreasonably withheld.

20.4 The Contractor undertakes that the information with regard to the dimensions and weights of the various component parts of the Hardware given in its Tender Offer are correct and any additional expense incurred by the School due to any incorrect information provided by the Contractor shall be borne by the Contractor.

21 INSTALLATION

21.1 The Contractor shall install the Hardware at the Site on the date specified in the Implementation Plan.

21.2 If in the reasonable opinion of the Contractor it is necessary to remove or otherwise disconnect any of the School's existing equipment at the Site in order to carry out the installation of the Hardware, the Contractor shall give the School sufficient advance written notice of this, then the School shall permit, and obtain all necessary consents for, such removal or disconnection and shall give the Contractor all necessary assistance to enable such work to be carried out.

21.3 The Contractor shall provide all tools and equipment which are necessary for the installation of the Hardware.

22 ACCEPTANCE TESTS

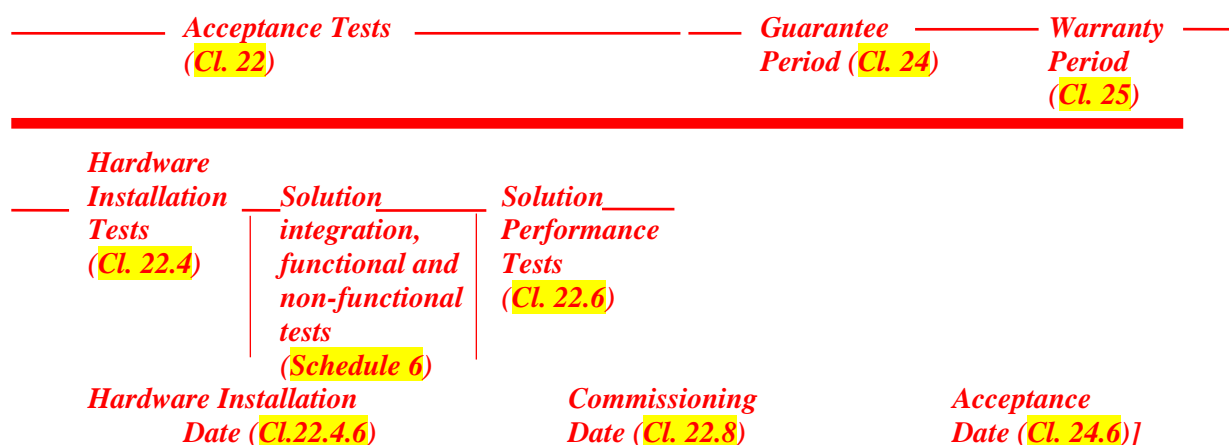
22.1 Conducting Acceptance Tests

22.1.1 The Contractor shall conduct acceptance tests and ensure that the entire Solution including the Hardware and Software pass all the acceptance tests and meet all the requirements in the Requirements Specification ("**Acceptance Tests**"). The Acceptance Tests shall comprise:

- (a) Hardware Installation Tests;
- (b) Solution integration tests, Solution functional tests, and Solution non-functional tests (e.g. security tests, Vulnerability Assessment and Penetration Test ("**VAPT**")); and
- (c) Solution Performance Tests.

22.1.2 The Acceptance Tests shall also apply to any substitute, replacement and converted component parts that are acquired by the School in relation to this Contract.

22.1.3 The Acceptance Tests shall comply with the Acceptance Test Procedures proposed by the Contractor in its Tender Offer and accepted by the School. The School shall have the right to modify the Acceptance Test Procedures or specify different procedures within a reasonable time prior to the tests to meet the requirements of the Contract. The Acceptance Test Procedures proposed by the Contractor in its Tender Offer shall be developed based on the Requirements Specification using **Schedule 7 of Part 1, Section B** or as otherwise specified by the School in the Contract.



22.2 Notice of Commencement and Completion of Acceptance Tests

22.2.1 The Contractor shall give to the School in writing seven (7) days’ prior notice or such shorter notice as the Representative may agree in writing of the place, date and time at which the Contractor proposes to conduct any Acceptance Tests. The proposed place, date and time shall be subject to the School’s approval.

22.2.2 The Contractor shall provide all tools and testing equipment at its own cost and expense for the purposes of the Acceptance Tests.

22.2.2A The Contractor shall ensure that the Solution meets the Requirements Specification prior to commencing the Acceptance Tests, which shall include the comprehensive network security penetration test in **Part 2 Requirement Specifications**. Upon request by the School, the Contractor shall furnish the test results as evidence of meeting these requirements.

22.2.3 The School shall be entitled to witness the Acceptance Tests provided if the School’s personnel are not present at the place, date and time as notified by the Contractor and approved by the School under **Clause 22.2.1**, the Contractor may proceed to conduct the Acceptance Tests.

22.2.4 Upon completion of any Acceptance Test, the Party that conducted the Acceptance Test shall give notice of such completion to the other Party.

- (a) If both Parties are satisfied that the Acceptance Test has been successfully completed, both Parties shall mutually certify that the Acceptance Test has been successfully completed.
- (b) If the School is not satisfied that the Acceptance Tests has been successfully completed, the School shall, within a period of seven (7) days of receipt of the notice, provide in writing a defect report.
- (c) If the School does not, within a period of seven (7) days, provide in writing a defect report referred to in paragraph (b) above, then the Acceptance Test shall

be deemed to be satisfactorily completed.

22.3 Delay in Acceptance Tests

22.3.1 If in the opinion of the School, the Acceptance Tests are unreasonably delayed, the School may by notice in writing require the Contractor to conduct the tests within seven (7) days from receipt of such notice and the Contractor shall conduct the tests on such date or dates within the said seven (7) days as the Contractor may fix and of which the Contractor shall give reasonable notice to the School.

22.3.2 If the Contractor fails to conduct such tests within the time, the School may itself proceed to conduct the said tests. All Acceptance Tests so conducted by the School shall be at the risk and expense of the Contractor.

22.4 Hardware Installation Tests

22.4.1 The Contractor shall conduct the Hardware Installation Tests after installing the Hardware. In the Hardware Installation Tests, the Contractor shall submit the Hardware to:

- (a) all the test procedures set out in the Requirements Specification, if any;
- (b) all the manufacturers' standard test procedures; and
- (c) all the manufacturers' published specification,

to ensure that the Hardware is in full working order. The Contractor shall supply the School with copies of the manufacturers' standard test procedures and manufacturers' published specification before the conduct of the Hardware Installation Tests. The Contractor shall give advance written notice to the School of the date of the Hardware Installation Tests in accordance with **Clause 22.2.1** and the School shall have the right to attend the relevant Hardware Installation Test on that date.

22.4.2 The School shall provide all reasonable facilities to enable the Hardware Installation Tests to be carried out.

22.4.3 The Contractor shall also load data supplied by the School into the Hardware and conduct tests to verify whether the data together with the Hardware are operating in accordance with the manufacturers' published specification and the Requirements Specification.

22.4.4 If the Contractor is unable to certify that the entire Hardware has successfully passed the Hardware Installation Tests or does not so certify within fourteen (14) days from the date when the Hardware Installation Tests were first conducted, the Hardware will be deemed to have failed the Hardware Installation Tests.

22.4.5 If the Hardware or any part thereof fail to pass the Hardware Installation Tests then the School may, by written notice to the Contractor elect at its sole option:

- (a) to have the Hardware Installation Tests repeated (without prejudice to its other rights and remedies) on the same terms and conditions within a reasonable time.

Unless otherwise agreed in writing between the Parties, all such repeat Hardware Installation Tests shall not be construed as any grant of extension of time by the School and the Contractor remains liable for any delay in complying with its obligations under the Contract; or

- (b) to require (without prejudice to its other rights and remedies) the Contractor to provide such replacement equipment as will enable the Hardware to pass the Hardware Installation Tests. Unless otherwise agreed in writing between the Parties, all provision of such replacement equipment shall not be construed as any grant of extension of time by the School and the Contractor remains liable for any delay in complying with its obligations under the Contract; or
- (c) to accept the Hardware subject to an abatement of the Development Price such abatement to be such amount, as taking into account the circumstances, is reasonable. In the absence of written agreement as to abatement within fourteen (14) days after the date of such notice the School shall be entitled to exercise Sub-Clause (d) below; or
- (d) to treat the Contractor as being in breach of Contract and to reject the Hardware as not being in conformity with the Contract in which event the School shall be entitled to terminate this Contract (without prejudice to the School's other rights and remedies) in accordance with Clause 48.

22.4.6 When the Hardware has successfully passed the Hardware Installation Tests, the Contractor shall so certify to the School in writing that the Hardware is operating in accordance with the manufacturer's published specifications and the Requirements Specification. The date of such certification shall be the Hardware Installation Date. The issue of any such certificate shall be without prejudice to the School's right to reject the Solution under **Clause 22.6**.

22.5 Delivery and Installation of Software

22.5.1 The Contractor shall within seven (7) days of the Hardware Installation Date, deliver the Software to the School and install the Software on the Hardware at the Site.

22.6 Solution Performance Tests

22.6.1 After the Software has been fully installed on the Hardware at the Site, the School shall load into the Solution test data which in the reasonable opinion of the School is suitable to test whether the Solution is in accordance with the Requirements Specification and with the advice and assistance of the Contractor, operate the Solution for the period of seven (7) working days to:

- (e) perform the School's routine transactions;
- (f) perform the transactions performed during any benchmark tests or other vendor demonstrations included, referenced, or incorporated in the Requirements Specification;

- (g) carry out system functions test to determine whether the Solution meets the specifications, performs the functions, and meet the criteria for Solution Availability, response time and workload requirements set forth in the Requirements Specification;
- (h) determine whether the documentation for the Solution meets the requirements of this Contract; and
- (i) perform such other transactions as may be necessary to test the system performance specified in the Requirements Specification.

22.6.2 The Solution shall be deemed to fail the Solution Performance Tests if

- (a) it fails to provide any facility, transaction or function specified in the Requirements Specification; or
- (b) it fails to run the Software in accordance with the Requirements Specification and within two percent (2%) of applicable benchmark or other demonstration results, for the period prescribed for the Solution Performance Tests.

22.6.3 If the Solution fails to pass the Solution Performance Tests then the School may, by written notice to the Contractor elect at its sole option:

- (a) without prejudice to any other accrued rights, to have the Contractor provide a solution and to fix (without prejudice to its other rights and remedies) a new date for carrying out further tests on the Solution on the same terms and conditions (save that all costs which the School may incur as a result of carrying out such tests shall be reimbursed by the Contractor). Unless otherwise agreed in writing between the Parties, all such further tests shall not be construed as any grant of extension of time by the School and the Contractor remains liable for any delay in complying with its obligations under the Contract; or
- (b) to accept the Solution subject to an abatement of the Development Price such abatement to be such amount, as is considered reasonable by the School taking into account the circumstances, is reasonable. In the absence of written agreement as to abatement within fourteen (14) days after the date of such notice the School shall be entitled to exercise **Clause 22.6.3(c)** below; or
- (c) to treat the Contractor as being in breach of Contract and to reject the Solution as not being in conformity with the Contract in which event the School shall be entitled to terminate this Contract (without prejudice to the School's other rights and remedies) in accordance with **Clause 48**.

22.7 Failure of Acceptance Tests

22.7.1 The School shall not be under any obligation to accept the Solution if it does not successfully pass any of the Acceptance Tests under the Contract. In the case of hardware tests, the Contractor shall, at the School's request, diagnose any software failures or deficiencies even if this involves hardware or software not supplied by the Contractor. In the case of software tests, the Contractor shall, at the School's request,

diagnose any hardware failures or deficiencies even if this involves hardware or software not supplied by the Contractor. The Contractor shall submit a report to the School detailing the cause for the failure of any Acceptance Tests and the corrective action taken.

22.8 Commissioning Date

- 22.8.1 As soon as the Solution has successfully passed all the Acceptance Tests, the School shall immediately issue a certificate commissioning the Solution (the “**Acceptance Test Certificate**”) and the date of the Acceptance Test Certificate shall be the Commissioning Date of the Solution.
- 22.8.2 The Contractor shall remain liable to the School under the Contract notwithstanding the signing by the School of any certificate or document or any payment or the release of the security deposit. Subject to **Clause 22.8.3** below, such certificate, document or payment shall have no legal effect other than serving as a declaration to the Contractor that it is ready to proceed with the next phase of this Contract.
- 22.8.3 The Acceptance Test Certificate issued in respect of the last and final Acceptance Test to be conducted under this Contract, when signed by the School, signifies that the School is ready to commission the Solution and is subject to such reservations and conditions as may be endorsed on the Acceptance Test Certificate by the School.
- 22.8.4 The School’s commissioning or acceptance of the Solution does not relieve the Contractor of its responsibility for defects in the Solution, or any part or component thereof or other failures to meet the requirements of the Contract or of its warranty or maintenance obligations under the Contract.

23 LIQUIDATED DAMAGES FOR LATE COMMISSIONING

- 23.1 In the event the Contractor fails to meet the Stipulated Commissioning Date, the School may (in addition and without prejudice to all other rights or remedies available, including under **Clause 22.6**, and including the School’s right to terminate the Contract pursuant to **Clause 48** or otherwise), do one or more of the following:

(a) impose liquidated damages (being the loss suffered by the School arising from the delay in the Stipulated Commissioning Date) at the rate of one tenth of a percent (0.1%) of the Development Price for each day of delay (including Sundays and Public Holidays) or part thereof until the earlier of the following:

- (i) the Commissioning Date;
- (ii) the date the Equivalent System is delivered pursuant to **Clause Error! Reference source not found.**; or
- (iii) the date the Contract is terminated,

up to a maximum of ten percent (10%); or

(b) purchase a system equivalent to the Solution as defined in **Clause 1.1** ("**Equivalent System**") from any other sources and any increase in cost between that Equivalent System and the Contract Price shall be recoverable from the Contractor together with all payments made under this Contract. For the avoidance of doubt, the Equivalent System shall be a system which has the same or the closest fit to the Requirements Specification relating to the Solution. For the further avoidance of doubt, the Equivalent System shall include all documentation, training and related materials required for the Equivalent System to meet the Requirements Specification.

- 23.2 Where the Contractor fails to meet any timelines stipulated in the Implementation Plan, or such other timelines as may be stipulated by the School, the School shall be entitled to an extension of time for verification and review of deliverables or for the performance of activities corresponding to the period of delay. The extension of time for the School shall be without prejudice to the Contractor's obligation to meet the Stipulated Commissioning Date(s) set out in the Implementation Plan or such other timelines as may be agreed by the School.

24 PERFORMANCE GUARANTEE PERIOD

- 24.1 In this clause the following expressions shall have the meanings hereby assigned to them:

" **Operating Hours**" means the scheduled operating hours of the Solution which will be from 00:00 to 24:00 from Monday to Sunday including Public Holidays excepted.

"**Standard of Performance**" means the level of performance achieved by the Solution when it is operating in conformity with the Requirements Specification.

"**Solution Availability Level**" shall be determined according to the following formula:

$$\text{Solution Availability} = \frac{[\text{Operating Hours} - \text{Solution Downtime}]}{\text{Operating Hours}} \times 100\%$$

"**Solution Downtime**" means the accumulated time during which the Solution is not operating in accordance with the Requirements Specification except for occasions where the failure is due to factors for which the Contractor is not responsible or any planned downtime of the Solution that was mutually agreed to by the Parties as part of routine maintenance.

- 24.2 The Performance Guarantee Period shall commence on the Commissioning Date and continue for a period of ONE (1) calendar month.
- 24.3 The System shall have successfully completed the Performance Guarantee Period if the Solution meets the Standard of Performance with a Solution Availability Level of not less than ninety-nine per cent (99%) for each calendar month or part thereof during the period of ONE (1) calendar month.

- 24.4 If the Solution fails to meet the requirements under **Clause 24.3** the Performance Guarantee Period shall continue from day to day until the Solution has met the Standard of Performance with a Solution Availability Level of not less than ninety-nine per cent (99%) over a period of TEN (10) consecutive working days which period shall not begin earlier than FOURTEEN (14) working days from the Commissioning Date.
- 24.5 The School shall maintain daily records to monitor and determine the successful completion of the Performance Guarantee Period.
- 24.6 Once the Solution has successfully completed the Performance Guarantee Period either in accordance with **Clause 24.3** or **Clause 24.4** the School shall as soon as possible issue a written notice to the Contractor accepting the Solution. The date of the notice or the date when such notice should be issued as determined from the records kept (if different from the date of the notice) shall be the Acceptance Date.
- 24.7 During the Performance Guarantee Period, the Contractor shall at all times and under all conditions be entirely responsible for the functioning of the Solution in accordance with the Requirements Specification, and for the compliance of such additional requirements as may be mutually agreed upon between the School and the Contractor at no additional cost to the School.
- 24.8 The Contractor shall, at no cost to the School, resolve all defects, deficiencies, failures or damage to the Solution arising at any time prior to the commencement of the Solution Warranty Period. For avoidance of doubt, defects shall include and are not limited to defective design, materials, workmanship, incorrect operating or maintenance instructions given by the Contractor in writing, and any damage to the Software or operational data. The Contractor shall commence corrective action within three (3) days of receiving notice of such defect, deficiency, failure or damage to the Solution from the School. The Contractor shall furnish the School with a report to explain the defects and to advise on the corrective action taken within three (3) days after the defects have been rectified.

24A GENERAL TERMS ON LIQUIDATED DAMAGES

- 24A.1 This **Clause 24A** shall apply to all liquidated damages imposed under this Contract.
- 24A.2 Where liquidated damages are imposed, the Contractor shall pay such liquidated damages to the School in Singapore Dollars not later than thirty (30) days from the date of issue of a written notification by the School to the Contractor informing the Contractor of the liquidated damages payable.
- 24A.3 The School reserves the right to charge interest for any delayed payment at the rate of 7.7% per annum from the date when such payment is due until the date of actual payment (before and after judgment). Such interest shall accrue from day to day and shall be compounded monthly.
- 24A.4 The School shall have the right, at its sole discretion, to elect to claim general damages

in common law from the Contractor instead of imposing liquidated damages.

25 SOLUTION WARRANTY PERIOD

- 25.1 The Solution Warranty Period shall commence on the Acceptance Date and shall last for thirty-six (36) calendar months or such longer period as may be proposed by the Contractor.
- 25.2 During the Solution Warranty Period, the Contractor shall render replacement parts and diagnostic services and any other works and services required to make good all defects to the Solution at no cost to the School in the same manner and on the same conditions as those provided under the Conditions of Software and Hardware Maintenance and Support, provided that written notice of such defects is promptly given to the Contractor.
- 25.3 Where during the Solution Warranty Period, the Solution or any part thereof is found to be:
- (a) defective in either design, materials or workmanship; or
 - (b) not in accordance with the Contract; or
 - (c) having been installed, operated, stored and maintained in accordance with the written instructions of the Contractor, fails to function properly or fails to meet any performance guarantees set forth in the Contract or any additional requirements which may be mutually agreed between the School and the Contractor;

then, unless it is shown that the foregoing is caused solely by improper use or mishandling on the part of the School, the Contractor shall, at its own expense (including but not limited to transportation costs, costs of testing, and examination), upon notification from the School, replace or completely repair the defective parts of the Solution or otherwise completely rectify the defects.

- 25.4 During the Solution Warranty Period, the Contractor shall comply with the Solution Availability Level, and respond to the notification within the response time specified in the Conditions of Software and Hardware Maintenance and Support and render the Solution fully operational within the turn-around-time time specified in the Conditions of Software and Hardware Maintenance and Support.

26 ADDITIONAL SUPPLIES AND CONSUMABLES

- 26.1 The Contractor shall provide an option to the School to purchase such consumable supplies which are (a) required for the operation of the Solution and (b) which are not commonly available locally ("Consumables"), exercisable by raising Purchase Order(s) from time to time during the Life-Span of the Solution. The prices offered in the Tender Offer shall be maintained for twelve (12) months from the Commissioning Date of the Solution, and any increment in the prices for the Consumables thereafter from year to

year shall not exceed five percent (5 %) of the previous year's price.

- 26.2 The supply shall be on the same terms as the supply of goods under this Contract. The Contractor shall make reasonable efforts to secure the adequate supply of the Consumables required by the School for the entire Life-Span of the Solution.
- 26.3 If the material composition of any item will be changed or modified, the Contractor shall give the School twelve (12) months' prior notice in writing and the School shall be entitled to purchase required quantities of the original and unmodified version of the items. The School shall also have the option to purchase supplies of the changed or modified item in place of the original items for the Life Span of the Solution.
- 26.4 Without prejudice to Clauses 26.1 to 26.3 above, upon award of the Contract, the Contractor hereby grants an option to the School to purchase any item of goods or services proposed by the Contractor in the Tender Offer ("Additional Supplies"). Such an option shall remain valid and exercisable by the School from award of the Contract until twelve (12) months after the Commissioning Date of the Solution (the "Option Period"), and the following shall apply to the option:
- (a) the School may exercise the option set out in this Clause 26.4 by raising Purchase Order(s) at any time during the Option Period;
 - (b) the Contractor shall maintain the prices for the Additional Supplies offered in the Tender Offer for the Option Period;
 - (c) any goods or services purchased under this option shall be provided by the Contractor to the School on the same terms and conditions of this Contract; and
 - (d) for the avoidance of doubt, the School shall be entitled to raise Purchase Order(s) for such Additional Supplies regardless of whether:
 - (i) such Additional Supplies were initially awarded by the School or not; or
 - (ii) such Additional Supplies purchased under this option exceed or are in addition to the amounts initially required by the School at the date of the award.
- 26.5 The Contractor shall ensure that all Additional Supplies and Consumables supplied shall be free from all known Vulnerabilities and defects including defects arising out of faulty design, inferior materials, faulty and inferior workmanship and shall be of high quality and fit for the purpose for which they are intended.
- 26.6 The Contractor shall repair or replace all defective items and bear all costs including the cost of testing, and quality assurance, incurred in the repairing or replacing of all defective items supplied under this Clause including defects arising out of faulty design, faulty and inferior workmanship or any other cause not attributable to the negligence or actions of the School, if such defects are discovered within twelve (12) months from the date of delivery of the said items. This is without prejudice to any other claim the Authority may further lodge.

27 MAINTENANCE

- 27.1 The Contractor grants to the School an option to purchase support and maintenance services for the Solution (“**Maintenance Option**”) at the price stated in the Contractor’s Tender Offer (“**Maintenance Price**”), which option shall be exercisable at any time before the expiry of the Solution Warranty Period on the terms set out in the Conditions of Software and Hardware Maintenance and Support. ‘Maintenance Price’ shall refer to the yearly maintenance price.
- 27.2 The Maintenance Option, if exercised, shall commence on the day after expiry of the Solution Warranty Period (“**Maintenance Effective Date**”) and shall, unless otherwise agreed to between the Parties, be for a period of three (3) years. It may, at the option of the School be renewed for a periods of two (2) years. (“**Maintenance Period**”).
- 27.3 The Contractor shall provide the Maintenance Services in accordance with the Conditions of Software and Hardware Maintenance and Support (**Part 1 Section C**) and any other terms that may be mutually agreed in writing.
- 27.4 Subject to the provisions of the Conditions of Software and Hardware Maintenance and Support (**Part 1 Section C**), any increment in the Maintenance Price from one year to the next shall not exceed five percent (5%) of the previous year's rates and the rates shall not in any event be higher than those charged by the Contractor at a Fair Market Value.

28 TRAINING

- 28.1 The Contractor shall be responsible for the provision of suitable and adequate training for staff nominated by the School.
- 28.2 The training shall include training in use of the Solution and self-help for first line support by the computer center information systems officers, supervisors, operators and end-users.
- 28.3 The training provided shall comply with the Requirements Specification and such other proposals contained in the Contractor's Tender Offer as may be agreed between the Parties.
- 28.4 Unless otherwise agreed in writing between the Parties, training shall be scheduled after the Solution has passed the Solution Performance Tests, but no later than the Commissioning Date.

29 DAMAGED ITEM, NON-DELIVERED ITEM, WRONGLY DELIVERED ITEM AND SHORT DELIVERED ITEM

- 29.1 In the event of any item being damaged or lost during transit from the manufacturer's

factory to the Site, then the Contractor shall upon receipt of the School's written notification immediately effect replacement at no cost to the School.

29.2 In order not to hinder the installation programme or services, the Contractor shall ensure speedy replacement of such items, even prior to any insurance settlement, if any.

29.3 All items wrongly supplied shall be rejected and the Contractor shall, upon receipt of the School's written notification, immediately effect replacement by air freight at his own costs and in addition, the Contractor shall:-

- (a) reimburse the School for any monies already paid in respect of the said items and be liable for all damages arising; and
- (b) collect the wrongly supplied items within fourteen (14) days from the date of written notification given by the School and failing which, the School shall charge to the Contractor's account all expenses incurred including storage fees for wrongly delivered items until collection by the Contractor and transportation fees for delivering the wrongly delivered items back to the Contractor.

29.4 The School shall not be liable for any damage or deterioration caused or occurring to the wrongly supplied items of the Solution whilst in the custody of the School.

29.5 Upon written notification by the School, the Contractor shall immediately effect delivery by air at its own expense any short delivered items.

29.6 If the replacement is not available ex-stock from the country of origin, then the Contractor shall ensure that the delivery is effected within two (2) months or earlier from the date of the School's said notification.

30 UNAUTHORISED CODE

30.1 The Contractor warrants that at the time of delivery or installation:

- (a) the Solution and every part thereof are free of Unauthorised Code; and
- (b) all magnetic or other storage media and all software and other materials capable of being stored on such media:
 - (i) supplied as a software or part of a software or with any software; or
 - (ii) used in the performance of any Services;

shall not contain any Unauthorised Code.

30.2 Prior to and at the time of delivery and installation, the Contractor shall conduct a complete and thorough scan for Unauthorised Code using anti-virus software package(s) on all parts of the Solution.

- 30.3 If any part of the Solution is discovered during delivery or installation to contain or be affected by any Unauthorised Code then, unless the Contractor can prove that the Unauthorised Code was not attributable to the Contractor or its employees:
- (a) the School may reject any such parts of the Solution and the Contractor shall, at its own expense, immediately remove and recover all rejected parts of the Solution and provide replacements which are free of Unauthorised Code;
 - (b) irrespective of whether the software is rejected, the Contractor shall pay the School a sum of Singapore Dollars One Thousand Six Hundred (S\$1,600) for each such discovery as liquidated damages, being a genuine pre-estimate of the administrative costs (including costs arising from investigative efforts) occasioned by the discovery of an Unauthorised Code; and
 - (c) in addition to paragraphs (a) and (b) above, the Contractor shall indemnify the School fully against all costs incurred by the School in the course of or incidental to removing the Unauthorised Code and recovering any lost or damage data or software.
- 30.4 If, after the delivery and installation of a part of a Solution is completed, that part is discovered to contain or be affected by any Unauthorised Code and it is shown that this was the result of any default of or negligent act or omission of the Contractor or its employees;
- (a) the School may reject any such part of the Solution and the Contractor shall, at its own expense, immediately remove and recover all rejected parts of the Solution and provide replacements which are free of Unauthorised Code; and
 - (b) irrespective of whether the software is rejected, the Contractor shall pay the School a sum of Singapore Dollars One Thousand Six Hundred (S\$1,600) for each such discovery as liquidated damages, being a genuine pre-estimate of the administrative costs (including costs arising from investigative efforts) occasioned by the discovery of an Unauthorised Code; and
 - (c) in addition to sub-clauses (a) and (b) above, the Contractor shall indemnify the School fully against all costs incurred by the School in the course of or incidental to removing the Unauthorised Code and recovering any lost or damaged data or software.
- 30.5 In this clause, a reference to a part of the Solution includes a reference to any software installed as part of the Solution.
- 30.6 Where the administrative efforts (including investigative efforts) occasioned by the discovery of an Unauthorised Code under this Clause also constitutes administrative efforts occasioned by a Security Breach Event under **Clause 63**, the higher of the two liquidated damages amount shall apply.

31 DOCUMENTATION

- 31.1 The Contractor shall at no additional charge supply and deliver the Documentation needed for the operation and maintenance of the Solution. All subsequent updates for each set of the documents shall be supplied at no additional charge to the School as soon as possible.

32 LIABILITY OF CONTRACTOR

- 32.1 If the Contractor is obtaining part(s) of the Solution from a third party, the Contractor shall inform the School in writing of the source or origin of the said part(s) of the Solution and, for avoidance of doubt, it is expressly declared that the Contractor shall remain fully liable for that part(s) of the Solution and the consequences arising from the use of the said part(s).

33 PATENT, COPYRIGHT AND OTHER INDEMNIFICATION

- 33.1 The Contractor shall indemnify the School against any action, claim, damages, charges and costs arising from or incurred by reason of any infringement or alleged infringement of use of patents, design, copyright or other statutory or common law rights of the System, hardware, System Software or consumables supplied or furnished by the Contractor pursuant to this Contract.
- 33.2 The School shall give the Contractor prompt notice in writing of any such claim.
- 33.3 Without prejudice to the School's right to defend a claim alleging such infringement, the Contractor shall if requested by the School, but at the Contractor's expense, defend such claim. The Contractor shall observe the School's directions relating to the defence or negotiation for settlement of the claim.
- 33.4 The School shall if requested but at the Contractor's expense provide the Contractor with reasonable assistance in conducting the defence of such claim.
- 33.5 If any of the said items is in any such suit held to infringe IP rights and its use is enjoined, the Contractor shall, if requested by the School, at the Contractor's own expense:
- (a) procure for the School the right to continue using the same; failing which,
 - (b) replace or modify the same so as to avoid the infringement; failing which,
 - (c) pay the School for such infringing items, a sum equivalent to the purchase price of functionally equivalent items upon the return of the infringing items to the Contractor;

PROVIDED ALWAYS that such actions as aforesaid shall not prejudice or affect any right of action or remedy of the School against the Contractor.

- 33.6 In the event of any actions being contemplated or instituted for an alleged infringement of patents, design, copyright or other statutory or common law rights, the School reserves the right to cancel immediately the Contract for delivery of the System or parts hereof yet to be supplied to the School and/or return the System or parts thereof already delivered and the Contractor shall compensate the School with the contract price already remitted and the School reserves its right to purchase the System or parts thereof from other sources without prejudice to all or any of the School's rights as contained in this Contract.
- 33.7 All royalties and fees claimable by or payable to any person, firm, corporation or School for or in connection with any copyright, invention, patent or System Software used or required to be used in respect of the System or any part thereof in the performance of the Contract or supplied under the Contract shall be deemed to be included in the prices of the System or part hereof.
- 33.8 The obligations in **Clause 33.1** to **Clause 33.6** above do not cover claims of infringement which arises by reason only of:-
- (a) any modification of the System or any use of a System Software other than in its specified operating environment; or
 - (b) the combination, operation or use of the System with any product not supplied by the Contractor.

34 RELOCATION OF SOLUTION

- 34.1 The School shall have the right to relocate any or all items of the Solution within Singapore. Any such relocation shall not affect the Contractor's obligations under this Contract although the School shall grant extension of the Implementation Plan accordingly if it is affected.
- 34.2 In the event that the School requires the Contractor's services for the relocation of the Solution, the School shall give thirty (30) days' written notice of its intent to relocate the Solution.
- 34.3 The Contractor's personnel shall arrange and supervise the dismantling, packing, unpacking and reinstallation of the Solution to normal operating condition for which the School shall be charged by the Contractor at a Fair Market Value.
- 34.4 The Contractor shall make good any damage suffered by the Solution due to the negligence of the Contractor's personnel including the Contractor's employees or agents or representatives, during the transfer to a new location.

35 LANGUAGE

- 35.1 The Contractor shall ensure that all data, documents, descriptions, diagrams, books, catalogues, instructions, marking for ready identification of major items of the Solution

and correspondence shall be written in readily comprehensible English Language.

- 35.2 The Contractor shall ensure that all Service Personnel of the Contractor and any Sub-contractor shall be proficient in both written and spoken English for the purpose of performing the Contractor's obligations under this Contract.

36 LOSSES

- 36.1 The Contractor shall indemnify and keep indemnified the School against any and all Losses sustained, incurred, paid by or suffered by the School arising out of or in connection with any act or omission on the part of the Contractor, any Sub-contractors or any of their respective personnel (the "Contractor Parties") unless the Contractor can show that:

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

- 36.2 If any claim is commenced against the School that is, in the opinion of the School, covered by the indemnity in **Clause 36.1**, notice of the claim shall be given to the Contractor as soon as practicable.

- 36.3 Upon receipt of such notice required by the School, the Contractor shall, unless otherwise directed by the School, immediately take control of the defence and investigation of such claim and shall employ and engage attorneys reasonably acceptable to the School to handle and defend the same (including for and on behalf of the School), at the Contractor's sole cost and expense.

- 36.4 If the Contractor takes control of the defence and investigation of the claim, the School shall cooperate, at the cost of the Contractor, in all reasonable respects with the Contractor and its attorneys in the investigation, trial and defence of such claim and any appeal arising from such claim; provided, however, that this shall not limit the School's right to participate, at the Contractor's cost and expense, through their attorneys or otherwise, in such investigation, trial and defence of such claim and any appeal arising from such claim. No settlement of a claim that involves a remedy other than the payment of money by the Contractor shall be entered into without the written consent of the School.

- 36.5 Notwithstanding anything to the contrary in the Contract, the School shall, at all times, have the right to defend the claim in such manner as it may deem appropriate, at the sole cost and expense of the Contractor. If required by the School, the Contractor shall immediately relinquish control of the defence and investigation of such claim.

- 36.6 This Clause 36 shall survive the termination or expiry of this Contract.

37 LIMITATION OF LIABILITY

- 37.1 The aggregate liability of the Contractor to the School in respect of all breaches under the Contract shall not exceed the Contract Price.
- 37.2 The aggregate liability of the School to the Contractor in respect of all breaches under the Contract shall not exceed the Contract Price.
- 37.3 None of the limitations contained in this **Clause 37** shall apply to any claim:
- (j) relating to death or personal injury,
 - (k) relating to patent, copyright or other intellectual property right infringement,
 - (l) under any indemnity provided under this Contract (other than a claim relating to the Contractor's breach of the Contract),
 - (m) under **Clause 33** (Patent, Copyright and Other Indemnification), or
 - (n) which arises or is increased as a consequence of fraud, fraudulent misrepresentation, wilful misconduct or gross negligence by the Contractor, its Sub-contractors or any of their respective personnel.

38 INSURANCE

- 38.1 The Contractor shall insure the School against any risk of loss or damage to the Solution or part thereof except for loss or damage caused by theft, negligence or malice by any of the School's employees or agents. The period of insurance shall be from the date this Contract comes into force to the date the School accepts the Solution.
- 38.2 Before commencement of the Works the Contractor shall take up an insurance policy against any damage, loss or injury which may occur to any property (including that of the School) or to any person (including any employee or agent of the Contractor or of the School) as the result of any act or omission of the Contractor or its Sub-contractors in the execution of the Works or in the carrying out of the Contract.
- 38.3 All insurance contemplated by this clause shall be effected with a reputable licensed insurer and in terms approved by the School (which approval shall not be unreasonably withheld) and the Contractor shall produce to the School the policy or policies of insurance and the receipts for payment of the current premiums.
- 38.4 If the Contractor fails to comply with this clause or fails to produce evidence showing the same at the School's request, the School may effect and keep in force the insurance policies contemplated by this clause and pay such premiums as may be necessary for this purpose and from time to time deduct the amount paid by the School from any monies due to or which may become due from the School to the Contractor or recover the same as a debt due from the Contractor in any court of competent jurisdiction.

39 CONFIDENTIALITY

- 39.1 Except with the prior written consent of the School, the Contractor shall:

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

39.2 Intentionally Left Blank.

39.3 The Contractor shall take all reasonable precautions in dealing with Confidential Information so as to prevent any unauthorised person from having access to such Confidential Information. For the purpose of this Clause 39, "**Confidential Information**" means any information received or obtained as a result of entering into the Contract (or any agreement entered into pursuant to the Contract), including:

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

but does not include information that is:

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

39.4 The Contractor shall procure and ensure all its personnel and those of its Sub-contractors and agents to whom Confidential Information is to be made available observe the obligations contained in this **Clause 39** and shall, at any time, if so required by the School, procure and ensure that each of its personnel and those of its Sub-contractors and agents sign an Undertaking to Safeguard Official Information in the form prescribed in **Schedule 5**, if they have not already done so.

39.5 The Contractor shall immediately notify the Representative where the Contractor becomes aware of any breach of **Clauses 39** by its personnel, any Sub-contractors or any of the Sub-contractor's personnel and shall cooperate at its own costs with the School to limit the extent and impact of such breach.

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

39.7 This **Clause 39** shall survive the termination or expiry of the Contract.

39A DATA SECURITY AND PROTECTION

39A.1 Data Protection

39A.1.1 The Contractor shall not, and shall ensure that all of its personnel, and its Sub-contractors and their personnel, do not access, monitor, use or process Data obtained or held in connection with the Contract, except as reasonably necessary to perform its obligations under the Contract.

39A.1.2 The Contractor shall not, and shall ensure that all of its personnel, and its Sub-contractors and their personnel, shall not, disclose any Data obtained or held in connection with the Contract without the prior written consent of the School. Any request for the School's consent under this **Clause 39A** must include an explanation of why the proposed disclosure is necessary for the purposes of fulfilling the Contractor's obligations under the Contract.

39A.1.3 The Contractor shall not cause or permit Data obtained or held in connection with the Contract to be processed, stored, accessed or otherwise transferred outside Singapore; or allow parties outside Singapore to have access to such Data, unless (in each case) with the prior written consent of the School and subject to such conditions as the School may impose. Any request for the School's consent under this **Clause 39A** shall include an explanation of why the proposed transfer is necessary for the purposes of fulfilling the Contractor's obligations under the Contract. If consent is granted for the transfer of personal data outside Singapore, the Contractor shall provide a written undertaking that the personal data which is transferred outside Singapore will be protected to a comparable standard as it is protected under the Personal Data Protection Act 2012.

39A.1.4 The Contractor shall immediately notify the School when it becomes aware of a breach of any of Clauses 39A.1.1 to 39A.1.3 by itself or any Sub-contractor.

39A.1.5 The Contractor shall immediately notify the School when it becomes aware that a disclosure of Data may be required by law and cooperate and comply at its own costs with the School's reasonable requests and directions.

39A.1.6 The Contractor shall ensure that all personal data obtained or held in connection with the Contract and any copies thereof, regardless of the medium of storage, and which is no longer necessary for the purposes of its performance of the Contract, is securely destroyed or returned to the School within 14 days after the expiry or termination of the Contract. Any personal data that is retained by the Contractor after such personal data is no longer necessary for the purposes of its performance of the Contract, or without the written authorisation of the School, is a breach of the Contract. No later than 30 days after the termination or expiry of the Contract, the Contractor shall provide a written confirmation to the School that it is no longer in possession of any personal data obtained or held in connection with the Contract or copies thereof, regardless of the medium of storage.

39A.1.7 The Contractor shall, and shall ensure that its personnel and its Sub-contractors and their personnel shall, in performing its obligations under the Contract comply with all applicable personal data laws (including the Personal Data Protection Act 2012) and shall keep the School indemnified against all penalties and liabilities of every kind for the breach of all such laws and obligations.

39A.2 Security

39A.2.1 The Contractor shall take all reasonable measures to ensure that Data held in connection with the Contract is protected against loss or damage (whether accidental or otherwise), and against unauthorised access, use, modification, disclosure or other misuse and that only authorized personnel shall have access to the Data.

39A.2.2 The Contractor shall, in respect of any Data held by it in connection with the Contract, comply with any reasonable requests, directions or guidelines of the School relating to the handling of Data.

39A.2.3 The Contractor shall immediately notify the School when it becomes aware of a breach of **Clause 39A.2.1** by itself or any Sub-contractors.

39B INTENTIONALLY LEFT BLANK

40 COMPLIANCE WITH LAW

40.1 The Contractor shall, at its own costs, obtain and maintain all licenses, permits, certifications, approvals, registrations and authorisations without any restriction or qualification whatsoever so as to enable the Contractor to fulfil all its obligations under the Contract.

40.2 The Contractor shall, in performing its obligations under the Contract, comply with all applicable laws and shall keep the School indemnified against all penalties and liabilities of every kind for the breach of any such laws.

40A COMPLIANCE WITH PROGRESSIVE WAGE MARK REQUIREMENTS

40A.1 Subject to **Clauses 40A.2 and 40A.3**, throughout the duration of the Contract, a Contractor who is PW Mark-Eligible shall:

- (a) maintain a valid Progressive Wage Mark or Progressive Wage Mark Plus issued by the relevant School (individually and collectively, “**PW Mark**”), and submit a copy of its PW Mark e-Certificate to the School within six (6) months from the date of issuance of the Letter of Acceptance;
- (b) ensure that each Sub-contractors who is or becomes PW Mark-Eligible shall obtain and maintain a valid PW Mark throughout the duration of the Contract;
- (c) notify the School of any change to the PW Mark accreditation status of the Contractor or any of its Sub-contractors within one month after the change; and
- (d) replace any Sub-contractors who is PW Mark-Eligible that fails to maintain a valid PW Mark throughout the duration of the Contract with another Sub-contractors approved in writing by the School within one month after the Contractor being notified of such failure. The Contractor shall comply with **Clauses 40A.1(b) to (d)** in respect of any replacement Sub-contractors.

40A.2 If at the time of issuance of the Letter of Acceptance, the Contractor who is PW Mark-Eligible has neither obtained nor applied for the PW Mark, the School shall have the right to exempt the Contractor from compliance with **Clause 40A.1(a)** for such period of time as determined by the School.

40A.3 If at the time of the issuance of the Letter of Acceptance, the Contractor who is PW Mark-Eligible has applied for but has yet to successfully obtain the PW Mark, the Contractor shall:

- (a) be exempted from compliance with **Clause 40A.1(a)** during the period where the initial application for the PW Mark is being processed by the relevant School. The School may extend the period of exemption by one or more consecutive periods as determined by the School; and
- (b) notify the School of the outcome of the Contractor’s application(s) for the PW Mark within one month after the date of receipt of the outcome of the application, and provide the School with the e-Certificate as proof of the successful application (if any).

40A.4 If a Contractor who is not initially PW Mark-Eligible becomes PW Mark-Eligible at any point in time during the period of the Contract, the Contractor shall comply with all the following:

- (a) notify the School on its eligibility for the PW Mark within one month after the first day of employment of the relevant Local Resident Worker(s) covered by the Sectoral Progressive Wages and/or Occupational Progressive Wages;
- (b) apply for a PW Mark by the end of the third month of employment of the relevant Local Resident Worker(s) referred to in **Clause 40A.4(a)**;

- (c) provide the School with proof of its application for a PW Mark within one month after the date of submission of the application;
- (d) notify the School of the outcome of the Contractor's application for PW Mark within one month after the date of receipt of the outcome of the application, and provide the School with the e-Certificate as proof of the successful application (if any); and
- (e) maintain a valid PW Mark for the remaining duration of the Contract.

40A.5 A Contractor who is not PW Mark-Eligible shall comply with all the following:

- (a) ensure that each Sub-contractors who is or becomes PW Mark-Eligible shall obtain and maintain a valid PW Mark throughout the duration of the Contract;
- (b) notify the School of any change to any Sub-contractors' PW Mark accreditation status within one month after the change; and
- (c) replace any Sub-contractors who is PW Mark-Eligible that fails to maintain a valid PW Mark throughout the duration of the Contract with another Sub-contractors approved in writing by the School within one month after the Contractor being notified of such failure. The Contractor shall comply with **Clauses 40A.5(a) to (c)** in respect of any replacement Sub-contractors.

40A.6 The School shall have the right to terminate the Contract by giving two months' prior written notice to the Contractor if the Contractor fails to comply with any of the provisions in **Clauses 40A.1, 40A.3(b), 40A.4 and 40A.5**.

40A.7 In addition and without prejudice to the Contractor's obligations under this **Clause 40A**, the Contractor shall within six (6) months from the date of issuance of the Letter of Acceptance furnish a written declaration to the School on its PW Mark eligibility in the form prescribed in **Schedule 8**.

40A.8 For the purposes of this **Clause 40A**, unless the context otherwise requires —

“PW Mark-Eligible” in relation to an employer, means an employer who is eligible to apply for a Progressive Wage Mark or Progressive Wage Mark Plus as the employer employs at least a Local Resident Worker covered by the prevailing Sectoral Progressive Wages or Occupational Progressive Wages.

“Local Resident Worker” means an employee who is a Singapore Citizen or Permanent Resident.

“Sectoral Progressive Wages” mean the progressive wage structure implemented for specified sectors under the Progressive Wage Model.

“Occupational Progressive Wages” mean the progressive wage structure implemented for specified occupations under the Progressive Wage Model.

41 SUB-CONTRACT, ASSIGNMENT, TRANSFER

- 41.1 The Contractor shall not, without the written consent of the School, sub-contract its obligations, or assign or transfer the benefits of the whole or any part of the Contract to any other person.
- 41.2 The Contractor shall be responsible for the acts, defaults, neglects or omissions of its assignees and Sub-contractors and their respective personnel as fully as if they were the acts, defaults, neglects and omissions of the Contractor and its personnel.
- 41.3 If the School permits the Contractor to sub-contract any of its obligations under the Contract, the Contractor shall, for each and every of its Sub-contractors:
- (a) ensure that the relevant Sub-contractor complies with its applicable and corresponding obligations under the Contract, as if it were a party to the Contract; and
 - (b) procure that the relevant Sub-contractor is bound by a written agreement containing provisions which are substantially similar to, and in any case no less onerous than, the equivalent or corresponding provision in the Contract.
- 41.4 In seeking the written consent of the School, the Contractor shall:
- (a) provide all information requested by the School including but not limited to information about a sub-contractor's registration with the relevant Government Registration Authority. Information on the Government Registration Authority can be found in GeBIZ Partner website on the Internet at <http://www.gebiz.gov.sg>; and
 - (b) if requested by the School, provide to the School for its review and approval a copy of the draft contract or agreement (the “**Draft Agreement**”) for the engagement of the intended sub-contractor. The Contractor shall make such amendments as may be reasonably requested by the School in order for the Draft Agreement to comply with Clause 41.3 above. For avoidance of doubt, the Contractor shall remain fully responsible for its compliance with Clause 41.3 and this Clause 41.4 shall be without prejudice to any right of the School to any remedies against the Contractor for its failure to comply with Clause 41.3.
- 41.5 The Contractor shall immediately notify the School in the event that it becomes aware of, or has reason to suspect the occurrence of, any breach, default, neglect or unlawful activity of the Sub-contractor (including that of its employees, agents or workmen) in relation to the Contract, or any other act or omission of the Sub-contractor (including that its employees, agents or workmen), which may adversely affect the School's rights under the Contract or cause loss or damage to the School (in each case, a “**Sub-contractor Default**”). The notification shall not relieve the Contractor or its Sub-contractor of the obligation to remedy or rectify the Sub-contractor Default.

42 FORCE MAJEURE

- 42.1 Neither Party shall be liable for any failure to perform its obligations under the Contract if the failure results from events which are beyond its reasonable control (“Force Majeure Event”), except that whenever possible the affected Party shall resume that obligation as soon as the factor or event occasioning the failure ceases or abates. For purposes of the Contract, “Force Majeure Event” shall include but not be limited to acts of God, civil or military authority, civil disturbance, wars, strikes, fires, epidemics or pandemics, and other catastrophes.
- 42.2 If the effect of any Force Majeure Event continues for a period exceeding six (6) months the School may at any time give notice to the Contractor to terminate the Contract with immediate effect without being liable to the Contractor in damages or compensation.
- 42.3 If a Force Majeure Event occurs, the Contractor or the School (as the case may be) shall for the duration of such Force Majeure Event be relieved of any obligation under the Contract as is affected by the Force Majeure Event except that the provisions of this Contract shall remain in force with regard to all other obligations under the Contract which are not affected by the Force Majeure Event.
- 42.4 If the School terminates the Contract under **Clause 42.2**, the Contractor shall forthwith refund to the School all amounts paid to the Contractor less the price of items and services which have been provided to and accepted by the School and **Clause 48.4(a)(ii)** shall apply.
- 42.5 Failure of the Contractor’s Sub-contractors or suppliers to perform their obligations shall not be regarded as events beyond the control of the Contractor.

43 PUBLIC RELEASE OF INFORMATION

- 43.1 Except with the prior written approval of the School, the Contractor shall not publish or release, nor shall it allow or suffer the publication or release of any news item, article, publication, advertisement, prepared speech or any other information or material, pertaining to or related to any part or whole of the Contract including but not limited to the Works to be performed under the Contract, and software licence and support and equipment maintenance associated with the Solution. Such prior written approval shall be sought in reasonable time.

44 GIFTS, INDUCEMENT AND REWARDS

- 44.1 The School shall be entitled to immediately terminate or rescind the Contract if:
- (a) any Contractor Representative has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for:
 - (i) doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or performance of the Contract; or

- (ii) showing favour or disfavour to any person in relation to any contract with the School; or
 - (b) any Contractor Representative has engaged in any activity or conduct that has resulted or will result in a violation of any Anti-Corruption Laws.
- 44.2 In the event of termination of the Contract as provided for in **Clause 44.1** above, **Clause 48.4** shall apply.
- 44.3 In this **Clause 44**:
- “Anti-Corruption Laws” means:
- (a) Chapter IX of the Penal Code 1871;
 - (b) the Prevention of Corruption Act 1960; and
 - (c) any other applicable law including any foreign law which:
 - (i) prohibits the conferring of any gift, payment or other benefit on any person or any personnel or adviser of such person; or
 - (ii) is broadly equivalent to the laws set out in paragraphs (a) or (b) or which has as its objective the prevention of corruption.
- “**Contractor Representative**” means any of the following:
- (a) the Contractor;
 - (b) any person employed by the Contractor; or
 - (c) any person acting on behalf of the Contractor (whether with or without the knowledge of the Contractor).

45 APPLICABLE LAW

- 45.1 The Contract shall be subject to, governed by and interpreted in accordance with the laws of the Republic of Singapore for every purpose.

46 VARIATION OF CONTRACT

- 46.1 No variation of the Contract shall be of any force unless agreed upon in writing by both Parties. A variation made in accordance with this Clause shall not require consideration for the variation to be binding and enforceable.
- 46.2 The School may, at any time during the Contract, require the Contractor to revise the Implementation Plan or to undertake any reasonable alteration or addition to or

omission from the Works or both.

- 46.3 If such a revision is required, the School shall formally request the Contractor to state in writing the proposed solution, including all Background IP that will be used, and the effect such revision will have on the Contract Price and to the works schedule. The Contractor shall furnish such details within fourteen (14) days of receipt of the School's request or such longer period as may be agreed by the School. The Contractor shall not vary the Works in any respect unless instructed in writing to do so by the School.
- 46.4 A variation under this **Clause 46** shall not invalidate the Contract but if such variation involves a change in the cost to the Contractor of carrying out the Works, an appropriate adjustment to the Contract Price shall be made.
- 46.5 The Contractor shall satisfy the School as to the reasonableness of changes to the works schedule and of the extra costs or savings resulting from the variations.
- 46.6 Upon the School being satisfied regarding the reasonableness of any extensions to the works schedule by the variation, the School shall grant such extension of time, and inform the Contractor accordingly in writing.

47 CONDITIONS NOT TO BE WAIVED

- 47.1 No waiver of any breach of the Contract shall be deemed to be waiver of any other or of any subsequent breach. In no event shall any delay, failure or omission on the part of either of the parties in enforcing or exercising any right, power, privilege, claim or remedy, which is conferred by this Contract, at law or in equity, or arises from any breach by any of the other Parties of this Contract, be deemed to be or be construed as, (i) a waiver thereof, or of any other such right, power, privilege, claim or remedy, in respect of the particular circumstances in question, or (ii) operate so as to bar the enforcement or exercise thereof, or of any other such right, power, privilege, claim or remedy, in any other instance at any time or times thereafter.

48 TERMINATION OF CONTRACT

- 48.1 If any of the following events occur at any time prior to the expiry of the Solution Warranty Period, the School shall have the right (in addition to and without prejudice to all other rights or remedies available, including the right to claim damages) at any time prior to the expiry of the Solution Warranty Period to terminate the Contract with immediate effect by written notice to the Contractor:
- (a) an Event of Default has occurred (not being a default covered by any other sub-clause of Clause 48.1) and:
 - (i) the Contractor fails to remedy the Event of Default within thirty (30) days from a written notice from the School to do so; or
 - (ii) the Event of Default is not capable of being remedied within a reasonable time;

- (b) the Contractor is in breach of any of its obligations under the Contract, and such breach results, or is likely to result, in damage to the reputation of the School;
- (c) the Contractor is in material breach of any of its obligations under the Contract;
- (d) a breach by the Contractor of Clause **Error! Reference source not found.0** (Compliance with Law) or Clause 41 (Sub-contract, Transfer and Assignment);
- (e) a breach by the Contractor of Clause 39 (Confidentiality);
- (f) a breach by the Contractor of Clause 39A (Data Protection and Security);
- (g) any action is contemplated or any legal proceedings are commenced against the Contractor alleging infringement of IP rights;
- (h) intentionally left blank
- (i) a failure by the Contractor to pay any liquidated damages required under the Contract;

48.2 If any of the following events occur at any time prior to the expiry of the Solution Warranty Period, the School shall, to the extent permitted by law, be entitled to terminate the Contract with immediate effect by written notice to the Contractor, and the Contractor shall have no claim for any damages or compensation:

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

48.3 Intentionally left blank.

48.4 In the event of termination of the Contract as provided for in **Clause 48.1** or **Clause**

48.2 or in accordance with law, the following shall apply:-

- (a)
 - (i) all payments that have been made under the Contract less the value of all items delivered and accepted by the School shall be refunded by the Contractor to the School forthwith provided always that such refunds as aforesaid shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the School as a result of the termination of the breach of the Contract by the Contractor;
 - (ii) the Contractor shall upon written notice from the School be required to remove, at the Contractor's expense, the Solution or any part thereof specified in the notice from the Site at a date specified by the School, and in default the School may (without being responsible for any loss or damage) remove and sell the same, holding the proceeds less all expenses incurred to the credit of the Contractor, or remove and return the same to the Contractor all at the Contractor's expense; and
 - (iii) the School shall be entitled to recover from the Contractor any damages, losses, costs and expenses which the School may sustain or incur in consequence of such termination; all such damages, losses, costs and expenses which are or become so recoverable under the Contract together with any sum payable by the Contractor as liquidated damages, may be deducted from any money that may then be due to the Contractor and if the money then due to the Contractor under the Contract or deposited by him under the Contract as aforesaid is not sufficient for that purpose, the balance remaining unpaid shall be a debt due from the Contractor to the School, and may be set off against any other monies which may be or become due to the Contractor from the School or may be recovered as a debt due from the Contractor in any court of competent jurisdiction;

OR, at the sole discretion of the School:-

- (b)
 - (i) the School may carry out and complete the Works on its own or employ and pay other person or persons to carry out and complete the Works and he or they may enter upon the Site or any Workplace and use all materials, software and equipment thereon, and may purchase all materials necessary for the purposes aforesaid;
 - (ii) the Contractor shall if so required by the School assign to the School and without further payment the benefit of any contract for the supply of materials and works intended for the use under the Contract or for the execution or any Works and the School shall pay the agreed price (if unpaid) for such materials or Works supplied or executed after the said termination;
 - (iii) the Contractor shall during the execution or after the execution of the Works under this sub-clause as and when required remove from the Site or any Workplace any materials within such reasonable time as the School may specify in a written notice to him and in default, the School may, without

being responsible for any loss or damage, remove and sell the same, holding the proceeds less all the expenses incurred to the credit of the Contractor;

- (iv) until completion of the Works under this sub-clause no payment shall be made to the Contractor under the Contract; provided that upon completion as aforesaid and the verification within a reasonable time of the accounts therefore, the School shall certify the amount of expenses properly incurred by the School; provided always the aforesaid shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the School as a result of the termination of the Contract or as a result of the breach of the Contract by the Contractor; and
- (v) in the event of the completion of the Works being undertaken by the School, allowance shall be made, when ascertaining the amount to be certified as expenses properly incurred by the School, for the cost of supervision, interest and depreciation on equipment and all other usual overhead charges and profits, as would be incurred were the work carried out by the Contractor

48.5 In addition to the rights set out in **Clause 48.1** and **Clause 48.2**, the School may at any time prior to the expiry of the Solution Warranty Period upon giving at least 3 months' notice in writing to the Contractor of its intention to do so, terminate the Contract or any part or further part thereof, and upon such notice being given, the Contractor shall cease or reduce work according to the terms of the notice and shall forthwith do everything possible to mitigate losses consequent thereto.

48.6 If a notice under **Clause 48.5** is given, the Contractor may, within thirty (30) days, submit to the School a claim for compensation subject to **Clause 48.7**. The claim shall be itemised and contain such information that the School may reasonably require. The compensation shall not exceed the total of the reasonable direct costs reasonably incurred by the Contractor in respect of the terminated portion of the Contract, and any other reasonable costs reasonably incurred with respect to termination and settlement with vendors as a consequence of the School's termination.

48.7 The aforesaid compensation shall not be greater than a sum which in addition to any sums paid or due or becoming due to the Contractor under the Contract would together exceed the price provided under the Contract for the terminated portion of the Contract.

48.8 The compensation shall be agreed by the Parties or, in the absence of an agreement, verified and determined by an independent and mutually agreeable public accountant in accordance with **Clauses 48.6 and 48.7**, with any doubts as to whether the costs were reasonably incurred or were reasonable in amount to be resolved in favour of the School. The School shall pay the Contractor the aforesaid compensation within sixty (60) days of such agreement or verification and determination by the public accountant. The aforesaid compensation shall be in full and final settlement of all liabilities of the School arising out of any termination of the Contract by the School pursuant to **Clause 48.5**.

48.9 Where there are segregable items not desired by the School which the Contractor agrees to retain for its own use, the compensation payable pursuant to **Clause 48.8** above shall

be reduced by an amount equivalent to the total Contractor's costs for such items.

48.10 In the event of termination of the Contract under **Clause 48.5**, it is hereby declared that title to all information captured within the Solution is and shall solely belong to the School.

48.11 No termination of the Contract, whether pursuant to this Clause or otherwise, shall affect any right of the School to use any software whether such right is acquired pursuant to the Contract or otherwise.

48.12 For the purposes of this Clause 48:

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

49 POLICY, SECURITY AND AUDIT

49.1 Policy

49.1.1 The Contractor shall fully comply with all applicable laws and regulations, and any written instructions on School policies pertaining to Information Communications Technology (“ICT”) Management, codes of practice or standards of performance that may be issued by the School from time to time.

49.1.2 Where the Contractor will be performing Extra Work in order to comply with new ICT requirements issued by the School or the Adviser after the Commencement Date of this Contract, the School shall not be liable for any claims in respect of such Extra Work UNLESS all the conditions in **Clause 54** are fully complied with.

49.1A Security

49.1A.1 The Contractor is required to maintain strict confidentiality and ensure that all information pertaining to the Site and the Workplaces on the School's premises must not be disclosed to anyone except the Representative and the Contractor's employees, agents or Sub-contractors directly involved in performing the obligations under this Contract. The Contractor is to ensure that information is not to be published or communicated to any other person in any form whatsoever except on a strictly “need-to-know” basis. Failure to comply with this confidentiality requirement shall be a ground for termination of this Contract. This clause shall be without prejudice to the provisions of **Clause 39**.

49.1A.2 The Contractor, its employees or agents or Sub-contractors, shall not, without the prior written permission of the School, bring any visitor to any Workplace.

49.2 Compliance Audit and Reviews

49.2.1 Self-assessment review by Contractor

The Contractor shall conduct a self-assessment review at least once annually at no additional cost to the School to ensure that there are proper controls and compliance with this Contract. The scope of the self-assessment review shall be stipulated by the School, and the results and report arising from such a self-assessment review shall be made available for the School to review within 30 days of the issuance of the report.

49.2.2 Audit by the School

- (a) The School shall have the right to conduct audits once every 2 years, and as and when the School deems desirable, at all Sites and Workplaces at which the Contractor is providing or has provided goods or services under this Contract to ensure that there are proper controls and compliance with this Contract.
- (b) All such audits may, at the option of the School, be conducted by the School, or an auditor appointed by the School. All costs and expenses relating to the engagement of the auditor shall be borne by the School, save in that the costs incurred due to the Contractor's delays in rendering assistance or incidentals incurred by the School due to the Contractor's fault shall be borne by the Contractor.
- (c) The School may conduct surprise spot checks on any Site or Workplace.
- (d) The Contractor shall cooperate with and provide all support, information and assistance necessary for the conduct of the audits at no additional cost to the School.

49.2.3 Self-audit by Contractor

The Contractor shall conduct audits once every two 2 years to ensure that there are proper controls and compliance with this Contract. All audits shall be in the form of a third-party audit conducted by a reputable audit firm acceptable to the School and the scope of such audits shall be as determined by the School. All costs and expenses relating to such audits shall be borne by the Contractor.]

- 49.2.4 Where any audit report (whether issued pursuant to an audit by the School or a self-audit or self-assessment review by the Contractor) reveals any deficiencies, gaps or lapses in the Contractor's controls or compliance with this Contract, the Contractor shall submit a remediation plan to remedy and rectify such deficiencies, gaps or lapses within two weeks from the issuance of the audit report. Such a remediation plan shall include the target remediation and rectification timelines for all findings, which shall be as soon as possible and in any event no longer than twelve (12) months from the date of the audit report. The Contractor shall implement the remediation plan at no additional costs to the School. The Contractor shall provide the School with all information and cooperation reasonably requested as soon as possible to enable the School to review, monitor or verify the remediation plan and shall update the School on the remediation status on a regular basis, and in any case, no less than on a quarterly basis.

49A SECURITY AND DATA BREACH PROCEDURES

49A.1 The Contractor shall:

- (a) designate one of its employees to be the School's and Adviser's primary point of contact for all Security Breach Events and matters relating to Security Breach Events ("**Cyber-security Incident Management Personnel**");
- (b) during the first meeting between the Contractor and School, provide the School and Adviser with the name and contact details of the Cyber-security Incident Management Personnel; and
- (c) in the event the Cyber-security Incident Management Personnel is (i) away from work or out of Singapore for any duration or (ii) otherwise unavailable for any reason, designate another employee to perform his duties and functions.

49A.2 The Contractor shall ensure that the Cyber-security Incident Management Personnel is available to render assistance to, and serve as the Contractor's point of contact for, the School and Adviser at all times (24 hours every day from Monday to Sunday, inclusive of public holidays).

49A.3 The Contractor shall:

- (a) ensure that each and every Third Party Supplier notifies the Contractor in writing of any Security Breach Event, as soon as practicable after such Third Party Supplier becomes aware of, or has a reasonable basis to suspect the existence or occurrence of, any Security Breach Event; and
- (b) notify the School and Adviser in writing of any Security Breach Event:
 - (i) immediately upon receiving any notification of the Security Breach Event from a Third Party Supplier; and
 - (ii) in any case, as soon as practicable after the Contractor becomes aware of, or has a reasonable basis to suspect the existence or occurrence of, the Security Breach Event.

49A.4 If there is any occurrence of a Security Breach Event, the Contractor shall, at no cost to the School:

- (a) upon such occurrence, immediately establish a communication channel between the School and Adviser on one hand, and the Relevant Third Party Supplier (if any) on the other hand;
- (b) within forty-eight (48) hours of such occurrence, prepare and provide the School and Adviser with an initial incident report ("**Incident Report**") in accordance with **Clauses 49A.5 and 49A.6**, for the School's and Adviser's joint written approval;
- (c) respond promptly to any query that the School and Adviser may have in connection with the Security Breach Event or the Incident Report;
- (d) upon the School's and Adviser's joint written approval of the Incident Report,

use its best endeavours to (i) remedy and (ii) ensure that the Relevant Third Party Supplier (if any) remedies the Security Breach Event, including:

- (i) assisting the School and Adviser with any investigation into the Security Breach Event;
- (ii) providing the School and Adviser with physical access to any Site, where reasonably possible;
- (iii) facilitating interviews with the officers, employees or agents of the Contractor and any Sub-contractor and, where reasonably possible, the Relevant Third Party Supplier (if any);
- (iv) making available all records, logs, files, data reports and materials as the School and Adviser may require that may be relevant to any investigation of the Security Breach Event and allowing the School [and GovTech] to make copies of the same upon request;
- (v) keeping track of all details relating to the Security Breach Event and the remedial actions taken; and
- (vi) providing the School and Adviser with regular updates (in such format and at such intervals as may be specified by the School and Adviser) on the remediation of the Security Breach Event;
- (vii) implementing security controls that will mitigate the risks of any future Security Breach Event; and
- (viii) complying with all directions and requests of the School and Adviser in connection with the remediation of the Security Breach Event.

49A.5 The Incident Report shall set out:

- (a) the background and details of the Security Breach Event, including:
 - (i) the cause of the Security Breach Event;
 - (ii) the name and version of any affected software;
 - (iii) any library dependencies; and
 - (iv) a description of the techniques that were employed or likely to be employed by the attackers in connection with the Security Breach Event; and
- (b) the actions and steps that will be taken to remedy the Security Breach Event, and if that is not reasonably practicable, proposals on how the impact of the Security Breach Event will be contained or mitigated

(such information, the “**Security Breach Information**”).

49A.6 In the case where the Security Breach Event that occurred originated from any software,

infrastructure or services that a Third Party Supplier had provided as part of the Application Software or any Services in this Contract (such supplier having been defined in **Clause 49A.9** as a Relevant Third Party Supplier), the following shall apply:

- (a) The Contractor shall ensure that the Security Breach Information in the Incident Report prepared was obtained directly from or confirmed as accurate by the Relevant Third Party Supplier.
- (b) The Contractor shall be deemed to have satisfied its obligations under sub-clause (a) and Clauses 49A.4(b) and 49A.5 above if the Relevant Third Party Supplier, at the request of the School or otherwise, provides the Security Breach Information directly to the School and Adviser within the timeline stipulated in Clause 49A.4(b).
- (c) If, for any reason, it is impracticable for the Contractor to comply with sub-clause (a) above, the Contractor shall:
 - (i) notify the School and Adviser of such impracticability before the time the Incident Report is due; and
 - (ii) provide the School and Adviser with the reasons for and proof of such impracticability,

and for the avoidance of doubt, the Contractor's performance of the foregoing shall not, unless otherwise stipulated by School and Adviser in writing, relieve the Contractor from its obligation under sub-clause (a).

49A.7 The Contractor shall not, and shall ensure that any Sub-contractor and Third Party Supplier does not, inform any third party of any Security Breach Event without the School's prior written consent.

49A.8 Where a Security Breach Event is caused by the Contractor's default, negligence or unlawful act, the Contractor shall reimburse the School for all reasonable costs incurred by the School in responding to and mitigating damages caused by the Security Breach Event. For the avoidance of doubt, the School shall not be entitled to double recovery of the administrative costs (including costs arising from investigative efforts) incurred by the School that is covered by the liquidated damages set out in **Clause 63.1** below.

49A.9 In this Contract:

"Data Breach" means any breach of security leading to:

- (i) unauthorised disclosure of or access to Data; or
- (ii) accidental or unlawful destruction or alteration to Data.

"Relevant Third Party Supplier" means a Third Party Supplier that provided (as part of the Solution or any Services in this Contract) the software, infrastructure or services from which a Security Breach Event originated.

"Security Breach " means any breach of security , including the following:

- (i) any incident leading to unauthorised access to data, applications, services, networks or devices;
- (ii) any incident leading to the security or integrity of the School's network being compromised;
- (iii) any physical security breach;
- (iv) any cyber-security breach; and
- (v) any Data Breach.

“Security Breach Event” means any actual, potential, or suspected Security Breach

49B SECURITY VULNERABILITIES

49B.1 The Contractor shall:

- (a) ensure that each Third Party Supplier is obliged to notify the Contractor as soon as practicable after such Third Party Supplier becomes aware of, or has a reasonable basis to suspect the existence of, any Vulnerability; and
- (b) inform the School (in such format and through such secure means of communication as may be stipulated from time to time by the School) of any Vulnerability:
 - (ii) as soon as practicable after the Contractor becomes aware of, or has a reasonable basis to suspect the existence of, the Vulnerability; or
 - (iii) immediately upon receiving any notification of the Vulnerability from a Third Party Supplier.

49B.2 Upon the discovery of a Vulnerability, the Contractor shall:

- (a) within seven (7) days of such discovery, submit to the School a satisfactory plan which sets out the full details of the actions and steps that it proposes to take to Remediate the Vulnerability (the **“Remediation Plan”**), for the School's approval. The Remediation Plan shall seek to eliminate the Vulnerability, and where such elimination is not reasonably possible, the Contractor shall implement risk mitigating measures;
- (b) upon the School's approval of the Remediation Plan, commence its Remediation of the Vulnerability and successfully complete such Remediation within the timelines stipulated in the approved Remediation Plan or within such timelines as may otherwise be specified by the School;
- (c) within the timelines prescribed in the Requirements Specification or upon request by the School, provide the School with a remediation report which sets out the full details of the actions it took to Remediate the Vulnerability and includes all records, logs, files, data reports and materials as the School and

Adviser may require that may be relevant to the Remediation of any Vulnerability (such report, the “**Remediation Report**”);

- (d) provide regular updates (in such format and at such intervals as may be specified by the School) on the Remediation of the Vulnerability; and
- (e) comply with all directions and requests from the School and the Adviser in connection with the Remediation of any Vulnerability.

For the purposes of sub-clause (b), the Contractor shall not be regarded as having successfully completed the Remediation of a Vulnerability unless and until the School approves the Contractor’s Remediation Report.

49B.3 The Contractor shall Remediate a Vulnerability speedily and in accordance with the best practices in the industry and in accordance with the timelines and requirements set out in the Requirements Specification. The Contractor shall carry out all necessary works, including retrieving the relevant security patches and implementing all necessary risk mitigating measures, save that any measure involving the replacement of any software in the Solution that has reached End of Life or End of Support shall only be implemented as a last resort.

49B.4 The Contractor shall bear the costs of Remediation, except in the following cases which shall be applied in the order of preference listed below:

- (a) Where the School has agreed to bear the costs of Remediation.
- (b) Where the Vulnerability can only be addressed by the replacement of software in the Solution that has reached End of Life or End of Support, in which case **Clause 3.2A** shall apply.
- (c) Where the Vulnerability is caused solely by the School’s IT system or any particular component of the School’s IT system, in which case the School shall bear the costs of Remediation.

49B.5 Intentionally left blank

49B.6 The Contractor shall not exploit or otherwise use any Vulnerability to the detriment of the School and the Government.

49B.7 This **Clause 49B** shall apply up until the expiry of the Maintenance Period.

49C END OF LIFE AND END OF SUPPORT FOR SOFTWARE

49C.1 The Contractor shall monitor the release of any information on the End of Life or End of Support for each software comprised in the Solution, and shall propose to the School the necessary measures in order for the Solution to continue to operate in a supported mode, including replacing such software or making changes to ensure the Solution can still be supported. The Contractor shall take all measures required by the School to deal

with such End of Life or End of Support.

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49D SECURITY THREATS

49D.1 In the event that the School suspects that a Security Threat exists, the Contractor shall, upon the School's written request, provide a warranty and reasonable proof (both in form and substance satisfactory to the School) of the following:

- (a) such Security Threat does not exist; or
- (b) the Contractor is in the process of investigating, eliminating and mitigating such Security Threat and that such process will be completed to the satisfaction of the School within reasonable time.

49D.2 The Contractor shall, upon the School's written request, assist a Law Enforcement Agency in its investigations or other necessary actions relating to the Security Threat mentioned in **Clause 49D.1**, and the Supplier shall comply at its own cost with all reasonable directions, instructions and requests of the Law Enforcement Agency, including but not limited to:

- (a) producing to the Law Enforcement Agency any physical or electronic record or document, or a copy of the record or document, that is in the Contractor's possession; and
- (b) providing the Law Enforcement Agency with any information.

49D.3 In carrying out its obligations under **Clauses 49D.1 and 49D.2** above, the Contractor shall ensure that all Third Party Suppliers and Service Personnel also carry out the said obligations where necessary or requested by the Law Enforcement Agency.

49D.4 Definitions

"Law Enforcement Agency" means any of the following:

- (a) any authority or person charged with the duty of investigating or preventing offences or charging offenders under any written law of Singapore;
- (b) any law enforcement agency of Singapore and their duly authorised officers;
- (c) any "Singapore public sector agency" (as defined in the Public Sector (Governance) Act 2018) which performs security functions, including but not limited to the Cyber Security Agency of Singapore, and their duly authorised officers.

“Security Threat” means an act or activity (whether known or suspected) that may cause or result in a Security Breach Event.

50 ESCALATION OF DISPUTES

- 50.1 In the event of any dispute, claim, question or disagreement arising out of or relating to the Contract or its subject matter or formation (a **“Dispute”**), no Party shall proceed to mediation or any form of dispute resolution unless the Parties have referred the Dispute to a senior officer of each Party (each, an **“Officer”**) who shall negotiate in good faith with a view to resolution of such Dispute.
- 50.2 If such Dispute is not resolved by agreement between the Officers within sixty (60) days after the date of referral of the Dispute to the Officers, any Party may proceed to:
- (a) if the Dispute is within the jurisdiction of the Small Claims Tribunals, refer the Dispute to the Small Claims Tribunals; or
 - (b) give the other Party written notice for mediation as contemplated in **Clause 55** (Mediation).

50A DISPUTE RESOLUTION

- 50A.1 Subject to **Clause 55**, any Dispute (as defined in **Clause 50**) shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (**“SIAC”**) for the time being in force which rules are deemed to be incorporated by reference into this Clause.
- 50A.2 The seat of the arbitration shall be Singapore.
- 50A.3 The arbitrator shall be agreed upon between the Parties, or on failure to agree within thirty (30) days of a written proposal by one Party to the other Party, be appointed by the SIAC acting in accordance with the SIAC Rules.
- 50A.4 This arbitration agreement shall be governed by and construed in accordance with the laws of the Republic of Singapore

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52 CORRESPONDENCE

- 52.1 Any notice, request, waiver, consent or approval (**“Notice”**) shall be in writing and shall be deemed to have been duly given when it is delivered by hand or by prepaid registered or electronic mail or other electronic means to the Party to which it is required or permitted to be given and made at such Party’s address specified in the Tender.

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

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

53 REMEDIES

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

53.2 The School shall have the right, at its sole discretion, to elect to claim general damages in common law from the Contractor instead of imposing liquidated damages under the Contract.

54 CLAIMS FOR EXTRA WORK

54.1 The School shall not be liable for any claims for any extra work performed or to be performed falling outside the scope of this Contract ("**Extra Work**") unless all the following conditions are fully complied with:

- (a) all claims must be submitted in writing before the performance of any Extra Work, and
- (b) in submitting any claim under Sub-Clause (a) above, the Contractor shall include the price of the Extra Work and the detailed scope of the Extra Work, and
- (c) the School agrees in writing for the Extra Work to be carried out and to the payment of the claim before the performance of any Extra Work.

54.2 The Contractor agrees shall not be entitled to additional payments whether under this Contract restitution, quasi-contract or equitable grounds if all conditions in **Clause 54.1** are not fully complied with.

54.3 For the avoidance of doubt, **Clause 54** applies to all Extra Work including Extra Work initiated at the request of the School.

54.4 For Extra Work initiated at the request of the School, the School shall reserve the right to waive any or all or any part of the conditions in **Clause 54.1** at her own discretion.

55 MEDIATION

- 55.1 Notwithstanding anything in this Contract, in the event of any dispute, claim, question or disagreement arising out of or relating to this Contract, no Party shall proceed to litigation or any other form of dispute resolution UNLESS the Parties have made reasonable efforts to resolve the same through mediation in accordance with the mediation rules of the Singapore Mediation Center.
- 55.2 A Party who receives a notice for mediation from the other Party shall consent and participate in the mediation process in accordance with **Clause 55.1**.
- 55.3 Failure to comply with **Clause 55.1** or **55.2** shall be deemed to be a breach of contract.

56 CONTRACTS (RIGHTS OF THIRD PARTIES)

- 56.1 A person who is not a party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 2001 to enforce any term of the Contract.
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- 56.3 Intentionally left Blank.
- 56.4 The Parties may by agreement rescind or vary the Contract without the consent of any third party.

57 CONSORTIUM

- 57.1 As used in this Contract, "Consortium" means an unincorporated joint venture through the medium of a consortium or a partnership.
- 57.2 Where the Contractor is a Consortium, the following shall apply:

Joint and Several Responsibility

- 57.2.1 Each member of the Consortium shall be jointly and severally responsible to the School for the due performance of the Contract.

Addition of members to Consortium

- 57.2.2 Any introduction of, or changes to, Consortium membership must be approved in writing by the School.
- 57.2.3 Should additional member(s) be added to the Consortium at any time with the approval of the School under **Clause 57.2.2**, he or they shall be deemed to be included in the expression 'the Contractor'.

Withdrawal from Consortium

- 57.2.4 If any member of the Consortium withdraws from the Consortium, goes into liquidation, is wound up or cease to exist in accordance with the laws of the country of

incorporation:

- (i) this Contract shall continue and not be terminated; and
- (ii) the remaining member(s) of the Consortium shall be obliged to carry out and complete the Contract.

58 COEXISTENCE STRATEGY

- 58.1 In the event that the School appoints more than one Contractor, whether in this tender or subsequent tenders, the Contractors are to cooperate with each other to ensure that the service levels and requirements of the Solution as stated in the Requirement Specifications are met. If necessary, the operations management procedures will have to be refined by both parties to accommodate each other's Solutions.
- 58.2 The Contractor is also required to work with the facility management (FM) Contractor for the IT Infrastructure in the development of the application software and also in the maintenance and support of the Solution. If necessary, the operations management procedures will have to be refined by both parties to accommodate each other's Solution.
- 58.3 The Contractor shall if necessary meet on a regular basis with the School and other suppliers to discuss operational issues and other problems that may be encountered in the provision of the Solution and the services. The relevant technical officers involved in the provision of the services shall attend the meetings.

59 OWNERSHIP OF DOCUMENTATION AND DISPOSAL OF DOCUMENTATION UPON TERMINATION OF CONTRACT OR COMPLETION OF CONTRACT

- 59.1 The School shall own all the documentation generated for the purpose of this Contract.
- 59.2 Subject to Clause 39A.1.6, no later than seven (7) days from the termination or expiry of this Contract:
- (a) the Contractor shall carry out the following, unless otherwise directed by the School:
 - (i) return to the School all Confidential Information received from the School for the purpose of the Contract or produced in the course of performing its obligations under the Contract without keeping any copies thereof;
 - (ii) return to the School all School Data in the possession of or under the control of the Contractor or any Sub-contractor without keeping any copies thereof; and

- (iii) secure erase and destroy all softcopies of Confidential Information and School Data that exist in hard disk, removable storage media and other storage media or facility whatsoever,

provided that the Contractor may, subject to the School's prior written approval, retain any Confidential Information and any School Data as may be required by any applicable law, regulations or directives of any relevant government, statutory or regulatory body ("**Applicable Provisions**"), without prejudice to its confidentiality obligations in relation to such Confidential Information and School Data contained in **Clause 39**. Where the Contractor retains any School Data pursuant to this proviso, the Contractor shall keep all such School Data confidential, and all the obligations in **Clause 39** shall apply to such retained School Data as if such School Data were Confidential Information. The Contractor's request for the School's approval shall be in writing and: (1) include a description of all Confidential Information and School Data it is required to retain under the Applicable Provisions, and (2) cite the specific Applicable Provisions it is relying on to retain such Confidential Information and School Data; and

- (b) the Contractor shall upon completion of the obligations under **Clause 59.2(a)**, provide a written confirmation to the School that it has complied with **Clause 59.2(a)**.

59.3 Upon completion of the obligation under **Clause 59.2**, the Contractor shall sign the Declaration as stipulated in **Schedule 5A**, and submit the signed copies of the Declarations to the School.

59.4 If requested by the School to do so, the Contractor shall fully cooperate with the School to enable the School to verify that the Contractor complied with this **Clause 59**, including but not limited to providing the School with such information as may be reasonably necessary for this purpose.

59.5 For the purposes of this Clause 59, "**School Data**" means data in any form, whether hardcopy or softcopy, that:

- (e) belongs to the School;
- (f) is generated by the School;
- (g) is received from the School for the purposes of the Contract;

is supplied or is required to be supplied to the School under the Contract; or

is generated in the course of the Contract.

60 SET-OFF

60.1 Whenever under this Contract any sum of money (including liquidated damages and any other damages) shall be recoverable from or payable by the Contractor, the same

may be deducted from any sum then due or may become due to the Contractor under this Contract or any other agreement with the School.

61 ENTIRE AND WHOLE AGREEMENT

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

62 ISSUANCE OF WRITTEN WARNING BY THE SCHOOL

- 62.1 If the Contractor is in breach of any of its obligations under the Contract, the School may issue a written warning to the Contractor setting out the details of the Contractor's breach, and the School shall have the right to publish or disseminate information on the written warning through any platform accessible by Government departments, organs of state and statutory boards.
- 62.2 Information on the written warning which may be published or disseminated referred to in this **Clause 62** may include but not be limited to details and information relating to any or all of the following:
- (a) the Contractor's breach of any of its obligations under the Contract;
 - (b) any action taken by the Contractor to rectify or remedy the breach; and
 - (c) any action taken by the School against the Contractor in respect of the breach.
- 62.3 Save as expressly provided for in the Contract, any action taken by the School against the Contractor under **Clause 62.1** shall be without prejudice to any accrued rights and obligations under the Contract as at the date the action is taken.
- 62.4 Any publication or dissemination of the details and information on the written warning under **Clauses 62.1 and 62.2** above may be used or relied upon by any Government departments, organs of state or Statutory Board in the evaluation of any tender, quotation or proposal submitted by the Contractor in response to any invitation to tender, invitation to quotation, or request for proposal issued by any Government department, organs of state or Statutory Board.
- 62.5 The School shall not be liable to the Contractor or any third party for any Losses whatsoever and howsoever arising from or relating to the exercise by the School of any rights under this **Clause 62**.

63 LIQUIDATED DAMAGES FOR DATA AND SECURITY BREACHES

- 63.1 Without prejudice to any other provision in the Contract, where a Security Breach Event arises from or as a result of the default, negligence or unlawful act of the Contractor or any of its personnel, employees, officers, agents or Sub-contractors (a "**Relevant**

Security Breach Event”), the Contractor shall adhere to the procedures set out in **Clause 49A** and the School shall have the right (in addition to and without prejudice to all other rights or remedies available, including the rights under **Clause 63.2**), to require the Contractor to pay liquidated damages of S\$1600 per Man-day per Relevant Security Breach Event, such an amount being a genuine pre-estimate of the administrative costs (including costs arising from investigative efforts) incurred by the School in respect of Relevant Security Breach Event(s). The Contractor shall pay such liquidated damages to the School in Singapore Dollars no later than thirty (30) days from the date of issue of notification to the Contractor by the School, and where the Contractor fails to pay such damages, the School shall be entitled to exercise its set-off rights in accordance with **Clause 60**, or recover the same as a debt due from the Contractor in any court of competent jurisdiction.

63.2 In addition to and without prejudice to **Clause 63.1**, the Contractor shall indemnify and keep indemnified the School against all Losses incurred, paid by or suffered by the School or third parties claiming against the School arising from or attributable to a Relevant Security Breach Event, including costs incurred in rectifying the Relevant Security Breach Event. For the avoidance of doubt the School shall not be entitled to double recovery of the administrative costs (including costs arising from investigative efforts) incurred by the School that is covered by the liquidated damages set out in **Clause 63.1** above.

63.3 Where there is any doubt as to whether a Security Breach Event or Security Breach has occurred, the School’s view shall prevail.

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PART I SCHEDULE	SCHEDULE	SECTION B
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CONTENTS

Schedule 1:	Payment Terms
Schedule 2:	Works Programme
Schedule 3:	Form of Agreement
Schedule 4:	Banker's Guarantee/Insurance Bond
Schedule 5:	Undertaking to Safeguard Official Information
Schedule 5A:	Declaration
Schedule 6:	Acceptance Test Procedures
Schedule 7:	Undertaking by OEM
Schedule 8:	Declaration on Progressive Wage (PW) Mark Eligibility

The CONTRACT PRICE shall be paid as follows:-

(Reference: Clause 4)

A. Contract Price for design, supply, delivery, installation, testing and commissioning of System

Stage	Percentage (%) of the Contract Price	Cumulative Total (%)
Thirty (30) days from the date of Letter of Acceptance	5	5
Thirty (30) days from the date of completion of physical delivery of Hardware and Software and Installation	40	45
Thirty (30) days from the Commissioning Date for Implementation	50	95
Thirty (30) days from the Commissioning Date for Acceptance	5	100

(Reference: Clause 7 of Part 1, Section C)

B1. Price of the Maintenance Contract for software support and hardware maintenance for the System after thirty-six (36) months, option of two (2) years extensions

Stage	Percentage (%) of Annual Price of the Maintenance Contract
Quarterly Payment. Thirty (30) days after the last day of each Contract's quarter.	25% of the corresponding Year's Contract Price for each Contract's quarter

B2. Price of the Maintenance Contract for software support and hardware maintenance for the School's existing network equipment listed in Annex B of Part 2

Stage	Percentage (%) of Annual Price of the Maintenance Contract
Quarterly Payment. Thirty (30) days after the last day of each Contract's quarter.	25% of the corresponding Year's Contract Price for each Contract's quarter

Any GST payable for the supply of goods, services or works by the Supplier under this Contract shall be reimbursed by the School.

PROVIDED THAT if the School in the Letter of Acceptance accepts payment in accordance with the Contractor's alternative payment terms contained in the Tender then such alternative payment terms shall apply.

Reference: Clause 6 and 12.6

The Implementation Plan for the proposed new network infrastructure equipment shall not exceed the time prescribed in the following schedule:

Milestone	Date
Letter of Acceptance issued by the School	LOA date
Submission of Implementation Plan by Contractor	LOA date + Two (2) calendar weeks
Solution Installation Start Date by Contractor	LOA date + Eight (8) calendar weeks including hardware delivery
Stipulated Commissioning Date for Implementation	Installation Start Date + Four (4) calendar weeks
Performance Guarantee Period (PGP)	Stipulated Commissioning Date for Implementation + One (1) calendar month
Acceptance Date	Performance Guarantee Period + One (1) calendar month
Solution Warranty Period	Start System software support and hardware maintenance on the Acceptance Date.

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The Banker's Guarantee or Insurance Bond shall be in the prescribed form that follows:

TENDER REFERENCE NO.: _____

To: Singapore Sports School Limited (hereinafter called "the School").

Whereas on the _____ day of _____ an Agreement (the "**Contract**") was made between _____ (name of Contractor) of _____ (address) (the "**Contractor**") of the one part and the School of the other part whereby the Contractor agreed that in consideration of its due and faithful performance of the Contract, it would be paid the Contract Price as defined in the Contract.

And Whereas the Contractor is required under the Contract to pay [____ per cent of the estimated Contract Price] / [the sum of Singapore Dollars _____ (S\$ _____)] as a Security Deposit for the performance of its obligations under the Contract.

And Whereas the Contractor has opted to provide an irrevocable on-demand guarantee in favour of the School as a security deposit for the Contract.

We (at the request of the Contractor) agree as follows:

1. We shall unconditionally pay to the School any sum or sums up to a maximum aggregate of Singapore Dollars _____ (S\$ _____) (the "Guaranteed Sum") upon receiving your written notice of claim for payment made under Clause 4 of this Guarantee without any proof of actual default on the part of the Contractor and without need to satisfy any other condition.
2. We shall not be discharged or released from this Guarantee by any arrangement between the School and the Contractor with or without our consent, or by any other or further arrangement between the Contractor and us with or without the School's consent, or by any alteration in the obligations undertaken or to be undertaken by the Contractor or by any forbearance on the School's part whether as to payment, time, performance or otherwise.
3. Our liability under this Guarantee shall continue and this Guarantee shall remain in full force and effect from [*insert effective date:* _____] until [*insert expiry*

date: _____] [*insert if expiry date is subject to automatic extension*²: provided always that the expiry date of this Guarantee and our liability under this Guarantee shall be automatically extended for successive periods of [*specify duration of each extension*: _____ days/months] unless we give you 90 days' written notice prior to the expiry of our liability (the "**Notice Period**") of our intention not to extend this Guarantee in respect of any future extension and provided further that you shall be entitled –

- (a) upon receiving such notice of our intention either to:
 - (i) make a claim under this Guarantee; or
 - (ii) *direct us to pay such amount (not exceeding the Guaranteed Sum) as you may specify into a suspense account to be governed and disbursed by us subject to the Association of Banks in Singapore's Guidelines for operation of a Suspense Account; or
- (b) direct us (within the Notice Period) to extend the validity of this Guarantee for a further period not exceeding _____ days/months (and this Guarantee shall then expire at the end of such further period).]

Note: * Not applicable for Insurance Bond issued by insurance companies

- 4. This Guarantee is conditional upon a claim being made by the School at any time and as many times as the School may deem fit by way of a notice in writing addressed to us and the same being received by us at [*insert address of Bank's notification office*: _____] before the end of 90 days after the expiry of this Guarantee.
- 5. We shall be obliged to effect the payment required under such a claim within 30 business days of our receipt of the written notice from the School. We shall be under no duty to inquire into the reasons, circumstances or authenticity of the grounds for such claim and shall be entitled to rely upon the School's written notice received by us as final and conclusive. For the purposes of this Guarantee, "**business day**" means a day other than a Saturday, Sunday, or public holiday in Singapore.
- 6. The School may make more than one claim on this Guarantee so long as the aggregate amount specified in all such claims does not exceed the Guaranteed Sum.

² This provision is to be included for contracts which are not fixed period contracts. For fixed period contracts, this provision is not required.

7. This Guarantee is issued subject to the laws of the Republic of Singapore and the exclusive jurisdiction of the Singapore courts.

Dated this _____ day of _____

AS WITNESS our hand

Signed by: _____
(Name and designation of officer)

for and on behalf of the

(Name of Bank)

(Signature)

in the presence of:

Name _____

Designation _____

(Signature of Witness)

Reference: Clause 39.4 of Conditions of Contract

TENDER REFERENCE NO.: 25/0008

CONFIDENTIALITY & DATA PROTECTION UNDERTAKING (FOR CORPORATIONS)

Introduction

1. This undertaking (this “**Undertaking**”) relates to all information (“**Information**”) at any time and from time to time, acquired by or supplied to the recipient named below (“**Recipient**”) or Authorised Recipients (defined below), by the Singapore Sports School Ltd (the “**School**”) or its Connected Persons (defined below), whether orally, in writing, electronically or in any other form, in relation to the Recipient’s work for the School and/or the Recipient’s dealings and interactions with the School, including but not limited to codes, passwords, personal data, drawings and plans.
2. In this Confidentiality Undertaking:
 - (a) “**Authorised Recipients**” mean, in relation to the Recipient, its officers, employees, advisers, agents, sub-contractors and representatives who strictly require access to the Information;
 - (b) “**Connected Persons**” mean the officers, employees, advisers, agents and representatives of the School;
 - (c) Where Information relates to “**personal data**”, being data, whether true or not, about an individual who can be identified (i) from that data; or (ii) from that data and other information to which the Recipient has or is likely to have access, the Personal Data Protection Act 2012 (“**PDPA**”) applies in respect of that data; and
 - (d) Any reference to an act or omission by the Recipient includes an act or omission by an Authorised Recipient and *vice versa*.
3. The Recipient acknowledges and agrees that it is a “data intermediary” within the meaning of the PDPA and undertakes that it shall at all times comply with the provisions thereof which are applicable to it in respect of personal data.

Undertaking

4. With regard to the disclosure of the Information by the School, the Recipient agrees and undertakes to the School that except with the prior written consent of the School, it shall:
 - (a) use the Information only for the purpose(s) for which the Information was provided;

- (b) retain the Information in strict confidence and not disclose the Information to any person other than an Authorised Recipient;
- (c) inform each Authorised Recipient of the confidential nature of the Information and the restrictions imposed by this Undertaking and/or any applicable laws (including but not limited to the PDPA);
- (d) ensure compliance by all Authorised Recipients with the restrictions imposed by this Undertaking and any applicable laws (including but not limited to the PDPA) as if they were named in place of the Recipient; and
- (e) be liable for any breach by any Authorised Recipient, whether such breach occurs during or after the Authorised Recipient's employment with or engagement by the Recipient.

Retention of Information

- 5. The Recipient and its Authorised Recipients shall destroy or return to the School, on demand, any document containing any Information and any copy which may have been made, and expunge all Information from any computer, word processor or other device containing any Information. Any destruction of Information shall, at the request of the School be certified in writing by an authorised officer supervising it.
- 6. Without prejudice to Clause 5 above, in respect of personal data, the Recipient undertakes that it will comply with its retention limitation obligation under the PDPA which requires it to cease to retain documents (physical and/or electronic) containing personal data as soon as it is reasonable to assume that the purpose(s) for which that personal data was/were collected is no longer served by retention of the personal data, and retention is no longer necessary for legal or business purposes. In this regard, the purposes for which personal data is retained by the Recipient on behalf of the School is deemed to be no longer served: (i) on demand by the School to cease retention; and/or (ii) as soon as the School ceases its relationship with the Recipient.

Intellectual Property

- 7. All intellectual property rights in the Information shall remain the sole property of the School at all times. To avoid doubt, and without prejudice to the generality of the foregoing, the Recipient acknowledges in its own capacity and on behalf of its Authorised Recipients that no right, title or interest (whether in the form of intellectual property rights or otherwise) in the Information is granted to itself and/or its Authorised Recipients at any time.

Protection of Information

- 8. Without prejudice to any of the foregoing confidentiality undertakings, the Recipient's attention is also drawn to the need to safeguard the integrity of the data and/or records

and/or information acquired and/or accessed by and/or disclosed/supplied to the Recipient in the course of its work for the School (the “**Data**”).

9. The Recipient undertakes to ensure that the integrity of the Data is not compromised and/or affected and/or prejudiced and will take all necessary measures to ensure that this Undertaking and all applicable laws (including but not limited to the PDPA) is/are not breached. The Recipient shall also cause any other person who is authorised by the Recipient to have access to the Data (an “**Authorised Person**”) to comply with the obligations imposed by this Undertaking and/or all applicable laws (including but not limited to the PDPA), and the Recipient shall be responsible for any breach by the Authorised Person.
10. Without prejudice to Clause 9 above, the Recipient undertakes that it will comply with its protection obligation under the PDPA which requires the Recipient to safeguard personal data in its possession or under its control from (a) unauthorised access, collection, use, disclosure, copying, modification, disposal or similar risks; and (b) the loss of any storage medium or device on which personal data is stored. The Recipient further undertakes that it shall employ appropriate administrative, physical and technical measures such as (but not limited to) up-to-date antivirus protection, encryption and the use of privacy filters to secure all storage and transmission of personal data by it, and only disclose personal data internally to Authorised Recipients on a need-to-know basis.

Personal Data Breach

11. The Recipient undertakes to comply with its personal data breach notification obligation under the PDPA which stipulates that if the Recipient has reason to believe that a personal data breach has occurred in relation to personal data that the Recipient is processing on behalf of and for the purposes of the School, then it must, without undue delay notify the School of the occurrence of the data breach in order for the School to conduct an assessment of whether the data breach is a notifiable data breach.

Pursuant to the PDPA, “**processing**” in relation to personal data means “the carrying out of any operation or set of operations in relation to the personal data” and includes (but is not limited to): (a) recording; (b) holding; (c) organisation, adaptation or alteration; (d) retrieval; (e) combination; (f) transmission; and (g) erasure or destruction of personal data.

Breach of Undertaking

12. In the event of any breach by the Recipient or Authorised Recipients of this Undertaking and/or any applicable laws (including but not limited to the PDPA), the Recipient agrees and undertakes to fully indemnify the School for any and all losses, damages or costs incurred by and/or arising out of and/or in relation to the breach. The Recipient further agrees and acknowledges that a breach of this Undertaking and/or its obligations under the PDPA may cause irreparable harm to the School of which monetary damages may not be a suitable and/or sufficient remedy. In the event of such breach, the School shall be entitled to equitable relief (including injunctive relief). To

avoid doubt, any act or omission by the Recipient and/or Authorised Recipients which causes the School to be in breach of any its obligations under the PDPA shall be deemed to be a breach of this Undertaking and entitle the School to relief herein.

Illegality

13. If any provision of this Undertaking is held to be void, illegal or unenforceable, then such provision shall (so far as it is invalid or unenforceable) be given no effect and be deemed not to be included in this Undertaking without invalidating any of the remaining provisions.

Governing Law

This Undertaking shall be governed by, and construed in accordance with, the laws of the Republic of Singapore. In any legal action or proceedings arising out of or in relation to this Undertaking, the School and the Recipient each irrevocably submits to the exclusive jurisdiction of the courts of Singapore.

UNDERTAKING AGREED AND ACCEPTED AS OF _____ BY:

THE RECIPIENT

Name of Corporation:

By

NAME OF AUTHORISED REPRESENTATIVE

Company Stamp

NRIC/ Passport No : _____

Address : _____

Designation : _____

Date : _____

Witnessed by

NAME of Witness : _____

NRIC/Passport No : _____

Address : _____

Designation : _____

Date : _____

TENDER REFERENCE NO.: 25/0008

CONFIDENTIALITY & DATA PROTECTION UNDERTAKING (FOR INDIVIDUALS)

Introduction

1. This undertaking (the “**Undertaking**”) relates to all information (“**Information**”), at any time and from time to time, acquired by or supplied to the recipient as named below (“**Recipient**”) by the Singapore Sports School Ltd (the “**School**”) or its Connected Persons (defined below), whether orally, in writing, electronically or in any other form, in connection with the Recipient’s employment and/or his/her dealings and interactions with the School on behalf of his/her employer, including but not limited to codes, passwords, personal data, drawings and plans.
2. In this Confidentiality Undertaking:
 - (a) “**Connected Persons**” mean the officers, employees, advisers, agents and representatives of the School; and
 - (b) Where Information relates to “**personal data**”, being data, whether true or not, about an individual who can be identified (i) from that data; or (ii) from that data and other information to which the Recipient has or is likely to have access, the Personal Data Protection Act 2012 (“**PDPA**”) applies in respect of that data.

Undertaking

3. With regard to the disclosure of the Information by the School, the Recipient, agrees and undertakes to the School that except with the prior written consent or instruction of the School, he/she shall:
 - (a) use the Information only for the purpose(s) for which the Information was provided;
 - (b) disclose the Information only in accordance with instructions by the School and/or his/her employer and/or as required/permitted by applicable laws (including but not limited to the PDPA);
 - (c) retain the Information in strict confidence and not disclose the Information to any person; and
 - (d) inform himself/herself of the confidential nature of the Information and the restrictions imposed by applicable laws (including but not limited to the PDPA).

Unauthorised Disclosure of Personal Data

4. In respect of personal data, and in accordance with the PDPA, the Recipient undertakes not to disclose or cause the disclosure of personal data in the possession or under the control of his/her employer, where such disclosure is not authorised by his/her employer and/or the School, and if unknown to him/her, be reckless as to whether such disclosure is authorised or not.

Unauthorised Use of Personal Data

5. In respect of personal data, and in accordance with the PDPA, the Recipient undertakes not to make use of personal data in the possession or under the control of his/her employer, where such use is not authorised by his/her employer and/or the School, and if unknown to him/her, be reckless as to whether such use is authorised or not, in order to obtain a gain for himself/herself or another person, cause harm to another individual, or cause loss to another person.

For the purposes of this provision, the following definitions shall apply:

- “gain”** : means:
- (a) a gain in property or a supply of services, whether temporary or permanent; or
 - (b) an opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of remuneration;
- “harm”** : means, in relation to an individual:
- (a) any physical harm; or
 - (b) harassment, alarm or distress caused to the individual;
- “individual”** : means a natural person, whether living or deceased;
- “loss”** : means:
- (a) a loss in property or a supply of services, whether temporary or permanent; or
 - (b) a loss of an opportunity to earn remuneration or greater remuneration or to gain a financial advantage otherwise than by way of remuneration,
- but excludes, in relation to an individual, the loss of personal data about the individual;
- “person”** : includes any company or association or body of persons, corporate or unincorporate.

Unauthorised Re-identification of Anonymised Information

6. In respect of personal data, and in accordance with the PDPA, the Recipient undertakes not to take any action to re-identify or cause re-identification of the person to whom anonymised information in the possession or under the control of his/her employer, where such re-identification is not authorised by his/her employer and the School, and if unknown to him/her, be reckless as to whether the re-identification is authorised or not.

Retention of Information

7. The Recipient shall destroy or return to the School, on demand, any document containing any Information and any copy which may have been made, and use his/her best endeavours to expunge all Information from any computer, word processor or other device containing any Information. Any destruction of Information shall, at the request of the School be certified in writing by an authorised officer supervising it.

Intellectual Property

8. All intellectual property rights in the Information shall remain the sole property of the School at all times. To avoid doubt, and without prejudice to the generality of the foregoing, the Recipient acknowledges that no right, title or interest (whether in the form of intellectual property rights or otherwise) in the Information is granted to him/her at any time.

Protection of Information

9. Without prejudice to the foregoing confidentiality undertakings, the Recipient's attention is also drawn to the need to safeguard the integrity of the data and/or records and/or information acquired and/or accessed by and/or disclosed/supplied to the Recipient in the course of his/her work for the School (the "**Data**").
10. The Recipient undertakes to ensure that the integrity of the Data is not compromised and/or affected and/or prejudiced and will take all necessary measures to ensure that this Undertaking and all applicable laws (including but not limited to the PDPA) are not breached.

Breach of Undertaking

11. In the event of any breach by the Recipient of this Undertaking and/or any applicable laws (including but not limited to the PDPA), the Recipient agrees and undertakes to fully indemnify the School for any and all losses, damages or costs incurred by and/or arising out of and/or in relation to the breach to the maximum extent permitted by law. The Recipient further agrees and acknowledges that a breach of this Undertaking may cause irreparable harm to the School of which monetary damages may not be a suitable and/or sufficient remedy. In the event of such breach, the School shall be entitled to equitable relief (including injunctive relief).

Illegality

12. If any provision of this Undertaking is held to be void, illegal or unenforceable, then such provision shall (so far as it is invalid or unenforceable) be given no effect and be deemed not to be included in this Undertaking without invalidating any of the remaining provisions.

Governing Law

13. This Undertaking shall be governed by, and construed in accordance with, the laws of the Republic of Singapore. In any legal action or proceedings arising out of or in relation to this Undertaking, the School and the Recipient each irrevocably submits to the exclusive jurisdiction of the courts of Singapore.

UNDERTAKING AGREED AND ACCEPTED AS OF _____ BY:

THE RECIPIENT

NAME :
NRIC/ Passport No :
Address :
Designation :
Date :

Witnessed by

NAME of Witness :
NRIC/Passport No :
Address :
Designation :
Date :

SCHEDULE 5A

Reference: Clause 59 of Conditions of Contract

DECLARATION

1. The definitions in the Conditions of Contract shall apply to this Declaration.
2. Subject to Paragraph 3 below, I have under **Clause 59** of the Conditions of Contract:
 - (a) returned to the School all data (including, but not limited to, personal data and Confidential Information) received from the School for the purpose of the Contract or produced in the course of performing my obligations under the Contract without keeping any copies thereof;
 - (b) returned to the School all School Data in the possession of or under the control of myself or any Sub-contractor without keeping any copies thereof; and
 - (c) secure erased and destroyed, and have ceased to retain, all softcopies of Confidential Information and School Data that exist in hard disks, removable storage media and other storage media or facility whatsoever.
3. In the event that I retain in accordance with **Clause 59** of the Conditions of Contract any Confidential Information or any School Data, I confirm that I have obtained the School's prior written approval to do so and that my written request for the School's approval (i) included a description of all Confidential Information or School Data I am retaining under the Applicable Provisions, and (ii) cited the specific Applicable Provisions I am relying on to retain such Confidential Information or School Data.
4. I further understand and agree that any breach or neglect of my obligation under **Clause 59** of the Conditions of Contract may render me liable to prosecution under the civil proceedings.

Dated

Execution by:

Name of Individual:
Signature

Designation:

Name of Business Entity:
.....

Witnessed by:

Name of Witness:
Signature of witness

(Date)

<u>Chapter</u>	<u>Contents</u>
1	INTRODUCTION
2	TEST MASTER PLAN (where applicable) <ul style="list-style-type: none">2.1 Objective of Testing2.2 Scope of Testing2.3 Strategy2.4 Master Schedule2.5 Organization Set Up2.6 Responsibility2.7 Test Activity2.8 Training2.9 Documentation2.10 Test Data Base Set Up2.11 Quality Assurance
3	TEST PLAN (where applicable) <ul style="list-style-type: none">3.1 Objective3.2 Test Unit3.3 Test Schedule3.4 Test Tool<ul style="list-style-type: none">3.4.1 Hardware and Equipment3.4.2 Software3.5 Test Personnel3.6 Test Material

<u>Chapter</u>	<u>Contents</u>
4	TESTING SPECIFICATIONS AND SCRIPTS(where applicable) 4.1 Reference Number and Test Item 4.2 Test Requirement 4.3 Pre-test Results 4.4 Methodology, Data Recording and Data Reduction 4.5 Test Control and Test Condition 4.6 Modification 4.7 Evaluation 4.8 Constraints 4.9 Test Data Base 4.10 Test Input and Output 4.11 Test Procedure 4.12 Security and Control 4.13 Test Environment
5	TEST LOG (where applicable) 5.1 Reference Number and Test Item 5.2 Deviation 5.3 Test Result 5.4 Observation and Problem
6	TEST ANALYSIS (where applicable) 6.1 Reference Number 6.2 Test Result Summary 6.3 Error and Deficiency 6.4 Diagnosis and Recommendation
7	TEST RESULT REVIEW (where applicable) 7.1 Review Procedure

1. INTRODUCTION

This section describes the purpose of the testing procedure, lists the applicable reference documents and describes any terms, synonyms and abbreviations unique to this document.

2. TEST MASTER PLAN (where applicable)

A test master plan covering details of the following sections and other relevant information must be submitted for approval within a specific time frame after the commencement of the project.

2.1 OBJECTIVE OF TESTING

This section describes the objectives of testing in respect of functionality, performance and resilience of the Solution.

2.2 SCOPE OF TESTING

This section sets out the hardware, software and system to be tested.

2.3 STRATEGY

This section describes how testing will begin on the relatively simple elements which form the basis of the system and extend to embrace more complex structures as the system is progressively assembled in a hierarchical manner. Various levels of test e.g. module test, integration test and acceptance test must be defined.

2.4 MASTER SCHEDULE

This section describes a master schedule indicating the commencement and completion of each level of test activities. The master schedule must relate testing to the other project activities.

2.5 ORGANISATION SET UP

This section describes an organization set up for the administration of the testing activities.

A test committee comprising both the Contractor and School staff shall be responsible for the administration of this testing procedure. The test committee reports to the Solution's steering committee.

The test committee may appoint test groups, peer review groups, etc. and delegate to them any functions outlined in this testing procedure.

2.6 RESPONSIBILITY

This section defines the responsibilities of the School and the Contractor.

2.7 TEST ACTIVITY

This section describes procedures and actions for pre-test, test and post-test activities.

2.8 TRAINING

The section describes training related to testing activities that will be provided for the government's development staff and user staff, e.g. use of test tool, acceptance test procedure, etc. The Contractor is required to arrange user staff for attachment as observers in some module tests and integration tests and ensure that they are given the opportunity to acquire the skills of testing and ultimately be able to prepare and carry out their acceptance tests in a proper manner.

2.9 DOCUMENTATION

This section describes :-

how test activities will be documented.

Format of each document, worksheet, report, etc., its contents and method of completion.

2.10 TEST DATA BASE SET UP

This section describes how a test database will be set up and documented. The methods and tools that are available for constructing and maintaining the test database must be given.

2.11 QUALITY ASSURANCE

This section states quality assurance procedure to allow the Contractor and School's representatives or their agents to observe any or all the tests. They shall be given all reasonable facilities to enable them to establish that testing activities are carried out in accordance with approved procedures. Attendance of these representatives or agents will not be a pre-requisite for the tests taking place or the satisfactory completion of the tests.

3. TEST PLAN (where applicable)

A test plan covering details of the following sections and other relevant information for each level of test must be submitted for approval within a specific time frame prior to that level of test begins.

3.1 OBJECTIVE

This section describes the objectives of the test plan.

3.2 TEST UNIT

This section describes briefly every test unit covered under the test plan as a frame of reference for test. Each test unit is assigned with an identification number. The relationship between each test unit within a test plan must be defined.

3.3 TEST SCHEDULE

This section provides a chart showing the schedule for each test unit and the location at which the testing will be conducted.

3.4 TEST TOOL

3.4.1 Hardware and Equipment

This section indicates the expected period of use, types and quantities of the hardware and equipment needed for each test unit.

3.4.2 Software

This section lists other support software that will be needed for each test unit. It should also lists the integration software that will be needed for the integration of the system components.

3.5 TEST PERSONNEL

This section lists the numbers and skills of personnel that will be involved during the test period of each test unit. It includes any special requirement such as key personnel.

3.6 TEST MATERIALS

This section lists the materials needed for each test unit such as documentation, items to be tested, worksheets, etc.

4. TEST SPECIFICATIONS AND SCRIPTS (where applicable)

Test specifications and scripts for each test unit covering details of the following sections and other relevant information must be submitted for approval within a specific time frame prior to the commencing of the test.

4.1 REFERENCE NUMBER AND TEST ITEM

This section contains the reference number of the test unit. The functions of test items included in the test unit is also described.

4.2 TEST REQUIREMENT

This section describes the test criteria and requirements of the test unit.

4.3 PRE-TEST RESULT

This section describes any prior testing and results that may affect this testing. Prior test unit numbers shall be quoted.

4.4 METHODOLOGY, DATA RECORDING AND DATA REDUCTION

This section describes the test methodology to be deployed. It also describe the methods to be used for recording the test results. Methods to be used for arranging test data into a form suitable for evaluation, if applicable is described.

4.5 TEST CONTROL AND TEST CONDITION

This section describes the test control, such as manual, semi-automatic insertion of input, sequencing of operations and recording of test results. It also describes test conditions to be covered.

4.6 MODIFICATION

This section specifies modifications to be made to the item under test in order to aid testing.

4.7 EVALUATION

This section describes the rules to be used to evaluate test results, such as response time, etc.

4.8 CONSTRAINTS

This section describes the anticipated limitation on the test due to test conditions, environment, equipment, etc.

4.9 TEST DATA BASE

This section describes the test database to be used.

4.10 TEST INPUT AND OUTPUT

This section describes the input data and input commands to be used. It also describes the expected test output results and intermediate messages.

4.11 TEST PROCEDURE

This section specifies the step-by-step procedures to accomplish the tests. It includes test set-up, initialization, steps and termination.

4.12 SECURITY AND CONTROL

This section describes any security and control consideration.

4.13 TEST ENVIRONMENT

This section describes the test environment that may be different from the operational environment and the effects of the difference on the tests.

5. TEST LOG (where applicable)

A test log must be used to record the details of the following sections and other information during the test process.

5.1 REFERENCE NUMBER AND TEST ITEM

This section states the reference number of the test unit and the items under test.

5.2 DEVIATION

This section describes any deviation from test master plan, test plan and test specifications and scripts, e.g. test schedule, etc.

5.3 TEST RESULT

This section records the test results.

5.4 OBSERVATION AND PROBLEM

This section records observations of interest and problems encountered.

6. TEST ANALYSIS (where applicable)

This section describes a test analysis report containing the details of the following sections and other information which must be submitted within a specific time frame after the completion of the test.

6.1 REFERENCE NUMBER

This section provides a cross-reference to its associated test unit number.

6.2 TEST RESULT SUMMARY

This section summarizes the test results.

6.3 ERROR AND DEFICIENCY

This section summarizes errors detected and deficiencies discovered.

6.4 DIAGNOSIS AND RECOMMENDATION

This section describes the diagnosis of errors encountered and deficiencies discovered. It also recommends follow up action such as:-

- (a) the urgency of each correction
- (b) parties responsible for corrections
- (c) how the corrections should be made

7. TEST RESULT REVIEW (where applicable)

7.1 REVIEW PROCEDURE

This section describes how test review and approval will be carried out.

A. TEST CERTIFICATE

This section describes a test certificate that will be issued to those items that have successfully passed the test for higher level test or production.

Test Master Plan	----- for the project
Test Plan	----- for each level of tests
Test Specifications and Scripts	----- for each test unit
Test Log	
Test Analysis Report	
Test Certificate	

Road Map for Testing the Solution

The undertaking shall be in the form that follows:

UNDERTAKING BY OEM (FOR HARDWARE)

To: Singapore Sports School Limited

TENDER NO: 25/0008

We refer to the above Tender. All words and phrases used in this undertaking have the same meaning as in your Invitation to Tender for the above Tender unless otherwise specified.

2. We are the original equipment manufacturer and supplier to _____
[name and address of Tenderer] (the "**Tenderer**") of the hardware set out in Annex A (the "**Hardware**") for the purpose of the above Tender.

3. If the Tender is awarded to the Tenderer, we undertake to perform the obligations set out in the following paragraphs.

4. In respect of the Hardware, we warrant the continued maintenance and support for the Hardware for the duration of the Solution Warranty Period [and the duration of the purchased maintenance for the Hardware following the School's exercise of the option for maintenance between the Tenderer and the School ("**Solution Maintenance Period**")]. The scope of maintenance for the Hardware shall be as set out in the Contract and any hardware maintenance and support agreement applicable to the School in respect of the Hardware (including the supply of spares). Should the Tenderer be unwilling or unable to provide maintenance and support for the Hardware for any reason [or should the purchased maintenance be terminated for any reason], we confirm that we can offer maintenance and support of the Hardware as set out above (either by ourselves or through Sub-contractors) for the remainder of the Solution Warranty Period [and the duration of the Solution Maintenance Period] and agree to maintain and support the Hardware for the remainder of the Solution Warranty Period [and duration of the Solution Maintenance Period] on mutually agreed terms, and the pricing shall be that offered to our other customers in the public sector of Singapore, or if not available, then to our other customers, as long as the Hardware has not reached the end-of-life or end-of-support. We shall provide at least one (1) year's notice of any end-of-life or end-of-support for the Hardware.

5. We warrant that your right to maintenance and support for the Hardware as set out in this undertaking will survive the following events:

- (a) the termination of the Contract between you and the Tenderer; or
- (a) the termination of the legal relationship between the Tenderer and us.

6. We declare that this Undertaking is intended to be legally binding and we agree to execute a formal agreement with you in respect of the obligations set out in this Undertaking upon your written request.

7. In this Undertaking, the following words and phrases shall have the meanings set out below unless the context otherwise requires:

“**Contract**” means the resultant contract entered into between the School and the successful Tenderer for the provision of the Solution and the performance of other services.

For and on behalf of
Name of OEM:

by its authorised signatory
Name of signatory:
Designation:

Date:

SCHEDULE 8

Reference: Clause 40A of this Part 1 Section B (Conditions of Contract)

DECLARATION ON PROGRESSIVE WAGE (PW) MARK ELIGIBILITY

1. My firm <entity name>, <UEN>, hereby declares that my firm has:
 - a. read the information on the Sectoral Progressive Wages (“SPW”) and Occupational Progressive Wages (“OPW”) under the Progressive Wage Model as published on MOM’s website (at <https://www.mom.gov.sg/employment-practices/progressive-wage-model/what-is-pwm> and its related pages) on the wage schedules and job descriptions on the covered sectors and occupations; and
 - b. assessed whether my employees (who are Singapore Citizens or Permanent Residents) are covered under the prevailing SPW and OPW.
2. My firm hereby provides information on the employees covered by paragraph 1 above in the following table:

Sector	For each of the sector shown below, to indicate: <ul style="list-style-type: none">- “Yes” if the firm employs any <u>Singapore Citizen or Permanent Resident</u>; or- “No” if the firm does not employ any <u>Singapore Citizen or Permanent Resident</u>.
Cleaning (including in-house cleaners)	[Yes / No]
Security (including in-house security officers)	[Yes / No]
Landscape (including in-house landscape maintenance employees)	[Yes / No]
Lift and Escalator	[Yes / No]
Retail	[Yes / No]
Food Services	[Yes / No]
Waste Management*	[Yes / No]
Occupation	For each of the occupation shown below, to indicate: <ul style="list-style-type: none">- “Yes” if the firm employs any <u>Singapore Citizen or Permanent Resident</u>; or- “No” if the firm does not employ any <u>Singapore Citizen or Permanent Resident</u>.
Administrators (i.e. administrative assistants, administrative executives, administrative supervisors)	[Yes / No]
Drivers (i.e. general drivers, specialised drivers)	[Yes / No]

3. I understand that if my firm has declared ‘Yes’ for any of the sector(s) or occupation(s) listed above, my firm is eligible for the PW Mark. My firm hereby undertakes to submit a copy

of my firm's PW Mark e-Certificate (or proof of pending application for PW Mark) to the School in accordance with **Clause 40A** of the Conditions of Contract.

Submitted by: _____ <name of representative>

Designation: _____ <Designation of representative, ideally same representative who signed the Tender Offer>

Signature: _____ <Signature or e-Signature>

Date: _____