

CONDITIONS OF CONTRACT

MASTER AGREEMENT (2) (CAPITALAND CONTRACTORS)

CONDITIONS OF CONTRACT

1. SCOPE OF WORKS

The project pipeline by CapitaLand is enclosed herewith as Annex CC/J for the Vendor's reference in pricing.

To enter into a term contract commencing on **DDMMYYYY** (the "Effective Date") for a period of two (2) years (the "Term") with an option to extend the Contract for Two (2) years for the supply and delivery of sanitary wares, fittings and accessories to the properties under development, owned, managed by CapitaLand Entities and/or including any new development or properties acquired by CapitaLand Entities.

1. DEFINITIONS

The following expressions shall have the following meanings unless otherwise expressly provided or unless the context otherwise requires:

- 2.1. "Employer" shall mean CapitaLand Limited, its Affiliates, and/or associated companies;
- 2.2. "CapitaLand Contractors" shall mean such contractors appointed by CapitaLand Entities from time to time for specific projects through a separate contract;
- 2.3. "CapitaLand Entities" shall mean CapitaLand Limited, its Affiliates, and/or associated companies, joint ventures, any real estate investment trust (REIT), trust or private fund managed by any of CapitaLand Limited's subsidiaries or associated companies;
- 2.4. "Vendor" shall mean the successful tenderer and /or its Affiliates, including its authorised distributors. Vendor has to apply and seek approval from the Employer on the admission of their authorised distributors according to requirement and provision specified herein Annex CC/G before appointing the authorised distributor to carry out the Works in this Agreement;
- 2.5. "Calendar Day" shall mean a day (including Saturday, Sunday or gazetted public holiday);
- 2.6. "Delivery" shall mean completion of delivery of an Order in accordance with clauses 3 and 6;
- 2.7. "Delivery Date" shall mean the date specified for delivery of an Order in accordance with clause 6;
- 2.8. "Delivery Location" shall mean the location specified for delivery of an Order in accordance with clause 6;
- 2.9. "Ex-Stock" shall mean Goods which are immediately available from Vendor's stock holding;

- 2.10. "Goods" shall mean the product and more particularly set out in the Master Agreement herein and conforming to the Specifications and where the context requires, the Goods ordered by or supplied to the CapitaLand Contractors;
- 2.11. "Indent" shall mean order of goods placed through an agent of the Vendor;
- 2.12. "Master Agreement" or "Agreement" shall mean this agreement for the supply of Goods and Services in accordance with the Contract;
- 2.13. "Maintenance Period" shall mean the period during which all outstanding and/or defective Works are completed, and shall end on the date of issuance of the maintenance certificate;
- 2.14. "Order" shall mean a written order for the supply of Goods and Services, whether in the form of a purchase order and/or purchase agreement or otherwise, placed by CapitaLand Contractors with the Vendor;
- 2.15. "Order of Goods" shall mean, in relation to such quantity and specifications of the Goods as set out in each Order placed by the CapitaLand Contractors and accepted by the Vendor, a batch of that quantity of the Goods delivered or to be delivered to the CapitaLand Contractors pursuant to the terms and conditions of this Agreement;
- 2.16. "Contract" means the tender documents **dated [*insert date]**, comprising the Conditions of Contract, Specifications, Schedule of Rates and Letter of Award from the Employer and documents identified and agreed in writing to form part of the contract;
- 2.17. "Sub-Contract Agreement" shall mean the sub-contract Conditions of Contract and Letter of Award from the CapitaLand Contractor to the Vendor.
- 2.18. "Contract Price" shall mean the unit price of the individual Goods (excluding Goods and Services Tax) as agreed between CapitaLand Limited and the Vendor and set out in the Master Agreement or such other price as may be agreed upon from time to time in writing between CapitaLand Limited and the Vendor.
- 2.19. "Contract Sum" shall mean the aggregate contract sum determined based on the Contract Price, as set out in each Order;
- 2.20. "Works" shall mean the supply, delivery and installation including maintenance and/or warranty, where applicable, of Goods by the Vendor to the CapitaLand Contractors and the provision of the Services by the Vendor to the CapitaLand Contractors;
- 2.21. "Services" shall mean the installation, training or such other services or any of them to be provided relating to the Goods by the Vendor to the CapitaLand Contractors;

- 2.22. "Specifications" shall mean the specifications of the Goods as set out in the tender document and such other specifications which shall be agreed upon from time to time in writing between CapitaLand Limited and the Vendor;
- 2.23. "Term" means the period as defined in clause 1;
- 2.24. "Affiliate" of a Party means any legal entity directly or indirectly controlling, controlled by, or under the common control with a Party. Control of an entity shall exist through the direct or indirect control of 50% or more of the total issued share capital/registered equity of the entity. In addition to the above "Affiliate" in relation to CapitaLand Limited shall also mean any legal entity that is related to CapitaLand Limited (i) by reason that CapitaLand Limited or its Affiliate is obliged to provide service to that legal entity for any reason including but not limited to project and/or property management services; or (ii) by reason that CapitaLand Limited has granted to that legal entity the right to use the brand(s) in relation to property management services, including but not limited to franchised rights.
- 2.25. "SOP Act" means the Building and Construction Industry Security of Payment Act (Chapter 30B of Singapore).
- 2.26. "SOP Regulations" means the Building and Construction Industry Security of Payment Regulations 2005.
- 2.27. Clause and paragraph headings shall not affect the interpretation of this agreement.
- 2.28. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 2.29. Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 2.30. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment, and includes any subordinate or subsidiary legislation for the time being in force made under it.

3. SUPPLY AND PURCHASE OF THE GOODS

- 3.1. During the Term, the Vendor shall produce and supply and/or shall procure the production and supply by its designated subsidiaries or Affiliates (as approved by CapitaLand Limited) and a CapitaLand Contractor shall purchase through a Sub-Contract Agreement, such quantities of the Goods as may be ordered, from time to time, based on the Contract Prices, on a non-exclusive basis.

- 3.2 The Vendor shall make provision of 2% spare of the total contract quantities to be stored with the Vendor at the Vendor's cost as a backup for any unserviceable Goods. For the avoidance of doubt, this Section 3.2 shall apply only if the quantity of Goods ordered under any Order exceeds 50 units of the Goods
- 3.3 In the event that the selected models are no longer in production or being replaced or upgraded during the Term, the Vendor shall immediately notify and provide the Employer the timeline on the products to be replaced. The replacement models shall be of equivalent or higher specifications (subject to the Employer and / or his consultants' approval and acceptance) and there shall not be any extra cost to the Employer.
- 3.4 The Vendor shall furnish a purchase report to the Employer on a half yearly basis or upon request. The format of purchase report (including full details breakdown of each purchase order) shall be subject to the approval of the Employer

4 PRICES

- 4.1. The Contract Price shall be on a firm price basis for the whole duration of the Term and be deemed to include but shall not be limited to the following:
- (a) Cost of manufacturing and packing;
 - (b) Freight and all necessary and related storage charges;
 - (c) Handling and transportation to site including unloading at ground level in an area accessible to delivery vehicles using fork-lift lorries if necessary in the event delivery container trucks are unable to enter, unpacking, checking and handing over;
 - (d) All costs, expenses, duties, taxes and charges of delivering the Goods to the Delivery Location including but not limited to costs relating to the preparation, submission and obtaining of necessary import and export permits, correspondences and relevant documents pertaining to airfreight, shipment, custom clearance, payment of taxes and duties charges necessary under the laws of Singapore for the supply and delivery of the Goods to the site specified by the CapitaLand Contractor in its Order; and
 - (e) All necessary and related insurances.
- 4.2. Except in Clauses 4.3 and 4.4 herein, the Contract Price is not subject to any cost adjustments due to fluctuation in the costs of labour, materials, plant, equipment, tools, transport and freight, exchange rates, duties, taxes, levies, etc. that may arise before the completion of the Works.
- 4.3. The Employer reserves the right to review and adjust the Contract Price and unit rates accordingly in the event that the material cost,

manufacturing cost, shipping or freight cost of the Goods decrease within the Term.

- 4.4. At any time during the Term if the Vendor has any sale promotion at a price lower than the Contract Price, the Vendor shall offer the sale promotion price to the Employer.

5. GOODS AND SERVICES TAX (GST) or EQUIVALENT

Notwithstanding the implementation of the Goods and Services Tax (GST) in Singapore with effect from 1st April 1994, any reference in the Master Agreement and Conditions of Contract to 'sums', 'costs', 'rates' or 'prices' shall be regarded as such sum, cost, rate or price exclusive of any tax properly chargeable by the Comptroller under or by virtue of the GST Act on the supply of goods and services that may be recoverable by the Vendor from the CapitaLand Contractor under the GST Agreement as annexed hereto as Annex CC/A.

The Vendor shall however be deemed to have included in his rates for all costs and expenses arising out of or in relation to the administration of the GST payable by him on the goods and services purchased for the carrying out and bringing to completion of the work. Such costs and expenses shall include but not be limited to all administrative costs, and financial charges relating to the GST payable by him.

This clause shall apply, *mutatis mutandis*, to Value Added Tax (VAT) in respect of other countries under this Agreement.

6. DELIVERY AND PAYMENT

The Vendor shall deliver each Order to the Delivery Location on the Delivery Date and on the following basis: -

- 6.1. Delivery of an Order shall be complete upon arrival of the Goods at the Delivery Location and acceptance of the Goods by the CapitaLand Contractor.
- 6.2. If there are Order of Goods where the CapitaLand Contractor requests for staggered delivery, the Vendor shall raise the invoice separately for each individual shipment in accordance with the Contract Prices.
- 6.3. In the event that (1) an Order of Goods or any portion thereof does not conform with the Specifications; or (2) an Order of Goods or any portion thereof is short of quantity stated in the Order relating to that Order of Goods (hereinafter referred to as "Shortfall"), the CapitaLand Contractor shall by written notice to the Vendor be entitled to reject the Order of Goods or, if the CapitaLand Contractor so chooses, reject only the non-conforming portion thereof. On receipt of the written notice from the CapitaLand Contractor, the Vendor shall, at the option of the CapitaLand Contractor, take any of the following actions: -

- 6.3.1. the Vendor shall forward to the CapitaLand Contractor within thirty (30) Calendar Days and at no additional costs to CapitaLand Contractor, an equivalent quantity of the Goods conforming to the Specifications sufficient to replace the Order of Goods or, if the CapitaLand Contractor rejects only the non-conforming portion of the Order of Goods, such non-conforming portion; or if there is a Shortfall, an equivalent quantity of Goods conforming to the Specifications sufficient to make up such Shortfall (whichever is applicable); or
- 6.3.2. prior to and during installation, where the CapitaLand Contractor has already made payment of the purchase price for its Order of Goods, the Vendor shall within ten (10) Calendar Days issue said CapitaLand Contractor with a credit note for the purchase price in full or, if the said CapitaLand Contractor rejects only the non-conforming portion of the Order of Goods or there is a Shortfall, for such proportionate part of the purchase price as is relevant to such non-conforming portion; or
- 6.3.3. where the said CapitaLand Contractor has not made payment of the purchase price for its Order of Goods, the Vendor shall immediately cancel any invoice issued in respect of the said Order of Goods or, if the CapitaLand Contractor rejects only the non-conforming portion or there is a Shortfall, issue the said CapitaLand Contractor, within ten (10) Calendar Days with a credit note for such proportionate part of the purchase price as is relevant to such non-conforming portion or such Shortfall.
- 6.3.4. In addition to the foregoing, the Vendor shall arrange at its own expense for the Order of Goods, or the non-conforming portion thereof, to be returned to the Vendor.
- 6.4. If the Vendor fails to deliver the Goods in accordance with the provisions of this Agreement, the Vendor shall offer the CapitaLand Contractor goods of a comparable (or better) quality (the "Substitute Goods") at the same price as the Contract Price that the CapitaLand Contractor would have paid for the Goods under this Agreement. The Vendor shall pay to the CapitaLand Contractor all and any costs and expenses incurred by said CapitaLand Contractor as a result of having to obtain the Substitute Goods.
- 6.5. For avoidance of doubt, in the event the Vendor fails to make delivery of the Goods as stipulated or the Goods delivered are not in accordance with the Specifications required, all additional expenses (including but not limited to the inspection fees, interest and losses, replacement/temporary sets, air-freight charges) incurred and damages suffered by the CapitaLand Contractor shall be borne by the Vendor. The Vendor shall also pay to the CapitaLand Contractor liquidated damages in accordance with Clause 14 herein.

- 6.6. If a CapitaLand Contractor delays or fails to pay for any Goods when due, and under the terms of the Sub-Contract Agreement but subject to the SOP Act and SOP Regulations, the Vendor reserves the right to suspend further deliveries until payment has been made. Further, if the delivery of Goods is delayed or expedited at the CapitaLand Contractor's request, the CapitaLand Contractor shall bear all additional charges directly incurred thereon.
- 6.7 All Orders issued by the CapitaLand Contractor shall, for payment and delivery purposes, be deemed to be Orders issued by such individual CapitaLand Contractor in its own name, provided, however, that if such CapitaLand Contractor fails to pay purchase prices of the Goods under an Order in accordance with the provisions of this Agreement, the relevant CapitaLand Entity that appointed the CapitaLand Contractor for the relevant project will assist the Vendor, to the extent reasonably practicable, to procure payment from the relevant CapitaLand Contractor.

7. MANUFACTURE, PACKING AND SHIPPING

7.1 MANUFACTURE

- 7.1.1 The Vendor shall manufacture and supply the Goods in accordance with the specifications including all generally accepted industry standards and practices that are applicable.
- 7.1.2 The Vendor agrees and undertakes that the Goods supplied to the CapitaLand Contractor by the Vendor under this Agreement shall:
- (a) conform to the Specifications;
 - (b) be free from defects in design, material and workmanship; and
 - (c) comply and/or meet with all applicable statutory and regulatory requirements.
- 7.1.3 The Vendor shall obtain and maintain in force for the Term all licences, permissions, authorisations, approvals and permits needed to manufacture and supply the Goods in accordance with the terms of this Agreement.

7.2 PACKING

- 7.2.1 The Vendor shall pack the Goods in a manner that is in accordance with trade practice and, in any event, in a manner reasonably suitable and required for the safe transportation and delivery of the Goods to the CapitaLand Contractor. The Vendor shall also ensure compliance with all applicable laws, enactments, orders, regulations and other instruments relating to the packing, packaging, marking, storage, handling and delivery of the Goods applicable in the relevant Delivery Location.

7.2.2 The Vendor hereby warrants and agrees that it shall be liable to the CapitaLand Contractors for any damages and losses due to and arising from inadequate packing of the Goods.

7.2.3 Subject to Clause 7.2.1, the Vendor shall, to the extent reasonably practicable, reduce unnecessary packaging at source without impeding or compromising the safety of the Goods during packing, packaging, marking, storage, handling and delivery.

7.3 SHIPPING

7.3.1 Where the Goods are not available Ex-Stock and the CapitaLand Contractor agrees in writing that the Goods will be delivered on an Indent basis, a notice of shipment must be sent by the Vendor to the CapitaLand Contractor stating the Specifications of the Goods, quantity of the Goods, the name of the Vendor and the route of shipment.

7.3.2 The reference number of the Order and shipping marks must appear in all relevant correspondence and documents, including but not limited to invoices, bills of landing, airway bills, packing lists etc.

7.3.3 A copy of the packing lists must accompany each Delivery or Consignment of Goods and be displayed prominently so that the Goods can be checked when received at each destination.

8. RISK AND PROPERTY

The property to the Goods shall pass to the CapitaLand Contractor upon the delivery and acceptance by the CapitaLand Contractor, unless payment for the Goods is made prior to delivery, when it shall be passed to the CapitaLand Contractor once payment has been made.

9. WARRANTY AND INDEMNITY

9.1 The Vendor hereby warrants for a period as stated in the List of Warranty annexed hereto as Annex CC/K, as calculated from the date of Delivery of the Goods or from the date of practical completion (in the event where the project consist of various phases, the practical completion shall refer to the last phase of completion), whichever is the later (hereinafter referred to as the "Warranty Period"), that said Goods shall be of good material and workmanship, free from all defects in manufacture or design, of merchantable quality and fit for their intended purpose, in working order and conform to the Specifications expressed herein. During the Warranty Period, the Vendor agrees to replace any defective, and/or non-conforming Goods at its own cost and/or indemnify the CapitaLand Contractor for any and all losses, costs or expenses, including but not limited to the costs of recalling the defective and/or non-conforming Goods, returning such Goods to the Vendor and procuring Substitute Goods.

- 9.2. For avoidance of doubt, the warranties granted by the Vendor under this Agreement shall not be deemed waived either by reason of the CapitaLand Contractor's acceptance of the Goods or by payment for them.
- 9.3. Any deviation from this Agreement or the Specifications of the Goods and Services furnished hereunder, or any other exceptions or alterations must be agreed in writing between the CapitaLand Contractor and the Vendor.
- 9.4. If any part of the Goods products is defective, and the defect results from design, material or workmanship of the Goods, the Vendor undertakes, at its discretion, either to repair the defective part(s) or to replace the defective part(s) with new part(s) without any cost to the CapitaLand Contractor.
- 9.5. Defects in the Goods which result from the installation and maintenance of the Goods by a distributor which is authorised or directed by the Vendor, are included in the warranties herein.
- 9.6. The Vendor shall be liable for damage and losses caused by, or arising out of, defects in the Goods.
- 9.7. The Vendor will indemnify and hold harmless a CapitaLand Contractor against, and will if requested by said CapitaLand Contractor, defend or settle in consultation with said CapitaLand Contractor at the Vendors' own expense, all claims, actions or other proceedings, damages, costs, expenses and liabilities brought against said CapitaLand Contractor involving a claim arising from a breach of warranties above and/or from the supply and sale by the Vendor to said CapitaLand Contractor of the Goods which infringe any third party intellectual property rights, patents, designs, trademarks or copyright. The Vendor will indemnify the CapitaLand Contractor and its respective directors, employees, representatives, agents, sub-contractors and advisers against any and all costs, damages and expenses which may be incurred by the CapitaLand Contractor including but not limited to legal fees and costs awarded against or which may be incurred by said CapitaLand Contractor in any action or proceeding attributable to such a claim. The Vendor will render, at its expense, all information and assistance necessary to said CapitaLand Contractor in defence or settlement of any such claim or action.
- 9.8. The Vendor shall indemnify and hold harmless a CapitaLand Contractor and its respective directors, employees, representatives, agents, sub-contractors and advisers against any and all costs, damages, claims and expenses which may be incurred or suffered by said CapitaLand Contractor as a result of claims by third parties which are the result of acts and/or omissions of Vendor.

9.9. The Vendor shall indemnify a CapitaLand Contractor and its respective directors, employees, representatives, agents, sub-contractors and advisers against any and all costs, damages, claims and expenses which may be incurred or suffered by said CapitaLand Contractor as a result of any breach of this Agreement by its designated subsidiaries or Affiliates.

9.10. Notwithstanding clauses 9.7, 9.8 and 9.9 herein,

a. The Vendor shall have the option (with the consent of the Employer) to defend or settle at its own expense any legal proceeding brought against the Employer to the extent that it is based on a claim that the Goods and/or services provided by the Vendor has caused personal injury or physical damage to property or has infringed a third party's patent, trademark, registered design, copyright or other proprietary rights;

b. If any Goods, or any part thereof, is found to constitute an infringement or a misappropriation, or in the reasonable opinion of the Vendor are likely to be the subject of a claim, then the Vendor shall, at its own expense and option (i) procure for the CapitaLand Contractor the right to continue using such Goods or part thereof; (ii) replace such Goods with a functionally equivalent non-infringing product; and (iii) modify the same so as to make it non-infringing.

9.11. The Parties agree that the Vendor has no obligation under clauses 9.7, 9.8 and 9.9 herein to the extent that any claim results from (a) use of Goods in combination with any unintended third party equipment; (b) compliance by the Vendor with the designs or specifications of the CapitaLand Contractor; (c) modification of the Goods at the direction of the Employer or (d) use of an allegedly infringing version of the Goods, if the alleged infringement could have been avoided by the use of a different version made available to the CapitaLand Contractor.

9.12. Neither Party shall be liable to the other party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever, incurred or suffered by that other party and being (a) of an indirect or consequential nature, or (b) for any economic loss or other loss of turnover, profits, business or goodwill.

10. RETENTION MONIES

5% of the Contract Sum will be withheld as retention monies for a period of eighteen (18) months from the date of completion of the respective projects or such other period as determined by the CapitaLand Contractor. Such retention monies shall be released to the Vendor only after the later of (i) the end of the Maintenance Period for the respective projects; and (ii) the release of retention monies by the relevant CapitaLand Entity to the CapitaLand Contractor.

11. PAYMENT TERMS

The payment shall follow the terms and conditions in the Sub-Contract Agreement subject to SOP Act and SOP Regulations.

12. INSURANCE

The Vendor shall effect all necessary insurance against losses, costs, damages that may arise during the performance of the Works.

13. PERFORMANCE BOND

Subject to the terms and conditions of the Sub-Contract Agreement, the Vendor shall provide to the CapitaLand Contractor within 14 days of the date of issuance of purchase order and/or letter of award, a cash deposit or in lieu thereof a performance bond by way of a banker's guarantee (from a bank approved by the CapitaLand Contractor) of an amount equal to 10% of the Contract Sum as security for the due performance and observance by the Vendor of his obligations and liabilities under the Sub-Contract Agreement. The bond shall be deposited with the CapitaLand Contractor and will not earn any interest.

14. LIQUIDATED DAMAGES FOR NON-DELIVERY

Without prejudice to any other rights and/or remedies of the CapitaLand Contractor, in the event the Vendor fails to commence, carry out or complete delivery of the Goods which are the subject of this contract at the agreed delivery time(s) or any extended time agreed between the Vendor and the CapitaLand Contractor and such non-compliance causes delay in completion of the delivery, then the Vendor shall indemnify the CapitaLand Contractor against any loss suffered including liquidated damages (which is similar to the main contract that the CapitaLand Contractor has signed with the Employer) which will be imposed under the Sub-Contract Agreement.

15. COMPLIANCE WITH SPECIFICATIONS

15.1 The Vendor shall ensure and warrant that each and every Order of Goods or any portion thereof delivered to the CapitaLand Contractor pursuant to this Agreement shall, at the time of delivery thereof by the Vendor in accordance with this Agreement, conform to the Specifications and be in the quantities ordered by said CapitaLand Contractor pursuant to the relevant Order.

15.2 Prior to the delivery of each Order of Goods or any portion thereof, the Vendor shall inspect the Order of Goods and provide the CapitaLand Contractor a written confirmation that the Goods or portion of Goods inspected conform to the Specifications and are in the quantities ordered. Where only a portion of Goods is inspected, the Vendor shall be deemed to warrant that the rest of the Order of Goods similarly conforms to the Specifications.

15.3 Where the written confirmation shows that the Order of Goods conform with the Specifications in all respects, the CapitaLand Contractor shall be entitled to rely on the written confirmation of the Vendor for the purpose of deciding that the Order of Goods conforms with the Specifications in all respects regardless of whether it has inspected the Order of Goods or any portion thereof. For the avoidance of doubt, the CapitaLand Contractor shall be entitled but shall not be obliged to inspect any Order of Goods or any portion thereof, where prior to or after delivery thereof.

15.4 The issue by the Vendor under Clause 15.2 of, and the reliance by the CapitaLand Contractor pursuant to Clause 15.3 on the written confirmation in respect of an Order of Goods shall not in any way discharge or release the Vendor from its obligations to ensure that the Order of Goods shall conform with the Specifications.

15.5 Any deviation, change, modification, exception or alteration to this Agreement must be agreed to in writing by the Employer and the Vendor. Any deviation, change, modification, exception or alteration to an Order must be agreed to in writing by the relevant CapitaLand Contractor and the Vendor.

16. REMOVAL OF REJECTED GOODS

Rejected Goods supplied shall be removed from the site. If within seven (7) days after receipt of the direction from the CapitaLand Contractor to do so, the Supplier does not comply therewith, the CapitaLand Contractor shall employ and pay other persons to give effect to such direction and all costs incurred in connection with such employment shall be recoverable from the Vendor from any monies otherwise payable under the Sub-Contract Agreement.

17. REPLACEMENT AND MAKING GOOD

17.1 The Vendor shall make good by replacement or otherwise any defects in the Goods supplied which appear before the end of the Maintenance Period and shall bear any reasonable expenses incurred by the CapitaLand Contractor as a consequence of such defects provided that:-

- (a) Where the Goods have been used or fixed such defects are not such that examination by the Employer ought to have revealed them before using or fixing;
- (b) Such defects are due solely to defective workmanship or materials and shall not have been caused by improper storage by the CapitaLand Contractor or by misuse of the Goods or by any act or negligence of the CapitaLand Contractor or by any person for whom the CapitaLand Contractor may be responsible; and
- (c) Additional orders for the replacement of damaged Goods before the end of the Maintenance Period shall be at the Contract Price and the damaged Goods shall be replaced within* weeks (* to be completed by the Tenderer) from the date of placing of orders by the CapitaLand Contractor.

17.2 The Vendor shall maintain sufficient stock of Goods for replacement of damaged and unacceptable products during the Term as well as for rectification works during the Maintenance Period where appropriate.

18. TRAINING

18.1 The Vendor shall provide Services relating to the comprehensive training to the CapitaLand Contractor and its representatives, which shall include its officers, agents, sub-contractors and employees. All training manuals, instructional booklets, user guides and other relevant training materials in relation to the Goods are to be handed over to the CapitaLand Contractor.

18.2 The costs of the Services (including training) are included in the Contract Price for the Goods set out in the Master Agreement.

19. WORKPLACE SAFETY AND HEALTH ACT (CAP 354A)

The Vendor shall comply with the prevailing Workplace Safety and Health requirements in the respective jurisdictions where the Works are performed, which, for the avoidance of doubt, shall include but are not limited to the following:

- (a) Singapore: Workplace Safety and Health Act (Chapter 354A of Singapore);
- (b) Malaysia: Occupational Safety and Health Act 1994;
- (c) Indonesia: UU No. 1 Tahun 1970: Keselamatan Kerja; and
- (d) Vietnam: Labour Code 2012.

The Vendor shall take so far as is reasonably practicable, such measures to ensure the safety, health and welfare of any and all persons at the workplace or persons who may be affected by any work carried out at the workplace, even if such person(s) is/are not his employees. The Vendor in doing so shall bear all costs and expenses consequent thereon or incidental thereto.

20. WORKMEN

The Vendor shall be responsible for keeping all persons under his control/employment, within the boundaries of the site.

The Vendor shall be liable for all damages to adjoining properties and roads caused by his workmen, his servants, his agents, etc. The Vendor shall make good any damage caused at his own expense to the satisfaction of the CapitaLand Contractor and the relevant authorities.

21. STATUTORY OBLIGATIONS, NOTICES, FEES AND CHARGES

The Vendor shall comply with, and give all notices required by any statute, any statutory instrument, rule or order or any regulation or byelaw applicable to the Works and shall pay all fees and charges in respect of the Works and obtain all necessary approvals and permits pertaining to any temporary works in connection with the Works.

22. VENDOR'S REPRESENTATIVE

The Vendor shall at all reasonable times keep in place a competent person-in-charge to liaise with the Employer and CapitaLand Contractor.

23. CONFIDENTIALITY

23.1 The Vendor and the CapitaLand Contractor shall each ensure that all information, data, transactions, matters and working policies in connection with any aspect of this Agreement or the contents of this Agreement or any information relating to the business activities, finances or other matters of a confidential nature ("Confidential Information") of Employer, CapitaLand Entities, or the CapitaLand Contractor which may be disclosed to the Vendor's and/or the CapitaLand Contractor's personnel on a need-to-know basis in the course of the performance of their duties under this Agreement, are kept confidential and shall not be revealed, divulged or disclosed to any person, firm or company, without consent in writing of the entity disclosing the information, which consent shall not be unreasonably withheld if the proposed disclosure is necessary to enable the party requesting for the said consent to perform its duties under this Agreement or unless required to do so by law or by any regulatory authority, rule or legal process. The provisions of this Clause shall continue to apply notwithstanding the expiry or termination of this Agreement for whatever reason or the completion of the performance by the Vendor of its obligations prescribed herein. The foregoing shall not however prohibit the disclosure of any information which has come into the public domain otherwise than by reason of a breach of this Clause. Confidential Information must be returned or destroyed forthwith upon demand the entity disclosing the information in question.

23.2 The Vendor shall preserve in good condition all Confidential Information in particular any special drawings, plans, patterns or other items paid for and/or supplied to it by the CapitaLand Contractor. No special drawings, plans, design, patterns or other items paid for and/or supplied by the CapitaLand Contractor to the Vendor or made by the Vendor for CapitaLand Contractor's benefit shall be used for any other purpose than supplying the CapitaLand Contractor with the Goods and Services.

24. NON-EXCLUSIVITY

The Vendor hereby acknowledges that this Agreement is entered into on a strictly non-exclusive basis and that the Employer and/or CapitaLand Contractor may, at its sole discretion, engage other vendors to provide the Goods and the Services described herein. The Vendor further acknowledges that, from time to time, for any reasons, circumstances may warrant that the Goods or Services be provided by entities other than the Vendor. The Vendor hereby agrees that in no event shall the Employer and/or CapitaLand Contractor's engagement of such alternative vendors be construed as or considered a breach or default of the provisions of this Agreement.

25. FORCE MAJEURE

- 25.1 The Vendor shall not be liable for delay or delivery or non-delivery of the goods due to the occurrence of an event of force majeure. The Vendor shall inform the CapitaLand Contractor immediately of the occurrence mentioned above in writing and within 14 days thereafter the Vendor shall send a notice by airmail to the CapitaLand Contractor for their acceptance of a certificate of the accident / incident issued by the competent authorities. Under such circumstances, the Vendor remains under the obligation to use all reasonable efforts to mitigate the effects of the delay or failure to perform its obligation in full and shall take all necessary steps to carry out the obligations affected by force majeure as soon as practicable after the cessation of such force majeure.
- 25.2 In the event of force majeure or causes beyond the control of the CapitaLand Contractor which renders the acceptance of the delivery of the Goods or performance of the Services impracticable, the CapitaLand Contractor is entitled to require the Vendor to suspend the delivery of the Goods or the performance of the Services. The Vendor shall have no claim for loss, damages, costs, and expenses against the CapitaLand Contractor where the CapitaLand Contractor requires the Vendor to so suspend delivery of the Goods or the performance of the Services. Under such circumstances, the CapitaLand Contractor remains under the obligation to use reasonable efforts to mitigate the effects of the delay or failure to perform its obligation in full and shall take all necessary steps to carry out the obligations affected by force majeure as soon as practicable after the cessation of such force majeure.
- 25.3 "Force majeure" means all events which are beyond the control of the Parties to this Agreement and which are unforeseen or if foreseen are unavoidable and which render impossible the performance of any material obligation or the exercise of any material right under the Agreement by either of the Parties.

26. GOVERNING LAW AND JURISDICTION

- 26.1. This Agreement shall be governed by, and construed, interpreted and applied in accordance with, the laws of the Republic of Singapore. The applicable law in respect of any Order will be the laws of Singapore.
- 26.2. In the event of any dispute or difference between the Employer and/or CapitaLand Contractor and the Vendor concerning the conclusion, validity, interpretation, performance, amendment or termination of this Agreement (hereinafter referred to as a "Dispute"), the Parties shall within fourteen (14) days of written notice of a Dispute from either Party to the other, meet in good faith to resolve the Dispute through friendly consultation.

- 26.3. In the event that a Dispute cannot be resolved through friendly consultation by the authorised representatives of the Parties, the dispute(s) shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre (“SIAC”) in accordance with the Arbitration Rules of the Singapore International Arbitration Centre (“SIAC Rules”) for the time being in force, which rules are deemed to be incorporated by reference in this clause.
- 26.4. The seat of arbitration shall be Singapore. The arbitral tribunal shall consist of (1) arbitrator to be agreed between the Parties or, failing such agreement, within fourteen (14) days from the date of the first written request by either Party to the other to concur in the appointment of an arbitrator, to be appointed by the Chairman, for them time being, of SIAC. The decision or award of such arbitrator shall be final and binding on the Parties.
- 26.5. Notwithstanding the above, upon the written request of either the Employer and/or CapitaLand Contractor or the Vendor, the parties shall refer any dispute arising under or out of or in connection with the Agreement for mediation under the mediation procedure of the Singapore Mediation Centre for the time being in force.
- 26.6. For the avoidance of doubt, prior reference of the dispute to mediation shall not be a condition precedent for its reference to arbitration by either the Employer and/or CapitaLand Contractor or the Vendor, nor shall any of their rights to refer the dispute to arbitration be in any way prejudiced or affected.
- 26.7. The language of the arbitration shall be English. The arbitration award shall be final and binding on the Parties.

27. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which when executed and delivered is an original and all of which together evidence the same agreement.

28. EXCLUSION OF THIRD PARTIES

Save for (i) the Vendor; and (ii) the Employer, CapitaLand Entities and the CapitaLand Contractor, a person, company or corporate body who is not a party to this Master Agreement shall not have any right to enforce any of its provisions pursuant to The Contracts (Rights of Third Parties) Act (Chapter 53B of Singapore) under this Agreement.

29. EMPLOYMENT OF ILLEGAL IMMIGRANTS

The Vendor shall ensure that any foreign workers employed by it to perform any of the Works shall have valid employment passes or work permits and other required immigration clearances for the Works to be performed during the Term and ensure that no illegal immigrants are employed by it and/or any of its sub-contractors in the performance of the Works. The Employer shall not be responsible for such acts of the Vendor and/or any of its sub-contractors and the Vendor shall indemnify the Employer against all costs, liabilities, expenses and fines incurred or imposed upon the Employer arising from and in connection with any such employment of illegal immigrants or non-compliance with any laws or regulations relating to employment by the Vendor and/or its sub-contractors.

For the purpose of this clause, "illegal immigrant" shall have the same meaning as provided in the Immigration Act (Chapter 133 of Singapore) and any statutory modification or re-enactment thereof.

30. ILLEGALITY

In the event that any provision or term of this Agreement or any part thereof shall become or be declared illegal, invalid or unenforceable for any reason whatsoever including without limitation by reason of the provisions of any legislation or other provisions having the force of law or by reason of any decision of any Court or other body or authority having jurisdiction over the Parties hereto or this Agreement, such terms of provisions shall be divisible from this Agreement and shall be deemed to be deleted from this Agreement provided always that if any such deletion substantially affects or alters the commercial basis of this Agreement, the Parties shall negotiate in good faith to amend and modify the provisions and terms of this Agreement as may be necessary to desirable in the circumstances.

31. AMENDMENT

31.1. This Agreement, together with the Sub-Contract Agreement, embodies and sets forth the entire agreement and understanding of the Parties and supersedes all prior oral or written agreements, understandings or arrangements relating to the subject matter of this Agreement. Neither Party shall be entitled to rely on any agreement, understanding or arrangement which is not expressly set forth in this Agreement and/or the Sub-Contract Agreement.

31.2. This Agreement and/or any Order shall not be amended, modified, varied or supplemented except in writing signed by duly authorised representatives of Vendor and the Employer and/or CapitaLand Contractor, or in the case of any Order, the CapitaLand Contractor and Vendor stated in the said Order.

- 31.3. No failure or delay to exercise or in exercising any right or remedy under this Agreement and/or Order by the Vendor or the Employer and/or CapitaLand Contractor shall be construed or rated as a waiver thereof nor shall any single or partial exercise of any right or remedy under this Agreement preclude the exercise of any other right or remedy or preclude the further exercise of such right or remedy. The rights and remedies provided in the Agreement or any Order are cumulative and are not exclusive of any rights or remedies provided by law.
- 31.4. This Agreement is binding upon and will inure to the benefit of Vendor and the Employer and/or CapitaLand Contractor and to each of their heirs, executors, administrators, trustees, representatives, successors and assigns in title.

32. RELATIONSHIP BETWEEN THE PARTIES

Nothing herein shall constitute or be construed to be or to create an agency, partnership or joint venture between (i) the Employer, CapitaLand Entities and/or CapitaLand Contractor and its subsidiaries and related companies, and (ii) the Vendor.

33. ASSIGNABILITY AND SUB CONTRACTING

- 33.1. The Vendor shall not assign, transfer, novate, sub-contract or deal in any way with, the whole or any part of its rights or obligations under this Agreement to any party.
- 33.2. The Employer may however assign, transfer, or novate all or any part of its rights, obligations and interest in this Master Agreement. Where the Employer assigns, transfers or novates its rights, obligations and interest hereunder (including its transfer of the Performance Bond), the Vendor shall, by its acceptance of this Master Agreement, be deemed to have consented to any such assignment, transfer or novation. It is hereby agreed that the Vendor shall accept the assignee or transferee as the new employer and will release the Employer from all its obligations under this Master Agreement. Where required by the Employer, the Vendor shall execute any agreement or assignment made or to be made by the Employer and its assignee or transferee, such agreement or assignment to be prepared by and at the expense of the Employer.

34. ANTI-CORRUPTION

The group of which the Employer forms part is committed to conducting its business in an ethical manner and expects all its employees and parties with which it has a contractual relationship to conduct themselves with high ethical standards and to comply with applicable laws for the suppression of corrupt practices ("Anti-Corruption Laws").

The Vendor represents and warrants that, to the best of its knowledge, neither it nor any person who (by reference to all relevant circumstances) performs services or acts for or on behalf of the Vendor in any capacity (including, without limitation, its employees, agents, related corporations and sub-contractors

("Representatives")) has contravened, or procured or encouraged third parties (including, for the avoidance of doubt, the employees of or any person acting on the Employer's behalf) to contravene any Anti-Corruption Laws in connection with this Agreement.

The Vendor shall immediately notify the Employer if any person employed by the Employer or acting on the Employer's behalf or any of the Vendor's Representatives has contravened or attempted to contravene any Anti-Corruption Laws in connection with this Agreement, and shall take adequate steps to protect the interests of the Vendor and the Employer. All notices to the Employer in this regard should be sent to the Head of Group Internal Audit of CapitaLand Limited at the following email address Whistleblowing.ACChair@capitaland.com.

The Employer shall be entitled to terminate or procure the CapitaLand Contractor to terminate this Agreement forthwith if the Vendor or any of its Representatives has contravened or attempted to contravene any Anti-Corruption Laws, whether in connection with this Agreement or otherwise. Such termination shall be without prejudice to the Employer's other rights and remedies whether under this Agreement or otherwise.

35. ADDITION, OMISSION AND SUBSTITUTION

The Employer and/or CapitaLand Contractor reserve the right to vary the Works or any part thereof under this Master Agreement, at such rates as may be mutually agreed. The variation shall be on the same terms and conditions of this Agreement.

36. EMPLOYER'S RIGHT TO DEDUCT

The Employer and/or CapitaLand Contractor shall be entitled to deduct any sum due and payable by the Vendor to the Employer and/or CapitaLand Contractor from any payment due to the Vendor before making such payment.

37. PERSONAL DATA PROTECTION ACT (PDPA)

The Vendor acknowledges that in performing the Works under this Agreement, it is not required to and are not authorised to have access to and/or to collect, use or disclose Personal Data for Employer and/or on its behalf.

To the extent that the information received from Employer contains any personal data, the Vendor agrees and undertakes to Employer to: (i) use the personal data strictly only for the performance of the Works contained in this Agreement and to keep it strictly confidential; (ii) not transfer any personal data to a country or territory outside Singapore without Employer's prior written consent, and where Employer has given consent for such transfer, the Vendor shall ensure that it provides a standard of protection to personal data so transferred that is comparable to the protection under the Personal Data Protection Act (Act 26 of 2012 of Singapore) as modified from time to time; (iii) use and employ administrative, physical, technical and other safeguards (including safeguards against worms, Trojan horses, and other disabling or damaging codes) to ensure that personal data is afforded protection; (iv) immediately notify Employer of any breaches of security that may result in the unauthorized collection, access, use or disclosure of the personal data and

make all reasonable efforts to assist Employer in relation to the investigation and remedy; (v) ensure that the Vendor's Representatives are fully informed to ensure compliance with the requirements at law relating to personal data; and (vi) upon early termination or expiry of this Agreement, any personal data which it has collected, used, disclosed or processed shall either be deleted or delivered to Employer in a form specified by Employer.

38. CORPORATE SUSTAINABILITY

The Supplier acknowledges that the Employer's group of companies subscribe to certain principles and practices to ensure that it does business in a socially responsible manner by promoting sustainable development in its business. In this regard, the Employer encourages its suppliers to be socially and environmentally responsible and requires the Supplier to sign the CapitaLand Supply Chain Code of Conduct Initiative as set out in Annex CC/I and deliver the signed CapitaLand Supply Chain Code of Conduct Initiative together with the acceptance of the Letter of Award. For the avoidance of doubt, the CapitaLand Supply Chain Code of Conduct Initiative shall form an integral part of this Agreement.

39. NOTICES

39.1 Each demand, notice or other communication to be delivered to either Party shall be sent to that Party at the address and marked for the attention of the person (if any), from time to time designated by that Party for the purpose of this Agreement. The addresses and email of the Parties are:

Employer * : [insert Company Name]
 Address : [insert address]
 Contact Person: Company Authorised Personnel
 Email : [insert email address]

CapitaLand
 Contractor * : [insert Company Name]
 Address : [insert address]
 Contact Person: Company Authorised Personnel
 Email : [insert email address]

Vendor* : [insert Company Name]
 Address : [insert address]
 Contact Person: Company Authorised Personnel
 Email : [insert email address]

39.2 A demand, notice or other communication made or given by one Party to another Party in accordance with this Clause shall be effected and deemed to be duly served:

- (a) if it is delivered, when left at the address required by this Clause; or
- (b) if it is sent by prepaid post (air-mail, if international), two (2) Calendar Days after it is posted.