

Part II – Conditions of Tender

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Part II – Conditions of Tender

1 Invitation to Tender and Scope of Work

- 1.1 Tenders are invited for the supply of government vessels more particularly described in the Technical Specifications on and subject to the terms and conditions set out in the Tender Documents as listed in Clause 2 of this Part (“**Vessel**”). In the event that the Government is inviting tenders to bid for the supply of one Vessel only, references throughout the Tender Documents to “Vessel” or “Vessels” shall be construed as that single Vessel only. In the event that the Government is inviting tenders for the supply of more than one Vessel, references throughout the Tender Documents to “Vessel” or “Vessels” shall be construed as each of the Vessels to be procured. Notwithstanding the afore-mentioned interpretation principle, if in the reasonable opinion of the Government the context requires or implies that references to “Vessel” means any of the Vessels to be procured, then references to “Vessel” or “Vessels” shall mean any of such Vessels.

2 Tender Documents

- 2.1 A set of Tender Documents issued by the Government in connection with the Invitation to Tender consists of the following documents:
- (a) Part I Lodging of Tender
 - (b) Part II Conditions of Tender and Annexes A to D
 - (c) Part III Articles of Agreement
 - (d) Part IV Conditions of Contract and Annexes A to C
 - (e) Part V Schedules 1 to 12
 - (f) Part VI Offer to be Bound
 - (g) Part VII Technical Specifications and Annexes 1 to 9
- 2.2 Words and expressions appearing in these Tender Documents shall have the meanings assigned to them in Part I of the Tender Documents, or in Part IV of the Tender Documents, or other parts of the Tender Documents, unless the context otherwise requires. The rules of interpretation set out in Part IV of the Tender Documents shall apply throughout the Tender Documents.
- 2.3 Tenderers are advised to read the instructions contained herein carefully prior to preparing their tender submission. These instructions are conditions of tendering and any tender which does not follow these instructions will be considered incomplete and may be disqualified (or will be disqualified where it is so expressly provided with regard to certain instructions).
- 2.4 Any notice of this Invitation to Tender issued in the Gazette of the Government shall not be treated as forming part of the Tender Documents.

3 Tender Submission

3.1 Two Envelopes System in Submission of Tenders

For a tender to be considered complete, it shall comprise of all documents and information required in the Tender Documents including those as specified in Clause 4 of this Part. The tender shall be submitted inside **two (2) separate envelopes** marked as specified

below, addressed and deposited in the manner as specified in Part I of the Tender Documents.

- 3.1.1 The Technical Proposal (consisting of one original hardcopy and 5 photocopies), the contents of which are as stipulated in Clause 4.1 (b) of this Part, shall be enclosed in a sealed envelope. **No information on price** shall be included in the Technical Proposal; and
- 3.1.2 The Price Proposal (consisting of one original hardcopy and 5 photocopies), the contents of which are as stipulated in Clause 4.1 (a) of this Part - Price Proposal, fully completed, signed and dated shall be enclosed in another sealed envelope.

**“Tender Ref.: Marine Department Shipbuilding Tender No. 3/2020
Supply of Six (6) High Speed Boarding Craft
for the Hong Kong Police Force”**

The two (2) envelopes shall then be placed together inside one (1) large envelope, addressed, sealed and submitted as specified in Paragraph 1.1 of Part I.

- 3.2 Nothing in these Tender Documents shall limit the Government’s power to request additional information/supporting documents in connection with the Tenderer or its tender.
- 3.3 In the event of any inconsistency between the hardcopies and the softcopies, unless the Government wishes to seek clarification, the original hardcopy shall prevail.

4 Compilation of Tender

- 4.1 A Tenderer shall note that a two-envelope system is adopted in this Invitation to Tender. The Tenderer shall submit its Tender in two (2) separate proposals, one as the Technical Proposal and another as the Price Proposal comprising the items as follows:

(a) Price Proposal

- (i) Schedule 1 setting out an all-inclusive unit price for the Vessel, unit price for Spare Parts to be procured and the unit price of Ship Models, and the Total Purchase Price payable under the Contract based on the quantities as specified in Schedule 1 of Part V.

(b) Technical Proposal

- (i) The Offer to be Bound in the form set out in Part VI of the Tender Documents signed by or on behalf of the Tenderer;
- (ii) Schedule 5 containing statements of compliance as more particularly described in Clause 5.3 of this Part;
- (iii) Schedule 6 containing the particulars of the major Equipment as listed therein to be offered by the Tenderer;
- (iv) Schedule 7 attaching thereto a list of drawings of the proposed Vessel and other documents and plans required therein;
- (v) Schedule 8 containing the details of the Tenderer and information of the Tenderer’s nominated shipyard facilities and, if applicable, Tenderer’s Sub-contractor;
- (vi) Schedule 9 containing information of the proposed Recognised Organisation of its rules and regulations with class notation;

- (vii) Schedule 10 containing information of the claim of Tenderer's experience in Vessel Projects and Accreditations;
- (viii) Schedule 11 containing Innovative Suggestions;
- (ix) Schedule 12 – Non-collusive Tendering Certificate;
- (x) all product literature and other documents in relation to the proposed major Equipment as required under Clause 6 of this Part to be set out or attached to Schedule 6; and
- (xi) all corporate documents and information concerning the Tenderer required in Clause 7 of this Part.

5 Completion of Tender

- 5.1 The tender and all accompanying documents (including particularly the Schedules in Part V and the Offer to be Bound in Part VI) shall be submitted in writing, i.e., in manuscript or produced by whatever device including a type-writer, a computer printer, a scanning machine, or other mode of representing and reproducing words in a legible form and shall be submitted in the manner stipulated in Part I of the Tender Documents and this Part.
- 5.2 The Technical Specifications set out in Part VII of the Tender Documents contain three classes of specifications, viz., the requirements labelled as [E], which are part of the Essential Requirements, specifications labelled as [D], and other requirements which are not labelled as [E] or [D]. The first class of specifications in the Technical Specifications, shall be "Essential Requirements" (in upper or lower case) and shall form part of the "Offered Specifications". A Tenderer failing to comply with the Essential Requirements will be disqualified and its tender will not be considered further. The third class of specifications in the Technical Specifications (excluding all of Annexes 1 to 9) without any label ("Specifications without Label"), together with all other requirements in other Parts of the Tender Documents, shall form part of the "Offered Specifications". Unless and to the extent exceeded by the Excess Proposals, the first class and the third class shall form part of the Contract and shall be of equal materiality and importance upon the award of the Contract, and after award of the Contract, non-compliance with any requirements or specifications set out in Part VII regardless of whether they were classified as Essential Requirements shall have the same consequences as specified in the Contract. For those specifications labelled as [D], they shall also form part of the Contract in the same aforesaid manner if and to the extent the Contractor has committed to comply with them during the tendering stage, whether or not as Excess Proposals as further mentioned below.
- 5.3 In completing Schedule 5, for the Essential Requirements set out in Annex C to this Part, the Tenderer shall indicate whether or not it complies with all the Essential Requirements specified therein and in the case of Essential Requirements set out in the Technical Specifications, together with proper pointers to the proposals in the tender supporting such statements. For other Offered Specifications in the Technical Specifications which are not identified as Essential Requirements, the Tenderer shall also be required to indicate that it will comply with these Offered Specifications should the Contract be awarded to it. **A tender which expressly indicates non-compliance with any of the aforesaid Essential Requirements or any of the other Offered Specifications will not be considered further.** Where the Tenderer has not selected yes/no* answer by deleting the inapplicable answer in the last column of Schedule 5 for any of the Essential Requirements, unless the Government wishes to seek clarification, it shall be deemed that the Tenderer has confirmed compliance. In addition, the Tenderer shall also indicate whether or not it will

- comply with any desirable specifications in Schedule 5 under the heading “Desirable Specifications” but failure to indicate will not lead to any disqualification.
- 5.4 Without prejudice to the need to state compliance as mentioned in Clause 5.3 above, the Tenderer may wish to submit Excess Proposals in relation to the Vessel or any of the Equipment which exceed the essential requirements and/or Specifications Without Label in Part VII. “Excess Proposals” are proposals made by the Tenderer in: (a) Schedule 6 (List of Major Equipment to be Supplied) with any proposed Equipment exceeding the essential requirements and/or Specifications Without Label in Part VII; and/or (b) any plan and information to be submitted in Schedule 7 (List of Drawings and Information), and/or (c) any Innovative Suggestions in Schedule 11 (Innovative Suggestions), for evaluation under the Marking Scheme in Annex D to Part II and regardless of whether or not for complying with desirable specifications with label [D] in the Technical Specifications.
- 5.5 Notwithstanding any of the statements of compliance in Schedule 5 in Part V, the Government will conduct checks at tendering stage to determine whether the items offered by a Tenderer indeed comply with the Essential Requirements, viz., specifications labelled as [E] in the Technical Specifications, and the Excess Proposals submitted by the Tenderer.
- 5.6 When signing the Offer to be Bound, Part VI of the Tender Documents, the Tenderer shall ensure that:
- (a) the name of the Tenderer is the same as the name appearing on the Certificate of Incorporation or where there has been a change of name, the Certificate of Change of Name, or the trading name appearing on the Business Registration Certificate (if any), or any other equivalent business/corporation document issued by the competent authority of the place of incorporation of the Tenderer; and
 - (b) the form is duly signed by the Tenderer or an authorised person for and on behalf of the Tenderer; a copy of documentary proof (e.g. board resolution of the Tenderer or extract thereof, confirmation letter, etc.) to prove the person who signed Part VI (Offer to be Bound) has the authority to sign the tender for and on behalf of the Tenderer shall be attached for reference.
- 5.7 The duly completed tender comprising all items specified in Clause 4.1 of this Part shall be submitted in the manner under “Lodging of Tender” of Part I – Lodging of Tender, viz., by way of Paper-based Tendering.
- 5.8 **If a Tenderer fails to submit any of documents stipulated in Paragraph (a) (for the Technical Proposal) and Paragraph (b) (for the Price Proposal) of Annex B to this Part on or before the Tender Closing Date, its tender will not be considered further.**

6 Information and Descriptive Literature

- 6.1 Complete products and services information, including technical and descriptive literature and catalogues for the Equipment specified in Schedule 6 and 7 to be offered for the Vessel, shall be submitted with each copy of the tender. Information submitted shall be sufficiently detailed to substantiate that the products and services offered meet or Offered Specifications. Each item of the Tenderer’s offered Vessel and Equipment (including those as stated in Schedule 6 and 7) must, based on the aforesaid items and other proposals set out in the Tenderer’s tender, be shown to comply or exceed with each and every Essential Requirement as stated in the Technical Specifications. Without

prejudice to the Government's right (but not obligation) to seek clarification with the Tenderer pursuant to Clause 17.6 of this Part, the Government will disqualify a Tenderer if any of the offered Vessel or Equipment fails to comply with any of the Essential Requirements.

7 Company/Business Organisation Status

7.1 Each Tenderer shall provide the following details relating to itself in Schedule 8 – Tenderer's Information of Part V:

- (a) name and principal place of business (in address form) of the Tenderer;
- (b) type of business entity of the Tenderer;
- (c) shareholders/partners/proprietor/joint venture parties of the Tenderer and their percentages of shareholding or ownership or voting power or financial contribution; if the Tenderer is an incorporated joint venture or unincorporated joint venture, a copy of the joint venture agreement shall be provided;
- (d) length of business operation;
- (e) names and correspondence addresses of the following:
 - (i) managing director/partners; and
 - (ii) other directors;
- (f) names and addresses of banks which are prepared to provide references or other relevant financial data which indicate the financial viability of the Tenderer;
- (g) if the Tenderer is a company or body corporate, its Memorandum and Articles of Association (if any), Certificate of Incorporation, Certificate of Change of Name (if any), and other corporate documents;
- (h) a copy of a valid and up-to-date business registration certificate evidencing its business status issued under the Business Registration Ordinance (Chapter 310 of the Laws of Hong Kong) or if the Tenderer does not carry on business in Hong Kong, the equivalent document issued by the authority of place of business of the Tenderer;
- (i) (if the Tenderer is a company incorporated in Hong Kong or is registered as a non-Hong Kong company under the Companies Ordinance, Chapter 622 of the Laws of Hong Kong) a copy of the latest annual return filed with the Companies Registry and all subsequent filings since the latest annual return; or (if not) the equivalent documents issued by the authority of the place of incorporation of the Tenderer;
- (j) place and date of its incorporation or formation; and
- (k) particulars of the Tenderer's process agent in Hong Kong (if the Tenderer does not have a place of business in Hong Kong).

7.2 If a Tenderer is incorporated, formed or established outside Hong Kong, a legal opinion in form and substance satisfactory to the Government and issued by a lawyer duly qualified to practise the laws of the place of incorporation, formation or establishment (as the case may be) of the Tenderer and acceptable to the Government shall be provided upon request by the Government on the following issues and any other issues as may be required by the Government at the expense of the Tenderer:

- (a) the Tenderer was duly incorporated, formed or established and validly existing under the laws of the place of the Tenderer's incorporation, formation or establishment and that the Tenderer has full power, capacity and authority to

- carry on the business as it is now conducting and to supply the products and services to the Government on the terms and conditions of the proposed Contract;
- (b) the Tenderer has the full power, authority and legal capacity to:
 - (i) execute and submit its Tender and to incur the liabilities and perform the obligations under the Tender Documents; and
 - (ii) enter into and execute the Contract and to incur the liabilities and perform the obligations thereunder;
 - (c) the proposed Contract with the Government will, upon execution by the authorised signatory of the Tenderer and the Government of the Articles of Agreement, constitute the legal, valid and binding obligations of the Tenderer in the place of its incorporation, formation or establishment, and is enforceable against the Tenderer in accordance with its terms;
 - (d) the execution, delivery and performance of its Tender and the proposed mode of execution, delivery and performance of the Contract (if awarded to the Tenderer) have been duly authorised by all necessary corporate action of the Tenderer, and does not violate any provision of any applicable law, regulation or decree of the Tenderer's place of incorporation, formation or establishment, or the Memorandum and Articles of Association or similar constitutional documents of the Tenderer;
 - (e) no authorisations, consents, approvals are required from any governmental authorities or agencies or other official bodies in the place of incorporation, formation or establishment in connection with the execution and delivery of the Tenderer's Tender, or the performance by the Tenderer of its obligations under the Tender Documents and the Contract; the Tenderer's Tender and the Contract (if awarded to the Tenderer) need not be registered or filed in the place of incorporation, formation or establishment in order to secure their validity and/or priority;
 - (f) there is no restriction under the laws of the place of the Tenderer's incorporation, formation or establishment affecting the Tenderer's obligations under the Tender Documents and the Contract;
 - (g) the choice of the laws of Hong Kong to govern the Tender Documents and the Contract is a valid choice of laws and would be recognised and given effect to by the courts of the place of incorporation, formation or establishment of the Tenderer;
 - (h) the judgment handed by the courts of Hong Kong (at least from District Court or above) after the adjudication of any dispute arising from the Contract will be recognised and given effect to by the courts of the place of incorporation, formation or establishment of the Tenderer; and
 - (i) it is not necessary under the laws of the place of incorporation, formation or establishment of the Tenderer that the Government be licensed, qualified or otherwise registered in such place of incorporation, formation or establishment in order to enable it to enforce its rights under the Tender Documents and the Contract.

7.3 The Government may require a Tenderer to provide, at its own expense, additional legal opinion satisfactory to the Government in all respects issued by a lawyer duly qualified to practise the laws of the place of incorporation, formation or establishment of the Tenderer and acceptable to the Government on any other matters arising from its Tender or the Contract. Where the opinion on the question specified in Clause 7.2(i) of this Part

is negative or is subject to conditions not considered to be satisfactory to the Government, the additional legal opinion shall opine that any ruling made by the arbitrator under the arbitration provision set out in Clause 7.4 of this Part (with any proposed amendments acceptable to the Government) will be recognised and given effect to by the courts of the place of incorporation, formation or establishment of the Tenderer (“additional opinion on arbitration”). Together with the additional opinion on arbitration to be provided, the Tenderer shall also be required to provide a confirmation in writing that in consideration of the award of the Contract, it agrees that Clause 46.2 of Part IV – Conditions of Contract shall be replaced by the arbitration clause in Clause 7.4 of this Part (with any proposed amendments acceptable to the Government) (“written confirmation on arbitration”).

- 7.4 Where the opinion on the question specified in Clause 7.2(i) of this Part is negative or is subject to qualifications not considered to be satisfactory to the Government, subject to the obtaining of the additional opinion on arbitration as mentioned in Clause 7.3 of this Part, Clause 46.2 of Part IV - Conditions of Contract shall be deemed deleted and replaced by the provision set out in this Clause 7.4 as follows (but subject to such further amendments as the Government may agree and the final version shall be annexed to the Articles of Agreement): “Any dispute arising from the Contract shall not be adjudicated by the courts of Hong Kong but shall be adjudicated by arbitration to be held in accordance with the Hong Kong International Arbitration Centre Domestic Arbitration Rules prevailing at the time when a notice of arbitration is issued by a Party (“Arbitration Rules”) except that regardless of whether the Arbitration Rules providing anything to the contrary, unless the Parties otherwise agree in writing: (a) the arbitration hearing must be held in Hong Kong and that the Arbitration Ordinance (Chapter 609 of the Laws of Hong Kong) shall apply to the arbitration (including the whole of Schedule 2); and (b) without prejudice to section 18(2) of the Arbitration Ordinance, the Government may on its own disclose any information relating to (i) the arbitral proceedings under the arbitration agreement; and (ii) an award made in those arbitral proceedings under any of the circumstances mentioned in Clause 29.2 (Consent to Disclosure) of Part II – Conditions of Tender (which is deemed incorporated into this Clause)”.
- 7.5 If any of the guarantors to the Parent Guarantee required under Clause 22.1(b) of this Part (if applicable) is a company not incorporated under the laws of Hong Kong, a legal opinion will equally be required similar to the one described in Clause 7.2 of this Part save that references therein to the “Tenderer” and “Contract” shall mean the guarantor and the performance guarantee respectively.

8 Qualification of Tenderer

8.1 Tenderer’s Experience

The Tenderer may wish to provide details in Schedule 10 concerning its experience in different types of vessel projects as described in the Assessment Criteria under (B)1 heading of the Marking Scheme together with the supporting documents as specified in Schedule 10. Where no information whatsoever has been provided for the vessel projects, the Government will not ask for the information after the Tender Closing Date and will deem that the Tenderer has no experience in the relevant vessel projects. Where some information has been provided in relation to a vessel project, the Government reserves the power, but not the obligation, to seek clarification or submission from the Tenderer of any

other missing information or supporting documents in relation to that vessel project. The Government also reserves the power, but not the obligation, to contact a client to verify any information provided or to seek any other information as the Government considers fit. By submitting a tender, the Tenderer warrants and represents that it has obtained the prior written consent of all clients referred to in Schedule 10 or whose details having been subsequently supplied to Government upon any request of the Government to release the information to the Government concerning the vessel projects and for Government to contact directly with such clients.

8.2 Shipyard Facilities

- (a) The Tenderer's nominated shipyard for the construction of the Vessel must have all the essential shipbuilding and workshop facilities including lifting gear, hull construction and calibration equipment, machinery installation and calibration equipment and vessel launching or slipping facilities.
- (b) The Tenderer shall provide information of the nominated shipyard and workshop facilities as required in Paragraph 3 of Schedule 8 (Tenderer's Information) in Part V to substantiate that the nominated shipyard and workshop facilities comply with the requirements stipulated in Clause 8.2(a) above. The Tenderer's tender will **not** be considered further if the Tenderer fails to provide the required information before the Tender Closing Date or by the time which may subsequently be specified by the Government at the Government's discretion.

8.3 Accreditations

The Tenderer may wish to provide information in relation to any International Organization for Standardization (ISO) and Occupational Health and Safety Assessment Series (OHSAS) Accreditations awarded to it, together with supporting documents, for evaluation under Assessment Criterion (B)2 of the Marking Scheme.

9 Particulars of Offer

9.1 The Tenderer shall provide in Schedule 6 and where applicable Schedule 7 the particulars of each proposed Equipment complying with the Offered Specifications including:

- (a) the name of the manufacturer;
- (b) the name of Equipment as advertised by the manufacturer (if applicable);
- (c) the quantity of Equipment offered per Vessel;
- (d) the model or version number as advertised by the manufacturer (if applicable);
- (e) manufacturer specifications of the Equipment including the specific information expressly required in Schedule 6 in relation to the particular Equipment;
- (f) place of origin;
- (g) contact details for warranty and after sales service.

9.2 The Tenderer shall note the requirements stipulated in Paragraph 1.5 (Design and Construction Responsibility) and Paragraph 2.3 (Rules and Regulations) of Part VII. The Tenderer shall state in Schedule 9 which Recognised Organisation (RO) and its rules and regulations and class notation shall be used and complied with in the design and construction of the Vessel provided that the proposed class notations of the RO must not be inconsistent with the Offered Specifications otherwise, subject to any clarification which the Government may wish to make, the tender will not be considered further.

- 9.3 The Tenderer's tender will **not** be considered further if the Tenderer fails to submit the information required for the Equipment complying with the Offered Specifications in Schedule 6 and the information specified in Clause 9.2 above in Schedule 9 in its tender before the Tender Closing Date.
- 9.4 The Tenderer must not offer to supply any used or refurbished goods to the Government. If a Tenderer fails to comply with this requirement, its tender will **not** be further considered. By submitting a tender, the Tenderer undertakes and declares that all goods it offers in this Invitation to Tender will be fresh from stock and/or a factory (in the case of Equipment which are required to be Proprietary Made) or originally built for this Contract (in all other cases).
- 9.5 Innovative Suggestions are one type of Excess Proposals achieving any of the benefits specified in assessment criterion (A)3 of the Marking Scheme. Regardless of whether or not an Excess Proposal already completed in Schedule 6 or 7 overlaps with an Innovative Suggestion, to the extent that the Tenderer wishes to submit an Innovative Suggestion and be evaluated under assessment criterion (A)3 of the Marking Scheme, the Tenderer shall submit the details of the Innovative Suggestion in Schedule 11 (Innovative Suggestions) in Part V. Otherwise no mark will be awarded even if any proposal set out elsewhere could also be evaluated under the scope of assessment criterion (A)3 of the Marking Scheme.

10 Technical Drawings

- 10.1 The Tenderer shall provide in Schedule 7 all preliminary plans and information in relation to the proposed Vessel as required in **Paragraphs 1 to 5 of Schedule 7** by the Tender Closing Date. For those plans and information which are identified as essential requirements in Annex C to Part II, the Tenderer's tender will **not** be considered further if the Tenderer fails to submit any of these plans or information by the Tender Closing Date.

11 Proposed Sub-contractors

- 11.1 Where applicable, Tenderers shall provide in Paragraph 4 of Schedule 8 details of the proposed sub-contractors to be appointed to perform the Contract. The Government reserves the power to request the Tenderer to withdraw any sub-contracting proposal and if the Tenderer refuses to do so, its tender may not be considered further.

12 Quotation

- 12.1 A tender must offer to supply in Schedule 1 - Price Schedule and in the prescribed quantities as specified in Schedule 1 the Vessel and the Spare Parts in Ready for Use condition complying with (a) the specifications which the Tenderer has confirmed compliance with in Schedule 5 of Part V (viz., (i) the Essential Requirements, (ii) the Specifications without Label, (iii) where applicable, the Desirable Specifications), and (b) those specifications set out in its tender (including (i) those in the Schedules of Part V, and (ii) any Excess Proposals to be made in the manner mentioned in Clause 5.5 (collectively "Offered Specifications")). A partial tender for some but not all such items specified in Schedule 1 – Price Schedule will **not** be considered.

- 12.2 The Tenderer is requested to quote in Hong Kong dollars or United States dollars in Schedule 1 of Part V (a) an all-inclusive unit price for the Vessel in Ready for Use condition complying with the Offered Specifications in Item 1 of Part 1 of Schedule 1; (b) the unit price for each set of the Spare Parts complying with the Offered Specifications as specified in Part 2 of Schedule 1; and (c) the unit price of a ship model of the Vessel in Part 3 of Schedule 1. **Offers submitted in other currencies (i.e. currencies other than Hong Kong dollars or United States dollars) will not be considered further.**
- 12.3 The all-inclusive unit price quoted for the Vessel in Ready for Use condition and complying with the Offered Specifications shall be deemed to be an all-inclusive price for all items and services required whether specified in the Contract or otherwise to ensure that the Vessel is Ready for Use including without limitation the price and charges for all Work, Equipment complying with the Offered Specifications in the quantities as specified in Schedule 6, the Deliverables in respect of the Vessel (including the Excess Proposals), delivery of the Vessel together with all Equipment and the Deliverables to the Government Dockyard, insurance, taxes, duties and licenses. No other money whatsoever and on account of whatsoever purpose will be payable by the Government for these items and services.
- 12.4 In addition, the Contractor will be required to construct the Vessel on a total solution basis and no contribution from the Government whether in terms of manpower, equipment or shipyard facilities will be provided. On this basis, the Tenderer should have included in the unit price for the Vessel in Schedule 1 all prices chargeable for purpose of supplying the Vessel in full compliance with all of the requirements of the Contract. Under no circumstances whatsoever will the Government be responsible for any other costs and liabilities incurred by the Contractor in supplying the Vessel other than its unit price as quoted in Schedule 1 and accepted by the Government.
- 12.5 An offer with any price variation clause including without limitation one which is based on foreign exchange market fluctuation will **not** be considered further.
- 12.6 All prices and charging rates quoted in United States dollars will be converted into Hong Kong dollars for the purpose of price assessment. The conversion rate shall be based on the selling rate quoted by the Hong Kong Association of Banks on the Tender Closing Date.
- 12.7 Payment will be made in the currency specified in the Contract.

13 Accuracy of Tender Prices

- 13.1 Each Tenderer shall make sure that all prices and other proposals offered in its Tender are accurate and complete before it submits the Tender. The Tenderer shall be bound by the tender prices and other proposals offered in its Tender if the Tender is accepted by the Government. The Tenderer may not initiate any request for amendment of its Tender after the Tender Closing Date on any ground (including any mistake made in the Tender). On the other hand, in the event of any apparent arithmetical or typographical mistake or inconsistency in a Tender, pursuant to Clause 21.1 of this Part, the Government may, but is not obliged to, ask the Tenderer to clarify, or to confirm another figure to replace the original figure. Where the Tenderer's clarification is not provided or is not satisfactory, refuses to confirm such other figure, or where the Government does not elect to seek clarification or confirmation from the Tenderer, the Government reserves the power to proceed to evaluate the Tender on an "as is" basis (i.e., in the form as originally submitted

on the Tender Closing Date) or disqualify the Tenderer on the grounds that it has provided erratic or inconsistent proposals or quotations for proper evaluation.

14 Tender to Remain Valid and Open

- 14.1 A tender once submitted by a Tenderer will be binding on the Tenderer.
- 14.2 It is an Essential Requirement that a tender shall remain valid and open for acceptance for a period of **365 days** after the Tender Closing Date (“**Tender Validity Period**”).
- 14.3 By submitting a tender, the Tenderer undertakes and agrees that its tender shall remain valid and open throughout the Tender Validity Period. A Tenderer who counter-proposes a shorter Tender Validity Period than the period specified in Clause 14.2 above will be disqualified and its tender will **not** be considered further.

15 Tenderer’s Commitment

- 15.1 All tenders, information and responses from a Tenderer must be submitted in writing, i.e., in manuscript or produced by whatever device including a type-writer, a computer printer, a scanning machine, or other mode of representing and reproducing words in a legible form. All parts of the tender submitted by a Tenderer will, if and to the extent accepted by the Government, and subject to such changes as the Government may stipulate in exercise of its powers under these Conditions of Tender or as the parties may agree, form part of the Contract if the Contract is awarded to that Tenderer.
- 15.2 The Government reserves the right not to consider a tender that directly or indirectly attempts to preclude or limit the effect of any requirement specified in the Lodging of Tender, these Conditions of Tender or the Annexes to this Part.

16 Communication with the Government

- 16.1 Only those communications which are in writing from the Government may be considered as duly authorised on behalf of the Government. Similarly, only communications from the Tenderer, which are in writing and are stated to be made for and on behalf of the Tenderer will be recognised by the Government as duly authorised by the Tenderer.
- 16.2 All communications connected with or arising out of these Tender Documents shall be conducted directly between the Government and the Tenderer irrespective of the number of manufacturers or Sub-contractors involved.
- 16.3 Unless otherwise expressly stated by the Government in writing, any statement, whether oral or written made in response to any enquiry made by a prospective Tenderer shall be for information only. No such statement constitutes a representation or warranty of whatsoever nature, express or implied, and no invitation is made by the Government to any Tenderer or prospective Tenderer to rely on the accuracy or completeness of such statement. Unless in the context of an issued addendum to these Tender Documents, the statement will not be deemed to form part of these Tender Documents and it shall not alter, negate or waive any of the provisions set out in the Tender Documents.

17 Tenderer's Counter-Proposal

- 17.1 By submitting their tenders, unless otherwise expressly permitted, all Tenderers agree to comply with and observe all parts of the Tender Documents which relate to all matters concerning or relating to this Invitation to Tender, including without limitation all provisions in these Conditions of Tender and the Annexes to this Part, Lodging of Tender, Schedules and Offer to be Bound. Unless otherwise expressly permitted, none of such terms and conditions may be varied, and any counter-proposal from a Tenderer to vary any such term or condition will, without prejudice to other rights and powers of the Government, be ignored, or otherwise the tender may not be considered further.
- 17.2 Save in the case of the Conditions of Contract and their Annexes, the successful Tenderer is equally required to accept all terms and conditions in the Tender Documents which form part of the Contract on an "as is" basis. Unless otherwise acceptable to the Government, a counter-proposal submitted by a Tenderer will, without prejudice to other rights and powers of the Government, (a) either be ignored; or (b) the Tenderer will be asked to withdraw it (failing which its tender will not be considered); or (c) no request for withdrawal will be given and the tender will immediately not be considered. None of the above (a) and (b) shall apply in the case any counter-proposal to any requirement in Part VII (whether with or without [E] label but excluding desirable specifications labelled with [D]). Such counter-proposal will lead to disqualification of the Tenderer, subject only to any clarification opportunity which may be given pursuant to Clause 17.6 of this Part. In the case of the Conditions of Contract and their Annexes or the payment schedule in Schedule 3, the Tenderer may submit counter-proposals but strictly in accordance with Clause 17.3 of this Part.
- 17.3 Any counter-proposal to the Conditions of Contract or their Annexes or Schedule 3 will only be considered in exceptional circumstances. Any counter-proposal shall be drafted and submitted in the following manner:
- (a) the counter-proposal shall be attached to the Offer to be Bound;
 - (b) the original version of the relevant provision must be fully recited before any proposed alteration or deletion is made;
 - (c) any alteration to any terms or requirements must be underlined and must bear the corresponding Clause number of the original provision unless it is an addition;
 - (d) words to be deleted shall be crossed out by a single line only; and
 - (e) an explanation shall be given below any such alteration or deletion and be put in square brackets ([]).
- 17.4 Unless the Government waives the requirements in Clause 17.3 of this Part, a counter-proposal which is not submitted in accordance with Clause 17.3 of this Part will be ignored and will not form part of the Contract, and the Tenderer concerned will be deemed to have agreed to the original term to which the counter-proposal relates.
- 17.5 The Government reserves the right to negotiate with the Tenderer concerning any counter-proposals regardless of whether they have been submitted in accordance with Clause 17.3 of this Part. The Government may refrain from awarding the Contract to the Tenderer who is unwilling to withdraw its counter-proposal(s) which are not acceptable to the Government. Where this was the Tenderer which has attained the highest combined score in the tender evaluation, the Tenderer's tender will not be considered further, and the next Tenderer which has attained the next highest combined score will be the preferred Tenderer and the Government will conduct negotiation with that next ranking Tenderer with regard to any Counter-Proposals it may have made. On the other

hand, to the extent that the Tenderer agrees to withdraw or further modify the Counter-Proposals, references to “Offered Specifications” shall henceforth be read to exclude such withdrew or modified Counter-Proposals. Unless otherwise agreed by the Government, the Tenderer may not ask for further increase to the Total Purchase Price for withdrawing or modifying any Counter-Proposals.

- 17.6 Where the Tenderer has in Schedule 5 affirmed its compliance with any requirement in the Technical Specifications (whether by virtue of any deeming provision or otherwise) (whether with or without label [E] or desirable specifications labelled with [D]) but (a) it has also submitted counter-proposals to any such requirements (whether by way of the items proposed in any of the Contract Schedules or by way of a specifically drafted provision containing the counter-proposal or otherwise) or (b) the Government, based on the information available to it including information published by the relevant manufacturer or in the tender, is in doubt as to whether the proposed Vessel or any proposed Equipment does at the time of evaluation truly comply with such requirements, the Government may, but is not obliged to, seek clarification with the Tenderer concerned pursuant to Clause 19 of this Part. In the event that the Tenderer refuses to affirm compliance with the relevant requirements in the course of the clarification or if the Tenderer has affirmed compliance, but the Government is not satisfied that the proposed Vessel or any proposed Equipment does at the time of evaluation truly comply with such requirements, where the relevant requirements are Offered Specifications, the Tenderer will be disqualified and its tender will **not** be considered further.
- 17.7 Without prejudice to the rights and powers of the Government (including without limitation those under Clause 17.6 of this Part), the Government has no obligation to any Tenderer that in relation to another Tenderer’s offer, it should take into account information from any third party source (including from the manufacturer) to verify that other Tenderer’s or its offer’s compliance with any essential requirement (including those set out in the Technical Specifications and those set out in these Conditions of Tender).

18 Equivalent International Standard

- 18.1 Any Equipment item offered by the Tenderer which is in compliance with an alternative standard different from the standard specified in the Technical Specifications (“**original standard**”) may be considered provided that it can be shown that meeting such alternative standard means that the Equipment item complies with specifications no worse than those specifications covered by the original standard.
- 18.2 A Tenderer shall identify in its tender the alternative standard with which its offered Equipment item is in compliance. It shall also provide a comparison between the alternative standard and the original standard and documentary evidence satisfactory to the Government that compliance with the alternative standard means compliance with the specifications which are no worse than the specifications covered by the original standard.
- 18.3 Without prejudice to the power of the Government to request late submission, a Tenderer’s failure to submit the information and/or documentary evidence requested above to the Government’s satisfaction will lead to its tender not being considered further if the specifications are Essential Requirements.

19 Request for Information

19.1 In the event that the Government determines that:

- (a) clarification in relation to any part of the Tender is necessary (including without limitation in relation to any apparent inconsistency in the proposals submitted by the Tenderer); or
- (b) a document or a piece of information other than the document or information set out in Clause 19.2 of this Part, is missing from any Tender,

it may, but is not obliged to, request the Tenderer concerned to make the necessary clarification, or submit the required document or information. The Tenderer concerned shall thereafter within five (5) working days or such other period as specified in the request submit such clarification, information or document in the form required by the Government. A Tender will not be considered further if complete information or document is not provided as required by the deadline as specified in the request, or in the case of clarification, such clarification is not provided by such deadline or is not acceptable to the Government. Without prejudice to the foregoing, any excess proposal or information supplied by a Tenderer which goes beyond what has been requested by the Government will be ignored for the purposes of the tender evaluation or will entitle (but not oblige) the Government to disqualify the Tenderer concerned. As an alternative to seeking clarification or further information or document, the Government may not consider the Tender further or may proceed to evaluate the Tender on an “as is” basis.

19.2 The document and information not covered by Clause 19.1(b) of this Part are:

- (a) unit price quotations required in Schedule 1 - Price Schedule;
- (b) a signed Part VI – Offer to be Bound; and
- (c) any other document or information in respect of which it is specified in the Tender Documents that a failure to provide such to the Government in a Tender by the Tender Closing Date will result in the Tender not being considered including those specified in paragraph (a) and paragraph (b) of Annex B to this Part.

20 Tender Evaluation

20.1 Without prejudice to other rights and powers of the Government to disqualify a Tenderer under other applicable provisions in the Tender Documents, Tenders will undergo the assessments mentioned in **Annex A (Tender Evaluation Procedures) to this Part.**

21 Languages

21.1 All notices, correspondence and other communications, and all documents prepared or provided, under or in connection with this Invitation to Tender shall be in the English or Chinese languages. If documents are originally prepared in any other language, the Tenderer shall at its own cost provide the Government with English or Chinese language translation.

22 Contract Deposit, Parent Guarantee and Advance Payment Bond

22.1 Within 21 days from the date of **confirmation of Notification of Conditional Acceptance (or such longer period as the Government may allow in writing), the successful Tenderer shall pay to the Government:**

- (a) a Contract Deposit whether in cash or as a bank guarantee in the form set out in Annex A to the Conditions of Contract equal to two per cent (2%) of the Total Purchase Price; and
- (b) if expressly required in the Notification of Conditional Acceptance a duly executed Parent Guarantee in the form appearing in Annex B to the Conditions of Contract with only such amendments as may previously have been agreed in writing by the Government to be executed by each of the individual shareholders or holding company (direct or indirect) (as the case may be) stipulated by the Government in the condition. The Government is entitled to decide whether the guarantor(s) providing the Parent Guarantee is/are acceptable and to refuse the offer from any successful Tenderer which fails to meet the Government's requirements; and
- (c) where the Tenderer intends to receive the first instalment of the Total Purchase Price by issuing an invoice to the Government for such instalment upon signing of the Articles of Agreement, an Advance Payment Bond in the form set out in Annex A to the Conditions of Contract in the same amount as the first instalment as specified in Schedule 3 – Payment Schedule.

22.2 Contract Deposit (where it is to be settled by bank guarantee) and an Advance Payment Bond to be submitted by the successful Tenderer pursuant to Clauses 22.1(a) and (c) of this Part shall be issued by a licensed bank in Hong Kong (i.e. a bank with a valid banking license issued under the Banking Ordinance, Cap. 155 of the Laws of Hong Kong).

23 Negotiations

23.1 The Government reserves the right to negotiate with any Tenderer in relation to the Tenderer's Tender and the terms and conditions of the Contract. If the Government at its discretion considers appropriate, the Government will normally conduct negotiation with the Tenderer whose Tender is identified as the most advantageous to the Government based on the assessments set out in Annex A to this Part.

24 Award of Contract

- 24.1 Unless the Government decides that it is in the public interest not to award the Contract, subject to the other provisions of the Tender Documents, the Contract will normally be awarded to the Tenderer who passes the assessments as mentioned in Annex A (Tender Evaluation Procedures) to this Part and has attained the highest combined score under these assessments. Notwithstanding anything herein to the contrary, the Government is not bound to accept the Tender with the highest combined score or any Tender and reserves the right to accept any Tender at any time within the Tender Validity Period.
- 24.2 Even if the Tenderer is identified as the successful Tenderer for the award of the Contract pursuant to Clause 24.1 of this Part, the Government reserves the right to accept all or any part of the Tenderer's offer including all or any of the Excess Proposals.

25 Formation of Contract

25.1 Unless and until the Articles of Agreement have been executed by both the successful Tenderer and the Government, there is no Contract between the Government and that Tenderer.

- 25.2 The successful Tenderer will be notified within the Tender Validity Period as specified in Clause 14.2 of this Part (as the same may be from time to time extended with the agreement of the Tenderers) (such notification is referred to as “**Notification of Conditional Acceptance**”). Upon receipt of such Notification of Conditional Acceptance, the successful Tenderer shall be obliged to fulfil all of the following conditions to the satisfaction of the Government within 21 days of the notification (or such later date as the Government may allow):
- (a) the Contract Deposit and where applicable the Advance Payment Bond as required under Clauses 22.1(a) and (c) of this Part;
 - (b) the provision of a Parent Guarantee as required under Clause 22.1(b) of this Part (if applicable);
 - (c) the provision of a legal opinion as required under Clause 7.2 and/or 7.5 of this Part (if applicable);
 - (d) the warranty agreement and other sub-contractor undertaking in the form set out in Annex C to the Conditions of Contract to be executed by each Sub-contractor;
 - (e) if not already provided in the Tender or if there are any subsequent changes, certified true copies of corporate documents of the successful Tenderer including the memorandum and articles of association or equivalent documents and business licence of the successful Tenderer and filings with the relevant registry showing the names of its directors and shareholders;
 - (f) if the legal opinion in relation to the successful Tenderer is required as mentioned in Sub-clause (c) above, and that the legal opinion on the issue specified in Clause 7.2(i) of this Part is negative or is subject to conditions not considered to be satisfactory to the Government, the additional opinion on arbitration as well as the successful Tenderer’s written confirmation on arbitration as required in Clause 7.3 of this Part;
 - (g) where the successful Tenderer carries on business in Hong Kong, a copy of the insurance policy as required under Clause 7.1 of the Conditions of Contract, and evidence of payment of premium thereunder; and
 - (h) if requested by the Government, the agreement to the deletion of any Excess Proposals not accepted by the Government (regardless of whether they were evaluated on under the Marking Scheme and gained marks for the Tenderer) by initialling against the deletions on the version of the relevant Contract Schedules in Part V attached to the Notification of Conditional Acceptance and returning the same to the Government for incorporation into the final version of the Contract; and
 - (i) such other conditions as the Government may stipulate in the Notification of Conditional Acceptance.
- 25.3 Unless and to the extent waived by the Government in writing, upon fulfilment of the conditions by the Tenderer specified in Clause 25.2 of this Part to the satisfaction of the Government, the Government will, subject to Clause 26 of this Part, enter into the Contract with the successful Tenderer by signing the Articles of Agreement. The Contract will incorporate, to the extent accepted by the Government, the Tender submitted by the successful Tenderer (subject to such other changes as the Government may stipulate in exercise of its powers under the Tender Documents (including without limitation the exclusion of any parts of the Tender which are to be ignored under any provisions of the Tender Documents) or such changes as the parties may agree). If a Tenderer fails to fulfil all or any of the conditions mentioned in Clause 25.2 of this Part (unless and save to the extent they are waived by the Government in writing, if any), or fails to enter into the

Articles of Agreement upon notification by the Government (“defaulting Tenderer”), the Notification of Conditional Acceptance will become void and be of no further force. The Government will disqualify the defaulting Tenderer, and it may, but is not obliged to, award the Contract to another Tenderer. Without prejudice to other rights and claims of the Government, the defaulting Tenderer shall be responsible for the difference in the Tender price submitted by that Tenderer and the eventual Contractor who will be awarded the Contract whether appointed pursuant to this Invitation to Tender exercise or another subsequent invitation exercise. On the other hand, notwithstanding anything in the Tender Documents or in the conditional acceptance of tender to the contrary, in the event that the Government exercises any of its discretion under Clause 26 of this Part, the Government shall be entitled not to enter into the Contract with a Tenderer even if the Tenderer has received a conditional notification of acceptance and fulfilled all the conditions specified in Clause 25.2 of this Part.

- 25.4 Tenderers who do not receive any notification within the Tender Validity Period will mean that their tenders have not been accepted.

26 Government Discretion

- 26.1 Notwithstanding anything in these Tender Documents to the contrary, if it is in the public interest to do so, the Government reserves the right to (a) cancel this Invitation to Tender, and abstain from making any award of the Contract; or (b) re-conduct the evaluation specified in Annex A to this Part to identify the successful Tenderer notwithstanding the issue of any conditional acceptance of tender under Clause 25.2 of this Part to any Tenderer.
- 26.2 After cancellation pursuant to Clause 26.1(a) above, if and when it considers fit, the Government reserves the right to re-issue this Invitation to Tender on such terms and conditions as the Government considers fit.
- 26.3 Alternatively, if and when it considers fit, the Government may undertake or commission any other person (be it a public body or a third party contractor) to undertake the work covered by the Contract or any part thereof.
- 26.4 Notwithstanding anything to the contrary in these Tender Documents, the Government reserves the right, but not the obligation, to disqualify a Tenderer on grounds including without limitation:
- (a) a petition is presented or a proceeding is commenced or an order is made or a resolution is passed for the winding up or bankruptcy of the Tenderer; or
 - (b) in the sole judgment of the Government Representative, the Tenderer is not considered fit and proper to perform the Contract; or
 - (c) a false, inaccurate or incomplete statement, representation or declaration is contained in the tender or a false or forged document is submitted in the tender or a promise or a proposal is made by the Tenderer but with the actual or constructive knowledge that it will not be able to fulfil or deliver such promise or proposal; or
 - (d) in the event of a claim, an allegation or the Government having grounds to believe that any thing(s) or material(s) to be supplied or recommended by the Tenderer in its tender infringes or will infringe any Intellectual Property Rights of any person; or
 - (e) anytime during the 48 months prior to the Tender Closing Date or between the Tender Closing Date and the award of the Contract, the Tenderer is in default of its

material obligation(s) under any other Government contract providing goods and/or services awarded by the Director of Marine regardless of whether or not such default has led to the termination of the relevant Government contract and whether or not such default has been remedied.

- 26.5 For the avoidance of doubt, there is no intended difference in meaning between the two alternative expressions that “the Tenderer will be disqualified” or that “its tender will **not** be considered further”.

27 Contractors’ Performance Monitoring

- 27.1 If a Tenderer is awarded the Contract, its subsequent performance will be monitored and may be taken into account when its future offers for other tenders / quotations exercises are evaluated.

28 Cost of Tender

- 28.1 Tenderer shall submit its Tender at its own cost and expense. The Government shall not be liable for any costs and expenses whatsoever incurred by a Tenderer in connection with the preparation or submission of its Tender including all costs and expenses relating to (a) communication or negotiations with the Government; or (b) providing presentation or demonstration to the Government; or (c) attending briefings, document inspections, site visits or surveys ; or (d) in presenting its reference sites or factories and equipment to the Government representatives during the site visits by the Government representatives, whether before or after the Tender Closing Date.

29 Consent to Disclosure

- 29.1 The Government may disclose, whenever it considers appropriate, to the public or upon request by any member of the public (which may have been a Tenderer) without any further reference to or consent from the successful Tenderer or any other Tenderer, the Tender Documents, particulars (including the nature and quantity) of the products/services to be provided by the successful Tenderer, the date of the award, the name and address of the successful Tenderer, place of manufacture of the Vessel to be supplied and the Total Purchase Price.
- 29.2 Nothing in Clause 29.1 above shall prejudice the Government’s power to disclose whenever it considers appropriate information of any nature whatsoever in relation to or concerning any Tenderer (successful or unsuccessful) or its Tender (whether or not specified in Clause 29.1 above and including information recorded in whatever media) if the disclosure is made under any one of the following circumstances:
- (a) the disclosure of any information to any public officer or public body, as defined in the Interpretation and General Clauses Ordinance (Chapter 1 of the Laws of Hong Kong) or any other person employed, used or engaged by the Government (including agents, advisers, contractors and consultants);
 - (b) the disclosure of any information already known to the recipient;
 - (c) the disclosure of any information which is public knowledge (including due to disclosure to a public body under Clause 29.2(a) of this Part);

- (d) the disclosure of any information in circumstances where such disclosure is required pursuant to any law of Hong Kong, a request made by the Review Body on Bid Challenges (“the Review Body”) under the Agreement on Government Procurement of the World Trade Organization (“WTO GPA”) (where applicable), or an order of a court of Hong Kong or a tribunal with competent jurisdiction; or
- (e) the disclosure of any information regarding anti-competitive collusive conduct to the Competition Commission of Hong Kong (and other authorities as relevant);
- (f) without prejudice to the power of the Government under Clause 29.1 above, to the extent the information relates to a Tenderer, with the prior written consent of that Tenderer.

30 Intellectual Property Rights Licence

- 30.1 A Tender once submitted will become the property of the Government. Tenders of unsuccessful Tenderer may be destroyed in accordance with Clause 39 of this Part. In consideration of the Government considering its Tender on and subject to the terms and conditions of the Tender Documents, without prejudice to all other rights and powers of the Government under the Tender Documents (including in particular its right to disclose information in the Tenders) and under the Contract (including in particular the Licence), each Tenderer hereby grants and shall upon the demand of the Government at the Tenderer’s cost procure that the lawful owner or authorised person of the relevant Intellectual Property Rights will grant, to the Government, its assigns, successors-in-title and authorised users, a royalty-free, non-exclusive, irrevocable, sub-licensable, transferable, world-wide, unrestricted right and licence to use or exercise all or any Intellectual Property Rights subsisting in its Tender and the presentation and demonstration to be conducted by the Tenderer (if any) including but not limited to doing any of the acts restricted by copyright under sections 22 to 29 of the Copyright Ordinance (Chapter 528 of the Laws of Hong Kong) for the purposes of tender evaluation and the disclosure as mentioned in Clause 29 of this Part and for all other purposes incidental thereto or in connection therewith. Such right and licence shall continue to subsist so long as all or any Intellectual Property Rights subsist in the Tender (or any part thereof) and the presentation and demonstration to be conducted by the Tenderer (if any) under any applicable law, including the laws of Hong Kong.
- 30.2 The Tenderer shall indemnify the Government, its assigns, successors-in-title, and authorised users on the terms set out in Clause 21 of Part IV – Conditions of Contract in the event if the exercise by any of them of the rights mentioned in Clause 30.1 of this Part infringes or is alleged to infringe the Intellectual Property Rights of any person.
- 30.3 The Tenderer shall irrevocably waive, and undertake to procure at its own cost and expense all authors and presenters of the Tender, the presentation and demonstration (if any) or any part thereof to irrevocably waive, all moral rights (whether past, present or future) in such items. The waiver shall operate in favour of the Government, its assigns, successors-in-title and authorised users and shall take effect from the date of submission of the Tender.

31 New Information

- 31.1 Each Tenderer should inform the Government in writing immediately of any factor which might affect its ability to meet any requirements of the Tender Documents, e.g., if the Tenderer is no longer the authorised agent for supplying a proprietary product. The Government reserves the right not to consider a Tenderer's Tender further if the Tenderer's continued ability to meet such requirements is in doubt.

32 Personal Data Provided

- 32.1 All personal data provided in a Tender will be used by the Government for the purposes of the Invitation to Tender and all other purposes arising from or incidental to it (including for the purposes of tender evaluation, the award of the Contract and resolution of any dispute arising from this Invitation to Tender). If the Tender is a successful Tender, the purposes shall be extended to include Contract enforcement and management, and resolution of dispute arising from the Contract. The Government may further disclose the personal data to such persons as it considers necessary for achieving all or any of the aforesaid purposes.
- 32.2 By submitting a Tender, a Tenderer is deemed to have agreed to, and to have obtained from each individual whose personal data is provided in the Tender, his consent for the disclosure to the Government, use and further disclosure by the Government of the personal data for the purposes and to the persons specified in Clause 32.1 above.
- 32.3 An individual to whom personal data belongs and a person authorised by him in writing has the right of access and correction with respect to the individual's personal data as provided for in sections 18 and 22, and Principle 6 of Schedule 1 to the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong). The right of access includes the right to obtain a copy of the individual's personal data provided in the Tender.
- 32.4 Enquiries concerning the personal data collected by means of the tender including the making of access and corrections shall be addressed to the Personal Data Privacy Officer of the Marine Department.

33 Warning against Bribery

- 33.1 The offer of an advantage to any Government officer with a view to influencing the award of the Contract is an offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong). Any such offence committed by a Tenderer or any of its officers (including directors), employees or agents will render its Tender null and void.
- 33.2 The successful Tenderer shall inform its officers, employees (whether permanent or temporary), agents and sub-contractors who are connected with the performance of the Contract, that the soliciting or accepting of advantages, as defined in the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong) is not permitted. The successful Tenderer shall also caution its officers, employees and agents and sub-contractors against soliciting or accepting any hospitality, entertainment or inducement which may impair their impartiality in relation to the selection of its sub-contractors, if any, or the supervision of the work of the sub-contractors once selected.

34 Warranty Against Collusion

- 34.1 The Tenderer must ensure that the Tender is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person (except as provided in paragraph 3 of the Non-collusive Tendering Certificate referred to in Clause 34.2 of this Part), regarding, amongst other things, price, tender submission procedure or any terms of the Tender. Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Chapter 619 of the Laws of Hong Kong). Tenderers who engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance.
- 34.2 The Tenderer shall complete and submit to the Government a Non-collusive Tendering Certificate (in the form set out in Schedule 12 in Part V (“Non-collusive Tendering Certificate”) as part of its Tender.
- 34.3 In the event that a Tenderer is in breach of any of the representations, warranties and/or undertakings in Clause 34.1 of this Part or in the Non-collusive Tendering Certificate submitted by it under Clause 34.2 of this Part, the Government shall be entitled to, without compensation to any person or liability on the part of the Government:
- (a) reject the Tenderer’s Tender;
 - (b) if the Government has accepted the Tender, withdraw its acceptance of the Tenderer’s Tender; and
 - (c) if the Government has entered into the Contract with the Tenderer, terminate the Contract under Clause 29.1.9 of Part IV - Conditions of Contract.
- 34.4 By submitting a Tender, a Tenderer is regarded to have undertaken to indemnify and keep indemnified the Government against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations, warranties and/or undertakings in Clause 34.1 of this Part or in the Non-collusive Tendering Certificate submitted by it under Clause 34.2 of this Part.
- 34.5 A breach by a Tenderer of any of the representations, warranties and/or undertakings in Clause 34.1 of this Part or in the Non-collusive Tendering Certificate submitted by it under Clause 34.2 of this Part may prejudice its future standing as a Government contractor or service provider.
- 34.6 The rights of the Government under Clauses 34.3 to 34.5 of this Part are in addition to and without prejudice to any other rights or remedies available to it against the Tenderer.

35 Authentication of the Submitted Information/Document

- 35.1 By submitting a Tender in response to the Invitation to Tender, each Tenderer authorises the Government to obtain from
- (a) any person whose particulars are set out in the tender submitted by the Tenderer including the manufacturer and any other proposed sub-contractor specified in the Contract Schedules, and
 - (b) any issuing body of any of the certificates or documentary evidence required in the Tender Documents,
- all information which the Government considers appropriate and relevant to the evaluation of the Tender including information to verify the legitimacy, completeness,

authenticity and accuracy of any information or document submitted by the Tenderer. If any consent from any other person is required for the Government to obtain any of the aforesaid information or document, the Tenderer represents that such consent has been duly obtained.

36 Complaints about Tendering Process or Contract Awards

- 36.1 The tendering process is subject to internal monitoring to ensure that the relevant contract is awarded properly and fairly. Any Tenderer who feels that its Tender has not been fairly evaluated may write to the Director of Marine who will personally examine the complaint and refer it to the approving authority/relevant tender boards for consideration, where the complaint relates to the tendering system or procedures followed. Regardless of the nature of the complaint, the Tenderer must lodge the complaint within three (3) months after the award of Contract.
- 36.2 A Review Body on Bid Challenges under the WTO GPA has been set up by the Government to deal with challenges made against alleged breaches of the WTO GPA. The relevant procedures for handling bid challenges are set out in the Rules of Operation of the Review Body which are available for inspection at the Secretariat of the Review Body located at the Trade and Industry Department. They may also be sent to the interested parties upon request to the Secretariat of the Review Body. In the event that a Tenderer believes that a breach of the WTO GPA has occurred, the Tenderer may, within ten (10) working days after it knew or reasonably should have known the basis of the challenge, lodge a challenge to the Review Body on the alleged breaches of the WTO GPA. Nevertheless, the Tenderer is encouraged to seek resolution of its complaint in consultation with the Marine Department before lodging a complaint to the Review Body. In such instances, the Marine Department shall accord impartial and timely consideration to any such complaint, in a manner that is not prejudicial to obtaining corrective measures through the Review Body.
- 36.3 The Review Body may receive and consider a late challenge but a challenge will not be considered if it is filed later than thirty (30) working days after the basis of the challenge is known or reasonably should have been known to the Tenderer.

37 Supplementary Information

- 37.1 Tenderers should look out for any amendments to these Tender Documents that will be published on the Internet (<http://www.mardep.gov.hk>) before the Tender Closing Date.
- 37.2 Prospective Tenderers should provide their information such as company name, contact person, contact number, email address and facsimile number to the Senior Surveyor of Ships of the Government New Construction Section of the Marine Department by fax ((852) 2746 0518) or email (gnc@mardep.gov.hk) if they wish to receive written notifications from the Government in respect of all supplementary information or tender addenda to these Tender Documents.

38 Immigration

- 38.1 The Tenderer is reminded that, as a general policy, importation of labour from a place other than Hong Kong is not allowed by the Immigration Department save that in some special deserving circumstances the Director of Immigration may permit the importation

of key management and technical personnel on a temporary basis. It is the Tenderer's sole responsibility to make any such arrangement as circumstances may require including obtaining work visas for those staff who are required to travel to Hong Kong for performing the Contract.

39 Documents of Unsuccessful Tenderers and Limitation Period for Claims Arising from this Invitation to Tender

- 39.1 The documents of unsuccessful Tenderers shall be retained for a period of not less than three years after the date of the Articles of Agreement are signed by both the Government and the successful Tenderer. No Tenderer shall initiate any claim or legal proceedings against the Government arising from this Invitation to Tender after the expiry of three years from the date the Contract has been awarded and the Articles of Agreement signed (in the case if WTO GPA applies to this Invitation to Tender) or after expiry of one year from the date the Contract has been awarded and the Articles of Agreement signed (in the case if WTO GPA does not apply to this Invitation to Tender).

40 Probable Requirements

- 40.1 Forecast or estimation on the quantities of the services and goods required and the Total Purchase Price payable, and all other information, statistics and forecast set out in the Tender Documents or any information or clarification provided from time to time or given at the briefing session (collectively "briefings") (if any), are provided purely for the Tenderer's information on an "as is" basis without warranty of any kind. The Government gives no warranty, representation or undertaking that (a) any information, statistics and forecast provided in the Tender Documents or any information or clarification provided from time to time or the briefings (if any) or otherwise are sufficient, accurate, complete, suitable or timely for any purpose whatsoever; and (b) there will be purchase of any particular quantity of equipment, hardware, software, program or service from any Tenderer whether specified in the Tender Documents to be provided upon request or demand.
- 40.2 To the maximum extent permitted by laws, the Government does not accept any liability or responsibility for (a) any claim, legal proceeding, liability, loss (including any direct or indirect loss, any loss of revenue, profit, business, contract or anticipated saving), (b) damage (including any direct, special, indirect or consequential damage of whatsoever nature) or (c) any cost or expense, suffered or incurred by any Tenderer arising from the use of, or reliance on, any information, statistics or forecast provided in the Tender Documents, or any information or clarification provided from time to time or in the briefings (if any), or otherwise that the actual price payable on and subject to the Contract do not meet the expectation or projection of any Tenderer or do not recoup the investment cost incurred or by any margin of the Total Purchase Price.
- 40.3 Each Tenderer acknowledges to the Government that it has not relied on or been induced to submit its Tender by any representation, warranty, forecast, estimate, or projection given by the Government or any of its officers, employees, agents, advisers, consultants or contractors.
- 40.4 No Tenderer will in any way be relieved from any obligation under the Tender Documents nor shall it be entitled to claim against the Government on grounds that any information, whether obtained from the Government or otherwise (including

information made available by the Government) is incorrect or insufficient. The Tenderer shall make its own enquiries as to the accuracy and adequacy of all such information.

Annex A – Tender Evaluation Procedures

Without prejudice and in addition to the powers of the Government under the Tender Documents to disqualify a Tenderer, Tenders submitted in response to this Invitation to Tender will be evaluated in the following manner.

Stage 1 – Completeness Check

A completeness check will be conducted by checking whether the Tender's Technical Proposal in the Tender has been submitted in accordance with the requirements stipulated in the Tender Documents. If a Tenderer fails to submit any of the documents stipulated in **Paragraph (a) of Annex B (Information / Documents to be Submitted for Tender Evaluation)** to Part II – Conditions of Tender for the Technical Proposal before the Tender Closing Date, its Tender **will not be considered further**.

Tenders which have passed Stage 1 of this assessment will proceed to Stage 2 of this assessment.

Stage 2 – Assessment of Compliance with Essential Requirements

1. A Tender will be checked for its compliance with the Essential Requirements as detailed in the Tender Documents.
2. Any Tender which fails to meet any of the Essential Requirements (viz., those set out in **Annex C (Essential Requirements)** to this Part II – Conditions of Tender, those identified as such in Part VII with [E] label and in any other parts of the Tender Documents) **will not be considered further**.
3. Besides the Essential Requirements, the Government may also exercise all or any of its rights and powers to not consider a Tenderer's Tender further under all or any of the applicable provisions of the Tender Documents. Where the Government does so under any such applicable provision, the Tenderer's Tender will not be considered further. In addition, such rights and powers may be exercised in accordance with the timing as specified in the relevant provisions of the Tender Documents but not necessarily under this Stage 2.

Those Tenders which have passed Stage 2 of this assessment will proceed to Stage 3.

Stage 3 – Technical Assessment

4. All Tenders which have passed Stages 1 and 2 of this assessment will be evaluated according to the Marking Scheme in **Annex D (Marking Scheme) to Part II – Conditions of Tender** and summarised below.

Assessment Criteria	Maximum Marks
(A) Technical Aspect	
(1) Functional Aspects	30
(2) Operational Aspects	35
(3) Innovative Suggestions	20
Sub-total for (A)	85
(B) Experience and Accreditations	
(1) Experience	12
(2) Accreditations	3
Sub-total for (B)	15
Total technical Marks	100

5. Presentation

As part of the Technical Assessment in accordance with the Marking Scheme in Annex D (Marking Scheme) to Part II – Conditions of Tender, Section (A)3, the Marine Department (MD), at its sole discretion, may require all Tenderers which has passed Stage 1 and Stage 2 of the Tender Evaluation Procedures to make a verbal presentation as stated in Note 2 of Annex D to Part II – Conditions of Tender , so as to verify the submitted information and data in supporting the Tenderer's commitment in achieving the stated requirements as stipulated in the Tender Documents. If so required and at MD's sole discretion, either all Tenderers who have passed Stage 1 and Stage 2 assessments, or none of these Tenderers as the case may be, will be required to make the presentation. A Tenderer invited to the presentation but opted not to attend will not be disqualified, and the relevant marks would not be awarded.

6. A **maximum weighted technical score of 70** will be allocated to the Tender achieving the highest overall technical mark. The weighted technical scores of other Tenders which have passed Stage 1 and 2 assessments will be calculated in accordance with the following formula:

$$\left[\begin{array}{l} \text{Weighted Technical} \\ \text{Score of a Tender} \end{array} \right] = 70 \times \frac{\left[\begin{array}{l} \text{Overall technical mark of the Tender being assessed} \\ \text{Highest overall technical mark among all Tenders} \\ \text{which have passed Stage 1 and 2 Assessments} \end{array} \right]}{\left[\begin{array}{l} \text{Highest overall technical mark among all Tenders} \\ \text{which have passed Stage 1 and 2 Assessments} \end{array} \right]}$$

Stage 4 – Price Assessment

7. The Price Proposals of the Tenders which have passed Stages 1 and 2 of this assessment will be evaluated. A completeness check will be conducted to determine if all unit prices for all items complying with the Offered Specifications as specified in Schedule 1 have been submitted in these Tenders. If so, the Tender price of each such Tender will be assessed. The “Tender price” submitted in a Tender means the Total Purchase Price quoted in Schedule 1 of Part V in such Tender. A **maximum weighted price score of 30** will be allocated to the Tender with the lowest Tender price. The weighted price scores of other Tenders which have passed Stages 1 and 2 assessments will be calculated in accordance with the following formula.

$$\left[\begin{array}{l} \text{Weighted Price} \\ \text{Score of a Tender} \end{array} \right] = 30 \times \frac{\left[\begin{array}{l} \text{Lowest Tender price among all Tenders} \\ \text{which have passed Stages 1 and 2 Assessments} \end{array} \right]}{\left[\begin{array}{l} \text{Tender price of the Tender being assessed} \end{array} \right]}$$

Stage 5 – Calculation of combined score for Technical and Price Assessment

8. The combined score of each of the Tender proposals that have completed aforesaid Stages 1 to 4 of this assessment will be calculated as follows:

$$\text{Combined Score} = \text{Weighted Technical Score} + \text{Weighted Price Score}$$

Note: All figures of the weighted technical scores, weighed price scores and combined scores in Stages 3 to 5 of this assessment will be rounded to the nearest two decimal places. Figures with the values at the third decimal place larger than or equal to 0.005 will be rounded up by adding 0.01 to the figures and curtailing the third decimal place onwards whereas figures with the values at the third decimal place below 0.005 will be rounded down by curtailing the third decimal place onward without changing the values at the second decimal place.

9. Normally, a Tenderer whose Tender obtained the Highest Combined Score and who is considered by the Government to be capable of undertaking the Contract will be awarded the Contract. If two or more Tenderers obtain the same Highest Combined Score, the Tenderer which obtains the higher or highest weighted technical score will be recommended for acceptance subject to the same arrangement as aforementioned.

Annex B – Information / Documents to be Submitted for Tender Evaluation

- (a) A Tenderer shall submit all of the following in the **Technical Proposal** of its tender **before the Tender Closing Date**.
- (i) **the “Offer to be Bound” in the form set out in Part VI (using the hardcopy obtained from the Government or a photocopy of such hardcopy or a printed copy using a softcopy obtained from the Government) and originally signed by the Tenderer;**
 - (ii) completed Schedule 5 (Statement of Compliance) of Part V;
 - (iii) the name of the manufacturer and the model or version (name or No.) (where applicable) of all the Equipment in Schedule 6 (List of Major Equipment to be Supplied);
 - (iv) all such plans and information listed in Schedule 7 (List of Drawings and Information to be Submitted with the Tender) of Part V which are specified as essential submission in that Schedule; and
 - (v) the proposed Recognised Organisation (RO) and its rules and regulations, and class notation as required in Schedule 9 (Proposed Recognised Organisation) in Part V.

Otherwise, the Tenderer’s tender will not be considered further.

- (b) A Tenderer shall submit all of the following in the **Price Proposal** of its tender **before the Tender Closing Date**.
- (i) the unit price quotations for all items complying with the Offered Specifications as required in Part 1 to Part 3 of Schedule 1 (Price Schedule) of Part V.

Otherwise, the Tenderer’s tender will not be considered further.

- (c) In addition to Paragraphs (a) and (b) above, the Tenderer is required to provide all other information/supporting documents requested in these Tender Documents or relevant to its tender, including but not limited to the following:
- (i) the Tenderer’s information and corporate documents as required in paragraphs 1 and 2 of Schedule 8 (Tenderer’s Information);
 - (ii) information of Tenderer’s nominated shipyard and workshop facilities as required in Paragraph 3 of Schedule 8 (Tenderer’s Information) of Part V;
 - (iii) where applicable, the Sub-contractors’ information in paragraph 4 of Schedule 8 (Tenderer’s Information); and
 - (iv) a copy of a relevant document showing that the authorised person(s) who sign(s) the “Offer to be Bound” has/have the authority to sign for and on behalf of the Tenderer as required in Clause 5.6 of this Part II;
 - (v) all technical and descriptive literature and catalogues for the Equipment proposed in Schedule 6 and 7 as required in Clause 6 of Part II; and
 - (vi) the signed Non-collusive Tendering Certificate in Schedule 12 as required in Clause 34 of this Part II.

The Tenderer should provide all the above items at the same time when it submits the tender. If any of the above is found missing in a tender, the Government may, but is not obliged to, make a request for the missing item pursuant to Clause 19 of this Part II. If the Government does elect to request the missing item, but it is still not provided within the time specified by the Government, **the Tenderer’s tender may not be considered**

further. Alternatively, the Government may elect to evaluate the tender on an as is basis. Or further in the alternative, the Government will not consider the Tenderer's tender further without giving any opportunity to the Tenderer to make a resubmission.

- (d) The Tenderer may wish to provide the items below at the same time when it submits its tender for evaluation under the Marking Scheme.
- (i) "Excess Proposals" made by the Tenderer as follows:
1. particulars of Equipment exceeding the Offered Specifications in Schedule 6 (List of Major Equipment to be Supplied) together with all technical and descriptive literature and catalogues for such Equipment exceeding the Offered Specifications;
 2. any plan and information to be submitted in Schedule 7 (List of Drawings and Information) exceeding the Offered Specifications for such plan and information; and/or
 3. any Innovative Suggestions in Schedule 11 (Innovative Suggestions);
- (ii) Statement of compliance of desirable specifications in Item 26 of Schedule 5 (Statement of Compliance) under the heading of "Desirable Specifications"; and
- (iii) information and supporting documents to support the Tenderer's claimed experience in design and construction of vessels and Accreditations in Schedule 10 (Claim of Tenderer's Experience and Accreditations) for evaluation under Part (B) of the Marking Scheme of Annex D to Part II.

Where no information whatsoever is provided in relation to experience of designing and constructing a vessel(s) or an Accreditation or an Excess Proposal, the Government will evaluate the Tender on an "as is" basis. Where some information has been provided in Schedule 10 in relation to designing and constructing a vessel or an Accreditation, or some information about an Excess Proposal has been provided in the applicable Schedule, but there is other missing information or supporting document, the Government reserves the power, but not the obligation to seek the missing information or supporting documents. Alternatively, the Government may choose to evaluate the tender on an "as is" basis. Where there is no compliance statement in relation to any of the desirable specifications, it shall be deemed that the Tenderer does not elect to comply with it.

- (e) Nothing in this Annex shall limit the Government's absolute right to determine or to request any other information/supporting documents in connection with or arising out of this Invitation to Tender.

Important Note:

Tenderer should look out for any amendments to these Tender Documents that will be published on the Internet (<http://www.mardep.gov.hk>) as stipulated in Clause 37.1 of this Part II.

Annex C - Essential Requirements

Item	Tender Reference	Essential Requirements in Part VII
1	Paragraph 2.2.4 of Part VII of the Tender Documents	<p>The hull form of the proposed Vessel shall be one of the following:</p> <ul style="list-style-type: none"> a) A proven hull form which has been used for an existing vessel with the same principal dimensions and having a speed of not less than fifty (50) knots, and this existing vessel should have been successfully delivered for use by a law enforcement agency or a military organisation or coast guard agency in Hong Kong or any other parts of the world; or b) A design with modifications from the design based on an existing vessel having a speed of not less than fifty (50) knots with an LOA between 9m and 15m (both figures inclusive), which is in use by a law enforcement agency or a military organisation or a coast guard agency in Hong Kong or in any other parts of the world. The modified design shall be supported by the submission of details on how the proposed hull form was scaled up or down, what assumptions were made with justifications, and what is the proven method or theory used in the modification. Past examples of using such approach shall also be submitted.
2	Paragraph 2.3.1 of Part VII of the Tender Documents	<p>The proposed Vessels shall be designed and constructed in accordance with the latest edition of the rules and regulations of the RO acceptable to MD. For each and every Vessel, design approval and survey during construction shall be carried out by the RO, and examinations and tests shall be witnessed by the RO. A certificate issued by the RO as per Schedule 9 of Part V shall be provided for the Vessel on delivery.</p>
3	Paragraph 2.4.1 of Part VII of the Tender Documents	<p>When all of the engines are running at their declared maximum (rated) power, in WMO Sea State 0 to 2 under the Full Operational Load Condition specified in Paragraph 1.7.2(e) of Part VII the minimum achievable speed of the Vessel shall be 54 knots. Please also see Section (A)1(a) of Annex D to Part II Conditions of Tender.</p>
4	Paragraph 2.4.2 of Part VII of the Tender Documents	<p>When all of the engines are running at their declared maximum (rated) power, under Light Operational Load Condition specified in Paragraph 1.7.2(e) of Part VII the minimum achievable speed of the Vessel shall be 60 knots.</p>
5	Paragraph 2.4.3 of Part VII of the Tender Documents	<p>The proposed Vessel will have two (2) Contract Speeds, which shall both be assessed as part of the acceptance trials as detailed in Paragraph 1.7 of Part VII. The Contract Speeds are to be as follows:</p> <ul style="list-style-type: none"> a) The speed in Paragraph 2.4.2 of Part VII must be achieved in the Light Operational Load Condition specified in Paragraph 1.7.2(e) of Part VII; and b) The speed shall be the one offered and committed by the Tenderer in response to Section (A)1.(a) of Annex D of Part II under the Full Operational Load Condition specified in Paragraph 1.7.2(e) of Part VII, and in the event that the Tenderer do not offer, the speed shall be 54 knots as stipulated in Paragraph 2.4.1 of Part VII.

Item	Tender Reference	Essential Requirements in Part VII
6	Paragraph 2.5.1 of Part VII of the Tender Documents	Length Overall (LOA): 12.5 to 15 metres To include any fendering, transom overhang, crash bar and engines
7	Paragraph 2.5.2 of Part VII of the Tender Documents	Breadth: 3.5 to 4.0 metres To include any fendering
8	Paragraph 2.5.4 of Part VII of the Tender Documents	Deadrise Angle: not less than 22 degrees at transom
9	Paragraph 2.6.1 of Part VII of the Tender Documents	Material of hull, deck and mast structures shall be marine grade aluminium alloy.
10	Paragraph 2.7.1 of Part VII of the Tender Documents	The proposed Vessel shall be designed to have sufficient space for carrying at least two (2) crew and eighteen (18) other persons. Shock mitigating seats for all twenty (20) persons shall be provided with the Vessel as per Paragraphs 3.7.1 to 3.7.7 of Part VII.
11	Paragraph 2.7.2 of Part VII of the Tender Documents	The proposed Vessel shall be designed for deployment by the HKPF in Hong Kong Waters for all of the following operating profile, days per year and endurance: a) Number of hours /day: 6 hour/day b) Number of days/year: 330 days/year c) Endurance requirement is that, with the quantity of fuel equal to 90% of the total fuel tank(s) capacity, sufficient fuel for the Vessel shall have an endurance of 200 nautical miles at a speed of 40 knots for Full Operational Load Condition specified in Paragraph 1.7.2(e) of Part VII without refuelling. Please also see Section (A)1(b) of Annex D to Part II Conditions of Tender.
12	Paragraph 3.1.1 of Part VII of the Tender Documents	The hull configuration shall be a deep “V”, stepped hull. The deadrise at the transom shall be at least twenty-two (22) degrees but not more than twenty-four (24) degrees. The deadrise at the amidships shall be at least twenty-four (24) degrees. Suitable design features should be included to minimise potential “side-kick” or “skidding” effects during high-speed manoeuvring.
13	Paragraph 3.1.2 of Part VII of the Tender Documents	The strength of the hull structure shall be calculated based on reference acceleration at the longitudinal centre of gravity (LCG). This shall be not less than 6g where g is the acceleration due to gravity.
14	Paragraph 3.1.3 of Part VII of the Tender Documents	The Vessel structure shall be designed according to the RO’s requirements based on the Full Operational Load Condition provided in Paragraph 1.7.2(e) of Part VII, in association with the more onerous of the following: a) A design speed of 62 knots in WMO Sea State 0

Item	Tender Reference	Essential Requirements in Part VII
		b) The design speed of 54 knots in WMO Sea State 2 (0.5m significant wave height)
15	Paragraph 3.2.5 of Part VII of the Tender Documents	<p>Intact Stability Criteria</p> <p>The vessel stability shall be considered satisfactory if for the loading conditions set out in Paragraph 3.2.4(c)(i) of Part VII, the Vessel is shown to meet the criteria from Part A Chapter 2 of the IMO Intact Stability Code as specified in MSC.267(85) with the exception of criteria only applicable to passenger vessels and the severe weather criterion (Chapter 3, 3.2), or alternatively the intact stability criteria presented in the UK MCA Police Boat Code (PBC3).</p>
16	Paragraph 3.2.6 of Part VII of the Tender Documents	<p>Damaged Stability Criteria</p> <p>The vessel damaged stability shall be considered satisfactory if for all the loading conditions set out in Paragraph 3.2.4(c)(i) of Part VII, the Vessel is shown to comply with sub-paragraph (a) below with single compartment flooding.</p> <p>a) The Vessel shall remain afloat, with positive freeboard at a point anywhere along the length of the vessel</p>
17	Paragraph 3.6.7 of Part VII of the Tender Documents	It is essential that requirements stated in Paragraphs 3.6.1 to 3.6.6 of Part VII are complied with. The Contractor shall provide a preliminary design and construction drawing of the mast and its supporting structure, showing compliance with requirements stated in Paragraphs 3.6.1 to 3.6.6 of this Part VII.
18	Paragraph 3.8.3 of Part VII of the Tender Documents	The fender shall have a cross section of 'O' shape from bow to about 30% of the Vessel length and 'D' shape for the remaining length of the Vessel. The fender shall be of a foam-filled type with or without air core collar. For fender with air core collar, a tube automatic inflation and monitoring system shall be provided.
19	Paragraph 4.2.1 of Part VII of the Tender Documents	The proposed Vessel shall be powered by four (4) identical marine four-stroke outboard petrol spark ignition engines of adequate power to deliver the Contract Speeds as stated in Paragraphs 2.4.1 and 2.4.2 of Part VII. The engines shall drive stainless steel fixed pitch propellers through integral gearboxes. The two propellers driven by the two engines on the port side shall be rotating in the same direction, and the two propellers on the starboard side shall be counter rotating to those on the port side.
20	Paragraph 4.2.4 of Part VII of the Tender Documents	The engines shall have a three-star rating (ultra-low emission) or higher as per the California Air Resources Board star system that describes exhaust emissions of both two-stroke and four-stroke outboard engines or equivalent standards.

Item	Tender Reference	Essential Requirements in Part VII										
21	Paragraph 4.2.8 of Part VII of the Tender Documents	The engines shall be equipped with power trim with switches on the throttle controls/levers that enable the operator to adjust the trim angles on all engines from a single switch whilst making way. If the engines are not connected by a tie bar they shall have secondary individual trim control switches on the primary console. The engines shall be designed to trim fully down to start and be trimmed up as the Vessel gains momentum, until reaching the point just before ventilation begin.										
22	Paragraph 4.7.1 of Part VII of the Tender Documents	A gyroscopic roll stabilization (“Gyro-stabilizer”) system shall be installed onboard the Vessel. The purpose is to reduce roll and other motions and, thus, to improve vessel seakeeping when the Vessel is at rest (i.e. zero speed) or running at slow speeds. The Gyro-stabilizer must be of vacuum type, powered by DC electric supply, compact and self-contained.										
23	Paragraph 4.7.2 of Part VII of the Tender Documents	<p>The Gyro-stabilizer system shall provide the minimum reduction in percentage of roll angles as shown in the table below.</p> <table><tr><th>Roll angle (degrees)</th><th>Minimum Roll Reduction (%)</th></tr><tr><td>less than 12</td><td>80</td></tr><tr><td>15</td><td>60</td></tr><tr><td>20</td><td>45</td></tr><tr><td>25</td><td>35</td></tr></table> <p>The performance prediction of the gyro-stabilizer system shall be shown in a report which shall be submitted to GNC and HKPF. In calculating the performance of the gyro-stabilizer, the following parameters shall be used and be clearly stated in the report:</p> <ul style="list-style-type: none">a) Displacement, GM(t), rolling period, Full Operational Load Condition as stated in Paragraph 1.7.2(e) of Part VII;b) Power consumption (spool up and continuous operation) of the gyro-stabilizer system;c) Make and model of the gyro-stabilizer system; andd) A graph showing the percentage reduction of roll against the roll amplitude on degrees.	Roll angle (degrees)	Minimum Roll Reduction (%)	less than 12	80	15	60	20	45	25	35
Roll angle (degrees)	Minimum Roll Reduction (%)											
less than 12	80											
15	60											
20	45											
25	35											
24	Paragraph 4.10.1 of Part VII of the Tender Documents	The proposed Vessel shall be equipped with a heavy duty daughter boat for complimenting the operational requirements as stated in Paragraph 1.2.2 of Part VII. The daughter boat shall be of a standard design which have been supplied for use by government law enforcement agencies in Hong Kong or any other parts of the world. Requirements given in Paragraphs 4.10.2 to 4.10.5 of Part VII shall be complied with.										

Annex D – Marking Scheme

(A) Technical Aspect	85	
Assessment Criteria	Maximum Marks out of total 100 marks	Guidelines to Tenderers for Attaining Marks in Technical Assessment
1. Functional Aspects		
(a) Contract Speed In addition to the speed requirement as given in Paragraph 2.4.1 of Part VII, it is desirable that the Contract Speed for the Full Operational Load Condition committed by the Tenderer, based upon the propulsive power estimate submitted in Schedule 7 (List of Drawings and Information) of Part V for the proposed Vessel, shall be more than 54 knots as stated in the third column opposite. <i>(See also Paragraph 2.4.1 of Part VII Technical Specifications)</i>	15	Marks will be given as follows:
		(i) 15 marks :- Contract Speed \geq 57.0 knots
		(ii) 12 marks :- 56.0 knots \leq Contract Speed < 57.0 knots
		(iii) 8 marks :- 55.0 knots \leq Contract Speed < 56.0 knots
(b) Endurance Requirements In addition to the endurance requirements given in Paragraph 2.7.2(c) of Part VII, it is desirable that the Vessel when loaded in the Full Operational Load Condition, with 90% of total fuel capacity, committed by the Tenderer shall be able to achieve an endurance of more than 200 nm at a speed of 40 knots without refuelling as stated in the third column opposite. <i>(See also Paragraph 2.7.2(c) of Part VII Technical Specifications)</i>	15	Marks will be given as follows:
		(i) 15 marks :- Endurance \geq 230 nm.
		(ii) 11 mark :- 220 \leq Endurance < 230 nm.
		(iii) 7 marks :- 210 \leq Endurance < 220 nm.
		(iv) 3 marks :- 200 < Endurance < 210 nm.

2. Operational Aspects		
<p>(a) Avoidance Line test</p> <p>In addition to the requirement of Avoidance Line Test as specified in Paragraph 2.2.3 of Annex 7 to Part VII, it is desirable that the Vessel shall demonstrate a distance from the point of start-of-turn to the imaginary line of maximum distance with marks to be awarded as set in the third column opposite.</p> <p>The marks as set in the third column opposite will be awarded if (a) a full scale trial of the proposed vessel is conducted with the report submitted, where the full scale trial was carried out in accordance with paragraph 2.2.3 of Annex 7 to Part VII; or (b) a computational fluid dynamics (CFD) calculation is carried out with the report submitted, where the parameters used are per paragraph 2.2.3 of Annex 7 to Part VII; or (c) a model tank test is carried out with the report submitted, where the parameters used are per paragraph 2.2.3 of Annex 7 to Part VII. The report submitted as per above (a) or (b) or (c) must be endorsed as accurate by one of the ROs as listed in Paragraph 2.3.3(a) of Part VII.</p> <p><i>(See also paragraph 2.2.3 of Annex 7 to Part VII Technical Specifications)</i></p>	20	<p>Marks will be given as follows:</p>
		<p>(i) 20 marks :- The Vessel shall achieve the distance from the point of start-to-turn to the imaginary line of not more than forty (40) metres.</p>
		<p>(ii) 15 marks :- The Vessel shall achieve the distance from the point of start-to-turn to the imaginary line of more than forty (40) meters but not more than fifty (50) metres.</p>
		<p>(iii) 10 marks :- The Vessel shall achieve the distance from the point of start-to-turn to the imaginary line of more than fifty (50) metres but not more than sixty (60) metres.</p>
		<p>(iv) 5 marks :- The Vessel shall achieve the distance from the point of start-to-turn to the imaginary line of more than sixty (60) metres but not more than seventy (70) metres.</p>

<p>(b) U-Turn Test</p> <p>In addition to the requirement of the U-Turn Test as specified in Paragraph 2.1.4 of Annex 7 to Part VII, it is desirable that the Vessel shall achieve the minimum time with marks to be awarded as set in the third column opposite (both turning port and starboard sides).</p> <p>The marks as set in the third column opposite will be awarded if (a) a full scale trial of the proposed vessel is conducted with the report submitted, where the full scale trial was carried out in accordance with paragraph 2.1.4 of Annex 7 to Part VII; or (b) a computational fluid dynamics (CFD) calculation is carried out with the report submitted, where the parameters used are per paragraph 2.1.4 of Annex 7 to Part VII; or (c) a model tank test is carried out with the report submitted, where the parameters used are per paragraph 2.1.4 of Annex 7 to Part VII. The report submitted as per above (a) or (b) or (c) above must be endorsed as true and correct by one of the ROs as listed in Paragraph 2.3.3(a) of Part VII.</p> <p><i>(See also paragraph 2.1.4 of Annex 7 to Part VII Technical Specifications)</i></p>	15	<p>Marks will be given as follows:</p>
		<p>(i) 15 marks :- The Vessel shall be able to make a U-Turn (both port and starboard sides) at the specified speeds in not more than 28 seconds.</p>
		<p>(ii) 12 marks :- The Vessel shall be able to make a U-Turn (both port and starboard sides) at the specified speeds in more than twenty eight (28) seconds but not more than thirty two (32) seconds.</p>
		<p>(iii) 8 marks :- The Vessel shall be able to make a U-Turn (both port and starboard sides) at the specified speeds in more than thirty two (32) seconds but not more than thirty four (34) seconds.</p>
<p>3. Innovative Suggestions</p>		
<p>Tenderers are encouraged to include in Schedule 11 (Innovative Suggestions) of Part V Innovative Suggestions which are directly relevant to the procurement of the Vessel and will bring benefits in the third column in the table in Schedule 11.</p>	20	<p>Marks will be given as follows:</p>
		<p>(i) 5 marks :- Special features of vessel design and/or equipped with specialist equipment if applicable for enhancing Maritime Counter Terrorism Operations.</p>

<p>It is desirable that the Vessel has enhanced capability in areas not already covered by this Annex D of Part II. These enhancements should increase the Vessel's capability to operate in the following roles as stated in Paragraph 1.2.2 of Part VII.</p> <p>(a) Maritime Counter Terrorism Operations</p> <p>(b) Tactical boarding of non-compliant large Ocean Going Ships</p> <p>(c) Tactical, Security and Search Diving / Sonar Operations</p> <p>(d) Rapid Response Duty – conveying highly trained tactical personnel and equipment to mission critical Maritime Operation Deployments</p> <p><i>(See also Paragraph 1.2.2 of Part VII Technical Specifications)</i></p>		<p>(ii) 5 marks :-</p> <p>Special features of vessel design and/or equipped with specialist equipment if applicable for enhancing tactical boarding of large ocean going ships.</p>
		<p>(iii) 5 marks :-</p> <p>Special features of vessel design and/or equipped with specialist equipment if applicable for enhancing Tactical, Security and Search Diving / Sonar Operations.</p>
		<p>(iv) 5 marks :-</p> <p>Special features of vessel design and/or equipped with specialist equipment if applicable for enhancing Rapid Response Duty – conveying highly trained tactical personnel and equipment to mission critical Maritime Operation Deployments.</p>

(B) Experience and Accreditations	15	
Assessment Criteria	Maximum Marks out of total 100 marks	Guidelines to Tenderers for Attaining Marks in Experience and Accreditations
1. Tenderer's Experience in Design and Construction of Vessel(s)		
(a) Years of experience in vessel design and construction The Tenderer has experience (in terms of number of years of experience) in the design and construction of the following vessels in the past ten (10) years prior to the Original Tender Closing Date: (i) aluminium hull vessels; and (ii) vessels used by law enforcement agencies or military organisations or coast guard agencies in Hong Kong or any other part of the world. Marks will be scored by the Tenderer in the third column opposite based on the information provided in Schedule 10 of Part V.	6	Marks will be given as follows:
		(i) 6 marks :- The Tenderer has an aggregate of six (6) years of experience in designing and constructing vessels as described in the first column opposite.
		(ii) 3 marks :- The Tenderer has an aggregate of four (4) years of experience in designing and constructing vessels as described in the first column opposite.
(b) Experience in quantity of vessels being designed and constructed The Tenderer has experience (in terms of number of vessels) in the design and construction of the following vessels in the past ten (10) years prior to the Original Tender Closing Date.: (i) aluminium hull; (ii) length overall between 9.0 and 15.0 metres; (iii) breadth overall between 3.0 and 4.0 metres; (iv) deadrise angle at transom between 20° and 25°; (v) speed of at least 50 knots; (vi) propelled by at least 2 outboard engines; and	6	Marks will be given as follows:
		(i) 6 marks :- The Tenderer has designed and constructed at least 15 vessels as described in the first column opposite.
		(ii) 3 marks :- The Tenderer has designed and constructed at least 10 and less than 15 vessels as described in the first column opposite. (iii) 1 mark :- The Tenderer has designed and constructed at least 5 and less than 10 vessels as described in the first column opposite.

(vii) supplied to at least 8 law enforcement agencies or military organisations or coast guard agencies in Hong Kong or any other part of the world.		
Marks will be scored by the Tenderer in the third column opposite based on the information provided in Schedule 10 of Part V.		
2. Accreditations		
The Tenderer has attained the following accreditation (collectively, “Accreditations”) as at the Original Tender Closing Date: International Organization for Standardization (ISO) : ISO 9001 and ISO 14001; and Occupational Health and Safety Assessment Series (OHSAS) : OHSAS 18001	3	Marks will be given as follows:
		(i) 3 marks :- The Tenderer has attained any two of the three Accreditations and has produced supporting documents of all such Accreditations which are valid as at the Original Tender Closing Date.
		(ii) 1 mark :- The Tenderer has attained any one of the three Accreditations and has produced supporting documents of the Accreditation which is valid as at the Original Tender Closing Date.
Total Marks	100	

Note 1: The evaluation in accordance with the assessment criteria will be conducted on the basis of the plans and proposals submitted by the Tenderer as specified in such assessment criteria and supporting information and documents (including without limitation product specification published by the manufacturer or test reports or certificates). In the absence of such supporting documents, the relevant plan or proposal will not be taken into account in the evaluation.

Note 2: For the purpose of facilitating the Government to evaluate Innovative Suggestions proposed for earning marks under assessment criterion (A)3, unless the Government exercises its discretion to cancel the presentation and/or demonstration, all Tenderers whose tenders are being evaluated under this Marking Scheme may at the option of the Government be requested to attend and perform a presentation and/or demonstration to present and/or demonstrate the Innovative Suggestions (all or any of them). This presentation and/or demonstration are not mandatory in order for the Innovation Suggestions to be evaluated under this Marking Scheme. The Government may issue the invitation to all Tenderers' whose tenders are evaluated under this Marking Scheme, or may opt not to issue such invitation. Even if an invitation is issued, a Tenderer may elect

to attend or not to attend. The performance of the presentation and/or demonstration will not be directly evaluated but to provide a means to facilitate the Government to evaluate the Innovative Suggestions in accordance with the stated assessment criteria. For Tenderers who have not agreed with the Government on the date and venue of such presentation and/or demonstration within 5 working days from the date of the Government's request will be deemed as electing not to attend.

Note 3: The Tenderer's experience under assessment as per criteria (B)1(a) and (B)1(b) in completing the design, construction and delivery of vessel(s) must have been gained as a primary contractor. Experience gained in the capacity of a joint venture party or a sub-contractor will **not** be considered. Save in the case of a Tenderer which is an incorporated joint venture or unincorporated joint venture as evidenced by a joint venture agreement, the experience of a parent, subsidiary, or affiliated company of the Tenderer will not be counted and considered in the tender evaluation. In the case of a joint venture, the experience of the joint venture or the experience of a joint venture party to that joint venture may be counted in accordance with Clauses 8.4 of Part II – Conditions of Tender.

Note 4: "completion", "completing" or "completed" in Assessment Criteria (B)1(a) and (B)1(b) means the design and construction of the vessel(s) had been completed and the vessel(s) had been delivered to and accepted by the purchaser with supporting documents as defined in Schedule 10 of Part V. The completion date shall be treated as the date of acceptance of the completed vessel by the purchaser.