

Tender Addendum No. 1

Tender Reference: Marine Department Shipbuilding Tender No. 4/2022
Procuring Department: Marine Department
Subject: Supply of One (1) Aluminium Alloy General Purpose Launch
for the Water Supplies Department

Amendments as follows:

Original paragraph 29.1 of Part IV – Conditions of Contract

29.1 *Without prejudice to other rights and claims of the Government under the Contract or at law, the Government shall be entitled to terminate the Contract by serving a 14 days' notice in writing on the Contractor if:*

Should read as

29.1 *Without prejudice to other rights and claims of the Government under the Contract or at law, the Government shall be entitled to terminate the Contract by serving a 14 days' notice in writing on the Contractor (or in the case of any of the events specified in Clauses 29.1.10 to 29.1.12, by serving immediate notice on the Contractor) if:*

New paragraphs 29.1.10 to 29.1.12 of Part IV – Conditions of Contract

- 29.1.10 *the Contractor has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security;*
- 29.1.11 *the continued engagement of the Contractor or the continued performance of the Contract is contrary to the interest of national security; or*
- 29.1.12 *the Government reasonably believes that any of the events mentioned above is about to occur.*

Paragraphs 29.5 to 29.6 of Part IV – Conditions of Contract shall to be deleted

- ~~29.5 *The Contractor has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security.*~~
- ~~29.6 *The continued engagement of the Contractor or the continued performance of the Contract is contrary to the interest of national security.*~~

Original paragraph 29.7 of Part IV – Conditions of Contract

29.7 *Each of the grounds entitling the Government to terminate the Contract as specified in Clauses 29.1 to 29.6 above shall be construed independently and shall not be limited or restricted by reference to or inference from any other ground or any other provision of this Contract.*

Should read as

29.5 *Each of the grounds entitling the Government to terminate the Contract as specified in Clauses 29.1 to **29.4** above shall be construed independently and shall not be limited or restricted by reference to or inference from any other ground or any other provision of this Contract.*

New paragraph 51 of Part IV – Conditions of Contract

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

51.1 *The Government and the Contractor agree that the provisions of the shall not apply to this Contract.*

The Notes of Part VI – Offer to be Bound shall to be deleted

Notes:—

~~(i) For Paper based Tendering, the Offer to be Bound to be submitted shall be Part VI of this Tender Form or a printed copy from a softcopy of Part VI of this Tender Form or a photocopy or a scanned copy of such hardcopy or printed copy. Any manner of reproduction of Part VI of this Tender Form (including copy typing) to be submitted as the Offer to be Bound shall not be acceptable and the Tender with the non-conforming Offer to be Bound will **not be considered further.**~~

~~(ii) *For Paper based Tendering, this Part VI Offer to be Bound shall be signed and submitted in the Tender before the Tender Closing Time. This signed Part VI Offer to be Bound to be submitted must not be a photocopy of the original, otherwise, **the Tender will not be considered further.**~~

備註:—

~~(i) 就紙張式投標而言，投標者遞交的「應約履行」須是本投標表格的第VI部分，或本投標表格第VI部分的軟拷貝打印本，又或其硬複本或打印本的影印本或掃描本。投標者為遞交「應約履行」而以任何方式複製本投標表格的第4部分（包括以打字方式複製表格）均不獲接受。如「應約履行」不符合上述要求，有關標書將不獲進一步考慮。~~

~~(ii) *就紙張式投標而言，第VI部分「應約履行」須在截標時間前簽署和遞交。投標者遞交的第VI部分「應約履行」須為已簽署的正本，不得為影印本，否則有關標書將不獲進一步考慮。~~

The revised pages are attached for replacement. Please replace the relevant pages by the revised ones attached and submit your tender together with the revised pages.

The above amendment shall form part of the Tender Documents. Apart from the above, all other terms and conditions of tender/contract shall remain unchanged.

Interested parties are reminded that the Tender Closing Date is **14 April 2023**. To be considered as a valid tender, tenderers must deposit their tender proposals in the Marine Department Tender Box situated at the Public Waiting Area on 3rd floor (outside Central Marine Office, Room 308), Harbour Building, 38 Pier Road, Hong Kong or where applicable, other places assigned by a Government officer for depositing bulky tenders (in either case, whichever is applicable, "Specified Tender Box") **before 12:00 noon on Friday, 14 April 2023** in accordance with the manner stipulated in the Tender Documents. A late tender or a tender not submitted in accordance with the manner stipulated in the Tender Documents will not be considered further.

If you have already submitted your tender proposals and wish to make change to them, you should do so by submitting a revised proposal in accordance with the manner stipulated in the Tender Documents.

first having recourse to any other security or rights or taking any other steps or proceedings against the Contractor or any other person, or may be enforced for any balance due after resorting to any one or more of other means of obtaining payment or discharge of the monies, obligations and liabilities owing by the Contractor to the Government.

28.6 If any deduction shall be made by the Government from the Contract Deposit or a call shall be made on the Bank Guarantee or Advance Payment Bond during the Guarantee Period, the Contractor shall, within 21 days on demand in writing by the Government, deposit a further sum or provide a further Bank Guarantee or Advance Payment Bond, in a sum equal to the amount so deducted or so called and such further sum shall be added to the residue of and form part of the Contract Deposit and/or Advance Payment Bonds for the security amount required under Clause 28.1 above.

28.7 Where by the time of expiry of the Guarantee Period, any claim of the Government or any liability of the Contractor, whether under or arising from or in relation to the Contract cannot yet be quantified, the Government may, without prejudice to its other rights and remedies, pay the entire Contract Deposit or any part thereof (whether in cash or in Banker's Guarantee), Advance Payment Bond(s) and Retention Money into a suspense account, for so long as it considers necessary, and pending the quantification of the amount of the claim or liability. Upon quantification of the amount of all or any claims or liabilities, the Government shall apply the amount in the suspense account in or towards satisfaction of the quantified amount. Where there is any remaining amount in the suspense account after such application, the Government will return the remaining amount to the Contractor without interest. Where the amount in the suspense account is insufficient to cover all or any claims or liabilities, the Government reserves all rights and remedies against the Contractor in respect of such claims and liabilities.

29 TERMINATION OF THE CONTRACT AND CHANGES TO THE WORK

29.1 Without prejudice to other rights and claims of the Government under the Contract or at law, the Government shall be entitled to terminate the Contract by serving a 14 days' notice in writing on the Contractor (or in the case of any of the events specified in Clauses 29.1.10 to 29.1.12, by serving immediate notice on the Contractor) if:

29.1.1 the Contractor persistently or flagrantly fails to carry out the whole or any part of the Work punctually or in accordance with the terms and conditions of the Contract; or

29.1.2 the Contractor fails to observe or perform any of its obligations under the Contract and (in the case of a breach capable of being remedied) has failed to remedy the breach to the satisfaction of the Government Representative within 14 days (or such longer period as the Government Representative may, in its sole discretion, allow) after the issuance by the Government Representative to the Contractor of a notice in writing requiring it to do so; or

29.1.3 the Contractor fails to pay any of the sums payable by the Contractor under the Contract; or

29.1.4 any of the warranties, representations or undertakings made or deemed to have been made by the Contractor to the Government in the Contract or in its tender for the Contract or otherwise during the continuance of the Contract (including without limitation any of the Warranties) is untrue or incomplete or inaccurate; or

29.1.5 a petition is presented or a proceeding is commenced or an order is made or an effective resolution is passed for the winding-up, insolvency, bankruptcy, administration, reorganisation, reconstruction, or dissolution of the Contractor otherwise than for the purpose of a solvent reconstruction or amalgamation previously approved by the Government Representative in writing, or the Contractor

- makes any composition or arrangement with creditors; or a receiver, administrator, trustee or similar officer has been appointed in respect of the Contractor or all or any part of its business or assets; or
- 29.1.6 the Contractor abandons the Contract in part or in whole; or
- 29.1.7 the Contractor has failed to complete any activity in any of the Timetables (as defined in Clause 11.3) for more than six (6) weeks from the original scheduled completion date as specified therein; or
- 29.1.8 the Contractor assigns or transfers or purports to assign or transfer all or any part of the Contract or all or any of its rights or obligations thereunder without the prior written consent of the Government; or
- 29.1.9 without prejudice to the generality of the foregoing grounds for termination, if any event or circumstance occurs which enables the Government to terminate the Contract under Clause 34.3(c) (Warranty against Collusion) of Part II – Conditions of Tender or any one of the following provisions in these Conditions of Contract:
- Clause 12.6.7 (Acceptance Tests and Trials);
 - Clause 14.4 (Rejection after Acceptance);
 - Clause 21.7 (Indemnities);
 - Clause 32.1 (Illegal Workers); and
 - Clause 34.3 (Prevention of Bribery).
- 29.1.10 the Contractor has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security;
- 29.1.11 the continued engagement of the Contractor or the continued performance of the Contract is contrary to the interest of national security; or
- 29.1.12 the Government reasonably believes that any of the events mentioned above is about to occur.
- 29.2 Notwithstanding anything herein to the contrary, the Government may at any time during the continuance of the Contract, and by not less than one month's prior written notice to the Contractor, make such changes (whether addition or reduction) as the Government deems appropriate to the scope of the Work to be carried out or the Vessel, Equipment and/or Deliverables to be procured. The cost of such changes (if any) shall be deduced, where applicable, on the basis of the unit price specified in the applicable Schedule, or in the absence of which it shall be agreed between the Government and the Contractor. For the avoidance of doubt, any changes may include without limitation changes (addition or reduction) of the number of Vessel to be procured, addition or deletion of the Equipment or Deliverables to be procured, or changes in the scope of the Work.
- 29.3 If any of the events specified in Clause 29.1 occurs, or pursuant to Clause 12.6.7 or 14.4, the Government may choose only to effect partial termination of the Contract whereupon the Government shall partially terminate the Contract by giving a notice to this effect to the Contractor (“**Partial Termination**” or “**partial termination**”) in relation to those Vessel, Equipment and Deliverables in relation thereto, and/or Spare Parts and/or other Deliverables as specified in the Partial Termination notice (collectively, “**Rejected Items**”).
- 29.4 Where there is a Force Majeure Event, pursuant to Clause 31.6 or Clause 31.7, the Government may terminate the Contract in part or in whole.
- 29.5 Each of the grounds entitling the Government to terminate the Contract as specified in Clauses 29.1 to 29.4 above shall be construed independently and shall not be limited or restricted by reference to or inference from any other ground or any other provision of this Contract.

- 50.3.3 the power of a public officer to act by his own title or for the Government Representative or for the Government in any legal proceedings arising from or in connection with or in relation to the Contract (including the Secretary for Justice);
- 50.3.4 the rights and obligations of any personal representative, administrator or other successor-in-title of the Contractor;
- 50.3.5 the rights and obligations of any assignee or transferee of the Contractor under any assignment or transfer which has been approved by the Government pursuant to Clause 35 but not otherwise;
- 50.3.6 the rights and obligations of any Government's successor-in-title and person deriving title under any of them, and the Government's assignee and transferee (and in the case of assignee or transferee, in accordance with the terms of the assignment and transfer agreed by the Government); and
- 50.3.7 the rights of the Government and Government Representative under any guarantee or undertaking or insurance policy or other collateral contract granted or issued or entered into by any person other than the Contractor pursuant to the terms of the Contract.

51. UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS NOT APPLICABLE

- 51.1 The Government and the Contractor agree that the provisions of the shall not apply to this Contract.

Part VI – Offer to be Bound

Supply of One (1) Aluminium Alloy General Purpose Launch

for the Water Supplies Department

1. Reference is made to the Invitation to Tender (Tender Reference: Marine Department Shipbuilding Tender No. 4/2022) issued by the Government of the Hong Kong Special Administrative Region of the People’s Republic of China. All capitalised terms used herein have the meanings ascribed to them in the tender documents published by the Government in connection with such invitation to tender (“Tender Documents”).
2. In response to this Invitation to Tender, we, the Tenderer named below, hereby offer our tender to provide the Vessel, the Equipment, the Deliverables and perform all Work on and subject to the terms and conditions set out in the Tender Documents, and in the proposal accompanying our tender.
3. We have read and fully understood the Tender Documents, and in consideration of the Government agreeing to assess our tender in accordance with the Conditions of Tender, hereby as a Tenderer AGREE to be bound by all the terms and conditions set out in the Tender Documents.

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

Name of the Tenderer :

Name and title of
the authorised signatory :
(where applicable)

Date :

中文譯本 (Chinese Version)
只供參考 (For Reference Only)
[請投標者填寫英文版]
(Please complete the English Version)

第VI部分 — 應約履行

1. 本部分與中華人民共和國香港特別行政區政府發出的招標(**Invitation to Tender**) (招標編號：海事處造船招標公告第4/2022號) 有關。本部分以粗體顯示的詞語的涵義源自政府(**Government**)就是項招標發布的招標文件(**Tender Documents**)。
2. 因應是項招標，我們 (即下述投標者(**Tenderer**)) 現提交標書，提出按照及遵照招標文件(**Tender Documents**)載列的條款及條件以及我們提交的標書所附的建議供應船舶(**Vessel**)、設備(**Equipment**)、交付品(**Deliverables**)，並執行所有工作(**Work**)。
3. 我們已閱讀及完全明白招標文件的內容。鑑於政府同意按投標條件(**Conditions of Tender**)評審我們的標書，我們作為投標者現同意受招標文件載列的所有條款及條件約束。

由投標者簽署／

獲授權簽署人

為及代表投標者簽署

投標者名稱／姓名

獲授權簽署人姓名及職位

(如適用)

日期

[請投標者填寫及簽署英文版]
(Please complete and sign the English Version)