

Conditions of Contract

CONDITIONS OF CONTRACT

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CONDITIONS OF CONTRACT

1. DEFINITIONS

1.1 In these Conditions unless the context otherwise requires:

- (a) "FAS" means Football Association of Singapore and includes any officer authorized by the Football Association of Singapore to act on its behalf.
- (b) "Contract" means the contract between the FAS and the Contractor for the Services and includes the Contractor's tender, Instructions to Tenderers, these Conditions, the specifications and samples, Letter of Acceptance, and any Works Orders issued by the FAS to the Contractor for the supply of the Services.
- (c) "Services" means the work which the Contractor is required to perform under the Contract.
- (d) "Tenderer" means a person or his permitted assigns offering to supply the Services.
- (e) "Contractor" means the successful Tenderer who has been awarded the Contract by the FAS.
- (f) "Parties" refer to the FAS and the Contractor.
- (g) "Person" includes a corporation or an incorporated association.

1.2 Words importing the singular include the plural and vice versa.

1.3 The headings are for convenience only and not for the purpose of interpretation.

2. SCOPE OF CONTRACT

2.1 The Contractor shall perform the Services in accordance with the Contract.

3. COMMENCEMENT

3.1 The Contractor shall commence the Services by the Commencement Date as stated in *clause 1 of Annex A* to these Conditions and in the manner specified in the Contract.

3.2 The Contractor shall ensure that the insurance cover as specified in Clause 9 of Annex A is in force prior to the Commencement Date and is maintained throughout the duration of the Contract.

4. PAYMENT

4.1 Within thirty (30) days of delivery of the Services ordered under the Contract, as above provided, and upon presentation by the Contractor of his bills and the FAS' receipt aforesaid the FAS will make payment to the Contractor of the full value of all Services so performed provided that no payment shall be considered as evidence of the quality of any Services to which such payments relates.

4.2 The payments under this clause shall not prejudice the FAS's right to subsequently reject deficient Services and/or require the Contractor to rectify and/or re-perform the deficient Services.

4.3 Without limiting the FAS's right under the Contract, the amount of any payment or debt owed by the Contractor to the FAS under the Contract may be deducted by the

4.4 FAS from any monies payable by the FAS to the Contractor pursuant to this Contract.

5. RIGHTS OF THIRD PARTIES

5.1 A person who is not a party to this Contract shall have no right under the Contracts (Rights of Third Parties) Act to enforce any of its terms.

6. GIFTS, INDUCEMENTS OR REWARDS

6.1 The FAS may terminate the Contract and to recover from the Contractor the amount of any loss resulting from such termination, if the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing to forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract with the FAS or for showing or forbearing to show favour to any person in relation to any contract with the FAS, or if the like acts shall have been done by any person employed by the Contractor or acting on his behalf (whether with or without the knowledge of the Contractor) or if in relation to any Contract with the FAS the Contractor or any person employed by him or acting on his behalf shall have committed any offence under Chapter IX of the Penal Code or the Prevention of Corruption Act or shall have abetted or attempted to commit such an offence or shall have given any fee or reward the receipt of which is an offence under Chapter IX of the Penal Code or the Prevention of Corruption Act.

7. DELAY IN PERFORMANCE

7.1 Subject to Clause 10, if the Contractor fails to complete the performance of Services by the date specified in the Contract, the FAS shall have the right -

(a) to cancel all or any such items of Services from the Contract without compensation and obtain them from other sources and all increased costs thereby incurred shall be deducted from any moneys due or to become due to the Contractor or shall be recoverable as damages; or

(b) to deduct from any moneys due or to become due to the Contractor or require the Contractor to pay, a sum calculated at the rate(s) stipulated in clause 2 of Annex A (including Saturdays, Sundays and Public Holidays), as liquidated damages for every day of delay until the Services are performed.

8. SUB-CONTRACTING AND ASSIGNING

8.1 The Contractor shall not sub-contract or assign the Contract without the prior written consent of the FAS.

9. APPLICABLE LAW

9.1 The Contract and all its subsequent variations shall be subject to, governed by and interpreted in accordance with the domestic Laws of the Republic of Singapore for every purpose.

10. SUSPENSION OR TERMINATION

10.1 If there is delay in the performance of the Services under the Contract due to any of the following circumstances, namely, acts of God, force majeure, riots and civil commotion, strikes, lock-outs or other causes or perils beyond the Contractor's control, then in any such

case the Contractor shall for the duration of any such circumstance aforesaid, be relieved of his obligation to perform such Services thereby affected but the provisions of the Contract shall remain in full force in regard to any Services not affected by such circumstances aforesaid.

- 10.2 The FAS may, after giving seven (7) days prior written notice to the Contractor, have the right to suspend or terminate the Contract if the events described in Clause 10.1 above persist for more than 10 days. Neither party shall be liable to the other by reason of such suspension or termination save that the FAS shall pay the Contractor the price of the Services performed and accepted by the FAS. The Contractor shall refund the balance of any payments or deposits from the FAS after deducting any outstanding sums owing by the FAS to the Contractor by reason of this Clause.
- 10.3 (a) The FAS may at any time give to the Contractor a written notice of termination 90 days in advance without furnishing any reason for the termination. This shall have the effect of terminating the employment of the Contractor under the Contract with effect from the expiry of the 90-day period ("the date of termination").
- (b) In the event of a notice of termination being served by the FAS under sub-clause (a) above:-
- (i) the FAS shall continue to make the monthly payments under the Contract to the Contractor up to the date of termination (less any monies that the FAS may be entitled to withhold or deduct under the Contract);
 - (ii) the Contractor shall not be entitled to the monthly or any other payment for the period after the date of termination; and
 - (iii) the Contractor shall thereafter have no further claim whatsoever against the FAS under the Contract.
 - (iv) any rights accruing or already accrued to the FAS shall not be affected.
- 10.4 The FAS may terminate this Contract with immediate effect by giving notice in writing to the Contractor on any one of the following grounds:
- (a) If the Contractor becomes bankrupt or insolvent or makes a composition with creditors or if, being a company, a winding-up order of any kind is made in respect of the Contractor, and/or if a receiver or manager (including judicial manager) is appointed over the Contractor's undertaking or assets or possession of or execution on any part of such undertaking or assets is taken or levied by creditors.
 - (b) If any of the Contractor's license or permit related to the Contract is revoked or suspended.
 - (c) If the Contractor does not comply with or is in breach of any requirement under any applicable laws, regulations and rules.
 - (d) If any irregularity or fraud relating to the Contract is discovered to have been committed by the Contractor or if the Contractor breaches any of the applicable laws, regulations and rules governing procurement by the FAS, including but not limited to the Government Procurement Act (Cap. 120) and the subsidiary legislation under the Act.
 - (e) If the Contractor does not comply with or is in breach of any FAS guidelines for Term Contractors.

10.5 Upon termination under this Sub-Clause 10.4

- (i) the FAS may engage other contractors to continue with the supply and delivery of Goods and/or Services and the Contractor shall be liable to the FAS for all damages and additional costs incurred thereby; and
- (ii) the FAS may withhold payment of any monies payable to the Contractor until the damages and costs payable to the FAS arising from such termination are quantified and ascertained by the FAS (such quantification and ascertainment to be made within a reasonable time). The FAS shall be entitled to deduct such damages and costs from the monies payable to the Contractor.

10.6 The rights of the FAS specified under this Clause 10 shall be in addition to such other rights and remedies as the FAS may have or be entitled to against the Contractor under the other provisions of this Contract or under statute or the common law.

11. RIGHTS OF THE FAS IN THE EVENT OF DEFAULT BY THE CONTRACTOR

11.1 If the Contractor defaults in his performance of this Contract, the FAS may issue a notice of default to the Contractor informing the Contractor of its default. The Contractor shall, within thirty (30) days of the date of the notice of default, remedy the default. If the Contractor fails to do so, the Contractor shall be taken to have repudiated the Contract and the FAS shall have the right to terminate the Contract or cancel any part thereof by way of a written notice to the Contractor without the FAS being liable therefore in damages or compensation. The said termination shall take effect from the date of the notice of termination.

The Contractor shall also be taken to have repudiated the Contract if the Contractor defaults in his performance of this Contract on more than 2 occasions notwithstanding that the Contractor may have remedied each default within thirty (30) days of the date of the notice of default. In such an event, the FAS shall similarly have the right to terminate the Contract or cancel any part thereof by way of a written notice to the Contractor.

The said termination under this Sub-Clause 11.1 shall take effect from the date of the notice of termination without the FAS being liable to the Contractor for any loss of profits, compensation or damages.

In the event of termination under Sub-Clause 11.1 above, the FAS shall have the right to purchase from other sources all the Services which remains unperformed at the time of termination or similar Services, and all increased costs reasonably incurred by the FAS shall be recoverable from the Contractor.

12. VARIATION OF CONTRACT

12.1 No variation whether oral or otherwise to the terms of this Contract shall apply thereto unless such variation shall have first been expressly accepted in writing by the Contractor and the authorized contract signatory of the FAS.

13. TAXES, FEES AND DUTIES

- 13.1 The Contractor shall be responsible for all corporate and personal income taxes, customs fees, duties, fines, levies, assessments and other taxes payable under the laws of Singapore, by the Contractor or its employees, including the Contractor's resident engineers and inspectors (if applicable), in carrying out its obligation under the Contract.
- 13.2 If the FAS receives a request from the tax authorities to pay on behalf of the Contractor and/or the Contractor's employees, or to withhold payments from the Contractor in order that the FAS may subsequently so pay, any of the abovementioned taxes, fees, duties, fines, levies and assessments, the Contractor hereby authorizes the FAS to comply with the terms of the said request.
- 13.3 The FAS shall pay to the Contractor a sum equal to the Singapore Goods and Services Tax chargeable on the supply to the FAS of any services by the Contractor in accordance with the Contract. For clarification, "Goods and Services Tax" shall refer to tax under the (Singapore) Goods and Services Tax Act, Cap. 117A (2005 Rev Ed.).
- 13.4 Any invoice or other request for payment of monies due to the Contractor under the Contract shall, if he is a taxable person for the purpose of the Singapore Goods and Services Tax, be in the same form and contain the same information as if it were a tax invoice for the purposes of the Regulations made under the Goods and Services Tax Act, Cap. 117A (2005 Rev Ed.).

14. GOVERNMENTAL REGULATIONS

- 14.1 The Contractor shall, at its own costs, obtain and maintain all licenses and authorizations, including export licenses and permits and other governmental authorizations or certification required without any restrictions or qualifications whatsoever so as to enable the Contractor to fulfill all its obligations under the Contract.

15. INDEMNIFICATION OF FAS AGAINST CLAIMS BY CONTRACTOR'S EMPLOYEES

- 15.1 In the event of the FAS (including for this purpose every officer and department thereof) being held liable for damages arising out of any claim by any workman or employee employed by the Contractor in and for the performance of the Contract, the Contractor shall indemnify the FAS, its officers or departments against such claim and any costs, charges and expenses in respect thereof,

PROVIDED the same is not caused by the gross negligence or willful default of the FAS, its officers or agents.

16. MEDIATION CLAUSE

- 16.1 Notwithstanding anything in this Contract, in the event of any dispute, controversy or claim arising out of or relating to this Contract, no Party shall proceed to any form of dispute resolution UNLESS the Parties have made reasonable efforts to resolve the same through mediation in accordance with the mediation rules of the Singapore Mediation Centre.
- 16.2 A Party who receives a notice for mediation from the other Party shall consent and participate in the mediation process in accordance with Clause 16.1.
- 16.3 Failure to comply with Clause 16.1 or 16.2 shall be deemed to be a breach of contract.

17. CONSORTIUM

17.1 As used in this Contract, "Consortium" means an unincorporated joint venture through the medium of a consortium or a partnership.

Joint and Several Responsibility

17.2 Each member of the Consortium shall be jointly and severally responsible to the FAS for the due performance of the Contract.

Addition of members to Consortium

17.3 Any introduction of, or changes to, Consortium membership must be approved in writing by the FAS.

17.4 Should additional member(s) be added to the Consortium at any time with the approval of the FAS, he or they shall be deemed to be included in the expression 'the Contractor'.

Withdrawal from Consortium

17.5 If any member of the Consortium withdraws from the Consortium, goes into liquidation, is wound up or ceases to exist in accordance with the laws of the country of incorporation:

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

COMPENDIUM OF ADDITIONAL CLAUSES (COAC)

A.1 WORKS ORDERS

- A.1.1 All orders for Services to be supplied under the Contract shall be given from time to time, in writing, by the FAS on the appropriate order form (hereinafter referred to as "the Works Order"). All such Works Orders shall clearly state the details and nature of the Services to be supplied and shall also state the amount, calculated at the rates in the Contract, that shall become due to the Contractor on the satisfactory completion of all the Services specified on such Works Order. On satisfactory completion of such supply the Contractor shall submit his bill to the FAS who shall certify the same for payment to the Contractor at the time and in the manner hereinafter provided.
- A.1.2 On receipt of any Works Order the Contractor shall commence performance of the Services referred to therein and complete the same as soon as promised in his tender or otherwise as expeditiously as possible.

A.2 SUPPLY OF SERVICES AS AND WHEN REQUIRED BY THE FAS

- A.2.1 Where the FAS has entered into a Contract with the Contractor for the supply of Services as and when required by the FAS during the period of time specified in the Contract, the Contract shall be deemed to be a Period Contract for the duration of the period of time specified. Where the Contractor receives, during the period of time specified in the Contract, any Works Order for specific Services specified in the Contract, the Contractor shall proceed to perform the Services in accordance with the Contract.

A.3 SECURITY DEPOSIT

- A.3.1 For the due and faithful performance of the Contract, the Contractor shall within fourteen (14) days of the date of the Letter of Acceptance or such other time stipulated therein, lodge with the FAS a Security Deposit for the sum stipulated in *clause 5 of Annex A*. The Security Deposit shall either be in the form of cash or, in lieu of cash, a Performance Bond strictly in compliance with the format enclosed in the Contract issued by a bank or insurance company registered with the Monetary Authority of Singapore. The Performance Bond may also be issued by a licensed Finance Company registered with the Monetary Authority of Singapore if the Security Deposit does not exceed S\$300,000.
- A.3.2 All charges incurred by the Contractor in obtaining and maintaining the Security Deposit shall be met by the Contractor. The Security Deposit shall be valid until three (3) months after the performance of all Services under the Contract. In the case of a Period Contract, the performance of the Services under the Period Contract shall refer to the performance to be made pursuant to a Works Order raised on the last date of the Period Contract for the Service with the longest delivery lead time. In the event the delivery is deferred for any reason, the Security Deposit shall be correspondingly extended by the Contractor at his own expense. At the end of the said three (3) months or extension, the Security Deposit (or any balance thereof remaining for the credit of the Contractor) shall be released and refunded without interest subject to any deduction as may be made therefrom.
- A.3.3 In the event of any default or breach of any of the obligations by the Contractor under the Contract, the FAS may at its sole discretion draw on the Security Deposit or the Performance Bond to satisfy any liquidated or other damages as may become due to the FAS under the Contract if the FAS has, prior to drawing on the Security Deposit, notified the Contractor in writing of the default or breach and requested the Contractor to rectify or remedy the default or breach within thirty (30) days or (if the default or breach cannot be fully rectified or remedied) to pay damages to the amount specified in the notice and the Contractor has failed to comply fully with the notice.
- A.3.4 The provisions of this Clause shall not affect the rights and remedies expressly reserved herein to the FAS or bar the FAS from claiming loss, expense, costs or damages incurred or

sustained or likely to be sustained by the FAS as a result of any breach of contract of whatsoever nature by the Contractor.

A.4 OPTION TO EXTEND

- A.4.1 The Contractor grants the FAS the option/s to extend the Contract for the further period/s and by the dates stated in *clause 6 of Annex A*. Unless otherwise specifically agreed between the Parties, the Services provided during the extended period/s shall be subject to the same terms and conditions (inclusive of any amendments) and shall form part of the Services defined in this Contract.
- A.4.2 In the event that the Contract is extended pursuant to Clause A.4.1, the Contractor shall furnish a fresh Security Deposit within thirty (30) days of the written notice of extension from the FAS, and all the provisions in Clause A.3 shall apply with the necessary modifications.

A.5 COMMENCEMENT AND DURATION OF CONTRACT

- A.5.1 This Contract shall commence on the date stated in clause 1 of Annex A and shall remain in force for a period stated in *clause 7 of Annex A*.

A.6 ARBITRATION

- A.6.1 Subject to Clause 16 of the Conditions, any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration in Singapore in the English language by a sole arbitrator in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force which rules are deemed to be incorporated by reference into this Clause.

A.7 REPLACEMENT OF PERSONNEL

- A.7.1 The Contractor shall replace its personnel within fourteen (14) days from the date of written notice from the FAS that the said personnel is either:
- (a) technically incompetent or negligent in carrying out the Services and all efforts by the Contractor have failed to resolve the issue within the said period; or
 - (b) the conduct of the said personnel deemed by the FAS, acting reasonably, to be undesirable or unacceptable.

A.8 CONFIDENTIALITY AND SECURITY

- A.8.1 Except with the prior written consent of the FAS, the Contractor shall not disclose the Contract or any purchases pursuant to this Contract or any provisions thereof or any information issued or furnished by or on behalf of the FAS in connection therewith, directly or indirectly, to any person.
- A.8.2 In addition to the foregoing, the Contractor shall not make use of any information obtained directly or indirectly from the FAS or compiled or generated by the Contractor in the course of this Contract which pertains to or is derived from such information, other than use for the purposes of this Contract, without the prior written consent of the FAS.

A.8.3 The Contractor shall not publish or release, nor shall it allow or suffer the publication or release of, any news item, article, publication, advertisement, prepared speech or any other information or material pertaining to any part of the obligations to be performed under the Contract in any media without the prior written consent of the FAS.

A.9 JOINT & SEVERAL LIABILITY

A.9.1 If the Contractor is a joint venture or partnership, the individual companies or partners comprising the Contractor shall be deemed jointly and severally liable to the FAS under this Contract.

A.10 COMPLIANCE WITH THE FAS REGULATIONS

A.10.1 Where works are required to be carried out or goods are required to be delivered on the FAS sites, the Contractor shall abide by, and shall ensure that all his employees, consultants, sub-contractors, suppliers and agents abide by, all applicable regulations, rules, procedures, policies, directions, guidelines, and codes of conduct of the FAS relating to the management of FAS sites and premises, including (without limitation) site administration, safety and security, as may be amended from time to time.

A.11 INSURANCE

A.11.1 Without prejudice to his liabilities to indemnify the FAS, the Contractor shall, at his own cost and expense, before commencing any work under this Contract, take out and maintain the following insurance policies for the duration of the Contract:

- (i) a Public Liability insurance policy for the risk set out in this Contract;
- (ii) such insurances in respect of personal injuries or death to any person, including employees of the FAS arising out of or in the course of or by reason of the carrying out of the Services including any liability of the Contractor under the Work Injury Compensation Act (Cap. 354) or any subsequent modification or re-enactment thereof; and
- (iii) such insurances in respect of any damage to or loss of property real or personal arising out of or in the course of or by reason of the carrying out of the Services.

The required coverage of these insurance policies is set out in Clause 8 of Annex A,

A.11.2 The Contractor shall, at his own cost and expense, take out and maintain any additional insurance (including insurance to reduce any excess), which he considers necessary to cover any risks not covered or not sufficiently covered in the abovementioned policies.

A.11.3 For the avoidance of doubt, the Contractor shall ensure that all insurance policies purchased shall be extended to include any Warranty Period and shall pay all necessary premiums in respect thereof.

A.11.4 In the event that the duration of the Contract is extended for any reason, the Contractor shall ensure that the validity period of all insurance policies purchased shall be correspondingly extended, as may be required by the FAS, and shall pay all necessary premiums in respect thereof. In addition, the FAS shall have the right to require the coverage to be varied at any time, provided always that such variation is fair and reasonable in the circumstances.

A.11.5 All insurance policies shall be underwritten by an insurance company registered with the Monetary Authority of Singapore and shall name the FAS as one of the insured.

- A.11.6 All insurance policies shall also be endorsed to the effect that all monies payable under each policy shall in all cases be paid to the FAS and receipt by the FAS of the same shall be a full and final discharge to the insurers in each case. Such monies when received by the FAS may be applied for any purpose that the FAS deems fit in relation to the incident and in case the same shall not be sufficient for that purpose, the Contractor shall make up the deficiency with his own monies. The FAS shall be deemed to have all necessary and irrevocable authority from the Contractor to deal with the insurers in all matters and for all purposes in connection with the recovery of all monies payable under each insurance policy.
- A.11.7 The Contractor shall deposit with the FAS the policies and the receipts in respect of the premiums paid before commencement of the Contract.
- A.11.8 In the event that the Contractor or any sub-contractor, direct or indirect, defaults in insuring (including any deficiency of any insurance amount) or continuing to insure as provided in this Contract hereof, the FAS shall not be under any liability to the Contractor for any loss or damage to the Contractor that may arise there from and the FAS shall have the right to insure itself against any risk with respect to which the default shall have occurred and all costs and expenses thereof shall be recoverable from the Contractor in accordance with this Contract.

CLAUSES

1.	Commencement Date	Clause 3 of the Conditions of Contract	01/03/2019
2.	Liquidated Damages for delay of work only	Clause 7.1b of the Conditions of Contract	Refer to Clause 11.2 of Requirement Specifications
3*.	Works Orders	Clause A.1 of the Compendium of Additional Clauses	Refer to Schedule of Rates (see table in Schedule to Form of Tender)
4*.	Supply of Services as and When Required by the FAS	Clause A.2 of the Compendium of Additional Clauses	Refer to Schedule of Rates (see table in Schedule to Form of Tender)
5.	Security Deposit	Clause A.3 of the Compendium of Additional Clauses	\$300,000
6*.	Option to Extend - Period (1st) - Date	Clause A.4.1 of the Compendium of Additional Clauses	01/03/2020 to 28/02/2021
7*.	Contract Period	Clause A.5.1 of the Compendium of Additional Clauses	01/03/2019 to 29/02/2020
8.	Insurance	Clause A.11 of the Compendium of Additional Clauses	S\$3,000,000.00 for any one accident. Unlimited no of accidents for the period of indemnity