Appendix 4

Provision of Service for Project Officer and Project Coordinator for Environmental Campaign Committee

Special Conditions of Contract (SCC)

1. Period of Contract

This Contract is for a period of two years **tentatively to commence from early April 2024** or from the commencement date as specified by the Representative of Environmental Campaign Committee (ECC) subject to sooner termination or extension as is provided for in the Contract.

2. Services to be Provided

To provide administration, executive and information technology support services of 18 Project Officer (Publicity) /Project Officer (Funding) /Project Officer (Information Technology) and 4 Project Coordinators (all are the Contractor's employees), to the ECC. Please refer to the **Specifications of Services at Appendix 2**.

3. Payment for Services

3.1 In consideration of and subject to the Contractor providing the Services in accordance with the terms and conditions of the Contract to the satisfaction of the ECC, the ECC shall pay the Contractor in arrears on a monthly basis as calculated according to the monthly charges specified in the **Price Proposal**.

The Contractor shall invoice the ECC for each monthly payment (charges for Services provided per calendar month). An invoice shall only be issued by the Contractor to the ECC after the Services required to be performed up to the end of the relevant month have, in all respects, been performed in accordance with the terms and conditions of the Contract to the satisfaction of the ECC Representative. Such invoice submitted by the Contractor shall, subject to the other provisions of the Contract, normally be settled by the ECC within 30 days after its receipt.

All of the amounts mentioned under this clause 3.1 shall be referred to as "Charges".

3.2 Unless the ECC Representative otherwise notifies in writing, all invoices and correspondence concerning payment shall be addressed to the ECC in the manner described below:

Address : Environmental Campaign Committee
5/F, Southorn Centre, 130 Hennessy Road,
Wan Chai, Hong Kong

The ECC shall not be liable for any delay in payment if invoices and correspondence are not so addressed.

3.3 Apart from the Charges, under no circumstances whatsoever will the ECC be liable to pay to the Contractor or any other person any money in connection with the Contract. The ECC will not reimburse or compensate the Contractor for all or any costs, expenses, losses and liabilities which may be incurred or suffered by the Contractor in undertaking the Services.

3.4 Any leave taken by the Contractor's employee(s) will not be counted as payable Services. The Charges for any period less than one month will be calculated on a pro-rata basis based on the Monthly Price specified in the **Price Proposal**. Any decimal figures will be rounded down to the whole digit. Calculation of the rate of payment shall be made according to a pro-rata basis as indicated below <u>if the Services provided are less than a full month</u>:

$$\frac{\text{(No. of calendar days within actual service period for that month – No. of days for any non-paid leave taken)}}{\text{(No. of calendar days within actual service period for that month)}} \times \text{Monthly Charge of Respective Personnel}$$

Wages will not be deducted when Black Rainstorm Warning Signal or Tropical Cyclone Warning Signal no.8 or above is hoisted.

3.5 If any of the events listed below occurs, the ECC shall only be required to pay to the Contractor such Charges at the rates set out below:

	Event		**Amounts Payable by the ECC to the Contractor**
	(a) The Contractor's employee(s) arrived late for duty or left the post early.		The ECC shall only be required to pay to the Contractor at a rate for such period when the Contractor's employee was present for duty. The number of hours when the staff was late or absent from duty will not be included in calculating the rate. The hourly rate for calculation should be the Monthly Charge for provision of the respective post (column (d) of the Price Proposal) divided by the Service Hours required for that month.
	(b) The Contractor's employee(s) failed to meet the qualification or experience requirements.		The ECC shall not be required to make any payment to the Contractor for any hour for which the staff concerned is on duty.

3.6 Unless otherwise agreed by the ECC Representative, payment will be made by cheque issued by local bank of Hong Kong.

4. Contractor's Employee(s)

4.1 The Contractor shall be responsible for the good conduct of his employees while they are performing the Services under this Contract and shall ensure that they will behave accordingly.

4.2 The Contractor shall not knowingly employ any staff of known bad character, disorderly conduct or violent character. Any breach of this requirement shall be deemed to be the default, neglect or omission of the Contractor.

4.3 The Contractor shall not employ any personnel who are illegal immigrants or foreign nationals working illegally.

4.4 The Contractor should ensure that his employee(s) deployed to work for the ECC is provided with all benefits (such as statutory holidays, annual leave, mandatory provident Fund, employees' compensation, etc.) they are entitled under the Employment Ordinance and the Employees' Compensation Ordinance as well as other labour-related laws of Hong Kong, at the cost of the Contractor.

4.5 The ECC shall be entitled to refuse the admission to the Government/ECC premises of the working locations part thereof for the purposes of this Contract any personnel employed by the Contractor, whose admission will be, in the reasonable opinion of the ECC Representative, undesirable. The Contractor shall continue to perform the Services despite admission of any of his employees are refused under this clause.

4.6 The personnel so engaged under this Contract are not employees of the ECC or the Government of the Hong Kong Special Administrative Region ("Government") and are not employed by the ECC or the Government. They are employees of the Contractor and the terms of their employment are matters between the Contractor and the personnel concerned. They are not eligible for the range of fringe benefits normally provided to employees of the ECC or the Government. However, they are expected to observe all rules and regulations of the ECC and the Government on conduct and related matters as applied to ECC employees and civil servants during their attachment to the ECC. The ECC shall not be liable for any matters, nor be responsible for any claims for indemnity, arising from or in connection with their employment with the Contractor.

4.7 In the event that the Contractor's employee(s) deployed to assume the duty of the personnel engaged under this Contract has / have worked in excess the normal hours of work on any one day to provide service at the request of the ECC Representative, the employee(s) will be given time-off-in-lieu on another day to be specified by the ECC Representative. No extra payment will be made to the Contractor for the employee(s) working overtime. The time and date for the Contractor's employee(s) to have the time-off shall be at the absolute discretion of the ECC Representative.

4.8 In exceptional circumstances, where the Contractor should seek to permit his employee(s) to take leave during the contract period, prior agreement of the ECC Representative must be obtained.

4.9 A copy of the employment agreement(s) between the Contractor and his

employee(s) deployed to work for the ECC shall be provided to the ECC Representative.

4.10 Any breach of the wage level and the fringe benefit requirements in the whole duration of the Contract would be construed as a material breach of the Contract and the ECC may have a right to seek other appropriate remedies which include the right to terminate the Contract and the Contractor is not entitled to claim any compensation.

5. Use of Government/ECC Premises and Facilities

5.1 The Government/ECC will make available the following to the Contractor's employee :-

(a) Seating accommodation; and

(b) Computer and telecommunication equipment for performing their duties.

5.2 Permission to use any Government/ECC facilities is on a personal basis offered to the Contractor and his employee(s) and such permission shall cease at the end or termination of the Contract, or at such earlier time as may be specified by the Government/ECC by notice in writing to the Contractor.

5.3 The Contractor shall keep the said facilities clean, tidy, in good state of repairs and properly secured, as appropriate.

5.4 The Contractor undertakes at the end or sooner termination of this Contract to remove at his own expense all properties placed at the premises by the Contractor under this Contract and to make good any damage to the Government/ECC premises or the Government/ECC properties which are caused by such removal. If the Contractor shall fail to do so the Government/ECC shall be entitled to remove and dispose of any properties, left uncollected at the premises in any manner deemed appropriate by the Government/ECC Representative (including sale and abandonment) and that no compensation will be made to the Contractor. All costs, losses, damages or expenses incurred by the Government/ECC as a direct or indirect result of the breach of this clause shall be recoverable as a debt due from the Contractor.

6. Sub-contracting

The Contract or any part, share, or interest in it shall not be transferred or assigned by the Contractor, directly or indirectly, to any person whosoever without the written consent of the ECC Representative.

7. Supervision by ECC

The employee(s) of the Contractor shall carry out work with due diligence, and receive instructions from the ECC Representative.

8. Replacement

8.1 The ECC shall be entitled to require on reasonable grounds (including but not limited to medical, security and disciplinary) the immediate removal or replacement of any of the Contractor's employee(s) for this Contract.

8.2 In the event of resignation, dismissal or absence of the Contractor's employee(s), prompt replacement shall be provided by the Contractor. Failure to comply with this requirement will result in the termination of Contract. The Contractor shall not transfer out the Contractor's employee(s) without the agreement of the ECC Representative, except in the case of resignation of the staff. In case of dispute, the judgment of the ECC Representative shall be final and binding. The Contractor shall notify the ECC Representative in writing of any resignation of the Contractor's employee(s) within 3 days of the Contractor receiving the notice of resignation.

8.3 The ECC reserves the right to request the Contractor to provide replacement at any time by giving 7 days' notice to replace any of the Contractor's employees(s) whose services rendered do not meet the requirement of the ECC Representative. The ECC shall not be required to make any payment to the Contractor for the unsatisfactory service rendered by the Contractor's employees(s) concerned.

8.4 The Contractor must provide a telephone number through which he may be contacted by the ECC Representative.

8.5 The Government/ECC Representative shall in no circumstances be liable either to the Contractor or his employee(s) in respect of any liability, loss or damage occasioned by such removal and the Contractor shall fully indemnify the Government/ECC against any aforesaid claim made by such employee(s).

9. Restrictions

The Contractor undertakes that the Contractor, his agent, his sub-contractors and his employees will keep in confidence and not disclose to any third party without ECC Representative's prior consent any materials, drawings, design or information acquired from the Government/ECC other than disclosure to those persons to whom it is necessary to supply such information to enable performance of the Contract. This provision shall survive the expiration or early termination of the Contract. The employee(s) of the Contractor must not disclose the information or take away any Government/ECC properties from the office. Otherwise, the Contractor may be held responsible for the consequence so caused, if any, and it may also result in the immediate termination of Contract.

10. Declaration of Interest

The Contractor shall require his employees, agents and sub-contractors who are involved in this Contract to declare in writing to the Contractor any personal / financial interests which are in conflict, whether perceived or real, with their duties under this Contract. In the event that a declaration is made, the Contractor shall immediately notify the ECC Representative.

11. Inconvenience or Annoyance Caused

The Contractor shall ensure that his employee(s) perform their duties in an orderly manner and in as quiet a manner as may reasonably be practicable having regard to the nature of the duties being performed by them. The Contractor shall also use his best endeavour to avoid causing nuisance to the staff of the Government/ECC whilst performing the Services.

12. Liability and Indemnity

12.1 The Contractor shall indemnify the Government/ECC and keep the premises fully and effectively indemnified against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the Government/ECC may sustain or incur or which may be brought or established against it by any person and which in any case arises out of or in relation to or by reason of, but not limited to, the following –

(a) the negligence, recklessness or willful misconduct of the Contractor or his employee(s);

(b) the breach or the non-performance or non-observance of any of the warranties and undertakings, obligations or conditions by the Contractor or his employee(s) under this Contract;

(c) any unauthorised act or omission of the Contractor or his employee(s); or

(d) the non-compliance with any applicable laws and any requirement or regulation of any Hong Kong Government Authority or Agency in connection with the performance of the obligations under this Contract by the Contractor or his employee(s).

12.2 The indemnities, payment and compensation given in pursuance of the Contract by the Contractor shall not be defected or reduced by reason of any failure or omission of the Government/ECC in enforcing any of the terms and conditions of the Contract, or in supervising or controlling the Contractor's operation or method of working, or in detecting or preventing or remedying any defective work carried out by the Contractor or his employee(s).

13. Accident to the Contractor's Employee(s)

13.1 The Government/ECC shall not be under any liability whatsoever for or in respect of any injury to or death of any of the Contractor's employee(s) save and except such injury or death caused by the negligence of the Government/ECC or its employee(s). The Contractor shall indemnify the Government/ECC and its employee(s) against all actions, proceedings, claims and demands, costs and expenses whatsoever in respect of any such injury or death for which the Government/ECC and its employee(s) are not liable under this clause.

13.2 The Contractor shall effect a policy of insurance at his own expense against all liability to pay damages or compensation as aforesaid in respect of all

employee(s) and other persons who may be employed on any work related to this Contract with an insurance company authorised under the Insurance Companies Ordinance (Cap. 41) and shall keep such insurance in force during the whole of the time that any persons are employed by the Contractor for performing the Services of this Contract. The Contractor shall provide copy of the insurance policy as and when required by ECC.

14. Screening of the Contractor's Employee(s)

The ECC shall have the rights to screen the Contractor's employee(s) prior to the commencement of this Contract. The screening may include surveying the resume and carrying out written tests, interviews, tests on job skills, etc.

15. Personal Data (Privacy) Ordinance

The Contractor shall comply with the provisions of the Personal Data (Privacy) Ordinance (Chapter 486 of the Laws of Hong Kong) in collecting, processing, storing and disposing the personal data in relation to this Contract

16. Termination of Contract

The Contract may be terminated at any time by the ECC by one month notice in writing. Payment for any residual period less than one month will be made on pro-rata basis as specified in Clause 3.4 of SCC.

17. Immediate Termination of Contract

17.1 The ECC may at any time by notice in writing terminate the Contract, without entitling the Contractor to compensation, if :-

(a) the Contractor, shall at any time receive a bankruptcy notice or shall be at any time receive a bankruptcy notice or petition or be adjudged bankrupt, or shall have a receiving order or order for administration of his estate made against him, or shall take or suffer any proceedings for liquidation or composition under any Bankruptcy Ordinance for the time being in force or distress or any form of execution against him or make any conveyance or assignment of his effects or composition or arrangement for the benefit of his creditors or purports so to do; or

(b) the Contractor shall become insolvent or enter into any composition or arrangement with his creditors or pass a resolution for winding up or receive a winding up notice or petition or the Court shall make an order for the liquidation of its assets or a Receiver or Manager shall be appointed on behalf of the debenture holders over the whole or part of his assets, or circumstances shall have arisen which entitle the Court of debenture holders to appoint a Receiver or Manager, or suffers distress or any form of execution against it;

(c) the Contractor or any employee of the Contractor is found to have committed any serious offence in the course of providing Services;

(d) the Contractor shall cease to carry on business;
(e) the Contractor is in breach of the Contract and fails to rectify such breach within 5 days of being required to do so by the ECC;
(f) the Contractor fails to pay his staff.

17.2 Without prejudice any right, action or remedy which shall have accrued or shall accrue thereafter to the ECC, the ECC may at any time terminate the Contract forthwith if the Contractor is in breach of all or any of the commitments set out in the Contract, and recover all losses, damages, costs and expenses including but not limited to all costs and expenses incurred in relation to engaging replacement contractor(s) and conducting another tender exercise(s), if any, upon the Contractor's breach of Contract, and shall have the right to deduct any money due to the Contractor under this Contract and under any other ECC contracts (if there are any) for recovering the above losses, damages, costs and expenses.

17.3 The Contractor shall comply with the Employment Ordinance (Cap. 57), the Employees' Compensation Ordinance (Cap. 282), the Immigration Ordinance (Cap. 115) and the Mandatory Provident Fund Schemes Ordinance (Cap. 485). Without prejudice to any other rights or remedies which the ECC has or may have against the Contractor, the ECC may terminate the Contract immediately by giving written notice to the Contractor if the Contractor is convicted of any offence under the aforesaid ordinances and the Contractor is not entitled to claim any compensation.

18. Mandatory Requirement

18.1 During the contract period, the monthly wage payable by the Contractor to each personnel engaged under this Contract shall be the same as the monthly wage committed by the Contractor as specified in **Column (b) of Price Proposal**. The monthly wage may be adjusted by the ECC subject to the annual salary review of the Government, while the percentage of agent fee shall remain the same as committed by the Contractor as specified in **Column (c) of Price Proposal**.

18.2 During the contract period, each personnel engaged by the Contractor under this Contract, who has been in employment with the Contractor under a continuous contract for not less than 12 months shall, in respect of each leave year, be entitled to **14-day paid annual leave** which shall be administered in accordance with the Employment Ordinance. A "leave year" means any period of 12 months commencing on the day on which the personnel commenced his services to ECC and an anniversary of such day.

18.3 During the contract period, each personnel engaged by the Contractor under this contract, shall be entitled to accumulate up to a maximum of 120 paid sickness days (i.e. 36 days in Category 1 and 84 days in Category 2 in line with the Employment Ordinance) at the rate of:

(a) 2 paid sickness days for each completed month of employment under a continuous contract during the first 12 months of employment; and

(b) 4 paid sickness days for each completed month of employment thereafter

18.4 The personnel shall be entitled to sickness allowance if:

(a) the personnel has accumulated the number of paid sickness days taken in accordance with **Clause 18.3**;

(b) the sick leave taken is not less than 4 consecutive days, (this condition is not applicable to a period of absence from work of an employee in relation to her pregnancy check-ups, post-confinement medical treatment or miscarriage); and

(c) the sick leave is supported by a valid medical certificate.

18.5 The personnel who has satisfied the conditions in **Clause 18.4** above will not be receive sickness allowance if:

(a) The sickness day falls on a statutory holiday or a general holiday with pay;

(b) The personnel's unfitness for work is caused by the personnel's serious and wilful misconduct; or

(c) Compensation is payable under the Employment Compensation Ordinance (Cap. 282).

18.6 The sickness allowance to be paid in accordance with **Clause 18.3-18.5** shall equal to the ordinary wages which the personnel would have earned if he had worked on the sickness day.

18.7 In addition to **Clause 18.3-18.6**, the personnel shall be granted up to 3 days of sick leave in each calendar month for sickness days of less than 4 consecutive days upon presentation of valid medical certificate to the satisfaction of the employer. The personnel shall be paid the ordinary wages which he would have earned if he had worked during such sick leave. Such sick leave cannot be accumulated and shall not be deducted from the balance of sickness days as provided in **Clause 18.3**.

18.8 Except otherwise provided in **Clause 18**, sickness days shall be administered in line with the Employment Ordinance.

18.9 The personnel shall be entitled to General Holidays of Hong Kong with pay regardless of length of employment.

18.10 The Contractor shall enter an Employment Contract including any amendments, variation or cancellation with his employee in writing (if the contractual period exceeds 7 days) which should state at least the employment period, the rest day arrangements, the working hours for each working day and the wages payable to the staff and that the parties to the Employment Contract agree that they consent to the production of the written Employment Contract and all documents relating to the employment to the ECC and to the Labour Department for law enforcement purpose upon request. The Contractor shall inform his employees of the wages as committed in the Tender Document by the Contractor.

18.11 The Contractor shall keep proper record of the written Employment Contract including any amendments, variation or cancellation and the payment to staff.

The method of autopay for payment of wages shall be adopted for proper record keeping purpose.

19. Confidentiality of Information

All information obtained in this Contract shall become the property of ECC and shall not be used for any purpose other than for the Contract, without the prior consent from the ECC Representative.

20. Contracts (Rights of Third Parties) Ordinance

The parties hereby declare that nothing in this Contract confers or purports to confer on any third party any benefit or any right to enforce any term of this Contract pursuant to the Contracts (Rights of Third Parties) Ordinance (Chapter 623 of the Laws of Hong Kong).

21. Services to be Provided

21.1 The Contractor shall upon and subject to the terms and conditions of the Contract herein carry out and complete the Services to the satisfaction of the ECC Representative, who may in its absolute discretion and from time to time issue further details, and/or written explanations in regard to the Services.

21.2 If the Contractor fails to provide any of the Services or fails to provide the Services to the satisfaction of the ECC Representative, the ECC shall be entitled to have such Services carried out by its own resources or by other contractors and to recover any loss, damages, claims or any liability that may be incurred by the ECC and may deduct the same from any money due or becoming due to the Contractor under this contract with the ECC.

22. Relationship of the Parties

The Contractor enters into the Contract with the ECC as an independent contractor only and nothing in the Contract shall create a contract of employment, a relationship of a joint venture between the ECC and the Contractor. Unless otherwise expressly provided for in the Contract, neither party is authorized to act in the name of, or on behalf of, or otherwise bind the other party.

23. Set-off

Where the Contractor has incurred any liability to the ECC, whether at law or in equity and whether such liability is liquidated or unliquidated, the ECC may set off, whether at law or in equity, the amount of such liability against any sum then due or which at any time thereafter may become due to the Contractor under the Contract or any other contracts made between the ECC and the Contractor.

24. Enquiry

Enquiry of this Tender Document may be sought by fax ((852) 2827 8138) or by phone ((852) 2835 2383) to Mr Henry HO, Executive Officer (Community Relations)3 of the ECC Secretariat.