

QUOTATION FORM

**THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
LEISURE AND CULTURAL SERVICES DEPARTMENT**

**QUOTATION FOR
THE GRANT OF A PERMIT TO CONDUCT
FAST FOOD BUSINESS AT HARBOUR ROAD GARDEN**

(Quotation Ref. : LRQ LS (Wch) 90/17/17)

LODGING OF QUOTATION

To be acceptable as a quotation, this form, properly completed in triplicate and enclosed together with other documents of this quotation as shown in Part I below, which must also be properly completed as required in triplicate, in a sealed plain envelope marked "Quotation for the Grant of a Permit to Conduct Fast Food Business at Harbour Road Garden" and addressed to the Chairman, Leisure & Cultural Services Department Quotation Opening Team must be deposited in/mailed to the Leisure & Cultural Services Department Quotation Box situated at Wan Chai District Leisure Services Office, 9/F, Lockhart Road Municipal Services Building, 225 Hennessy Road, Wan Chai, Hong Kong before 12:00 noon (time) on 5 February 2018 (date). Late quotations will not be accepted.

Dated this 15 January 2018

Miss LEE Pui-ling
Government Representative

Part I — Quotation Documents

These documents under the quotation reference LRQ LS (Wch) 90/17/17 consist of three (3) complete sets of :

- (a) Quotation Form (Sheets 1 to 2);
- (b) Interpretation (Sheets 3 to 5);
- (c) Terms of Quotation and Quotation Attachment (Sheets 6 to 19);
- (d) Conditions of Contract (Sheets 20 to 55);
- (e) Schedules (Sheets 56 to 65);
- (f) Agreement (Sheet 66); and
- (g) Annexes (Sheets 67 to 69).

Part II — Offer to be Bound

- 1. Having read the Quotation Documents, I/we agree to be bound by the terms and conditions as stipulated therein.
- 2. I/We do agree to carry out the Business mentioned in the Conditions of Contract and pay the Monthly Permit Fee as quoted by me/us in the First Schedule, subject to and in accordance with the terms and conditions stipulated in the Quotation Documents.
- 3. I/We have read Clause 2 Quotation Preparation and Clause 5 Quotation Submission of the Terms of Quotation and certify that the particulars given by me/us in completing the Quotation Documents are true and correct.

(Notes : The Service Provider **MUST** complete the following parts of the Quotation Documents :

- (i) Quotation Form (Part II – Offer to be Bound); and
- (ii) The First Schedule; and
- (iii) The Quotation Attachment.)

4. I/We have read Clause 6 Restrictions on Quotation of the Terms of Quotation. I/We agree to be bound by the terms and conditions as stipulated therein.

5. In case the Service Provider is a company/firm/body unincorporated, the Service Provider is required to complete 5(a) to 5(c). In case the Service Provider is not a company/firm/body unincorporated, the Service Provider is required to strike out 5(a) to 5(c).

(a) I am/We are duly authorized to bind the said company hereafter mentioned by my/our signature(s).

– or –

I am a partner/We are partners in the firm hereafter mentioned and duly authorized to bind the said firm and the partners therein for the time being.

(b) The name of the company/firm/body unincorporated is
A letter certifying the person who signs this quotation is an authorized person to sign contracts/agreements on behalf of the said company/firm/body unincorporated is required to be attached to this Quotation Form. In case the said company is a body corporate, a certified true copy of the company’s Board Minutes/ resolution to show that the signatory is duly authorized by the Board of Directors is required to be attached to this Quotation Form.

(c) The registered office of the company/firm/body unincorporated is situated at
.....

– or –

The names and residential addresses of partners of the firm are as follows :

.....
.....
.....

Name of Service Provider/Authorized Representative * _____
(Name in block letters)

Signature of Service Provider/Authorized Representative * _____
(Signature) (with Service Provider’s chop, if applicable)

Address(es) of person(s) signing : _____

Date : _____

- NOTES : (i) All the particulars required above must be provided.
(ii) Strike out clearly alternatives which are not applicable.
* Delete as appropriate.

INTERPRETATION

1. The interpretation of the following terms applies to the Quotation Documents and the Agreement unless the context provides otherwise –

‘Agreement’	means the Agreement entered into between the Government and the Permit Holder on the terms and conditions of the Quotation Documents.
‘Cap.’	means the Chapter of the laws of the Hong Kong Special Administrative Region.
‘Fast Food Business’	means the Permit Holder’s Fast Food Business as described in Clause 3 of the Conditions of Contract.
‘Fast Food Kiosk’	means the premises used to conduct the Fast Food business as delineated and shown coloured red in Annexes B and C.
‘General Holiday’	means every Sunday and any other day which is a general holiday by virtue of the General Holidays Ordinance (Cap. 149).
‘Government’	means the Government of the Hong Kong Special Administrative Region.
‘Government Representative’	means the Leisure and Cultural Services Department acting for and on behalf of the Government or any duly authorized officer for the purpose of this Agreement.
‘Letter of Acceptance’	means the letter to be issued by the Government Representative to the successful Service Provider accepting the latter’s quotation.
‘Monthly Permit Fee’	means the Monthly Permit Fee quoted by the successful Service Provider in paragraph A of the First Schedule.
‘Original Quotation Closing Date’	means the date specified in Clause 5(a) of the Terms of Quotation for Service Provider as the date for submission of quotation regardless of any extension.
‘Permit’	means the permission to conduct the Fast Food Business.
‘Permit Area’	means the area as delineated and shown coloured red in Annexes B and C.
‘Permit Holder’	means the Service Provider whose quotation for grant of the

Permit is accepted by the Government Representative.

‘Person’	includes any individual, company, corporation, partnership, firm and unincorporated body.
‘Quotation Closing Date’	means the date and time referred to in Clause 5(a) of the Terms of Quotation being the latest date and time before which quotations must be deposited in the Government, as the same may be extended by the Government pursuant to any applicable provision in the Quotation Documents.
‘Quotation Documents’	means the documents as specified in Clause 1 of the Terms of Quotation.
‘Quotation Validity Period’	means the period of one hundred and fifty (150) days or any other period specified by the Government Representative commencing on the Quotation Closing Date during which the quotation is to remain open.
‘Security Deposit’	means the deposit which the Permit Holder deposits with the Government in accordance with Clause 8 of the Conditions of Contract for the due and proper performance of the Agreement.
‘Service Provider’	means the Person submitting this quotation.
‘Term’	means the period during which the Permit is in force and includes any extension thereof as specified in Clause 2 of the Conditions of Contract.
‘Venue’	means the premises as delineated and shown edged red in Annex A.

2. In the Quotation Documents and the Agreement, unless the context otherwise requires, the following rules of interpretation shall apply –
- (a) “month” and “monthly” refer to a calendar month.
 - (b) The masculine gender includes the feminine and neuter genders and vice versa.
 - (c) The singular includes the plural and vice versa.
 - (d) Reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent statute, enactment, order, regulation or instrument. Reference to a statute or enactment shall include all subsidiary legislation made thereunder.

- (e) The heading to individual clauses of the Agreement is for ease of reference only and shall not affect the interpretation or construction of the Agreement.
- (f) If there is any discrepancy between the English version and the Chinese version of the Quotation Documents, the English version shall prevail. The Chinese version of the Quotation Documents is for reference only.

THE GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION
LEISURE AND CULTURAL SERVICES DEPARTMENT

TERMS OF QUOTATION

1. Quotation Documents

These documents identified as LRQ LS (Wch)90/17/17 consist of THREE (3) complete sets of –

- (a) Quotation Form (Sheets 1 to 2);
- (b) Interpretation (Sheets 3 to 5);
- (c) Terms of Quotation and Quotation Attachment (Sheets 6 to 19);
- (d) Conditions of Contract (Sheets 20 to 55);
- (e) Schedules (Sheets 56 to 65);
- (f) Agreement (Sheet 66); and
- (g) Annexes (Sheets 67 to 69).

2. Quotation Preparation

- (a) A Service Provider MUST submit the following –
 - (i) a signed Offer to be Bound in the Quotation Form;
 - (ii) the offer of Monthly Permit Fee as required in the First Schedule; and
 - (iii) a signed and completed Quotation Attachment for the information on the past experience of the Service Provider to meet the essential requirements as stipulated in Clause 13 of the Essential Requirements.
- (b) A Service Provider who fails to submit all or any of the above items specified in Clause 2(a)(i) or (ii) or (iii) above by the Quotation Closing Date shall render his quotation invalid.
- (c) A Service Provider must submit all Quotation Documents in TRIPLICATE in the manner stipulated under ‘Lodging of Quotation’ in the front page of the Quotation Form.
- (d) When completing the Quotation Documents, any alteration in figures or words shall be effected by striking through the incorrect figures or words and inserting

the corrected ones above the original ones. All such amendments shall be initialed by the Service Provider in ink. Any unauthorized alteration or erasure to the text of the Quotation Documents may cause the quotation to be rejected.

- (e) Subject to paragraph (a) above and Clause 14(a) hereof, the quotation may be rejected if information required in the Schedules other than the First Schedule is not given with the quotation or if any particulars and data asked for in this quotation are not furnished in full or if any necessary supporting documents required to be provided are not submitted with the quotation.

3. Service Provider's Status

- (a) If the Service Provider is a sole proprietor, the Service Provider shall answer queries and sign the Quotation Documents personally and shall not authorize any other Person to act for the Service Provider. If the Service Provider is a firm or an unincorporated body, the Service Provider may authorize a partner(s) of the firm or an office-bearer of a body unincorporated to answer queries and sign the Quotation Documents.
- (b) If the Service Provider is a firm, an unincorporated body, a company or other body corporate, he shall submit with the quotation a copy of the minutes of meeting and/or resolution of the board of directors to prove proper authorization of the Person(s) or representatives(s) to act on behalf of the Service Provider and sign the Quotation Documents. If the Service Provider is a partnership, one of the partners may sign the Quotation Documents save and except that all partners shall execute the Permit.

4. Checklist for Potential Service Provider before Submission of Quotation

To ensure completeness and consistency of the information provided, potential Service Provider is recommended to complete the "Checklist for Potential Service Provider for Revenue Contracts before Submission of Quotation".

5. Quotation Submission

- (a) Completed Quotation Documents shall be enclosed in a sealed envelope clearly marked with the quotation reference and the subject of the quotation on the outside of the sealed envelope and that the sealed envelope shall not bear any indication which may relate the quotation to the Service Provider or any

particular contractor/supplier and addressed to the Chairman, Leisure and Cultural Services Department Quotation Opening Team. They shall be deposited in or mailed to the Leisure and Cultural Services Department Quotation Box located at the Wan Chai District Leisure Services Office, 9/F, Lockhart Road Municipal Services Building, 225 Hennessy Road, Wan Chai, Hong Kong before 12:00 noon on 5 February 2018.

- (b) In case a black rainstorm warning signal or tropical cyclone warning signal no. 8 or above is issued between 9:00 a.m. and 12:00 noon on the Quotation Closing Date, the closing time of this quotation will be deferred to 12:00 noon on the next weekday (i.e. except Saturday and Sunday) other than a General Holiday and after the black rainstorm warning signal or tropical cyclone warning signal no. 8 or above is cancelled.
- (c) The Government Representative shall not be responsible for any mislaid quotation or any quotation submitted by methods other than as indicated under this clause.

6. Restrictions on Quotation

- (a) The quotation shall only be accepted from any Person who shall occupy the Permit Area for his own use. There shall be no assignment, underletting or parting with the possession of the whole or any part of the Permit Area unless the Government Representative approves in writing otherwise.
- (b) (1) By submitting a quotation, the Service Provider represents and warrants that in relation to the quotation -
 - (i) he has not communicated and will not communicate to any Person other than the Government the amount of Monthly Permit Fee;
 - (ii) he has not fixed and will not fix the amount of Monthly Permit Fee by arrangement with any Person;
 - (iii) he has not made and will not make any arrangement with any Person as to whether he or that other Person will or will not submit a quotation; and
 - (iv) he has not otherwise colluded and will not otherwise collude with

any Person in any manner whatsoever in the quotation process.

- (2) In the event that the Service Provider is in breach of any of the representations and/or warranties in sub-clause (1) of this clause, the Government Representative shall be entitled to, without compensation to any Person or liability on the part of Government -
 - (i) reject the quotation; or
 - (ii) if the Government has accepted the quotation, withdraw its acceptance of the quotation; or
 - (iii) if the Government Representative has entered into the contract with Service Provider, terminate the contract.
- (3) The Service Provider shall 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 and/or warranties in sub-clause (1) of this clause.
- (4) Any breach of any of the representations and/or warranties in sub-clause (1) of this clause by the Service Provider may prejudice the Service Provider's future standing as a Government contractor.
- (5) Sub-clause (1) of this clause shall have no application to the Service Provider's communications in strict confidence with his own insurers or brokers to obtain an insurance quotation for computation of the Monthly Permit Fee, or with his professional advisers or consultants to solicit their assistance in preparation of quotation submission.
- (6) The rights of the Government under sub-clauses (2) to (4) of this clause are in addition to and without prejudice to any other rights or remedies available to it against the Service Provider.

7. Quotation Documents of Unsuccessful Service Provider

Quotation Documents of unsuccessful Service Provider will be destroyed three (3) months after the date the Agreement has been constituted under Clause 17 hereof.

8. Undisclosed Agency

The Person who signs a quotation as Service Provider shall be deemed to be acting as a principal unless he discloses therein that he is acting as an agent only, in which case he shall also disclose therein the name and address of his principal. **If there is a written partnership agreement, the Service Provider shall attach a copy of it to the Quotation Documents.**

9. Memorandum and Articles of Association

A Service Provider which is a company incorporated under the Companies Ordinance (Cap. 622) shall attach a copy of the Articles of Association to the Quotation Documents. A Service Provider which is a company incorporated under the former Companies Ordinance (Cap.32) as in force from time to time before the commencement of the new Companies Ordinance (Cap. 622) shall attach a copy of each of the Memorandum of Association and Articles of Association to the Quotation Documents.

10. Business Registration Certificate

If the Service Provider is currently running a firm/company, a copy of the valid Business Registration Certificate which bears a machine-printed line to show that full registration fee has been paid shall be attached to the quotation.

11. Service Provider's Response to Government Representative's Enquiries

In the event that the Government Representative determines that clarification of any quotation, or submission of any required document or information is necessary, it will advise the Service Provider accordingly indicating whether the Service Provider shall supplement his quotation. The Service Provider shall thereafter within seven (7) working days or such period as specified in the request for clarifications submit such clarification, information or document in the manner as requested by the Government Representative. A quotation will not be considered further if complete information or document is not provided by the deadline 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. As an alternative to seeking clarification or further information or document, the Government may not consider the quotation further or may proceed to evaluate the Quotation on an "as is" basis.

12. Monthly Permit Fee

- (a) **The Service Provider must state in paragraph A of the First Schedule the Monthly Permit Fee for the Fast Food Business payable throughout the Term of the Agreement that he wishes to offer.**
- (b) The Monthly Permit Fee does not include rates, Government rent and taxes payable in respect of the Permit Area and the Fast Food Business.
- (c) The Monthly Permit Fee shall be expressed in Hong Kong dollars.

13. Essential Requirements

A Service Provider must have at least two (2) years of experience within the ten (10) years immediately prior to the Original Quotation Closing Date in either operating fast food, light refreshment restaurant or general restaurant business.

Notes:

- (1) The Service Provider's experience must be gained as an owner of the business in either operating fast food, light refreshment restaurant or general restaurant business.
- (2) Experience gained outside Hong Kong will not be counted.
- (3) If the Service Provider is a partnership, only the years of partnership gained by that partnership, but not the individual experience of the participants to the partnership will be counted. If the Service Provider is deemed to be an office-bearer(s) of a society registered under the Societies Ordinance (Cap. 151), the experience gained by the society will be counted.
- (4) If more than one (1) relevant contract is quoted as proof of the Service Provider's relevant experience, the overlapping period between contracts will only be counted once when counting the length of aggregate years of experience. For example, a Service Provider will be counted as having two (2) years of experience in aggregated if he had two (2) contracts for operation of catering business covering overlapping periods of 1.3.2013 - 28.2.2014 and 1.10.2013 -

28.2.2015, i.e. overlapping period of 1.10.2013 - 28.2.2014 will be counted once only. Experience need not be continuous.

- (5) The Original Quotation Closing Date will be the cut-off date for calculation of years of experience.
- (6) Documentary proof of Light Refreshment Restaurant or General Restaurant Business such as qualified catering licences, permits and / or certificates issued by the Food and Environmental Hygiene Department, a copy of the agreement for the relevant business showing the agreement description, the agreement commencement and expiry dates and the scope of the business, shall be provided by the Service Provider to substantiate the past experience claimed in the quotation. Otherwise, the relevant claimed past experience will not be taken into account.
- (7) Experience in operation of LCSD's fast food kiosks would also be counted.
- (8) The decision of the Government whether or not to count the experience of a Service Provider under the circumstances described in this provision shall be final.

14. Security Deposit

- (a) If the quotation is accepted in accordance with Clause 15 hereof, the successful Service Provider shall not later than seven (7) days before the commencement of the Term or at such time as shall be directed by the Government Representative, deposit with the Government the sum of money as indicated in paragraph 1 of the Third Schedule as security for the due and faithful performance of the Agreement either in cash, cheque or cashier's order or in the form of a banker's guarantee approved by the Government Representative and issued by a bank licensed under Section 16 of the Banking Ordinance (Cap. 155). If the Security Deposit is provided in the form of a banker's guarantee, the successful Service Provider shall keep the Security Deposit valid for three (3) more months after the expiry of the Agreement.
- (b) The Security Deposit, whether paid by way of cash, cheque, cashier's order or banker's guarantee will be returned to the Permit Holder or released in accordance with the Agreement.

15. Quotation Assessment

The quotations will be assessed in the following manner –

(a) Stage 1 : Completeness Check -

Completeness check of the quotation will be conducted by checking whether the quotation is submitted in accordance with the requirements of the Quotation Documents. If a Service Provider fails to submit the items specified in Clause 2(a) by the Quotation Closing Date, its quotation will not be considered further.

(b) Stage 2 : Essential Requirement Compliance Check -

A Quotation will be checked for its compliance with the essential requirements, including but not limited to those in Clause 13 of the Essential Requirements. Any quotation which fails to meet any of the essential requirements will not be considered further.

(c) Stage 3 : Price Evaluation -

Only quotation which passed both Stage 1 and Stage 2 will further considered in Stage 3. The Government Representative will take into account of the Monthly Permit Fee offered by the Service Providers.

16. Basis of Acceptance

(a) The Government Representative is not bound to accept the highest or any quotation or to give any reasons for doing so, and reserves the right to accept all or any part of a quotation at any time within the Quotation Validity Period.

(b) A Service Provider shall note that his offer will be considered on a complete overall basis. Quotations with only partial offers shall be rejected.

17. Award of Contract

(a) The successful Service Provider will be issued as an indication of acceptance a fax or a Letter of Acceptance notifying conditional acceptance of offer, subject to the following conditions precedent: (a) delivery of Security Deposit to the Government pursuant to Clause 14 hereof; (b) payment of the Monthly Permit

Fee in respect of the first month of the Term; and (c) other conditions as the Government may specify therein.

- (b) Upon and subject to the successful Service Provider having duly complied with Clause 17(a) hereof, the Government will issue the duplicate copy of the Quotation Documents with the 'Agreement' duly completed notifying fulfillment of the conditions precedent and the Agreement is deemed to have been formed on the date of the issuance of the Letter of Acceptance.
- (c) If the conditions precedent set out in Clause 17(a) above are not satisfied, the Government will be at liberty to award the Agreement to another service provider, cancel this Invitation to Quotation with or without conducting a fresh quotation exercise or take such appropriate action as the Government deems fit. Without prejudice to the foregoing, if the successful Service Provider fails to deliver the Security Deposit to the Government pursuant to Clause 14 hereof, such failure may prejudice his future standing as a Government contractor or service provider.
- (d) A Service Provider who does not receive any notification within one hundred and fifty (150) days or any other period specified by the Government Representative from the Quotation Closing Date shall assume that his quotation has not been accepted.

18. Quotation to Remain Open

- (a) A quotation submitted shall remain valid and open for acceptance on these terms for not less than one hundred and fifty (150) days or any other period specified by the Government Representative commencing on the Quotation Closing Date.
- (b) If a Service Provider does not state in his quotation the period for which the quotation is to remain valid and open for acceptance, the Quotation Validity Period of that Quotation will be one hundred and fifty (150) days after the Quotation Closing Date.
- (c) If a Service Provider offers in his quotation a period that is shorter than one hundred and fifty (150) days, the Government will clarify with the Service Provider concerned, in which case the Service Provider must confirm compliance with Clause 18(a) within five (5) working days or

such other period as specified by the Government without any other change to the Quotation (except any change made in response to any clarification by the Government pursuant to Clause 11). If the Service Provider fails to confirm compliance with Clause 18(a) within the specified deadline or, despite confirming compliance therewith, introduces any change to the quotation not in response to any clarification by the Government pursuant to Clause 11, his quotation will not be considered further.

- (d) If before expiry of the Quotation Validity Period, a Service Provider withdraws his offer, the Government will take due notice of the Service Provider's action and this may prejudice his future standing as a Government contractor.

19. State of Premises

The successful Service Provider shall arrange with the Government Representative to inspect the Permit Area at a reasonable time and the Permit Holder shall accept the Permit Area in the state and condition in which they are at the date on which occupancy is given.

20. Use of Personal Data

All personal data submitted by the Service Provider will be used for the purpose of this quotation only.

21. Site Visit and Quotation Briefing

A quotation briefing and site visit session will be held at 3:00 p.m. on 19 January 2018 (Friday) at Rm 915A, 9/F, Lockhart Road Municipal Services Building, 225 Hennessy Road, Wan Chai, Hong Kong. Service Provider is invited to attend the quotation briefing and site visit session before submitting his quotation in order to acquaint himself with the terms and conditions of the quotation. For registration, please contact the Manager (Parks and Playgrounds) Wan Chai 2 of the Leisure and Cultural Services Department at 2879 5617 by 5:00 p.m. on 18 January 2018 (Thursday).

22. Successful Service Provider's Performance Monitoring

A Service Provider is advised that should he be awarded the Agreement, his performance under the Agreement will be monitored and shall be taken into account in

the evaluation by the Government of quotations submitted by him for any goods or services procured by the Government in future. An offer or quotation submitted by a Service Provider who has been in breach of any of his statutory obligations or contractual obligations under any comparable contracts with the Government (whether current or past) may not be considered having regard, including but not limited to, the seriousness and the number of breaches and its or their relevancy to the offer or quotation submitted. The decision of the Government whether or not to consider the quotation submitted by a Service Provider under the circumstances described in this provision shall be final.

23. Offering Gratuities

The Service Provider shall not and shall ensure that his agents and employees shall not offer or give any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) to any agent or employee of the Government. Any breach of or non-compliance with this clause by the Service Provider shall, without affecting the Service Provider's liability for such breach or non-compliance, invalidate his quotation, and if the Agreement has been awarded to the Service Provider without knowing the breach, the Government shall be entitled to immediately terminate the Agreement and claim for all losses and costs incurred from the Service Provider.

24. Consent to Disclosure

The Government has the right to disclose whenever it considers appropriate or upon request by any third party (written or otherwise) information on the awarded contract, without any further reference to the successful Service Provider, the name and address of the successful Service Provider, description of services and the contract amount.

25. Cancellation of Quotation

Without prejudice to the Government's right to cancel the quotation, where there are changes of requirement after the Quotation Closing Date for operational or whatever reasons, the Government is not bound to accept any conforming quotation and reserves the right to cancel the quotation.

26. Cost of Quotation

A Service Provider shall submit his quotation proposal at his own cost and expense. The Government will not be liable for any costs and expenses whatsoever incurred by

the Service Provider in connection with the preparation or submission of his quotation or in any related communication with the Government whether before, on or after the Quotation Closing Date.

27. Complaint about Quotation Process or Agreement Award

The quotation process is subject to internal monitoring to ensure that the Agreement is awarded properly and fairly. Any Service Provider who feels that his offer has not been fairly evaluated may write to the Director of Leisure and Cultural Services who will personally examine the complaint and refer it to the relevant quotation boards for consideration if it relates to the quotation system or procedures followed. For quotations not covered by the WTO GPA, the Service Provider shall lodge the complaint before disposal of documents of unsuccessful Service Provider, which shall be three (3) months after the award of agreement.

28. Application for Appropriate Food Licences

- (a) A Service Provider shall note that it is the Permit Holder's sole responsibility to approach the relevant authorities for obtaining all licences, permits and/or certificates required by law for operation of his Fast Food Business at the Permit Area. The Permit Holder shall note that it will be unlawful for him to sell any commodity for which any licence, permit and/or certificate is so required without first obtaining such licence, permit and/or certificate.
- (b) The Permit Holder shall note that since it will necessarily take time for the relevant authorities to consider and decide on an application for a licence, permit and/or certificate, the Permit Holder is therefore not entitled to claim for abatement of the Monthly Permit Fee on the grounds that he cannot operate his Fast Food Business pending the issue of the relevant licences, permits and/or certificates.
- (c) For activities relevant to licensing requirements regulated by the Director of Food and Environmental Hygiene, the Permit Holder should visit the following Food and Environmental Hygiene Department's website for more information –

http://www.fehd.gov.hk/english/licensing/Guide_on_Types_of_Licences_Required.html

29. Provision of Services within the Venue

A Service Provider shall note that the Government Representative reserves the right to provide or allow any Person or contractor to provide drinking fountain, fast food and/or vending machine services within any other areas of the Venue during the Term of the Agreement. Irrespective of whether or not the Fast Food Business of the Permit Holder might be affected by such arrangement, the Government shall not be liable to pay any compensation whatsoever to the Permit Holder and shall not be required to abate the Monthly Permit Fee or any part thereof.

30. Negotiation

The Government reserves the right to negotiate with any Service Provider on the terms of the Quotation Documents including but not limited to the Monthly Permit Fee offered by the Service Provider.

31. Quotation Addendum

The Government may issue addendum to the terms and conditions of the Quotation Documents. Service Provider may be asked to confirm compliance with the terms and conditions issued under the Quotation Documents or those issued under any addendum thereto.

Quotation Attachment
Experience of the Service Provider

There will be an assessment on whether a Service Provider is in compliance with the experience requirements stipulated in Clause 13 of the Terms of Quotation. In this connection, a Service Provider **MUST** submit with his quotation information on his past experience as required in this Quotation Attachment at the time when it submits its quotation.

Documentary proof including qualified catering licences, permits and/or certificates issued by the Food and Environmental Hygiene Department, a copy of the agreement for the relevant business showing the agreement description, the agreement commencement and expiry dates and the scope of the business to substantiate the past experience claimed in the Quotation shall be provided. Otherwise, the relevant claimed past experience will not be taken into account.

A Service Provider **MUST** have at least two (2) years of experiences within the ten (10) years immediately prior to the Original Quotation Closing Date in either operating fast food, light refreshment restaurant or general restaurant business. The Original Quotation Closing Date shall be the cut-off date for calculation of the years of experience.

Brief description of business operated (including name and address)	Whether the Service Provider obtained the experience as business owner	Operation period (with commencement and expiry dates)

Signed by an authorised signatory for and on behalf of the Service Provider:

Name of person authorised to sign quotation for and on behalf of the Service Provider:

Name of the Service Provider:

Tel No. : _____

Fax No.: _____

Date : _____

CONDITIONS OF CONTRACT

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48. Waiver of Remedies
49. Severability
50. Relationship of the Parties
51. Mediation
52. Entire Agreement
53. Exclusion

CONDITIONS OF CONTRACT

1. Nature of the Permit

- (a) It is expressly agreed between the parties that this Permit creates no tenancy or lease or any form of legal rights on land whatsoever between the parties except the permission to use the Permit Area in accordance with the provisions of the Agreement.
- (b) The Permit granted to the Permit Holder is personal to him and unless with the prior consent in writing from the Government Representative, the Permit Holder shall not assign, sublet, part with the possession of the whole or any part of the Permit Area or transfer any of his rights or obligations under the Agreement.

2. The Term

- (a) Subject to Clause 9 hereof, the Permit Holder must commence the Fast Food Business for a period of **36** months from the 1st day of June 2018 or a date specified in the Letter of Acceptance, whichever is later, subject to prior termination and extension as are hereinafter provided.
- (b) The Government Representative shall be entitled to extend the Term for a maximum period of six (6) months upon its expiration by giving the Permit Holder one (1) month's advance notice in writing before the due expiration of the Term.
- (c) If a notice is given by the Government Representative under Clause 2(b) above, the Permit Holder shall continue to conduct his Fast Food Business for the whole period specified in the notice on the same terms and conditions as herein contained (save and except this clause on extension).
- (d) If the commencement date of the Term of the Agreement shall be advanced or deferred under Clause 9(a) hereof, the expiry date of the Term shall be advanced or deferred accordingly with length of the Term remains unchanged.

3. The Business

Subject to the terms and conditions of the Agreement, the Government Representative grants to the Permit Holder during the Term the permission to conduct the business of

selling any of the refreshments and commodities as set out in the Second Schedule (the “Fast Food Business”) and to conduct such Fast Food Business within an area of about 24.6 square metres as delineated and shown coloured red in Annexes B and C (the “Permit Area”).

4. Hours of Business

- (a) Subject to the terms and conditions of the Agreement, the Permit Holder shall carry out his Fast Food Business at the following hours -
Daily From 7:00 a.m. to 7:00 p.m.
- (b) The Government Representative is entitled to revise at any time and from time to time the business hours of the Fast Food Business as specified in Clause 4(a) above.
- (c) The Permit Holder shall not vary the business hours of his Fast Food Business unless prior written consent of the Government Representative has been obtained.
- (d) The Permit Holder shall not be entitled to any adjustment or abatement of the Monthly Permit Fee for any change of the business hours referred to in this clause and shall pay the Monthly Permit Fee in full pursuant to Clause 6 below under all circumstances.

5. Conduct of Business

- (a) The Permit Holder shall maintain the Permit Area an efficient and adequate service of a style, type and quality to the satisfaction of the Government Representative.
- (b) The Permit Holder shall not provide seating accommodation for his customers and other members of the public.
- (c) The Permit Holder shall use the Permit Area only for the Fast Food Business and shall not use, cause, suffer or permit to be used the Permit Area or any part thereof as sleeping quarters or domestic premises or for any other purposes.
- (d) The Permit Holder shall conduct his Fast Food Business only in the Permit Area and shall not use, cause, suffer or permit to be used any area of the Venue except the Permit Area for such purpose or for any other purposes.

6. Monthly Permit Fee

- (a) The Permit Holder shall pay to the Government in advance a Monthly Permit Fee as specified in paragraph A of the First Schedule on the first day of each and every month without any reduction throughout the Term.
- (b) The Monthly Permit Fee does not include rates, Government rent and taxes payable in respect of the Permit Area.
- (c) Notwithstanding Clause 6(a) above, the first payment of the Monthly Permit Fee is to be made not later than seven (7) days before the commencement of the Term or at such time as shall be directed by the Government Representative.
- (d) When payment of the Monthly Permit Fee of any month is overdue, the Permit Holder shall pay to the Government a surcharge on that outstanding Monthly Permit Fee at an interest rate equivalent to the average of the best lending rate of the three note-issuing banks in Hong Kong plus 2% per annum. Such interest shall be calculated and payable from the day on which such payment falls due.

7. Abatement

If the Government Representative shall require a closure of the Permit Area or a suspension of the Permit Holder's Fast Food Business under Clause 19(b) for a continuous period of more than seven (7) days or a deferment of the commencement of the Term under Clause 9 hereof, the Monthly Permit Fee will abate, notwithstanding Clause 6 hereof, for the total period of such closure or suspension or deferment on a pro rata basis.

8. Security Deposit

- (a) The Permit Holder shall, at least seven (7) days before the commencement of the Term or any extension thereof, deposit with the Government in cash, cheque or cashier's order or in the form of a banker's guarantee approved by the Government Representative and issued by a bank licensed under the provisions of the Banking Ordinance (Cap. 155), a sum equivalent to four (4) times the Monthly Permit Fee as security for the due and proper performance of the Agreement. The Permit Holder shall keep the aforesaid Security Deposit, if it is provided in the form of a banker's guarantee, valid for three (3) more months after the expiry of this Agreement.

- (b) If the Permit Holder fails to pay the Security Deposit upon the due date as stipulated in Clause 8(a) above or refuses to carry out the Agreement upon the commencement of the Agreement, the Agreement shall be deemed to be terminated and the Government Representative is entitled to grant the Permit to another Person and claim for compensation from the Permit Holder.
- (c) The Security Deposit in cash, cheque or cashier's order shall be wholly forfeited to the Government or a call shall be made on the banker's guarantee in the event of the Agreement being terminated in accordance with Clause 40(a) hereof. Notwithstanding such provisions and without prejudice to any other remedies available to the Government, the Government Representative shall have the right to deduct from the Security Deposit in cash, cheque or cashier's order or to make a call on the banker's guarantee in order to pay the Government the amount in relation to any losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions whatsoever suffered by the Government as the direct or indirect result of any breach of the Agreement by the Permit Holder.
- (d) If any deduction is made by the Government Representative from the cash deposit, cheque or cashier's order or by making a call on the banker's guarantee during the continuance of the Agreement, the Permit Holder shall, within fourteen (14) days, on demand in writing made by the Government Representative, deposit a further sum or provide a further banker's guarantee in a sum equal to the amount so deducted or so called on, and such sum shall be added to the residue of and form part of the Security Deposit.
- (e) Subject to Clause 42 hereof, upon the expiry or sooner termination of the Agreement, the Government Representative will return to the Permit Holder without interest the balance of the Security Deposit or the banker's guarantee, if one is provided, shall be released within three (3) months if all of the Permit Holder's obligations under the Agreement have been observed and complied with to the satisfaction of the Government Representative and the receipted bills in respect of outstanding payment of all fees and charges including rates and utility charges are provided to the Government, notwithstanding the expiry of the Term.

9. Advancement, Deferment and Suspension of Business

- (a) Notwithstanding the provision of Clause 2 hereof and any other provisions of the Agreement, the Government Representative shall be entitled to advance or defer the commencement date of the Term for whatsoever reasons and for such period as the Government Representative shall in its sole discretion decide.
- (b) If there shall be such advancement or deferment of commencement of the Term under this clause –
 - (i) the Government shall not be liable for any losses suffered or expenses incurred whatsoever by the Permit Holder due to such deferment or termination under Clause 9(b)(ii);
 - (ii) upon the expiry of such period of deferment and without further notification by the Government Representative of the commencement of the Term, the Agreement shall terminate automatically. The Government Representative will return to the Permit Holder without interest the balance of the Security Deposit and any Monthly Permit Fee already paid in advance;
 - (iii) the Government Representative shall, so far as it is practicable in the circumstances, give the Permit Holder notice of advancement of the commencement of the original Term in writing at least fourteen (14) days prior to the revised commencement date of the Term;
 - (iv) the Government Representative shall, so far as it is practicable in the circumstances, give the Permit Holder notice of deferment in writing at least fourteen (14) days prior to the original commencement date of the Term.
- (c) If the commencement of the Term has been advanced under Clause 9(a), the Monthly Permit Fee shall be paid in accordance with Clause 6(c) hereof.
- (d) If the commencement of the Term has been deferred under Clause 9(a), the Monthly Permit Fee shall be adjusted in accordance with Clause 7 hereof.
- (e) The Permit Holder may suspend his Fast Food Business for a reasonable period of time when the weather conditions warrant such suspension in view of the

safety of his employees. Prior approval from the Government Representative shall be obtained as far as it is practicable in the circumstances and the Government Representative's decision on the duration of such period of suspension shall prevail.

10. Resumption of Business

If the Fast Food Business shall be suspended under the terms and conditions of the Agreement, the Permit Holder shall resume the Fast Food Business immediately within the period specified under the Agreement or that specified by the Government Representative, as the case may be.

11. Permit Holder's Warranties and Undertakings

The Permit Holder warrants and undertakes to the Government Representative that —

- (a) he shall produce his Business Registration Certificate or Certificate of Incorporation, as the case may be, upon demand by the Government Representative;
- (b) he shall use only those appliances, fixtures and fittings which have previously been approved by the Government Representative. He shall not make any alteration or addition to any of the appliances, furniture, fixtures or fittings therein or the decoration thereof without the prior permission in writing by the Government Representative, and he shall not carry out the repairs to the appliances, furniture, fixtures and fittings supplied by the Government without first obtaining the approval of the Government Representative. Subject to such approval being sought, the relevant works shall be carried out at the expenses of the Permit Holder by workers approved by and to a standard acceptable to the Government Representative;
- (c) he shall take all reasonable precautions to protect the Permit Area from damage by fire, storm, tropical cyclone or the like;
- (d) he shall maintain the Permit Area and its surroundings in a clean, tidy and serviceable condition to the satisfaction of the Government Representative and if in the opinion of the Government Representative the Permit Holder fails to do so, the Government Representative may without notice close the Permit Area and suspend the Permit Holder's Fast Food Business for a period or periods not exceeding seven (7) days on any one (1) occasion to cause the Permit Area and

- its surroundings to be cleaned and serviced and the Permit Holder shall pay the costs thereof to the Government Representative on demand and shall remain liable to pay the Monthly Permit Fee to the Government without any deduction;
- (e) he shall not use the Permit Area or any part thereof, or cause, or permit, or suffer the same to be used for any illegal, immoral purpose, gambling or any other purposes not permitted under the Agreement;
 - (f) he shall not permit any games to be played in the Permit Area including but not limited to mahjong and tin kau whether for gambling purposes or otherwise;
 - (g) he shall not permit the Permit Area to be used as a changing room by users of the Venue or other members of the public;
 - (h) he shall not cause or permit any floorshow or any type of entertainment to be staged in the Permit Area or its vicinity;
 - (i) he shall permit the Government Representative and its agents at all times to have unimpeded access to all parts of the Permit Area to examine the conditions thereof and to execute repairs thereto;
 - (j) he shall assume full responsibility for the safety of all operations and methods of operations;
 - (k) he shall provide and maintain at all times properly insulated and refrigerated containers solely for the storage of frozen confections and shall store in such insulated and refrigerated containers all frozen confections available for sale in the Permit Area;
 - (l) he shall keep all articles of food stored or offered for sale at the Permit Area effectively protected against flies, cockroaches, vermin, dust and dirt and shall sell pastries, bread, biscuits, cakes, preserved foodstuffs and sweets only in their original wrappers and in such hygienic condition as is reasonably practicable;
 - (m) he shall not stock, sell or provide at the Permit Area any cigarettes, cigars or tobacco products whatsoever;
 - (n) he shall not sell or offer for sale any liquid refreshment other than in sterile drink cups;

- (o) he shall not sell or offer for sale any cut or peeled fresh fruit;
- (p) he shall cleanse and immerse in boiling water for not less than one (1) minute and allow to dry by evaporation before each use of crockery, cutlery and utensils used in the preparation or serving of food or drinks and when not in use to store such implements in vermin-proof and dust-proof cupboards;
- (q) he shall be responsible for the safety of any vehicles which he uses or brings alongside or onto the Venue and he shall indemnify the Government in respect of any losses or damages thereto as a result of the use of such vehicles;
- (r) he shall pay all the costs and deposits of all telephone installed and/or electricity supplied to the Permit Area, and shall pay all rates, Government rent, taxes, fees, charges and outgoings whatsoever now or hereinafter payable in respect of the Permit Area and his Fast Food Business;
- (s) he shall not request or receive any charge or fee from any Person for admission to the Permit Area or its surroundings, nor request or receive any other additional charge whether by way of service charge or otherwise;
- (t) he shall on receipt of forty-eight (48) hours' notice from the Government Representative to produce to it for inspection of the books, ledgers, vouchers, receipts and other documents relating to the Fast Food Business, and to make available copies of the same to the Government Representative, if required;
- (u) he shall not later than thirty (30) days after the expiry of each month during the continuance of this Agreement and not later than thirty (30) days after the termination of this Agreement howsoever caused, submit to the Government Representative a statement of account in the form as the parties hereto may mutually agree, or in default of agreement as the Government Representative may from time to time prescribe, showing the gross monthly turnover of the Fast Food Business, for that month. For the purpose of these provisions "gross monthly turnover of the Fast Food Business" shall mean the gross proceeds or receipts as received or receivable for any food and/or drinks sold or consumed or of all goods, merchandise and commodities and services of any kind and description provided or sold within or through or out of the Permit Area plus all other income deriving from or in respect of the Permit Area; and
- (v) he shall pay to the Government any cost incurred by the Government plus an administrative overhead charge to be advised by the Government Representative if he fails to carry out any of his obligations or duties under this Agreement and the Government Representative executes such obligations or duties on his behalf.

12. Cleansing, Collection and Disposal of Refuse and Litter

- (a) The Permit Holder shall provide and keep in good and hygienic condition dustbins in such numbers and of such a type as shall be approved by the Government Representative and shall collect all refuse and litter therein.
- (b) The Permit Holder shall arrange at least once every day or at a frequency as prescribed by the Government Representative at any time and from time to time for the removal and disposal of all refuse and litter thus collected in the course of his Fast Food Business. Such refuse and litter shall be collected in polyethylene bags, or in any other containers approved by the Government Representative and shall be properly disposed of at least once every day to such a refuse collection point inside or outside the Venue designated by the Government Representative or to such places as shall be specified by the Government Representative at any time and from time to time in such manner as approved or prescribed by the Government Representative. The Government Representative reserves the right to alter the designated refuse collection points and disposal method and the Permit Holder shall follow such direction by the Government Representative and make necessary arrangement as approved by the Government Representative at his own cost.
- (c) The Permit Holder shall carry out cleansing and clearing of all grease traps in the Permit Area for which the Permit Holder is liable for, at least, on a daily basis and of all the drainage and sewerage pipes in the Permit Area for which the Permit Holder is liable for at frequent intervals to the Government Representative's reasonable satisfaction to prevent chokage and blockage of the installations. Where the Government Representative reasonably considers that hot or warm effluent can congeal and cause blockage within the drainage system, the Permit Holder shall forthwith on demand by the Government Representative undertake at his own expense either an emulsifying or a neutralizing effect by using such equipment or by employing such contractor as may be approved or prescribed by the Government Representative.
- (d) In the event of failure to comply with this clause, the Permit Holder shall pay the Government Representative on demand the costs incurred by the Government Representative if the removal and disposal of such refuse and litter; or the cleansing or clearing of any of the drains, sewers and grease traps choked or blocked is carried out by the Government Representative due to the act, default or negligence of the Permit Holder or any of his employees or agents.
- (e) The Permit Holder shall not place, or leave, or cause, or suffer, or permit to be placed or left in any part of the Venue (including but not limited to fire exits,

common areas, stairways, landings and passages of any such buildings) any solid waste or any other similar materials. The Permit Holder shall arrange at his own cost proper and immediate disposal of the same at designated locations as approved by the Government authorities from time to time.

13. Monies or Valuables Found or Property Lost

All monies or other items of value found by the Permit Holder, his employees and/or agents in carrying out his Fast Food Business in the Permit Area shall be handed to the Government Representative's management in the Venue as soon as possible and a written receipt obtained therefrom.

14. Permit Holder's Employees or Agents

- (a) The Permit Holder shall require all persons employed at the Permit Area to submit to such medical examinations at such places and times as may be prescribed by a registered medical practitioner and shall not employ or shall cease to employ at the Permit Area any person found by the medical practitioner to be likely to spread a communicable disease.
- (b) The Permit Holder shall ensure that his managerial or supervisory staff shall be in attendance at the Permit Area at all times when his staff are at work.
- (c) The Permit Holder shall be responsible for the good conduct of his employees or agents while they are in the Permit Area, and shall ensure that they will behave accordingly.
- (d) The Government Representative shall be entitled to demand on reasonable grounds, including but not limited to medical, health, security and disciplinary grounds, the removal or replacement of any of the Permit Holder's employees or agents.
- (e) The Government and the Government Representative shall in no circumstances be liable either to the Permit Holder or to his employees or agents in respect of any liabilities, losses or damages occasioned by such removal as stipulated in Clause 14(d) and the Permit Holder shall fully indemnify the Government against any claim made by such employees or agents.
- (f) The Government shall be entitled to refuse to admit to the Venue or any part

thereof for the purposes of the Agreement any person employed by the Permit Holder, or by the Permit Holder's agents, whose admission will be, in the opinion of the Government Representative, undesirable.

- (g) Any removal demanded or refusal made under Clauses 14(d) and 14(f) shall not be construed as a breach of the Agreement by the Government Representative and the Permit Holder shall continue to carry out his obligations under the Agreement.
- (h) The Permit Holder shall provide a sufficient quantity of clean clothes with clear identifications of his Fast Food Business and of a type approved by the Government Representative for the use of his employees at the Permit Area.
- (i) The Permit Holder shall provide lockers for the staff to store their clothing and personal effects and not to allow personal effects such as clothing, footwear, luggage, umbrellas and other articles to be stored or left in any room where food for sale for the purpose of the Fast Food Business is stored.
- (j) The Permit Holder shall ensure that at all times when his employees are at work or on duty in the Permit Area they shall wear clothes in a clean and tidy manner.
- (k) The Permit Holder shall ensure that all persons employed by him in carrying out the Agreement shall keep to such parts of the Venue as are necessary for the due discharge of the Permit Holder's obligations under the Agreement.
- (l) The Permit Holder shall maintain a proper, current and accurate record of all his employees or agents employed for carrying out the Fast Food Business. Such record shall include the name, Hong Kong Identity Card number, grade, age and photograph of each employee. The Permit Holder should produce such record for inspection by the Government Representative on request.
- (m) The Permit Holder shall not employ any person who is forbidden in the laws of the Hong Kong Special Administrative Region or not entitled for whatever reasons to undertake any employment in the Hong Kong Special Administrative Region in the execution of this Agreement or any other Government contract. If there is any breach of this clause by the Permit Holder, the Government Representative may, by notice in writing, terminate this Agreement and the Permit Holder is not entitled to claim any compensation. The Permit Holder shall be responsible for any expenses or loss that the Government

Representative may incur or suffer due to the breach of this clause by himself.

- (n) Unless otherwise approved by the Government Representative, all workers and staff employed by the Permit Holder for the execution of this Agreement shall be local residents to be engaged in the Hong Kong Special Administrative Region. Any contravention of this clause shall be deemed as a material breach of the Agreement, which shall entitle the Government Representative to terminate the Agreement by giving fourteen (14) days' notice to the Permit Holder.
- (o) The Permit Holder shall be liable for all expenses necessarily incurred by the Government Representative as a result of the termination of this Agreement.
- (p) The Permit Holder shall not employ any person at the Permit Area who has not been inoculated against typhoid and paratyphoid and inoculated and vaccinated against such other diseases as the Government Representative may direct.

15. Publicity and Advertisement

- (a) The Permit Holder shall not publish or use any advertising or other publicity materials or perform any act with an advertising nature in relation to his Fast Food Business except with the prior written consent of the Government Representative.
- (b) Save and except where the Government Representative at its discretion may permit or require, the Permit Holder shall not exhibit or display, or cause, or permit, or suffer to be exhibited or displayed either inside or outside the Permit Area any advertisement or any other materials whatsoever (such as writings, signs, signboards or any other devices whether illuminated or not which may be visible from inside or outside the Permit Area or any part thereof) of any advertising nature.
- (c) Without prejudice to the generality of Clause 15(b) above, the Permit Holder shall not exhibit or display, or cause, or permit, or suffer to be exhibited or displayed either inside or outside the Permit Area any advertisement or any other materials whatsoever (such as writings, signs, signboards or any other devices whether illuminated or not which may be visible from inside or outside the Permit Area or any part thereof) of any advertising nature relating to any tobacco or tobacco-related products.

16. Notices to be Displayed or Circulated in the Venue

If the Permit Holder proposes to display or circulate any notices requiring his employees, agents or the public to comply with the rules and regulations of the Government Representative, the Government or other competent authority or for the purpose of the operation of his Fast Food Business under the Agreement, he shall seek the prior written consent of the Government Representative and such consent can be withdrawn at any time at the discretion of the Government Representative. All notices displayed or circulated by the Permit Holder in the Venue shall be written in both English and Chinese.

17. Water Supply

- (a) The Permit Holder, if so permitted by the Government Representative, may use water supply which may be available at the Venue to operate his Fast Food Business and shall pay all fees and charges in connection therewith.
- (b) If water supply is not available at the Permit Area, or permission to use available supply is not granted or is withdrawn, the Permit Holder shall at his own expense install and provide such supply for his Fast Food Business and pay all fees and charges in connection therewith.
- (c) All installation of tubing and piping, and all other water supply works, be it permanent or temporary, shall be approved by the Government Representative and the works shall be carried out by qualified personnel approved by and to the satisfaction of the Government Representative, and such installation shall thereupon become the property of the Government. The Permit Holder shall be responsible to maintain and repair such installation at his own expense as well as to remove the same should the Government Representative so directs.

18. Electricity Supply

- (a) The Permit Holder, if so permitted by the Government Representative, may consume electricity from supply point which is available at the Venue to operate his Fast Food Business and shall pay all fees and charges in connection therewith. The maximum electricity loading available to the Fast Food Kiosk is 3-phase 63 Amp.
- (b) If electricity supply point is not available at the Permit Area, or permission to

use available supply point is not granted or is withdrawn, the Permit Holder shall at his own expense install and provide his own source of electricity supply required for his Fast Food Business and pay all fees and charges in connection therewith.

- (c) Any installation of wiring and lighting fittings, and all other electrical works, be it permanent or temporary, shall be approved by the Government Representative and the works shall be carried out by qualified electricians registered under the Electricity (Registration) Regulations (Cap. 406 sub. leg. (D)) and to the satisfaction of the Government Representative, and such installation shall thereupon become the property of the Government. The Permit Holder shall be responsible to maintain and repair such installation at his own expense as well as to remove the same should the Government Representative so directs.

19. Rights Reserved by Government Representative

- (a) The Government Representative reserves the right to suspend at its sole discretion the Permit Holder's Fast Food Business by closing the Permit Area for a specified period of not more than seven (7) days at any one (1) time if the Government Representative is of the opinion that the Permit Holder is in breach of any of the terms and conditions of the Agreement and in such event the Permit Holder shall remain liable to pay the Monthly Permit Fee in full during such period of suspension.
- (b) The Government Representative reserves the right to close the Venue in whole or in part, including the Permit Area and/or to suspend the Fast Food Business by reason of fire or storm or damage (not being the result of wilful default or misconduct or negligence of the Permit Holder, his employees or agents) or an act of God or repair or maintenance or building modification or for any other reasons at any time and for whatever period or periods during the Term. The Government shall not be liable for any loss suffered or expenses incurred whatsoever by the Permit Holder due to such closure or suspension.
- (c) In connection with Clause 19(b) above, if the demand of such closure or suspension of Fast Food Business by the Government Representative is due to repair or maintenance or building modification, the Government Representative will give the Permit Holder one (1) month's advance notice before the commencement date of such closure and/or suspension, if it is practicable in the circumstances.

- (d) If there shall be suspension of the Fast Food Business as required under Clause 19(b), the Monthly Permit Fee shall be adjusted according to Clause 7 hereof.
- (e) Notwithstanding Clause 3 hereof, the Government Representative may permit any Person or organization to provide in the Venue by way of sale or otherwise any refreshments or commodities. Irrespective of whether or not the Fast Food Business of the Permit Holder might be affected by such arrangement, the Government and the Government Representative shall not be liable to pay any compensation whatsoever to the Permit Holder and shall not be required to abate the Monthly Permit Fee or any part thereof.
- (f) For the avoidance of doubt, nothing expressed or implied in the Agreement shall be regarded as in any way negating, prejudicing or otherwise restricting the right of the Government Representative to authorize any Person or organization to bring into the Venue or distribute freely therein any refreshments or commodities for consumption or for use whatsoever. The Permit Holder is not entitled to claim for any compensation or prohibition for whatsoever causes resulting from the grant of the said permissions and authorizations. The Permit Holder shall continue to carry on his Fast Food Business on any day covered by such permission if he is not required to suspend his Fast Food Business.
- (g) Notwithstanding Clause 3 hereof, the Government Representative may, by giving not less than seven (7) days' notice to the Permit Holder, hold or permit any Person or organisation to hold any function in the Venue. Where the Government Representative considers it necessary to do so, it may require the Permit Holder to suspend the whole or part of the Fast Food Business temporarily during the time when such functions are being held in the Venue. The Permit Holder is not entitled to claim for any compensation whatsoever resulting from the grant of the said permissions and the holding of the functions. If the Permit Holder suspends his Fast Food Business whether in whole or in part as demanded by the Government Representative under this clause, the Monthly Permit Fee shall abate on a pro rata basis depending on the length and extent of such suspension of the Fast Food Business which shall be determined by the Government Representative. The Permit Holder shall continue to carry on his Fast Food Business on any day covered by such permission if he is not required to suspend his Fast Food Business.
- (h) Notwithstanding Clause 3 hereof, the Government Representative reserves the

right to provide or allow any Person or contractor to provide drinking fountain, fast food, vending machine service and/or hire of any other commodities or services within any other areas of the Venue during the Term of the Agreement. Irrespective of whether or not the Fast Food Business of the Permit Holder might be affected by such arrangement, the Government shall not be liable to pay any compensation whatsoever to the Permit Holder and shall not be required to abate the Monthly Permit Fee or any part thereof.

20. Sale of Commodities

- (a) The Permit Holder shall notify the Government Representative the latest price and charge lists whenever the Government Representative so demands.
- (b) The Permit Holder shall abide by any directions as to the quality of the commodities sold or offered for sale at the Permit Area as may be given by the Hong Kong Consumer Council.
- (c) The Permit Holder shall provide to customers upon request receipts for commodities sold specifying the commodities sold and the respective price.

21. Display of Commodity Prices

The Permit Holder shall prominently display at all times the prices of commodities for sale in respect of the Fast Food Business at the Permit Area. The displays shall be in both Chinese and English and put up in such form, manner and at such locations as shall be approved or prescribed by the Government Representative.

22. Erection of Structure

- (a) The Permit Holder shall not allow or permit any structure to be erected in or on the Permit Area and its immediate vicinity except those stipulated in Clause 21 and apart from one (1) signboard bearing the words "Fast Food Kiosk" in both English and Chinese.
- (b) The size and location of the signboard shall be those approved or prescribed by the Government Representative in writing.

23. Watchman

- (a) The Permit Holder shall not allow any person to remain in the Permit Area overnight without the permission in writing from the Government Representative. Such permission to remain a person in the Permit Area overnight shall only be given to enable the Permit Holder to post a watchman to look after the contents of the Permit Area.
- (b) The Permit Holder shall ensure that the watchman should possess a valid security personnel permit issued under the Security and Guarding Services Ordinance (Cap. 460) and submit to the Government Representative for approval the name and Hong Kong Identity Card number of such watchman.
- (c) The Permit Holder shall immediately remove such person from the Permit Area if the Government Representative notifies the Permit Holder in writing of the withdrawal of its approval for such person to stay overnight in the Permit Area.

24. Use of Fuel

The Permit Holder shall heat or cook food or boil water only by electricity.

25. Store of Dangerous Goods and Prohibited Goods

Except a reasonable quantity to be stored at the Permit Area required for the operation of the Fast Food Business, the Permit Holder shall not keep, store or cause, permit or suffer to be kept or stored in the Permit Area any dangerous or prohibited goods or liquefied petroleum gas or any other types of fuel within the meaning of the Dangerous Goods Ordinance (Cap. 295) or any arms, ammunition, explosives or combustible substances.

26. Fire Fighting Equipment

The Permit Holder shall provide and maintain in proper and serviceable condition fire fighting equipment to the satisfaction of the Government Representative and comply with any directions issued by the Buildings Department or the Fire Services Department in connection with the Permit Area.

27. Discharge of Waste Water

The Permit Holder shall ensure waste water that comes out from the Permit Area is free

of grease and shall not cause, suffer or permit to be caused the waste water discharging onto areas surrounding the Permit Area.

28. Sale of Alcoholic Liquor

- (a) The Permit Holder shall not sell alcoholic liquor in the Permit Area without first obtaining the written permission of the Government Representative.
- (b) The Government Representative shall take into account all relevant factors in considering whether to grant the permission referred to in Clause 28(a) to the Permit Holder if the latter applies to the Government Representative for such permission. The Government Representative reserves the right to withdraw any permission granted and shall not be required to provide any reasons to the Permit Holder for such withdrawal.
- (c) The Permit Holder shall obtain the licence as is required under the Dutiable Commodities Ordinance (Cap. 109) if the sale of alcoholic liquor is for consumption at the Permit Area.

29. Arrangement during Epidemic Illness

In the event of illness of any epidemic nature breaking out, the Permit Holder shall comply with all such orders, arrangements or regulations as may be issued by the Government with a view to stamping out the same. The Permit Holder shall comply with any instructions issued by the Government regarding measures to be adopted to prevent or control diseases of any kind.

30. Government Premises, Property, Machinery and Equipment

- (a) When the Government premises, property, machinery or equipment is provided for the Permit Holder under the Agreement (inclusive of those listed in the Fourth Schedule), the Permit Holder shall keep and maintain the same in good, clean and serviceable condition (fair wear and tear excepted), and shall be responsible for the due and immediate return of all such premises, property, machinery and equipment in good repair, clean and serviceable condition (fair wear and tear excepted) at any time upon request by the Government Representative and/or upon the expiry or termination of the Agreement.
- (b) The Permit Holder shall not make any alteration or addition to the premises, property, machinery and equipment provided by the Government therein

without the prior permission in writing by the Government Representative and shall not carry out the repairs to the same without obtaining the prior approval of the Government Representative. If such approval is obtained, the repair works shall be carried out by qualified Person approved by and to a standard acceptable to the Government Representative.

- (c) The Permit Holder shall be liable to the Government for any damage or loss to such premises, property, machinery and equipment provided by the Government. If any such premises, property, machinery or equipment is found damaged or lost, as the case may be, in whatsoever scale and from whatsoever cause while in the occupancy or control of the Permit Holder, the Permit Holder shall pay the cost for all repair or replacement of the same plus a sum to be determined by the Government Representative as administrative overhead charges.
- (d) All premises, property, machinery and equipment so provided for the Permit Holder under the Agreement, shall remain the property of the Government, and the Government Representative reserves the right to take stock checking of the same at any time and the Permit Holder shall provide every assistance to the Government Representative for this purpose.
- (e) The Permit Holder shall accept the Permit Area and the Government's provisions of property, machinery or equipment under the Agreement (inclusive of those listed in the Fourth Schedule) in the state and condition in which occupancy is given.

31. Access Granted to the Permit Holder

- (a) The Government Representative shall grant access of the Venue or any part thereof to the Permit Holder as may be necessary for him, his employees or agents to perform his obligations under the Agreement, provided that the Government Representative shall be entitled to close the Venue or any part thereof or to prohibit any vehicular access to the Venue at any time and for any period if the Government Representative considers it prudent and expedient to do so. Such closure should not be deemed to be a breach of the Agreement by the Government Representative.
- (b) Upon such closure or prohibition of access or on demand of the Government Representative, the Permit Holder and his employees and agents shall forthwith suspend the Fast Food Business, remove the plant, equipment, materials and

vehicles under the control of the Permit Holder from the Venue.

32. Inconvenience or Annoyance Caused at the Venue

- (a) The Permit Holder shall ensure that his employees or agents shall 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.
- (b) The Permit Holder shall use his best endeavors to avoid causing nuisance or annoyance to the users using the Venue or to the Government's staff or agents working there while carrying out his Fast Food Business. The Government Representative shall be, without prejudice to any rights it has under the Agreement and without releasing or discharging the Permit Holder of his obligations hereunder and without compensation whatsoever to the Permit Holder, entitled to suspend the Fast Food Business or by whatever means the Government Representative may consider suitable so as to stop the Permit Holder from causing further nuisance to the users of the Venue and the Government's staff or agents working there.
- (c) The Permit Holder shall not place or leave, or cause, or suffer, or permit to be placed or left any of his trade equipment, stores, provisions, furniture, fixtures, fittings, chattels or other things whatsoever at any places within the Venue other than the Permit Area or otherwise howsoever encumber or encroach such places and shall forthwith remove the same to a place designated by the Government Representative if the Government Representative in its opinion considers that they may cause encumbrance or encroachment. In the event of any breach of this clause and without prejudice to any other rights and remedies which the Government Representative has or may have under the Agreement, the Government Representative shall be entitled to take all such steps as may be necessary to forthwith remove any such encumbrances or encroachments thereby constituted and without notice to the Permit Holder to seize and dispose of any such property in such manner as the Government Representative may see fit without any liability whether towards the Permit Holder or any other Person and the Permit Holder shall pay the Government on demand all the costs in relation to such removal and/or disposal which are incurred by the Government.

33. Inspection and Rejection

- (a) The Fast Food Business carried on by the Permit Holder shall be subject to

inspection by the Government Representative at any time.

- (b) Without prejudice to any other rights provided under the Agreement, the Government Representative may reject any action undertaken by the Permit Holder or result of such action which does not strictly conform to the terms and conditions of the Agreement.
- (c) Within twenty-four (24) hours (or such longer time as may be notified by the Government) of being notified in writing of the rejection of any action undertaken by the Permit Holder or result of such action, the Permit Holder shall take necessary action to rectify such rejected action or result of action to the satisfaction of the Government Representative.
- (d) If the Permit Holder shall fail to rectify such rejected action or result of action, the Government may without prejudice to any other rights and remedies available to the Government carry out and complete such rectification by its own staff or by its agents. All costs and expenses whatsoever which may be incurred by the Government thereof shall be recoverable in full from the Permit Holder forthwith on demand. The normal working hours for the staff of the Government are, with the exception of General Holiday, from 9:30 a.m. to 4:30 p.m. from Monday to Friday. If such rectification is carried out by the staff of the Government outside these normal working hours, the Permit Holder shall be responsible for the overtime remuneration, subsistence allowances and traveling expenses of such staff.

34. Permit Holder's Act, Default, etc.

- (a) Any act, default, negligence or omission of any employee, agent or invitee of the Permit Holder shall be deemed to be the act, default, negligence or omission of the Permit Holder.
- (b) It shall be regarded as a default, if the Permit Holder —
 - (i) shall have abandoned the Agreement; or
 - (ii) shall persistently or wilfully neglect to carry out his obligations under the Agreement; or
 - (iii) shall fail to carry out all or any of the rectification as stipulated in Clause 33(c) within the time specified.

- (c) Without prejudice to any other rights provided for under the Agreement, the Government is entitled to claim indemnity from the Permit Holder against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the Government may sustain or incur or which may be brought or established against it as a result of the Permit Holder's default. Notwithstanding the above provision, the Government Representative may at its own discretion terminate the Agreement in accordance with Clause 40 hereof as a result of the Permit Holder's default.

35. Accident to Permit Holder's Employees

- (a) The Government, its employees and agents shall not be under any liability whatsoever for or in respect of any injury to or death of any of the Permit Holder's employees or agents save and except such injury or death caused by the negligence of the Government or its employees or agents. The Permit Holder shall indemnify the Government and its employees or agents against all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions whatsoever in respect of any such injury or death for which the Government and its employees and agents are not liable under this clause.
- (b) The Permit Holder shall effect and keep in force at his own expense a policy of insurance against all liability to pay damages or compensation as aforesaid in respect of all staff and other persons other than the Government employees, who may be employed by the Permit Holder on any work done in pursuance of the Agreement with an insurance company authorized by the Insurance Ordinance (Cap. 41) and on such terms and conditions to be approved by the Government Representative, and shall, as and when required, deposit with the Government Representative for safe keeping a copy of such policy of insurance together with the receipt for payment of the current premiums.
- (c) In the event of any staff or other persons employed by the Permit Holder on any work done in pursuance of the Agreement suffering any personal injury or death, the Permit Holder shall within forty-eight (48) hours notify the Government Representative in writing and whether there be a claim for a compensation or not, the Permit Holder shall, as soon as it is practicable thereafter, give notice in writing of such personal injury or death to the Commissioner for Labour and the insurer.

36. Liability and Indemnity

- (a) The Permit Holder shall indemnify the Government and keep the Government fully and effectively indemnified against all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the Government may sustain or incur or which may be brought or established against it by any Person and which in any cases arise out of or in relation to or by reasons of —
- (i) the negligence, recklessness or wilful misconduct of the Permit Holder, his employees or agents; or
 - (ii) the breach or the non-performance or non-observance of any of the warranties and undertakings, obligations or conditions by the Permit Holder, his employees or agents; or
 - (iii) any defaults, unauthorized acts or omissions of the Permit Holder, his employees or agents; or
 - (iv) the non-compliance with any applicable laws and any requirements or regulations of any Government authorities or agencies in connection with the performance of the obligations under this Agreement by the Permit Holder, his employees or agents; or
 - (v) any loss or damage sustained by or any injury to or death of any third party which is partially or jointly in consequence of any negligence, omission, default of the Government or its employees or any agent under statute and under common law as long as such loss or damage sustained by or any injury to or death of such third party is partially or jointly attributable to the Permit Holder or his employees or agents engaged by the Permit Holder (if any) in the manner as described in (i) to (iv) above.
- (b) The indemnities, payment and compensation given in pursuance of the Agreement by the Permit Holder shall not be affected or reduced by reason of any failure or omission of the Government Representative in enforcing any of the terms and conditions of the Agreement, or in supervising or controlling the Permit Holder's operation or method of working, or in detecting or preventing or remedying any defective work carried out by the Permit Holder, his employees or agents.

37. Public Liability Insurance

- (a) The Permit Holder shall effect, take out, maintain and renew upon expiry at his own expense a policy of insurance (including public liability) for the benefit of and in the joint names of the Permit Holder and the Government of the Hong Kong Special Administrative Region in the sum of not less than Ten Million Hong Kong Dollars (HK\$10,000,000) for any one (1) incident and for an unlimited number of claims arising during the Term of the Agreement with an insurance company authorized by the Insurance Ordinance (Cap. 41) on such terms and conditions to be approved by the Government Representative. There shall be no limit to the number of claims during the period of insurance.
- (b) The policy of insurance shall cover full liability to pay damages or compensation as a result of the damage to properties, death of or injury to or illness suffered by any persons arising out of any act, negligence or default of the Permit Holder, or the Government or their employees and agents. The policy of insurance shall also indemnify all sums which the Permit Holder and the Government shall become legally liable to pay as compensation for bodily injury due to any food, drinks and/or other commodities sold/supplied by the Permit Holder at the Venue.
- (c) The Permit Holder shall keep the aforesaid policy of insurance in force during the continuance of the Agreement and shall forthwith deposit with the Government Representative for safe keeping a copy of such policy of insurance together with the receipt for payment of the current premiums.
- (d) If the terms of the policy of insurance taken out by the Permit Holder require the insured parties to bear any excess amount in the event of claims, the Permit Holder shall be personally and solely responsible for the payment of such excess amount and shall indemnify the Government for such payment. Under no circumstances whatsoever shall the Government be responsible for the premium payable under the public liability insurance policy or the premium payable for the renewal thereof.
- (e) The policy of insurance shall include a cross liability clause.
- (f) The Permit Holder is responsible to lodge all claims with the insurance company and shall deal with the said company upon receipt from the Government Representative or otherwise of a report on any injury, death, loss or

damage.

- (g) The Permit Holder shall conform to the terms and conditions of the public liability insurance policy and all reasonable requirements of the insurers in connection with the settlement of claims, the recovery of losses and the prevention of accidents. The Permit Holder shall not do or permit or suffer to be done any act or omission whereby the public liability insurance policy shall be rendered void or voidable, or which would otherwise amount to breach of the public liability insurance policy. The Permit Holder shall bear the economic consequences of, and indemnify the Government in full from and against any loss and liability which may arise from any failure of the Permit Holder to observe and comply with this clause.

38. Failure to Insure

If the Permit Holder shall fail to effect or to keep in force the policy of insurance referred to in Clauses 35 and 37 or any other policy of insurance which it may be required to effect under the terms and conditions of the Agreement, the Government Representative may effect and keep in force any such policy of insurance and pay such premium or premiums thereof as may be necessary for that purpose and may from time to time deduct the amount so paid from the Security Deposit in accordance with Clause 8 hereof or may recover the same as a debt due from the Permit Holder.

39. Corrupt Gifts

- (a) If the Permit Holder or any of the Permit Holder's employees or agents commits an offence under the Prevention of Bribery Ordinance (Cap. 201) or under any law of a similar nature in relation to the Agreement or any other Government contracts, the Government Representative may, on behalf of the Government, summarily terminate the Agreement, without entitling the Permit Holder to any compensation therefor.
- (b) The Permit Holder shall be liable for all expenses necessarily incurred by the Government as a result of the termination of the Agreement under this clause.
- (c) The Permit Holder shall not, whether by himself or by any person employed by him to provide the services, solicit or accept any gratuity, tip or any other form of money taking or reward, collection, or charge for any part of the services other than charges properly approved in writing by the Government

Representative under the Agreement. The Permit Holder shall prohibit his employees and agents who are involved in this Agreement from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201) when conducting business in connection with this Agreement.

- (d) The Permit Holder shall within fourteen (14) days after the commencement of the Agreement draw up and submit a staff code of conduct to the Government Representative including, among other probity issues, a statement explicitly prohibiting any person employed by him to provide the services from soliciting or accepting any form of advantages in discharging his duties under the Agreement. The Permit Holder shall ensure that any person employed by him to provide the services is well aware of the prohibited acts explicitly stated in Clause 39(c) above and of the staff code of conduct. The code of conduct should form part of the employment contract to ensure acknowledgement and compliance by the employees.

40. Termination

- (a) Without prejudice to any right or action or remedy which shall have accrued or shall accrue thereafter to the Government Representative, the Government Representative may at any time by notice summarily terminate the Agreement without entitling the Permit Holder to compensation in any of the following events —
- (i) if the Permit Holder fails or neglects to observe or perform any of the terms and conditions of the Agreement or fails to pay any of the sums payable by the Permit Holder under the Agreement or in the case of a breach capable of being remedied, will have failed within fourteen (14) days or such longer period as the Government Representative may allow after the receipt of a notice in writing from the Government Representative so to do to remedy the breach (such notice shall contain a warning of the Government Representative's intention to terminate the Agreement); or
- (ii) if the Permit Holder goes into liquidation, or is at any time adjudged bankrupt, or is having a receiving order or orders for administration of his estate made against him, or takes any proceedings for liquidation or composition under the Bankruptcy Ordinance (Cap. 6) for the time

- being in force, or becomes insolvent, or makes a proposal for a composition or a scheme of arrangement or makes any conveyance or assignment of his effects for the benefit of his creditors or purports so to do, or suffers any execution to be levied on his goods and assets in the Permit Area, or a petition is filed for the bankruptcy or winding up of his Fast Food Business otherwise than for the purpose of a reconstruction or amalgamation previously approved by the Government Representative in writing; or
- (iii) if the Permit Holder, being a company, passes a resolution, or the court makes an order, or a receiver or manager is appointed on behalf of the debenture holders, or circumstances which entitle the court or debenture holders to appoint a receiver or manager have arisen, for the liquidation of the Permit Holder's assets; or
 - (iv) if the Permit Holder assigns or purports to assign all or any part of the burden or benefits of the Agreement without the prior written consent of the Government Representative.
- (b) Notwithstanding any provision to the contrary, either party may terminate the Agreement by serving to the other party a six (6) months' prior notice in writing specifying the date of termination provided that the said date of termination shall be a date at least eighteen (18) months after the commencement of the Agreement.
- (c) If the Permit Holder has successfully early terminated the Agreement by issuing a termination notice in the manner specified in Clause 40(b) above, any tender/quotation offer from the same Permit Holder or a related person of that Permit Holder (as defined as below) for a contract immediately replacing this Agreement will be rejected.

Notes:

- i) If the Permit Holder is a company, the expression "related person" of the Permit Holder includes any one of the following:
 - (a) a shareholder (corporate or individual) which directly or indirectly beneficially owns fifty (50) percent or more of the issued share capital of the Permit Holder ("majority shareholder"); or

- (b) a holding company or a subsidiary of the Permit Holder; or
- (c) a holding company or a subsidiary of a majority shareholder of the Permit Holder; or
- (d) a company in which a majority shareholder (being an individual) of the Permit Holder directly or indirectly beneficially owns fifty (50) percent or more of its issued share capital or controls the composition of its board of directors.

The expressions “holding company” and “subsidiary” have the meanings given to them in the Companies Ordinance (Cap. 622).

- ii) If the Permit Holder is a sole proprietor or partnership, the expression “related person” includes any one of the following:
 - (a) any partner of the Permit Holder (if it is a partnership); or
 - (b) the spouse, parent, child, brother or sister of the Permit Holder, and, in deducing such a relationship, an adopted child shall be deemed to be a child of both of the natural parents and the adopting parent, and a step child to be a child of both the natural parent and of any step parent; or
 - (c) a company in which the Permit Holder or any partner of the Permit Holder beneficially directly or indirectly owns fifty (50) percent or more of its issued share capital or controls the composition of its board of directors.
- (d) If the Government Representative shall at any time be prevented from performing the Agreement by force majeure, then the Agreement shall terminate immediately but without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of any of the terms and conditions of the Agreement.
- (e) For the purpose of Clause 40(d), “force majeure” means acts of God, strikes, lockouts, acts of war, civil disorders, governmental laws, orders or regulations or other similar or different events or contingencies beyond the reasonable control of the respective parties. For these purposes an event shall not be deemed to be within the control of the Government Representative on the grounds that the Government Representative could have prevented that event by acceding to any unreasonable demands of an authority, corporation, trade union, association or person.

41. Effect of Termination

- (a) Upon termination of the Agreement –
- (i) the Permit Holder shall immediately deliver up vacant possession of the Permit Area including the appliances, furniture, fixtures and fittings provided by the Government Representative or the Government therein in good repair (fair wear and tear excepted) and in clean and hygienic condition. Provided always that where the Permit Holder has made any alterations or installed any fixtures or additions to the Permit Area with or without the Government Representative's consent, the Government Representative may at its discretion require the Permit Holder to reinstate or remove at the Permit Holder's own expense such alterations, fixtures, fittings or additions or such part or portion thereof as the Government Representative may require and to make good and repair in a proper and workmanlike manner any damage to the Permit Area and to the fixtures and installations thereof before delivering up the Permit Area to the Government Representative;
 - (ii) the Permit Holder shall at his own expense forthwith retreat all his employees or agents and remove from the Permit Area all his fixtures, fittings, structures, materials, machinery, equipment, plant and all other properties which the Government Representative does not desire to take over. The Permit Holder shall at his own expense make good any damage to the Government premises, property, machinery and equipment which are caused by such retreat or removal;
 - (iii) the Permit Holder shall return all Government premises, property, machinery and equipment provided by the Government under the Agreement in the manner as stipulated in Clause 30 hereof;
 - (iv) if the Permit Holder shall fail to comply with Clause 41(a)(ii), the Government Representative may forthwith enter the Permit Area to remove any person therein, or to remove any fixtures and fittings so installed or erected, or any property, materials, machinery and equipment found therein and to effect the necessary repair and cleansing work so as to keep the Permit Area in a good repair, clean and serviceable condition. The Government Representative reserves the right to take over or to dispose of in whatsoever manner it deems appropriate

and without any liability and compensation whether towards the Permit Holder or any other party any fixtures and fittings so installed or erected and any chattels not collected or removed by the Permit Holder upon the termination of the Agreement. All costs, losses, damages or expenses incurred by the Government as a direct or indirect result of the breach of the Agreement under this clause shall be recoverable as a debt due from the Permit Holder.

- (v) If the Agreement is terminated by the Government (other than pursuant to Clause 40) and the Government makes other arrangements for the operation of Fast Food Business, the Government may recover from the Permit Holder: (a) any amount in short of the total Monthly Permit Fee (which would have been payable by the Permit Holder had the Agreement not been terminated) suffered by the Government in engaging another permit holder to operate the Fast Food business and all costs and expenses incurred in making the arrangements for the same including conducting tender/quotation exercise for the uncompleted Fast Food Business; and (b) any additional expenditure incurred by the Government in connection with a default by the Permit Holder referred to in Clause 40.
- (b) Any termination of the Agreement howsoever occasioned shall not affect any accrued rights or liabilities of either party nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

42. Recovery of Sums Due

Whenever under the Agreement any sum of money (including but not limited to rates and Government rent payable in respect of the Permit Area) shall be recoverable from or payable by the Permit Holder to the Government (but the Permit Holder has failed to pay the same by the due date), the Government Representative is entitled to deduct the same from any sum then due or which at any time thereafter may become due to the Permit Holder under this or any other agreement or agreements with the Government or from the Security Deposit in cash, cheque or cashier's order or by making a call on the banker's guarantee in accordance with Clause 8 hereof forthwith without notice.

43. Jurisdiction

The Agreement shall be governed by and construed according to the laws of the Hong Kong Special Administrative Region and the parties hereto irrevocably submit themselves to the exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

44. Licence, Permit and/or Certificate

- (a) The Agreement does not confer exemption from any licensing requirements pertaining to the Permit Holder's Fast Food Business.
- (b) The Permit Holder shall apply to the appropriate authorities to obtain or renew, as the case may be, all licences, permits and/or certificates required by the laws of the Hong Kong Special Administrative Region for the operation of his Fast Food Business. The Permit Holder shall make no claim of any kind whatsoever against the Government Representative in the event of the Permit Holder's failure or inability for any reason to obtain or renew any such licences, permits and/or certificates.
- (c) It will be unlawful for the Permit Holder to operate his Fast Food Business without the licences, permits and/or certificates as required by the laws of the Hong Kong Special Administrative Region, notwithstanding the granting of the Permit by the Government Representative. The Permit Holder shall not provide any service or for sale of any commodities for which any licence, permit and/or certificate is so required by law without first obtaining such licences, permits and/or certificates. The Permit Holder shall assume full responsibility for ensuring that those licences, permits and/or certificates shall remain in full force and effect as long as the Agreement remains in force.
- (d) Since it will necessarily take time for the relevant authorities to consider and decide on an application for the requisite licence, permit and/or certificate, the Permit Holder agrees and accepts that there will be no abatement or reduction of the Monthly Permit Fee on the grounds that the Permit Holder cannot operate his Fast Food Business pending the consideration of his applications and issuance or renewal of the relevant licences, permits and/or certificates. For avoidance of doubt, the non-issuance of the relevant licences, permits and/or certificates by relevant authority does not constitute any grounds for the abatement of the Monthly Permit Fee.

- (e) The Permit Holder shall observe and comply with the conditions of any licence, permit and/or certificate issued to him in relation to the performance of the Agreement.

45. Applicability of Public Health and Municipal Services Ordinance

The Agreement is subject to the provisions of the Public Health and Municipal Services Ordinance (Cap. 132), and of all regulations made thereunder, which may be applicable to the Venue, the Permit Area and to the Fast Food Business. For activities relevant to licensing requirements regulated by the Director of Food and Environmental Hygiene, the Permit Holder should visit the following Food and Environmental Hygiene Department's website for more information –

http://www.fehd.gov.hk/english/licensing/Guide_on_Types_of_Licences_Required.html

46. Compliance with Law and Government Requirements

The Permit Holder shall observe and comply with all applicable laws of the Hong Kong Special Administrative Region and requirements or regulations imposed from time to time by the relevant authorities in connection with the performance of his obligations under the Agreement.

47. Service of Notice

- (a) Any notice to be given herein shall be in writing and shall be sent to the address of the recipient set out in the Agreement or to such other address as either party shall notify the other in writing. Notice may be delivered personally or by post, by courier or facsimile.
- (b) Any notice shall be deemed given –
- (i) when left at the address of the recipient if delivered by hand during normal business hours; or
 - (ii) one (1) working day after despatch by post; or
 - (iii) when successfully despatched by facsimile.

48. Waiver of Remedies

- (a) No forbearance, delay or indulgence by either party in enforcing the provisions of the Agreement shall prejudice or restrict the rights of that party. Nor shall

any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either party is exclusive of any other right, power or remedy available to that party and each such right, power, or remedy shall be cumulative.

- (b) Acceptance of any payment by the Government Representative shall not be deemed to operate as a waiver by the Government of any right to proceed against the Permit Holder in respect of any breach, non-observance or non-performance by the Permit Holder of any of the terms and conditions of this Agreement on the Permit Holder's part to be observed and performed.

49. Severability

- (a) In the event that any provisions of the Agreement or any part of any such provisions shall at any time be adjudged to be invalid, unlawful, illegal or otherwise howsoever unenforceable under any applicable laws of the Hong Kong Special Administrative Region, such provisions or such part of such provisions, as the case may be, to but only to the extent required by such laws, shall be severed from the Agreement and rendered ineffective so far as possible without modifying the remaining provisions hereof.
- (b) If at any time any one or more provisions hereof shall be adjudged to be invalid or illegal in any respect under any applicable laws of the Hong Kong Special Administrative Region, the validity, legality or enforceability of the remaining provisions hereof shall not in any way be thereby impaired or affected.
- (c) Where, however, the provisions or any such applicable laws of the Hong Kong Special Administrative Region may be waived, they are hereby waived by the parties hereto to the full extent permitted by such laws to the end that the Agreement shall be valid, binding and enforceable in accordance with its terms and conditions.

50. Relationship of the Parties

- (a) Nothing in the Agreement shall be construed as in any way constituting a partnership between the parties.
- (b) Neither party shall without the prior approval in writing of the other commit that other party to any obligation other than those prescribed in the Agreement.

51. Mediation

The parties hereto agree that any dispute or claim arising out of or in connection with this Agreement ('the Dispute') shall be referred to mediation prior to commencement of litigation. In default of agreement, the Dispute shall be referred to mediation at the Hong Kong International Arbitration Centre in accordance with its Mediation Rules. In case the Dispute cannot be resolved by mediation, the Dispute shall be referred to, and finally settled by, arbitration in accordance with and subject to the provisions of the Arbitration Ordinance (Cap. 609).

52. Entire Agreement

The Agreement embodies the entire understanding of the parties and supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire Agreement between the parties relating to the subject matter thereof. No addition to or modification of any provision of the Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized representative of each of the parties.

53. Exclusion

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

SCHEDULES

First Schedule

Monthly Permit Fee

- A. Subject to Paragraph B below, the Permit Holder shall pay to the Government in advance a Monthly Permit Fee as regards the grant of a Permit by the Government Representative to conduct the Fast Food Business on the first day of each and every month without any reduction throughout the Term at the following rate –

Business	Monthly Permit Fee (in Hong Kong dollars)
Fast Food	HK\$ _____ (in figures)

- B. The Monthly Permit Fee does not include rates, Government rent and taxes payable in respect of the Permit Area and the Permit Holder’s Fast Food Business. The first payment of the Monthly Permit Fee is to be made not later than seven (7) days before the commencement of the Term or at such time as shall be directed by the Government Representative. When payment of the Monthly Permit Fee of any month is overdue, the Permit Holder shall pay to the Government a surcharge on that outstanding Monthly Permit Fee at an interest rate equivalent to the average of the best lending rate of the three note-issuing banks in Hong Kong plus 2% per annum. Such interest shall be calculated and payable from the day on which such payment falls due.

Name of Service Provider : _____ Date : _____

Name of Authorized Representative: _____

Signature of Service Provider
or Authorized Representative*: _____

(with Service Provider’s chop, if applicable)

* Delete as appropriate

SCHEDULES**Second Schedule****List of commodities recommended for sale at the Permit Area****Description of commodities for sale**

- | | | |
|-----|---|---|
| (a) | Pre-packed soft drinks | |
| (b) | Ice cream and other frozen confections (The sale and/or manufacture of these items is subject to the grant to the Permit Holder of an appropriate licence from the Food and Environmental Hygiene Department) | |
| (c) | Pre-packed distilled and mineral water | |
| (d) | Chinese light refreshments | } (From licensed food factories or lawful sources and in original wrappers) |
| (e) | Cakes | |
| (f) | Pastries | |
| (g) | Preserved foodstuffs | |
| (h) | Bread and biscuits | |
| (i) | Sweets | } (The sale of these items is subject to the grant to Permit Holder of an appropriate licence from the Food and Environmental Hygiene Department and is only permitted in the part of the Permit Area which meets the licensing requirements) |
| (j) | Uncut fruit | |
| (k) | Hot and cold drinks | |
| (l) | Barbecue pack | |
| (m) | Chinese and western dishes | |
| (n) | Snacks (e.g. sandwiches, noodles, etc.) | |

Notes:

- (1) All items for sale and their respective prices shall be prominently displayed at the Permit Area.
- (2) A Service Provider may offer with prior written consent of the Government Representative for sale any other commodity, which is compatible with the stipulated categories or with the licensing requirement relating to the Fast Food Business.
- (3) It is not the intention of the Government Representative to exercise control over prices of commodities for sale at the Permit Area.

SCHEDULES

Third Schedule

Information on Service Provider

Service Provider is required to provide the following information –

1. If my/our quotation is accepted, I/we shall, pursuant to Clause 14(a) of the Terms of Quotation, deposit with the Government of the Hong Kong Special Administrative Region, not later than seven (7) days before the commencement of the Term or at such time as shall be directed by the Government Representative, a sum equivalent to four (4) months' Monthly Permit Fee as security for the due and faithful performance of the Agreement either –
 - (a) in cash, cheque or cashier's order; or
 - (b) in the form of a banker's guarantee approved by the Government Representative and issued by a bank licensed under Section 16 of the Banking Ordinance (Cap. 155). I/We shall keep the banker's guarantee valid for three (3) more months after the expiry of this Agreement.

Signature of Service Provider
or Authorized Representative* : _____
(with Service Provider's chop, if applicable)

Date: _____

* Delete as appropriate

2. In support of my/our offer for the grant of the Permit, I/we would provide the following information —

(A) Service Provider's Status

(1) **If the Service Provider is a Sole Proprietor** – (If the Service Provider is not a sole proprietor of the business he is bidding for, please strike out (1) and go to (2). If the Service Provider is a sole proprietor, please complete (1) and strike out (2) and (3).)

(a) Name of _____ (in English)
Owner/ Proprietor: _____ (in Chinese)

(b) Hong Kong Identity Card Number: _____

(c) Residential Address:

(d) Telephone Number: _____

Facsimile Number: _____

(e) Business Registration Certificate
Number of the Business being operated
(if any): _____

Expiry date of Business Registration
Certificate (if applicable): _____

(f) Name of Banker and Branch dealing with the business being operated:

Address of Banker and Branch:

Bank Account Number: _____

(g) I submit this quotation for and on my own behalf as the sole proprietor with details as shown above. I also attach herewith documentary evidence proving my possession of the

requisite relevant experience.

Signature of Owner/Proprietor
(i.e. the Service Provider):

Date:

(2) **If the Service Provider is a Firm or other Body Unincorporated** – (If the Service Provider is a body corporate, please strike out (2) and go to (3)).

(a) Name of Firm/ (in English) _____
Body Unincorporated:

(in Chinese) _____

(b) Address of the Firm/Body _____
Unincorporated:

(c) Telephone Number: _____ Facsimile Number: _____

(d) Business Registration Certificate Number of
business being operated: _____

Expiry date of Business Registration
Certificate: _____

(e) Name of Banker and Branch dealing with the business being operated:

Address of Banker and Branch:

Bank Account Number: _____

(f) Names of all Partners (in BLOCK letters) (a copy of partnership agreement shall be submitted if the Service Provider is a partnership or office-bearers of body unincorporated) :

Residential Address(es) of Partners or office-bearers (in above order):

(g) I declare and confirm that I am one of the partners / the authorized representative of the said firm / body unincorporated and am duly authorized to bind the said firm / body unincorporated and all its partners to this quotation by my signature. I attach to the Quotation Form a letter certifying that I am the authorized representative to sign contracts / agreements. I also attach herewith the documentary evidence proving my / our possession of the requisite relevant experience.

Signature of Authorized Representative:

(with firm / body unincorporated chop)

Name of Authorized Representative:

Date:

(3) **If the Service Provider is a Body Corporate -**

(a) Name of the Body Corporate:

(in English) _____

(in Chinese) _____

If a Subsidiary, Name of Parent Company:

(in English) _____

(in Chinese) _____

(b) Address of registered office:

(c) Telephone Number: _____ Facsimile Number: _____

(d) Certificate of Incorporation Number of the company
or name of ordinance under which the body
corporate is established :

Limited or unlimited liability:

Year of establishment:

(e) Business Registration Certificate Number of the
business being operated:

Expiry date of Business Registration Certificate:

(f) Name (in BLOCK letters) and residential address of the Managing Director:

(g) Name (in BLOCK letters) and residential address of the Company Secretary:

(h) Name of Banker and Branch dealing with the business being operated:

Address of Banker and Branch:

Bank Account Number:

(i) I declare and confirm that I am the *Managing Director/Company Secretary/ Principal Officer (please specify _____)# of the said company/body corporate and am duly authorized to sign this Information on Service Provider on behalf of the said company/ body corporate and to bind the said company/ body corporate to this quotation by my signature. I attach to the Quotation Form a certified true copy of the company’s resolution/ body corporate’s minutes of meeting showing that I am duly authorized to sign contracts/agreements. I also attach herewith documentary evidence providing our possession of the requisite relevant experience.

 Signature of Authorized Representative: _____
 (with company/ body corporate chop)

Name of Authorized Representative: _____

Date: _____

Please fill in the blank

(B) Other business being run at present –

(C) Proposed investment for the Fast Food Business –

(D) Proposed number of staff to be employed for operating the Fast Food Business –

(E) Other information relevant to my/ own quotation –

3. In the event of any queries relating to my/our offer, please contact –

Name: _____ Telephone Number : _____

Name(s) and address(es) of Service Provider and Authorized Representative signing this document :

Telephone number : _____

Signature of Service Provider
or Authorized Representative* : _____

(with Service Provider's chop, if applicable)

Date: _____

* Service Provider must delete as appropriate.

- Notes:
- (i) All the particulars required above shall be accurately completed and the supply of any inaccurate, incomplete or misleading particulars or willful omission may lead to rejection of this quotation.
 - (ii) Any alternatives which are not applicable should be struck out.
 - (iii) Service Provider should read carefully each and every part of the Quotation Documents.
 - (iv) If the Service Provider is a sole proprietor, the Service Provider shall answer queries and sign the Quotation Documents personally and shall not authorize any other Person to act for the Service Provider. If the Service Provider is a firm or an unincorporated body, the Service Provider may authorize a partner(s) of the firm or an office-bearer of a body unincorporated to answer queries and sign the Quotation Documents.
 - (v) If the Service Provider is a firm, an unincorporated body, a company or other body corporate, he shall submit with the quotation a copy of the minutes of meeting and/or resolution of the board of directors to prove proper authorization of the Person(s) or representative(s) to act on behalf of the Service Provider and sign the Quotation Documents. If the Service Provider is a partnership, one of the partners may sign the Quotation Documents save and except that all partners shall execute the Permit.
 - (vi) The information provided will be used solely for processing of this quotation exercise.

SCHEDULES**Fourth Schedule****List of appliances, furniture, fixtures and fittings
provided by the Government for the Fast Food Business
at Harbour Road Garden**

Item	Description	Quantity
1	Roller shutter	2 nos.
2	Water tap with twin basin	1no.
3	Grease trap	1 no.
4	Fluorescent lighting	7 nos.
5	13A socket	9 nos.
6	Telephone outlet	1 no.
7	13A fuse spur unit for exhaust fan	1 no.
8	Hydro vent system	1 no.
9	20A TPN isolator for roller shutter	2 nos.

AGREEMENT

THIS AGREEMENT is made this ____ day of ____ 20____ BETWEEN the Government of the Hong Kong Special Administrative Region acting through the Director of Leisure and Cultural Services whose principal office is situated at the Leisure and Cultural Services Headquarters, 1-3 Pai Tau Street, Sha Tin, Hong Kong (the ‘Government’) of the one part AND _____ [name of the Permit Holder] of _____ [address of the Permit Holder] (the ‘Permit Holder’) of the other part.

THE PARTIES HERETO agree as follows –

1. The Government hereby grants to the Permit Holder a Permit to conduct Fast Food Business in the Permit Area at Harbour Road Garden for the period and on the terms and conditions set out in the following documents –
 - (i) Quotation Form;
 - (ii) Interpretation;
 - (iii) Terms of Quotation and Quotation Attachment;
 - (iv) Conditions of Contract; and
 - (v) Schedules and Annexes.

2. In consideration of the grant of the Permit, the Permit Holder agrees to pay to the Government the Monthly Permit Fee and to observe and perform the terms and conditions of this Agreement.

THE PARTIES HERETO have set their hands the day and year first before written.

Signed for and on behalf of the Government of the)
Hong Kong Special Administrative Region by)
(name and post))

in the presence of)
(name and post))

Signature of the Permit Holder/Authorized Representative*)
(name and HKIC no. of the Permit Holder /Authorized)
Representative*))
(with firm/company chop, if applicable)

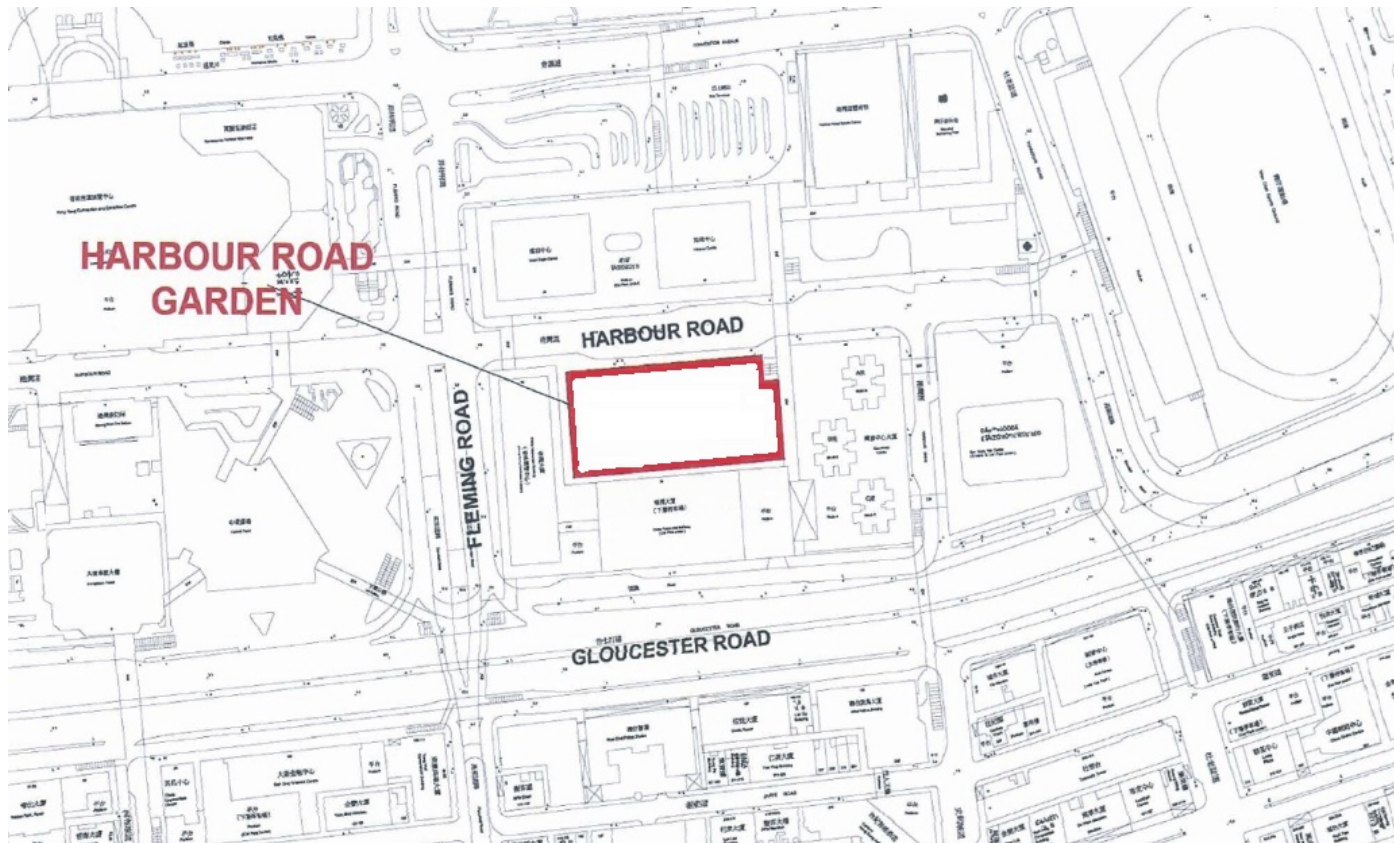
in the presence of)
(name and post and HKIC no.))

* Delete as appropriate

ANNEXES

ANNEX A

Location Plan of the Venue at Harbour Road Garden
(Venue as delineated and shown edged red)

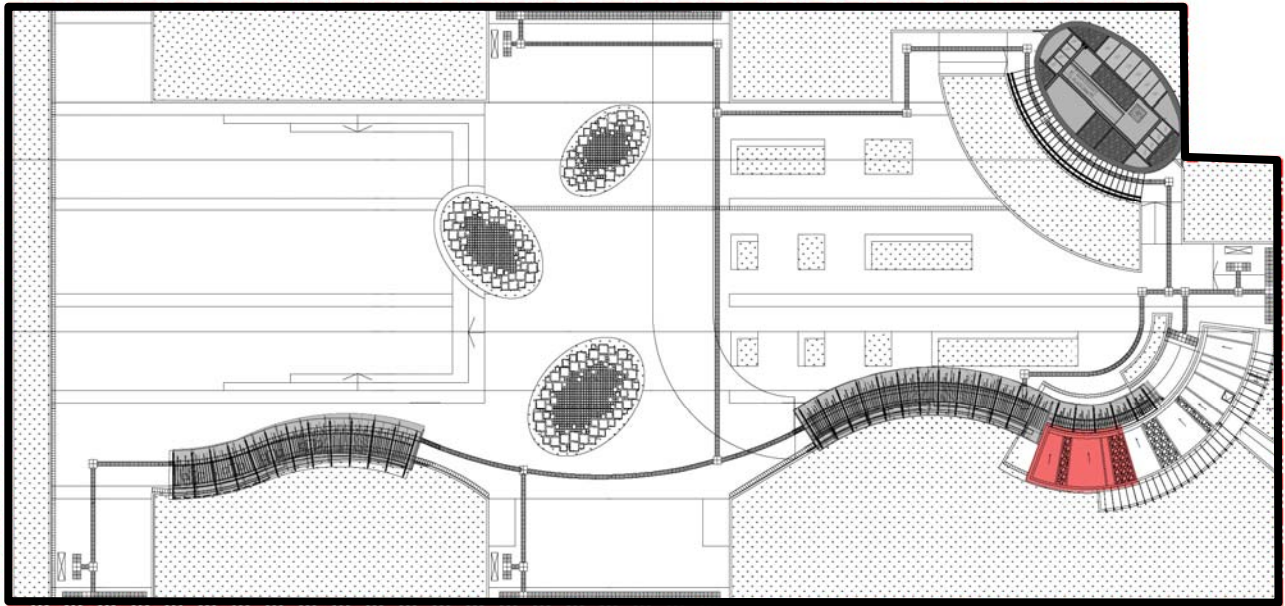


(Not to scale)

ANNEXES

ANNEX B

Location Plan Showing the Fast Food Kiosk at Harbour Road Garden
(Permit Area for Fast Food Business as delineated and shown coloured red)



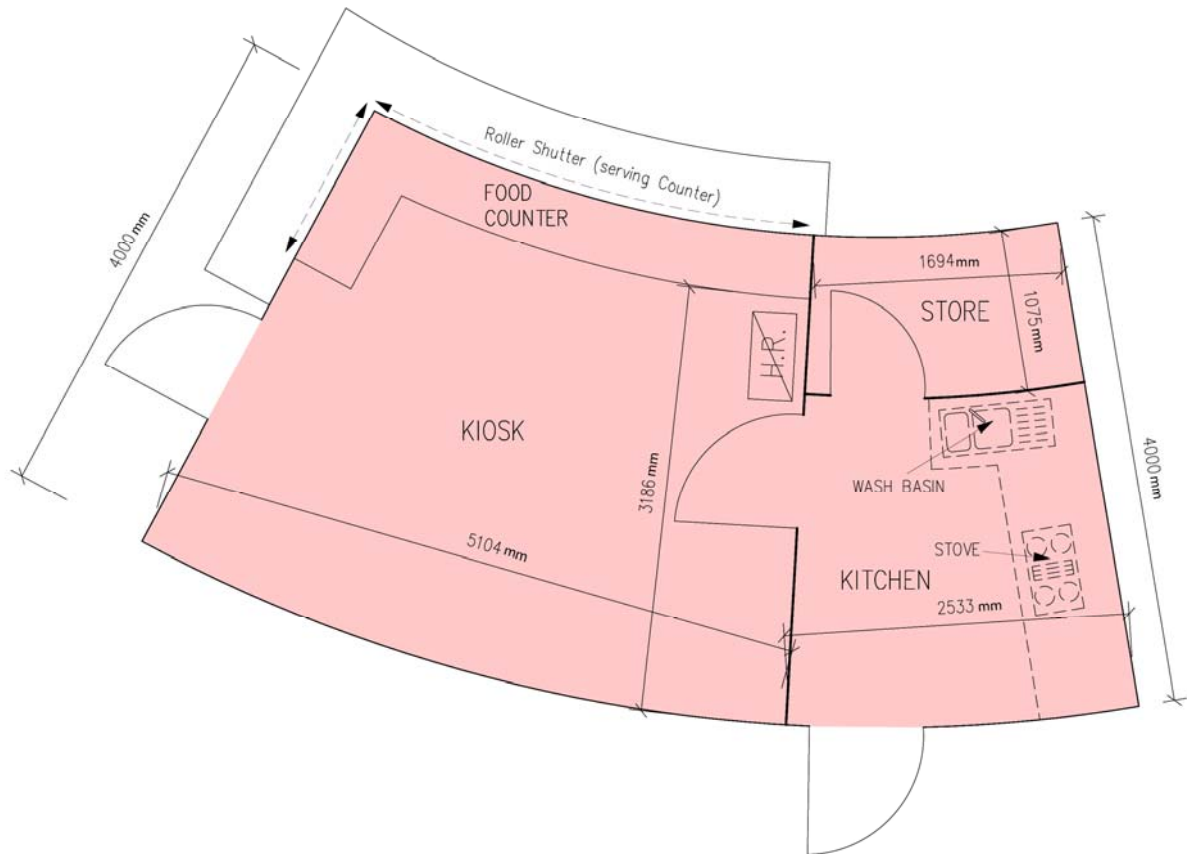
(Not to Scale)

ANNEXES

ANNEX C

Layout Plan of the Fast Food Kiosk at Harbour Road Garden

(Permit Area for the Fast Food Business as delineated and shown coloured red)



(Not to Scale)