# ANNEX C – LOCKER OPERATOR APPOINTMENT AGREEMENT

# LOCKER OPERATOR APPOINTMENT AGREEMENT

BETWEEN

**THE INFO-COMMUNICATIONS MEDIA DEVELOPMENT AUTHORITY**

AND

**[INSERT NAME OF OPERATOR]**

**DATED THE DAY OF 2018**

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**LOCKER OPERATOR APPOINTMENT AGREEMENT**

**THIS LOCKER OPERATOR APPOINTMENT AGREEMENT** ("**Agreement**") is entered into on the _____ day of _____ 2018

**BETWEEN:**

(1) **The Info-communications Media Development Authority**, a statutory board established under the laws of Singapore, pursuant to the Info-communications Media Development Authority Act 2016 (Act No. 22 of 2016), and having its offices at 10 Pasir Panjang Road, #10-01 Mapletree Business City, Singapore 117438 (the "**IMDA**");

**AND**

(2) **[Insert Name of Operator]** (Company Registration Number: [●]), a company incorporated under the laws of [Singapore], and having its registered office at [●] (the "**Operator**"),

(each a "**Party**", and collectively, the "**Parties**").

**WHEREAS:**

(A) As part of Singapore's initiative to be a leading e-commerce hub in Asia, IMDA has initiated a request for proposal (Reference: IMDA/FL/XXXX/2017) on 15 December 2017 to appoint third parties on a turnkey basis to install, operate and maintain secure electronic parcel Locker Stations to facilitate "last-mile" delivery services (the "**Project**").

(B) The Locker Stations are intended to be alternative delivery locations that can be used either as a delivery address or as part of a re-delivery option, and the Operator is desirous of providing the use of Locker Stations as a service to its customers, which may include consumers, market-places, e-retailers and other logistics services providers (the "**Purpose**").

(C) The Locker Stations are intended to be installed and operated at various public housing estates, leased by HDB, as well as various MRT Stations managed by the relevant PTOs. Accordingly, each of HDB and PTOs will participate in the Project as lessor of the relevant premises for the Locker Stations.

(D) IMDA has selected the Operator as the successful tenderer following the issuance of a letter of award on [date] and hereby appoints the Operator to install, operate and maintain the Locker Stations at the selected locations set out in **Clause 3** for the entire duration set out in **Clause 2** in accordance with the terms and conditions set out herein.

## 1. DEFINITIONS AND INTERPRETATION

1.1 *Definitions*

In this Agreement, unless the context otherwise requires, the following terms shall have the meanings set out below.

| | | |
|---|---|---|
| **Affected Party** | : | has the meaning given to it in **Clause 18.2(a)**. |
| **Agreement** | : | has the meaning given to it in the Preamble. |

| | | |
|---|---|---|
| **Applicable Law** | : | any laws and any other instruments, subordinate legislation having the force of law in Singapore, including any applicable statute, ordinance, notification, decree, regulation, by-law, rule, circular, directive, licence, consent, permit, authorisation, concession, guideline, code or other approvals issued by the relevant government or regulatory authority with appropriate jurisdiction in Singapore. |
| **Authorisation** | : | any consent, authorisation, registration, filing, lodgement, notification, certificate, lease, licence, permit, approval or exemption from any governmental authority relevant to the Project. |
| **Business Day** | : | any day other than a Saturday, Sunday or a gazetted public holiday in Singapore. |
| **Completion Certificate** | : | has the meaning given to it in **Clause 4.4.** |
| **Commencement Date** | : | the date set out at the beginning of this Agreement. |
| **Confidential Information** | : | has the meaning given to it in **Clause 16.1.** |
| **Consumers** | : | end-consumers who have purchased products from the Registered Users or other third parties, where a delivery option for the purchased products is a Locker Station. |
| **Data Protection Policy** | : | has the meaning given to it in **Clause 10.1**. |
| **Emergencies** | : | any event at the Locker Stations and/or within the Locker Network that poses a threat to or may cause injuries to Users or passers-by or may result in damage to properties. These events could include bomb threats, chemical contamination and Force Majeure events. |
| **Extended Pilot** | : | has the meaning given to it in **Clause 2**. |
| **Force Majeure** | : | an event or cause beyond the reasonable control of the Party claiming Force Majeure including:<br>(a) fire, lightning, explosion, flood, earthquake, storm, cyclone, action of the elements, act of God, natural disaster, radioactive contamination, toxic or dangerous chemical contamination or force of nature;<br>(b) sanctions, embargoes, breaking off of diplomatic relations, riots, civil commotion, malicious damage, sabotage, act of terrorism, act of a public enemy, war (declared or undeclared) or revolution;<br>(c) strikes or lockouts, whether localised or industry wide; and<br>(d) breakdown or failure of any facilities, machinery or equipment which has been caused by any one or more of the events set out in paragraphs (a) to (c). |

| | | |
|---|---|---|
| **HDB** | : | the Housing & Development Board, a statutory board established under the laws of Singapore, pursuant to the Housing and Development Act (Cap. 129). |
| **LTA** | : | the Land Transport Authority of Singapore, a statutory board established under the laws of Singapore, pursuant to the Land Transport Authority of Singapore Act (Cap. 158A). |
| **IMDA** | : | has the meaning given to it in **Recital (1)**. |
| **Initial Pilot** | : | has the meaning given to it in **Clause 2**. |
| **Installation Works** | : | has the meaning given to it in **Clause 4.2**. |
| **Inter-Operable Platform** | : | the information exchange platform designated to facilitate the open access across heterogeneous locker networks managed by different operators. |
| **Locker Compartment** | : | the individual lockable compartment of a Locker Station. |
| **Locker Management System** | : | the computer system managing the operations and functionalities of the Locker Network. |
| **Locker Network** | : | the network of Locker Stations covered by this Agreement, as set out in **Clause 3**. |
| **Locker Station** | : | single site where a suite of Locker Compartments is located, from which parcels can be delivered to and collected by Users on a self-service basis. |
| **MRT Stations** | : | mass rapid transit stations, operated by PTOs. |
| **Nationwide Tender** | : | has the meaning given to it in **Clause 2.23**. |
| **Operational Data** | : | all logs, information and records related to operation and maintenance of the Locker Stations and Locker Management System, including its downtime (planned or unplanned), as well as the time and activities taken to restore them to an operational level. |
| **Operator** | : | has the meaning given to it in **Recital (2)**. |
| **Party or Parties** | : | IMDA and/or the Operator. |
| **PDPA** | : | Personal Data Protection Act 2012 (Act 26 of 2012) and its accompanying subsidiary legislation. |
| **personal data** | : | has the meaning defined in Section 2 of the PDPA, as may be amended from time to time. |
| **Project** | : | has the meaning given to it in **Recital (A)**. |
| **Project Data** | : | all data relevant for assessment of feasibility, viability and success of the Project amongst Users, including but not limited to: |

(a) Locker Stations usage, including time between reservation and delivery, number of days of utilisation, utilisation rates of the Locker Stations, the utilisation rates for various sizes of the Locker Stations, seasonal utilisation of the Locker Stations, and data relating to the types of parcels stored;

(b) consumer behaviour, including collection or drop-off timings of Users;

(c) delivery patterns, including delivery trips and quantity of parcels, as well as delivery timings;

(d) profit and loss data for the Locker Network operations for the duration of the pilot phase of the Project; and

(e) service and maintenance information and logs, including fault detail, recovery information etc.

**PTOs** : the public transport operators, i.e. SBS Transit Ltd. and SMRT Corporation Ltd.

**Purpose** : has the meaning given to it in **Recital (B).**

**Registered Users** : users of the Locker Network, including merchants, market-places, e-retailers and logistics services providers, registered on the Inter-Operable Platform.

**Records** : has the meaning given to it in **Clause 11.1.**

**Requirements** : specifications of the Project, as set out in **Clause 7.**

**SIAC** : Singapore International Arbitration Centre.

**SIAC Rules** : Arbitration Rules of the Singapore International Arbitration Centre.

**Security Agencies** : the security agencies responsible for the security and safety of Singapore, including Ministry of Defence, Ministry of Home Affairs, SPF, and Singapore Civil Defence Force.

**Security Data** : all data derived from the security measures put in place by the Operator, which may facilitate any law enforcement actions, including but not limited to audit log of access authentication and authorisation, event log of all opening, closing and locking of Locker Compartments, log of any out of the ordinary incidents such as interruption of power, log of alert triggers, event log of statuses of Locker Compartments such as receipt and collection of parcels, surveillance cameras footage etc.

**Service Level Report** : has the meaning given to it in **Clause 7(h)**Error! Reference source not found..

| | | |
|---|---|---|
| **SIMC** | : | Singapore International Mediation Centre. |
| **Site or Sites** | : | has the meaning given to it in **Clause 3.1**. |
| **SPF** | : | the Singapore Police Force, the police force established under the laws of Singapore, pursuant to the Police Force Act (Cap. 235). |
| **Support Hours** | : | 7 AM to 12 midnight Singapore Time on daily basis. |
| **Tenancy Agreement** | : | tenancy agreement to be entered into between HDB and the Operator, or between the Operator and the relevant PTO for purposes of leasing of the premises for Locker Stations at the respective HDB Sites or MRT Stations for the Project (as the case may be). |
| **Users** | : | Registered Users and Consumers. |

1.2 *Interpretation*

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

(a) The singular includes the plural and conversely.

(b) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

(c) A reference to a "**person**" includes a body corporate, an unincorporated body or other entity and conversely.

(d) A reference to a "**clause**" or "**annex**" is to a clause of or annexure to this Agreement.

(e) A reference to any "**Party**" to this Agreement or any other agreement or document includes the party's successors and permitted assigns.

(f) A reference to any "**agreement**" or "**document**" (including this Agreement) is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Agreement or that other agreement or document.

(g) A reference to any "**legislation**" or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.

(h) A reference to "**writing**" includes a facsimile transmission and any means of reproducing words in a tangible and permanently visible form.

(i) Any words following the terms "**include**", "**includes**" or "**including**" or any similar express shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.3 *Agreement to Prevail*

The annexes to this Agreement are incorporated by reference in this Agreement, provided if there is any inconsistency between any annex and any provision of this Agreement, the relevant provision of this Agreement shall prevail to the extent of such inconsistency.

## 2. TERM AND RIGHT TO EXTEND

2.1 Unless otherwise terminated in accordance with the terms and conditions of this Agreement, this Agreement shall commence on the Commencement Date. The Operator shall operate the Locker Network for a period of twelve (12) months beginning from 1 October 2018 or such later date as may be notified in writing by IMDA to the Operator ("**Initial Pilot**"), following which IMDA shall have the right, but not the obligation to extend the Initial Pilot for a further term of 12 months ("**Extended Pilot**"), provided that IMDA provides a notice of extension in writing at least one (1) month prior to the expiry of the Initial Pilot.

2.2 The Parties shall initiate two (2) discussions in good faith, in the fifth ($5^{th}$) and tenth ($10^{th}$) months of the Initial Pilot, which shall comprise a mutual consultation on the viability and sustainability of the Project, having regard to its Purpose.

2.3 In the event that at the end of the Initial Pilot, a public tender for locker operators to operate a nationwide network of Locker Stations is called, by IMDA or otherwise, (the "**Nationwide Tender**"), the Operator may continue its operations at the designated Sites for the Extended Pilot, subject to IMDA's extension of the Initial Pilot as set out at **Clause 2.1**.

## 3. LOCATIONS

3.1 The Operator shall install and operate a network of Locker Stations in the HDB towns and/or at the selected MRT Stations specified at **Annex A** of this Agreement (each referred to as a "**Site**" and collectively, "**Sites**") as part of the Project.

## 4. INSTALLATION OF THE LOCKER STATIONS

4.1 The Operator shall design and install the Locker Compartments and Locker Stations consistent with the Requirements, in accordance with the implementation schedules and milestones set out in **Annex B** of this Agreement.

4.2 The establishment of the Locker Compartments and Locker Stations at the Sites shall include all works necessary to ensure compliance with Requirements, including:

(a) any levelling or flood-proofing of the Sites as necessary;

(b) electrical works;

(c) bolting of and securing the Locker Compartments to the floor or wall at each Site;

(d) installation of internet connectivity within the Locker Stations;

(e) relocation of existing fixtures including surveillance cameras and lighting where necessary,

(collectively, the "**Installation Works**").

4.3 The Operator shall have the right to sub-contract any aspect of the Installation Works, provided always that, the Operator shall:

(a) be responsible for the actions and/or omissions of its officers, employees, agents, representatives and sub-contractors, as well as the actions and/or omissions of its sub-contractors' officers, employees, agents, representatives and contractors, as the case may be; and

(b) be liable for the performance and discharge of those rights and obligations, including for the acts, omissions, default, negligence or breach by its officers, employees, agents, representatives and sub-contractors, in addition to the actions and/or omissions of its sub-contractors' employees, agents, representatives and contractors, as the case may be.

4.4 Upon completion of the Installation Works, the Operator shall promptly notify (a) IMDA and HDB if the relevant Site located is located within a HDB housing estate; and/or (b) IMDA and LTA if the relevant Site is located within an MRT Station, in writing, that the Locker Stations are available for inspection by the relevant stakeholders at a date and time to be agreed between the Parties, on which date, the Operator shall permit the relevant stakeholders to inspect the Locker Stations at the respective Sites. The Operator shall take note of any defects and/or deficiencies which the stakeholders may highlight to the Operator and promptly rectify such defects and/or deficiencies. Once such defects and/or deficiencies have been rectified by the Operator, and there are no further comments from the stakeholders, whether pursuant to further inspection(s) or otherwise, the Operator shall promptly issue a certificate for each Site in the form set out in **Annex C** of this Agreement ("**Completion Certificate**"), stating that all Installation Works are complete and the Locker Stations are ready for use.

4.5 Each Locker Station at each Site shall be certified by a qualified professional engineer, duly registered with the Professional Engineers Board of Singapore, under the Professional Engineers Act (Cap. 252), before and after each Installation Works.

## 5. TITLE TO THE LOCKER STATIONS

5.1 Subject to the terms set out in this Agreement, the Parties agree that all legal and beneficial title, possession and risk of the Locker Compartments and the Locker Stations shall belong to the Operator.

## 6. OPERATIONS AND MAINTENANCE OF THE LOCKER NETWORK

6.1 The Operator shall operate and maintain the Locker Network in accordance with the Requirements.

6.2 The Operator agrees to assist with the integration and testing with the Inter-Operable Platform as directed by IMDA (or its appointed vendor), for the purposes of interfacing various Users and parcel locker applications as part of the Project across different locker operator networks. The Operator undertakes to ensure that the Locker Management System is compatible with the Inter-Operable Platform.

## 7. REQUIREMENTS

7.1 The Operator, shall ensure that all design, installation, operation and maintenance of the Locker Compartments and Locker Stations, as the case may be, are in compliance with the following requirements:

[ The following security requirements will be inserted in the final Agreement ]

(a) Security requirements

(b) Intentionally left blank

(c) Intentionally left blank

Please obtain the Non-Disclosure Agreement ("NDA") and Official Secrets Act ("OSA") Forms from IMDA. Complete, sign and submit the NDA & OSA forms to the email address Federated_Lockers@imda.gov.sg and the information will be released after the forms are processed.

(d) Locker Stations requirements

<table>
<tr><th>No.</th><th>Locker Station Requirements at All Sites</th></tr>
<tr><td>A</td><td>Location Requirements</td></tr>
<tr><td>1.</td><td>The location of the Locker Stations shall be approved by the respective owners/lessors, lessee and sub-lessee(s) of the Sites, including HDB, LTA and PTOs, and if required by the Security Agencies.</td></tr>
<tr><td>2.</td><td>The Operator shall provide adequate protection for Locker Stations that are exposed to weather elements to protect the Locker Station and its contents as well as to facilitate delivery and collection when there is inclement weather.</td></tr>
<tr><td>3.</td><td>Locker Stations shall not be placed in any location that may create, inadvertently or otherwise, blind spots or hiding places that may be exploited.</td></tr>
<tr><td>4.</td><td>Locker Stations shall be located at least three (3) metres from opening of exit staircase.</td></tr>
<tr><td>5.</td><td>Locker Stations shall be located at least three (3) metres from the fire-fighting/smoke stop lobby.</td></tr>
<tr><td>B</td><td>Locker Station Hardware</td></tr>
<tr><td>1.</td><td>The Operator shall ensure that the design and installation system used for each Locker Compartments at the Locker Stations is modular to allow scalability in terms of number of compartments as well as changes in the composition of the different Locker Compartment sizes.</td></tr>
<tr><td>2.</td><td>The Locker Compartments shall be provided to accommodate at least three (3) basic parcel sizes of the following dimensions:
<table>
<tr><th>Parcel Size</th><th>Dimension in centimetres (Height x Width x Depth)</th></tr>
<tr><td>Small</td><td>14 x 40 x 45</td></tr>
<tr><td>Medium</td><td>28 x 40 x 45</td></tr>
<tr><td>Large</td><td>44 x 40 x 45</td></tr>
</table></td></tr>
<tr><td>3.</td><td>The Operator shall install a minimum of 40 Locker Compartments, of varying sizes and a maximum of 80 Locker Compartments of varying sizes at each Locker Station. The composition of various sizes of the Locker Compartments shall be determined by the Operator.</td></tr>
<tr><td>4.</td><td>Locker Station shall be secured as a permanent and secured fixture, either to the ground or wall.</td></tr>
<tr><td>5.</td><td>Each Locker Compartment and the Locker Station shall be made of non-combustible material.</td></tr>
<tr><td>6.</td><td>Each Locker Station shall be provided with uninterrupted power supply (UPS) for at least one (1) hour of operation.</td></tr>
</table>

| | |
|---|---|
| 7. | The design of each Locker Station shall be durable and reasonably damage-proof and cannot be easily tampered with. As an illustration, all locks, screws, and fastening parts shall not be exposed and shall be sealed. |
| **C** | **Locker Management** |
| 1. | Locker Management System shall manage the network of Locker Stations in compliance with the security, operations and Requirements set out in this Agreement and the Annexes. |
| 2. | The Operator shall allow Users to access the locker to drop off parcel at or collect parcel from the Locker Station with applications available on both iOS and Android platforms as well as, with on-site interactive graphic console.<br><br>Mobile applications in other platforms or mobile devices not specified above can be provided at the discretion of the Operator. |
| 3. | The Operators shall provide at least one (1) interactive touch-screen display panel for Users at each Locker Station, which shall be of a reasonable display size and resolution, to ensure easy reading by Users with poor vision. |
| 4. | If the authentication process involves use of QR Code or barcodes, the Locker Station shall have a scanner to allow Users to unlock and access the Locker Compartments. |
| 5. | Upon successful drop-off of a parcel in the Locker Compartment and the Locker Compartment is being closed, the Locker Management System shall inform the Consumer that the parcel has been dropped off.<br><br>Similarly, upon successful collection of the parcel from the Locker Compartment by a Consumer, the Locker Management System shall deliver to the Registered User a proof-of-delivery that the parcel has been collected. |
| **D** | **Standardization and Interoperability** |
| 1. | The Operator shall work with the Inter-Operable Platform operator appointed by IMDA on the integration for exchange of information to and from the Locker Network pertaining to all transactions.<br><br>The Operator shall ensure and shall work with the Inter-Operable Platform Operator to ensure that the exchange of information between the Locker Management System and the Inter-Operable Platform conform to the data interchange specifications set out in **Annex E** of this Agreement. |

(e) Additional Locker Stations requirements at HDB housing estates

| No. | Additional Requirements for HDB Locker Stations |
|---|---|
| 1. | Every HDB block shall have at least a locker station located within 250 meters distance from any lift or staircase landing point of the block. |

(f) Operation requirements

| No. | Requirements for Locker Stations at all Sites |
|---|---|
| **A** | **Users Support** |
| 1. | The Operator shall only allow reservations by Registered Users. |
| 2. | The Operator shall ensure that the Locker Compartments and Locker Stations, and incidental support and maintenance services, are equally available to all Users on a first-come-first-serve basis, subject to any terms and conditions for use which the Operator may prescribe between the Users and itself, provided always that the Operator shall (a) allow use of the Locker Compartments and Locker Stations on a “User-agnostic” basis, |

| | |
|---|---|
| | (b) not accord preferential treatment to any particular User, (c) not allocate or reserve any one or more Locker Compartments and/or Locker Stations to a particular User. |
| 3. | The Operator shall display a Singapore customer support hotline information on both the touch-screen display of each Locker Station as well as hard-copy notice affixed at a prominent location at an eye-level on the body of each Locker Station. The Operator shall maintain a customer support team, which shall be available twenty-four (24) hours a day, seven (7) days a week to attend to any enquiries, feedback and other requests for assistance. |
| **B** | **Miscellaneous** |
| 1. | The Operator shall not permit any form of advertisements, posters or marketing materials to be displayed on both the display screen of the Locker Stations and the physical body of the Locker Stations and the Sites. |
| 2. | The Locker Station shall not handle cash. For the avoidance of doubt, the term "cash" refers to physical legal tender coins or notes, and excludes other forms of cashless payment modes such as DBS PayLah!, OCBC PayAnyone, Visa payWave, Mastercard PayPass. |

| No. | Additional Requirements for HDB Locker Stations |
|---|---|
| 1. | The Operator shall offer pick-up of parcels containing return purchases to Registered Users by Consumers via the Locker Stations. |

(g) Maintenance requirements

| No. | Requirements for both HDB and MRT Locker Stations |
|---|---|
| **A** | **Maintenance** |
| 1. | The Operator shall maintain the Locker Network on a regular basis to keep the Locker Stations in good working condition, and shall ensure that the Locker Management System undergo regular maintenance in order to ensure optimal performance of the Locker Management System. The Operator shall also ensure that the Locker Management System, as well as any software, programmes, applications, systems or platforms installed or maintained by the Operator in respect of the operation of the Locker Stations, are free from any virus, worms, trojans, spywares and/or any other malwares which can impair or affect the operation of the Locker Stations, Locker Network and/or the Inter-Operable Platform. |
| 2. | The Operator shall ensure that other than unplanned maintenance, every Locker Station shall be serviced at least once every six (6) months, or at the request of IMDA. |
| 3. | The Operator shall ensure that, all affected Users are notified of any scheduled maintenance at least two (2) weeks prior to the scheduled maintenance date, including by way of (a) affixing notice of maintenance at a prominent location at eye-level at each relevant Locker Station; and/or (b) notifying any Users maintenance schedule of the relevant Locker Station, together with the notification of collection of parcels. |
| 4. | Each session of scheduled maintenance shall not exceed three (3) hours per Locker Station. The number of scheduled maintenance sessions per Locker Station should not exceed more than once per month. |
| 5. | The Operator shall ensure that the non-critical scheduled maintenance does not fall within any of the peak periods for e-commerce, including, Valentine's Day, Singles Day, Black Friday, Cyber Monday, Christmas, and New Year etc. |

(h) Service level requirements

(i) Reference to hours in this section shall include minutes, up to two decimal places, with no rounding up or down in terms of calculation.

(ii) Beginning from the second (2nd) month of the Initial Pilot, the Operator shall submit to IMDA, a report on whether it has achieved or failed all service level requirements set out below, including details on such achievement or failure ("**Service Level Report**"). The Service Level Report shall be submitted in the first (1st) week of every calendar month and shall include information on the Operator's performance for the past month. IMDA shall have the right to prescribe the format and manner of presentation of the Service Level Report.

| No. | Service Level Items | Agreed Service Level |
|---|---|---|
| 1. | Locker Station availability, when the Locker Management System is still available – this refers to the percentage availability for use of each Locker Station per month, which shall be derived based on the following formula:<br><br>$\frac{\text{(Total Number of Hours for the Month) – (Total Number of Hours the Locker Station is Unavailable Due to Unplanned Downtime)}}{\text{Total Number of Hours for the Month}} \times 100\%$ | 99% or higher |
| 2. | Locker Compartments availability, when the Locker Management System is still available – this refers to the percentage of Locker Compartments available for reservation and occupied for the month per Locker Station, which shall be derived based on the following formula:<br><br>$\frac{\text{(Total Number of Hours for the Month) – (Total Number of Hours of the Locker Compartments is Unavailable Due to Unplanned Downtime)}}{\text{Total Number of Hours for the Month}} \times 100\%$ | 98% or higher |
| 3. | Locker Station recovery turnaround time, when the Locker Management System is available – this refers to the total turnaround time for restoring Locker Stations from standstill to working condition following a fault, measured from the time fault is reported up to the time the Locker Station is restored to working condition and is able to continue all delivery and collection activities.<br><br>For the avoidance of doubt, standstill condition refers to discontinuance of all delivery and collection activities at the Locker Station for any reason, including any downtime caused by the Locker Station, Locker Management System software, integration with the Inter-Operable Platform, as a result of or attributable to the Operator's fault. | Less than 4 hours |
| 4. | Locker Compartments recovery turnaround time, when the Locker Management System is available – this refers to the total turnaround time | Less than 24 hours |

| | | |
|---|---|---|
| | for restoring any one of the Locker Compartments from standstill to working condition following a fault, measured from the time fault is reported up to the time the relevant Locker Compartments are restored to working condition and is able to continue all delivery and collection activities. | |
| 5. | Response time in the event of Emergencies – this refers to the total time for response to a call for Emergencies from the Security Agencies and/or MRT Station staff for remote support, measured from the time of receipt of call from the Security Agencies and/or MRT Station staff to the time the Operator responds to the call. | Less than 10 minutes if during Support Hours<br><br>Less than 30 minutes if after Support Hours |
| 6. | Locker Network availability, including the Locker Management System and communication infrastructure to operate the Locker Stations – this refers to the percentage of number of hours that the Locker Network shall be available for the month, derived based on the following formula:<br><br>$\frac{\text{(Total Number of Hours for the Month) – (Total Number of Hours the Network is Unavailable due to Unplanned Downtime)}}{\text{Total Number of Hours for the Month}} \times 100\%$ | 98% or higher |
| 7. | Locker Network, including the Locker Management System and communication infrastructure recovery turnaround time, measured from the time an error is reported to the Operator up to the time the error is rectified and network services are resumed, or temporary workaround solution is being provided while the error is being rectified. | Less than 8 hours |
| 8. | Turnaround time for exchanging information, including but not limited to query on locker availability, reservation of Locker Compartment, release of reserved Locker Compartment, access to Locker Compartment for delivery, access to Locker Compartment for collection, locking of Locker Compartment, notification on expiry of Locker Compartment reservation, and sending proof of delivery with Inter-Operable Platform, measured from the time a request to exchange information has been received by the Locker Management System up to the time the response has been returned to the Inter-Operable Platform | Less than 0.3 second |

## 8. GENERAL OBLIGATIONS AND UNDERTAKINGS OF THE OPERATOR

8.1 *Interest in the Inter-Operable Platform*

The Operator undertakes that it is not and will not be involved, directly or indirectly, in the development and operation of the Inter-Operable Platform. The Operator warrants that it does not hold and will not acquire, directly or indirectly more than 30% of legal or beneficial interest in the Inter-Operable Platform developer or operator.

8.2 *Tenancy agreements with HDB and/or PTOs*

The Operator shall:

(a) initiate discussions with HDB and PTOs to identify premises fit for the development of the Locker Stations, within two (2) months from the Commencement Date;

(b) enter into the Tenancy Agreements within two (2) weeks from the date of Completion Certificate or at least two (2) weeks prior to the expected date for commencement of the pilot phase of the Project, which as at the Commencement Date is scheduled to be 1 October 2018, subject to variation by IMDA, whichever is earlier;

(c) ensure that it complies with the terms and conditions of each Tenancy Agreement; and

(d) ensure the above timelines are adhered to and to the extent feasible, the Operator shall give due consideration to suggestions of HDB and/or PTO in terms of Site locations, and execute any such documents as may be required by HDB and/or PTO.

8.3 *Insurance*

The Operator shall at its own cost, effect and maintain with a reputable insurance company all adequate and necessary insurance policies necessary for purposes of the Project under this Agreement, including but not limited to public liability insurance with a coverage of not less than $1 million per Site in relation to any one claim or series of claims. For the avoidance of doubt, the obligation to effect insurance is on a per-Site basis, such that if there is an existing insurance coverage of similar or higher coverage at each Site effected under the Tenancy Agreement or otherwise, the obligation to effect insurance under this Agreement shall be deemed satisfied for such Site.

8.4 *Compliance with Applicable Laws*

(a) The Operator shall undertake the Project in a manner compliant in all material respects with all requirements under Applicable Laws and shall obtain all Authorisations required for the purposes of the Project.

(b) The Operator shall comply with IMDA's instructions in respect of the Project from time to time, and ensure that the Project proceeds without undue delay.

## 9. OPERATOR'S OWN COSTS AND EXPENSES

9.1 The Operator agrees to utilise and procure all labour, management, materials, machinery, plant, equipment and any other items necessary for the Project, to ensure compliance with the terms and conditions of this Agreement.

9.2 All costs and expenses pertaining to any design, installation, operation and maintenance of the Locker Network under this Agreement shall be at the Operator's sole costs and expense, and IMDA will not provide any funds, grants, rebates or reimbursements to the Operator.

## 10. PERSONAL DATA RELATED OBLIGATIONS AND UNDERTAKINGS OF THE OPERATOR

10.1 The Operator shall comply with the Personal Data Protection Act 2012 (Act 26 of 2012) and its accompanying subsidiary legislation ("**PDPA**"), as well as any guidelines issued by the Personal Data Protection Commission of Singapore, at all times, and shall take all reasonable measures to ensure that:

(a) all necessary consents and disclosures as required under Applicable Laws have been obtained and made in connection with collection, use and disclosure of any personal data in connection with this Agreement; and

(b) that any personal data held in connection with this Agreement is reasonably protected against any loss, and unauthorised access, use, modification, disclosure or other misuse;

(c) it has adopted clear and comprehensive data protection policy to protect the Users' identity and their personal data ("**Data Protection Policy**"); and

(d) such Data Protection Policy is accessible to all Users of the Locker Stations, including by permitting access to the Data Protection Policy on the display screen of the Locker Stations and internet-based portal services available to Users.

10.2 The Operator shall in respect of any personal data held in connection with the Agreement cooperate with any reasonable requests, directions or guidelines from IMDA and/or Personal Data Protection Commission of Singapore arising in connection with the handling of personal data.

10.3 The Operator shall not disclose or provide any personal data it has obtained in connection with this Agreement, unless otherwise requested by IMDA pursuant to **Clause 10.2**.

## 11. RECORDKEEPING

11.1 The Operator shall maintain proper records of transactions pertaining to the Locker Network and Locker Management System ("**Records**"). For the avoidance of doubt, the Records include any Operational Data, Security Data and Project Data.

11.2 The Operator agrees to ensure that any data collected as part of its operations (in particular the Project Data), shall be made available to IMDA or third party appointed by IMDA for the purpose of analysing the result of the Project.

11.3 The Records shall be maintained in the Operator's Systems, and shall be available for auditing and checking by IMDA and/or its appointed agents in such form or format as IMDA and/or its appointed agents may require.

11.4 The Operator shall maintain the Records for a minimum period of six (6) years.

## 12. ACCESS TO RECORDS AND RIGHT TO AUDIT

12.1 The Operator shall, within seventy-two (72) hours from receipt of a request in writing from IMDA provide the Records to IMDA for the purposes of analysing the results of the Project to determine the next course of action for the Project.

12.2 Notwithstanding the foregoing, in the case of the Security Data, the Operator shall as soon as reasonably practicable, and in any case within six (6) hours from the receipt of a request from IMDA, LTA, HDB and/or the Security Agencies provide the Records to IMDA, LTA, HDB or Security Agencies (as the case may be).

12.3 IMDA shall have the right and the Operator shall allow IMDA (or its appointed third agents) to conduct audits at all Sites to ensure compliance with this Agreement, and the Operator shall cooperate with and provide support, information and assistance to IMDA for the purpose of such audits at no cost or expense to IMDA, regardless of whether notice has been given in advance by IMDA prior to any such audit.

## 13. REPRESENTATIONS AND WARRANTIES

13.1 The Operator represents and warrants to IMDA that:

(a) it is duly incorporated and validly existing under the laws of the place of its incorporation;

(b) it has full corporate power and authority to enter into, perform and observe its obligations and duties under this Agreement and that the execution, delivery and performance of this Agreement by it has been duly and validly authorised by all necessary corporate action;

(c) this Agreement constitutes legal, valid, binding and enforceable obligations in accordance with its terms and is in the proper legal form for enforcement against it in its place of incorporation;

(d) it will use its best endeavours to obtain and maintain, and will comply with, all Authorisations (or any amendments or modifications thereto and replacements thereof) which are necessary to enable it to fulfil in all material respects its obligations under this Agreement; and

(e) it will comply with Applicable Laws in performing its obligations under this Agreement.

## 14. TERMINATION

14.1 The Parties shall have the right to terminate this Agreement as follows:

(a) by IMDA with at least one (1) month's notice to terminate, in the event of any breach of this Agreement by the Operator being capable of remedy that is not remedied within two (2) weeks from notice to rectify;

(b) by IMDA with at least one (1) month's notice to terminate, in the event of any breach of this Agreement by the Operator that is incapable of remedy;

(c) by Operator, in the event of termination of Tenancy Agreements representing at least more than half of the total number of Sites granted to the Operator under this Agreement,

provided always the notice period shall expire on or after the expiry of the notice period under the relevant Tenancy Agreements; or

(d) by either Party with at least three (3) months' notice in writing to the other Party.

14.2 For the avoidance of doubt, this Agreement shall automatically terminate upon termination of all of the Tenancy Agreements for all Sites under this Agreement.

14.3 In the event of termination, the Operator shall:

(a) dismantle the Locker Stations and other infrastructures at its own cost and reinstate the Sites to its original condition prior to the Commencement Date or negotiate with the replacement operator appointed by IMDA for the takeover of the Locker Stations;

(b) notify the developer and/or operator of the Inter-Operable Platform of the termination of its involvement in the Project, and terminate the interface connection with Inter-Operable Platform;

(c) notify all Users of the termination of its involvement in the Project;

(d) transfer to IMDA and/or the replacement operator appointed by IMDA all Records kept by the Operator from the Commencement Date up to the last day of its involvement in the Project; and

(e) settle any outstanding balances with the Users of the Locker Stations.

14.4 For the avoidance of doubt, during the notice period for termination, the Operator shall continue its operations without compromising the quality of its services to the market places, brand owners, merchants, consumers, logistics service providers, and Users.

14.5 In event of termination by IMDA pursuant to **Clause 14.1(c)**, or where IMDA does not extend the Initial Pilot under **Clause 2.1**, IMDA may make ex gratia payments to the Operator at residual book value of Locker Stations after providing for depreciation over a five-year period, to be supported by invoices/supporting documents for all investments made by the Operator pursuant to this Agreement, or the average market value for Locker Stations and Locker Management System of similar design and age as determined by IMDA based on market survey, whichever is lower.

## 15. LIABILITY AND INDEMNITY

15.1 To the maximum extent permitted by Applicable Laws, IMDA shall not be liable to the Operator, whether by indemnity, by statute, in tort or any other basis in law or equity, for loss of profit, use, data, production, business or any contract, increase in operating costs, economic loss, punitive or exemplary damages, or any incidental, special, indirect or consequential loss or damage which may be suffered by the Operator in connection with this Agreement, including any death or personal injury caused as a result of the Project.

15.2 The Operator shall indemnify IMDA in respect of all claims, losses, damages, expenses and liabilities of any nature suffered or incurred by it as a result of (a) the Operator's breach of this Agreement, (b) breach of the Operator's undertakings, representations and warranties, or (c) the Operator's negligent act or omission. Notwithstanding the foregoing, the Operator's liability to indemnify IMDA under this **Clause 15.2** will be proportionally reduced to the extent that an act or

omission of IMDA has contributed to the claim, loss, damage, expense or liability, to the extent that such an act or omission constitutes negligent or wilful conduct.

## 16. CONFIDENTIALITY

16.1 Each Party undertakes that it shall not at any time disclose to any third party any confidential information concerning the business, affairs, customers, clients or suppliers of the other Party (including but not limited to a Party's operations, processes, plans, product information, know-how, trade secrets, market opportunities, customers or other proprietary information) ("**Confidential Information**"), except as expressly permitted under **Clause 16.2**.

16.2 Each Party may disclose the other Party's Confidential Information:

(a) to its employees, officers, representatives or advisers on a need-to-know basis for the purposes of carrying out the Party's obligations under this Agreement, provided that such Party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other Party's Confidential Information comply with this **Clause 16.2**; and

(b) if required by Applicable Law, rules of securities exchange, a court of competent jurisdiction or any governmental authority.

16.3 Notwithstanding the above, IMDA shall have the right to disclose Confidential Information, to HDB, LTA and third-parties appointed by IMDA, solely for the purposes of evaluating the success of the Project.

16.4 If a disclosure of the other Party's Confidential Information is contemplated under this Agreement, the Party responsible for the disclosure shall immediately notify the other Party of such requirement prior to such disclosure unless such disclosure is prevented by any Applicable Laws, rules of securities exchange, a court of competent jurisdiction or any governmental authority.

16.5 For the avoidance of doubt, the receiving Party shall not be required to treat information acquired by it that is either known to the general public or to the industry, or known to, or in the possession of, the receiving Party prior to disclosure by the disclosing Party as Confidential Information.

16.6 No Party shall use the other Party's Confidential Information for any purpose other than to perform its obligations under this Agreement or as required by Applicable Laws.

## 17. GOVERNING LAW AND DISPUTE RESOLUTION

17.1 This Agreement and the relationship between the Parties shall be governed by, and interpreted in accordance with, Singapore law.

17.2 Any dispute arising out of or in connection with this Agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("**SIAC**") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("**SIAC Rules**") for the time being in force, which rules shall be deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one (1) arbitrator, to be appointed by the President of the Court of Arbitration of the SIAC. The language of the arbitration shall be English.

17.3 The Parties further agree that following the commencement of arbitration, they will attempt in good faith to resolve such dispute through mediation at the Singapore International Mediation Centre ("**SIMC**"), in accordance with the SIAC-SIMC Arb-Med-Arb Protocol for the time being in force. Any settlement reached in the course of the mediation shall be referred to the arbitral tribunal appointed by the SIAC and may be made a consent award on agreed terms.

## 18. GENERAL PROVISIONS

18.1 *Notices*

All notices, demands or other communications required or permitted to be given or made under this Agreement shall be in writing and delivered personally or sent by local courier, by fax or by electronic mail addressed to the intended recipient thereof at its address or fax number or electronic mail, and marked for the attention of such person (if any), designated by it for the purposes of this Agreement. The initial address, fax number, electronic mail address, and person (if any) so designated by the Parties are set out below:

**IMDA**

| | | |
|---|---|---|
| Attention to | : | |
| Address | : | 10 Pasir Panjang Road, #10-01 Mapletree Business City, Singapore 117438 |
| Telephone | : | |
| E-mail | : | |

**Operator**

| | | |
|---|---|---|
| Attention to | : | |
| Address | : | |
| Telephone | : | |
| E-mail | : | |

Any such notice, demand or communication shall be deemed to have been duly served (if given or made by fax or electronic mail) immediately and in proving the same it shall be sufficient to show the electronic confirmation of fax receipt, the receipt of the electronic mail or (if given or made by letter) immediately if hand delivered or one (1) Business Day after sending by local courier and in proving the same it shall be sufficient to show the receipt from the local courier showing that package was duly addressed and the date on which it was sent.

18.2 *Force Majeure*

(a) If a Party ("**Affected Party**") is prevented in whole or in part from carrying out its obligations under this Agreement as a result of a Force Majeure event, it shall immediately notify the other Party.

(b) Following a notice served pursuant to this **Clause 18.2**, and while the Force Majeure event continues, the obligations that the Affected Party is unable to perform due to the Force Majeure event will be suspended.

(c) The Affected Party will not be liable for any loss or expense suffered by the other Party as a result of the Affected Party being unable to perform its obligations, provided that the Affected Party uses reasonable efforts to mitigate the effect of the Force Majeure event upon its performance and promptly continues performance under this Agreement when the Force Majeure event is removed.

(d) If the performance of the Services is substantially prevented or delayed for a continuous period of more than two (2) months due to one or more Force Majeure events, either Party may issue a notice under **Clause 14.1** terminating this Agreement.

18.3 *Variation of Agreement*

Except as otherwise expressly provided by this Agreement, this Agreement and the Parties' respective rights and obligations under this Agreement may only be varied in writing and signed by both Parties.

18.4 *Entire Agreement*

This Agreement, and any variations agreed pursuant to **Clause 18.3**, contains the entire agreement of the Parties with respect to its subject matter. It sets out the only conduct relied on by the Parties and supersedes all earlier conduct by the Parties with respect to its subject matter.

18.5 *Severability*

Any provision of this Agreement that is illegal, void or unenforceable shall be ineffective to the extent only of such illegality, invalidity or unenforceability without invalidating the remaining provisions hereof or thereof.

18.6 *No Waiver*

No failure to exercise and no delay in exercising any right, power or remedy under this Agreement will operate as a waiver. Nor will any single or partial exercise of any right, power or remedy preclude any other or further exercise of that or any other right, power or remedy.

18.7 *Costs*

Each Party shall bear its own costs and expenses arising out of the preparation and execution of this Agreement, and performance of its obligations under this Agreement.

18.8 *Relationship between the Parties*

Nothing in this Agreement shall be construed as creating or implying any partnership, agency, joint venture or employer-employee relationship between the Parties. Each Party is independent of the other Party.

18.9 *Counterparts*

This Agreement may be executed in a number of counterparts and all such counterparts taken together will be deemed to constitute one and the same agreement.

18.10 *Further Assurances*

Each Party shall take all steps, execute all documents and do everything reasonably required by the other Party to give effect to any of the transactions contemplated by this Agreement.

**IN WITNESS WHEREOF** this Agreement has been entered into on the date stated at the beginning.

**IMDA**

| | |
|---|---|
| SIGNED BY | ) |
| | ) |
| | ) |
| for and on behalf of | ) |
| **THE INFO-COMMUNICATIONS MEDIA DEVELOPMENT AUTHORITY** | ) |
| in the presence of: | ) |

**OPERATOR**

| | |
|---|---|
| SIGNED BY | ) |
| | ) |
| | ) |
| for and on behalf of | ) |
| **[INSERT NAME OF OPERATOR]** | ) |
| in the presence of: | ) |

## ANNEX A – SITE LOCATIONS

[THE SITE LOCATIONS AND DETAILS AS PER PROPOSAL]

## ANNEX B – IMPLEMENTATION SCHEDULES AND MILESTONES

[Table to be amended based on operator's proposed schedule to meet the following milestones.]

| No | Milestones | Start Date | End Date |
|---|---|---|---|
| 1 | Letter of Acceptance | Completed[1] | |
| 2 | Signing of Appointment Agreement | Completed[1] | |
| 3 | Complete application to PTO to start work at all Sites | | |
| 4 | Complete application to HDB & Town Council to start work at all Sites | | |
| 5 | Complete site survey of HDB properties at all identified Sites | | |
| 6 | Complete all Installation Works at HDB and/or MRT sites | | |
| 7 | Testing of Locker Station and Locker Management System | | |
| 8 | Systems integration testing with Inter-Operable Platform | 1-Aug-18 | 30-Sep-18 |
| 9 | Complete signing of Tenancy Agreements with HDB and/or PTOs of all sites | | 17-Sep-18 |
| 10 | Full integrated Locker Network testing | 1-Sep-18 | 30-Sep-18 |
| 11 | Initial Pilot of 12 months | 1-Oct-18 | 30-Sep-19 |
| 12 | Extended Pilot of 12 months (if applicable) | 1-Oct-19 | 30-Sep-20 |

Notes:
[1]Letter of Acceptance and Signing of Appointment Agreement on 13th April 2018 or the later date as notified by IMDA.

## ANNEX C – FORM OF COMPLETION CERTIFICATE

**Info-communications Media Development Authority**
10 Pasir Panjang Road, #10-01
Mapletree Business City
Singapore 117438

Date:

Re: Certificate of Completion

Dear Sirs,

Reference is made to Locker Operator Appointment Agreement between the Info-communications Media Development Authority ("**IMDA**") and our firm, [name of operator], dated [date] ("**Agreement**"). Unless otherwise defined herein, capitalised terms used in this letter shall have the meanings set forth in the Agreement.

Pursuant to **Clause 4.4** of the Agreement, we hereby certify in respect of [name of individual Site] the following:

(1) We have informed [IMDA, HDB, LTA and/or PTO] (each an "**Inspection Team**", collectively, "**Inspection Teams**") in writing of the status of the Installation Works and invited the Inspection Teams to survey the Installation Works, by way of a letter dated [date].

(2) Each Inspection Team has undertaken a survey of the Installation Works on [date].

(3) The Inspection Teams have completed the survey and any defects and/or deficiencies identified have been satisfactorily rectified.

(4) We are not in breach of any of the terms and conditions of the Tenancy Agreement in respect of the Site and have undertaken all Installation Works in accordance with the terms of the Tenancy Agreement.

(5) All Installation Works are complete and are in compliance with all Requirements set out in the Agreement.

(6) The Locker Stations are ready for use.

[A list of rectification works referred to in Paragraph (3) above are appended as **Schedule 1** to this certificate.]

Yours sincerely,

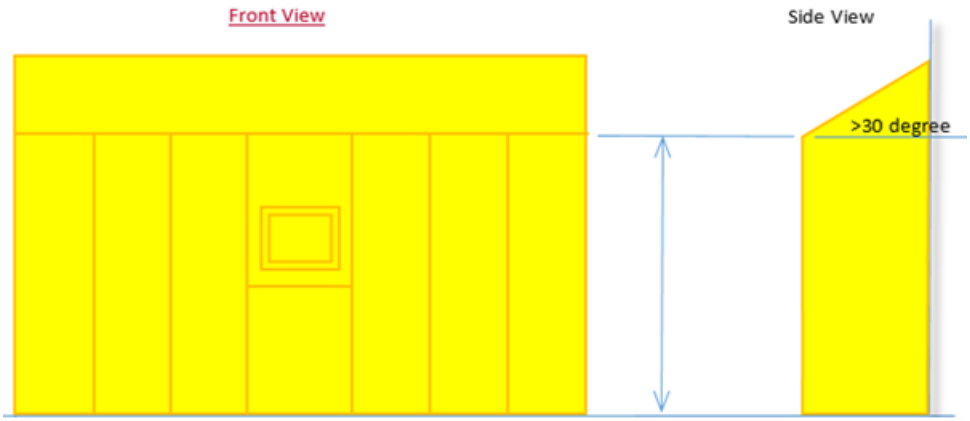
Name:
Designation:

For and on behalf of [Operator]

**Schedule 1**
**List of Rectification Works**

| No. | Party (HDB/IMDA/LTA/ /PTO) | Comments | Details of Rectification Works |
|---|---|---|---|
| | | | |
| | | | |

## ANNEX D – LOCKER STATION ILLUSTRATION



## ANNEX E – DATA INTERCHANGE SPECIFICATIONS