

NOTICE OF INVITATION

APPLICATIONS FOR APPOINTMENT TO SHERIFF'S PANEL OF SHIP AGENTS FOR ARRESTED VESSELS

Background

1. The Supreme Court of Singapore (the "Supreme Court") invites suitably qualified ship agents (the "Ship Agents") to apply to be appointed to a panel of ship agents (the "Panel") to provide services for vessels under arrest.
2. The Supreme Court requires ship agent services for vessels under arrest. It is part of the Sheriff's duty to ensure that a vessel arrested and property seized is kept in safe custody for the duration of the arrest or seizure. The objective of the establishment of the Panel is to ensure there are suitably qualified Ship Agents to provide the required services.

Scope of Duties and Responsibilities

3. The minimum scope of duties and responsibilities of the Ship Agents are set out in Annex A – Minimum Job Requirements. Applicants are expected to comply **fully** with these minimum job requirements. Any non-compliance with the scope of duties and responsibilities of the Ship Agents set out in Annex A may lead to the removal or suspension of an applicant (the "Applicant") from the Panel.

Terms of Appointment to the Panel

4. The terms of appointment to the Panel are set out in Annex B Part 1 – Terms of Appointment. Applicants are expected to comply **fully** with the terms of appointment. Any non-compliance with the terms of appointment may lead to the removal or suspension of the Applicant from the Panel.
5. In particular, Applicants shall note the following:
 - a. Appointment to the Panel does not guarantee that an Applicant will receive any number of assignments (the "Assignments") to provide ship agent services (if at all) during the two (2) year empanelment period (the "Empanelment Period"). The Sheriff may select any Applicant appointed to the Panel ("Panel Agent") to be engaged to provide ship agent services.
 - b. Each Panel Agent's quoted rates for services will be published on the Supreme Court website. Panel Agents shall not charge rates higher than the rates published on the Supreme Court website throughout the Empanelment Period.
 - c. Assignments shall not be refused or rejected by a Panel Agent.

Minimum Eligibility Criteria

6. Applicants who wish to be appointed to the Panel shall meet all of the following minimum eligibility criteria:
 - a. Applicant must be based in Singapore;

- b. Applicant must have all relevant licenses, permits, certifications, insurance coverage and any other necessary qualifications relating to the provision of ship agent services;
- c. Applicant must have at least 5 years of relevant experience providing ship agent services in the shipping industry; and
- d. Applicant must be financially sound and must declare if they are subject to any legal or insolvency proceedings and if so, give a detailed description of what those proceedings are. The Applicant shall also be under a duty to declare any change in status (i.e. if they subsequently become the subject of any legal or insolvency proceedings during the term of empanelment) within 7 days of such a change and if any change in status occurs, the Supreme Court shall have the right to suspend or remove the Applicant from the Panel pursuant to clause 5.2 of Annex B Part 1.

If the Applicant's declaration in clause 6(d) above is discovered to be false, or the Applicant fails to declare at the time of the application for appointment or during the term of empanelment that they are subject to any legal or insolvency proceedings, the Supreme Court shall be entitled to rescind any contracts with the Applicant, entered into with the applicant, subsequent to the Applicant's submission of a formal application, without the Supreme Court being liable therefor in damages or compensation.

Application Process

- 7. Applicants who wish to be considered for appointment to the Panel are to submit a formal application comprising the following:
 - a. Quotation for the price of ship agent services which should be strictly in the following format:
 - i. Monthly rates for ship agent services i.e \$X per month

For the avoidance of doubt, the quoted prices are meant to be comprehensive and all-inclusive, and shall take into account all ancillary items of costs. Disbursements (e.g. for bunkers, supplies etc.) will be reimbursed at cost only upon documentary proof (i.e. invoices, receipts).
 - b. Information and supporting documents:
 - i. Brief write-up of the Applicant's business activities and track record and experience in the shipping industry for the last 5 years;
 - ii. Documentary proof that the Applicant has the relevant licenses, permits, certifications, insurance coverage and any other necessary qualifications relating to the provision of ship agent services in the shipping industry;
 - iii. Experience and qualifications of employees, manager(s) who will be in charge of the ship agent services; and
 - iv. Audited financial statements for the last 3 financial years (if any)

8. Applicants who wish to be considered for appointment to the Panel shall send their applications with the relevant information and supporting documents to:

***Chief Bailiff
Supreme Court of Singapore
1 Supreme Court Lane
Singapore 178879***

9. All applications together with the relevant supporting documents shall be submitted by **25 September 2018, no later than 4pm.** All enquiries about this notice shall be directed to Mr Desmond Lua (Telephone: 6332 1066; Email: Desmond_Lua@supcourt.gov.sg).

MINIMUM JOB REQUIREMENTS

1. Introduction

- 1.1. The Supreme Court requires ship agent services for arrested vessels.
- 1.2. The following provisions set forth the functional specifications for the ship agent services to be rendered by a Panel Agent.

2. Provision of Services

- 2.1. A Panel Agent shall provide the required services as and when, and in the manner, required by the Sheriff or any person authorised by the Sheriff or the Supreme Court, in accordance with all the requirements stated in this Annex A. Each Applicant must ensure that it has the ability to comply with the following guidelines, responsibilities and duties.
- 2.2. Assignments of work under the Panel cannot be rejected or refused by a Panel Agent.

3. Duties and Responsibilities of Panel Agents

- 3.1. Panel Agents shall look after all aspects of the custody and maintenance of the arrested vessel and crew assigned to them.
- 3.2. Panel Agents shall be contactable at all times by the master/crew of the arrested vessel assigned to them. Panel Agents are responsible for liaising with the master/crew of the arrested vessel and communicate their requests to the arresting party's solicitors. Panel Agents shall also be contactable at all times by the Sheriff's office.
- 3.3. Panel Agents are responsible to bear all costs and expenses relating to the custody and maintenance of the arrested vessel and crew. These costs and expenses will then be reimbursed upon the conclusion of the arrest at the end of every Assignment.
- 3.4. Duties of the Panel Agents include:
 - (1) Overseeing crew changes, including arranging for visas and entry formalities
 - (2) Arranging for delivery of spare parts for the arrested vessel;
 - (3) Supplying of fresh provisions, deck and engine stores;
 - (4) Bunker co-ordination and supply, including but not limited to arranging for surveys of bunker quantity and quality;
 - (5) Supplying of fresh water;
 - (6) Arranging for medical care;

- (7) Arranging for emergency repairs;
- (8) Liaising with the Sheriff for persons to board the arrested vessel;
- (9) Any other duties as directed by the Sheriff from time to time.

Part 1 - Terms of Appointment to Panel

1. Distribution of Assignments

- 1.1 Panel Agents are not entitled to any guaranteed number of Assignments during the Empanelment Period. Panel Agents shall have no expectation that they will be guaranteed any number of assignments (if at all) by virtue of their appointment to the Panel.
- 1.2 Arresting parties involved in the arrest of the vessel may select any Panel Agent which is on the Panel. The Sheriff will then assign and inform a Panel Agent of its engagement (each an “**Assignment**”).
- 1.3 Panel Agents are to ensure that they remain contactable.
- 1.4 Assignments of work shall not be refused or rejected by a Panel Agent.

2. Rates

- 2.1 Each Panel Agent’s quoted monthly rate for the provision of services will be published on the Supreme Court Website throughout the Empanelment Period;
- 2.2 The rates charged by each Panel Agent for the provision of services for each Assignment shall not be higher than the rates published on the Supreme Court Website for that particular Panel agent throughout the Empanelment Period.
- 2.3 A Panel Agent may choose to reduce its rates for the provision of services at any point during the Empanelment Period. The Panel Agent shall make a written request to the Sheriff to lower its published rates. The Panel Agent may not charge above those lowered rates after they have been published, for the remaining duration of the Empanelment Period.
- 2.4 The rates for provision of services are comprehensive. Panel Agents shall bear all costs and expenses relating to the custody and maintenance of the arrested vessel and crew. All disbursements on account of the arrested vessel and crew shall then be reimbursed at cost upon the conclusion of the arrest at the end of every Assignment and must be supported by documentary proof (e.g. invoices, receipts).

3. Indemnity

- 3.1 Each Panel Agent agrees to fully indemnify the Sheriff and the Government of the Republic of Singapore in respect of any damage or loss to property, or death or personal injury to any person, occurring in the course of or in connection with its performance of the ship agent services.

4. Licenses

- 4.1 Panel Agents shall comply with all relevant regulatory, statutory and legal requirements at all times. Panel Agents shall maintain all relevant licenses, permits, certifications and any other required documentation, and insurance coverage relating

to the provision of the said services, throughout the Empanelment Period.

5. Minimum Eligibility Criteria

- 5.1 Applicants who wish to be appointed to the Panel shall meet all of the following minimum eligibility criteria:
 - 5.1.1 Applicant must be based in Singapore;
 - 5.1.2 Applicant must have all relevant licenses, permits, certifications, insurance coverage and any other necessary qualifications relating to the provision of ship agent services;
 - 5.1.3 Applicant must have at least 5 years of relevant experience providing ship agent services in the shipping industry; and
 - 5.1.4 Applicant must be financially sound and must declare if they are subject to any legal or insolvency proceedings and if so, give a detailed description of what those proceedings are. The Applicant shall also be under a duty to declare any change in status (i.e. if they subsequently become the subject of any legal or insolvency proceedings during the term of empanelment) within 7 days of such a change and if any change in status occurs, the Supreme Court shall have the right to suspend or remove the Applicant from the Panel pursuant to clause 6.2 of Annex B Part 1.
- 5.2 If the Applicant's declaration in clause 5.1.4 above is discovered to be false, or the Applicant fails to declare at the time of the application for appointment or during the term of empanelment that they are subject to any legal or insolvency proceedings, the Supreme Court shall be entitled to rescind any contracts entered into with the Applicant, subsequent to the Applicant's submission of a formal application, without the Supreme Court being liable therefor in damages or compensation.

6. Termination, Suspension and Removal from Panel, Non-compliance with Terms of Appointment

- 6.1 A Panel Agent may request to be removed from the Panel at any time during the Empanelment Period. Such a request shall be made to the Sheriff in writing specifying the relevant reasons for such request. The removal of a Panel Agent from the Panel shall take effect two (2) months (or such other shorter time period as specified by the Sheriff) after the date the Sheriff has replied in writing to the Panel Agent to confirm its acceptance of the request for removal. The Sheriff shall be at liberty to elect that the Panel Agent's existing Assignments either be completed by the Panel Agent or be assigned to another Shipping Agent on the Panel. The Panel Agent shall fulfil its existing Assignments if required to do so by the Sheriff.
- 6.2 A Panel Agent may be terminated or suspended and consequently removed for cause at any time during the Empanelment Period in the event that:
 - 6.2.1 It fails to meet the minimum eligibility criteria for empanelment set out in clause 5 above, including but not limited to the requirement in cl 5.2 to

declare that it is not subject to any legal or insolvency proceedings and any change in status thereafter;

- 6.2.2 It fails to meet the minimum scope of duties and responsibilities as set out in Annex A;
- 6.2.3 It fails to comply with the terms of appointment to the Panel as set out herein;
- 6.2.4 It is convicted of an offence or breaches any regulations under the Employment Act (Cap. 91) and any other relevant laws and regulations of Singapore; or
- 6.2.5 Its employee or representative commits an act of serious misconduct in carrying out the Assignment.

6.3 In respect of termination or suspension under clause 6.2:

- 6.3.1 The Sheriff will provide written notification to the non-complying Panel Agent of its intention to suspend or terminate the Panel Agent's status as a Panel Agent and remove it from the Panel;
 - 6.3.2 Upon notification of the Sheriff's intention to suspend or terminate a Panel Agent, the Panel Agent shall have five (5) working days to submit a letter of explanation to the Sheriff in respect of its default(s).
 - 6.3.3 Upon consideration of the letter of explanation or where a letter of explanation has not been provided within five (5) working days, the Sheriff retains the sole discretion to either terminate the Panel Agent's status as a Panel Agent and remove the Panel Agent from the Panel, or to suspend the Panel Agent from the Panel for any period of time. Such termination or suspension shall take effect immediately or upon such other stated time period upon written notification given by the Sheriff to the relevant Panel Agent. In the event of suspension, the Sheriff shall have the discretion to reassign any Assignments presently handled by the suspended Panel Agent.
 - 6.3.4 The Sheriff may, at any time and for such reason as it deems fit, reduce or extend the period for which a suspended Panel Agent has been suspended.
- 6.4 The Sheriff may, in his sole discretion, refuse the proposed appointment of any Panel Agent in respect of any Assignment, pending the Sheriff's inquiry into any allegation against that Panel Agent for any of the causes listed in clause 6.2.
 - 6.5 The Sheriff may, in his sole discretion, terminate a Panel Agent's status as a Panel Agent at any point in time during the Empanelment Period upon giving one (1) month's written notice to the said Panel Agent without being liable for any compensation or damages.

7. Effect of Termination or Expiry of Appointment to Panel

- 7.1 Upon termination or expiry of the Panel Agent's appointment to the Panel, unless otherwise stated by the Sheriff, all existing Assignments at the time of termination of

the Panel Agent's appointment to the Panel will also be terminated and the Sheriff shall not be liable to the Panel Agent for any damages or compensation in respect of such termination of the Panel Agent's appointment to the Panel and existing Assignments.

8. Governing Law and Dispute Resolution

- 8.1 The terms of the Panel Agent's appointment, including the notice of invitation and the minimum requirements set out in Annex A, and the terms of each Assignment shall be subject to, governed by and interpreted in accordance with the laws of the Republic of Singapore for every purpose.
- 8.2 Notwithstanding anything in the terms of the Panel Agent's appointment and the terms governing each Assignment, in the event of any dispute arising out of or in relation to these terms, no Panel Agent shall proceed to litigation or any other form of dispute resolution UNLESS the Panel Agent has made reasonable efforts to resolve the same through mediation in accordance with the mediation rules of the Singapore Mediation Centre.
- 8.3 A party who receives a notice for mediation from the other party shall consent and participate in the mediation process in accordance with clause 8.2.
- 8.4 The mediation session is to commence no later than ninety (90) days from the date of the written notice of mediation, failing which either party may proceed to litigation.

9. Set-Off

- 9.1 Whenever under the terms of an Assignment any sum of money (including liquidated damages and any other damages) shall be recoverable from or payable by the Panel Agent, the same may be deducted from any sum then due or which at any time thereafter may become due to the Panel Agent under the Assignment or any other agreement with the Sheriff.

10. Variation of Terms

- 10.1 The Sheriff reserves the right to appoint additional Panel Agents to the Panel at any time, on the same terms as those applying to existing Panel Agents, for the remaining duration of the Empanelment Period.
- 10.2 The Sheriff reserves the right to revise or amend these Terms of Appointment at any time during the Empanelment Period, after giving reasonable notice in writing to the Panel Agents. A Panel Agent shall have the right to withdraw from the Panel as of the effective date of the amendments if it does not agree with the amendments.

11. Notices

- 11.1 Any notice or other communication sent by the Panel Agent to the Sheriff shall be deemed to be properly given if it is delivered by hand or by prepaid registered mail or fax to the following address or email address:

*Chief Bailiff
Supreme Court of Singapore
1 Supreme Court Lane, Singapore 178879
Email: Sheriff@supcourt.gov.sg*

- 11.2 Any notice or other communication sent by the Sheriff to a Panel Agent shall be deemed to be properly given if it is delivered by hand or by prepaid registered mail or email to the address stipulated in the application submitted by the Panel Agent.
- 11.3 The addresses and email addresses referred to in paragraph 11.1 and 11.2 above may be altered by written notice given by either party, which will be effective in accordance with the above “deemed receipt” provisions i.e. clauses 11.1 and 11.2, or by any other means (which will be effective only upon actual receipt).

12. Confidentiality

- 12.1 Each Panel Agent shall not use the name of the Sheriff, the Supreme Court, or the Government of the Republic of Singapore for any purpose whether in relation to any advertisement, news item, article, publication or speech or other form of publicity without obtaining the prior written consent of the Supreme Court.
- 12.2 The Panel Agent agrees not to disclose or to use, directly or indirectly, any confidential information, trade secrets or other information relating to the affairs of the Sheriff or the Supreme Court which may be acquired in the course of appointment to the Panel or carrying out an Assignment, without the express written consent of the Supreme Court.
- 12.3 Termination or removal from the Panel for whatever cause shall not put an end to the obligation of confidentiality imposed on the Panel Agent, its employees, agents and servants.

Part 2 – Terms Governing Assignments

1. Assignment Period

- 1.1 All obligations arising from an Assignment shall commence on the date of engagement as notified by the Sheriff and, subject to Clause 5 of Annex B Part 2, shall not expire until the Assignment has been completed (“Assignment Period”).

2. Terms of Payment

- 2.1 Panel Agents engaged for a specific Assignment shall submit to the Sheriff their invoice for their services rendered at the end of the Assignment Period. All documentary proof supporting any disbursements incurred shall also be submitted at the same time.
- 2.2 Invoices shall be addressed to “The Sheriff of Singapore”.

3. Sub-contracting, Assignment, or Transfer

- 3.1 Panel Agents shall not, without the written consent of the Sheriff, sub-contract, assign or transfer their appointment to the Panel, any Assignment, or the benefits or obligations or any part thereof to any other person. Each Panel Agent shall be responsible for the acts, defaults, neglect or omissions of any assignee or subcontractor, their agents, servants or workmen as fully as if they were the acts, defaults, neglect and omissions of the Panel Agent, his agents, servants or workmen.

4. Variation of Terms of Assignment

- 4.1 No variation of the terms governing an Assignment shall be of any force unless agreed upon in writing and signed by an authorised officer or representative of the Sheriff and the Panel Agent engaged for the Assignment (each a “Party” and collectively the “Parties”).
- 4.2 In no event shall any delay, failure or omission on the part of either of the Parties enforcing or exercising any right, power, privilege, or claim or remedy, which is conferred by this Assignment, or at law or in equity, or arises from the breach by any Party, (a) be deemed to be or construed as a waiver or variation thereof, or of any other such right, power, privilege, claim or remedy, in respect of the particular circumstances in question, or (b) operate so as to bar the enforcement or exercise thereof, or of any other such right, power, privilege, claim or remedy, in any other instances at any time or times thereafter.

5. Termination of Assignment

- 5.1 If at any time the Panel Agent is in breach of any of its obligations under the terms of the Assignment or the terms of the Panel Agent’s appointment to the Panel, including the notice of invitation, the minimum requirements set out in Annex A, and the terms set out in Annex B Part 1:
- 5.1.1 in the case of a breach which is required to be remedied immediately (this includes the scenario where the Panel Agent fails to arrange for supplies of

provisions, water, bunkers, medical care, emergency repairs or other such services which are immediately required), the Panel Agent fails to remedy the breach immediately;

5.1.2 in the case of any other breach, the Panel Agent fails to remedy the breach within seven (7) days of being given written notice by the Sheriff to do so; or

5.1.3 the breach is one that is not capable of being remedied within a reasonable time,

the Sheriff may (in addition to and without prejudice to all other rights and remedies available, including the right to claim damages) at any time terminate an Assignment by notice in writing as from the date specified in the notice.

5.2 If any of the following events occur, the Sheriff shall (in addition to and without prejudice to all other rights or remedies available, including the right to claim damages) be entitled to immediately terminate the Assignment forthwith by written notice to the Panel Agent and the Panel Agent shall have no claim for any damages or compensation:

5.2.1 If the Panel Agent becomes insolvent;

5.2.2 Where the Panel Agent is a company, if the company has a receiver or liquidator appointed or a resolution for winding-up (other than for the purpose of amalgamation or reconstruction) of the company has been passed or the company is subject to a court order having the same effect;

5.2.3 Where the Panel Agent is a partnership, if the partnership has dissolved or has a bankruptcy order made against it;

5.2.4 Where the Panel Agent is an individual, if the individual becomes bankrupt or dies;

5.2.5 If legal proceedings alleging insolvency are brought against the Panel Agent;

5.2.6 If the Panel Agent enters into a composition or similar arrangement with its creditors; or

5.2.7 If the Panel Agent is debarred from participating in public sector tenders.

5.3 If the Sheriff engages another person to carry out any remaining work under an Assignment after termination under Clause 5.1 or 5.2 of this Annex B Part 2, any additional costs and expenses incurred by the Sheriff in engaging another person to carry out the remaining work under an Assignment shall be borne by the terminated Panel Agent.

5.4 The Sheriff shall also have the right to terminate an Assignment by giving one (1) months' notice in writing and without having to assign any reason for doing so, and the Panel Agent shall have no claim for any damages or compensation.

- 5.5 The Sheriff shall also be entitled to recover from the Panel Agent all damages, loss, costs and expenses which it has incurred relating to or in consequence of the breach and/or the termination of the Assignment.