

**Consultancy Study on
Developing the Professional Qualifications for Fintech Practitioners in the
Financial Sectors (namely the Securities and Insurance sectors)**

Consultancy Brief

1. Purpose

1.1 The Government of the Hong Kong Special Administrative Region (the “**Government**”) acting through the Financial Services and the Treasury Bureau (“**FSTB**”) wishes to appoint a Consultant to carry out a consultancy study (the “**Consultancy Study**”) to advise on matters relating to the development of the professional qualifications for Fintech practitioners in the financial sectors, namely the securities and insurance sectors. The services to be carried out by the Consultant are referred to as the “**Consultancy Services**”.

2. Background

Fintech talents in Hong Kong

2.1 The Fintech sector in Hong Kong is growing fast. At present, there are over 800 Fintech companies and start-ups operating in Hong Kong, providing an array of services in mobile payment, cross-boundary transfer, intelligent financial consultancy, wealth management and blockchain, etc. Like many other economies around the world, Hong Kong has high demand for Fintech talent. The industry has reflected that recruitment of Fintech talents here is challenging, particularly for talents with professional skills in Fintech¹.

2.2 At present, many universities in Hong Kong as well as the Vocational Training Council have launched Fintech-related higher diploma, bachelor and master degree programmes². Internship opportunities are provided by

¹ According to the survey “Hiring in Fintech: Survey and Dialogues Hong Kong” conducted by Michael Page Hong Kong, a professional recruitment firm, in 2019, 95% of the 100+ surveyed firms said that Hong Kong was in need of Fintech talent, with 64% found talent recruitment process in Fintech challenging, particularly due to shortage of proven skills (47%).

² Examples –

- The University of Hong Kong – Bachelor of Arts and Science in Fintech;
- The Chinese University of Hong Kong – Bachelor of Engineering Programme in Fintech;
- Hong Kong University of Science and Technology – Master of Science in Financial Technology;

agencies to let students gain practical experience on operating Fintech projects and widen their exposure³.

- 2.3 The Government also subsidises Fintech training for in-service practitioners. We launched two rounds of the Financial Practitioners Fintech Training Programme in 2020 and 2022 respectively to subsidise costs incurred by in-service financial practitioners to enrol in training seminars and workshops in an array of Fintech-related subjects⁴.

Development of professional qualifications on Fintech for financial sectors

- 2.4 The Government intends to establish a systematic Fintech training framework for in-service practitioners as a further step to expand the Fintech talent pool in Hong Kong. Together with the relevant professionals, the Government is actively developing professional qualifications, in particular those that are recognized under the Qualification Framework (“QF”), for Fintech practitioners to enable them to obtain widely-recognized and quality-assured qualifications, thereby facilitating their professional development.

- 2.5 In early December 2021, the Hong Kong Monetary Authority (“**the HKMA**”) promulgated the Enhanced Competency Framework on Fintech (“**ECF-Fintech**”), setting out the core competency standards required of the Fintech practitioners in the banking sector, and the training content. The administrator of the ECF-Fintech, namely the Hong Kong Institute of Bankers, has been applying for QF recognition for six professional qualifications under ECF-Fintech framework, with the first batch completed and rolled out in September 2022, becoming the first batch of Fintech professional qualifications recognized under the QF.

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- City University of Hong Kong – Bachelor of Computational Finance and Fintech;
 - The Hong Kong Polytechnic University – Bachelor of Science (Honours) in Fintech, Bachelor of Science (Honours) Scheme in Computing and Artificial Intelligence;
 - The Open University of Hong Kong – Bachelor of Business Administration with Honours in Fintech and Innovation; and
 - Hong Kong Shue Yan University – Bachelor of Commerce (Honours) in Fintech.

Besides, the Vocational Training Council also runs the Higher Diploma in Fintech.

³ For example, the Hong Kong Monetary Authority (“HKMA”) has launched the Fintech Career Accelerator Scheme to collaborate with various agencies to provide Fintech-related internship opportunities for tertiary students; and through the Industry Project Masters Network scheme, allowed master degree students majoring in Fintech to immerse in Fintech projects, thereby gaining hands-on experience and skills. Cyberport has also launched the Cyberport Digital Tech Internship Programme, allowing student interns gain field experience at Cyberport’s start-up companies.

⁴ The Programme was administered by Cyberport. It organised seminars and workshops, inviting speakers in different aspects of Fintech operation to share with participants on the knowledge of Fintech. It attracted participation of over 1,200 and 2,600 financial practitioners from the banking, insurance and securities sectors in 2020 and 2022 respectively.

- 2.6 The Government has also launched the Pilot Scheme on Training Subsidy for Fintech Practitioners (“**the Pilot Scheme**”) for the banking sector in September 2022 to provide reimbursement to those who have successfully attained Fintech professional qualifications of 80 per cent of the tuition fees, subject to a cap of \$25,000, with around 1,500 places to be offered.
- 2.7 With the first batch of QF qualifications on Fintech for the banking practitioners rolled out, the Government intends to conduct a consultancy study with a view to continuing the development of Fintech professional qualifications for different financial sectors, so that the relevant practitioners can also benefit from the Pilot Scheme, thereby promoting comprehensive professional development of Fintech talents, and expanding the Fintech talent pool for other financial services sectors.
- 2.8 Adoption of Fintech in insurance and securities sectors is on the rise. For the insurance sector, Insurtech and technology startups continue to redefine customer experience through innovations such as risk-free underwriting, on-the-spot purchasing, activation, and claims processing. For instance, technological advancement including Artificial Intelligence (“**AI**”) innovations and algorithms enhances individualised risk selection and pricing. For the securities sector, Fintech and other digital innovations continue to transform the securities industry in Hong Kong and allow firms to introduce products and services which enhance investor experience and help achieve better investor outcomes. Some Fintech products/services, such as the application of the distributed ledger technology, which is a technology used to implement distributed ledgers, are typically seen in the securities market. For instance, tokenization of assets utilising such technology with safe custodial infrastructure may offer the possibility of improving liquidity, streamlining the transaction process and allowing investors to access a broader market. In addition, digital wealth management services utilizing AI and machine learning algorithms are also prevalent. The Consultancy Study to be conducted should therefore cover the insurance and securities sectors.

3. Objectives and Scope of the Consultancy Study

- 3.1 The objectives of the Consultancy Study are to:
- (a) having regard to the ECF-Fintech applicable to the banking sector, **establish** a similar professional qualification framework for the professional development of the practitioners in the securities and insurance sectors; and

- (b) **advise** on the overall and detailed implementation plan leading to the establishment of the above professional qualification frameworks, and with such professional qualification frameworks to be recognized under QF.

3.2 Specifically, the Consultant shall perform the following tasks with a view to meeting the objectives set out in paragraph 3.1 –

- (a) To define the scope of application of the professional qualification framework for the Fintech practitioners in the insurance and securities sectors (the “**Designated Sectors**”), and competency standards for different roles in the functions that involve technological innovation for financial services in the respective industries, taking into account the needs of both industries in Hong Kong, and specific local regulatory requirements as appropriate;
- (b) To conduct research to benchmark against skill sets and competency needs for Fintech in financial services of the Designated Sectors in Hong Kong and other places;
- (c) To conduct research/survey to collect information related to certifications and/or qualifications on Fintech available in the market (e.g. Mainland China, universities in Hong Kong) and to propose a suitable mechanism or arrangement for recognising such certifications and/or qualifications for the Designated Sectors, having regard to the ECF-Fintech for the banking sector as appropriate⁵;
- (d) Having regard to the findings in (a) to (c) above, to design the qualification structure, curriculum and syllabus and advise on the requirements on examination and certification; arrangements for exemption and grandfathering; and continuing professional development (“**CPD**”) requirements of the professional qualification framework for the Designated Sectors, having regard to the ECF-Fintech for the banking sector as appropriate;
- (e) To prepare a consultation paper and assist in the consultation process which will involve the Designated Sectors and relevant stakeholders;

⁵ The research / survey shall cover the “Shenzhen-Hongkong-Macau FinTech Professional Program” jointly organized by the GBA Business School, the Hong Kong Computer Society and the Hong Kong Productivity Council.

- (f) To consolidate consultation results and prepare responses, including but not limited to the relevant technical areas;
- (g) To liaise with the financial regulators (including the Securities and Futures Commission, Insurance Authority, the HKMA, etc.), professional bodies, academic and vocational training institutions, and other stakeholders for consultation, research and other purposes related to the Consultancy Study;
- (h) To develop an implementation plan with detailed timeline, milestones, required resources and roll-out targets, and help to monitor progress, for the establishment of the professional qualification framework for the Designated Sectors, as well as that leading to the QF's recognition of such framework and/or the professional qualifications under such framework;
- (i) To oversee the development of the training and examination materials, review the quality of the materials, and identify implementation agencies for the professional qualification framework for the Designated Sectors, and a pool of professional trainers to help ensure successful implementation of the training programmes and examinations of the Fintech sector of the Designated Sectors by the training and examination provider(s)/institution(s); and
- (j) Upon request, to prepare the training and examination materials through own specialist(s) of the Consultant or by engaging competent external professional writer(s).

3.3 The Consultant shall also provide other ancillary support in relation to the Consultancy Study as may be required by the Government from time to time, including:

- (i) Assist in other ad hoc research or tasks in relation to the Consultancy Study;
- (ii) Conduct workshops to explain the policy intent of establishing Fintech professional qualifications to relevant stakeholders (including but not limited to industry associations, universities); and
- (iii) Support and contribute to knowledge building and transfer during the Consultancy Study.

4. Control of the Consultancy Services

- 4.1 The Government will assume general control over the Consultancy Services. The Principal Assistant Secretary (Financial Services) 6 from the Financial Services Branch of FSTB or any person designated by such person in writing (“**Government Representative**”) will act as the liaison officer between the Consultant and the Government in relation to the Consultancy Services.
- 4.2 During the course of the Consultancy Study, the Consultant shall report directly to the Government Representative. The Consultant and the members of the Consulting Team (defined in paragraph 6.1) shall take instructions only from the Government Representative.
- 4.3 The Government Representative and the Consultant shall hold meetings at regular intervals to discuss the status of the Consultancy Services and any problems. The Team Leader (defined in paragraph 6.1) must be readily contactable throughout the Consultancy Study by ordinary means of communication including telephone, meeting in person and via email. The Consulting Team will be required to consult and attend meetings in Hong Kong with FSTB and other financial sectors, organisations, agencies, committees and parties as may be directed by the Government.
- 4.4 The Consultant shall provide professional advice and responses to any questions or requests made by the Government Representative, FSTB and other financial sectors in connection with the Consultancy Services.
- 4.5 The Consultant shall comply with all reasonable instructions as the Government Representative may give in relation to the Consultancy Services. The Consultant will be required to maintain an office in Hong Kong for the duration of the Consultancy Agreement (defined in paragraph 20.1).

5. Deliverables and Timeframe

- 5.1 The Consultancy Services are expected to commence around April 2023. They must be completed by the Consultant within 40 weeks from the commencement date of the Consultancy Agreement. Subject to the Government agreeing to any extension of time in writing, time is of the essence in relation to the Consultancy Services.

- 5.2 The Government may extend the Consultancy period by not less than 7 calendar days’ written notice.
- 5.3 All advice, recommendations and reports of the Consultancy Study shall be in writing. They shall be supported by detailed analysis and references to prevailing local and international practices.
- 5.4 The Consultant shall submit deliverables as required by the Government including those mentioned below (“**Deliverables**”) to the satisfaction of the Government in accordance with the following timetable:

Deliverables	Deadline	No. of copies required
(a) Interim Report – outlining preliminary observations and findings in relation to the tasks in paragraphs 3.2(a) to (c) above, and advising on the approach and basis to be adopted for developing the professional qualifications for Fintech practitioners in the Designated Sectors, as per paragraphs 3.2(d) to (i) above.	6 weeks after the commencement of the Consultancy Agreement	6 hard copies and 1 softcopy
(b) Second Report – outlining more detailed findings in relation to the tasks in paragraphs 3.2(a) to (c) above, and including concrete proposals for developing the professional qualifications for Fintech practitioners in the Designated Sectors, as per paragraphs 3.2(d) to (i) above.	18 weeks after the commencement of the Consultancy Agreement	6 hard copies and 1 softcopy
(c) Draft Final Report – an executive summary and a full report summarising all the findings, recommendations and deliverables as per paragraph 3.2 above.	36 weeks after the commencement of the Consultancy Agreement	6 hard copies and 1 softcopy

Deliverables	Deadline	No. of copies required
(d) Final Report - an executive summary together with a full set of revised Interim Report, Second Report and Final Report summarising all the findings, recommendations and deliverables as per paragraph 3.2 above.	40 weeks after the commencement of the Consultancy Agreement	24 hard copies and 1 softcopy
(e) Written or oral advice to the Government in response to any requests of the Government under paragraph 4.4.	Whenever requested by the Government	As determined by the Government

5.5 All Deliverables shall be prepared in English. The Final Report shall be in both Chinese and English. Before finalising the Interim Report or Second Report, the Consultant shall submit a draft a week in advance to the Government for comment. The Consultant shall take the Government’s comments into account when finalising the Final Report.

5.6 Should there be defects in a Deliverable or amendments required of a Deliverable, the Consultant shall amend and re-submit the Deliverable at no extra cost or expense to the Government within seven calendar days of the notice being given by the Government.

5.7 None of the Deliverables shall be deemed to have been completed until and unless the Government Representative (defined in paragraph 4.1) has confirmed acceptance of the same in writing.

6. Requirements for Consultant and Consulting Team

6.1 The Consultant shall deploy personnel with relevant expertise (“**Consulting Team**”) to perform the Consultancy Services. The Consulting Team shall be headed by a person (“**Team Leader**”) who shall assume the role of liaison officer for communicating with the Government. The Team Leader must be stationed in Hong Kong for provision of the Consultancy Services. Members of the Consulting Team must be acceptable to the Government. The Government reserves the right to

require replacement of the members of the Consulting Team. The Consultant shall obtain the Government Representative's prior written approval for any proposed addition or change of members of the Consulting Team. The Consultant shall ensure a substitute or replacement of any member of the Consulting Team is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as a replacement or substitute.

6.2 The Consulting Team shall have strong knowledge in domains relevant to the Consultancy Study, including but not limited to, the following:

- (i) Distributed ledger technology;
- (ii) Cloud computing;
- (iii) Artificial intelligence;
- (iv) Data analytics / big data;
- (v) Internet of things;
- (vi) Robotic processing automation;
- (vii) Application programming interface (“**API**”) and Open API;
- (viii) Marketing technology for financial sector (e.g. Metaverse, Web 3.0);
- (ix) Financial services experiences (e.g. securities, insurance and banking);
and
- (x) Fintech related consultancy experience.

Essential Requirements

6.3 Consultancy Proposals (defined in paragraph 7.1) must meet all of the essential requirements set out in paragraphs 6.4 and 6.5. Consultancy Proposals which fail to meet any of such essential requirements shall be disqualified and not considered further.

6.4 The Consultant must have an aggregate of at least five years of experience in the field of advisory services on the development (preferably on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (preferably securities and insurance sectors) in the ten years immediately preceding the Closing Date (defined in paragraph 7.2).

6.5 The Team Leader must have an aggregate of at least ten years of experience in the field of advisory services on the development (preferably on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (preferably securities and insurance sectors) in the fifteen years immediately preceding the Closing Date (defined in paragraph 7.2).

Other Requirements (i.e. non-essential)

- 6.6 It is preferred (i.e. not essential) for Consultancy Proposals to meet the non-essential requirements set out in paragraphs 6.7 – 6.9, which would be considered favourably in the assessment.
- 6.7 It is preferred if the Consulting Team comprises of members (a) with experience in the field of advisory services for talent development for the Fintech and/or financial services sectors (in particular securities and insurance sectors) and (b) from multiple disciplines, some of whom shall have experience and qualifications in the fields of financial analysis.
- 6.8 It is preferred if the Consultant, the Team Leader and/or any other member of the Consulting Team has/have local and overseas experience in (a) advising the development of professional qualifications for Fintech and/or financial practitioners, and/or (b) in the establishment of training curriculum / certification mechanism for Fintech practitioners.
- 6.9 It is preferred if all members of the Consulting Team are proficient both in spoken and written English, with at least one member of the Consulting Team being proficient in Cantonese and written Chinese.

7. Consultancy Proposals

- 7.1 Submissions by a Consultant in response to this Consultancy Brief (“**Consultancy Proposals**”) shall be prepared in English and shall include:
- (a) five (5) hard copies of a technical proposal (“**Technical Proposal**”) (see paragraph 7.4 below);
 - (b) two (2) hard copies of a fee proposal (“**Fee Proposal**”) (see paragraph 7.5 below);
 - (c) a completed “Consent to Disclosure” form (see paragraph 9.2 below);
 - (d) a declaration as required under “Conflict of Interest” (see paragraph 14.1 below); and
 - (e) a completed Non-collusion Certificate (see paragraph 27.2 below).

The Technical and Fee Proposals shall be submitted in separate sealed

envelopes with the words “Technical Proposal” and “Fee Proposal” clearly marked on the outside of the envelopes. These two sealed envelopes shall then be placed together in a sealed plain envelope marked **“Proposal – Consultancy Study on Developing the Professional Qualifications for Fintech Practitioners in the Financial Sectors (namely including the Securities and Insurance Sectors)”**.

- 7.2 The Consultancy Proposals shall be submitted **BY HAND on or before 3:00 p.m. on 3 February 2023 Hong Kong time (“Closing Date”)** to the Tender Box of the Financial Services and the Treasury Bureau (The Financial Services Branch), 2/F Entrance, East Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong. Electronic submissions will not be considered. Consultancy Proposals shall remain open for acceptance for not less than 90 calendar days after the Closing Date. Consultancy Proposals that fail to comply with this requirement may not be considered further.
- 7.3 If tropical cyclone warning signal No.8 or above is hoisted or a black rainstorm warning or “extreme conditions after super typhoons” announced by the Government is/are in force between 9:00 a.m. and 3:00 p.m. on **3 February 2023**, the deadline for submission will be extended to the same time on the following Working Day. In case of blockage of the public access to the above location at any time between 9:00 a.m. and 3:00 p.m. on **3 February 2023**, the FSTB will inform the Consultants, which have been invited to submit proposal, the extension of the closing time until further notice. Following removal of the blockage, the FSTB will inform the Consultants the extended closing time as soon as practicable. **“Working Day”** means any day other than a Saturday, public holiday, gale-warning day or black rainstorm warning day. **Late submissions will not be considered.**

Technical Proposal

- 7.4 The Technical Proposal shall include without limitation the following information:
- (a) an executive summary of the Technical Proposal;
 - (b) a description showing the Consultant’s understanding of the background, objectives and scope of the Consultancy Study, with appreciation of key issues involved and suggested ways to address the issues so identified;
 - (c) a description of the proposed approach and basis to be adopted in conducting the Consultancy Study, to be supported by a clear, systematic

and realistic work plan/programme with respect to submission of the Deliverables in paragraph 5.4 above;

- (d) a description of the Consultant's organisation and business portfolio, details of the Consultant's experience and expertise in advising the development of professional qualifications for Fintech and/or financial practitioners in Hong Kong and overseas, and matters relating to establishment of training curriculum/certification mechanism for Fintech and/or financial practitioners;
- (e) details on the composition of the proposed Consulting Team (including details of any sub-contractors proposed to be engaged by the Consultant to assist the Consultant to conduct the Consultancy Services) specifying relevant academic and professional qualifications as well as experience, knowledge and expertise of each member of the Consulting Team and sub-contractor (including details of requirements mentioned in paragraphs 6.4, 6.5, 6.7 – 6.9 above) and their respective responsibilities in connection with this Consultancy Services as well as each individual's input in man-days;
- (f) the estimated duration for producing each Deliverable of the Consultancy Study;
- (g) an indication of input or assistance that might be expected from the Government during the course of the Consultancy Study (if any);
- (h) whether there is any litigation, proceeding, inquiry, claim or allegation whatsoever, actual or threatened, against or involving the Consultant; the existence of any breach or default, or alleged breach or default, of any agreement, order or award binding upon the Consultant; and any other matters which may materially affect the Consultant's ability to perform the Consultancy Services or its role as the Consultant or which may lead to justifiable criticism or embarrassment of the Government for selecting the Consultant; and
- (i) other information that may assist the Government in the evaluation of the proposal (if any).

Fee Proposal

7.5 The Fee Proposal shall include the following information:

- (a) the Consultancy Fee (as defined in paragraph 12.1) in Hong Kong dollars to cover the Consultancy Services; and
- (b) a breakdown of the Consultancy Fee into professional fees and other expenses in the form of a manning schedule with hourly rate shown against each member of the Consulting Team.

7.6 For the avoidance of doubt, no adjustment to the fixed Consultancy Fee to reflect any changing cost or price level will be allowed.

8. Disclosure of Information for Consultants Bidding in Different Capacities for the Same Consultancy

8.1 The Government has no objection to:

- (a) any Consultant or its Associate or Associated Person lodging one Consultancy Proposal to act as a Consultant and also proposing to act as a sub-contractor to another Consultant in this exercise; or
- (b) different and unconnected Consultants proposing to engage the same sub-contractors or their Associates or Associated Persons in this exercise,

PROVIDED that:

- (i) all the relevant circumstances are disclosed in the Consultancy Proposal;
- (ii) where any Consultant or its Associate or Associated Person lodges one Consultancy Proposal to act as a Consultant and proposes to act as a sub-contractor to another Consultant in the Consultancy Proposal of that other Consultant, the first-mentioned Consultant or its Associate or Associated Person shall confirm in its Consultancy Proposal that no confidential information, confidentiality restrictions or restraints of trade or business have been contravened in lodging the Consultancy Proposals; and
- (iii) where any Consultant proposes to act as a sub-contractor to different and unconnected Consultants in their Consultancy Proposals, it shall confirm in the Consultancy Proposals of those Consultants that no confidential information, confidentiality restrictions or restraints of trade or business

have been contravened in lodging the Consultancy Proposals.

9. Disclosure of Fees Payable to the Consultant and Other Matters

9.1 The Government shall have the right to disclose to any person, whenever it considers appropriate or upon request by any third party (written or otherwise), and in such form and manner as it deems fit:

- (a) the Consultancy Fee and any other fees, costs and expenses payable by the Government for engaging the Consultant;
- (b) the Fee Proposal submitted by the Consultant; and
- (c) the engagement by the Government of the Consultant under the Consultancy Agreement; the names of the Consultant and its sub-contractors appointed or engaged by the Consultant to perform any part or parts of the Consultancy Services in accordance with the Consultancy Agreement, or to advise or assist in relation thereto; and description of the Consultancy Services.

9.2 For the purposes of paragraph 9.1, each Consultant shall complete, execute and deliver to the Government a “Consent To Disclosure” in the form set out in **Annex I** hereto in its Consultancy Proposal.

10. Business Structure of the Consultant

10.1 The Consultant shall be one single contractual party who shall be held responsible for the due and faithful performance of the Consultancy Services, and the party may, subject to the prior written approval of the Government, nominate, as the main contractor, one or more sub-contractors to perform part of the Consultancy Services.

11. Method of Assessment

11.1 Consultancy Proposals which meet all the essential requirements set out in paragraphs 6.4 and 6.5 and are not submitted late will be further assessed as mentioned below.

11.2 The Consultant will be assessed on its Technical and Fee Proposals according to the marking scheme at **Annex II** on a weighting of 70% and

30% respectively. On Technical Proposal, the Consultant will be assessed in accordance with the following assessment criteria:

- (a) the Consultant's understanding of the background, objectives and scope of the Consultancy Study and appreciation of key issues involved;
 - (b) the proposed approach and basis adopted for the Consultancy Study;
 - (c) the proposed work plan/programme with respect to submission of the Deliverables, as well as the Consultant's availability and adequacy of resources to perform the Consultancy Services;
 - (d) the Consultant's organisation, business profile, experience and expertise in providing consultancy service in similar assignments; and
 - (e) the composition of the proposed Consulting Team and relevant academic and professional qualifications, experience, knowledge, expertise and language proficiency of the members of the Consulting Team mentioned in paragraphs 6.7 -6.9.
- 11.3 There is an overall passing mark for the technical score. Any Technical Proposal not attaining the overall passing mark of 60 for the technical score will not be considered further.
- 11.4 A Consultant's Fee Proposal will only be opened for assessment after completion of the assessment of the Technical Proposal.
- 11.5 The Fee Proposal will be assessed on the basis of the proposed fixed lump sum Consultancy Fee specified in paragraph 7.5(a).
- 11.6 The Government will not be bound to select any Consultant on the basis of the lowest fee quoted. The Consultant which scores the highest total combined technical and fee score will normally be considered for the appointment.
- 11.7 Consultants may be required, at their own costs and expenses, to make a presentation of their proposals to the assessment panel within 7 Working Days upon notice. The Team Leader shall be the main presenter at the presentation. Consultants which fail to make a presentation as required under this paragraph may not be further considered.

12. Consultancy Fee and Payment

12.1 The Government shall pay the Consultant a fixed lump sum (“**Consultancy Fee**”) in Hong Kong dollars in consideration of and subject to the Consultant performing the Consultancy Services to the satisfaction of the Government.

12.2 The Consultant shall be paid the Consultancy Fee by instalments in accordance with the following payment schedule. Invoice of each payment shall only be issued by the Consultant to the Government after the written acceptance by the Government of all the Deliverables submitted by the Consulting Team corresponding to that instalment:

Due date for payment	Percentage of the Consultancy Fee payable
Within thirty (30) calendar days after the receipt of the Consultant’s invoice which shall be issued by the Consultant to the Government after:	
(a) the acceptance to the satisfaction of the Government in writing of the Interim Report and Second Report as described in paragraphs 5.4(a) and 5.4(b)	40%
(b) the acceptance to the satisfaction of the Government in writing of the Final Report as described in paragraph 5.4(d) and the completion of all Consultancy Services required under the Consultancy Agreement to the satisfaction of the Government	60%
Total =	100%

12.3 For the avoidance of doubt, the Consultancy Fee shall be inclusive of all fees, costs, charges and disbursements incurred by the Consultant in the performance of the Consultancy Services, including but without limitation, the costs and expenses incidental to the attendance of meetings, the giving of presentations and briefings, the licence fees and/or royalties payable by the Consultant in connection with the permitted use of any third party intellectual property rights in the performance of the Consultancy Services and preparation of the Deliverables, other out-of-pocket expenses such as travelling expenses, air passages, local subsistence allowances for expatriates and others, postage, international telephone calls, facsimile and

internet connection expenses, office and hotel accommodation, secretarial support, copying and printing charges and computer facilities that may be incurred by the Consultant in the carrying out of the Consultancy Services. The Consultancy Fee shall also include any fees, costs and disbursements that may be incurred by the Consultant in appointing or engaging any sub-contractors, advisers, experts or others to provide any part or parts of the Consultancy Services or to advise or assist in relation thereto. For the avoidance of doubt, no fee, cost, charge or disbursement whatsoever in addition to the Consultancy Fee shall be charged by the Consultant or payable by the Government in respect of the Consultancy Services (whether in respect of sub-contracting or otherwise) without the prior written agreement of the Government.

- 12.4 The Consultant shall invoice the Government for each instalment payment of the Consultancy Fee after acceptance to the satisfaction of the Government of the Deliverable concerned. Each instalment of the Consultancy Fee will normally be paid within thirty (30) calendar days after the receipt of the invoice from the Consultant.

13. Sub-contracting

- 13.1 The Consultant shall not, without the prior written consent of the Government, subcontract, assign or otherwise dispose of the whole or any part or parts of the Consultancy Services to any person whatsoever, or purport to do so. If any part of the Consultancy Services is sub-contracted to any person, the Consultant shall remain liable for any act or omission of such person as if such act or omission were its own.

14. Conflict of Interest

- 14.1 Each Consultant shall submit as part of its Consultancy Proposal a declaration of any interest (whether financial, commercial, personal or otherwise) that the Consultant, its sub-contractors and members of the proposed Consulting Team may have which conflicts or competes, or may conflict or compete, directly or indirectly, with any interest of the Government and/or with any of the duties of the Consultant under the consultancy (or a declaration that it has no such interest) (“**Declaration of Interest**”) in the form set out in **Annex III** hereto. Any involvement or interest declared would be carefully considered but would not necessarily debar the Consultant from being further considered in the selection process.

- 14.2 The Consultant shall during the term of the Consultancy Agreement and for six (6) months thereafter:
- (a) ensure that it (including its Associates and Associated Persons, each member of the Consulting Team and each of its sub-contractors and their Associates and Associated Persons) shall not undertake any service, task or job or do anything whatsoever for or on behalf of any third party (other than in the proper performance of the Consultancy Agreement) which conflicts or competes, or which may be seen to conflict or compete, with the Consultant's duties to the Government under the Consultancy Agreement; and
 - (b) forthwith notify in writing the Government of all or any facts which may reasonably be considered to give rise to a situation where the financial, professional, commercial, personal or other interests of the Consultant or its Associates or Associated Persons, or any of its permitted sub-contractors or any member of the Consulting Team or their Associates or Associated Persons, conflict or compete, or may conflict or compete, with the Consultant's duties to the Government under the Consultancy Agreement.
- 14.3 The Consultant shall provide the Consultancy Services to the Government on an impartial basis without giving favour to any particular product, service or equipment in which the Consultant, any of its sub-contractors, members of the Consulting Team or their respective Associates or Associated Persons has or may have any financial, professional, commercial, personal or other interests. The Consultant shall notify the Government in writing immediately upon knowing of any actual or potential, direct or indirect, financial, professional, commercial, personal or other interests, which such persons have or may have with, any of the products, services or equipment proposed or recommended by the Consultant under the Consultancy Agreement.
- 14.4 The Consultant shall procure its sub-contractors, each member of the Consulting Team and its professional advisers, directors, officers, employees and agents who are involved in the provision of the consultancy services to execute a legally binding written undertaking in favour of the Consultant and the Government jointly and severally in a form prescribed by the Government agreeing to observe paragraphs 14.2 and 14.3 and the Consultant shall provide the original or certified true copies of all such undertakings to the Government as may be required by the Government. The Consultant further agrees that, if so required by the Government, it shall take all such steps as are lawful and necessary to enforce such undertakings or to co-operate with the Government in their enforcement.

- 14.5 The Consultant shall ensure that its Associates and Associated Persons, each of its sub-contractors and each member of the Consulting Team and their Associates and Associated Persons shall keep themselves informed and shall inform the Consultant and keep it informed regularly of all facts which may reasonably be considered to give rise to a situation where the financial, professional, commercial, personal or other interests of such persons, conflict or compete, or may conflict or compete, with the Consultant's duties to the Government under the Consultancy Agreement.
- 14.6 From the commencement of the Consultancy Agreement, notwithstanding the expiry or earlier termination of the Consultancy Agreement, the Consultant (including its Associates and Associated Persons, each member of the Consulting Team and each of its sub-contractors and their Associates and Associated Persons who are involved in the performance of the Consultant's obligations pursuant to the Consultancy Agreement) **shall not** (whether on its own or in joint venture with others) submit any bid in any competitive bidding process or accept any appointment as consultant for, or otherwise be interested in or involved in any manner in any subsequent exercise for procurement arising out of or which was the very subject of the consultancy.
- 14.7 In this Consultancy Brief:
- (a) **“Associate”** in relation to any person means:
 - (i) a relative or partner of that person; or
 - (ii) a company one or more of whose directors is in common with one or more of the directors of that person.
 - (b) **“Associated Person”** in relation to another person means:
 - (i) any person who has control, directly or indirectly, over the other; or
 - (ii) any person who is controlled, directly or indirectly, by the other; or
 - (iii) any person who is controlled by, or has control over, a person at (a) or (b) above.
 - (c) **“control”** in relation to another person means holding office as a director or the power of a person to secure –
 - (i) by means of the holding of shares or interests or the possession of voting power in or in relation to that or any other person; or

- (ii) by virtue of powers conferred by any constitution, memorandum or articles of association, partnership, agreement or arrangement (whether legally enforceable or not) affecting that or any other person, that the affairs of the first-mentioned person are conducted in accordance to the wishes of that other person,
- (d) “**director**” means any person occupying the position of director by whatever name called and includes without limitation a de facto or shadow director.
- (e) “**relative**” means the spouse, parent, child, brother or sister of the relevant person, and, in deducing such a relationship, an adopted child shall be deemed to be a child 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.

15. Confidentiality

- 15.1 All materials and data furnished by or on behalf of the Government in connection with the Consultancy Agreement, Materials (defined in paragraph 17.10), and the terms and conditions of the Consultancy Agreement shall be treated as confidential information. The Consultant shall not, during the continuance of the Consultancy Agreement or at any time thereafter, disclose to any person (including without limitation any Associates or Associated Persons, directors, officers, employees or agents of the Consultant who are not members of the Consulting Team, except to the senior management, legal and compliance personnel and auditors of the Consultant and then only on a need-to-know basis) any confidential information, provided that the restrictions on disclosure contained in this paragraph shall not apply:
- (a) to the disclosure of any information to any members of the Consulting Team in circumstances where such disclosure is necessary for the performance of the Consultant’s duties and obligations under the Consultancy Agreement;
 - (b) to the disclosure of any information already known to the recipient other than as a result of disclosure by a breach of the confidentiality obligation of the Consultant, its Associates or Associated Persons, directors, officers, employees, agents or any member of the Consulting Team or its sub-contractors including without limitation professional advisers;

- (c) to the disclosure of any information which is or becomes public knowledge other than as a result of disclosure by a breach of the confidentiality obligation of the Consultant, its Associates or Associated Persons, directors, officers, employees, agents or any member of the Consulting Team or its sub-contractors including without limitation professional advisers;
- (d) to the disclosure of any information in circumstances where such disclosure is required pursuant to any law, regulation, rule of any relevant stock exchange, or order of a court or arbitral authority of competent jurisdiction;
- (e) to the disclosure of any information to the Consultant's sub-contractors, professional advisers, directors, officers, employees or agents where such disclosure is necessary for the performance of the Consultant's duties and obligations under the Consultancy Agreement; or
- (f) to the disclosure of any information with the prior written consent of the Government.

The Government shall have the right to determine in good faith at any time whether any information is within that described in (b), (c) or (e) above and the Consultant shall comply with that determination. For the purpose of (e), if at the time the Government discloses the information to the Consultant, the Government does not expressly state that the information cannot be distributed to the persons named in (e), the Government shall be deemed to have consented to the disclosure of that information to those persons but such disclosure shall be strictly limited to the performance of the Consultant's duties and obligations under the Consultancy Agreement.

- 15.2 Any disclosure permitted under paragraph 15.1 shall be in strict confidence and shall extend only so far as may be necessary for the purpose specified in paragraph 15.1 and the Consultant shall ensure the confidentiality of any such disclosure by taking all appropriate action to restrain or restrict any further disclosure.
- 15.3 The Consultant shall not make use of or reproduce any information, report, chart, document, plan, software, data or other particulars or information whatsoever relating to the Consultancy Agreement furnished by or on behalf of the Government other than in the performance of its obligations under the Consultancy Agreement and shall not make use of the Deliverables or any Materials or computer models produced or created in relation to the performance of its obligations under the Consultancy

Agreement other than in the performance of its obligations under the Consultancy Agreement or with the prior written consent of the Government.

- 15.4 The Consultant shall not without the prior written consent of the Government publish, either alone or in conjunction with any other person, in any newspaper, magazine, periodical, film, video or other medium, any confidential information relating to the Consultancy Services (including without limitation the advice provided by it or the duties undertaken by it under the Consultancy Agreement).
- 15.5 The Consultant shall inform every person to whom any information, report, chart, document, plan, software, data or other particulars or information relating to the Consultancy Agreement is disclosed pursuant to this paragraph of the restrictions on reproduction and disclosure attaching to such information and the Consultant shall require such a person to notify the same restrictions to any other person to whom it makes any such disclosure.
- 15.6 The Consultant shall procure its sub-contractors, each member of the Consulting Team and its professional advisers, directors, officers, employees and agents referred to in paragraph 15.1(e) above to execute a legally binding written undertaking in favour of the Consultant and the Government jointly and severally in a form prescribed by the Government agreeing not to disclose any such confidential information and the Consultant shall provide the original or certified true copies of all such undertakings to the Government as may be required by the Government. The Consultant further agrees that, if so required by the Government, it shall take all such steps as are lawful and necessary to enforce such undertakings or to co-operate with the Government in their enforcement.
- 15.7 Paragraphs 15.1 to 15.6 shall survive the expiry or termination of the Consultancy Agreement and shall continue in full force and effect notwithstanding such expiry or termination.

16. Indemnity

- 16.1 The Consultant shall indemnify and keep indemnified the Government against:
- (a) any and all claims (whether or not successful, compromised, settled, withdrawn or discontinued, in whole or in part), actions, investigations, liabilities, demands, proceedings or judgments, joint or several, threatened, brought or established against the Government (“Claims”); and

- (b) any and all liabilities, losses, damages, costs, charges or expenses (including all legal fees and other awards, payments, costs, charges and expenses) which the Government may pay or incur as a result of or in relation to any Claims,

which in any case arise directly or indirectly in connection with, out of or in relation to –

- (i) the performance or breach of any provisions of the Consultancy Agreement by the Consultant;
- (ii) the negligence, recklessness, tortious acts or wilful misconduct of the Consultant, its employees, agents or sub-contractor(s) in the provision of the Consultancy Services;
- (iii) any default, unauthorised act or wilful omission of the Consultant, its employees, agents or sub-contractor(s) in the provision of the Consultancy Services;
- (iv) the non-compliance by the Consultant, its employees, agents or sub-contractor(s) with any applicable law, or regulation, order or requirement of any government agency or authority in the provision of the Consultancy Services;
- (v) any allegation of or claim for infringement of the Intellectual Property Rights of any party arising from or in relation to the provision of the Consultancy Services by the Consultant, its employees, agents or sub-contractor(s); or
- (vi) the provision, use, reproduction or possession at any time whether before or after the execution of the Consultancy Agreement of the Materials or Licensed Property (defined in paragraph 17.3) by the Government.

16.2 The Government will NOT under any circumstances provide any indemnity.

17. Intellectual Property Rights

17.1 Subject to paragraph 17.3, all the Materials and all the Intellectual Property Rights in all the Materials shall be and shall remain the exclusive property of the Government and shall vest in the Government absolutely at the time when they are created.

- 17.2 In the event and to the extent that any of the Intellectual Property Rights in the Materials is deemed for any reason not to vest in the Government pursuant to paragraph 17.1 above, then, upon request by the Government, the Consultant shall forthwith, free of charge to the Government, assign or otherwise transfer or cause to be assigned or otherwise transferred the same to the Government free of any encumbrance or compensation to the Consultant.
- 17.3 The provisions of paragraph 17.1 shall not apply to the following type of property (“**Licensed Property**”) namely that of a kind which is available publicly or generally within the business of a kind similar to that to be provided by the Consultant under the Consultancy Agreement or which is or was specifically produced or created solely and exclusively in relation to services, other than services provided or to be provided to the Government under the Consultancy Agreement, and which is incorporated or used in the Materials or otherwise used by the Consultant in the performance of the Consultancy Agreement. The Consultant shall keep the Government informed in writing of any of the Materials that are subject matter(s) of the Licensed Property or any pre-existing Intellectual Property Rights and any restrictions whatsoever affecting the use thereof.
- 17.4 The Consultant undertakes to acquire all the requisite consents and licenses for the benefit of the Government for the use and reproduction of the Licensed Property incorporated in the Materials for any purposes for which the Government may in its absolute discretion use the Materials.
- 17.5 Upon request by the Government at any time, and in the event of the expiration or termination of the Consultancy Agreement, the Consultant shall at its expense promptly deliver to the Government all the Materials and all copies of the Materials (save for Deliverables already submitted), then in the custody, control or possession of the Consultant, any members of the Consulting Team, the Consultant’s sub-contractors or their respective officers, employees and agents.
- 17.6 The Consultant hereby waives and will procure all the authors concerned to waive all moral rights (as referred to in the Copyright Ordinance (Cap. 528 of the Laws of Hong Kong) in the Materials and the Licensed Property), such waiver to operate in favour of the Government, its licensees, assigns and successors in title and to have effect upon the vesting of Intellectual Property Rights or the grant of the licence (as the case may be).
- 17.7 The Consultant shall ensure that no Intellectual Property Rights of any third parties have been or will be infringed as a result of the Consultancy

Services and shall indemnify the Government against any loss or damage which the Government may sustain or incur as a result of any allegation of or claim for infringement of the Intellectual Property Rights of any party arising from or in any way related to the Consultancy Services or the use or possession at any time of the Materials by the Government whether before or after the execution of the Consultancy Agreement.

17.8 At the request of the Government, the Consultant shall, free of charge to the Government, do all such things and execute all such documents and instruments as may be reasonably necessary in the opinion of the Government to enable the Government to obtain, defend and enforce its rights in the Materials and its rights in respect of the Licensed Property.

17.9 Paragraphs 17.1 to 17.8 shall survive the expiration or early termination of the Consultancy Agreement.

17.10 For the purpose of this Consultancy Brief:

“Intellectual Property Rights” means patents, copyrights, design rights, trademarks, service marks, trade names, domain names, database rights, rights in know-how, new inventions, designs or processes and other intellectual property rights (of whatever nature wherever arising, whether now known or hereafter created) and in each case whether registered or unregistered and including applications for the grant of any such rights.

“Materials” includes all the deliverables (including the Deliverables), reports, works of authorship, summaries, briefings, presentations, diagrams, drawings, charts, tables, graphs, pictures, photographs, questionnaires, plans, models, analyses, work programmes, technical notes, information papers, opinions, comments, specifications, formulae, data, information, documents and materials collected, compiled, developed, produced or created by the Consultant, the Consulting Team or the employees, directors, officers, agents or sub-contractors at all tiers of the Consultant, agents or sub-contractors (whether individually or jointly with the Government) in relation to and/or in the course of the performance of the Consultancy Services or for the purpose of the Consultancy Agreement including but without limitation, the pre-contractual and contractual documents thereof which are recorded or stored by whatever means in whatever form or media and the drafts of any of the above items.

18. Restrictions, Limitations and Counter-Proposals Proposed by the Consultants

- 18.1 Restrictions or limitations proposed by a Consultant which seek to limit or avoid the responsibility of the Consultant or Consulting Team in contract, tort or otherwise for failing to exercise the skill and care required by the Consultancy Agreement or reasonably expected of the Consultant and Consulting Team in these circumstances may render any proposal non-compliant in the absolute discretion of the Government.
- 18.2 The obligations and liabilities imposed on the Consultant in paragraphs 14, 15, 16 and 17 (conflict of interest, confidentiality, indemnity and intellectual property rights) in this Consultancy Brief are not subject to negotiation or counter-proposals. Any counter-proposal in contravention of this paragraph will be disregarded.

19. Nature of Agreement

- 19.1 The Consultant will be engaged by the Government as an independent contractor on a principal-to-principal basis and not as a partner, employee or agent of the Government or as a trustee for others.

20. Consultancy Agreement

- 20.1 The selected Consultant will enter into a written agreement (the “**Consultancy Agreement**”) with the Government on terms prepared and approved by the Department of Justice. The Consultancy Agreement will contain the complete terms and conditions of the Consultancy Services, including without limitation the matters referred to in this Consultancy Brief, expanded and modified as the Government deems necessary, and other matters such as fees, details of the Consulting Team, set-off and force majeure.
- 20.2 Nothing in the Consultancy Agreement will confer or purport to confer on any third party any benefit or any right to enforce any term of the Consultancy Agreement pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623).
- 20.3 This Consultancy Brief will form part of the Consultancy Agreement. The governing laws of the Consultancy Agreement shall be the laws of Hong Kong.

21. Changes in the Scope of the Consultancy Services

- 21.1 The Government may at any time by giving fourteen (14) calendar days' written notice to the Consultant, make changes as are reasonable in all the circumstances to the scope of the Consultancy Services. The costs (if any) of such changes and the impact of such changes on the timetable, charging and payment provisions of the Consultancy Agreement shall be mutually agreed in writing by the Government and the Consultant with reference to and on the basis of the breakdown costs and fees quoted in the Consultant's Fee Proposal.
- 21.2 If the Government and the Consultant are unable to agree on the costs of the changes, the revised work schedule, charge or payment schedule for the Deliverables, the Government may nevertheless direct the Consultant in writing to proceed with the changes with reference to and on the basis of the breakdown costs and fees quoted in the Consultant's Fee Proposal and the Consultant shall act accordingly.

22. Termination of the Consultancy Agreement

- 22.1 The Government may, by written notice, immediately terminate the Consultancy Agreement if the Consultant shall be in breach of any of the terms and conditions of the Consultancy Agreement which is not capable of being remedied or, in the case of a breach capable of being remedied, such breach shall not have been remedied by the Consultant within fourteen (14) calendar days of the date of the receipt of a notice to remedy from the Government.
- 22.2 The Government may immediately terminate the Consultancy Agreement if the Consultant has engaged or is engaging in acts or activities that are likely to constitute or cause the occurrence of offences endangering national security or which would otherwise be contrary to the interest of national security; or the continued engagement of the Consultant or the continued performance of the Consultancy Agreement is contrary to the interest of national security; or the Government reasonably believes that any of the events mentioned in this paragraph 22.2 is about to occur.
- 22.3 Notwithstanding anything to the contrary in this Consultancy Brief, the Government may at any time and from time to time during the term of the Consultancy Agreement, at its discretion and without cause, suspend or

terminate the Consultancy Agreement by giving the Consultant thirty (30) calendar days' prior written notice of such suspension or termination.

- 22.3 In the event of termination prior to the completion of the Consultancy Services, the Government may itself complete the Consultancy Services or (at the option of the Government) may engage, use or employ any other Consultant to complete the said services and the Government or such other Consultant may use the Materials (whether or not title has passed to the Government in respect thereof) and the Licensed Property or any part thereof for such completion. The suspension or termination of the Consultancy Agreement shall not prejudice or affect any rights of action or other remedies which may have accrued to the Government or the Consultant.
- 22.4 The Consultant will be paid for Consultancy Services properly performed up to the date of suspension or termination. The Consultant shall not be entitled to compensation for remaining Consultancy Services which have not been performed.

23. Withholding Tax

- 23.1 Where the Consultant is or becomes a non-Hong Kong resident, the Government shall withhold a percentage (equivalent to the prevailing Hong Kong profits tax rate prescribed by the Inland Revenue Ordinance (Cap. 112 of the Laws of Hong Kong) for unincorporated or incorporated business or profession, as the case may be) of any fees payable to the Consultant in respect of the Consultancy Services provided in Hong Kong by the non-Hong Kong resident Consultant for the settlement of profits tax chargeable on the fees. Without prejudice to the Government's right as to set off, the Government shall return to the Consultant any balance representing the excess of fees so withheld in the basis period of the year of assessment over the Consultant's profits tax liability chargeable on the fees for that year without interest within a reasonable time upon final determination and settlement of the Consultant's profits tax liabilities.

24. Set-off

- 24.1 Where the Consultant has incurred any liability to the Government, whether at law or in equity, and whether such liability is liquidated or unliquidated, the Government may, without prejudice to any rights or remedies the Government may have, set off, whether at law or in equity,

the amount of such liability against any sum then due or which at any time thereafter may become due from the Government to the Consultant under the Consultancy Agreement or any other contracts.

25. Performance Monitoring of the Consultant

25.1 Should a Consultant be awarded the Consultancy Study, its subsequent performance shall be monitored and may be taken into account when its future bids for other Government consultancy works are evaluated. A Consultant may be suspended from bidding for any new Government consultancy works if its performance is unsatisfactory.

26. Warranty and Undertaking

26.1 The Consultant will be required to warrant and undertake to the Government that:

- (a) the Consultancy Services shall be performed and completed in an impartial, timely and diligent manner and that the Consultant, each member of the Consulting Team, each of the Consultant's permitted sub-contractors and every person employed, used or engaged by the Consultant in the performance of the Consultancy Services shall use all the experience, skills, care and diligence in the performance of the Consultancy Services and the discharge of all its duties and obligations under the Consultancy Agreement as may be expected from a person who is an expert in providing services of a kind similar to the Consultancy Services;
- (b) the Consultant, the Consulting Team and the Consultant's permitted sub-contractors have the necessary skills and experience to provide the Consultancy Services and that it shall provide independent and unbiased professional advice to the Government in relation to the Consultancy in accordance with applicable professional standards in the Hong Kong and international markets;
- (c) all information supplied, and statements and representations made by or on behalf of the Consultant in relation to the Consultancy Brief, the Proposal or the Consultancy Services are true and accurate at the time such information, statements and representations were made to the Government and during the term of the Consultancy Services;
- (d) the Consultant shall comply with all applicable laws, regulations and orders and in particular, shall ensure that it and its permitted sub-

contractors and members of the Consulting Team shall not commit any act of bribery or corruption whether in or outside Hong Kong for the purpose of or in connection with the performance of the Consultancy Agreement;

- (e) the Consultant shall prohibit its employees, permitted sub-contractors and members of the Consulting Team from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance (Cap. 201), for the purpose of or in connection with the performance of the Consultancy Agreement; and
- (f) the Consultant shall secure, obtain and maintain throughout the duration of the Consultancy Agreement all and any governmental authorisations, approvals, permits or licences which may be required or necessary in connection with the performance of the Consultancy Agreement and to bear all costs, charges and expenses that may be incurred in obtaining and maintaining the permits and licenses.

27. Warranty of No Collusion

- 27.1 The Consultant must ensure that the Consultancy Proposal is prepared without any agreement, arrangement, communication, understanding, promise or undertaking with any other person (except as provided in paragraph 3 of the Non-collusion Certificate referred to in paragraph 27.2 below), regarding, amongst other things, price, consultancy selection process or any terms of the Consultancy Proposal. Bid-rigging is inherently anti-competitive and is considered serious anti-competitive conduct under the Competition Ordinance (Cap. 619). Consultants which engage in bid-rigging conduct may be liable for the imposition of pecuniary penalties and other sanctions under the Competition Ordinance (Cap. 619).
- 27.2 The Consultant shall complete and submit to the Government a non-collusion certificate in the form set out in **Annex IV (“Non-collusion Certificate”)** as part of its Consultancy Proposal.
- 27.3 In the event that the Consultant is in breach of any of the representations, warranties and/or undertakings in paragraph 27.1 above or in the Non-collusion Certificate submitted by it under paragraph 27.2 above, the Government shall be entitled to, without compensation to any person or liability on the part of the Government:
- (a) reject the Consultancy Proposal;

- (b) if the Government has accepted the Consultancy Proposal, withdraw its acceptance of the Consultancy Proposal; and
- (c) if the Government has entered into the Consultancy Agreement with the Consultant, forthwith terminate the Consultancy Agreement.

27.4 By submitting a Consultancy Proposal, a Consultant is regarded to have undertaken to 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, warranties and/or undertakings in paragraph 27.1 above or in the Non-collusion Certificate submitted by it under paragraph 27.2 above.

27.5 Any breach of any of the representations, warranties and/or undertakings in paragraph 27.1 above or in the Non-collusion Certificate submitted by it under paragraph 27.2 above by the Consultant may prejudice its future standing as a Government consultant.

27.6 The rights of the Government under paragraphs 27.3 to 27.5 above are in addition to and without prejudice to any other rights or remedies available to it against the Consultant.

28. Settlement of Disputes

28.1 Any dispute or difference between the parties arising out of or in connection with the Consultancy Agreement which is not resolved within twenty-eight (28) calendar days may first be referred to mediation in accordance with the then current Hong Kong International Arbitration Centre Mediation Rules.

28.2 If the matter cannot be resolved by mediation or any party to the Consultancy Agreement does not wish the matter to be referred to mediation, any party may within ninety (90) calendar days from the failure of mediation or the refusal to mediate (as the case may be) require that the matter be referred to arbitration in accordance with and subject to the provisions of the Arbitration Ordinance (Cap. 609 of the Laws of Hong Kong). Any such reference shall be deemed to be a submission within the meaning of the Arbitration Ordinance.

28.3 Subject to paragraphs 28.4 and 28.5, the then current Hong Kong International Arbitration Centre Domestic Arbitration Rules (“**Arbitration Rules**”) shall apply to any arbitration instituted in accordance with this paragraph.

28.4 Notwithstanding any provision of the Arbitration Rules, the place of meetings and hearings in the arbitration shall be Hong Kong unless the parties otherwise agree.

28.5 Article 20.1 of the Arbitration Rules shall be deleted and replaced by:

“20.1 The arbitration proceedings are private and confidential between the parties and the arbitrator. No information relating to the arbitration shall be disclosed by any person without the written consent of each and every party to the arbitration. Notwithstanding the above, disclosures are permissible where disclosures –

- (a) are necessary for enforcement of the arbitral award or any settlement agreement between the parties;
- (b) are required by the parties’ auditors or for some other legitimate business reason;
- (c) are required by law or an order of the courts of Hong Kong; or
- (d) are necessary for the making of claims against any third party or to defend a claim brought by any third party.”

28.6 All provisions in Schedule 2 to the Arbitration Ordinance shall apply to any arbitration instituted in accordance with these provisions on settlement.

29. Use of the Government’s Name

29.1 The Consultant shall not use the Government’s name in any document, publication, advertisements or publicity material without the prior written consent of the Government.

29.2 The Consultant shall not without the prior written consent of the Government publish, either alone or in conjunction with any other person, in any newspaper, magazine or periodical, any article, advertisement, photograph or illustration relating to this Consultancy Study otherwise than in the performance of its obligations under this Consultancy Study.

30. Other Conditions

- 30.1 The Government reserves the right, in its absolute discretion, not to accept the lowest Fee Proposal or any proposal or appoint any of the Consultants which have submitted proposals in response to this invitation for the whole or any part of the Consultancy. Submission of a Consultancy Proposal shall be made on the understanding that the Government will not be liable to pay any costs arising out of or incidental to the preparation, submission or in clarification of any Consultancy Proposal. The Government is also under no obligation to discuss the assessment or assessment result of any proposal with any person.
- 30.2 By submitting the Consultancy Proposals, the Consultants agree that the Government is permitted to keep their Consultancy Proposals for record, irrespective of whether they will be awarded the Consultancy Study.
- 30.3 The Government reserves the right to negotiate with any Consultants over the terms of their Consultancy Proposals.
- 30.4 After submission of the Consultancy Proposals, the consulting Consultants shall not attempt to initiate any further contact, whether direct or indirect, with the Government on its Consultancy Proposal or this invitation to submit Consultancy Proposals. The Government shall have the sole right to initiate any such further contact and all such contacts and any replies of Consultants thereto shall be in writing or formally documented in writing.
- 30.5 Notwithstanding anything to the contrary in this Consultancy Brief, the Government reserves the right to disqualify a Consultant on the grounds that the Consultant has engaged, is engaging, or is reasonably believed to have engaged or be engaging in acts or activities that are likely to cause or constitute the occurrence of offences endangering national security or otherwise the exclusion is necessary in the interest of national security, or is necessary to protect the public interest of Hong Kong, public morals, public order or public safety.

31. **Enquiry**

31.1 All enquiries on this Consultancy Brief should be submitted in writing to the following subject officer:

Subject Officer : Mr Eric KWAN
Phone No.: (852) 2867 5844
Fax No.: (852) 2869 4195
Email Address: erickwan@fstb.gov.hk

Financial Services and the Treasury Bureau
The Government of the Hong Kong Special Administrative Region
December 2022

RESTRICTED (CONTRACT)

Annex I

CONSENT TO DISCLOSURE

To : The Government of the Hong Kong Special Administrative Region

Re : Consultancy Study on Developing the Professional Qualifications for Fintech Practitioners in the Financial Sectors (namely the Securities and Insurance Sectors)

We, _____ (name of the Consultant), hereby irrevocably authorize, consent and agree that if the Government of the Hong Kong Special Administrative Region (“Government”) agrees to appoint us to carry out the captioned consultancy, the Government may, whenever it considers appropriate or upon request by any person (written or otherwise) and without any further reference to us, disclose to any person in such form and manner as the Government deems fit-

- (a) the Consultancy Fee and any other fees, costs and expenses payable by the Government for engaging us;
- (b) the Fee Proposal submitted by us on _____ (insert the relevant date; and
- (c) our engagement by the Government under the Consultancy Agreement; the names of ourselves and our sub-contractors appointed or engaged by us to perform any part or parts of the Consultancy Services in accordance with the Consultancy Agreement, or to advise or assist in relation thereto; and description of the Consultancy Services.

We hereby waive and forego our right, if any, to make any claims against the Government for any losses, damages, costs, charges, liabilities, demands, proceedings and actions that may arise out of or in consequence of such disclosure by the Government.

Dated this day of 2023

RESTRICTED (CONTRACT)

* SEALED with the Common Seal of _____)

(*name of the Consultant*) _____)

and SIGNED by _____)

(*name(s) of the signator(ies)*, _____)

the _____)

(*post(s) of the signator(ies)* _____)

of the company _____)

in the presence of:

(*affix common seal of the Consultant)

Signature of Witness: _____

Name of Witness: _____

Occupation: _____

Address: _____

* To be adopted if the Consultant is a limited company and uses a common seal (adapt execution clause as appropriate)

Consultancy Study on Developing the Professional Qualifications for Fintech Practitioners in the Financial Sectors (namely the Securities and Insurance Sectors)

Marking Scheme for Assessment of Consultancy Proposals

A technical weighting to fee weighting of 70:30 is adopted for this consultancy. Fee assessment will be conducted only after technical assessment is completed. Consultancy Proposals received will be assessed according to the following stages: -

Stage I – Compliance Check against Requirements that Result in Disqualification

To check:

- compliance with the requirement that the Consultancy Proposal has not been submitted late; and
- compliance with all of the essential requirements under paragraphs 6.4 and 6.5 of the Consultancy Brief. Consultancy Proposals which fail to meet any one of the essential requirements will be disqualified and not considered further.

Stage II – Technical Assessment (70% of Overall Assessment)

To assess the Technical Proposals based on the assessment criteria set out in this Marking Scheme (explanatory notes on allocation of scores to each assessment criterion are set out in the **Appendix**). The maximum score which may be attained for the technical assessment is 100. There is an overall passing mark of 60 for the technical score such that Consultancy Proposals which fail to attain such passing mark will not be considered further. Each of the assessment criteria should be scored in accordance with the **Appendix**.

No.	Assessment criteria	Maximum mark/score	Actual mark/score
A. The Consultant's understanding of the background, objectives and scope of the Consultancy Study and appreciation of key issues involved			
1	Understanding of the background, objectives and scope of the Consultancy Study	10	
2	Appreciation of key issues involved	5	
<i>Sub-total (A)</i>		<i>15</i>	
B. The proposed approach and basis adopted for the Consultancy Study			
3	Proposed approach and basis adopted to achieve the objectives of the Consultancy Study	20	
<i>Sub-total (B)</i>		<i>20</i>	
C. The proposed work plan / programme with respect to submission of the Deliverables, as well as the Consultant's availability and adequacy of resources to perform the Consultancy Services			
4	Proposed work plan / programme with respect to submission of the Deliverables, as well as the Consultant's availability and adequacy of resources to perform the Consultancy Services, in a clear, systematic and realistic manner	15	
<i>Sub-total (C)</i>		<i>15</i>	
D. The Consultant's organisation, business profile, experience and expertise in providing consultancy service in similar assignments			
5	Experience of the Consultant in the field of advisory services on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	10	

No.	Assessment criteria	Maximum mark/score	Actual mark/score
6	Degree of relevance of the experience in advising on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	10	
	<i>Sub-total (D)</i>	20	
E. The composition of the proposed Consulting Team and relevant academic and professional qualifications, experience, knowledge, expertise and language proficiency of the members of the Consulting Team			
7	Composition of the proposed Consulting Team	5	
8	Experience of the Team Leader in the field of financing and management advisory services; and the degree of relevance of his/her experience in advising on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	15	
9	Experience of the most experienced member (except the Team Leader) of the proposed Consulting Team in the field of advisory services on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	10	
	<i>Sub-total (E)</i>	30	
	Technical mark (A+B+C+D+E) <small>(Note 1)</small>	100	
	Weighted technical score <small>(Note 2)</small>	70	

Note 1: The maximum technical mark which may be attained for the technical assessment is 100. There is an overall passing mark of 60 for the technical mark such that Consultancy Proposals which fail to attain such passing mark will not be considered further.

Note 2: Consultancy Proposals which have attained a total score of 60 or above for technical assessment will have their weighted technical scores calculated as follows:

$$70 \times \frac{\text{Technical score of the Consultancy Proposal being assessed}}{\text{The highest technical score among all the conforming Consultancy Proposals}}$$

The weighted technical score will be rounded up to two decimal places.

Stage III - Fee Assessment (30% of Overall Assessment)

Consultancy Proposals which have attained the passing score of 60 for their technical assessment will have their weighted fee scores calculated as follows:

$$30 \times \frac{\text{The lowest Consultancy Fee among all the conforming Consultancy Proposals}}{\text{Consultancy Fee proposed in the Consultant's Fee Proposal}}$$

The weighted fee score will be rounded up to two decimal places.

Fee Proposals will be assessed on the basis of the proposed fixed lump sum Consultancy Fee specified in paragraph 7.5(a) of the Consultancy Brief.

Stage IV – Overall Assessment

The total score will be calculated as follows:

$$\textit{Total Score} = \textit{Weighted Technical Score} + \textit{Weighted Fee Score}$$

The Consultant achieving the highest total score at Stage IV will normally be recommended for appointment.

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Consultancy Study on Developing the Professional Qualifications for Fintech Practitioners in the Financial Sectors (namely the Securities and Insurance Sectors)

Marking Guidelines for Stage II Technical Assessment

A. The Consultant's understanding of the background, objectives and scope of the Consultancy Study and appreciation of key issues involved

Assessment Criterion No. 1

Understanding of the background, objectives and scope of the Consultancy Study

Understanding of the background, objectives and scope of the Consultancy Study	Mark
Providing limited information which demonstrate poor understanding of the background, objectives and scope of the Consultancy Study	0-2
Providing essential information which demonstrates basic understanding of the background, objectives and scope of the Consultancy Study	3-4
Providing adequate information which demonstrates sound understanding of the background, objectives and scope of the Consultancy Study	5-6
Providing detailed information which demonstrates very sound understanding of the background, objectives and scope of the Consultancy Study	7-8
Providing comprehensive information which demonstrates in-depth understanding of the background, objectives and scope of the Consultancy Study	9-10

Assessment Criterion No. 2

Appreciation of key issues involved

Appreciation of key issues involved	Mark
Providing limited information which demonstrate poor appreciation of key issues involved	0-1
Providing essential information which demonstrates basic appreciation of key issues involved	2
Providing adequate information which demonstrates sound appreciation of key issues involved	3
Providing detailed information which demonstrates very sound appreciation of key issues involved	4
Providing comprehensive information which demonstrates in-depth appreciation of key issues involved	5

B. The proposed approach and basis adopted for the Consultancy Study

Assessment Criterion No. 3

Proposed approach and basis adopted to achieve the objectives of the Consultancy Study

Approach and Basis	Mark
Poor approach and basis without demonstrating how to achieve the objectives of the Consultancy Study	0-4
Fair approach and basis providing basic information on how to achieve the objectives of the Consultancy Study	5-8
Good approach and basis providing sound and logical proposals to achieve the objectives of the Consultancy Study	9-12
Very good approach and basis providing very sound and logical proposals to achieve the objectives of the Consultancy Study	13-16
Outstanding approach and basis showing comprehensive and practicable proposals to achieve the objectives of the Consultancy Study	17-20

C. The proposed work plan / programme with respect to submission of the Deliverables, as well as the Consultant’s availability and adequacy of resources to perform the Consultancy Services

Assessment Criterion No. 4

Proposed work plan / programme with respect to submission of the Deliverables, as well as the Consultant’s availability and adequacy of resources to perform the Consultancy Services, in a clear, systematic and realistic manner

Work Plan / Programme and Resources	Mark
Poor work plan / programme without demonstrating the logical sequence of tasks to be completed and the proposed time schedule / resources does not match with the target completion date	0-3
Fair work plan / programme showing basic tasks to be completed without detailed elaboration on the time schedule / resources for each task	4-6
Good work plan / programme showing practical and logical sequence of tasks to be completed with good planning on the proposed time schedule / resources for each task	7-9
Very good work plan / programme showing very practical and logical sequence of tasks to be completed with good planning on the proposed time schedule / resources for each task	10-12
Outstanding work plan / programme showing comprehensive and detailed work plan with fully justified time schedule / resources for each task	13-15

D. The Consultant’s organisation, business profile, experience and expertise in providing consultancy service in similar assignments

Assessment Criterion No. 5

Experience of the Consultant in the field of advisory services on the development of Fintech and/or financial services sectors

Mark will be given based on the year of experience of the Consultant in providing advisory services on the development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) preceding the Closing Date

Year of experience in providing advisory services on the development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) preceding the Closing Date	Mark
Less than 5 years	0
5 to less than 10 years	4
10 to less than 15 years	6
15 to less than 20 years	8
20 to less than 25 years	9
25 years or more	10

Assessment Criterion No. 6

Degree of relevance of the experience in advising on development of Fintech and/or financial services sectors

Mark will be given based on the number of projects conducted by the Consultant on advising development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors), or matters relating to the development of the Fintech and/or financial services sectors (particularly securities and insurance sectors) in the 10 years immediately preceding the Closing Date.

Number of relevant projects on advising the development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) in the 10 years immediately preceding the Closing Date	Mark
0	0
1-2	2
3-4	4
5-6	6
7-8	8
9 or above	10

E. The composition of the proposed Consulting Team and relevant academic and professional qualifications, experience, knowledge, expertise and language proficiency of the members of the Consulting Team

Assessment Criterion No. 7

Composition of the proposed Consulting Team

Mark will be given based on i) the multiplicity of disciplines; ii) the experience and qualifications in the fields of advisory on the development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors); and iii) the language proficiency of the members of the proposed Consulting Team.

Part A – Multiplicity of disciplines	Mark
1 discipline	0
2 disciplines	1
3 or more disciplines	2
Part B –Experience and qualifications in the fields of advising on the development of Fintech and/or financial services sectors	
No experience or qualifications in the fields of development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	0
With experience or qualifications in either the field of development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	1
With experience or qualifications in both the fields of development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors)	2
Part C - Language proficiency	
Not all members of the Consulting Team are proficient both in spoken and written English or not at least one member of the Consulting Team is proficient in Cantonese and written Chinese	0

All members of the Consulting Team are proficient both in spoken and written English and at least one member of the Consulting Team is proficient in Cantonese and written Chinese	0.5
All members of the Consulting Team are proficient both in spoken and written English and more than half of the members of the Consulting Team are proficient in Cantonese and written Chinese	1
Total mark (A + B + C)	

Assessment Criterion No. 8

Experience of the Team Leader in the field of financing and management advisory services; [and the degree of relevance of his/her experience in advising on development of Fintech and/or financial services sectors

Mark will be given based on i) the year of experience of the Team Leader in advising on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) preceding the Closing Date; and ii) the number of projects conducted by the Team Leader on advising the development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) in the 10 years immediately preceding the Closing Date.

Part A – Year of experience in providing advisory services on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) preceding the Closing Date	Mark
Less than 10 years	0
10 to less than 15 years	4
15 to less than 20 years	6
20 to less than 25 years	8
25 to less than 30 years	9
30 years or more	10
Part B – Number of relevant projects on advising the development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) in the 10 years immediately preceding the Closing Date	
0	0
1-2	1
3-4	2
5-6	3
7-8	4
9 or above	5
Total mark (A + B)	

Assessment Criterion No. 9

Experience of the most experienced member (except the Team Leader) of the proposed Consulting Team in the field of advisory services on development of Fintech and/or financial services sectors

Mark will be given based on i) the year of experience of the most experienced team member (except the Team Leader), who is responsible for conducting the Consultancy Study, in providing advisory services on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) preceding the Closing Date; and ii) the number of projects conducted by the said most experienced team member on advising development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) in the 10 years immediately preceding the Closing Date.

Part A – Year of experience in providing advisory services on development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) preceding the Closing Date	Mark
Less than 5 years	0
5 to less than 10 years	2
10 to less than 15 years	4
15 years or more	5
Part B – Number of relevant projects on advising development (particularly on talent development, and/or development of professional qualifications, training curriculum, certification mechanism, etc) of Fintech and/or financial services sectors (particularly securities and insurance sectors) in the 10 years immediately preceding the Closing Date	
0	0
1	1
2	2
3	3
4	4
5 or above	5
Total Mark (A + B)	

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Annex III

DECLARATION OF INTEREST

To: The Government of the Hong Kong Special Administrative Region

Re: Consultancy Study on Developing the Professional Qualifications for Fintech Practitioners in the Financial Sectors (namely the Securities and Insurance Sectors)

We, _____ (name of the Consultant), declare –

that we, our sub-contractors (if any) and members of the proposed Consulting Team do not have any interest (whether financial, commercial, personal or otherwise) which conflicts or competes, or may conflict or compete, directly or indirectly, with any interest of the Government and/or with any of the duties of the Consultant under the Consultancy.

or

the following conflict(s) of interest:

Please mark a tick (✓) in the appropriate box

Authorised signature: _____

Name of person authorised to sign: _____

Capacity: _____

Name of the Consultant: _____

Date: _____

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Annex IV

NON-COLLUSION CERTIFICATE

(To be completed and returned together with the Consultancy Proposal)

To: The Government of the Hong Kong Special Administrative Region

Dear Sir/ Madam,

Non-Collusion Certificate

1. We, _____ (name of the Consultant) of _____ (address of the Consultant), refer to the consultancy brief issued by the Government in relation to the Consultancy Study on Developing the Professional Qualifications for Fintech Practitioners in the Financial Sectors (namely the Securities and Insurance Sectors) (“Consultancy Brief”) and our Consultancy Proposal in response to the Consultancy Brief.

Non-collusion

2. We represent and warrant that in relation to the Consultancy Brief –
- (a) Our Consultancy Proposal was prepared genuinely, independently and made with the intention to accept the Government’s appointment if selected;
 - (b) Our Consultancy Proposal was not prepared with any agreement, arrangement, communication, understanding, promise or undertaking with any person (including any other Consultant or competitor) regarding –
 - i) prices;
 - ii) methods, factors or formulas used to calculate prices;
 - iii) an intention or decision to submit, or not submit, any Consultancy Proposal;
 - iv) an intention or decision to withdraw any Consultancy Proposal;
 - v) the submission of any Consultancy Proposal that does not conform with the requirements of the Consultancy Brief;
 - vi) the quality, quantity, specifications or delivery particulars of the

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services to which the Consultancy Brief relates; and

vii) the terms of our Consultancy Proposal,

and we undertake that we will not, whether before or after the appointment by the Government to provide the Consultancy Services, enter into or engage in any of the foregoing.

3. Paragraph 2(b) of this certificate shall not apply to agreements, arrangements, communications, understandings, promises or undertakings with –
- (a) the Government;
 - (b) a joint venture partner with which we have submitted our Consultancy Proposal, and such joint venture arrangement has already been notified to the Government in our Consultancy Proposal;
 - (c) our consultants or sub-contractors, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular consultancy arrangement or sub-contract;
 - (d) our professional advisers, provided that the communications are held in strict confidence and limited to the information required for the adviser to render their professional advice in relation to our Consultancy Proposal;
 - (e) insurers or brokers for the purpose of obtaining an insurance quote, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular insurance arrangement; and
 - (f) banks for the purpose of obtaining financing for the Consultancy Agreement, provided that the communications are held in strict confidence and limited to the information required to facilitate that financing.

Disclosure of subcontracting

4. Without prejudice to other requirements set out in the Consultancy Brief concerning sub-contracting arrangement, in particular, the requirement to seek the Government's prior written approval before sub-contracting, we understand that we are required to disclose all proposed sub-contracting arrangements relating to the Consultancy Services to the Government in our

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Consultancy Proposal, including those which will be entered into after our appointment by the Government under the Consultancy Agreement. We warrant that we have duly disclosed and will continue to disclose such arrangements to the Government.

Consequences of breach or non-compliance

5. We understand that in the event of any breach or non-compliance with any representations, warranties and/or undertakings in this certificate or in paragraph 27.1 of the Consultancy Brief, the Government may exercise any of the rights under paragraphs 27.3 to 27.5 of the Consultancy Brief in addition to and without prejudice to any other rights or remedies available to it against us.
6. Under the Competition Ordinance (Cap. 619), bid-rigging is serious anti-competitive conduct. We understand that the Government may, at its discretion, report all suspected instances of bid-rigging to the Competition Commission (the "Commission") and provide the Commission with any relevant information, including but not limited to information on our Consultancy Proposal and our personal information.

Dated this _____ day of _____

* SEALED with the Common Seal of _____)

(*name of the Consultant*))
and SIGNED by _____)
(*name(s) of the signator(ies)*,)
the _____)
(*post(s) of the signator(ies)*)
of the company)
in the presence of:

(*affix common
seal of the
Consultant)

Signature of Witness: _____
Name of Witness: _____
Occupation: _____
Address: _____

* To be adopted if the Consultant is a limited company and uses a common seal
(adapt execution clause as appropriate)