



**SECURITIES AND  
FUTURES COMMISSION**  
證券及期貨事務監察委員會

## **Invitation to Tender**

### **Provision of Quantity Surveyor (QS) Consultancy Services for SFC Office Relocation Project**

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16 August 2019

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## 1. Introduction

The Securities and Futures Commission (“SFC”) now invites professional Quantity Surveyor (QS) service providers to submit proposals for its consideration for appointment as the QS Consultant and to provide independent QS consultancy services from inception to completion of the SFC’s office relocation project.

## 2. Invitation to Tender and Interpretation

The SFC invites tenders containing proposals for the **“Quantity Surveyor (QS) Consultancy Services – SFC Office Relocation Project”** with scope of work specified in section 3 “Our Requirements”.

In this document, the following terms shall have the following meanings:

“Tenderer” means the person or persons or corporation tendering for the project, and includes the executors or administrators and permitted assigns of such person or persons or corporation;

“Contract” means a formal agreement to be entered into between the SFC and the successful Tenderer in relation to the provision of independent QS consultancy services containing such terms and conditions as the parties shall agree, including (but not limited to) those terms set out in the section 5 “Payment and other terms” herein (unless the same shall have been modified or amended by the SFC); and

“Consultant” means the Tenderer whose tender is accepted.

The SFC shall not be liable to pay any costs arising out of or incidental to any preparation, submission, enquiry, clarification, negotiation or cancellation of this tender nor shall the SFC be under any obligation to disclose or discuss the assessment result of this tender with any of the Tenderers.

This is an invitation to offer and:

- (i) The SFC shall not be bound to accept the offer with the lowest fee proposal;
- (ii) The SFC shall not be bound to accept any offer or to make any appointment under this tender;
- (iii) The SFC reserves the right not to consider any proposal that does not meet the SFC's requirements; and
- (iv) The SFC reserves the right to negotiate with any Tenderer about any terms, conditions, clauses, paragraphs or parts of this tender, including any part of its technical and fee proposals, prior to award of contract.

### **3. Our Requirements**

#### **3.1 Background**

- 3.1.1 The SFC currently occupies approximately 146,884 sq. ft (lettable) in Cheung Kong Centre (“CKC”). SFC also operate an offsite storage facility in Hopewell Centre, Wan Chai, with an area of approximately 4,908 sq. ft (lettable). The existing lease of both premises will expire on 1 September 2020.
- 3.1.2 SFC had signed a lease for 9 floors at One Island East (“OIE”) in Quarry Bay as our new office accommodation. All staff currently housed in CKC and Hopewell Centre will be relocated to OIE. The total headcount of the SFC (including contractors and temporary staff) is approximately 1,200 as of April 2019.
- 3.1.3 We are scheduled to take possession of the whole of 45/F & 46/F from 1 February 2020, and the whole of 47/F, 48/F, 50/F, 51/F, 52/F, 53/F & 54/F from 1 April 2020. The combined lettable area of the 9 office floors in OIE is approximately 194,384 sq. ft.
- 3.1.4 We expect the relocation schedule would be arranged by phases between May and June 2020 according to the completion of the renovation work in the new office. After moving out of our existing CKC and Hopewell Centre offices, we are required to reinstate and hand over the premises to the landlord in a “bare-shell” condition by 1 September 2020.
- 3.1.5 The SFC has recently appointed CBRE Ltd. as the Project Manager and M Moser Associate as the Interior Designer of the relocation project.

#### **3.2 Scope of Work**

- 3.2.1 The scope of this consultancy service is to act as the Quantity Surveyor of the project. The Consultant is expected to be responsible for the cost planning and implementation of the project from inception to completion and work closely with the SFC, Project Manager, Interior Designer and MEP Consultant (to be appointed) in programme development, cost control and project administration, including:
- (i) Advice on project procurement method and contractual conditions;
  - (ii) Develop cost plan to enable project budget to be established;
  - (iii) Work with SFC / Project Manager in the tender process including the evaluation and selection of all contracts;
  - (iv) Prepare Schedule of Rates / Bill of Quantity base on SFC’s requirements. Responsible for claims, change request management and cost tracking for the project (from budget, to commitment, to payment);
  - (v) Prepare payment certification and invoicing procedure base on SFC invoicing and payment procedure.
  - (vi) Prepare project close out account.

3.2.2 More specifically, the scope of services shall include but not limited to:

Stage	Task
Pre-construction Stage	<ol style="list-style-type: none"> <li>1) Develop Concept Design Cost Estimates and Schematic Design Cost Estimates based on the design drawings.</li> <li>2) Participate and assist in value management (VE) workshop by providing cost estimates on potential VE items.</li> <li>3) Attend the scheduled design and project meetings, as required.</li> <li>4) Prepare and regularly update detailed Cost Estimates.</li> <li>5) Review the costing aspect of the Project budget and identify any errors, omissions and conflicts to the Client.</li> <li>6) Undertake regular fully evaluated cost checks and advise where the developing design is likely to exceed cost allowances and on achieving value for money.</li> </ol>
Procurement Stage	<ol style="list-style-type: none"> <li>1) Provide recommendation on Contract Packaging strategy.</li> <li>2) Prepare Pricing document and pre-tender estimate based on tender documents and construction documentation drawings and specifications.</li> <li>3) Review and comment on the proposed trade package tender pre-qualification, evaluation and recommendation report, and whether these are in line with the cost plan.</li> <li>4) Monitor and advise on the adequacy of design information produced for tender.</li> <li>5) Scrutinize the tenders received and carry out a detailed check to identify any errors in arithmetic and inconsistent pricing.</li> <li>6) Prepare Tender Analysis and Report.</li> <li>7) When required by the client, assist in the interviews with the trade package tenderers to understand both the terms and pricing of the tenders.</li> <li>8) Assist in negotiations and award of trade package.</li> <li>9) Provide advice as the fees for the Contractor and the % mark up on the trade packages so that it reflects the Contractors effort and takes account of direct contracts with SFC.</li> <li>10) Prepare and compile Contract Document, draft contract conditions.</li> <li>11) Review the contract agreement from the Contractor for ALL trade packages.</li> <li>12) Review, comment and advise on the trade packages prepared by the Contractor prior to issue.</li> </ol> <p><b>Note:</b> It is anticipated that local contractors would be employed for the works of the Project and the tender documents shall be prepared in the format to suit local tendering practice.</p>

Stage	Task
Construction Stage	<ol style="list-style-type: none"> <li>1) Identify / Monitor all costs associated with design changes, contract awards, construction activities and client changes and propose measures for control through application of change and risk management procedures.</li> <li>2) Attend regular project / coordination meetings and advise on potential cost implications in regard to proposed design changes / variations.</li> <li>3) Monitor project financial status and prepare financial reports for the SFC in the form and at the frequency required.</li> <li>4) Keep accurate cost control records and update the Cost Estimates.</li> <li>5) Measure, value and negotiate the cost of claims to the contract and variation of works claimed.</li> <li>6) Provide updated financial reports containing progressive statement of actual costs against the anticipated final cost of the project (including up-to-date variation assessments and claims).</li> <li>7) Advise on the options to maintain agreed budgets as required.</li> <li>8) Review the Main Contractor's insurance policies, ensure the preparation of contract documents, warranties, bonds and licenses and assist in the formal execution by the appropriate parties.</li> <li>9) Assist the Project Manager / Construction Manager in evaluating claims for delay and additional costs made by all contractors.</li> <li>10) Prepare payment certificate for trade packages as required under each trade contract.</li> <li>11) Advise the issue of certificates of practical completion.</li> </ol>
Post Construction Stage	<ol style="list-style-type: none"> <li>1) Provide project final account on practical completion and close out all variation orders.</li> <li>2) Measure and prepare the bill of variations to the contract agreed by Client, and all contractors.</li> <li>3) Prepare, negotiate and present the detailed final financial report and cost analysis of the total project costs.</li> <li>4) Advise on issue of certificate of making good defects and final completion.</li> <li>5) Assist in post completion review of project to enable future improvements to design, procurement and administration.</li> <li>6) Advise on the contractual aspects of all claims and disputes arising from variations and issues related to the final account.</li> </ol>

Stage	Task
Defects Liability Period and Maintenance	1) Confirm final retention sum and advise Clients to release retention. 2) Prepare outstanding payment list to Client and Contractors. 3) Monitor all cost and payment incur within 12 months after the certification of Practical Completion. 4) Check all invoices from contractors and suppliers for final accounts.

### 3.3 Timetable

A tentative time-table of the Project is as follows:

Milestone	Target Completion Date
Issue Invitation to Tender	16 <sup>th</sup> Aug 2019
Tender close	30 <sup>th</sup> Aug 2019
Tender presentation and clarification	2 <sup>nd</sup> to 6 <sup>th</sup> Sep 2019 (Tentative)
Appointment	12 <sup>th</sup> Sep 2019 (Tentative)
<b>Phase 1 (2 Floors)</b>	
Sign-off Detailed Design	Mid-Oct 2019
Main Contractor Tendering Stage	Mid Oct– Dec 2019
Commencement of Construction	February 2020
Practical Completion	April 2020
<b>Phase 2 &amp; 3 (7 Floors)</b>	
Sign-off Detailed Design	Mid-Dec 2019
Main Contractor Tendering Stage	Mid Dec 2019 – Mar 2020
Commencement of Construction	Apr 2020
Practical Completion	June 2020

## 4. Guidelines for Tenderers

These guidelines are intended to provide Tenderers with guidance on the procedure for submitting their proposals and the approach that the SFC will generally adopt in assessing such proposals. They do not bind, and are not intended to bind, the SFC in any way. The SFC reserves the right to accept or reject all or any part of a proposal.

### 4.1 Preparation and Submission of Proposals

#### 4.1.1 What must the proposals cover?

Your proposal must be presented in sufficient detail to cover the matters set out under “Our Requirements” in section 3 above.

Each proposal must be separated into the following parts:

- (a) a **Technical Part** describing the proposals (including all information set out in Annex A);
- (b) a **Price Schedule** (including all information set out in Annex B); and
- (c) a **Covering Letter**:
  - (i) offering to carry out the services described in the Technical Part for the prices detailed in the Price Schedule in compliance with the payment and other terms set out in section 5 of this Invitation to Tender;
  - (ii) stating the period that the offer is to remain open;
  - (iii) undertaking to negotiate in good faith to finalize promptly the Contract and to commence work in accordance with the timetable set out in the proposal;
  - (iv) containing an acknowledgement and agreement that the SFC :
    - a. is not bound to accept the lowest tender or any tender;
    - b. reserves the right to make changes to the specification; and
    - c. will not defray any expenses incurred in tendering and/or in negotiating the Contract, whether successful or otherwise
  - (v) signed by the Tenderer (in the case of an individual) or a duly authorized officer of the Tenderer (in the case of a company or partnership).

Tenderers may propose alternatives to the SFC’s requirements and conditions if they consider that such conditions and requirements are either not feasible or do not provide the SFC with the best solution in the circumstances.

For both hardcopy and softcopy of the proposal, the Price Schedule must be submitted as a separate document and be placed in a separate envelope. The envelope containing the Price Schedule must be clearly marked “Price Schedule.” Price information **must not** be specified in the Technical Part or the Covering Letter.

#### 4.1.2 Personnel

Resumes of all proposed personnel must be provided in the proposal including the name, current level and originating office in the Tenderer’s organisation. The SFC reserves the right to interview and to request client references for all personnel proposed.



4.1.3 What form must proposals take?

All proposals must be in both writing and electronic form. Three hardcopies of each proposal must be provided, together with a softcopy. The softcopy should be in Microsoft Word format or Adobe Acrobat format.

4.1.4 To whom must proposals be submitted?

Written proposals should be marked with the reference “**Quantity Surveyor (QS) Consultancy Services – SFC Office Relocation**” and must be submitted in a sealed envelope and deposited to a TENDER BOX at the following address:

**Securities and Futures Commission  
30th Floor, Cheung Kong Centre  
2 Queen’s Road Central  
Hong Kong**

4.1.5 What is the deadline for the submission of proposals?

Proposals must be received by the SFC at the above-mentioned addresses on or before **30<sup>th</sup> Aug 2019, 2:00pm**. The SFC will not consider any late proposals.

4.1.6 How long should Tenderers’ offers remain open?

By making a proposal in response to this Invitation to Tender, a Tenderer will be treated as having made an offer to the SFC. A Tenderer should clearly state in its proposal how long this offer will remain open.

In order to allow the SFC sufficient time to consider all proposals validly submitted, Tenderers should keep their offers open for at least 90 days from the closing date of this Invitation to Tender. If this cannot be done, the reason must be stated in the proposal.

**4.2 Queries Regarding This Invitation to Tender or Proposals Made in Response**

4.2.1 What if the SFC has any queries about a particular proposal?

If the SFC considers that any aspect of a proposal requires clarification from the Tenderer, the SFC may request that the Tenderer:

- (a) supplement its proposal; or
- (b) answer the SFC’s specific queries orally or in writing, or in any manner that the SFC deems fit.

#### 4.2.2 What if a Tenderer has any queries?

Any queries regarding this Invitation to Tender should be made to:

Mr. Kenneth Tang  
Project Director  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Kenneth.Tang@cbre.com.hk

Mr. Kit Chan  
Senior Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Kit.chan@cbre.com.hk

Ms. Christine Chan  
Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Christine.chan@cbre.com

Mr. Alex Lui  
Project Manager  
CBRE Project Management

Telephone: 2820 2800  
Fax: 2820 0830  
Email: Alex.lui@cbre.com

### 4.3 **Evaluation of Proposals**

#### 4.3.1 How does the SFC evaluate valid proposals that it receives?

There are two parts to the SFC's evaluation process: evaluation of the Technical Part and evaluation of the Price Schedule (in that order). The Price Schedule will only be considered **after** the SFC has evaluated the Technical Part. The SFC will **not** make any selection based solely on price.

#### 4.3.2 Evaluation of the Technical Part

The SFC will generally evaluate the technical aspects of each proposal according to the following criteria:

(a)	Compliance to the proposed scope of services
(b)	Understanding of the requirements
(c)	Relevant experience in Grade A office buildings
(d)	Technical capabilities of the proposed project team
(e)	Project team structure and dedicated personnel
(f)	Respective team members' workload over the project period
(h)	Costs, fees and terms proposed

The above criteria are for reference only, which provide Tenderers an indicative guideline of their relative significance. SFC reserves the right to change the criteria and/or the weighting of any item without further notifying the Tenderers.

#### 4.4 Notification of Results and Rejection of Proposals

The SFC will notify all Tenderers by post and/or e-mail within 21 days of finalizing its selection as to whether or not they have been selected by the SFC. The SFC retains the right to reject any or all tenders(s) submitted.

#### 4.5 Acceptance

No Tender (or part thereof) shall be taken to have been accepted unless and until execution of the Contract.

### 5. Payment and Other Terms

#### 5.1 Payment terms

The SFC has a performance-based payment policy, under which payments will be made on actual delivery of services or products. The performance indicators for QS are detailed below:

KPI	Description
I	Deliver consultancy services in collaboration with Project Manager and other project stakeholders (SFC, external consultants, landlord, direct suppliers, etc.) with a focus on the project outcomes and deliverables.
II	Meeting (or early) delivery to the established project milestones.
III	Document all QS elements in an approved manner to ensure the services delivered to SFC are of the highest standard, to achieving the project outcomes as outlined in the Brief.
IV	Delivery within the project budget and timeline.

The proposed payment terms are listed below:

Stage	Payment
Confirmation of Project Budget	10%
Appointment of Main Contractor of Phase 1 (45/F & 46/F)	20%
Appointment of Main Contractor Phase 2 (47/F, 48/F, 50/F to 54/F)	20%
Completion of Phase 1 (45/F & 46/F)	15%
Completion of Phase 2 (47/F, 48/F, 50/F to 54/F)	25%
Completion of Project Close Out Documents	10%

#### 5.2 Termination of service

The successful Tenderer shall use its best endeavors to perform the Contract with such due care and skill as is expected of a provider of similar services and products and of

a comparable standing in the industry but if for whatever reason, the SFC in its opinion, concludes that the successful Tenderer is in breach of the Contract or does not provide the level of service required by the SFC, the SFC shall have the right to terminate the Contract by notice in writing to the successful Tenderer.

### **5.3 Conflicts of interest**

A Tenderer must declare that they have no interest which conflicts, or has the potential to conflict, with its duties to the SFC under the proposal. If a Tenderer has any interest which conflicts, or has the potential to conflict, with its duties to the SFC under the proposal, the Tenderer should clearly state this in the declaration form (refer to Annex C). This requirement extends to the Tenderer's associates, associated persons, group companies and each member of the Tenderer's professional staff (and their associates and associated persons).

### **5.4 The incorporation of proposals into Contract signed with the SFC**

Any proposals and responses to the SFC's inquiries submitted by the successful Tenderer may form part of the Contract made between the SFC and such Tenderer. Every representation by the successful Tenderer (whether of fact or performance, and whether set out in the proposal or otherwise) will be incorporated as warranties in any Contract between the SFC and such Tenderer. Therefore, any statement of fact or performance that the Tenderer does not wish to be treated as a warranty should be clearly indicated. If the Tenderer intends to limit liability for damages arising from either professional negligence or non-performance under the terms of the Contract please specify what restrictions on liability are proposed. The SFC would normally expect liability limits for consultancy contracts to be expressed as a multiple of the contract price.

### **5.5 Anti-collusion**

The Tenderer shall not communicate to any person other than the SFC the amount of any tender, adjust the amount of any tender by arrangement with any other person, make any arrangement with any other person about whether or not he or that other person should or should not tender, or otherwise collude with any other person in any manner whatsoever in the tendering process until the tenderer is notified by the SFC of the outcome of the tender exercise. Any breach of or non-compliance with this by the tenderer shall, without affecting the tenderer's liability for such breach or non-compliance, invalidate his tender. The tenderer shall submit to the SFC a duly signed letter in the form set out in Annex D. The letter shall be signed by a person authorised to sign the contract on the tenderer's behalf.

This shall have no application to the tenderer's communications in strict confidence with his own insurers or brokers to obtain an insurance quotation for computation of tender price and communications in strict confidence with his consultants / sub-contractors to solicit their assistance in preparation of tender submission.

### **5.6 Confidentiality**

The Tenderer should treat all information contained in this document, all information previously provided, and any subsequent communications with the

SFC, as confidential. This information should only be used by the Tenderers to prepare responses to the tender. Information must not be released to external parties without the express written consent of the SFC.

All responses and other materials submitted in response to this document will become the property of the SFC. The SFC assumes no obligation and shall incur no liability regarding confidentiality of all or any portion of a response or any other material submitted in response to this document unless expressly agreed in writing to protect specifically identified information.

The SFC is a statutory body responsible for regulating the securities and futures and leveraged foreign exchange markets in Hong Kong. In carrying out its functions, the SFC receives confidential and potentially valuable information. The successful Tenderer is required to sign a Confidentiality Acknowledgement (Annex E) and be compiled with the provisions of sections 378 and 379 of the Securities and Futures Ordinance.

## **5.7 Prevention of Bribery**

A Tenderer shall prohibit its directors, employees, agents, and sub-contractors who are involved in this tender from offering, soliciting or accepting any advantage as defined in the Prevention of Bribery Ordinance, Cap 201 when conducting business in connection with this mandate. The Tenderer shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that its directors, employees, agents and sub-contractors are aware of the prohibitions in this clause.

## **5.8 SFC Specified Contract**

The successful Tenderer is expected to enter into a Contract with the SFC. Any waiver, cancellation, alteration or amendment of or to any of the terms and conditions of the Contract must be agreed to by both parties and effected in writing by the successful Tenderer and the SFC.

# **6. Grievance Procedures**

The SFC, as a public body, has a duty to conduct its affairs in a responsible and transparent manner and has put in place Public Interest Grievance Procedures. The policy on Public Interest Grievances is intended to assist persons who are engaged by or to work in/with the SFC who believe that they have discovered improper practices or misconduct relating to the running of the SFC or work related activities of employees of the SFC to report these in a constructive manner.

This policy is for any person who has an employment contract with the SFC, is on secondment to the SFC, is engaged as an independent consultant by the SFC or is a contractor or supplier of services to the SFC. Public Interest Grievances might include:

- Criminal activity, such as accepting a bribe;
- Financial or administrative malpractice;
- Misconduct or improper behaviour;

- Failure to comply with legal obligations such as those set out in the Securities and Futures Ordinance;
- Endangering occupational health or safety;
- Attempts to suppress or conceal information relating to any of the above.

The Policy on Public Interest Grievances can be found on the SFC website under “About the SFC”. Please contact the Commission Secretary of the SFC if you have any questions.

## **ANNEX A – The Technical Part**

### **A. The Technical Part**

The Tenderer is free to include any information that it considers to be relevant to its proposal. However, **as a minimum**, this part should contain all of the following:

#### **Table of Contents**

**1. Executive Summary**

This section should provide a full summary of the service delivery approach and methodology.

**2. The Proposed Consultancy Service Delivery Approach**

This section should describe the proposals in detail and explain how the proposed approach meet the requirements set out in section 3 and describe any limitations and compatibility issues associated with the proposals. Tenderer should submit a proposed project development programme from inception design to handover stage to demonstrate the understanding of the project requirements.

**3. Exceptions to the SFC's Conditions and Requirements**

If a Tenderer wishes to propose alternatives to the SFC's conditions and requirements, these alternatives should be specified here. The Tenderer should explain:

- (a) why the SFC's conditions and requirements do not provide the SFC with the best approach in the circumstances; and
- (b) the ways in which their alternatives are better.

**4. Tenderer Profile**

The Tenderer should provide full details of its company profile, and the following information to identify your track records focused on local office fit-out projects with similar project and business nature:

- (a) Projects of a similar size and scope
- (b) Provided services of the completed projects in recent 3 years
- (c) Project completion photos
- (d) Committed workload in next one year

**5. Appendices**

**5.1 Staffing**

- (a) Proposed team and structure. One senior project lead dedicated to the Project is required.
- (b) Roles & Responsibility of key staffs in your project team.
- (c) Relevant job reference & experiences of key staffs

- (d) Committed time allocation (in percentage) of the assigned team members for the next one year.

5.2 Other information

Please provide copies of the following valid insurance policy for reference.

- (a) Professional Indemnity of not less than US\$ 1,000,000 for any one claim
- (b) Employee's Compensation Liability to meet local statutory requirements

Please furnish any additional information you feel would be relevant to this Tendering process.



## **ANNEX B – The Price Schedule**

### **B. The Price Schedule**

This part should contain all of the following:

**1. Executive Summary**

This part should provide a full summary of the fees proposal including hourly rate of each project team member, and any payment arrangements.

**2. Proposed Fees**

All fees must be quoted in Hong Kong Dollars. The SFC expects tender prices to be fixed to the maximum extent possible. Where appropriate the charges for out-of-pocket expenses should be given.

**3. Payment Terms and Arrangements**

Payment must correlate with major milestones/achievements or deliverables, in accordance with the SFC's performance-based payment policy.

## ANNEX C – Declaration of Interests

To: Securities and Futures Commission:

I hereby declare that <sup>(1)</sup> :

☐ I, associated persons, group companies and each member of the my professional staff (and their associates and associated persons) have no pecuniary or other personal interest, direct or indirect, in any matter that raises or may raise a conflict with my duties under this Proposal.

☐ I, associated persons, group companies and each member of the my professional staff (and their associates and associated persons) have / potentially<sup>(2)</sup> have pecuniary or other personal interest, direct or indirect, in certain matter that raises or may raise a conflict with my duties under this Proposal. The particulars of such matter are stated below:

(a) Persons/companies with whom/which I have official dealings and/or private interests:

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(b) Brief description of my duties which involved the persons/companies mentioned in item (a) above:

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*Signature:* \_\_\_\_\_

*Name:* \_\_\_\_\_

*Position:* \_\_\_\_\_

*Company:* \_\_\_\_\_

*Date:* \_\_\_\_\_

Note:

1. Please put a "✓" in the appropriate box
2. Delete as appropriate

## ANNEX D – Declaration of anti-collusion

To: Securities and Futures Commission:

***“Provision of Quantity Surveyor (QS) Consultancy Services for SFC Office Relocation Project”***

I / We<sup>(1)</sup>, confirm that as at the time of submission of this Proposal and other than the Excepted Communications referred to in the last paragraph below, I / We<sup>(1)</sup> had not communicated to any person other than the SFC the amount of any tender, adjusted the amount of any tender by arrangement with any other person, made any arrangement with any other person about whether or not I / We<sup>(1)</sup> or that other person should tender, or otherwise colluded with any other person in any manner whatsoever, and undertake that at any time thereafter in the tendering process for the above Project until the tenderer is notified by the SFC of the outcome of the tender exercise and other than the Excepted Communications, I / We<sup>(1)</sup> will not communicate to any person other than the SFC the amount of any tender, adjust the amount of any tender by arrangement with any other person, make any arrangement with any other person about whether or not I / We<sup>(1)</sup> or that other person should tender, or otherwise collude with any other person in any manner whatsoever.

The expression “Excepted Communications” means our communications in strict confidence with our own insurers or brokers to obtain an insurance quotation for computation of tender price and communications in strict confidence with our consultants or sub-contractors to solicit their assistance in preparation of tender submission.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Company: \_\_\_\_\_

Date: \_\_\_\_\_

Note:

1. Delete as appropriate.

## ANNEX E – Confidentiality Acknowledgement

### Acknowledgement and Undertaking

Acknowledgment in relation to the preservation of secrecy pursuant to section 378 of the Securities and Futures Ordinance (Chapter 571 of the Laws of Hong Kong) (“SFO”) and avoidance of conflict of interests pursuant to section 379 of the SFO.

Terms in this acknowledgement shall have the same meaning as defined in the SFO, unless otherwise defined herein.

To: \_\_\_\_\_

**Section 378 of the SFO binds you and in particular subsection (1) of that section which provides as follows:**

- (1) Subject to subsection 13(A), except in the performance of a function under, or for the purpose of carrying into effect or doing anything required or authorized under, any of the relevant provisions, a specified person -
- (a) shall preserve and aid in preserving secrecy with regard to any matter coming to his knowledge by virtue of his appointment under any of the relevant provisions, or in the performance of any function under or in carrying into effect any of the relevant provisions, or in the course of assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions;
  - (b) shall not communicate any such matter to any other person; and
  - (c) shall not suffer or permit any other person to have access to any record or document which is in his possession by virtue of the appointment, or the performance of any such function under or the carrying into effect of any such provisions, or the assistance to the other person in the performance of any such function under or in carrying into effect any such provisions.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 378(1) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 378(10) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 378(10) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

**Section 379 of the SFO binds you and in particular subsections (1), (2) and (3) of that section which provide as follows:**

- (1) Subject to subsection (2), any member of the Commission or any person performing any function under any of the relevant provisions shall not directly or indirectly effect or cause to be effected, on his own account or for the benefit of any

other person, a transaction regarding any securities, structured product, futures contract, leveraged foreign exchange contract, or an interest in any securities, structured product, futures contract, leveraged foreign exchange contract or collective investment scheme -

- (a) which transaction he knows is or is connected with a transaction or a person that is the subject of any investigation or proceedings by the Commission under any of the relevant provisions or the subject of other proceedings under any provision of the SFO; or
- (b) which transaction he knows is otherwise being considered by the Commission.

(2) Subsection (1) does not apply to any transaction which a holder of securities or a structured product effects or causes to be effected by reference to any of his rights as such holder -

- (a) to exchange the securities or structured product or to convert the securities or structured product to another form of securities or structured product;
- (b) to participate in a scheme of arrangement sanctioned by the Court of First Instance under the Companies Ordinance (Cap. 622) or the relevant Ordinance;
- (c) to subscribe for other securities or another structured product or dispose of a right to subscribe for other securities or another structured product;
- (d) to charge or pledge the securities or structured product to secure the repayment of money;
- (e) to realize the securities or structured product for the purpose of repaying money secured under paragraph (d); or
- (f) to realize the securities or structured product in the course of performing a duty imposed by law.

(3) Any member of the Commission or any person performing any function under any of the relevant provisions shall forthwith inform the Commission if, in the course of performing any function under any such provisions, he is required to consider any matter relating to -

- (a) any securities, futures contract, leveraged foreign exchange contract, structured product, or an interest in any securities, futures contract, leveraged foreign exchange contract, collective investment scheme or structured product -
  - (i) in which he has an interest;
  - (ii) in which a corporation, in the shares of which he has an interest, has an interest; or
  - (iii) which -
    - (A) in the case of securities, is of or issued by the same issuer, and of the same class, as those in which he has an interest;
    - (B) in the case of a futures contract, is interests, rights or property based upon securities of or issued by the same issuer, and of the same class, as those in which he has an interest; or
    - (C) in the case of a structured product, is interests, rights or property based on a structured product of or issued by

the same issuer, and of the same class, as that in which he has an interest; or

- (b) a person -
  - (i) by whom he is or was employed;
  - (ii) of whom he is or was a client;
  - (iii) who is or was his associate; or
  - (iv) whom he knows is or was a client of a person with whom he is or was employed or who is or was his associate.

TAKE NOTICE THAT IF YOU CONTRAVENE SECTION 379(1) AND/OR SECTION 379(3) OF THE SFO YOU COMMIT AN OFFENCE UNDER SECTION 379(4) OF THE SFO. ANY PERSON WHO COMMITS AN OFFENCE UNDER SECTION 379(4) IS LIABLE:

- (a) on conviction on indictment to a fine of HK\$1,000,000 and to imprisonment for two years; or
- (b) on summary conviction to a fine of HK\$100,000 and to imprisonment for six months.

The term “specified person” is defined in section 378(15) of the SFO and means-

- (a) the Commission;
- (b) any person who is or was a member, an employee, or a consultant, agent or adviser, of the Commission; or
- (c) any person who is or was -
  - (i) a person appointed under any of the relevant provisions;
  - (ii) a person performing any function under or carrying into effect any of the relevant provisions; or
  - (iii) a person assisting any other person in the performance of any function under or in carrying into effect any of the relevant provisions.

The term “person” has the meaning attributed to it in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1) which provides that “person” includes any public body and any body of persons, corporate or unincorporated, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation.

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I/We acknowledge that I/we have received and read carefully a copy of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571), and understand that these sections (in particular, sections 378(1) and 379(1), (2) and (3)) impose statutory obligations on me/us. I/We further confirm that I/we understand and agree to be bound by the provisions of sections 378 and 379 of the Securities and Futures Ordinance (Cap. 571).

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name / Entity name (as applicable)

\_\_\_\_\_  
Name of authorized signatory (in the case of an entity)

\_\_\_\_\_  
Title of authorized signatory (in the case of an entity)

\_\_\_\_\_  
Date

**Witnessed by:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Annex F – Project Master Programme

(Separate File)

**(To be released upon request and return of ANNEX C & D & E)**