

**Provision of Insurance Consultancy Services of the
Joint Insurance Scheme**

Tender Invitation

By

The Hong Kong Council of the Social Service



Tender Number: HKCSS_JIS2023

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THE HONG KONG COUNCIL OF SOCIAL SERVICE
Provision of Insurance Consultancy Services of the Joint Insurance Scheme
TERMS OF TENDER

1 NOTES FOR TENDERERS

- 1.1 The Hong Kong Council of Social Service (Council) invites interested tenderers (Applicants) to submit a tender proposal (Proposal) for the provision of consultancy services in relation to the insurance coverage and consultancy service of the Joint Insurance Scheme (Assignment) as described in paragraphs 4 – 5 for a 9-year Assignment Period starting from 1 April 2023 to 31 March 2032.
- 1.2 This tender document (Document) sets out the service scope, eligibility, submission requirements, the evaluation process and criteria and the engagement terms of the Assignment. The Council makes no representation or warranty, whether expressed or implied, as to the sufficiency and completeness of the information in this Document which may be required by Applicants. It is the responsibility of Applicants to ascertain the feasibility of the submitted Proposal and establish the accuracy or completeness of any information relating to the Proposal.
- 1.3 An Applicant should read this tender document carefully prior to submitting a tender and ensure that it understands all requirements of this tender document, and should obtain such independent advice from its own advisers as it considers appropriate.
- 1.4 An Applicant will be regarded to be thoroughly conversant with all aspects of this tender document and in general to have obtained all necessary information of any circumstances which may influence or affect its tender or its performance of the Assignment. The Council does not assume any liability in respect of any errors or mistakes made by an Applicant or any neglect or failure of the tenderer to obtain any information or clarification relating to the provision of the services under the Assignment to the Council.
- 1.5 Throughout the tendering process, the Council may supplement more information on the Document. Unless expressly incorporated into the Document by the Council by way of addendum or otherwise, all discussions, clarifications, correspondences and communications between the Council and the Applicant regarding this Document shall have no legal and binding effect.
- 1.6 The Council is not bound to accept any Proposal or enter into any agreement with

any Applicant. It shall not be obliged to give any reasons or justifications for its decision. The Council reserves its right to cancel the tender at its absolute discretion.

- 1.7 The Council will enter into an agreement with the selected Applicant, which will be appointed as the Consultant of the JIS. The future service arrangements, if any, should be based on the terms stated in this Document. The Council reserves the right at its discretion to, including not but limited to (a) ask the selected Applicant to send a proposed agreement for the Council's consideration; or (b) prepare an agreement by itself. The complete terms and conditions of the Assignment in the Agreement shall include, without limitation, and reflect , the terms and conditions set out in this Document, expanded and modified as necessary in order to implement the Assignment in accordance with the terms, spirit, and intent of this Document, and other customary matters such as details of the Consultant, prevention of conflict of interest, sub-contracting, force majeure, extension and termination of services, copyright and other intellectual property rights, and confidentiality.
- 1.8 By submitting a tender, an Applicant will be regarded to have agreed to all terms and conditions set out in this tender document.

2 INTRODUCTION AND OVERVIEW

- 2.1 The Council is a federation of non-governmental social service agencies of Hong Kong established in 1947 and became a statutory body in 1951 under the Hong Kong Council of Social Service Ordinance, Chapter 1057 of the Laws of Hong Kong. The Council aims to build up a welfare sector that is highly accountable, efficient, effective, and responsive to social needs and promote the long-term sustainable development of society and the well-being of citizens with our Agency Members. Our Agency Members are composed of both Social Welfare Department (SWD) subvented organisations and non SWD subvented organisations. As of March 2022, the Council has 501 Agency Members that provide quality social services through over 4,000 operating units in Hong Kong. The estimated total annual expenditure of the Agency Members as of 31 December 2021 was around \$37 billion, involving over 76,000 employees.
- 2.2 The Council launched the Joint Insurance Scheme (JIS) on 1 April 2004 after the SWD of the HKSAR Government decided to lapse its "Block Insurance Scheme" for the subvented social service organisations. The JIS is a voluntary scheme

whereas all Agency Members of the Council, whether being subvented or not, can make their own decision on participation. The objective of the JIS is to provide a comprehensive and cost-effective insurance plan to the Council and its Agency Members through a core strategy of bulk purchasing insurance services from insurers.

- 2.3 The JIS consists of two core insurance schemes, namely **Employees Compensation Insurance and Public Liability Insurance**. These two insurance schemes were provided in the Block Insurance Scheme and are compulsory for the SWD subvented organisations. Considering the massive demand for purchasing these insurance in the welfare sector, it is a mandatory requirement for the JIS participating members to acquire the core insurance schemes through the JIS. Including the Council, there were 150 JIS participating members in March 2021. The estimated total payroll size was around HK\$12.71 billion and involved roughly 40,000 employees, representing roughly 50% of the total employees of the Agency Members.
- 2.4 Besides the core insurance schemes, the JIS also provides diverse insurance options to the JIS participating members. The current optional insurance schemes are stated as follows:

Optional Insurance Schemes
Voluntary Association Liability
Voluntary Medical Malpractice Liability
Product Liability
Cyber Liability
Motor Vehicle
Property All Risk
Money All Risk
Contractor All Risk (Owner Controlled Insurance Program)
Voluntary Employee Benefit
Group Personal Accident
Group Medical

- 2.5 Through this invitation, the Council seeks to solicit **an independent Consultant who has professional knowledge and extensive experience to assist the Council in formulating the insurance program of the JIS and providing a one-stop service with the Assignment during the Service Period.** The Consultant shall ensure that the Council and its Agency Members are sufficiently

insured in accordance with the risk exposure and fulfil the requirements of risk management issued by relevant authorities, including but not limited to the SWD and the Labour and Welfare Bureau (LWB) of the HKSAR Government.

- 2.6 The Council would like to receive a tender proposal with a high-level insurance plan, covering at least the core insurance schemes and the Assignment described in 4.1 – 4.6. It would be considered as an advantage if the Applicant could provide the current optional insurance coverage to ensure the service stability of the current JIS participating members.

3 ELIGIBILITY REQUIREMENTS

- 3.1 An Applicant must have been duly formed, registered, established or constituted in Hong Kong under the relevant legislation on the date that it submits the tender proposal. It must not be a natural person only or sole proprietor only.
- 3.2 An Applicant must operate actively in Hong Kong by having local offices and service teams.

4 SCOPE OF SERVICES

- 4.1 The selected Consultant shall provide the following scope of service for the Assignment. The scope of services comprises two parts – Tendering Cycle of Insurers and Professional Services and Scheme Management.

Part A – Tendering Cycle of Insurers

- 4.2 A core strategy of the JIS is to bulk purchase insurance for the Council and its Agency Members. To ensure open and fair procurement of the insurance and maintain the price competitiveness of the JIS, the Consultant is required to formulate a cost-effective insurance coverage and conduct tendering procedures regularly to source and select appropriate insurers.
- 4.3 The tendering cycle consists of two phases. The Applicant is free to propose the duration of the cycle, but there should be at least one completed tendering cycle in each Service Period described in paragraph 5.2. In other words, the Applicant can propose the duration of the tendering cycle such as 1-year, 1.5-year, 2-year, or 3-year, based on the market situation and characteristics of the insurance products.

4.3.1 Phase One - Propose and Formulate a Cost-effective Insurance

Arrangement and Coverage

- (a) The Consultant shall submit a comprehensive insurance plan, formulate strategies and demonstrate a cost-effective insurance arrangement and coverage upon assessing the risk exposure and insurance needs of the Council and its Agency Members for the Council's consideration.
- (b) The proposed insurance coverage must include the core insurance schemes, the **Employees Compensation Insurance** and **Public Liability Insurance**. It is an advantage if the Consultant can provide the current optional insurance coverage to ensure the service stability for the current JIS participating members. In addition, the Consultant shall recommend other insurance coverage, from time to time, that can fulfill the rapidly changing needs of various services of the Council and its Agency Members.

4.3.2 Phase Two - Sourcing and Selection of the Insurers

The Consultant has to source, identify and select prospective insurers who have adequate experience in providing a variety of products and services that meet the needs of the Council and its Agency Members, have good track records in quality services and are professional, reliable, reputable, and with financial strength. Such sourcing and selection should include but not be limited to the following:

- (a) Proactively identify and comply with the latest manual, guidelines or requirements issued by relevant authorities, including but not limited to the Insurance Authority, Independent Commission Against Corruption (ICAC), the SWD and the LWB of the HKSAR government, or otherwise specified by the Council from time to time;
- (b) Conduct market research, based on the insurance coverage recommended by the Consultant or requested by the Council, to identify potential insurers by analysing the insurers' company profile, financial status, experience, past performance, service quality and reputation in the market;
- (c) Prepare tender documents with a list of potential insurers, the recommended assessment method, evaluation criteria and control mechanism and other necessary documents;

- (d) Carry out the tendering process and negotiate with the tenderers on the received tender proposals that are in favour of the Council and its Agency Members;
- (e) Evaluate the received tenders based on the recommended assessment method and evaluation criteria. The evaluation shall include an estimated cost saving for the JIS participating members versus non-participating members, and highlight the terms and conditions that are exclusive for the JIS participating members due to the JIS or that are rarely offered to small-and-medium-sized social service organisations.
- (f) Submit a written recommendation of the most appropriate tenders of insurers for the approval of the Council. The written recommendation shall include a summary of the tendering process, special incidents that may require the Council's attention, the Consultant's commission or fee charged to the insurers or other parties and detailed analysis, justifications and reasons for the recommendation.
- (g) Only upon receiving the written approval of the Council, the Consultant can award the tender to the recommended insurers. The Consultant will be required to re-negotiate with the insurers or re-tender if the Council is not satisfied with the tender offers of the recommended insurers.
- (h) The Consultant shall ensure that the whole tendering process will be carried out in a prudent, open, fair and competitive manner. It shall notify the Council immediately if there is any special incident occurred at any time that may be perceived as a breach of such manner. The Council reserves the right to involve in any procedure described in paragraphs 4.3.2 a) to e) if it deems necessary from time to time.

Part B – Professional Services and Scheme Management

4.4 The Consultant will be required to provide the below essential professional services and scheme management throughout the Assignment Period. Unless it is otherwise specified in the Document, the Applicant is free to propose the format and service nature of the Consultant's professional services. The Applicant may suggest value-added services for the Council's consideration.

4.5 Presentation and Communication with the Council

The Council will set up quarterly meetings or special meetings to understand the progress of the Assignment and monitor the performance of the Consultant. The Consultant is required to:

- 4.5.1 Submit a work plan annually. The work plan shall include but not be limited to the handling of the Assignment and a brief schedule of workshops or training for the JIS participating members of the next year.
- 4.5.2 Submit an evaluation report at the end of each Service Period. The evaluation report shall include but not be limited to an evaluation of the performance of the insurers and Consultant in the last Service Period and the latest market trend of insurance identified by the Consultant.
- 4.5.3 Take part in presentations and meet with the representatives of the Council in relation to this Assignment as and when required;
- 4.5.4 Provide the required information and statistics for the Council to understand and monitor the actual operations of the Assignment or for any other uses of the Council promptly.
- 4.5.5 Prepare the information, presentation, report or otherwise in such a format as specified by the Council from time to time.

4.6 Administrative, Maintenance and Support Services

- 4.6.1 To assist and facilitate claim management of the JIS participating members from time to time.
- 4.6.2 To conduct activities, including but not limited to organising workshops, and distributing education information, materials, tools or otherwise to all Agency Members of the Council, including non-JIS participating members, to enhance their risk management knowledge and practice.
- 4.6.3 To handle inquiries and provide advice to the Council and its Agency Members regarding the issue related to insurance and risk management from time to time.
- 4.6.4 To use and adopt any information systems, if any, requested by the Council regarding the implementation of the Assignment.

5 ASSIGNMENT PERIOD, SERVICE PERIOD AND EXTENSION

Assignment Period

- 5.1 Subjected to paragraphs 5.2 and 5.3, the Assignment Period is from 1 April 2023 to 31 March 2032. The end of the Assignment Period is subjected to evaluation of the Service Periods, Termination described in paragraphs 11.7 or the satisfactory completion of all ancillary activities, whichever is earlier or later.

Service Periods and Extension

- 5.2 The Assignment Period splits into three Service Periods. The first service period is from 1 April 2023 to 31 March 2026, the second is from 1 April 2026 to 31 March 2029, and the third is from 1 April 2029 to 31 March 2032. The Council will appoint a committee, with representatives of the Agency Members or other independent professionals, to evaluate the performance of the Consultant for each Service Period.
- 5.3 Upon satisfactory performance of the Consultant, the Council may extend the Agreement with the Consultant every three years up to 31 March 2032.
- 5.4 If the Council and its representative reasonably believe that the performance of the Consultant is unsatisfactory and such unsatisfactory performance could be remedied by the Consultant, the Council will give written notice to the Consultant requesting the Consultant a remedial action on the unsatisfactory performance as specified. The Consultant upon receipt of such notice from the Council shall remedy the specified unsatisfactory performance at its own expense within fourteen (14) working days from the date of notice or any longer time as the Council may specify.

Service Succession and Exit

- 5.5 The Applicant shall submit a succession plan after it has been selected by the Council and coordinate with the current Consultant and insurers to ensure a smooth transition and a continuous insurance coverage for the JIS participating members;
- 5.6 If a Consultant can no longer deliver its service of the Assignment due to whatsoever reasons, such as the end of the Assignment Period, Termination or otherwise, the Consultant shall submit an exit plan in a reasonable and timely manner. It shall take necessary actions and due care before a reasonable mutually agreed end-of-service date to ensure a smooth transition and continuous insurance

coverage for the Council and the JIS participating members.

- 5.7 Consultant shall coordinate and cooperate with the successor Consultant and provide necessary information regarding the transition to the successor Consultant in a reasonable and timely manner.

6 SERVICE CHARGE

- 6.1 Consultant is allowed to entitle commission and receive charges from insurers and other parties to finance its service of the Assignment. Consultant shall disclose to the Council its financing model and basis of the fee charged to the insurers and other parties.
- 6.2 Consultant shall not be entitled to claim from the Council and the JIS participating members any costs or expenses associated with:
- 6.2.1 Preparing of the Proposal, including but not limited to any presentation or demonstration, whether their Proposal is successful or not.
- 6.2.2 Implementing the Assignment and fulfilling the terms in the Document or any agreement, correspondent mutually agreed by the Consultant and the Council.

7 COMPLETION OF PROPOSAL

- 7.1 The submission of the tender shall consist of a technical proposal. The tender should be enclosed in a single sealed envelope for submission.
- 7.2 The Proposal should contain the following duly completed forms and provide detailed information:
- (a) Form A – Company Profile
- It includes the Applicant’s company history and reputation, the financial strength of the company, track records of serving Non-governmental social service organisations (NGOs) in Hong Kong;
- (b) Form B – Proposed Service Arrangement
- It includes the Applicant’s proposed insurance and service arrangement, explanation of the cost-effectiveness innovativeness of the insurance and

service arrangement, experience and qualification of the service team, optional coverages and value-added services to be provided;

(c) Form C –Fee or commission charged to insurers or other parties

It includes the Applicant's proposed basis of commission or fee charged to insurers or other parties.

- 7.3 Applicants are required to complete and sign the Tender Offer and submit the whole of the Document to the The Hong Kong Council of Social Service, 13/F., Duke of Windsor Social Service Building, 15 Hennessy Road, Wanchai, Hong Kong.
- 7.4 Applicants shall ensure that its submission must be duly completed, self-explanatory and in strict compliance with the requirements as described in this Document, together with any other information and/or documents considered necessary by the Applicant. Should there be any omissions or ambiguities in the Applicant's submission, the Council may ask for further clarifications. Applicants shall reply to the Council promptly or as specified.
- 7.5 Applicants shall complete Form A to Form C; NIL responses to any part of them will be treated as a negative answer to the questions unless otherwise specified.
- 7.6 Complete and compliant submission is required as all the submissions will form the basis of the Council's overall assessment.
- 7.7 All monetary values in the tender submitted must be in Hong Kong Dollars (HK\$).
- 7.8 Save in accordance with the terms of this tender document, an Applicant must not alter any provision of the tender document.

Tender Validity

- 7.9 Upon the submission of the tender, the Applicant is not entitled to withdraw it for 150 calendar days from and including the Closing Date. It shall remain binding upon the Applicant and may be accepted at any time before the expiration of such period.
- 7.10 Failure to comply with the terms of this Document may render the tender disqualified.

8 TENDER INQUIRIES

- 8.1 Any inquiries from Applicants concerning this Document or relating to any required specifications up to the date of lodging the Proposal shall be in writing and shall be submitted to:

Contact person: Mr Tom CHAN

Address: Room 1401, 14/F Duke of Windsor Social Service Building, 15 Hennessy Road, Wanchai, Hong Kong

Telephone: 2876 2412

Email: tom.chan@hkcss.org.hk

- 8.2 All inquiries regarding the Tender Document will be responded in written form via email.
- 8.3 The Council will distribute the written inquiries and replies regarding the Tender Document to all potential Applicants. The Council will conduct a tender briefing if she considers necessary.
- 8.4 After the submission of a Proposal, Applicants shall not attempt to initiate any further contact, whether direct or indirect, relating to the Proposal or this Document. The Council, through her representative, shall have the sole right to initiate any such further contact. All communications initiated by the Council and replies from the Applicants to such communications shall be in writing.
- 8.5 Unless otherwise expressly stated by the Council in writing, a statement made by the Council (whether oral or written) in response to any enquiry made by an Applicant shall be for information only. No such statement shall constitute a representation or warranty by the Council of any nature whatsoever (whether express or implied), and no invitation is made by the Council to any Applicant to rely on such statement. No such statement shall form part of the tender document or alter, negate or constitute a waiver of any provision of the tender document.

Applicant's Response to Inquiries of the Council

- 8.6 In the event that clarification of any point of a submitted Proposal is necessary, the relevant Applicants may be advised in writing. Such Applicant shall clarify the queries within five (5) working days in writing or as otherwise specified. An Applicant will not be considered further if complete information or document is not provided as required by the deadline as specified, or in the case of clarification, such clarification is not provided by such deadline or is not

acceptable to the Council. As an alternative to seeking clarification or further information or document, the Council may not consider the tender further or may proceed to evaluate the tender on an “as is” basis.

Tender Document Addenda

- 8.7 All addenda to the tender documents, if any, will be in writing and forwarded to all Applicants, or will be uploaded online. Applicants must acknowledge receipt of all addenda if received from the Council.
- 8.8 All addenda will be issued at least five (5) working days before the tender closing date.

9 SUBMISSION OF TENDER

- 9.1 The tender should be prepared according to paragraphs 7.1 - 7.10.
- 9.2 The Applicant shall submit the tender in triplicate (i.e. one original, one photocopy and one softcopy). The Proposal must be put under a separate cover in a “CONFIDENTIAL” sealed envelope and affixed with the label **“Proposal for Provision of Insurance Consultancy Services of the Joint Insurance Scheme”**.
- 9.3 The tender shall be deposited by hand on or before **5:00 p.m. of 31 May 2022** (the “Closing Date”) or any extended closing date into **the Designated Tender Box for the subject tender at the office of The Hong Kong Council of Social Service, 13/E., Duke of Windsor Social Service Building, 15 Hennessy Road, Wanchai, Hong Kong.**
- 9.4 In the event of a black rainstorm warning or typhoon signal No.8 or above being in force at any time between 12:00 noon and 5:00 p.m. on the Closing Date, the closing time of the tender will be extended to 12:00 noon on the next working date (i.e. except Saturday and Sunday), other than public holidays.
- 9.5 Late submission of tenders or tenders not deposited in the designated tender box or tenders not submitted in the above manner will not be accepted.
- 9.6 A tender not so submitted will not be considered.

10 EVALUATION OF TENDER

- 10.1 All information provided in the Proposal (including all forms and attachments)

and any correspondences relating to this tender shall form part of the basis for evaluation.

10.2 The Council reserves its right to award the Assignment to any Applicant that has submitted a Proposal, or not to award to any, without disclosing the reasons.

10.3 The submitted Proposal will be assessed by the Tender Assessment Committee (TAC) established under the Council. The TAC is represented by the office-bearers of the Council and representatives of the Agency Members.

10.4 The TAC will assess the submitted Proposal according to a set of pre-determined assessment criteria as follows:

Form	Assessment Area	Indicators	Weighting
A	Company Profile	<ul style="list-style-type: none"> ● Company history and reputation ● Financial strength of the company ● Track records of serving NGO clients in Hong Kong 	20%
B	Proposed Insurance and Service Arrangement	<ul style="list-style-type: none"> ● Comprehensiveness of the insurance and service arrangement ● Cost effectiveness and innovativeness of the insurance and service arrangement ● Experience and qualification of the service team ● Optional coverages ● Value-added services 	60%
C	Commission/ Fees	Fee or commission charged to insurers or other parties	20%

10.5 Applicants may be invited to attend an interview conducted by the TAC. The TAC may seek clarification from, and enter into discussion with, the applicants in relation to any aspect of their applications. Any discussions or any assessment carried out through this process do not constitute a commitment to awarding the Assignment by the TAC.

10.6 After the interview, the TAC will finalise its assessment of the applicants according to the three assessment criteria in paragraph 10.4 and recommend the applicants to be appointed as the Consultant of the JIS during the Assignment Period.

- 10.7 The Council will review the recommendation of the TAC and endorse the appointment of the Consultant.
- 10.8 The Council is not bound to accept the tender with the lowest commission/fees offer or the tender with the highest overall rating according to the three assessment criteria in paragraph 10.4 or any tender and reserves the right to accept all or any part of any tender at any time within the validity period under paragraph 7.9.
- 10.9 A tender shall not be regarded to have been accepted by the Council unless the Council issues to the successful Applicant an acceptance in writing (“**Tender Acceptance**”) and send it by either post or facsimile transmission to the successful Applicant’s address, facsimile number or email (as the case may be) specified in the tender. A binding agreement between the Council and the successful Applicant is only constituted: (a) if the Tender Acceptance is sent by post, at the time of posting; or (b) if the Tender Acceptance is sent by email, at the time of the Council’s sent email time stamp.
- 10.10 Applicants who do not receive any notification within the tender validity period under paragraph 7.9 should assume that their tenders have not been accepted.

11 ENGAGEMENT TERMS

Provision of Everything Necessary

- 11.1 To provide anything not specifically mentioned in the Document but necessary for the fulfillment of the scope of service, guarantees and requirements called for in any requirement specifications and/or the Document, or necessary for the satisfactory working of the Assignment.

Equipment and Services Marketed by Other Parties

- 11.2 If any Proposal includes equipment and services marketed by other parties or companies, the proposing Consultant shall act as the prime contractor and the sole point of contact with regard to contractual stipulations including payment of all charges. In addition, the Consultant will be responsible for meeting all other requirements of the Proposal specifications.
- 11.3 Use of sub-contractors/joint partners is allowed but must be clearly disclosed in the Proposal and approved by the Council. All communications connected with

or arising out of the Proposals shall be conducted directly between the Council and the Consultant(s) irrespective of the number of sub-contractors/joint partners proposed.

Offer of Products and Services

11.4 Consultants shall declare that all the products and equipment used in supplying the Services will fit for the purpose(s) for which they are intended and further shall warrant that there is no infringement of copyright or patent or intellectual property rights of any kind or nature in connection with all the products and/or equipment whatsoever.

Intellectual Property Rights

11.5 All intellectual property, data and related material, including any trade secrets, moral rights, goodwill, and rights in any patent, copyright, trademark, industrial design and trade name that is prepared, developed or produced in relation to the Assignment and the Consultant's services, is a work made for hire and will be the sole property of the Council. The use of the intellectual property by the Council will not be restricted in any manner and the Consultant has to surrender such information to the Council upon termination.

Prevention of Bribery Ordinance

11.6 It is an offence under the Prevention of Bribery Ordinance that the Council's staff member(s) accept advantages from suppliers and contractors or the suppliers and contractors offer advantages to the staff member(s) relating to Council purchases. The Council should not permit its staff to receive advantages (including payment of commission) from suppliers and contractors. They should inform suppliers and contractors in writing that the offer of such advantages to Council staff relating to their official duties is illegal. This could be done by incorporating a statement in terms of quotations and tenders.

Termination

11.7 The Council may, at any time, terminate the Agreement of the Assignment (without liability for compensation or otherwise) with immediate effect by giving written notice to the Consultant upon the occurrence of any of the following events –

11.7.1 The Consultant fails to carry out the Assignment or has suspended/abandoned this Assignment in whole or in part;

- 11.7.2 The Consultant is in breach of any terms, conditions or undertakings of the Contract of this Assignment;
- 11.7.3 The Council has reasonable ground to believe that the quality of service delivered by the Consultant is unsatisfactory to the Council and the JIS participating members;
- 11.7.4 The Consultant engages in any conduct which can be considered by the Council (acting reasonably) to be prejudicial to the Assignment or the Council;
- 11.7.5 The Consultant fails to submit any of the Reports or any of the data, facts or information represented to and/or provided by the Consultant to the Council about the Assignment is incomplete, incorrect, untrue or is misleading to a material extent or the Council has reasonable ground to believe so;
- 11.8 Subject to the prior written approval of the Council, the Consultant may terminate the Agreement of the Assignment without cause by giving at least six (6) months' notice to the Council provided that the Consultant shall submit an exit plan that is satisfied by the Council in accordance with paragraphs 5.6 and 5.7. The Consultant shall be liable for all administrative, legal and other costs that the Council has incurred for maintaining the JIS and appointing the successor Consultant.
- 11.9 Notwithstanding anything provided for in the Agreement of the Assignment to the contrary, the Council may terminate the Agreement of the Assignment without cause and without entitling the Consultant any compensation whatsoever by giving at least six (6) months' notice to the Consultant.
- 11.10 The Consultant shall promptly notify the Council in writing of any matter or thing of which it becomes aware which is, or may amount to, a breach of, or inconsistency with, any provisions in the Agreement of the Assignment.

Governing Law and Jurisdiction

- 11.11 The Agreement will be governed by and construed in accordance with the laws of Hong Kong and the parties irrevocably submit to the exclusive jurisdiction of the courts of Hong Kong

12 WARRANTY AGAINST COLLUSION

- 12.1 By submitting a tender, an Applicant is regarded to have represented and warranted to the Council that in relation to this invitation to tender: (a) save with the prior written consent of the Council, it has not communicated and will not communicate to any person other than the Council the amount of any price, fee or commission submitted in its tender; (b) it has not fixed and will not fix the amount of any price, fee or commission submitted in its tender by arrangement with any person; (c) it has not made and will not make any arrangement with any person as to whether it or that other person will or will not submit a tender; and (d) it has not otherwise colluded and will not otherwise collude with any person in any manner whatsoever in the tendering process.
- 12.2 In the event that an Applicant is in breach of any of the representations and/or warranties in paragraph 12.1, the Council shall be entitled to, without compensation to any person or liability on the part of the Council: (a) reject the Applicant's tender; (b) if the Council has accepted the tender, withdraw its acceptance of the tender; and (c) if the Council has entered into the Agreement for the Assignment with the tenderer, terminate it.

13 WARNING AGAINST BRIBERY

- 13.1 The offer of an advantage to any officer of the Council with a view to influencing the award of the Agreement for the Assignment is an offence under the Prevention of Bribery Ordinance (Chapter 201 of the Laws of Hong Kong). Any such offence committed by an Applicant or any of its officers (including directors), employees or agents will render its tender null and void.

14 PERSONAL DATA PROVIDED

- 14.1 Applicants' personal data provided in the Proposals will be used for evaluation and tender award purposes only. If insufficient and inaccurate information is provided, such Proposal may not be considered.
- 14.2 Applicants have the right of access and correction with respect to personal data as provided for in Sections 18 and 22 and Principle 6 of Schedule 1 of the Personal Data (Privacy) Ordinance (Cap. 486). The right of access includes the right to obtain a copy of the Consultant's personal data provided in the Proposal.

14.3 The personal data will be disposed after 6 months of the completion of the tendering process.

15 CONFIDENTIALITY

15.1 Every recipient of the tender documents must keep the Documents confidential and must not disclose any of their contents to any other party without the prior written permission of the Council. The confidentiality must be maintained by all applicants even after entering into an agreement with the appointed Consultant.

15.2 All written information and correspondence between the Council and the Applicant in relation to this Document shall be marked “Confidential” and each Applicant shall instruct its officers, employees, and other representatives to treat those information strictly confidential. Any disclosure in this regard is strictly prohibited unless prior written approval of the Council is obtained.

15.3 This set of tender documents remains the property of the Council and the Council reserves the right to demand the return of the original and all copies of the Documents from all recipients of the Documents at any time.

15.4 The recipient who receives this set of Documents agrees to the confidentiality undertakings and return requirements stipulated above.

— END —