

Invitation for submission of proposal for

(a) a design-and-build project for the layout design and fitting-out of its new office

and

(b) reinstatement works of its existing office (Optional at the discretion of FDRC)

Tasks

1. The Financial Dispute Resolution Centre ("**FDRC**") wishes to appoint a Contractor ^(Note 1) to provide (1) interior design and construction works for a design-and-build project for the layout design and fitting-out of its new office and, (2) if required by the FDRC, to coordinate and supervise the reinstatement works of its existing office as follows:

Part 1: Interior design and construction works for a design-and-build office fitting-out project

- Providing interior design and construction works for a design-and-build project for the layout design and fitting-out of the new office of the FDRC located at Room 408 - 409, 4th floor, West Wing, Justice Place, 11 Ice House Street, Central, Hong Kong (hereafter referred to as the "**Legal Hub**").

Part 2: Office reinstatement works (Optional at the discretion of the FDRC)

- Coordinating and supervising the reinstatement of the existing FDRC office located at Unit 3701- 04, 37/F, Sunlight Tower, 248 Queen's Road East, Wan Chai, Hong Kong to a bare shell condition as required by the landlords of Sunlight Tower ("**Landlords of Sunlight Tower**"). This involves the engagement of nominated subcontractor(s) ("**NSC**") sourced from the pre-approved lists provided by the Landlords of Sunlight Tower and appointed by the FDRC to carry out the physical works of this Part 2 Task and the successful Tenderer will be responsible for the tendering/quotation arrangements and all subsequent supervision, arrangement and liaison in relation to the NSC. This shall be a separate set of works procured on a need basis, subject to the outcome of negotiations between the FDRC and the Landlords of Sunlight Tower on the option of "payment of cash in lieu of reinstatement" under relevant clauses of the tenancy agreement.

(collectively, "**Tasks**". Further details of the Tasks are provided below, particularly in the Section "**Scope of the Tasks and the Requirements**".)

(^{Note 1}: In this document, the term 'Contractor' refers to the successful tenderer selected and appointed by the FDRC in the tender exercise, whereas 'Tenderer' or 'Tenderers' refer to those parties interested in or actually submitted proposals in relation to the tender exercise.

The term 'Contract(s)' refers to the binding agreement(s) to be agreed and entered into between the FDRC and the Contractor upon the FDRC's issuance of a letter of appointment in relation to the performance of the Tasks (with Part 2 of the Tasks being optional at the discretion of the FDRC), and containing (but not limited to) the terms set out in **Attachment 6** (unless the same shall have been modified or amended by the FDRC). Should no agreement be reached, the FDRC shall be at liberty to withdraw/rescind its letter of appointment and appoint such contractor as it deems fit, or not at all.)

This Invitation and Incurred Expenses

2. The FDRC shall not be liable to pay any costs arising out of or incidental to any preparation, submissions, enquiry, clarification, negotiation or cancellation of this invitation nor shall the FDRC be under any obligation to disclose or discuss the assessment of this tender process with any of the Tenderers.
3. No legal or other obligations will arise between any of the Tenderers and the FDRC in relation to this invitation or the tender process. This invitation is not an offer to contract, nor should it be construed as such. It is a definition of specific requirements of the FDRC and an invitation to recipients to submit a responsive proposal addressing such requirements. The FDRC reserves the right to make no selection and enter into no agreement as a result of this invitation. Only the execution of a written agreement between the FDRC and a Contractor, or upon the FDRC's issuance of a letter of appointment, will obligate the FDRC in accordance with the terms and conditions contained in such agreement.
4. It should be understood that the Tenderer's responsive proposal to this invitation constitutes an offer to do business on the terms stated in this invitation and the Tenderer's proposal. Should the Contract(s) be awarded to the Tenderer, the FDRC may, at its option, incorporate all or any part of the Tenderer's proposal to this invitation in the Contract(s). The FDRC reserves the right to accept the Tenderer's offer without further discussions and without any additional opportunity for the Tenderer to amend, supplement or revise the Tenderer's Submitted Proposal (as defined below) after the Tender Closing Date (as defined below).

Background

5. The FDRC was set up in November 2011 as a non-profit making company limited by guarantee under the Companies Ordinance (Cap. 622) to administer the Financial Dispute Resolution Scheme. The Scheme requires its members, who are financial institutions in Hong Kong licensed and/or authorized by the Hong Kong Monetary Authority and the Securities and Futures Commission, to resolve monetary disputes with their customers primarily through the “Mediation First, Arbitration Next” processes. A Board of Directors oversees the operation of the FDRC and provides the necessary checks and balances on its management. More information about the FDRC can be found at www.fdrc.org.hk.
6. Pursuant to the policy objective of enhancing Hong Kong’s status as a centre for international legal and dispute resolution services in the Asia-Pacific region, starting from end 2014 the Department of Justice (DoJ) has been inviting non-profit making or inter-governmental Law Related Organisations ("**LRO**") to apply for rental offices at the Legal Hub. The application made by the FDRC under such scheme was successful and an office (around 168m² in size (Net Office Floor Area)) located at 4th floor of the Legal Hub is allocated to the FDRC. Since the offices at the Legal Hub will be handed over to LRO in a bare shell condition, the FDRC is responsible for carrying out all necessary fitting-out works before the occupation and operation of its new office. In addition to the various requirements in obtaining the requisite licenses and approvals, complying with the law and regulations in relation to fire services and the Buildings Ordinance (Cap. 123), it is further noted that the Legal Hub is a Grade I historical building. Therefore, tenants carrying out fitting-out works there should seek the advice of the Antiquities and Monuments Office ("**AMO**") and the Director of Architectural Services ("**ArchSD**") as and when required (An ArchSD information sheet for LRO on the standard provision upon handover and points to note for accommodation at the Legal Hub is at **Attachment 1**).
7. On the another hand, under the clauses of the original tenancy agreement for its existing office at Sunlight Tower signed in 2014, upon termination of tenancy the FDRC is required to provide vacant possession of the office premises in a bare shell condition, plus reinstating and/or replacing the following fixtures and fittings of the Landlords of Sunlight Tower to their original conditions and locations according to the latter’s prescribed open plan design:-

- (a) completed full false ceiling including lighting fittings, air-conditioning air ducts with return air louvers and supply air diffusers, fancoil units and sprinkler heads system; and
- (b) raised floor with under-floor trunking.

In addition, the relevant physical reinstatement works must be carried out by contractors selected from the lists of pre-approved contractors provided by the Landlords of Sunlight Tower (including at least four separate types of contractors in the trades of building works, plumbing, fire service installation, air-conditioning system, etc.) (The requirements on reinstatement works, insurance, recommended contractors list, relevant floor plans, etc. provided by the Landlords of Sunlight Tower is at **Attachment 2**).

- 8. When the tenancy agreement for the FDRC's existing office at Sunlight Tower was renewed in 2017, a new clause on "Payment of cash in lieu of reinstatement" was added. Under the clause, the Landlords of Sunlight Tower, after pre-marching out inspection of the office premises, may at its sole discretion grant the FDRC an option of payment of cash in lieu of reinstating the premises to a bare shell condition as required under the 2014 tenancy agreement. The terms and conditions for the "Payment of cash in lieu of reinstatement" option shall be subject to the negotiations and mutual agreement by the Landlords of Sunlight Tower and the FDRC. In this connection, the requirement for works under Part 2 of the Tasks above will be optional at the discretion of FDRC and dependant on the outcome of negotiations between the FDRC and the Landlords of Sunlight Tower.

Scope of the Tasks and the Requirements

Part 1: Interior design and construction works for a design-and-build office fitting-out project

- 9. The Contractor shall be responsible for the full interior design and construction works on the physical fitting-out works of the new FDRC office at the Legal Hub (which will include, but not limited to, the design and construction of fixtures and fittings for cellular and open plan offices, reception area, meeting/interview rooms, document and general storage areas, ancillary facilities such as lockers for staff and visitors; the laying and installation of wirings, cables, ducts, piping, etc. for the lighting system, IT and telephone systems, security systems for access control, CCTV surveillance, burglar alarm, etc., air-conditioning and ventilation systems, sprinkler head system, PA system, installation of false ceiling and raised flooring, etc.) in accordance with the layout design plan and cost estimates to be approved by the FDRC (or its authorized representatives to be confirmed by the FDRC in

writing), and the delivery and occupation of the fitted-out premises within the specified time frame as agreed by the FDRC.

Part 2: Office reinstatement works (Optional at the discretion of FDRC)

10. This shall be a separate set of works procured on a need basis and if required, will be confirmed in writing by the FDRC to the Contractor. The Contractor shall act as the main contractor of these Part 2 works and be responsible for, *inter alia*, performing the following functions:
 - (a) Carry out the tendering/quotation arrangements for relevant potential subcontractors (sourced from lists of pre-approved contractors provided by the Landlords of Sunlight Tower, which include at least four separate types of subcontractors in the trades of building works, plumbing, fire service installation, air-conditioning system, etc.);
 - (b) Submit the tender/quotation proposals, budget estimates, works programmes and any other information obtained from the potential subcontractors to the FDRC for consideration and approval;
 - (c) Obtain the FDRC's approvals on the appointments of respective subcontractors (i.e. the NSCs) and enter into subcontracts with the NSCs based on the FDRC's approval; and
 - (d) Coordinate and supervise all required reinstatement works to be carried out by the NSCs at the existing FDRC office at Sunlight Tower to ensure smooth progress and timely completion of the reinstatement works to the acceptable standards and satisfaction of the Landlords of Sunlight Tower and the FDRC, such that the reinstated office can be handed over to and repossessed by the Landlords of Sunlight Tower on or before the lease expiry date (i.e. 30 April 2020 (Tentative, subject to change by the FDRC without any prior notice)).

11. The physical reinstatement works to be carried out by the NSCs will include, but not limited to, the removal of all remaining office furniture and existing office fixtures and fittings, the reinstatement and/or replacement of fixtures and fittings on air conditioning, lighting, sprinkler heads system, plumbing, and raised flooring, etc. to meet the specific requirements of the Landlords of Sunlight Tower and the FDRC.

12. The FDRC will reimburse the Contractor for the fees of the NSCs (amount to be approved by the FDRC at the NSC's appointment).
13. In performing the Tasks under Part 1 and Part 2 above, the Contractor will be required to:
 - (a) Ensure that its sub-contractors, including those sourced from the lists of pre-approved contractors (for Part 2), workmen, servants and agents in carrying out the design, fitting-out and/ or project management works comply with all relevant laws and regulations, and the requirements of the Government of the Hong Kong Special Administrative Region ("**Government**") (for Part 1) and the Landlords of Sunlight Tower (for Part 2), including but not limited to any guidelines issued by the Government and/ or the Landlords of Sunlight Tower as well as instructions and directions given by the servants, agents, contractors, workmen, architect, project manager and other authorized representatives of the Government and/ or the Landlords of Sunlight Tower (as appropriate);
 - (b) For Part 1, engage suitably qualified architects and/ or engineers (as appropriate in the circumstances and under the relevant law and regulations) to prepare proper building services plans regarding the installation and layout of the air-conditioning, mechanical ventilation, fire services, lighting, IT, telephone, security and electrical systems, etc. in the new FDRC office at the Legal Hub and carry out the said building works; and
 - (c) Ensure that its sub-contractors, including those sourced from the pre-approved contractors (for Part 2), workmen, servants and agents carry out their works in a manner such that the FDRC is not in breach of the terms and conditions of the respective leases with the Government (for Part 1) and with the Landlords of Sunlight Tower (for Part 2). For Part 1, such duties include (but not limited to) seeking prior consent and complying with the requirements of the Secretary for Justice, AMO and ArchSD; complying with the requirements in relation to fire services (including but not limited to installation of fire extinguishers within one calendar month from the date of the lease); compliance with the Buildings Ordinance (Cap. 123) and all relevant laws and regulations (including the amendments); proper maintenance and use of nullahs, sewers, drains, Government mains, etc. and compliance with the requirement on dumping of earth, debris and spoil, etc.

Time Schedule

14. The Tasks are required to be fully completed in accordance with the following tentative time frame but this is subject to change by the FDRC without any prior notice:

Part 1: Interior design and construction works for a design-and-build office fitting-out project

- On or before 29 February 2020 (Tentative, subject to change by the FDRC without any prior notice).

Part 2: Office reinstatement works (Optional at the discretion of FDRC)

- On or before 30 April 2020 (Tentative, subject to change by the FDRC without any prior notice). The works for Part 2, if required, will start upon completion of Part 1 and the vacation and handing over of the FDRC's office at the Sunlight Tower to the Contractor. In any case the completion of all reinstatement works must not be later than 29 April 2020 (Tentative, subject to change by the FDRC without any prior notice), i.e. one day before the termination of the FDRC's office tenancy at Sunlight Tower.
15. The works for Part 1 are considered to have been completed upon the handing over and written confirmation of acceptance by the FDRC of the fitted out office premises at the Legal Hub. The works for Part 2, if required and confirmed in writing by the FDRC, are considered to have been completed upon the handing over of the reinstated premises at Sunlight Tower and written confirmation of acceptance to be obtained by the FDRC from the Landlords of Sunlight Tower.
 16. The Contractor shall report promptly to the FDRC the occurrence of any events or conditions that might delay or prevent completion of the Tasks or any part thereof, including what steps are being taken by the Contractor, its subcontractors or any others to rectify the situation, if any. In the event that such delay or prevention is beyond the reasonable control of the Contractor, the FDRC may at its absolute discretion extend the period for completion of the Tasks or any part thereof. If the Tenderer wishes to propose a different time frame other than the one stated in paragraph 14 above, the alternative dates should be clearly specified in the Submitted Proposal (as defined below).

Tender Prices

17. For the Tasks to be carried out under Part 1 and Part 2, Tenderers shall provide **TWO** separate and independent price structures for each Part composing of breakdown of the Tasks and corresponding costs in respect of the prices quoted. It shall be fully understood that the price for the reinstatement works under Part 2 will only become payable if the Contractor and the FDRC enter into a Contract for Part 2 and the relevant works are duly completed by the Contractor as per the terms of the Contract.

Submission of Proposal

18. Tenderers should submit their proposals in a **sealed plain envelope** marked "Submission of proposal on design, construction and reinstatement works to the FDRC". The proposal should be dropped into the tender collection box located at the reception area of the FDRC office between 9:15 am and 5:45 pm on working days at the address below ("**Submitted Proposal**"). **The deadline for submission of proposal is 12:00 noon on Monday 9 December 2019 (Tentative deadline subject to change by the FDRC without prior notice) ("Tender Closing Date"):**

Financial Dispute Resolution Centre,
Unit 3701- 04, 37/F, Sunlight Tower,
248 Queen's Road East,
Wan Chai, Hong Kong.

19. Late submission or incomplete proposal will not be considered. In case of a rainstorm black warning or tropical cyclone signal No. 8 or above is hoisted for any duration between 9:00a.m. and 12:00 noon on the Tender Closing Date, the deadline for submission of proposal will be extended to 12:00 noon on the next working day.
20. Submitted Proposal shall remain binding upon the Tenderer for a period of 90 days from the Tender Closing Date and may be accepted at any time before expiration of the period.

Requirements of Proposal

21. The Submitted Proposal must contain the information set out in Parts A to G below:

Part A: Executive Summary of the Proposal

An executive summary, in no more than two pages, containing:

- Features and salient points of the proposal;
- Quotation of prices;
- An express undertaking that the Tenderer:
 - (i) fully understands the objectives and scope of work, and agrees to be bound by all the terms and conditions as stipulated in this invitation (including but not limited to the insurance obligations); and
 - (ii) agrees to carry out the whole of the Tasks mentioned in this invitation which may, during the contract period or any extension thereto be required, by or on behalf of the FDRC to be carried out, at the prices quoted by the Tenderer; or in the event of any aforementioned extension thereto be required, at the prices proposed by the Contractor and agreed and confirmed in writing by the FDRC.
- A confirmation that the Submitted Proposal comply with the required specifications in every respect, or if not, the alternative proposal, including but not limited to all relevant Hong Kong ordinances, regulations, by-laws, rules and requirements of the FDRC; and
- Name, post and signatory of the authorized person(s) of the Tenderer with company seal.

Part B: Company Profile

22. A brief account of the company profile, including:

- Company's structure, organisation, credentials and strengths of the proposed team including qualifications, experience, areas of expertise, respective roles and time involvement of the team leader and individual team members to be engaged for each of the Tasks;
- A declaration of any outstanding legal proceedings; and
- A declaration of any actual or potential conflict of interests if appointed for the Contract(s), and if so, measures to be adopted to avoid such conflicts.

Part C: Relevant Experience of Similar Works

23. An account of the following:

- Relevant experience of similar works and scope, particularly to the Government and/or public organisations; and

- Contact details of two clients of similar works.

Part D: Proposed Approach and Work Plan

24. A detailed account on how the works will be performed, which shall include, but not limited to, the following:
- Proposed work approach and plan;
 - Proposed standard of works and quality assurance plan;
 - Any engagement of sub-contractor(s), and if so, details of the proposed sub-contractor(s) and a detailed proposal on how the Tenderer intends to liaise with the sub-contractor(s); and
 - Details of contact person of the Tenderer including his/her name, post title, e-mail address and telephone/fax numbers.

Part E: Proposed Layout Design Plan and Cost Estimates

25. A proposed layout design plan for the FDRC office at the Legal Hub with associated cost estimates. The cost estimates shall be inclusive of all labour, materials and other related costs with breakdown by major items. The proposed layout design plan shall take into full account of:
- (a) The floor plan of the FDRC office (See **Attachment 3**) at the Legal Hub, including special features such as its shape, orientation, existing door/service hatch openings and structural partition walls, etc.;
 - (b) The FDRC's operational requirements for cellular and open plan office spaces, reception area, meeting/interview rooms, supporting facilities (e.g. IT and telephone systems, photocopiers, etc.), document and general storage, security systems (e.g. Access control system, CCTV system, burglar alarm system, etc.), other ancillary facilities (e.g. lockers for staff and visitors), energy saving (e.g. partial shutdown of air-conditioning/lightings in some office areas), etc. (A tentative Schedule of Accommodation for the FDRC office at the Legal Hub is at **Attachment 4** for reference), and
 - (c) The industry and other relevant standards, e.g. benchmarking the Government Property Agency's 'Guidelines on Office Accommodation' (An extract of the relevant space standards for staff and ancillary areas is at **Attachment 5** for reference); and
 - (d) The applicable standards and requirements (e.g. fire safety) as provided in all relevant Hong Kong ordinances, regulations and by-laws.

Part F: Tender Prices Quotation

26. Having regarded to paragraph 17 above, a quotation of the prices in Hong Kong Dollars for the Tasks rendered for Part 1 and Part 2 (optional at the FDRC's discretion) should be provided **separately**. It shall be a fixed lump-sum amount inclusive of all costs, charges and disbursements properly to be incurred by the Tenderer in the performance of the works including but not limited to out-of-pocket expenses such as postage, secretarial and logistical support, computer facilities, production of reports and any other expenses to be incurred by the Tenderer in carrying out the Tasks. The prices shall also include any fees, costs and disbursements to be incurred by any sub-contractors, advisors or other persons or organisations to perform any part of the Tasks.
27. The Tenderer may, at its discretion, propose a schedule of payment by instalments for the quoted tender prices upon the satisfactory completion of clearly defined stage(s) of the Tasks. The FDRC has the final discretion to accept, reject or modify the proposed schedule of payment by instalments, if any, in whatever way as it deems fit.
28. The Tenderer shall make certain the tender prices quoted are accurate before submitting the proposal. Under no circumstances will the FDRC accept any request for price adjustment on grounds that a mistake has been made in the tender prices quoted.

Part G: Proposed Contracts of Engagement

29. Tenderers shall provide their proposed contracts of engagement for Part 1 and Part 2 of the Tasks respectively based on the information provide in this invitation and any further information to be provided by FDRC during the tendering process. The proposed contracts must contain clauses set out in **Attachment 6**.
30. Tenderers may propose alternatives to the requirements and conditions specified in this invitation if they consider that such conditions and requirements are either not feasible or do not provide the FDRC with the best solution in the circumstances.

Format of Proposal

31. Any Submitted Proposal to this invitation must be presented in the specified format and include all of the information requested. Failure to provide all of the requested information and/or failure to comply with formatting requirements may subject the Tenderer's offer to disqualification and elimination from consideration for award. Proposals should follow the sequencing of items as presented in this invitation

document. All proposal elements should be numbered to correspond with the invitation item to which it is intended to be responsive.

Enquiries

32. All enquiries from the Tenderers concerning this invitation shall be made in writing to the FDRC at least seven days before the Tender Closing Date. Unless otherwise provided in this invitation, only answers in writing addressed to all Tenderers by the FDRC shall be deemed to affect this invitation in any way.
33. In the interest of equality and fairness, the answers to pertinent questions will be communicated to all participating Tenderers via e-mail.

Tenderer's Acknowledgements

34. The Tenderer acknowledges and agrees that:
 - (a) at any time prior to the Tender Closing Time, the FDRC may issue additional or different information to the Tenderer; and
 - (b) any written additional or different information provided by the FDRC will form part of the invitation and will be deemed to have been taken into account by the Tenderer in its proposal;
 - (c) if the Tenderer consists of more than one party, the liability of the parties comprising the Tenderer will be joint and several;
 - (d) should it be the successful Tenderer, if requested by the FDRC, it will enter into the Contract(s) amended to reflect that part of the Submitted Proposal acceptable to the FDRC;
 - (e) by submitting a Submitted Proposal it will be deemed to have warranted and represented to the FDRC that it has:
 - (i) in place and meets all requirements at law, including the holding of all relevant licences, a valid business registration certificate and be registered with the relevant authority authorising them to legally perform the work under the Contract(s);

- (ii) carefully examined the contents of the invitation and any other information made available by the FDRC for the purpose of preparing its Submitted Proposal;
 - (iii) examined all information relevant to the risks, contingencies and other circumstances having an effect on its Submitted Proposal;
 - (iv) informed itself of the nature of the obligations to be performed under the Contract(s), including the labour, plant, materials and other resources required to perform those obligations;
 - (v) satisfied itself as to the correctness and sufficiency of its Submitted Proposal for the performance of the work under the Contract(s) and other obligations in the invitation and that the price(s) contained in its Submitted Proposal will enable it to comply with all of the Contractor's obligations under the Contract(s); and
 - (vi) other than in respect of information that will form part of the Contract(s), not relied on information provided by the FDRC or by any person for or on behalf of the FDRC or represented to be provided for or on behalf of the FDRC without independently verifying such information and independently satisfying itself of the adequacy, accuracy and correctness of such information;
- (f) The FDRC will rely upon the warranties and representations set out in the invitation in considering the Submitted Proposal and, if relevant, entering into the Contract(s); and
- (g) all monetary amounts and rates submitted are deemed to be in Hong Kong dollars.

Assessment of Proposals

35. Proposals received will be assessed according to the following criteria (without limitation):
- (a) Relevant experience and knowledge in relation to the Tasks, particularly to Government and/or public organisations;

- (b) The proposed work approach and plan as well as the standard of works;
 - (c) Company's profile and quality of the working team appointed for the Contract(s);
 - (d) Professional and other merits of the proposed layout design plan;
 - (e) The prices proposal; and
 - (f) Any other criteria as deemed appropriate.
36. The above criteria are for reference only which provide the Tenderers indicative guidelines of their relative significance. The FDRC reserves the right to change the criteria and/ or the weighting of any item without further notifying the Tenderers.
37. If the FDRC considers that any aspect of a Submitted Proposal requires clarification from the Tenderer, the FDRC may request that the Tenderer:
- (g) Supplement its proposal; or
 - (h) Answer the FDRC's specific queries orally or in writing, or in any matter that the FDRC deems fit.

Any clarification made shall be at the Tenderer's own cost and expense.

38. Selected Tenderers may be invited to present and elaborate on their Submitted Proposals to a Tender Selection Panel of the FDRC. If necessary, further presentation of shortlisted proposals to the FDRC Board of Directors may also be arranged. Any proposals and responses to the FDRC's inquiries submitted by the successful Tenderer may form part of the Contract(s). 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 the Contract(s).
39. The FDRC is not bound to give any explanation or reason for the rejection of any of the proposals or for the award or non-award of the Contract(s) to any or none of the Tenderers.

Unreasonably Low Price

40. The FDRC may require a Tenderer which, in the opinion of the FDRC, has submitted an unreasonably low price to justify and demonstrate to the reasonable satisfaction of the FDRC that such a Tenderer is capable of performing the Tasks.

Inspection and Acceptance

41. The Tasks performed in pursuance of the Contract(s) shall be subject to inspection by the FDRC (or its appointed representatives to be confirmed by the FDRC in writing). The works shall not be deemed to have been accepted unless the FDRC shall so certify in writing.
42. The FDRC reserves the right to accept proposal which provides a lesser or larger scope of works than indicated in this invitation or not to appoint any of the Tenderers who have submitted proposals. The FDRC is not bound to accept any conforming proposal or the lowest quotation, and reserves the right to negotiate with any Tenderer about the terms, conditions, clauses, paragraphs or parts of the invitation and the Submitted Proposal prior to the award of the Contract(s).
43. Restrictions or limitations proposed by the Tenderer which seek to limit or exclude the liabilities of the Tenderer in contract, tort or otherwise for failing to meet the purpose of the Tasks and/ or to exercise the skill and care required by the Contract(s) or reasonably expected of the Tenderer in these circumstances may render any proposal non-compliant in the absolute discretion of the FDRC.
44. The successful Tenderer will receive a letter of appointment from the FDRC as confirmation of appointment as the Contractor. This letter of appointment, upon agreement by the FDRC and the Contractor, shall constitute a binding contract; or alternatively, the successful Tenderer and the FDRC may enter into separate contract(s) if the FDRC deems fit. Tenderers who do not receive any notification in 90 days after the Tender Closing Date shall assume that their Submitted Proposals have not been accepted.
45. Tenderers are requested to confirm the Submitted Proposals comply with the required specifications in every respect, including but not limited to all relevant Hong Kong ordinances, regulations, by-laws, rules and requirements of the FDRC. If a Submitted Proposal does not conform to the specifications, the Tenderer shall be required to provide full details of the alternative proposal, but the FDRC reserves the right to accept or reject any such offer.

Declaration of Interest

46. On appointment and in performing the duties, the Contractor, associated persons, any of its associated companies and personnel of the Contractor or the said associated companies, their subcontractors and agents involved in the Tasks must declare any interest that may be considered to be in potential or actual conflict with the duties to be performed. The Contractor shall not undertake any works and/ or services which could give rise to conflict of interest.

Sub-contracting or Assignment

47. The Contractor shall not assign, or otherwise dispose of or transfer, or sub-contract any of its duties, obligations, interests, rights or benefits in relation to the Tasks (whether in whole or in part), without the prior written approval of the FDRC.

Warranties and Undertakings

48. The Contractor warrants and undertakes to the FDRC that the works shall be performed and completed in an impartial, timely and diligent manner and that the Contractor shall use all the experience, skills, care and diligence in the performance of the works and the discharge of all duties and obligations under the Contract(s) in accordance with current industry standards.
49. The Contractor shall provide a warranty period of not less than 180 days for its workmanship on the fitting-out works under Part 1 counting from the date of handing over and signed acceptance of the fitted out office by the FDRC. The Contractor undertakes, within the warranty period, to provide all necessary re-fitting and repair services/ replacement parts free of charge to the FDRC for any defects of the physical fittings and fixtures of the FDRC office arising from the poor workmanship or whatsoever of the Contractor and/or its sub-contractors.

Payment

50. The price shall be payable by the FDRC to the Contractor after completion of the works (in case a schedule of payment by instalments under paragraph 27 is agreed, in accordance with the relevant schedule) to the satisfaction of the FDRC. The Contractor shall forward original invoice for payment upon the FDRC's acceptance of completion of the Tasks. Payments shall be made within 30 days from the invoice receipt date.

Termination of Contract

51. The Contractor shall use its best endeavours to perform the Contract(s) with such due care and skill as is expected of a provider of similar services and works and of a comparable standing in the industry, but if for whatever reason, the FDRC in its opinion, concludes that the Contractor is in breach of the Contract(s) or does not provide the level of service and works required by the FDRC, the FDRC may in its sole discretion terminate the Contract(s) at any time by giving the Contractor two weeks' written notice. The Contractor shall have no claim whatsoever against the FDRC upon termination.
52. On the expiration or termination of the Contract(s), all rights and obligations of the parties under the Contract(s) shall automatically terminate except for such rights of actions as shall have accrued prior thereto and any obligations which expressly or by implication are intended to come into or continue in force on or after such expiration or termination.

Disclosure of Name of Successful Contractor and the Prices Payable

53. The FDRC 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 name of the successful Contractor;
 - (b) The fees, prices, costs and expenses payable by the FDRC for engaging the Contractor; and
 - (c) The price proposal submitted by the Contractor.

Cancellation of Tender Exercise

54. The FDRC reserves the right to cancel and/ or terminate this tender exercise without cause and upon cancellation/ termination, re-issue the invitation to tender (on which terms and conditions as it considers fit), or directly appoint another contractor to take up the Tasks (through whatsoever and howsoever means), or itself undertake the Tasks internally within the FDRC.
55. Without prejudice to the FDRC's right to cancel and/ or terminate the tender exercise, where there are changes of requirement after the Tender Closing Date for operational or whatever reasons, the FDRC is not bound to accept any conforming proposal and reserves the right to cancel and/ or terminate the tender exercise.

Anti-collusion

56. The Tenderer shall not communicate to any person other than the FDRC 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 FDRC 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 its tender. The Tenderer shall give an undertaking (duly signed by the Tenderer's authorized representative) in the Submitted Proposal that it understands and is and will be in full compliance of this provision at all times.
57. The provision in paragraph 56 shall have no application to the Tenderer's communications in strict confidence with its own insurers or brokers to obtain an insurance quotation for computation of tender price and communications in strict confidence with its consultants / sub-contractors to solicit their assistance in preparation of tender submission.

Confidentiality

58. The terms of this invitation and all other information provided by the FDRC in connection with this invitation are to be treated by the Tenderers as strictly confidential and proprietary. Such materials are to be used by the Tenderers solely for the purpose of responding to this invitation. Access to this information shall not be granted to third parties except on prior written consent of the FDRC and upon the written agreement of the intended recipient to treat the same as confidential. The FDRC may request at any time that any of the FDRC's material be returned or destroyed at the FDRC's election.
59. All Submitted Proposals, responses and other materials submitted in response to this invitation will become the property of the FDRC. The FDRC assumes no obligation and shall incur no liability regarding confidentiality or any portion of all or any other material submitted in response to this document unless expressly agreed in writing to protect specifically identified information.
60. The Contractor further undertakes to treat as private and confidential and not to disclose at any time to any person any information received by or made known to it in relation to the services and works. All information derived shall remain the

property of the FDRC. The Contractor shall keep the information confidential and shall not release it in any circumstances without the prior written consent from the FDRC. The Contractor shall not advertise or cause to be advertised in whatever manner and at any time before, during or after the period of contract of its engagement by the FDRC.

Prevention of Bribery

61. All Tenderers shall prohibit their directors, employees, agents, and sub-contractors who are involved in this invitation from offering, soliciting or accepting any advantage as defined in Prevention of Bribery Ordinance (Cap. 201) when conducting business in connection with this invitation. The Tenderers shall take all necessary measures (including by way of a code of conduct or contractual provisions where appropriate) to ensure that their directors, employees, agents, and sub-contractors are aware of such prohibition under this paragraph. In any event such action will result in the rejection of the proposal.
62. The prohibition in paragraph 61 remains applicable to the Contractor during the period of the Contract(s). If the Contractor or any of his directors, employees, agents, and sub-contractors who are involved in this invitation and/ or the Tasks (or any part thereof) shall be found to have offered, given, solicited or accepted any advantage, gratuity, bonus, discount, bribe or loan of any sort as defined in Prevention of Bribery Ordinance (Cap. 201) when conducting business in connection with this invitation and/ or the Tasks (or any part thereof), the FDRC is entitled to terminate forthwith the engagement of the Contractor under the Contract(s), and to hold the Contractor liable for any loss or damage which the FDRC may thereby sustain.

Property Right and Copyright

63. The designs, drawings, plans, reports and all other deliverables and documents (collectively "**Contract Materials**") produced by the Contractor and the copyright and all intellectual property rights in all such Contract Materials shall be and shall remain the exclusive property of the FDRC and shall vest in the FDRC at the time they are created. The FDRC will grant to the Contractor a revocable licence (which include the right to grant sub-licences) to use the Contract Material (including by copying or reproducing) for the sole direct purpose of performance of the Tasks under the Contract(s).

Indemnity

64. The Contractor shall indemnify the FDRC and keep the FDRC fully and effectively indemnified against any and all losses, claims, damages, costs, charges, expenses, liabilities, demands, proceedings and actions which the FDRC may sustain or incur or which in any case arise out of or in relation to the performance of the Tasks by the Contractor and/or its sub-contractor(s), workmen, servants and agents.

65. The Contractor acknowledges that the FDRC is required to reinstate and hand over its office in Sunlight Tower to the Landlords of Sunlight Tower in the particular condition as specified in Attachment 2 to this invitation by 30 April 2020 (Tentative , subject to change by the FDRC without any prior notice) ("**Handover Date for Part 2**"), failing which the FDRC may be liable to pay extra charges, rental and other claims of compensation to the Landlords of Sunlight Tower including but not limited to claims and loss arising from and in connection with the delay in handing over the existing FDRC's office at the Sunlight Tower (upon completion of the reinstatement works under Part 2) to the next tenant(s), etc. ("**Extra Charges**"). In the event that any delay to the Handover Date for Part 2, if Part 2 of the Tasks is required to be performed by the Contractor, is caused by the negligence and/or faults of the Contractor, its employees, servants, agents and/ or sub-contractors, the Contractor agrees, acknowledges and accepts that it shall fully indemnify and keep indemnified the FDRC of the loss arising from and in connection with such delay including but not limited to the Extra Charges.

Insurance

66. The Contractor is responsible for the acts of its subcontractors, workmen, servants and agents in carrying out the Tasks under Part 1 and Part 2 (if so required), including providing Employee's Compensation Insurance, Third Party Insurance and Contractors' All Risk Policy. The Contractor is required to insure for and shall indemnify the FDRC against loss, damage, claims or proceedings, arising from actions and/ or omissions of the Contractor, its subcontractors, workmen, servants and agents, in respect of damage to property or injury to or the death of persons in the course of carrying out the works. The policy of such insurance shall be in the joint names of the FDRC and the Contractor and endorsed to show the Government and/ or Landlords of Sunlight Tower (as appropriate) as landlord of the relevant sites for the works. The policy shall be in the sum to be negotiated and agreed between the FDRC and the successful Tenderer before entering in the Contract(s) for any one claim or series of claim arising out of one event for the period of the

works. The policy shall be presented to the FDRC prior to the commencement of works on site.

67. The Contractor must also insure for and shall indemnify the FDRC against loss, damage, claims or proceedings, arising from actions and/ or omissions of the Contractor, its subcontractors, workmen, servants and agents causing delay to the completion of Part 2 of the Tasks (if so required by the FDRC in writing). The policy of such insurance shall be in the joint names of the FDRC and the Contractor and endorsed to show the Landlords of Sunlight Tower as landlord of the site for the works. The policy shall be in the sum to be negotiated and agreed between the FDRC and the successful Tenderer before entering in the Contract(s) for any one claim or series of claim arising out of one event for the period of the works. The policy shall be presented to the FDRC prior to the commencement of works on site.
68. If the Tenderer considers the insurance required under paragraph 67 above cannot be procured at prevailing market rate, the Tenderer shall provide an alternative proposal in the Submitted Proposal.
69. If the Contractor considers the above-mentioned limit of indemnity for any one accident to be inadequate to cover its contractual obligations it is at liberty to take out a policy with an increased limit of indemnity but any additional premium or differential in premium shall be at its own expense.

Governing Law

70. The Contractor shall be governed by and construed in accordance with the laws of Hong Kong and the parties hereby agree to submit to the jurisdiction of the courts of Hong Kong in relation to any matters arising out of the Contract(s).

Personal Data

71. Tenderer's personal data provided in the Submitted Proposal will be used for proposal evaluation and contract award and all other purposes arising from or incidental to this invitation (including but not limited to resolution of any query or dispute arising from this invitation). If insufficient and inaccurate information is provided, the Submitted Proposal may not be considered.
72. Tenderer acknowledges and consents that Tenderer's personal data provided in the Submitted Proposal will be used for the purposes set out above and may be disclosed to other Government departments and non-Government organisations.

73. Tenderers have the right of access and correction with respect to personal data as provided for in Sections 18 and 22, and Principle 6 of the Schedule 1 of the Personal Data (Privacy) Ordinance (Cap. 486). The right of access includes the right to obtain a copy of the Tenderer's personal data provided in the proposal.
74. Enquiries concerning the personal data collected by means of the Submitted Proposal, including the making of access and corrections, shall be addressed to Accounting and Administration Officer of the FDRC.

Rights of Third Parties

75. Unless otherwise expressly stated in the Contract(s), nothing in this invitation and/or the Contract(s) shall confer or purport to confer on any third party any benefit or any right pursuant to the Contracts (Rights of Third Parties) Ordinance (Cap. 623) to enforce any term of the Contract(s).

Contact Person

76. For any further information, please contact Ms. Mazy Yuen at Mazy.Yuen@fdrc.org.hk or by phone (3199 5100).

Financial Dispute Resolution Centre

1 November 2019