



## **M E M O**

<i>From</i>	Secretary for Development	<i>To</i>	Distribution
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**WBTC No. 23/2000 -  
Computer Facilities in Consultancy Agreements;**

**WBTC No. 17/2001 -  
Electronic Dissemination of Invitation Documents for Consultancies;**

**WBTC No. 31/2001 -  
Electronic Submission of Consultancy Proposals on Removable Media;**

**ETWB TC(W) No. 26/2003 -  
Post-completion Review on Major Consultancy Agreements  
and Major Works Contracts under Public Works Programme;**

**ETWB TC(W) No. 30/2004 -  
Consultancy Agreements – Retention of Documents and Inspection;**

**ETWB TC(W) No. 34/2004 -  
Retention of Money Payable to Non-resident Consultants  
for Settlement of Profits Tax in Consultancy Agreements; and**

**ETWB TC(W) No. 3/2005 -  
Novation of Consultancy Agreements**

**Subsumption under AACSB and EACSB Handbooks**

\_\_\_\_\_ We enclose the summary of minor updates for subsumption of the subject technical circulars under AACSB and EACSB Handbooks for your information please.

2. Part of ETWB TC(W) No. 42/2002 “Feedback and Debriefing to Unsuccessful Bidders for Consultancy Agreements and Works Contracts” related to consultant selection exercises have also been subsumed under AACSB and EACSB Handbooks.

3. This memo takes effect on AACSB/EACSB consultancy agreements with Technical and Fee Proposals to be invited on or after 11 February 2019.
4. Secretaries of AACSB and EACSB are requested to update the AACSB and EACSB Handbooks accordingly.
5. Please bring this memo to the attention of all project officers who are responsible for management of consultancy agreements.
6. If you have any enquiry on the subject issue, please contact our Mr. Benjamin K. H. CHAN (Tel: 3509 8381 or email: [benjaminkhchan@devb.gov.hk](mailto:benjaminkhchan@devb.gov.hk)).

( Hortensia CHAN )  
for Secretary for Development

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**Review of Technical Circulars (Works) (TCWs) in relation to Consultancy Services**  
**Summary of Minor Updates and Subsumption of Existing TCWs into AACSB/EACSB Handbook(s)**

Index	TCW No.	TCW Title	TCW Updates Required	Recommendation / Remarks	Reason for TCW Update	Relevant Section of Original TCW to be Updated (Key updates highlighted in red in below column)	Relevant Section of AACSB/EACSB Handbook to be Updated for Subsumption of TCW
1	23/2000	Computer Facilities in Consultancy Agreements	Y	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	<p>(i) Procurement of Agreement Computing Services (ACS) via consultancy agreements is not common and other practical ways to procure relevant computing services, e.g. through OGCI standing order agreement, are available. Therefore, procurement of ACS via consultancy agreements is no longer required.</p> <p>(ii) General computer items covered by lump sum in consultancy agreements should be updated.</p>	<p>Paragraph 18 to be amended as follow:-</p> <p>“Except to the extent otherwise provided for in consultancy agreements, consultants should be responsible for the cost of all computing facilities required by them for fulfilling the obligations under consultancy agreements. These facilities shall include :</p> <p>(a) office automation facilities commonly used by secretarial, clerical, administrative, <b>technical</b> or professional staff for the office functions;</p> <p>(b) technical computing facilities used by professional and technical staff for computer-aided drafting, computer-aided design and geographical information systems, or other professional systems <b>(such as, but not limited to, Electronic Document Management System, Building Information Modelling, Project Management System) as the case may be;</b> and</p> <p>(c) IT training for staff employed by consultants.”</p>	<p>AACSB Handbook Update:</p> <p>(i) Section 5.9 (a)(iv);</p> <p>(ii) Appendix 5.2;</p> <p>(iii) Appendix 9 Clause 20.1</p> <p>(iv) Appendix 10 Clause 4 (A)(iv); and</p> <p>(v) Appendix 34 Annex 3 Attachment XIII Part II item 2.</p> <p>EACSB Handbook Update:</p> <p>(i) Section 4.12.;</p> <p>(ii) Appendix 4.3 amended and new Annex D to Appendix 4.3; and</p> <p>(iii) Non-staff charges items including computer facility removed in Appendix 3.13 Item D2.</p>
2	17/2001	Electronic Dissemination of Invitation Documents for Consultancies	Y	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	<p>(i) Update latest compatible file formats for electronic dissemination;</p>	<p>Paragraph 9 of Annex 1:-</p> <p><b>Amend table under paragraph 9 as follows:</b></p> <p><b>(i) Replace “Adobe Acrobat” by “Portable Documents Format (PDF)”;</b></p> <p><b>(ii) Delete “Rick Text Format”;</b></p> <p><b>(iii) Replace “Word 97” by “Word”;</b></p> <p><b>(iv) Replace “Excel 97” by “Excel”;</b></p> <p><b>(v) Add “Building Information Modeling (BIM)”;</b></p> <p><b>(vi) Replace editable file type of drawings to “Procurement Department to define and insert”;</b></p> <p><b>(vii) Add the following paragraph under the table: -</b></p> <p><b>“The data formats and associated versions of documents/files to be adopted in the EIP’s should adhere to the latest OGCI Interoperability Framework which</b></p>	<p>AACSB Handbook Update:</p> <p>(i) Annex E of Appendix 8.3.</p> <p>EACSB Handbook Update:</p> <p>(i) Section 4.18;</p> <p>(ii) New Appendix to Section 4.18</p>

Index	TCW No.	TCW Title	TCW Updates Required	Recommendation / Remarks	Reason for TCW Update	Relevant Section of Original TCW to be Updated (Key updates highlighted in <b>red</b> in below column)	Relevant Section of AACSB/EACSB Handbook to be Updated for Subsumption of TCW
						can be downloaded from the OGCIO website:  <a href="https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html">https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html</a>	
					(ii) Add DVD-ROM as a mean for dispatch of documents; and	Paragraphs 10, 12and 16(b) of Annex 1:-  Add “/DVD-ROM” after “CD-ROM” and add “/DVD” after “CD”.	
					(iii) Rename ITSD to OGCIO.	Paragraphs 13(b) and 14 of Annex 1:-  Replace “ITSD” by “OGCIO”.	
					(iv) Add reference for recognized digital signature certificate	Add new paragraph 15A as follows:  “The list of recognized certificates is available at OGCIO’s website:  <a href="http://www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs">www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs</a> ”	
3	31/2001	Electronic Submission of Consultancy Proposals on Removable Media	Y	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	(i) Update latest compatible file formats for electronic submission;	Paragraph 8(a) of Appendix 1:-  Amend table under paragraph 8(a) as follows:  (i) Replace “Adobe Acrobat” by “Portable Documents Format (PDF)”; (ii) Delete “Rick Text Format”; (iii) Replace “Word 97” by “Word”; (iv) Replace “Excel 97” by “Excel”; (v) Add “Building Information Modeling (BIM)”; (vi) Replace editable file type of drawings to “(Procurement Department to define and insert)” (vii) Add the following paragraph under the table: -  “The data formats and associated versions of documents/files to be adopted in the EPP should adhere to the latest OGCIO Interoperability Framework which can be downloaded from the OGCIO website:  <a href="https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html">https://www.ogcio.gov.hk/en/our_work/infrastructure/e_government/if/interoperability_framework.html</a>	AACSB Handbook Update (i) Annex F of Appendix 8.3.  EACSB Handbook Update: (i) Section 4.19; (ii) New Appendix to Section 4.19

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					(ii) Add DVD-ROM as a mean for submission of documents;	<p>(i) Paragraph 18 of main text; paragraphs 2 to 6 of Appendix 1:- Add “/DVD-ROM” after “CD-ROM” and add “/DVD” after “CD”.</p> <p>(ii) Paragraph 2 of Appendix 1:- First sentence is replaced by “EPP shall be submitted on CD-ROM media complying with ISO 9660:1988 or DVD-ROM media to ISO 13346:1995 standards.”</p>	
					(iii) Delete the requirement for EACSB to release the ORIGINAL set of EPP on technical proposal or EOI to the Managing Department (as the ORIGINAL set of the document is to be submitted to the Managing Department direct in common practice).	<p>Paragraph 16 of main text:- Delete first sentence: “<del>The AACSB and EACSB will release the ORIGINAL set of EPP on technical proposal or EOI to the Managing Department for evaluation.</del>”</p>	
					(iv) Add reference for recognized digital signature certificate and organizational e-cert	<p>Add new paragraph 7A in Appendix 1 as follows: “The list of recognized certificates is available at OGCIO’s website: <a href="http://www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs">www.ogcio.gov.hk/en/regulation/eto/ca/rec_certs</a>”</p>	
					(v) README file of EPP submission change to doc format	Amend README.rtf to README.doc in paragraphs 2 and 13 of Appendix 1, and replace “Rich Text Format” to “Word Format” in sentence 3 of paragraph 2 in Appendix 1.	
4	42/2002	Feedback and Debriefing to Unsuccessful Bidders for	N	- Core parts of TCW have already been subsumed in AACSB and EACSB Handbooks.	N/A	N/A	N/A

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		Consultancy Agreements & Works Contracts		- Remove TCW from active list after clearance of relevant implication on administration of works contracts.			
5	26/2003	Post-completion Review on Major Consultancy Agreements and Major Works Contracts under Public Works Programme	N	- Core parts of TCW have already been subsumed in EACSB Handbook. - Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks.	N/A	N/A	AACSB Handbook Update (i) Section 11.5
6	30/2004	Consultancy Agreements - Retention of Documents and Inspection	N	- Core parts of TCW have already been subsumed in AACSB and EACSB Handbooks. - Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks.	N/A	N/A	N/A
7	34/2004	Retention of Money Payable to Non-resident Consultants for Settlement of Profits Tax in Consultancy Agreements	Y	- Core parts of TCW have already been subsumed in EACSB Handbook. - Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with some minor updates).	Update the text in accordance with the latest tier of Profit Tax.	(i) Item (3) of Appendix A is replaced as follow:  <b>(3) Calculation of the amount to be withheld for tax payment</b>  <b>The amount of tax withheld should be calculated on the gross fee payable (exclusive of any reimbursement of expenses, if any). Please refer to the website of the Inland Revenue Department (www.ird.gov.hk) for the details of latest profit tax rates.</b>  (ii) The first sentence of the first paragraph of Appendix B is replaced as follow:	AACSB Handbook Update: (i) Section 5.17 (ii) Annex K of Appendix 5.1 (iii) SCE 18 in Appendix 29 (iv) Annex 3 to Appendix 34  EACSB Handbook Update: (i) Appendix 4.15

Index	TCW No.	TCW Title	TCW Updates Required	Recommendation / Remarks	Reason for TCW Update	Relevant Section of Original TCW to be Updated (Key updates highlighted in red in below column)	Relevant Section of AACSB/EACSB Handbook to be Updated for Subsumption of TCW
						<p>“Please note that where the Consultants are non-resident corporation or, where the Consultants are unincorporated joint venture or partnership or sole proprietorship, any one of the participants or partners or the sole proprietor is a non-resident, the Government shall withhold a percentage equivalent to the prevailing Hong Kong Special Administrative Region (hereinafter referred to as Hong Kong) profits tax rate applicable to unincorporated and incorporated business at the time the services are rendered (For the details of the current profits tax rates, please refer to the website of the Inland Revenue Department <a href="http://www.ird.gov.hk">www.ird.gov.hk</a>.) of any fee payable to the Consultants, whether by way of lump sum, instalments or discounted payments, but exclusive of any reimbursement of expenses, if any, in respect of the Services performed/provided in Hong Kong for the settlement of Hong Kong profits tax chargeable on the fee. ...”</p>	
8	3/2005	Novation of Consultancy Agreement	Yes	- Remove TCW from active list with subsumption of TCW into AACSB and EACSB Handbooks (together with general update).	Revise signature format for execution of agreement in accordance with the latest Company Ordinance	Revise signature formats of Novation Agreement in Appendices A, B and C.	<p>AACSB Handbook update:</p> <p>(i) Revise Section 9.5</p> <p>(ii) New appendix 21.3</p> <p>EACSB Handbook update:</p> <p>(i) Revise Section 9.5</p> <p>(ii) New appendix to Section 9.5</p>





**Ref. : 1/2/5**

**Group : 6, 17**

**7 August 2001**

**Works Bureau Technical Circular No. 17/2001**

**Electronic Dissemination of Invitation Documents for Consultancies**

**Scope**

1. This circular promulgates the procedures for the electronic dissemination of documents issued for inviting Expressions of Interest (EOI), and Technical and Fee Proposals for consultancies under the purview of the Architectural and Associated Consultants Selection Board (AACSB), and Engineering and Associated Consultants Selection Board (EACSB).
2. This circular does NOT apply to consultancy services procured in accordance with Chapter II of the Stores and Procurement Regulations (SPR).

**Effective Date**

3. This circular takes effect on 17 September 2001.

**Effects on Existing Circulars**

4. This circular has no effect on other circulars.

**Related Circulars**

5. This circular is not related to any other technical circulars but should be read in conjunction with-
  - (a) the Handbook on Selection, Appointment and Administration of Architectural and Associated Consultants published by the AACSB, ("AACSB Handbook"); and
  - (b) the Handbook on Selection, Appointment and Administration of Engineering and Associated Consultants published by the EACSB, ("EACSB Handbook").
6. If there are discrepancies between the provisions of this circular and those of the AACSB and EACSB Handbooks, the former should prevail.

## Definitions

7. In this circular, unless the context otherwise requires-
- (a) "Addendum" means a set of Invitation Documents that amends a previous set of Invitation Documents;
  - (b) "Digital Signature" means a digital signature as defined in section 2 of the Electronic Transactions Ordinance satisfying the requirements stipulated in section 6 of that Ordinance. "Digitally Sign" should be interpreted accordingly;
  - (c) "Electronic Invitation Package" (or "EIP") means a collection of electronic files containing-
    - (i) the Invitation Documents issued for an Invitation; or
    - (ii) the Invitation Documents issued for an Addendum;
  - (d) "Invitation" means an invitation for-
    - (i) EOI's issued in accordance with the EACSB Handbook;
    - (ii) Technical and Fee Proposals issued in accordance with the AACSB or EACSB Handbook;
  - (e) "Invited Consultant" means a consultant included in the longlist for EOI or the shortlist for Technical and Fee Proposals;
  - (f) "Invitation Document" means-
    - (i) a document issued in accordance with the EACSB Handbook to the Invited Consultants for preparing EOI's;
    - (ii) a document issued in accordance with the AACSB or EACSB Handbook to the Invited Consultants for preparing Technical and Fee Proposals;
    - (iii) a revised version of the document in (i) or (ii);
    - (iv) a covering letter issuing an Invitation;
    - (v) a covering letter issuing an Addendum; or
    - (vi) a document containing the supporting information for using the electronic versions of the documents in (i) to (v), in particular the settings for viewing, editing, and printing;
  - (g) "Managing Department" means the department responsible for managing a consultancy under the purview of the AACSB or EACSB.

## Background

8. E-procurement is one of Government's major initiatives for bolstering the competitiveness of our economy. Having made significant progress in the electronic tendering of public works contracts, Works Bureau decides to embark on the e-procurement of consultancies under the purview of the AACSB and EACSB.
9. The scheme will bring several benefits to the Government and the consulting industry. Firstly, it will streamline the exchange of documents in the consultant selection process. Secondly, submissions in electronic format will save the cost of preparing bulky documents in hard copies. Thirdly, consultants may use new IT techniques in presenting their ideas thus helping the industry to become more innovative.
10. To bring e-procurement of consultancy services to fruition, Works Bureau formed a Working Group on E-procurement of Consultancy Services. The working group recommends implementing e-procurement in three phases. The first phase is the electronic dissemination of Invitation Documents. The second phase is the electronic submission of EOI's, and Technical and Fee Proposals on removable media. The final phase is the making of these submissions through the Internet.
11. This circular promulgates the procedures for electronic dissemination of Invitation Documents. The procedures for electronic submission will be promulgated under separate circulars.

## Policy

12. The Managing Department for a consultancy should issue the Invitation Documents to the Invited Consultants in electronic format on EIP's prepared and dispatched in accordance with the manner and format in Annex 1.
13. An EIP should be issued for-
  - (a) an Invitations for EOI's, or Technical and Fee Proposals; or
  - (b) an Addendum amending the Invitation Documents previously issued.
14. The hard copies of the covering letters issuing Invitations and Addenda (EXCLUDING any enclosures) should also be sent to the Invited Consultants through normal mail. The existing practice of signing hard copies of these letters should continue.
15. A consultant who encounters problems in using an EIP may request the Managing Department to provide print-outs of the EIP contents. The Managing Departments should prepare the requested print-outs using the Image Files defined in paragraph 7(b) of Annex 1 for collection by the consultant.

## **Enquiries**

16. Enquiries on this circular may be made to Computer Services Unit of Works Bureau at fax no. 2905 1181 or e-mail address [csu@wb.gov.hk](mailto:csu@wb.gov.hk).

**(M. J. Byrne)**  
**Deputy Secretary (Works Policy)**

Subsumed

## **Annex 1 - Electronic Invitation Package**

### **Purpose**

1. This annex defines the manner and format for preparing and dispatching EIP's.

### **Contents**

2. The EIP for an Invitation should include the electronic documents containing-
  - (a) the covering letter for the Invitation;
  - (b) the documents issued in accordance with the AACSB or EACSB Handbook for the Invitation;
  - (c) the supporting information for using the documents in the EIP, in particular the settings for viewing, editing, and printing.
3. The EIP for an Addendum should include the electronic documents containing-
  - (a) the covering letter for the Addendum;
  - (b) the revised Invitation Documents issued with the Addendum; and
  - (c) the supporting information for using the documents in the EIP, in particular the settings for viewing, editing, and printing.
4. EIP's should not contain contents subject to the copyrights of non-government organizations.

### **Reference**

5. Each EIP should be identified by a unique reference number consisting of the following fields-
  - (a) Standard prefix - which consists of the letters "EIP";
  - (b) Agreement number - which is the agreement number assigned by the selection boards for the consultancy;
  - (c) Stage of consultant selection - which is one of the following abbreviations-
    - (i) "EOI" for Expression of Interest; and
    - (ii) "T&F" for Technical and Fee Proposals;
  - (d) Serial number - which is to be assigned as follows-
    - (i) EIP for an Invitation - 0; and

- (ii) EIP for an addendum - sequence number of the addendum

6. The following examples illustrate the conventions in paragraph 5 above-

Description	EIP Reference
EIP issued with the invitation for Expression of Interest for Agreement No. CE 30/2001	EIP-CE 30/2001-EOI-0
EIP issued with 2 <sup>nd</sup> Addendum amending the documents issued for inviting Expression of Interest for Agreement No. CE 30/2001	EIP-CE 30/2001-EOI-2
EIP issued with the invitation for Technical and Fee Proposals for Agreement No. CE 30/2001	EIP-CE 30/2001-T&F-0
EIP issued with 1 <sup>st</sup> Addendum amending the documents issued for inviting Technical and Fee Proposals for Agreement No. CE 30/2001	EIP-CE 30/2001-T&F-1

### File Types

7. The contents of each document in an EIP should be hosted in two files-
- (a) Editable File – which is in file formats that are editable by mainstream computer applications for office automation and computer-aided drafting; and
  - (b) Image File – which is in file formats that capture the printed image of the document.
8. Editable Files facilitate data re-use in preparing consultancy submissions. Image Files are not editable. However, they are less susceptible than Editable Files to loss of fidelity in data exchange and will therefore be useful references if there are doubts on the proper settings for viewing, editing, and printing Editable Files.

### File Formats

9. The data formats for the various types of documents in EIP's should be as follows-

Type of File	Editable File	Image File
Text documents	Rich Text Format Word 97 Excel 97 (for tabular information)	Adobe Acrobat
Scanned text documents	Not applicable	TIFF Adobe Acrobat
Drawings	Microstation AutoCAD Document Exchange Format (DXF) Initial Graphic Exchange Standard (IGES)	Adobe Acrobat
Scanned drawings	Not applicable	TIFF Adobe Acrobat

### Dispatch of EIP's

10. EIP's should be dispatched to the Invited Consultants as follows-

Stage	Total file size of EIP	Mode of dispatch
Expression of Interest	Not exceeding 4MB	Internet e-mail to e-mail addresses of consultants
	Exceeding 4MB	CD-ROM's enclosed with covering letters issuing Invitations or Addenda
Technical and Fee Proposals	All sizes	CD-ROM's enclosed with covering letters issuing Invitations or Addenda. (See paragraph 13 below on the use of Internet e-mail.)

11. SPR 420(a) provides that all communications regarding the selection of consultants, from the time a shortlist is proposed until an agreement is executed, must be classified as RESTRICTED (CONTRACT). This classification should therefore apply to EIP's issued for Technical and Fee Proposals. The RESTRICTED classification does not, however, apply to EIP's issued for EOI's because the shortlist will not be proposed until the completion of the EOI exercise.
12. As EIP's issued for Technical and Fee Proposals are RESTRICTED, the EIP files should be named in accordance with Security Regulations (SR) 373. Furthermore, CD-ROM's hosting these EIP's should be transmitted in enclosures that complies with the requirements of SR 213(d).

13. If they so wish, Managing Departments may also dispatch an EIP for Technical and Fee Proposals through Internet e-mail under the following conditions-
- (a) The total size of the package does not exceed 4MB;
  - (b) The EIP is dispatched in accordance with SR 368 using an e-mail system approved by ITSD in accordance with SR 369;
  - (c) ALL shortlisted consultants elected to use Internet e-mail; AND
  - (d) ALL shortlisted consultants can supply digital certificates that may be used with the Managing Departments' e-mail systems for sending RESTRICTED documents.
14. Managing Departments that intend to use Internet e-mail should seek ITSD's advice on the matters mentioned in paragraphs 13(b) and 13(d).

### **Digital signature**

15. For the purpose of authentication, all files in an EIP should be Digitally Signed by the officer who signs the hard copies of the covering letters issuing Invitations or Addenda.

### **Licence conditions**

16. The use of EIP's should be subject to the licence conditions in Annex 2. Managing Departments should issue the licence conditions together with EIP's as follows-
- (a) EIP's issued through e-mail
    - (i) The soft copy of the licence conditions should be attached to the e-mail message;
    - (ii) The following words should be included in the message text-

*"The electronic documents for preparing your submission are attached to this message and are listed in Schedule 2 to the attached file [insert file name of the document containing the licence conditions] containing the licence conditions for using these documents. You will be deemed to have accepted these conditions if you use the documents listed in Schedule 2."*
  - (b) EIP's issued on CD-ROM
    - (i) The hard copy of the licence conditions should be attached to the covering letter issuing Invitations or Addenda;
    - (ii) The soft copy of the licence conditions should be included in the CD-ROM;



- (iii) The following words should be added to the covering letter-

*"The electronic documents for preparing your submission are included in the attached CD-ROM and are listed in Schedule 2 to the attached licence conditions for using these documents. You will be deemed to have accepted these conditions if you use the documents listed in Schedule 2."*

Subsumed

**Annex 2 - Licence Conditions**  
**for Electronic Invitation Packages**

<b>EIP Reference<sup>1</sup></b>	
<b>Issue Date<sup>2</sup></b>	
<b>Addendum No.<sup>3</sup></b>	

1. This set of conditions may be cited as "Licence Conditions for Electronic Invitation Packages".
2. In these conditions, unless the context otherwise requires-
  - (a) "EACSB Handbook" means the Handbook on Selection, Appointment and Administration of Engineering and Associated Consultants published by the Engineering and Associated Consultant Selection Board;
  - (b) "Editable File" means a file listed under the column "Editable File" in Schedule 2 hereto containing the editable version of the Invitation Document listed on the same row under the column "Invitation Document". "Editable" in the previous sentence means editable using mainstream computer applications for office automation and computer-aided drafting;
  - (c) "Electronic Invitation Package" (or "EIP") means the electronic files in Schedule 2 hereto;
  - (d) "Employer" means the Government of the Hong Kong Special Administrative Region;
  - (e) "Image File" means a file listed under the column "Image File" in Schedule 2 hereto containing the printed image of the Invitation Document listed on the same row under the column "Invitation Document";
  - (f) "Invitation" means the invitation in Schedule 1 hereto;
  - (g) "Invitation Document" means a document listed under the column "Invitation Document" in Schedule 2 hereto;
  - (h) "Licensee" means the person who uses the EIP and includes, if the person acts on behalf of another person, that other person;

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<sup>1</sup> To be assigned by the Managing Department in accordance with paragraph 5 of Annex 1.

<sup>2</sup> Insert date of covering letter.

<sup>3</sup> This row should be deleted if inappropriate.

- (i) "Relevant File" means an electronic file that-
  - (i) is derived from duplication of any files in the EIP; or
  - (ii) contains any contents extracted from any files in the EIP;
- (j) "Submission" means a submission that may be made by the Licensee in response to the Invitation;
- (k) "Submission Closing Date" means the closing date for the Submission stipulated in Schedule 1 hereto;
- (l) "Triggering Event" means one of the following events-
  - (i) The Licensee does not make a Submission by the Submission Closing Date;
  - (ii) The Licensee withdraws his Submission;
  - (iii) The Licensee receives a written notice from the Employer advising that-
    - (1) he is not included in the list of consultants to be invited to submit Technical and Fee Proposals in accordance with the EACSB Handbook; or
    - (2) he is not selected as consultant for the consultancy agreement in Schedule 1 hereto.
- 3. Words importing the singular only also include the plural and vice versa where the context requires. Words importing one gender (whether masculine, feminine or neuter) shall be taken to include any other gender where the context requires.
- 4. Subject to the provisions hereof, the Employer grants the Licensee, free of charge, a non-exclusive and revocable licence for using the EIP solely for the purpose of preparing the Submission. The Licensee shall not use the EIP for any other purpose. Save as aforesaid, all other rights in the EIP are reserved by the Employer.
- 5. Insofar as it is necessary for the purpose of preparing the Submission by the Licensee, the Licensee may license its agents, consultants or other persons appointed by him as sub-licensees to use the EIP, subject to the following conditions-
  - (a) The Licensee shall obtain from each sub-licensee an undertaking in writing that the sub-licensee shall not use the EIP for any purpose other than for the purpose of preparing the Submission;
  - (b) The Licensee shall be liable to the Employer for the breach of the undertaking referred to in sub-clause (a) of this Clause by the sub-licensees as if the breach were committed by the Licensee; and
  - (c) The Licensee shall not grant any sub-licensee the right to license other parties to use the EIP.

6. The licence for using the EIP shall expire within seven working days of the occurrence of a Triggering Event. On or before the expiration date of the licence, the Licensee shall-
  - (a) either destroy the Relevant Files in his possession or retain them as archives; and
  - (b) ensure that all sub-licensees have either destroyed the Relevant Files in their possession or retained these files for archive purpose.
7. Any files kept as archives pursuant to Clause 6 shall not be used for any other purposes.
8. The contents of the Editable File and Image File of an Invitation Document are intended to be identical. If there are discrepancies, the Image File shall prevail.
9. The Licensee hereby indemnifies the Employer against all losses, liabilities, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Employer whether direct or consequential arising from a breach or breaches of any of the conditions herein contained.

Subsumed

**Schedule 1 - Invitation**<sup>4</sup>

Agreement No.	
Agreement Title	
Department	
Type of submission <sup>5</sup>	
Submission Closing Date	

Subsumed

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<sup>4</sup> To be completed by department

<sup>5</sup> Expression of Interest or Technical and Fee Proposal

## **Schedule 2 – Electronic Invitation Package<sup>6</sup>**

<b>Invitation Document</b>	<b>Version No.<sup>7</sup></b>	<b>Image File<sup>8</sup></b>	<b>Editable File<sup>8</sup></b>

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Subsumed

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<sup>6</sup> To be completed by the Managing Department.

<sup>7</sup> Number for identifying the version of an Invitation Document

<sup>8</sup> Insert file name.