

Annex [I] to the Invitation Letter

Retention of Money Payable to Non-resident Consultant for Settlement of Profits Tax

- (1) Please note that where the *Consultant* is non-resident corporation or, where the *Consultant* is 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 www.ird.gov.hk.) of any amount payable to the *Consultant*, 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. Any balance representing the excess of prices so withheld in the basis period of the year of assessment over the *Consultant's* tax liability for that year will be returned to the *Consultant* without interest within a reasonable time upon final determination and settlement of their tax liabilities.
- (2) Where the *Consultant* is non-resident corporation or, where the *Consultant* is unincorporated joint venture or partnership or sole proprietorship, any one of the participants or partners or the sole proprietor is a non-resident, should he be awarded this contract, such data (including but not limited to their names, nature of engagement, contract period, prices and rates, correspondence address (both local and overseas) and the amount of tax withheld) will be notified/provided to the Inland Revenue Department for tax assessment and collection purposes.
- (3) "Non-resident" means in the case of an individual, one who maintains a place of abode outside Hong Kong; and in the case of a corporation, one which is not incorporated in Hong Kong.
- (4) The *Consultant* shall declare its resident status in their Technical Proposal. If the *Consultant* are an unincorporated joint venture or a partnership, it must declare the resident status of each and every participant or partner thereof. A sample declaration letter is attached at the Appendix to this Annex.

Appendix to Annex [I] to the Invitation Letter

Sample Declaration Letter

[note to project office: Insert Agreement No. & Title]

To: The Government of the HKSAR

¹ We declare that we are Hong Kong Resident / Non-resident *[note to project office: Delete where inappropriate]* having regard to the definition of “Non-resident” in **Annex [I]** to the Invitation Letter for consultancy proposal in respect of the Project.

Or

² We declare that our sole proprietor is a Hong Kong Resident / Non-resident *[note to project office: Delete where inappropriate]* having regard to the definition of “Non-resident” in **Annex [I]** to the Invitation Letter for consultancy proposal in respect of the Project.

Or

³ We declare that the participants / partners of the unincorporated joint venture / partnership are all Hong Kong Residents having regard to the definition of “Non-resident” in **Annex [I]** to the Invitation Letter for consultancy proposal in respect of the Project.

Or

¹ For use where the Consultant is an incorporated company

² For use where the Consultant is sole proprietorship

³ For use where the Consultant is an unincorporated joint venture or partnership and all the participants / partners are Hong Kong Residents

⁴ We declare that the following participants / partners in the Consultants' unincorporated joint venture / partnership are Non-resident(s) having regard to the definition of **Annex [I]** to the Invitation Letter for consultancy proposal in respect of the Project, and the rest of the participants / partners are Hong Kong Residents:

- 1.
- 2.
- 3.

Name of Consultant: _____

Signature of Person authorised to sign the Proposal: _____

Name in block letters: _____

Telephone number: _____

Date: _____

⁴ For use where the Consultant is an unincorporated joint venture or partnership and some but not all the participants / partners are Hong Kong Residents