

Pilot Manufacturing And Production Line Upgrade Support Scheme

Model Clauses in Probity and Non-Collusive Quotation/Tendering Certificate

(for Submission by Bidder/Tenderer to Applicants)

Notes:

- (1) *The appropriate wording to be used in the Certificate will depend on the specific project and quotation/tender, and that the wording set out below is intended to act as a general reference only.*
- (2) *This Certificate should be **addressed to the applicants** (showing its full name as shown on the Business Registration Certificate/Certificate of Incorporation) and include the **signature of a person authorised to sign the relevant contract on behalf of the bidder/tenderer, together with his/her name and position and the date of signing clearly shown at the end of this Certificate.***

Probity and Non-Collusive Quotation/Tendering Certificate for

_____ (the “Project”)

(Project Title)

1. We,

_____ *(name of bidder/tenderer, which should be the same as that shown in the quotation/tender)*

Of

_____ *(address of bidder/tenderer, which should be the same as that shown in the quotation/tender)*

refer to the quotation/tender for the Project (the “Quotation/Tender”) and our bid in relation to the Quotation/Tender.

Probity

2. We represent and warrant that in relation to the Quotation/Tender:
 - (a) we shall not, and shall procure that our directors, employees, agents and subcontractors shall not, offer, solicit or accept an advantage as defined in the Prevention of Bribery Ordinance (Cap. 201), in connection with the quotation/tendering and execution of the contract for the Project; and
 - (b) failure to so procure or any act of offering, soliciting or accepting advantage referred to in paragraph 2(a) above committed by us or by a director, employee, agent or subcontractor of us shall, without affecting our liability for such failure and act, result in our bid being invalidated.

Non-collusion

3. We represent and warrant that in relation to the Quotation/Tender:
 - (a) Our bid was developed genuinely, independently and made with the intention to accept the contract for the Project if awarded;

- (b) Our bid was not prepared with any agreement, arrangement, communication, understanding, promise or undertaking with any person (including any other bidder/tenderer or competitor) regarding:
 - (i) prices;
 - (ii) methods, factors or formulas used to calculate prices;
 - (iii) an intention or decision to submit, or not submit, a bid;
 - (iv) an intention or decision to withdraw a bid;
 - (v) the submission of a bid that does not conform with the requirements of the quotation/tender;
 - (vi) the quality, quantity, specifications or delivery particulars of the products or services to which this quotation/tender relates; and
 - (vii) the terms of the bid,

and we undertake that we will not, prior to the award of the contract for the Project, enter into or engage in any of the foregoing.

4. Paragraph 3(b) of this certificate shall not apply to agreements, arrangements, communications, understandings, promises or undertakings with:

- (a) _____ (the“Applicant”);
(name of applicant)
- (b) a joint venture partner, where joint venture arrangements relevant to the bid exist and which are notified to the Applicant;
- (c) consultants or sub-contractors, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular consultancy arrangement or sub-contract;
- (d) professional advisers, provided that the communications are held in strict confidence and limited to the information required for the adviser to render their professional advice in relation to the Quotation/Tender;
- (e) insurers or brokers for the purpose of obtaining an insurance quote, provided that the communications are held in strict confidence and limited to the information required to facilitate that particular insurance arrangement; and
- (f) banks for the purpose of obtaining financing for the Project, provided that the communications are held in strict confidence and limited to the information required to facilitate that financing.

Disclosure of subcontracting and beneficial ownership

5. We understand that we are required to disclose all intended sub-contracting arrangements relating to the Quotation/Tender to the Applicant, including those which are entered into after the contract for the Project is awarded. We warrant that we have duly disclosed and will continue to disclose such arrangements to the Applicant.

6. We understand that we are required to disclose our beneficial ownership to the Applicant. Please enter “✓” in the appropriate box)
 - (For a company other than a listed company or exempted company¹) We will disclose the significant controllers register, as defined in the Companies Ordinance, Cap. 622.

 - (For a sole proprietorship or partnership) We will disclose details of our beneficial owner(s) (if any), including their name and the nature of their control over the firm;

 - (For listed company) We are a listed company in Hong Kong and our corporate ownership has already been disclosed in the public domain.

7. We understand that the Applicant may request us to disclose further details regarding our shareholders or parent companies, or any other related, associated or controlling entities, to the Applicant. We agree to disclose such details to the Applicant if so requested, subject to such requests being reasonable in the circumstances.

Consequences of breach or non-compliance

8. We understand that in the event of any breach or non-compliance with any warranties or undertakings in this certificate, the Applicant may, at its discretion, invalidate our bid, exclude us in future quotations/tenders, pursue damages or other forms of redress from us (including but not limited to damages for delay, costs and expenses of re-quotation/re-tendering and other costs incurred), and/or (in the event that we are awarded the contract for the Project) terminate the contract.

9. Under the Competition Ordinance, bid-rigging is serious anti-competitive conduct. We understand that the Applicant may, at its discretion, report all suspected instances of bid rigging to the Competition Commission (the “Commission”) and provide the Commission with any relevant information, including but not limited to information on our bid and our personal information.

1. An exempted company is one which is not required to keep a register of its significant controllers (see further sections 653A (definition of "applicable company") and 653H of the Companies Ordinance.)

Disclosure of information

10. We understand that our bid will be used by the Applicant to apply for funding support under the Pilot Manufacturing And Production Line Upgrade Support Scheme (“Manufacturing+”) administered by the Innovation and Technology Commission (“ITC”) of the HKSAR Government. By submitting our bid, we consent to the disclosure and use by the Applicant to ITC and further disclosure by ITC to other Government bureaux/departments, statutory bodies or third parties of the information (including personal data) contained in our bid for the purposes of processing the Manufacturing+ application, conducting research and survey, compiling statistics, meeting requirements of the law and/or performing their functions, and if the application is approved, monitoring the Project, disbursing funding or related purposes.

Bidder/Tenderer:

(Signature)

(Name of authorised person)

(Post Title)

(Date)

(Company Chop)