

Invitation Brief

Provision of Intermediary Services for the Social Innovation and Entrepreneurship Development Fund

Issued by : **The Trustee of the Social Innovation and Entrepreneurship
Development Fund**

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ABBREVIATIONS

CoP	Commission on Poverty
IAC	Intermediary Assessment Committee
NGOs	Non-governmental Organisations
SIE Fund	Social Innovation and Entrepreneurship Development Fund
SIIs	Social Innovation Implementers
TF	Social Innovation and Entrepreneurship Development Fund Task Force

INTRODUCTION AND OVERVIEW

Purpose

The Trustee of the Social Innovation and Entrepreneurship Development Fund (SIE Fund)¹ invites interested parties to submit proposals to act as Intermediaries to run/operate programmes on Capacity Building and/or Innovative Programmes as described in paragraphs 8.2 to 8.6 using the SIE Fund to support poverty relief in Hong Kong.

1.2 This document sets out the tasks to be performed by the parties that are selected as Intermediaries to run/operate programmes, the eligibility and submission requirements, the assessment process and criteria to be used in the selection of Intermediaries and the engagement terms.

Number of Intermediaries To Be Engaged in This Invitation

2.1 In view that the concept of social innovation space is rather new and is gradually evolving in Hong Kong, the Trustee intends to disburse the SIE Fund in batches to give room for learning and experimenting with different operating models that well suit the local situation in addressing or alleviating poverty.

2.2 While there is no pre-defined number of Intermediaries to be engaged, it is expected that in this first batch of invitation, up to a total of \$100 million will be provided for engaging no more than 10 Intermediaries to support and nurture social innovation as a poverty relief initiative. For Innovative Programmes, it is expected that the size of the funding scheme(s) administered by an Intermediary is typically no more than \$10 million (including the lump sum fixed service fee (see paragraph 10.10)) over a 3-year engagement period. However, this should be treated as reference only.

2.3 The actual funding size and engagement period per Intermediary, the total number of Intermediaries to be engaged and the total amount of the SIE Fund to be disbursed in this first batch will be subject to further refinement having regard to the details of the proposals submitted in this invitation.

¹ A Trust with the Secretary for Home Affairs Incorporated as the Trustee to hold the SIE Fund has been set up.

Background

3.1 In the complex and developed society of Hong Kong, the causes by which individuals or families are caught in poverty or deprivation are diverse. In looking to build pathways through which families or individuals can find opportunity to return from poverty, and to a more effective participation in and contribution to the life of the community, the HKSAR Government considers that diverse approaches should be taken. As well as using conventional measures such as stepping up provision of public housing, development of the social security system and providing subventions for welfare services, it seems sensible to encourage experiment with new ideas for tackling poverty or deprivation, to help discover interventions that are more effective in addressing complex needs. A number of efforts are already being made locally – informed by extensive activities elsewhere in the world – to bring entrepreneurial skills into play to create new services to meet social needs or to give support and encouragement to innovative and entrepreneurially minded individuals among the different sections of the community to create businesses that support the underprivileged and meet the needs of their neighbours.

3.2 In September 2013, as part of the initiatives under the Commission on Poverty (CoP), the HKSAR Government launched a \$500 million SIE Fund intended to help tackle poverty and social exclusion in Hong Kong through nurturing of social innovation and entrepreneurship. The Social Innovation and Entrepreneurship Development Fund Task Force (TF) was established under the CoP to oversee the development and monitor the progress of the SIE Fund. A Trust has been set up with the Secretary for Home Affairs Incorporated as the Trustee to hold the SIE Fund.

Social Innovation – an Overview

4.1 The idea of social innovation – applying advances in knowledge, products and services to create greater social value and meet changing social needs – has attracted a variety of interested parties in Hong Kong, among them entrepreneurs, impact investors, philanthropists, academic institutions and non-governmental organisations (NGOs). A number have started to implement innovative projects that are targeted at addressing social issues in general and poverty in particular. There are also many activities organised to promote social innovation such as competitions and education programmes. These efforts

have started to shape an environment conducive to nurturing social entrepreneurs². A summary of the emerging social innovation and entrepreneurship space is provided at **Appendix 1**.

4.2 Social innovation is not limited to the development of ideas that help address poverty and deprivation but there can be a wide overlap. Initiatives that help tackle some other areas of social needs but in the process create new employment and increase the diversity of economic opportunity in the community can contribute to poverty reduction. When considering how to apply the SIE Fund, the HKSAR Government and the TF share the view that a narrow definition of poverty alleviation should not be adopted.

Objectives of the SIE Fund

5.1 The objectives of the SIE Fund are:

“To establish or support schemes and experiments with a view to attracting, inspiring or nurturing social entrepreneurship to develop innovations that aim at creating social impact and build social capital for supporting poverty relief in Hong Kong”

5.2 In administering the SIE Fund, the TF will be guided by the following principles:

- (a) the focus of the SIE Fund will be on fostering innovation to alleviate and prevent poverty, not creating social enterprises per se;
- (b) the scope of the SIE Fund will remain flexible to allow for learning and adaptation in light of experience;
- (c) not crowding out existing support or initiatives, particularly private sources of capital;
- (d) risk assessment and data gathering measures are required to justify use of public money but need to be designed and administered in ways that do not impose burdens and constraints that undermine the innovation that the SIE Fund aims to encourage;
- (e) the criteria and uses of the SIE Fund should not overlap with other existing public

² Social entrepreneurs are entrepreneurs with a social mission. For entrepreneurs, financial return is the key measure of success. For social entrepreneurs, financial return is an incentive or a means through which the end of introducing social change can be achieved.

funding schemes³; and

- (f) the SIE Fund will encourage cross-sector collaboration and leverage on the resources and expertise available in the community to help develop and sustain a cross-sector community within which social innovators and entrepreneurs can flourish.

Ultimate Targets

6.1 In order to achieve its objective of supporting poverty relief in Hong Kong, the SIE Fund will, among others, sponsor Social Innovation Implementers (SIIs)⁴ to deliver poverty relief projects to provide goods/services that could benefit those who are in need of assistance. The SIE Fund intends to benefit members of the public in Hong Kong who are generally residents of Hong Kong without conditions of stay and may be in need of assistance in poverty alleviation and prevention of social exclusion such as the poor elderly, people with disabilities, ethnic minorities, single parents, new arrivals, low income families, and other segments of the community in Hong Kong with limited access to education and opportunities.

Priority Areas of the SIE Fund

7.1 The SIE Fund will accord priority to programmes that will support three priority areas that contribute to the development of a broad base for social innovation and entrepreneurship, namely Research, Capacity Building and Innovative Programmes.

7.2 For Research, the objectives are to better identify areas of needs and how best to address these needs. Regarding Capacity Building and Innovative Programmes, their details are outlined in paragraphs 8.2 to 8.6

³ Examples include “Enhancing Self-Reliance Through District Partnership Programme”; “Enhancing Employment of People with Disabilities through Small Enterprise”; “Community Investment and Inclusion Fund”; “Partnership Fund for the Disadvantaged”, etc. These funds are mainly targeted at charitable institutions rather than individuals and are mostly in the form of grants, either as a one-off provision or over a few years.

⁴ SIIs are those project applicants who seek funds under the various funding schemes administered by the Intermediaries for achieving the objectives of the SIE Fund.

USE OF INTERMEDIARIES

Service Scopes of Intermediaries

8.1 Through this invitation the Trustee seeks to engage Intermediaries to run/operate programmes under the Capacity Building and/or Innovative Programmes.

Capacity Building

8.2 An Intermediary under this priority area shall:

- (a) design and administer programme(s) with a view to
 - (i) raising public awareness and understanding of social innovation and social entrepreneurship that support poverty relief in Hong Kong; and/or
 - (ii) building up an enabling environment conducive to the development of social innovation and entrepreneurship that support poverty relief in Hong Kong.

The programmes may be in the form of, but are not limited to, education programmes, competitions, mentoring and networking schemes, financial market development for social innovation projects, new business models development for social enterprises, etc.;

- (b) promote the programme(s) to the targeted segment(s)/sector(s) of the community by appropriate means; and
- (c) measure and report the outcome(s) and social impact(s) brought by the programme(s).

8.3 While the SIE Fund will pay the Intermediary a service fee covering the operating expenses of the programme in whole or in part, the Trustee may consider proposal under which fees are collected from participants in the programme organised by the Intermediary. The fees collected must be paid into the SIE Fund. The whole or part of the fees collected by the Intermediary from the participants may, at the absolute discretion of the Trustee, be retained at the end of the engagement period by the Intermediary if the amount of the fees collected from the participants is more than the amount of the service fee payable to the Intermediary.

Innovative Programmes

8.4 An Intermediary under this priority area shall:

- (a) design open, fair and transparent funding scheme(s) for the SIIs with the following features:
 - (i) open for applications by individuals, for-profit and not-for-profit organisations for poverty relief projects that aim at the ultimate targets (see paragraph 6.1)
 - (ii) support one or more of the four stages of innovation lifecycle. These four stages are (i) idea generation during which poverty relief ideas are still in the embryonic stage and need further development; (ii) prototype whereby ideas will be tested and further refined; (iii) start-up involves launching of a new business based on the idea incubated; and (iv) scale-up which focuses on expansion of an existing business to create greater social impacts that support poverty relief in Hong Kong;
- (b) administer the funding scheme(s), including the calling for submission of funding applications from potential SIIs, as well as examining, vetting and selecting/recommending funding applications; monitoring the progress of the approved projects; evaluating their performance and overseeing their compliance with the contractual agreement; and reporting the results and decisions to TF;
- (c) promote the funding scheme(s) and reach out to potential SIIs for innovative ideas
- (d) provide advice and support to SIIs during the application process, including to source capital from other private funding sources for matching purposes if necessary (see paragraph 8.5(b)), and the implementation stage; and
- (e) measure and report the outcome(s) and social impact(s) brought by the approved projects.

8.5 In designing and administering the funding schemes under the Innovative Programmes, the Intermediary should note that:

- (a) for a funding application on idea generation or prototype submitted by an SII, a grant may be granted to a SII by the SIE Fund, subject to any cap to be proposed by the Intermediary;
- (b) for a funding application on start-up or scale-up submitted by an SII, the SIE Fund will only consider a grant on a one-to-one matching basis subject to any cap to be

proposed by the Intermediary. In other words, an interested SII is required to arrange for a matching fund from either itself or other private funding sources to at least cover 50% of the total expenditure required for the poverty relief project. The matching fund from the SII can be in cash or in kind. In this connection, the Intermediary will have the responsibility to help the interested SII whose poverty relief project is considered viable and suitable for funding by the SIE Fund to source the matching fund in case the SII has difficulties to do so. The source and form of the matching fund must be subject to the prior approval of the TF;

- (c) the funding applications under (b) above will be subject to a three-tier system:
 - (i) for applications under the first tier (small amount, such amount to be determined by the TF), they could be vetted and endorsed-in-principle by the Intermediary. The Intermediary is required to submit its decision reports to the TF. The TF reserves the right to review and give directive on any endorsement made by the Intermediary. Disbursement of grants to the successful applicants will only be made after the TF has endorsed the decision reports;
 - (ii) for applications under the second tier (medium amount, such amount to be determined by the TF), they have to be vetted and endorsed by a joint vetting committee with representatives of the TF and the Intermediary; and
 - (iii) for applications under the third tier (large amount, such amount to be determined by the TF), they have to be vetted by the joint vetting committee (with representatives of the TF and the Intermediary) and endorsed by the TF.
- (d) the thresholds of the three amounts, will be applicable to all funding schemes administered by the Intermediaries, which will be stipulated in their respective Engagement Agreements.
- (e) the actual disbursement of grants to the SIIs of approved projects will be done by the Trustee; and
- (f) to prevent Intermediary shopping by interested SIIs, a funding application with substantially the same content from an applicant can only be processed by one Intermediary. In this connection, the Trustee shall have the absolute discretion to determine whether or not such application should be processed by any particular Intermediary.

8.6 An Intermediary for either one or both priority areas will be required to submit information and data of its Capacity Building programme or funding applications and projects under its Innovative Programmes to the TF from time to time. The information and data to be submitted and their format of submission will be discussed with the appointed Intermediary.

ELIGIBILITY REQUIREMENTS

9.1 Subject to paragraph 9.3, without limitation, an Intermediary can be (i) a charitable institution of a public character exempted from tax under section 88 of the Inland Revenue Ordinance (Cap 112 of the Laws of Hong Kong), (ii) a company (private or public) formed and registered under the Companies Ordinance (Cap 32 of the Laws of Hong Kong), (iii) a co-operative society registered under the Co-operative Societies Ordinance (Cap 33 of the Laws of Hong Kong), (iv) a society registered under the Societies Ordinance (Cap 151 of the Laws of Hong Kong), or (v) a statutory body established under the legislation in Hong Kong.

9.2 An application submitted by more than one contractual party is also acceptable. Where there is more than one contractual party, one of them should be authorised by the others to take up the coordination role to liaise with the Trustee in this invitation exercise. Please see paragraph 30.2 below on the capacities that the Intermediary will enter into contract with the Trustee. For a legal entity not specified in paragraph 9.1, its application will be considered on a case-by-case basis.

9.3 An Intermediary must have been duly formed, registered, established or constituted in Hong Kong under the relevant legislation on the date that it enters into contract with the Trustee. It must not be a natural person only or sole proprietor only.

9.4 For the Intermediary of Innovative Programmes, if the proposed funding schemes cover start-up and/or scale-up projects, in addition to the above requirements, the Intermediary must take up the responsibility to help the SII to source the matching fund (see paragraph 8.5(b)) if the SII so required. In this regard, an applicant must indicate in the Business Plan Proposal its agreement to take up the responsibility of sourcing matching fund. **Proposal will not be considered further if the applicant refuses to take up this responsibility.**

9.5 **Application which does not meet the eligibility requirements in paragraphs 9.1 and 9.4 will not be considered further.**

SUBMISSION OF PROPOSAL

10.1 Interested parties are invited to submit proposals for the Intermediary Services. Each applicant must submit only one proposal, either on its own, or as one of shareholders or contractual parties as referred to paragraph 30.2. **Any application by an applicant failing to comply with this requirement will not be considered further, e.g. if an interested party has submitted two proposals, one as one of the shareholders or one of the contractual parties and the other one on its own, both will not be considered further.**

10.2 A proposal can cover the priority area of Capacity Building and/or Innovative Programmes (please refer to paragraph 8.2 to 8.6 for details). For a proposal covering both Capacity Building and Innovative Programmes, it will be considered as one proposal for assessment.

10.3 A valid proposal must consist of a **Business Plan Proposal** and a **Fee Proposal**. Proposal submitted shall be valid for a minimum of six months from the Proposal Closing Date (see paragraph 10.6). Applicants are required to indicate the validity period of their proposal in the Business Plan Proposal. The Trustee may request for an extension of the validity period of the proposal.

10.4 The applicant shall submit, for each of the **Business Plan Proposal** and the **Fee Proposal**, three (3) sets of hardcopies and three (3) sets of softcopies stored in separate CD-ROMs.

10.5 Completed Business Plan Proposal and Fee Proposal must be placed in separate sealed envelopes marked “**Business Plan Proposal - Provision of Intermediary Services for the SIE Fund**” and “**Fee Proposal - Provision of Intermediary Services for the SIE Fund**” respectively and placed in a sealed plain envelope marked “**Proposal for Provision of Intermediary Services for the SIE Fund**”.

10.6 The proposals must be submitted by depositing in the collection box marked as “**Provision of Intermediary Services for the SIE Fund**” located at the Efficiency Unit, 41/F., Revenue Tower, 5 Gloucester Road, Wanchai, Hong Kong, not later than 12:00 noon on 11 April 2014 (Hong Kong Date and Time) or such other date as extended under paragraph 10.7 (“Proposal Closing Date”). **Any proposal not complying with this requirement will not be considered further.**

10.7 If a black rainstorm warning or tropical cyclone warning signal No. 8 or above is hoisted between 9:00 a.m. and 12:00 noon on the Proposal Closing Date, the deadline for submission will be extended to 12:00 noon on the following working day.

10.8 **Late submissions or proposals not complying with each of paragraphs 9.1, 9.4, 10.1 and 10.6 will not be considered further.**

10.9 The **Business Plan Proposal** is expected to contain the information as specified in **Appendix 2**.

10.10 In the **Fee Proposal**, each applicant must submit an all-inclusive lump sum fixed service fee in Hong Kong Dollars for providing all the proposed Intermediary Services covering the proposed engagement period. The all-inclusive lump sum fixed service fee quoted should include management fee of no less than \$1 in Hong Kong Dollars and the operating expenses of the programmes (including, but not limited to, those for hiring sub-contractor, if any) with cost breakdown as specified in **Appendix 3**. In the fee quoted, the applicant should have taken into account any possible inflation and all necessary expenses including without limitation air fares and hotel accommodation in Hong Kong and outside Hong Kong for any members of the Intermediary whom it intends to engage from overseas. No other expenses, costs, charges or disbursements will be reimbursed on top of the lump sum fixed service fee.

10.11 For the avoidance of doubt, the all-inclusive lump sum fixed service fee is inclusive of all fees, costs, charges and disbursements incurred by the Intermediary in the performance of the Intermediary Services including but without limitation, the costs and expenses incidental to the attendance of meetings, the giving of presentations and briefing, the licence fees and/or royalties payable by the Intermediary in connection with the permitted use of any third party intellectual property rights in the performance of the Intermediary Services and preparation of documentations together with all out-of-pocket expenses that may be incurred by the Intermediary in the carrying out of the Intermediary Services. The fee is also inclusive of any and all fees, costs, charges and disbursements that may be incurred by the Intermediary's agents, experts and/or advisers and those of the Intermediary's permitted sub-contractors. No other fee shall be payable to the Intermediary save with the prior written approval of the Trustee.

10.12 A proposal which fails to provide any of the information as specified in **Appendices 2 and 3** may obtain low or no marks in the assessment.

ASSESSMENT OF PROPOSALS

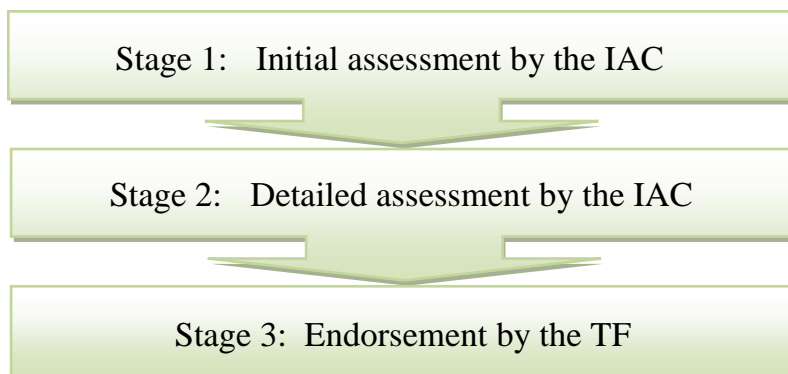
11.1 Applications will be assessed by the Intermediary Assessment Committee (IAC) established under the TF. The IAC is represented by members of the TF and a government official from the Efficiency Unit.

11.2 The IAC will assess the applications according to a set of pre-determined assessment criteria as follows:

Criteria	Maximum Score
Quality of the business plan	
1. Vision and strategic direction	10 marks
2. Implementation / Execution*	30 marks
3. Impact *	30 marks
Capability of the applicant/leading team	
4. Capability	20 marks
Cost effectiveness of the proposal	
5. Cost effectiveness	25 marks
Total	115 marks

* Critical criteria with passing score of 15 marks each. Applications that fail to reach the passing score in any of the two critical criteria will be screened out in Stage 1. For details, please see paragraph 11.4 (b).

11.3 An overview of the three-stage assessment process is depicted below -



11.4 In Stage 1, the IAC will conduct preliminary assessment as follows -

- (a) assess each application against the eligibility requirements as set out in paragraphs 9.1 and 9.4 and its compliance with the requirements for submission of proposals as set out in paragraphs 10.1 and 10.6. Applications not meeting the requirements in paragraphs 9.1, 9.4, 10.1 and 10.6 will not be considered further; and
- (b) for those applications reaching the passing score in the two critical criteria (i.e. Implementation/Execution and Impact), the IAC will further assess them against the remaining three criteria, namely Vision and Strategic Direction, Capability and Cost Effectiveness. Only applications reaching a total score of 70 marks or above (out of 115 marks) will be further considered in Stage 2 of the assessment.

11.5 In Stage 2, applicants reaching a total score of 70 marks or above in Stage 1 may be invited to attend an interview conducted by the IAC. The IAC 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 does not constitute a commitment by the TF to any funding.

11.6 After the interview, the IAC will finalise its assessment on the applicants in Stage 2 according to the five assessment criteria at paragraph 11.2 and recommend the applicants to be appointed as the Intermediaries for the SIE Fund with reference to the quality of the proposals submitted, the clarifications and discussions in the interview and the strategic considerations, including:

- (a) complementary nature of the proposals in terms of say, service models, SIIs, expected impacts, ultimate targets/participants, etc.;
- (b) diversity of the Intermediaries;
- (c) amount of the SIE Fund reserved for the first batch of engagement; and
- (d) number of Intermediaries ideally for the first batch of engagement for experiment purposes.

11.7 In Stage 3, the TF will review the recommendations of the IAC and endorse the appointment of Intermediaries.

ENGAGEMENT TERMS

Engagement Period

12.1 Engagement period for Intermediaries shall not be less than one year and more than 5 years. The engagement period for individual Intermediaries may or may not be the same, depending on the design and merits of the proposal.

Payment Arrangement

13.1 The service fee payable by the Trustee for the Intermediary Services provided by the Intermediary shall be a fixed, all inclusive lump sum fee. The Trustee shall pay the service fee to the Intermediary by instalments on a quarterly basis. An instalment shall only be paid if the Intermediary has performed all its obligations due up to the date of payment under the Engagement Agreement to the satisfaction of the Trustee.

13.2 The first instalment may be payable on commencement of the contract depending on the circumstances of each engagement. The decision on whether initial payment will be made, the date of payment and the amount is solely subject to the discretion and decision of the Trustee.

13.3 The Trustee will pay the last instalment, comprising 10% of the total service fee to the Intermediary at the end of the engagement period upon the satisfactory performance of the Intermediary over the entire engagement period. The payment arrangement will be further discussed with the appointed Intermediary and stipulated in the Engagement Agreement.

13.4 Any payment by the Trustee shall be without prejudice to or any implication whatsoever for any rights or cause of action which has or may have accrued, or which may accrue, or any remedy available, to the Trustee in respect of any non-compliance whatsoever of the Engagement Agreement by the Intermediary.

Performance Monitoring of the Intermediary

14.1 The Intermediary shall produce, for each year, an annual implementation plan which will be submitted to the TF for approval in the content, format and timing as

prescribed by the TF. The plan will set out all necessary information as the TF may request including, but without limitation, (a) proposed activities to be undertaken in that year and the work plan; (b) the budget required and (c) performance indicators to gauge the level of performance by the Intermediary and/or SIIs. The Intermediary shall make consultations with the relevant stakeholders and other concerned organisations as appropriate in drawing up the annual implementation plan which shall be prepared in accordance with the original proposal submitted in this invitation.

14.2 Each Intermediary is required to submit quarterly operation reports (content, format and timing to be agreed by the TF) for approval by the TF, for releasing the quarterly payment.

14.3 Each Intermediary is required to appoint an external body (e.g. consultancy firm, tertiary institution) to be agreed by the TF to conduct an annual assessment on its performance. The annual assessment should cover, but not limited to, the views of the IAC/TF and SIIs/participants of activities on the performance of the Intermediary, progress-to-date, problems encountered and remedial measures taken, achievements against intended outcomes/impacts so far.

14.4 The TF will conduct review on the performance of the Intermediary as and when required, including to enter at all reasonable times and to inspect any premises where any part of the Intermediary Services is being carried out by the Intermediary. The Intermediary shall answer forthwith any questions raised by the TF and to produce any documents related to its services. At the request of the TF, the Intermediary shall attend meetings of the TF, Lotteries Fund Advisory Committee, CoP, other relevant meetings, public forums and activities as directed by the TF and/or answer such other queries as directed by the TF on its services.

14.5 The Intermediary shall permit the Head, Efficiency Unit, Director of Audit or any other Government officers authorised by them to enter at all reasonable times and to inspect any premises where any part of the Intermediary Services is being carried out by the Intermediary. The Intermediary shall also permit the Head, Efficiency Unit, Director of Audit or any other Government officers authorised by them to access and inspect all such documents or information related to this engagement or the Intermediary Services at all reasonable times and as reasonably required.

14.6 Should an applicant be awarded the engagement, its subsequent performance will be monitored and may be taken into account when its future bids for Intermediary Services in the subsequent batches are evaluated. An applicant may be suspended from bidding for any new Intermediary Services if its performance is unsatisfactory.

Corporate Governance

15.1 The Intermediary undertakes to comply with and observe in all respects all applicable laws and regulations of Hong Kong, including the Personal Data (Privacy) Ordinance (Cap 486 of the Laws of Hong Kong), in carrying out the Intermediary Services including without limitation giving all notices, paying all fees, obtaining all licences, consents and approvals required thereunder, and compliance with all conditions attached to any such licence, consent or approval.

15.2 When submitting the Business Plan Proposal, each applicant is required to provide its Corporate Governance Plan (see 2C of Part II in **Appendix 2**) in accordance with the guidelines stipulated at **Appendix 5**. An applicant should include in its Corporate Governance Plan all those requirements which are applicable to itself with reference to the nature of its organisation and the services to be provided. The Corporate Governance Plan will be one of the aspects for evaluation in selecting Intermediaries under this exercise.

15.3 For the selected Intermediary, the TF will either endorse its Corporate Governance Plan (if it is considered by the TF to be appropriate and effective) or provide advice on how its Plan should be improved (e.g. additional governance requirements should be supplemented in the Plan). Based on its Corporate Governance Plan and the advice of the TF (if there is any), the selected Intermediary should prepare and submit a detailed Corporate Governance Plan to the satisfaction of the TF within the time period requested for future compliance under the Engagement Agreement.

15.4 The Intermediary for Innovative Programmes will also be required to vet and make recommendations on the Corporate Governance Plans of potential SIIs under their funding schemes and oversee compliance of the agreed plans by the respective SIIs subsequently. More details will be provided to Intermediary after their appointment.

15.5 In addition to the corporate governance requirements, a separate set of control measures will be imposed on the Intermediary by the TF to ensure the proper use and handling of funds (including incomes (if any) generated from their programmes/projects). The control measures will be specified as terms and conditions in the Engagement Agreements to be signed with the selected Intermediary. These control measures are listed at **Appendix 6** for reference by the applicants.

Accounting and Audit Requirements

16.1 In respect of the general control measure of submitting audited account, the Intermediary shall maintain full and proper books of accounts and records in respect of the use of the SIE Fund.

16.2 The Intermediary has to -

- (a) submit audited account for its operating expenses and conduct variance analysis to compare with those submitted in its proposal;
- (b) scrutinise the audited account submitted by the SIIs under the Innovative Programmes; and
- (c) submit audited account for activities under the Capacity Building.

Variation in the Scope of the Intermediary Services

17.1 The Trustee may at any time during the term of the engagement, by giving written notice to the Intermediary, make changes to the scope of the Intermediary Services. Where the Trustee requires the Intermediary to perform services in addition to those specified in this Invitation Brief, the additional fee payable by the Trustee to the Intermediary for those services shall be subject to further negotiation between the Trustee and the Intermediary. Fees and expenses incurred for the additional services intended to be claimed shall be wholly, exclusively and necessarily incurred in the performance of the additional work. Expenses account with full itemised breakdown together with original receipted invoices shall be produced to the Trustee in any claim for additional fees and expenses for the authorised additional services undertaken by the Intermediary.

Conflict of Interest

18.1 The Intermediary shall during the term of the Engagement Agreement made between the Trustee and the Intermediary and for six (6) months thereafter:

- (a) ensure that it (including its associates and associated persons, each and every member of the Intermediary and each of its permitted sub-contractors and their associates and associated persons) shall not undertake any service, task or job or do anything whatsoever for or on behalf of third party (other than in the proper performance of the Engagement Agreement) which conflicts or compete, or which may be seen to conflict or compete, with the Intermediary's duties to the Trustee under the Engagement Agreement; and
- (b) forthwith notify the Trustee in writing of all or any facts which may reasonably be considered to give rise to a situation where the financial, professional, commercial, personal or other interests of the Intermediary or its associates and associated persons or any member of the Intermediary or any of its permitted sub-contractors, or their associates or associated persons, conflict or compete, or may conflict or compete, directly or indirectly, with any interest of the Trustee and/or with any of the duties of the Intermediary to the Trustee under the Engagement Agreement.

18.2 The Intermediary shall provide the Intermediary Services to the Trustee on an impartial basis without giving favour to any particular product, services or equipment in which the Intermediary, any of its permitted sub-contractors, members of the Intermediary or their respective associates or associated persons has or may have any financial, professional, commercial, personal or other interests. The Intermediary shall notify the Trustee in writing immediately upon knowing of any actual or potential, direct or indirect, financial, professional, commercial, personal or other interests, which such persons have or may have in, or of any association or connection such persons have or may have with, any of the products, services or equipment proposed or recommended by the Intermediary under the Engagement Agreement.

18.3 The Intermediary shall procure (its associate and associated persons), its permitted sub-contractors, each member of the Intermediary and its professional advisers, directors, officers, employees and agents who are involved in the provision of the Intermediary Services to execute a legally binding written undertaking in favour of the Intermediary and the Trustee jointly and severally in a form prescribed by the Trustee

agreeing to observe paragraphs 18.1 and 18.2 and the Intermediary shall provide the original or certified true copies of all such undertakings to the Trustee as may be required by the Trustee. The Intermediary further agrees that, if so required by the Trustee, it shall take all such steps as are lawful and necessary to enforce such undertakings or to co-operate with the Trustee in their enforcement.

18.4 The Intermediary shall ensure that its associates and associated persons, each of its permitted sub-contractors and each member of the Intermediary and their associated and associated persons shall keep themselves informed and shall inform the Intermediary and keep it informed regularly of all facts which may reasonably be considered to give rise to a situation where the financial, professional, commercial, personal or other interests of such persons, conflicts or compete, or may conflict or compete, with the Intermediary's duties to the Trustee under the Engagement Agreement.

18.5 Each Intermediary shall disclose in the Business Plan Proposal any facts which may reasonably be considered to give rise to a situation where the financial interests of the Intermediary, or any one of the Intermediary's permitted sub-contractors or any member of the Intermediary, conflict or compete, or may conflict or compete, with the Intermediary's duties to the Trustee in the performance of the Intermediary Services.

18.6 The Intermediary, its associates and associated persons, as well as any member of the Intermediary and his associates and associated persons shall be debarred from participating in or submitting any bid or tender, or being engaged or otherwise interested or involved in any manner in any subsequent exercise for the procurement for any goods and / or services arising out of or in relation to the subject matter of the Intermediary.

18.7 To avoid conflict of interest, the appointed Intermediary (including its associates and associated persons, each and every member of the Intermediary) under Innovative Programmes will be debarred from making, associating or affiliating with any applications under the funding schemes administered by itself.

18.8 (a) "associate" of any person means

- (i) a relative or partner of that person; or
- (ii) a company one or more of whose directors is in common with one or more of the directors of that person.

-
- (b) “associated person” in relation to another person means
- (i) any person who has control, directly or indirectly over the other; or
 - (ii) any person who is controlled, directly or indirectly, by the other; or
 - (iii) any person who is controlled by, or has control over, a person at (i) or (ii) above.
- (c) “control” in relation to another person means holding office as a director or the power of a person to secure
- (i) by means of the holding of shares or interests or the possession of voting power in or in relation to that or any other person; or
 - (ii) by virtue of powers conferred by any constitution, memorandum or articles of association, partnership, agreement or arrangement (whether legally enforceable or not) affecting that or any other person; or
- that the affairs of the first-mentioned person are conducted in accordance with the wishes of that other person,
- (d) “director” means any person occupying the position of director by whatever name called and without limitation a de facto or shadow director.
- (e) “relative” means the spouse, parent, child, brother or sister of the relevant person, and, in deducing such a relationship, an adopted child shall be deemed to be a child both of the natural parents and the adopting parent and a step child to be a child of both the natural parent and of any step parent.

Probity and Anti-Corruption Procedures

19.1 The Intermediary is expected to observe the highest standards of probity. The Intermediary is obliged to remind all directors, employees, permitted subcontractors, agents and other personnel to familiarise themselves with the requirements of the Prevention of Bribery Ordinance (Cap 201 of the Laws of Hong Kong) all the time.

Confidentiality

20.1 All materials and data furnished by or on behalf of the Trustee in connection with this Invitation Brief and the terms and conditions of this Invitation Brief shall be

treated as confidential information. The Intermediary shall not, during the continuance of the Engagement Agreement to be signed between the Trustee and the Intermediary or at any time thereafter, disclose to any person (including without limitation any associates or associated persons, directors, officers, employees or agents of the Intermediary who are not members of the Intermediary, except to the senior management, legal and compliance personnel and auditors of the Intermediary and then only on a need-to-know basis) any confidential information provided that the restrictions on disclosure contained in this paragraph shall not apply:

- (a) to the disclosure of any information to any members of the Intermediary in circumstances where such disclosure is necessary for the performance of the Intermediary's duties and obligations under the Engagement Agreement;
- (b) to the disclosure of any information already known to the recipient other than as a result of disclosure by a breach of the confidentiality obligation of the Intermediary, its associates or associated persons, directors, officers, employees, agents or any member of the Intermediary or its sub-contractors including without limitation professional advisers;
- (c) to the disclosure of any information which is or becomes public knowledge other than as a result of disclosure by a breach of the confidentiality obligation of the Intermediary, its associates or associated persons, directors, officers, employees, agents or any member of the Intermediary or its sub-contractors including without limitation professional advisers;
- (d) to the disclosure of any information in circumstances where such disclosure is required pursuant to any law, regulation, rule of any relevant stock exchange, or order of a court or arbitral authority of competent jurisdiction;
- (e) to the disclosure of any information to the Intermediary's sub-contractors, professional advisers, directors, officers, employees or agents where such disclosure is necessary for the performance of the Intermediary's duties and obligations under the Engagement Agreement; or
- (f) to the disclosure of any information with the prior written consent of the Trustee.

The Trustee shall have the right to determine in good faith at any time whether any information is within that described in (b), (c) or (e) above and the Intermediary shall comply with that determination. For the purpose of (e), if at the time the Trustee discloses the information to the Intermediary, the Trustee does not expressly state that the information cannot be distributed to the persons named in (e), the Trustee shall be deemed to have consented to the disclosure of that information to those persons but such disclosure shall be strictly limited to the performance of the Intermediary's duties and obligations under the Engagement Agreement.

20.2 Any disclosure permitted under paragraph 20.1 shall be in strict confidence and shall extend only so far as may be necessary for the purpose specified in paragraph 20.1 and the Intermediary shall ensure the confidentiality of any such disclosure by taking all appropriate action to restrain or restrict any further disclosure.

20.3 The Intermediary shall not make use of or reproduce any information, report, chart, document, plan, software, data or other particulars or information whatsoever relating to the Engagement Agreement furnished by or on behalf of the Trustee other than in the performance of its obligations under the Engagement Agreement and shall not make use of any Materials (e.g. report, chart, document, plan, software, data etc.) produced or created in relation to the performance of its obligations under the Engagement Agreement other than in the performance of its obligations under the Engagement Agreement or with the prior written consent of the Trustee.

20.4 The Intermediary shall not without the prior written consent of the Trustee publish, either alone or in conjunction with any other person, in any newspaper, magazine, periodical, film, video, or other medium, any confidential information relating to the Intermediary Services (including without limitation the advice provided by it or the duties undertaken by it under the Engagement Agreement).

20.5 The Intermediary shall inform every person to whom any information, report, chart, document, plan, software, data or other particulars or information relating to the Engagement Agreement is disclosed pursuant to this paragraph of the restrictions on reproduction and disclosure attaching to such information and the Intermediary shall require such a person to notify the same restrictions to any other person to whom it makes any such disclosure.

20.6 The Intermediary shall procure its associates and associated persons, its sub-contractors, each members of the Intermediary and its professional advisers, directors,

officers, employees and agents referred to in paragraph 20.1(e) above to execute a legally binding written undertaking in favour of the Intermediary and the Trustee jointly and severally in a form prescribed by the Trustee agreeing not to disclose any such confidential information and the Intermediary shall provide the original or certified true copies of all such undertakings to the Trustee as may be required by the Trustee. The Intermediary further agrees that, if so required by the Trustee, it shall take all such steps as are lawful and necessary to enforce such undertakings or to co-operate with the Trustee in their enforcement.

Termination of the Engagement Agreement

21.1 The Trustee may terminate the Engagement Agreement forthwith upon giving written notice to the Intermediary if:

- (a) the Intermediary shall be in breach of any term or condition of the Engagement Agreement which:
 - (i) in the case of a breach of a term or condition capable of being remedied, shall not have been remedied by the Intermediary within fourteen (14) days of receipt of a notice to remedy from the Trustee; or
 - (ii) is fundamental to the Engagement Agreement;
- (b) the Intermediary shall go into liquidation (other than a voluntary liquidation for the purpose of amalgamation or reconstruction), or if a receiver shall be appointed over any of its assets or shall have entered into any supervision or voluntary arrangement providing for a composition in satisfaction of the Intermediary's affairs;
- (c) the Intermediary assigns, transfers, sub-contracts or purports to assign, transfer, sub-contract any of its benefits, interests or obligations under the Engagement Agreement without prior written consent of the Trustee.

21.2 The Trustee may at any time at its option terminate the Engagement Agreement without cause and without any compensation to the Intermediary by giving the Intermediary fourteen (14) days' prior written notice. Such termination shall not affect or prejudice any rights of action or other remedies which may have accrued to the Trustee.

Force Majeure

22.1 In the event of Force Majeure (as defined in paragraph 22.3 below), the party so prevented shall be excused from the performance of its obligations under the Engagement Agreement for so long as such cause shall continue. The party so prevented shall give notice in writing to the other party as soon as possible of the occurrence of the event of Force Majeure.

22.2 Should performance by the Intermediary of its obligations under the Engagement Agreement be prevented by an event of Force Majeure for a period of twenty-eight (28) consecutive days or longer, the Trustee shall be entitled at the expiration of such period to terminate the Engagement Agreement by not less than fourteen (14) days' written notice to the Intermediary.

22.3 "Force Majeure" means

- (a) any supervening outbreak of war affecting Hong Kong and/or the People's Republic of China, hostilities (whether war be declared or not), invasion, acts of foreign enemies, rebellion, revolution, military or usurped power, overthrow (whether by external or internal means) of the HKSAR Government or the People's Republic of China, civil war, riot, civil disturbances, fire which is not caused or contributed to by the Intermediary, its associate or associated person or any employee or agent or ex-employee or ex-agent thereof, civil commotion or acts of God; or
- (b) any supervening catastrophic event which is similar to the foregoing, if not caused or contributed to by the Intermediary, its associate or associated person or any employee or agent or ex-employee or ex-agent thereof, and which in (a) and/or (b), prevent(s) the performance of the duties and obligations of any party under the Engagement Agreement.

Liabilities and Indemnity

23.1 The Intermediary shall indemnify and keep indemnified the Trustee against (a) any and all claims (whether or not successful, compromised or settled), actions, investigations, liabilities, demands, proceedings or judgement, joint or several, threatened,

brought or established against the Trustee; and (b) all losses, damages, costs, charges or expenses (including all legal fees and other costs, charges and expenses which the Trustee may pay or incur in disputing any such claim or defending any such action or proceedings instituted against the Trustee) which arise directly or indirectly in connection with or out of, or which relate in any way to -

- (a) the performance or breach of any provisions of the Engagement Agreement by the Intermediary;
- (b) the acts, negligence, recklessness, tortuous acts or willful misconduct, defamation, breach of statutory duty of the Intermediary, its employees, agents or permitted sub-contractors in the provision of the Intermediary Services;
- (c) any default, unauthorised act or omission of the Intermediary, its employees, agents or permitted sub-contractors; or
- (d) the non-compliance by the Intermediary, its employees, agents or sub-contractors with any applicable law, regulation, order or requirement of any government agency or authority in the provision of the Intermediary Services.

Restrictions or Limitations Proposed by Intermediary

24.1 Restriction or limitations proposed by any Intermediary or any member of the Intermediary which seek to limit or avoid the responsibility of the Intermediary in contract, tort or otherwise for failing to exercise the skill and care required by the Engagement Agreement or reasonably expected of the Intermediary or any member of the Intermediary in these circumstances may render any proposal non-compliant in the absolute discretion of the Trustee.

Non-Assignment, Restrictions on Sub-Contracting and the Use of Sub-contractors

25.1 Save as provided in this paragraph, the Intermediary shall not assign or otherwise dispose of or transfer, or sub-contract any of its interests, rights, benefits or obligations under the Engagement Agreement in whole or in part. The Intermediary shall not without the prior written consent of the Trustee sub-contract the whole or any part of

the Intermediary Services to any person whatsoever. If all or any part of the Intermediary Services is/are sub-contracted to any person in accordance with the Engagement Agreement, the Intermediary shall be liable for the full remuneration under the sub-contract and any act or omission of any such person as if such act or omission were its own.

Disclosure of Fees Payable to The Selected Intermediary

26.1 The Trustee 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 fees, costs and expenses payable by the Trustee for engaging the Intermediary;
and
- (b) the fee proposal submitted by the Intermediary

26.2 For the purposes of paragraph 26.1 above, each applicant shall complete, execute and deliver to the Trustee a Consent to Disclosure in the form attached at **Appendix 4** together with its Business Plan Proposal in respect of the Engagement.

Nature of Agreement

27.1 The Intermediary will be engaged by the Trustee as an independent contractor on a principal-to-principal basis and not as a partner, employee or agent of the Trustee or as a trustee for others.

Other Conditions

28.1 The Trustee reserves the right, in its absolute discretion, not to appoint any of the applicants which have submitted proposals in response to this invitation for the whole or any part of the engagement. All proposals are submitted on the understanding that the Trustee will not be liable to pay any costs and expenses arising out of their preparation and submission or in explaining or clarifying their proposals. The Trustee is under no obligation to discuss the assessment or assessment result of any proposal with any applicant.

28.2 After submission of the Business Plan and Fee Proposals, the applicants shall not attempt to initiate any further contact, whether direct or indirect, with the Trustee on its proposals or this invitation to submit proposals. The Trustee shall have the sole right to initiate any such further contact and all such contacts and any replies of applicants thereto shall be in writing or formally documented in writing.

28.3 The Trustee reserves the right to amend the terms of this Invitation Brief in its sole discretion at any time prior to entering into a binding agreement with the Intermediary.

Governing Law

29.1 This Brief and the Engagement Agreement shall be governed by and construed in accordance with the laws of Hong Kong and the parties hereby irrevocably agree to submit to the exclusive jurisdiction of the Hong Kong courts.

Engagement Agreement

30.1 The Trustee will enter into a formal engagement agreement with the Intermediary. The agreement is to be prepared by the Department of Justice, and will contain the complete terms and conditions of the engagement, including without limitation the matters referred to in this Invitation Brief, expanded and modified as necessary, and other matters such as remuneration, details of the Intermediary, prevention of conflict of interest, sub-contracting, set off, force majeure, extension and termination of services, copyright and other intellectual property rights, and confidentiality. The Trustee will require the Intermediary to indemnify and keep indemnified the Trustee against all claims, damages, losses, costs and expenses in respect of personal injury, death, losses or damages arising out of or resulting from the performance or attempted performance of the agreement to the extent that the same are or have been caused by any act, omission, neglect, recklessness, willful misconduct, defamation, breach of statutory duty, or breach of the agreement by the Intermediary, its employees, agents or permitted sub-contractors. The Trustee will not provide any indemnity to the Intermediary in any respect.

30.2 The Trustee may enter into an engagement agreement between the Trustee and the selected Intermediary (“Engagement Agreement”) with the selected Intermediary in one of the following capacities:

-
- (a) an incorporated joint venture (JV) effected through the medium of a company incorporated under the Companies Ordinance (Cap 32 of the Laws of Hong Kong), with each participating party as a shareholder of the company;

Each shareholder of the JV will be required to execute in favour of the Trustee a guarantee to guarantee the due and faithful performance of the obligations by the Intermediary under the Engagement Agreement. The guarantee will be on terms prepared and approved by the Department of Justice and it shall remain in force from the date of the commencement of the Engagement Agreement until the date upon which all of the Intermediary's obligations have been performed and discharged to the satisfaction of the Trustee. The Trustee may require other parties to provide guarantees or impose other conditions on the JV. Compliance with all the conditions mentioned in this sub-paragraph shall be a condition precedent to the appointment of the Intermediary;

- (b) two or more contractual parties, in which case each of the parties will be jointly and severally liable for the due performance of the Intermediary Services. Each representation, warranty, declaration, agreement, undertaking and covenant by and the obligations of the parties under or pursuant to the Engagement Agreement shall be joint and several and shall be binding on the parties jointly and severally; or
- (c) one contractual party who will be held responsible for the due and faithful performance of the Intermediary Services, in which case the party may, subject to the prior written approval of the Trustee, nominate, as the main contractor, one or more subcontractor to perform part of the Intermediary Services.

30.3 An applicant must indicate in its Business Plan Proposal one of above three capacities it proposes to enter into the Engagement Agreement with the Trustee. The Trustee reserves its right whether to accept the applicant's proposal and may enter the Engagement Agreement with the Intermediary in any one of the above capacities.

30.4 The Trustee may require the Intermediary to take out or continue as the case may be a valid policy of professional indemnity insurance with a reputable insurer, with a minimum limit of indemnity to be further discussed with the appointed Intermediary and stipulated in the Engagement Agreement for liability for professional negligence and breach of contract. The Intermediary may be required to maintain such a policy in force for the period of the engagement and a reasonable period thereafter of not less than twelve

(12) months and to provide the Trustee with a certified true copy of the certificate of insurance.

Set-Off

31.1 Where the Intermediary has incurred any liability to the Trustee, whether at law or in equity, and whether such liability is liquidated or unliquidated, the Trustee may, without prejudice to any rights or remedies the Trustee may have, set off, whether at law or in equity, the amount of such liability against any sum then due or which at any time thereafter may become due from the Trustee to the Intermediary under the Engagement Agreement or any other contracts.

Trustee Not Liable for Information

32.1 The Intermediary should note that all information and statistics provided by the Trustee in connection with the engagement are for reference only. The Trustee gives no warranty, statement or representation, expressed or implied, as to the accuracy, availability, completeness, usefulness or future changes of such information and statistics. The Intermediary shall conduct its own independent assessment of the information and statistics. The Trustee does not accept any liability for the accuracy, completeness or otherwise of such information and statistics.

Warranty of No Collusion

33.1 By submitting a proposal, the applicant represents and warrants that in relation to this engagement -

- (a) it has not communicated and will not communicate to any person other than the Trustee the amount of the fee proposed;
- (b) it has not fixed and will not fix the amount of any fee proposed 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 proposal; and
- (d) it has not otherwise colluded and will not otherwise collude with any person in any manner whatsoever in this engagement.

33.2 In the event that the applicant is in breach of any of the representations and/or warranties in paragraph 33.1 above, the Trustee shall be entitled to, without compensation to any person or liability on the part of the Trustee -

- (a) reject the proposal;
- (b) if the Trustee has accepted the proposal, withdraw its acceptance of the proposal; and
- (c) if the Trustee has entered into the Engagement Agreement with the applicant, forthwith terminate the Engagement Agreement.

33.3 The applicant shall indemnify and keep indemnified the Trustee against all losses, damages, costs or expenses arising out of or in relation to any breach of any of the representations and/or warranties in paragraph 33.1 above.

33.4 Any breach of any of the representations and/or warranties in paragraph 33.1 above by the applicant may prejudice the applicant's future standing as an Intermediary for the Trustee.

33.5 Paragraph 33.1 shall have no application to the applicant's communications in strict confidence with its own insurers or brokers to obtain an insurance quotation for computation of the fee proposal, or with its professional advisers, consultants or sub-contractors to solicit their assistance in preparation of the proposal submission. For the avoidance of doubt, the making of a bid by a bidder to the Trustee in public during an auction will not by itself be regarded as a breach of the representation and warranty in paragraph 33.1(a) above.

33.6 The rights of the Trustee under paragraphs 33.2 to 33.3 above are in addition to and without prejudice to any other rights or remedies available to it against the applicant.

Settlement of Disputes

34.1 Any dispute or difference between the parties arising out of or in connection with the Engagement Agreement which is not resolved within forty-five (45) days may

first be referred to mediation in accordance with the then current Hong Kong International Arbitration Centre Mediation Rules.

34.2 If the matter cannot be resolved by mediation or any party to the Engagement Agreement does not wish the matter to be referred to mediation, any party may within 90 days from the failure of the mediation or the refusal to mediate (as the case may be) require that the matter be referred to arbitration in accordance with and subject to the provisions of the Arbitration Ordinance (Cap 609 of the Laws of Hong Kong). Any such reference shall be deemed to be a submission to arbitration within the meaning of the Arbitration Ordinance.

34.3 Subject to paragraphs 34.4 and 34.5, the then current Hong Kong International Arbitration Centre Domestic Arbitration Rules (the “**Arbitration Rules**”) shall apply to any arbitration instituted in accordance with this paragraph.

34.4 Notwithstanding Articles 8.2 and 13 of the Arbitration Rules, the place of meetings and hearings in the arbitration shall be Hong Kong.

34.5 Article 26 of the Arbitration Rules shall be deleted and replaced by:

“26.1 The arbitration proceedings are private and confidential between the parties and the arbitrator. No information relating to the arbitration shall be disclosed by any person without the written consent of each and every party to the arbitration.

26.2 Notwithstanding the above, disclosures are permissible where disclosures –

- (a) are necessary for enforcement of the arbitral award or any settlement agreement between the parties;
- (b) are required by the parties’ auditors or for some other legitimate business reason;
- (c) are required by law or an order of the courts of Hong Kong; or

(d) are necessary for the making of claims against any third party or to defend a claim brought by any third party.”

34.6 All provisions in Schedule 2 to the Arbitration Ordinance shall apply to any arbitration instituted in accordance with these provisions on settlement.

The Emerging Social Innovation and Entrepreneurship Space

1. As revealed by the findings of the 2012-13 Hong Kong Social Enterprise Landscape Study conducted by the HKCSS-HSBC Social Enterprise Business Centre, the number of social enterprise projects has increased by 50% over the last four years. Half of these projects were funded by government grants, 24% by non-governmental organisations (NGOs) and 22% were privately funded. There was a sharp increase, from 14 to 45 over the last two years, in projects being operated by non-charitable organisations. The social objectives of the projects have also broadened from primarily providing employment and training opportunities to the underprivileged to promoting social inclusion and meeting unmet social needs.
2. Behind these trends is the entry - into a sector that has traditionally been funded by Government and charity-based NGOs - of a range of private funds, individual investors, family philanthropy and impact investors who are looking to support or to invest in achieving social purposes as well as reasonable commercial returns. In recent years, these kinds of support have helped to encourage new strategies, concepts, ideas and organisations to be created for meeting different kinds of social needs and encouraging the development of social innovation in Hong Kong. These are often spearheaded by social entrepreneurs or ‘intrapreneurs’ inside NGOs. Examples include Dialogue in the Dark, Fullness Salon, BiciLine, Green Ladies, Light Home, Food Angel.
3. In addition, various platforms, collaborative bodies, awards and competitions (e.g. Hong Kong Social Enterprise Challenge, Social Enterprise Award Scheme, Young Social Entrepreneur Award), conferences (e.g. Social Enterprise Summit), university programmes or initiatives have also been set up. On the electronic media front, the media platform “Social Enterprise Gallery” and “Solution-On-Wheels” have also been launched.
4. These efforts have started to shape an environment conducive for nurturing innovators and entrepreneurs. Nevertheless, there is a general view that at present there is a good supply of funds to support innovation and entrepreneurship but there is a shortage of innovative ideas and entrepreneurs. There is also a great need for soft business support skills to groom and coach entrepreneurs.

Template for Business Plan Proposal

Note:

1. Business Plan Proposal is expected to contain the information as specified below. Failing to provide as specified may obtain low or no marks in the assessment.
2. In case the application is submitted by more than one contractual party, each contractual party should complete Part I in separate sheets. Please also indicate which contractual party is authorised to take up the coordination role to liaise with the Trustee in this invitation exercise.

Part I - Particulars of the Applicant

Name of Organisation : (please fill in the registered name)		
Authorised to take up the coordination role to liaise with the Trustee in case this application is submitted by more than one contractual party	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Correspondence Address		
Website (if any)		
Business Registration No. (if applicable)		
Name of the Contact Person		
Post title of the Contact Person		
Telephone No.		
Fax No.		
Email Address		
Mode of Organisation/Type of ownership:		
<input type="checkbox"/> Charitable institution of a public character exempted from tax under section 88 of the Inland Revenue Ordinance (Cap 112 of the Laws of Hong Kong)		
<input type="checkbox"/> Company (private or public) formed and registered under the Companies Ordinance (Cap 32 of the Laws of Hong Kong)		
<input type="checkbox"/> Co-operative Society registered under the Co-operative Societies Ordinance (Cap 33 of the Laws of Hong Kong)		
<input type="checkbox"/> Society registered under the Societies Ordinance (Cap 151 of the Laws of Hong Kong)		
<input type="checkbox"/> Statutory body established under the legislation in Hong Kong (please specify the ordinance) <hr/>		
<input type="checkbox"/> Others : (please specify) <hr/>		

Please stamp your chop here

(Date)

Part II – Details of the Proposal

Vision and Strategic Direction (Assessment Criterion 1)					
1A	Please articulate your vision and strategic direction of your proposal				
1B	Please explain how the proposed vision and strategic direction can help further the objectives and maximise the impacts of the SIE Fund				
Implementation / Execution (Assessment Criterion 2)					
2A	<p><u>Business Model</u> Please provide an overview of your business model to achieve the proposed vision, strategy and impacts, in terms of</p> <ul style="list-style-type: none"> (a) Existing network or available resources to facilitate the implementation of your proposal (b) Measures (planned or already in place) that can facilitate cross-sector collaboration (c) Proposed engagement period (d) Other key features 				
2B(i)	<p><i>For Proposal covering Capacity Building</i></p> <p><u>Capacity Building Initiatives</u> Please provide the details of the design of your proposal on Capacity Building, including but not limited to:</p> <ul style="list-style-type: none"> - Types and no. of programmes - For each of the programmes <ul style="list-style-type: none"> • No. of activities to be arranged and their details • Target participants to be served • Estimated number of participants to be served • Fee charging mechanism for the participants of programmes and the reasons for it, <u>if applicable</u> 				
2B(ii)	<p><i>For Proposal covering Innovative Programmes</i></p> <p><u>Funding Scheme(s)</u> Please provide details of your funding scheme(s) proposed for supporting the Innovative Programmes with the following information:</p> <ul style="list-style-type: none"> - Stage(s) in the lifecycle of innovation that your funding schemes will support: <table style="width: 100%; border: none;"> <tr> <td><input type="checkbox"/> Idea generation</td> <td><input type="checkbox"/> Prototype</td> </tr> <tr> <td><input type="checkbox"/> Start-up</td> <td><input type="checkbox"/> Scale-up</td> </tr> </table> - For each stage covered in your proposal, <ul style="list-style-type: none"> • The target groups of SIIs (i.e. whether they are individuals and/or organisations, 	<input type="checkbox"/> Idea generation	<input type="checkbox"/> Prototype	<input type="checkbox"/> Start-up	<input type="checkbox"/> Scale-up
<input type="checkbox"/> Idea generation	<input type="checkbox"/> Prototype				
<input type="checkbox"/> Start-up	<input type="checkbox"/> Scale-up				

	<p>general and/or specific target segments, e.g. youth, retirees, etc.)</p> <ul style="list-style-type: none"> • Eligibility of being SIIs • Assessment criteria • Ultimate targets (i.e. general and/or specific target groups) • Estimated no. of funding applications received • Estimated no. of funding applications supported • Funding limit per application • Average grant amount per application • Total funding size requested • Funding limit per SII (if an SII is allowed to be awarded with multiple grants from the SIE Fund), if applicable 										
	<p><u>Support Services</u> Please describe the pre-funding and post-funding support (e.g. advisory, mentoring, networking) that you would provide to applicants and SIIs</p>										
2B(iii)	<p><u>Matching Fund</u> If the proposed funding scheme covers start-up and/or scale-up, please answer the following questions.</p> <p>(a) We [<i>Insert the name of the applicant. In case the application is submitted by more than one contractual party, please insert the name of the contractual party who takes up the coordination role to liaise with the Trustee</i>] will / will not (delete as appropriate) take up the responsibility to help SIIs to source the matching fund if the SII so required. Please see paragraph 9.4 of the Invitation Brief.</p> <p>If the applicant undertake to help SIIs to source matching fund, please provide relevant information in (b), (c) or (d).</p> <p>(b) Please describe your plan to fulfill the responsibility to source matching fund</p> <p>(c) Please describe your past experiences in sourcing private funding for social enterprises/entrepreneurs, if any</p> <p>(d) Indicative amount of matching fund secured, if any</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <tr style="background-color: #f4a460;"> <th colspan="2" style="text-align: left; padding: 5px;">In cash</th> </tr> <tr> <th style="width: 70%; padding: 5px;">Funding source for matching fund</th> <th style="width: 30%; padding: 5px;">Indicative Amount (HK\$)</th> </tr> <tr> <td style="height: 20px;"></td> <td></td> </tr> <tr> <td style="height: 20px;"></td> <td></td> </tr> <tr> <td style="height: 20px;"></td> <td></td> </tr> </table>	In cash		Funding source for matching fund	Indicative Amount (HK\$)						
In cash											
Funding source for matching fund	Indicative Amount (HK\$)										

In kind	
Source and description of the in-kind support	Estimated Value (HK\$)
<i>Applicants may need to substantiate its claims under (b), (c) and (d) upon request</i>	
2B(iv)	<p><i>For Proposal covering both Capacity Building and Innovative Programmes</i> If your proposal covers both Capacity Building and Innovative Programmes, please complete 2(B) (i), (ii) and (iii) (if applicable) and explain:</p> <p>(a) whether the Capacity Building and Innovative Programmes are inter-dependent or can be implemented separately</p> <p>(b) if they cannot be separately implemented, please articulate what benefits could be achieved by bundling them together</p>
2B(v)	<p><u>Application Processes</u> Please describe the proposed end-to-end processes for:</p> <ul style="list-style-type: none"> - <u>Capacity Building</u>: joining the programmes and/or - <u>Innovative Programmes</u>: applying for the funding schemes including calling, receiving, vetting, recommending and approving of the funding applications submitted by the SIIs, and other relevant details (e.g. calling cycle, structure of the proposed vetting committee)
2B(vi)	<p><u>Enquiries and Complaints</u> Please propose the mechanism for handling enquiries and complaints on your intermediaries services</p>
2C	<p><u>Corporate Governance</u> Please briefly describe your corporate governance plan covering the requirements in Appendix 5 to ensure that your organisation will act in the best interest of the SIE Fund and use and handle the funds properly if you are engaged as an Intermediary</p>
2D	<p><u>Risk Management</u> Please describe your proposed risk management mechanism, covering the potential risks in the execution of your business plan and the mitigating measures</p>
2E	<p><u>Marketing and Promotion</u> Please describe the marketing and promotion strategy and plan to raise awareness of</p>

	the SIE Fund, the proposed capacity building initiatives and/or funding schemes, and to reach-out to target SIIs / participants
2F	<p><u>Work Plan</u> Please provide the work plan covering the entire engagement period. It should state clearly the major activities and milestones, expected outcomes and deliverables along the timeline of the proposed engagement period</p>
Criterion 3 - Impacts	
3A	<p><u>Understanding of the local ecosystem</u> Please describe your understanding, observations and analysis on the needs and gaps of the local ecosystem for social innovation and entrepreneurship development</p>
3B	<p><u>Understanding of the roles of Intermediary</u> Please articulate your understanding on the roles of Intermediary and how they can contribute to the social innovation and entrepreneurship development in Hong Kong or the objectives of the SIE Fund</p>
3C	<p><u>Expected social impact and target outcomes</u> Please articulate on the expected social impacts and target outcomes that could be achieved by your proposal</p>
3D	<p><u>Feasibility / Effectiveness of achieving the intended impacts</u> Please state the critical success factors which are essential for achieving the intended social impacts / target outcomes</p>
3E	<p><u>Performance Management</u></p> <p><i>For Proposal on Capacity Building</i> Please propose the performance management mechanism and key indicators to measure the performance of you as the Intermediary and the impacts of the Capacity Building programmes</p> <p><i>For Proposal on Innovative Programmes</i> Please propose the performance management mechanism and key indicators to monitor and measure the performance of you as the Intermediary and the SIIs. Please also suggest relevant performance measures for evaluating the impacts and target outcomes to be achieved by the approved projects</p>

Criterion 4 - Capabilities of the Applicant	
4A	<p><u>Leadership</u> Please provide a statement by a key staff member on his/her vision and insights about the SIE Fund, and the goals and accomplishments expected through the business plan</p>
4B	<p><u>Capability</u> (including all the contractual parties in case if the application is submitted by more than one contractual party) Please provide the information to demonstrate that you have secured a strong team to implement your proposal. Information include, but not limited to:</p> <p>(a) team structure and manpower plan in undertaking the roles of Intermediary</p> <p>(b) roles and responsibilities of the board of directors, leading/management team and individual key staff members</p> <p>(c) relevant experience, track records, credentials and qualifications of the key staff members involved in delivering the Intermediary Services</p>

Part III – Validity Period of the Proposal

Please indicate the validity period of your proposal which shall be not less than six months from the Proposal Closing Date.

_____ months

Part IV – Capacity to enter into the Engagement Agreement if appointed

Please indicate the capacity you propose to enter into the Engagement Agreement with the Trustee (see paragraph 30.2)

Template for Fee Proposal

Note:

1. Fee Proposal is expected to contain information on the all-inclusive lump sum fixed service fee breakdown by management fee and operating expenses as specified below. Failing to provide as specified may obtain low or no marks in the assessment.

Criterion 5 - Cost-effectiveness of the Proposal	
5A	Management Fee
	<p>Please state the total management fee* (in Hong Kong Dollars) to be charged for managing the implementation of your proposal for the entire engagement period.</p> <p>HK\$ _____ for the entire engagement period</p> <p>* Should be no less than HK Dollar \$1</p> <p><i>If the proposal covers Capacity Building and Innovative Programmes, please provide management fee for individual priority areas</i></p>
	<p>Please provide estimated high-level breakdown of the key cost components of your proposed management fee by, for example, staff cost, accommodation cost and other expenses (e.g. incidentals, insurance, etc.).</p> <p>High level breakdown of the management fee on the following cost elements:</p> <ul style="list-style-type: none"> - Staff Cost (please state the no. of staff) - Accommodation Cost - Costs for engaging an external party to be agreed by the TF to conduct the annual performance assessment - Other expenses (please specify, e.g. insurance, incidentals) <p><i>If the proposal covers Capacity Building and Innovative Programmes, please provide breakdown of the above cost elements for individual priority areas</i></p>
5B	Operating Expenses
	<p><u>For Capacity Building</u></p> <p>Please provide a budget on the operating expenses to implement each type of the Capacity Building programmes listed under 2B(i) of Appendix 2, covering the entire engagement period, with breakdown on:</p> <ul style="list-style-type: none"> - Cost of activities, including engaging subcontractors (please specify) - Other expenses (please specify)

Appendix 3

	<p><u>For Innovative Programmes</u></p> <p>Please provide a budget on the operating expenses to implement the proposed funding schemes covering the entire engagement period, with breakdown on:</p> <ul style="list-style-type: none">- Costs for engaging subcontractors (please specify)- Other expenses (please specify)
5C	Summary
	<p>The all-inclusive lump sum fixed service fee for the entire engagement period:</p> <p>(i) Total Management Fee: HK\$ _____</p> <p>(ii) Total Operating Expenses: HK\$ _____</p> <p>(iii) All-inclusive lump sum fixed service fee [i.e. (i) + (ii)]: HK\$ _____</p>

Please stamp your chop here

(Date)

Consent to Disclosure

To: Secretariat, Social Innovation and Entrepreneurship Development Fund Task Force

Re: Provision of Intermediary Services for the Social Innovation and Entrepreneurship Development Fund

We, [Insert the name of the applicant. In case when the application is submitted by more than one contractual party, insert the name of the contractual party who is authorised to take up the coordination role to liaise with the Trustee], hereby irrevocably authorize, consent and agree that if the Trustee of the Social Innovation and Entrepreneurship Development Fund (SIE Fund) agrees to engage us as an Intermediary for the SIE Fund, the Trustee, may, whatever it considers appropriate or upon request by any person (written or otherwise) and without any further reference to us, disclose to any person in such form and manner as the Trustee deems fit:

- (a) the service fee and any other fees, costs and expenses payable to us by the Trustee pursuant to the Engagement Agreement;
(b) the fee proposal submitted by us to the Trustee on [Insert the relevant date] in relation to the Intermediary Services; and
(c) the engagement of us by the Trustee under the Engagement Agreement; the names of the Intermediary, members of the Intermediary and other persons appointed or engaged by us who assist in the provision of the Intermediary Services in accordance with the Engagement Agreement; and description of the Intermediary Services.

We hereby waive and forego our right, if any, to make any claims against the Trustee for any losses, damages, costs, charges, liabilities, demands, proceedings and actions that may arise out of or in consequence of such disclosure by the Trustee.

Dated this day of
* SEALED with the Common Seal of
[Insert the name of the Intermediary] and
SIGNED by [Insert the name(s) of the Signator(ies), the
[Insert the post(s) of the Signatories] of the Intermediary
in the presence of:-

Signature of Witness:
Name of Witness:
Occupation:
Address:

* To be adopted if the Intermediary is a limited company

Corporate Governance Guidelines

There is no “one-size-fits-all” corporate governance plan that can generally apply to each and every Intermediaries. Since the size and nature of organisations as well as their services and desired modes of operation vary, individual Intermediaries are required to propose their own corporate governance plans for vetting and endorsement by the TF.

2. The proposed corporate governance plan should meet the following principles:
 - (a) Focusing on the organisation’s purpose as an intermediary and on outcomes for meeting the objectives of the Fund;
 - (b) Performing effectively in clearly defined functions and roles;
 - (c) Promoting values for furthering the objectives of the Fund and demonstrating the values of good governance through behaviour;
 - (d) Taking informed, transparent decisions and managing risk;
 - (e) Developing the capacity and capability of the board to be effective; and
 - (f) Engaging stakeholders and making accountability real.

3. For the purpose of this exercise, the Corporate Governance Plan should include brief descriptions of both general and specific requirements (if applicable), as described below –

General corporate governance requirements

These are some general principles and best practices that are applicable to each and every Intermediary. The suggested components of corporate governance measures together with some examples under these components are shown below for reference. Only broad examples are shown for illustration purpose. An applicant may need to elaborate these examples to develop their measures as appropriate –

General Corporate Governance Components

	Component	Examples
1	Board Structure and Composition	<ul style="list-style-type: none"> • Clear roles of board and executives • Desirable ratio of different types of directors
2	Board Operation and Effectiveness	<ul style="list-style-type: none"> • Effective use of committees • Proper declaration of interest
3	Strategy, Planning and Monitoring	<ul style="list-style-type: none"> • Clear objectives and plan • Effective budgeting and monitoring
4	Transparency and Disclosure	<ul style="list-style-type: none"> • High degree of transparency • Regular and proper reporting
5	Social Expectations	<ul style="list-style-type: none"> • Contributing to social interest • Accountable to the public, government, etc.
6	Risk Management and Compliance	<ul style="list-style-type: none"> • Effective risk management • Independent internal control and audit
7	Compliance with Laws and Regulations	<ul style="list-style-type: none"> • Complying with relevant ordinances and codes

Note:

The list is for reference only. The categorisation of governance components is mainly based on the **Guide to Corporate Governance for Subvented Organisations** issued by the Efficiency Unit (May 2010) with modifications to meet the requirements of the SIE Fund. Individual Intermediaries should develop their own corporate governance plan by making reference to the appropriate guidelines/ codes.

Some suggested guides are listed below for reference. The list is by no means exhaustive, applicants may make reference to other appropriate guide(s) in developing their general corporate governance measures:

For subvented organisations, public bodies or non-business entities :

- (i) **Guide to Corporate Governance for Subvented Organisations**, by the Efficiency Unit (May 2010)
http://www.eu.gov.hk/english/publication/pub_bp/files/guide_to_cg_for_so.pdf
- (ii) **Corporate Governance for Public Bodies – A Basic Framework**, by the Hong Kong Institute of Certified Public Accountants (2004)

http://app1.hkicpa.org.hk/publications/corporategovernanceguides/eframework_guide.pdf

For business organisations (registered under Companies Ordinance), partnerships and individuals :

- (iii) **Corporate Governance Code** (Appendix 14 to the Rules Governing the Listing of Securities on HKSE), by the Hong Kong Stock Exchange (2012)
http://www.hkex.com.hk/eng/rulesreg/listrules/mbrules/documents/appendix_14.pdf
- (iv) **Guidelines on Corporate Governance for SMEs in Hong Kong** (2nd Edition), by the Hong Kong Institute of Directors (2009)
http://www.hkiod.com/document/corporateguide/sme_guidelines_eng.pdf
- (v) **SME Corporate Governance Toolkit**, by the Hong Kong Institute of Directors (2009)
http://www.hkiod.com/document/smetoolkit/smetoolkit_eng.pdf

For general reference :

- (vi) **The Organisation for Economic Co-operation and Development (OECD) Principles of Corporate Governance**, by OECD (2004)
<http://www.oecd.org/corporate/ca/corporategovernanceprinciples/31557724.pdf>
- (vii) The series of “**Best Practice Checklists on Governance and Internal Control**” issued by the Independent Commission Against Corruption (ICAC) for different types of organisations, such as listed companies, SMEs, social enterprises, public organisations, NGOs, etc. Copies of these publications are available at ICAC’s website
http://www.icac.org.hk/en/corruption_prevention_department/pt/index.html

Specific corporate governance requirements

Based on a risk assessment approach, specific governance requirements are determined by assessing the possible risks of Intermediaries under various dimensions including without limitation to: project type, profit management, remuneration basis, and mode of financing. Some examples of the specific requirements are listed below for inclusion into the Corporate Governance Plan of individual Intermediaries if applicable –

Examples of Specific Corporate Governance Requirements for Intermediaries

	Item	Examples of Specific Requirement
A	Project Type	
1	Capacity Building	<ul style="list-style-type: none"> Two-tier declaration of interest system⁵ should be adopted for any Board/ committee member and any other member of the organisation who is involved in the implementation process Independent board and committee members should be appointed (with representation of independent members, professionals and service recipients, if applicable)
2	Innovative Programmes	<ul style="list-style-type: none"> Two-tier declaration of interest system Independent board and committee members Clear guidelines and procedures of the Vetting Committee (including the Joint Vetting Committee) to be formed by the intermediaries for evaluating the applications from SIIs
B	Profit Management	
1	Organisation registered under Section 88 of the Inland Revenue Ordinance	<ul style="list-style-type: none"> Clear re-investment strategy (to align with the objective as far as possible)
2	Organisation not registered under Section 88 of the Inland Revenue Ordinance	<ul style="list-style-type: none"> Proper policy and mechanism of remunerations for board/ committee members and senior executives

⁵ A two-tier declaration of interest system should include the following requirements -
 (a) a person declares all his personal interests when he assumes any specified position in the organisation; and
 (b) after assumption of the post, he is required to declare whenever there is any actual or potential conflict of interest.

Further details of the two-tier declaration of interest system are available at P.38-39 of the “Good Governance and Internal Control in Public Organizations” (http://www.icac.org.hk/filemanager/en/Content_1031/governance.pdf) issued by ICAC.

The declaration of interest system should be applicable for compliance by the staff and corporation of the Intermediaries and SIIs.

C	Remuneration Basis	
1	Fixed fee	<ul style="list-style-type: none"> • A minimum level and system of reporting, such as developing a set of Key Performance Indicators
D	Mode of Financing	
1	Grant	<ul style="list-style-type: none"> • Comprehensive system of performance monitoring and reporting

Control Measures

(to be specified as terms and conditions in the Engagement Agreements
to be signed with selected Intermediaries)

(a) General Control Measures

The TF will impose the following measures on those selected applicants which run programmes directly (e.g. Capacity Building programmes) or which handle funds (including incomes generated from their programmes/ projects) for and on behalf of the SIE Fund –

- (i) Clear annual budget
- (ii) Separate bank account
- (iii) Separate set of books and records
- (iv) Regular submission of audited accounts
- (v) Open and fair procurement procedures
- (vi) Keep proper record of equipment procured for the project
- (vii) Regular reporting of project progress (especially on social impact)

(b) Specific control measures

Based on a similar risk assessment approach adopted for corporate governance, the specific control measures are determined by assessing the possible risks of Intermediaries under various dimensions including without limitation to: project type, profit management, remuneration basis, and mode of financing. Some examples of the specific requirements are listed below for reference by the interested applicants –

Examples of Specific Control Measures for Intermediaries

	Item	Examples of Specific Control Measure
A	Project Type	
1	Capacity Building	<ul style="list-style-type: none"> • Possible ceiling on the percentage (e.g. 30%) on profit derived from fees/ charges levied on participants of the Capacity Building Programmes that could be taken by the Intermediary
2	Innovative Programme	<ul style="list-style-type: none"> • N/A

	Item	Examples of Specific Control Measure
B	Profit Management	
1	Organisation registered under Section 88 of the Inland Revenue Ordinance	<ul style="list-style-type: none"> N/A
2	Organisation not registered under Section 88 of the Inland Revenue Ordinance	<ul style="list-style-type: none"> Possible contract conditions for refund to the SIE Fund if an Intermediary undertaking a Capacity Building programme sells the business concerned within a certain period of time (as determined by the TF on a case-by-case basis) after it last receives financial assistance from the SIE Fund
C	Remuneration Basis	
1	Fixed fee	<ul style="list-style-type: none"> Disbursement of fee by instalments (i.e. remunerations should be released upon the Intermediaries completing certain milestones and meeting certain performance requirements)
D	Mode of Financing	
1	Grant	<ul style="list-style-type: none"> Disbursement of grant by instalments (if applicable)