

**GOVERNMENT OF ODISHA**  
**WORKS DEPARTMENT**

**SEAL**

**DRAFT**

**STANDARD REQUEST FOR PROPOSAL DOCUMENT OF  
SELECTION OF CONSULTANTS**

**(For Employment of Consultants for fees more than Rs Ten Lakh)**

**NAME OF THE PROJECT :**

**Project Number :**

**DATE:**

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**PART I – SELECTION PROCEDURES AND  
REQUIREMENTS**

## Section 1: Letter of Invitation

RFP No. ....

Project ID: .....

Name of Department:.....

Title of Consultancy Service:.....

Dated: .....

To [*insert: Name & Address of the Consultant*]

.....

.....

.....

Dear Mr./Ms.:

1. The [*insert: Name of Department*] (hereinafter called "Client") now invites proposals to provide the following consulting services (herein after called "Services"):

Name of Work:

.....

.....

2. The electronic Request for Proposals (RFP) has been addressed to the following shortlisted Consultants:

(i)

(ii)

(iii)

(iv)

(v)

3. It is not permissible to transfer this invitation to any other firm.
4. A firm will be selected under [*Insert: Selection Method*] and in procedure as described in this RFP.
5. The RFP includes the following documents:

Section 1 - Letter of Invitation

Section 2 - Instructions to Consultants and Data Sheet

Section 3 - Technical Proposal - Standard Forms

Section 4 - Financial Proposal - Standard Forms

Section 5 - Terms of Reference

Section 6 – Condition of Contract and Contract Forms

6. The RFP is available online at tendering portal of Odisha <http://www.tendersodisha.gov.in> from [Insert: date] to [Insert: date](up to 17.00 hours IST) for viewing/downloading free of cost for the shortlisted consultants only.

To participate in the e-tendering process, a shortlisted Consultant should be in possession of Digital Signature Certificate (DSC) of class – II or class III in the name of the person duly authorized to sign on behalf of the shortlisted Consultant from any of the licensed Certifying Agency (CA).

7. The RFP documents contain all other details.
8. The Client reserves the right to cancel any or all proposals without assigning any reasons.
9. Each of the shortlisted Consultants are requested to inform through e-tendering portal of Odisha <http://www.tendersodisha.gov.in>
- (a) that he has received the Letter of Invitation by e-mail; and
  - (b) Whether he intends to submit a proposal alone or intends to enhance his experience by requesting permission to associate with other firm(s) (if permissible under Section 2, Instructions to Consultants (ITC), Data Sheet 13.1.1).
10. Proposals must be submitted online only at <http://www.tendersodisha.gov.in> on or before..... (up to 11.00 hours IST). Proposals submitted through any other mode shall not be entertained.

*[insert: Name and Designation of Bid Inviting Officer]*

## Section 2: Instructions to Consultants and Data Sheet

### A. General Provisions

#### 1. Definitions

- (a) "Client" means the department who have invited the bids for consultancy services and with which the selected Consultant signs the Contract for the Services and to which the selected consultant shall provide services as per the terms and conditions and TOR of the contract.
- (b) "Consultant" means any entity or person or associations of person who have been short-listed to submit their proposals that may provide or provides the Services to the Client under the Contract.
- (c) "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the project Specific Conditions (SC), and the Appendices.
- (d) "Project specific information" means such part of the Instructions to Consultants used to reflect specific project and assignment conditions.
- (e) "Day" means calendar day.
- (f) "Government" means the government of Odisha
- (g) "Instructions to Consultants" (Section 2 of the RFP) means the document which provides short-listed Consultants with all information needed to prepare their proposals.
- (h) "LOI" (Section 1 of the RFP) means the Letter of Invitation being sent by the Client to the short-listed consultants.
- (i) "Personnel" means Key Experts and other staff provided by the Consultant or by any Sub-Consultant and assigned to perform the Services or any part thereof.
- (j) "Proposal" means the Technical Proposal and the Financial Proposal.
- (k) "RFP" means the Request for Proposal prepared by the Client for the selection of Consultants, based on the SRFP.
- (l) "SRFP" means the Standard Request for Proposals, which must be used by the Client as a guide for the preparation of the RFP.
- (m) "Assignment/job" means the work to be performed by the Consultant pursuant to the Contract.
- (n) "Sub-Consultant" means any person or entity with which the Consultant subcontracts any part of the services while remaining responsible to the Client during the performance of the Contract.
- (o) "Terms of Reference" (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Client and the Consultant, and expected results and deliverables of the Assignment.

#### 2. Introduction

- 2.1 The Client named in the Data Sheet intends to select a Consultant from those listed in the Letter of Invitation, in accordance with the method of selection specified in the Data

Sheet.

- 2.2 The shortlisted Consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Data Sheet, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.
- 2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the Data Sheet. Attending any such pre-proposal conference is optional and is at the Consultants' expense.
- 2.4 The Client will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the Data Sheet.

### **3. Conflict of Interest**

- 3.1 The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Client's interests paramount, strictly avoiding conflicts with other assignments or its own corporate interests, and acting without any consideration for future work.
- 3.2 The Consultant has an obligation to disclose to the Client any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Client. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract during execution of assignment.
- 3.3 Without limitation on the generality of the foregoing, and unless stated otherwise in the Data Sheet, the Consultant shall not be hired under the circumstances set forth below:

#### **(a) Conflicting activities:**

- (i) Conflict between consulting activities and procurement of goods, works or non-consulting services: a firm that has been engaged by the Client to provide goods, works, or non-consulting services for a project, or any of its Affiliates, shall be disqualified from providing consulting service resulting from or directly related to those goods, works, or non-consulting services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, or any of its Affiliates, shall be disqualified from subsequently providing goods or works or no consulting services resulting from or directly related to the consulting services for such preparation or implementation.

#### **(b) Conflicting assignments:**

- (ii) Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant for the same or for another Client.

#### **(c) Conflicting relationships:**

- (iii) Relationship with the Client's staff: a Consultant (including its Experts and Sub-consultants) that has a close business or family relationship with a professional staff of the Client who are directly or indirectly involved in any part of (i) the preparation of the Terms of Reference for the assignment, (ii) the selection process for the Contract, or (iii) the supervision of the Contract, may not be awarded a Contract,



unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Client throughout the selection process and the execution of the Contract.

#### **4. Unfair Competitive Advantage**

4.1 Fairness and transparency in the selection process require that the Consultants or their Affiliates competing for a specific assignment do not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Client shall indicate in the Data Sheet and make available to all shortlisted Consultants together with this e-RFP all information that would in that respect give such Consultant any unfair competitive advantage over competing Consultants.

#### **5. Corrupt or Fraudulent Practices**

5.1 It is required that the Consultants observe the highest standard of ethics during the procurement and execution of such service. In pursuance of this policy, it is defined, for the purposes of this provision, the terms set forth below as follow:

- (i) 'Corrupt practice' means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution and
- (ii) 'Fraudulent practice' means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Client and includes collusive practice among consultants (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Governments of the benefits of free and open competition.
- (iii) 'Collusive practice' is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- (iv) 'Coercive practice' is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party.

5.2 The Client will reject a proposal for evaluation, and/or award if determines that the consultancy firm recommended for award has engaged in any of the practices in competing for the contract in question and will declare the firm ineligible, either indefinitely or for a stated period of time, to be awarded a contract, if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing the contract.

5.3 Furthermore, Consultancy firm may be aware of the provision stated in clause 10 of the Condition of Contract.

#### **6. Eligibility**

6.1 A Consultant may be a natural person, private entity or legally and financial autonomous Government owned enterprises.

6.2 This Invitation for Proposals is open to all Consultants registered with the Government of Odisha or other State Government/Government of India/MES/Railways/Public Sector Undertakings for providing consultancy of Civil works in general. Consultant not registered with Government of Odisha, can participate in the e-Procurement after

necessary enrolment in the portal, but have to subsequently register themselves with the appropriate registering authority of the State of Odisha before award of the work as per prevalent registering norms of the State.

## **B. Preparation of Proposals**

### **7. Cost of Preparation of Proposal**

7.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Client shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Client is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultant.

### **8. Language**

8.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Client shall be written in the English language, unless specified otherwise.

### **9. Documents Comprising the Proposal**

9.1 The Proposal shall comprise the documents and forms listed in the Data Sheet.

9.2 If specified in the Data Sheet, the Consultant shall include a statement of an undertaking of the Consultant to observe, in competing for and executing a contract, the Client country's laws against fraud and corruption (including bribery).

9.3 The Consultant shall furnish information on commissions, gratuities, and fees, if any, paid or to be paid to agents or any other party relating to this Proposal and, if awarded, Contract execution, as requested in the Financial Proposal submission form (Section 4).

### **10. Only One Proposal**

10.1 The Consultant (including the individual members of any Joint Venture) shall submit only one Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Consultant, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude a Sub-consultant, from participating in more than one Proposal when circumstances justify and if stated in the Data Sheet.

### **11. Proposal Validity**

11.1 The Data Sheet indicates the period during which the Consultant's Proposal must remain valid after the Proposal submission date.

11.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability of the Key Experts, the proposed rates and the total price.

11.3 If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal shall be disqualified and rejected for further evaluation.

#### **(a) Extension of Validity Period**

11.4 The Client will make its best effort to complete the negotiations within the proposal's validity period. However, should the need arise, the Client may request, by notifying all Consultants who submitted Proposals prior to the submission date to extend the Proposals'

validity. Mode of notifications is specified in the Data Sheet.

- 11.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.
- 11.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further evaluated.

## **12. Clarification and Amendment of RFP**

12.1 The Consultant may request an online clarification of any part of the RFP during the period and in accordance with the procedure indicated in the Data Sheet before the Proposals' submission date. The Client will respond online by uploading the response on the portal (including an explanation of the query but without identifying its source) for information of all shortlisted Consultants. Should the Client deem it necessary to amend the e-RFP as a result of a clarification, it shall do so following the procedure described below:

12.1.1 At any time before the proposal submission date, the Client may amend the RFP by issuing an amendment online and notifying all shortlisted Consultants through the system and by electronic mail. The amendment shall be binding on all shortlisted Consultants.

12.1.2 If the amendment is substantial, the Client may extend the proposal submission deadline to give the shortlisted Consultants reasonable time to take an amendment into account in their Proposals.

12.2 The Consultant may submit a modified Proposal or a modification to any part of it at any time prior to the proposal submission date, online, in accordance with the procedure described in the Data Sheet. No modifications to the Technical or Financial Proposal shall be accepted after the submission date.

## **13. Preparation of Proposals – Specific Considerations**

13.1 While preparing the Proposal, the Consultant must give particular attention to the following:

13.2 If a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultants if permitted in the Data Sheet. In all such cases a shortlisted Consultant must obtain the written approval of the Client prior to the submission of the Proposal. When associating with non-shortlisted firms in the form of a joint venture or a Sub-consultancy, the shortlisted Consultant shall be a lead member. If shortlisted Consultants associate with each other, any of them can be a lead member.

13.3 The Client may indicate in the Data Sheet the estimated Key Experts' time input (expressed in person- month) or the Client's estimated total cost of the assignment, but not both. This estimate is indicative and the Proposal shall be based on the Consultant's own estimates for the same.

13.4 If stated in the Data Sheet, the Consultant shall include in its Proposal at least the same time input (in the same unit as indicated in the Data Sheet) of Key Experts, failing which the Financial Proposal will be adjusted for the purpose of comparison of proposals and decision for award in accordance with the procedure in the Data Sheet.

13.5 For assignments under the Fixed-Budget selection method, the estimated Key Experts' time

input is not disclosed. Total available budget, with an indication whether it is inclusive or exclusive of taxes, is given in the Data Sheet, and the Financial Proposal shall not exceed this budget.

#### **14. Technical Proposal Format and Content**

14.1 The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.

14.2 Consultant shall not propose alternative Key Experts. Only one CV shall be submitted for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

14.3 The Consultant is required to submit a Technical Proposal, as indicated in the Data Sheet and using the Standard Forms provided in Section 3 of the RFP.

#### **15. Financial Proposal**

15.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the assignment, including (a) remuneration for Key Experts and other staff, (b) reimbursable expenses indicated in the Data Sheet.

##### **(a) Price Adjustment**

15.2 For assignments with a duration exceeding 18 months, a price adjustment provision for local inflation for remuneration rates applies if so stated in the Data Sheet.

##### **(b) Taxes**

15.3 The Consultant and its Sub-consultants and Experts are responsible for meeting all tax liabilities arising out of the Contract unless stated otherwise in the Data Sheet. Information on taxes in the Client's country is provided in the Data Sheet.

##### **(c) Currency**

15.4 The Consultant shall express the price for its Services in the Indian Rupees.

#### **16. Earnest Money Deposit (EMD) and Proposal Processing Fees**

##### **16.1 Earnest Money Deposit (EMD)**

(a) All consultants are required to pay Rupees [as provided in the Data Sheet] towards Earnest Money Deposit through gateway available on the portal.

(b) The EMD of the unsuccessful bidders would be returned back within one month of signing of the Contract.

##### **16.2 The EMD shall be forfeited by the Client in the following Events:**

(a) If Proposal is withdrawn during the validity period or any extension agreed by the Consultant thereof.

(b) If the Proposal is varied or modified in a manner not acceptable to the Client after opening of Proposal during the validity period or any extension thereof.

(c) If the consultant tries to influence the evaluation process.

(d) If the First ranked consultant withdraws his proposal during negotiations (failure to arrive at consensus by both the parties shall not be construed as withdrawal of proposal by the Consultant).

### **16.3 Proposal Processing Fees**

- (a) All consultants are required to pay Rupees [as provided in the data sheet] towards Proposal Processing Fees through gateway available on the portal. The proposal Processing Fee is Non-refundable.

## **C. Submission, Opening and Evaluation**

### **17. Submission of Proposals**

- 17.1 The Consultant shall submit a digitally signed, encrypted and complete Proposal comprising the documents and forms in accordance with Clause 9 (Documents Comprising Proposal). The submission can be done electronically through the website and in accordance with the procedures specified in the Data Sheet. Proposals submitted by any other means will be rejected.
- 17.2 An authorized representative of the Consultant shall digitally sign the submission letters in the required format for both the Technical Proposal and, if applicable, the Financial Proposal. The authorization shall be in the form of a written power of attorney scanned and uploaded together with the Technical Proposal.
- 17.3 In the case of a Joint Venture, submission letters shall be signed by all members so as to be legally binding on all members or by an authorized representative who has a written power of attorney signed by each member's authorized representative. The submission letters and the power of attorney shall then be scanned and uploaded together with the Technical Proposal.
- 17.4 Consultants should be aware that the electronic procurement system does not allow for any interlineations, erasures, or overwriting. Any modifications or revisions to the Proposal shall be done in accordance with Clause ITC 12.2.
- 17.5 The Proposal or its modifications must be uploaded on the portal no later than the date indicated in the Data Sheet, or any extension to this date. The electronic system will not accept any Proposal or its modification for uploading after the deadline.
- 17.6 Once the Proposal is uploaded on the portal, the system will generate a unique identification number with the stamped submission time. The unique identification number with the time stamp represents an acknowledgement of the Proposal submission. Any other system's functionality requirements are specified in the Data Sheet.

### **18. Confidentiality**

- 18.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultant should not contact the Client on any matter related to its Technical and/or Financial Proposal. Information relating to the evaluation of Proposals and award recommendations shall not be disclosed to the Consultants who submitted the Proposals or to any other party not officially concerned with the process, until the publication of the Contract award information.
- 18.2 Any attempt by shortlisted Consultants or anyone on behalf of the Consultant to influence improperly the Client in the evaluation of the Proposals or Contract award decisions may result in the rejection of its Proposal.
- 18.3 Notwithstanding the above provisions, from the time of the Proposals' opening to the time of Contract award publication, if a Consultant wishes to contact the Client on any matter related to the selection process, it should do so only in writing.

### **19. Online Opening of Technical Proposals**

- 19.1 The Client's evaluation committee shall conduct the opening of the Technical Proposals online immediately after the Proposals' submission date and following the procedure described in the Data Sheet. The folder with the Financial Proposal shall remain unopened, encrypted and shall be securely stored on the portal.
- 19.2 At the opening of the Technical Proposals the following shall be read out and recorded online simultaneously: (i) the name of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member, (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modification to the Proposal submitted prior to proposal submission date; and (iv) any other information as indicated in the Data Sheet.

### **20. Proposals Evaluation**

- 20.1 Subject to provision of Clause 15.1 of the ITC, the evaluators of the Technical Proposals shall have no access to the Financial Proposal until the technical evaluation is concluded and approved by competent authority.
- 20.2 The Consultant is not permitted to alter or modify its Proposal in any way after the proposal submission date. While evaluating the Proposals, the Client will conduct the evaluation solely on the basis of the submitted Technical and Financial Proposals.

### **21. Evaluation of Technical Proposals**

- 21.1 The Client's evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and the RFP, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet. Each responsive Proposal will be given a technical score. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve the minimum technical score indicated in the Data Sheet.

### **22. Online Opening of Financial Proposal (for QBS method)**

- 22.1 Following the ranking of the Technical Proposals, when the selection is based on quality only (QBS), the top-ranked Consultant is invited to negotiate the Contract.
- 22.2 If Financial Proposals were invited together with the Technical Proposals, only the Financial Proposal of the technically top-ranked Consultant is opened by the Client's evaluation committee. All other Financial Proposals are returned unopened after the Contract negotiations are successfully concluded and the Contract is signed.

### **23. Online Opening of Financial Proposals (for QCBS, FBS and LCS methods)**

- 23.1 After the technical evaluation is completed and approved by the competent authority, the Client shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score by sending a notification through the means indicated in the Data Sheet. The notification shall also include information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion. Financial Proposals of those Consultants whose Technical Proposals did not meet the minimum qualifying score cannot be opened in the system. In such case, a notification to that effect will be sent to the Consultant. The Client shall simultaneously notify those Consultants that have achieved the minimum overall technical score and inform them of the date, time and, if indicated in the Data Sheet, location for online opening of the Financial Proposals. The Consultant's attendance at the opening of

the Financial Proposals (online, or in person, if such option is indicated in the Data Sheet) is optional and is at the Consultant's choice. If the Data Sheet provides an option of attending in person, the opening date should allow the Consultants sufficient time to make arrangements for attending the opening.

23.2 The Financial Proposals shall be opened online by the Client's evaluation committee as described in the Data Sheet. At the opening, the names of the Consultants, and the overall technical scores, including the break-down by criterion, shall be read aloud first and recorded online simultaneously. The Financial Proposals shall be then opened, the total prices read aloud and recorded online simultaneously. The records of the opening shall remain on the portal for the information of the Consultants who submitted Proposals, unless the Data Sheet provides for other means of sending notifications and the results of the financial opening.

#### **24. Correction of Errors**

24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.

##### **(a) Time-Based Contracts**

24.2 If a Time-Based contract form is included in the e- RFP, the e-procurement system automatically calculates the amount in words from the amount in figures and automatically calculates the total amount. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Client's evaluation committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost. The evaluation committee will also adjust the prices if they fail to reflect all inputs included for the respective activities or items in the Technical Proposal.

##### **(b) Lump-Sum Contracts**

24.3 If a Lump-Sum contract form is included in the RFP, the Consultant is deemed to have included all prices in the Financial Proposal, so neither arithmetical corrections nor price adjustments shall be made. The total price, net of taxes understood as per Clause ITC 25 below, specified in the Financial Proposal (Form FIN-1) shall be considered as the offered price.

#### **25. Taxes**

25.1 The Client's evaluation of the Consultant's Financial Proposal shall exclude taxes and duties in the Client's country in accordance with the instructions in the Data Sheet.

#### **26. Combined Quality and Cost Evaluation**

##### **(a) Quality and Cost Based Selection (QCBS)**

26.1 In the case of QCBS, the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the Data Sheet. The Consultant achieving the highest combined technical and financial score will be invited for negotiations.

##### **(b) Fixed-Budget Selection (FBS)**

26.2 In the case of FBS, those Proposals that exceed the budget indicated in Clause 13.5 of the Data Sheet shall be rejected.

26.3 The Client will select the Consultant that submitted the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP, and invite such Consultant to negotiate the Contract

**(c) Least Cost Selection**

26.4 In the case of Least-Cost Selection (LCS), the Client will select the Consultant with the lowest evaluated total price among those consultants that achieved the minimum technical score, and invite such Consultant to negotiate the Contract.

**D. Negotiations and Award**

**27. Consultants Liable for Disqualification**

27.1 Even though the Consultant may be eligible for negotiations as per clause 26, they may be disqualified if they have:

27.2 Made misleading or false representation in the forms, statements and attachments submitted in proof of the qualification requirements; and/or

27.3 Record of poor performance such as not properly completing the consultancy assignment due to their personal failure; and/or

27.4 The consultancy service contracts have been terminated during last three years from the submission date.

**28. Negotiations**

28.1 The negotiations will be held at the date and address indicated in the Data Sheet with the Consultant's representative(s) who must have written power of attorney to negotiate and sign a Contract on behalf of the Consultant.

28.2 The Client shall prepare minutes of negotiations that are signed by the Client and the Consultant's authorized representative.

**(a) Availability of Key Experts**

28.3 The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a prerequisite to the negotiations, or, if applicable, a replacement in accordance with Clause 12 of the ITC. Failure to confirm the Key Experts' availability may result in the rejection of the Consultant's Proposal and the Client proceeding to negotiate the Contract with the next- ranked Consultant.

28.4 Notwithstanding the above, the substitution of Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original candidate.

**(b) Technical negotiations**

28.5 The negotiations include discussions of the Terms of Reference (TORs), the proposed methodology, the Client's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial evaluation be affected.



**(c) Financial negotiations**

- 28.6 The negotiations include the clarification of the Consultant's tax liability and how it should be reflected in the Contract.
- 28.7 If the selection method included cost as a factor in the evaluation, the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.
- 28.8 In the case of a Time-Based contract, unit rates negotiations shall not take place, except when the offered Key Experts and Non-Key Experts' remuneration rates are much higher than the typically charged rates by consultants in similar contracts. In such case, the Client may ask for clarifications and, if the fees are very high, ask to change the rates. The format for (i) providing information on remuneration rates in the case of Quality Based Selection; and (ii) clarifying remuneration rates' structure under Clause 27.8 above, is provided in Appendix A to the Financial Form FIN-3: Financial Negotiations - Breakdown of Remuneration Rates.

**29. Conclusion of Negotiations**

- 29.1 The negotiations are concluded with a review of the finalized draft Contract, which then shall be initialed by the Client and the Consultant's authorized representative.
- 29.2 If the negotiations fail, the Client shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Client shall terminate the negotiations informing the Consultant of the reasons for doing so. The Client will invite the next-ranked Consultant to negotiate a Contract. Once the Client commences negotiations with the next-ranked Consultant, the Client shall not reopen the earlier negotiations.

**30. Award of Contract**

- 30.1 After completing the negotiations the Client shall sign the Contract; promptly notify the other shortlisted Consultants and publish the award as per the instructions in the Data Sheet.
- 30.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.

## Instructions to Consultants

### E. Data Sheet

<b>A. General</b>	
ITC Clause Reference	
2.1	Name of the Client: .....  Method of selection: .....
2.2	Financial Proposal to be submitted together with Technical Proposal: Yes The name of the assignment is ..... .....
2.3	A pre-proposal conference will be held: Yes <i>[If “Yes”, fill in the following:]</i> Date of pre-proposal conference: ..... Time: ..... Address: ..... Telephone: ..... E-mail: ..... Contact person/conference coordinator: .....
2.4	The Client will provide the following inputs, project data, reports, etc. to facilitate the preparation of the Proposals: .....
4.1	.....
<b>B. Preparation of Proposals</b>	
10.1	The Proposal shall comprise the following:  For TECHNICAL PROPOSAL TO BE SUBMITTED ONLINE IN SEPARATE FOLDERS FOR TECHNICAL AND FINANCIAL PROPOSAL:  Technical Proposal: (1) Power of Attorney to sign the Proposal (2) TECH-1 (3) TECH-2

Section 2: Instructions to Consultants

	<p>(4) TECH-3</p> <p>(5) TECH-4</p> <p>(6) TECH-5</p> <p>(7) TECH-6 AND</p> <p>Financial Proposal:</p> <p>(1) FIN-1</p> <p>(2) FIN-2</p> <p>(3) FIN-3</p> <p>(4) FIN-4</p> <p>(5) Statement of Undertaking (if required under Data Sheet 9.2 below)</p>
9.2	<p>Statement of Undertaking is required</p> <p>Yes</p>
10.1	<p>Participation of Sub-consultants, in more than one Proposal is permissible</p> <p>No</p>
11.1	<p>Proposals must remain valid for 90 calendar days after the proposals submission date.</p>
11.4	<p>Any extension of validity period will be hosted on e-tendering portal of Odisha at <a href="http://www.tendersodisha.gov.in">http://www.tendersodisha.gov.in</a> and also e-mail will be sent to each short listed Consultant.</p> <p>The Consultants may send their response if any through e-mail at the e-mail id given in Data Sheet against ITC 2.3.</p>
12.1	<p>Clarifications may be requested no later than 14 days prior to the online submission date.</p> <p>All requests for clarifications shall be made online through the e- tendering portal of Odisha at <a href="http://www.tendersodisha.govt.in">http://www.tendersodisha.govt.in</a> Clarifications sent through any other medium shall not be accepted.</p> <p>The Client will host the query without identifying the source and response thereto on the e-tendering portal of Odisha at <a href="http://www.tendersodisha.govt.in">http://www.tendersodisha.govt.in</a> no later than 7 days prior to the submission deadline.</p> <p>The system will also send auto-e-mail regarding hosting of query and response to all the shortlisted Consultants. The shortlisted Consultants shall remain responsible to view query and response thereto.</p>
12.1.1	<p>The Client will host the amendment to RFP on the e-tendering portal of Odisha at <a href="http://www.tendersodisha.gov.in">http://www.tendersodisha.gov.in</a> if any at any time prior to the submission deadline.</p> <p>The system will also send auto-e-mail regarding hosting of amendment to RFP to all the shortlisted Consultants. The shortlisted Consultants shall remain responsible to</p>

	view amendment to RFP.
12.1.2	The Client will host extension of submission deadline on the e- tendering portal of Odisha at <a href="http://www.tendersodisha.gov.in">http://www.tendersodisha.gov.in</a>
12.2	<p>(a) For substitution of one or more files containing documents comprising the Proposal, a shortlisted Consultant has to detach its old relevant file(s) any time prior to submission date from e- tendering portal of Odisha and submit fresh files.</p> <p>(b) Only the last modified documents comprising the Proposal shall be available in the system which shall be opened and read along with other Proposals.</p> <p>(c) For withdrawal of the Proposal, a shortlisted Consultant has to click on withdrawal icon at e-tendering portal of Odisha and can withdraw his Proposal.</p> <p>(d) It may specifically be noted that after withdrawal of a Proposal for any reason, a shortlisted Consultant cannot re-submit Proposal again.</p> <p>(e) Modification/withdrawal of Proposal by any other means shall not be permitted</p>
13.2	<p>Shortlisted Consultants may associate with:</p> <p>(a) non-shortlisted consultant(s): No or Yes (To be stated by the Employer)</p> <p>(b) other shortlisted Consultants: No or Yes (To be stated by the Employer)</p>
13.3 (do not use for Fixed Budget method)	Estimated input of Key Experts' time-input: .... person-months.
13.4 for time- based contracts only	<p>The Consultant's Proposal must include Key Experts' time-input of person-months as given below:</p> <p>I) .....</p> <p>II) .....</p> <p>III) .....</p> <p>IV) .....</p> <p>V) .....</p> <p>VI) .....</p> <p>For the evaluation and comparison of Proposals only: if a Proposal includes less than the required minimum time-input, the missing time-input (expressed in person-month) is calculated as follows:</p> <p>The missing time-input is multiplied by the highest remuneration rate for a Key Expert in the Consultant's Proposal and added to the total remuneration amount. Proposals that quoted higher than the required minimum of time-input will not be adjusted.</p>

13.5 and 26.2 use for Fixed Budget method	Total available budget is Rupees .....
14.3	The format of the Technical Proposal to be submitted is: Submission of the Technical Proposal in a wrong format may lead to the Proposal being deemed non-responsive to the RFP requirements.
15.1	(1) <i>a per diem allowance, including hotel, for experts for every day of absence from the home office for the purposes of the Services;</i> (2) <i>cost of travel by the most appropriate means of transport and the most direct practicable route;</i> (3) <i>cost of office accommodation, including overheads and back-stop support;</i> (4) <i>communications costs;</i> (5) <i>cost of purchase or rent or freight of any equipment required to be provided by the Consultants;</i> (6) <i>cost of reports production (including printing) and delivering to the Client;</i> (7) <i>other allowances where applicable and provisional or fixed sums (if any)]</i>
15.2	A price adjustment provision applies to remuneration rates: Yes/No (To be stated by the Employer)
15.3	Information about the Consultant's tax obligations in the Client's state can be found from Ministry of Finance, Government of Odisha website at <a href="http://.....">http://.....</a>
16.1 (a)	Amount of Earnest Money Deposit (EMD) is Rupees .....
16.3 (a)	Amount of Proposal Processing Fee is Rupees.....
<b>C. Submission, Opening and Evaluation</b>	
17.1	The Consultants shall submit their Proposals electronically Following the procedure given below: (a) To participate in the e-tendering process, a shortlisted Consultant should be in possession of Class II or Class III Digital Signature Certificate (DSC) in the name of the person duly authorized to sign on behalf of the shortlisted Consultant from any of the licensed Certifying Agency (CA). (The short listed Consultants can see the list of licensed CA"s from the link <a href="http://www.cca.aov.in">http://www.cca.aov.in</a> ). (b) A shortlisted Consultant will have to get registered with e- tendering portal of Odisha <a href="http://.....">http://.....</a> and obtain user ID & password by submitting an annual registration charges of INR ..... only inclusive of all taxes) to ..... through e-payment gateway of ..... Bank

	<p>using Credit Card/Debit Card (Master Card and Visa Card only) or net banking (..... Account holders only) if it does not have valid registration. Validity of online registration is 1 year.</p> <p>(c) An EMD and proposal Processing Fees as described in 16.1 and 16.3 is mandatory otherwise the proposal shall be declared as non-responsive and will be rejected.</p> <p>(d) Request has to be sent on e-tendering portal of Odisha not later than ..... up to 17.00 hours IST.</p>
17.5	<p>The Proposals must be submitted online not later than: Date: ..... Time: 11.00 Hours (IST)</p>
19.1	<p>An online opening of the Technical Proposals will be conducted as following: Technical proposal will be opened only by the Client’s Evaluation Committee at the place and on the date and time as indicated below using the digital signature key of minimum three members of the Evaluation Committee.</p> <p><i>Consultants have an option to attend the opening of the Technical Proposals in person through authorised representative.</i></p> <p><i>The opening shall take place at:</i> ..... Date: ..... Time: .....</p>
19.2	<p>In addition, the following information will be read aloud at the opening of the Technical Proposals .....</p>
21.1 (for Technical Proposal)	<p>Criteria, sub-criteria, and point system for the evaluation of the Full Technical Proposals: Points</p> <p>(i) Specific experience of the Consultant (as a firm) relevant to the Assignment: ..... (10 to 12 points)</p> <p>(ii) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference (TORs):..... (20 to 25 points)</p> <p>The number of points to be assigned shall be determined considering the following three sub-criteria and relevant percentage weights:</p> <ol style="list-style-type: none"> <li>1. Clarity of methodology and compliance of methodology to ToR – (50%)</li> <li>2. Suitability of work plan from implementation point of view - (30%)</li> <li>3. Balancing of Key Experts ability and skill to implement work plan.(20%)</li> </ol> <p>(iii) Key Expert qualifications and competence for the Assignment:</p> <p>(Note to Consultants: each position number corresponds to the same for the Key</p>

	<p>Experts in Form TECH-6 to be prepared by the Consultant)</p> <p>Total points for criterion (iii):.....(65 to 70 points)</p> <p>The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and relevant percentage weights:</p> <p>1) General qualifications (general education, training, and experience): ..... (35%)</p> <p>2) Adequacy for the Assignment (relevant education, training, experience in the sector/similar assignments); .....(55%)</p> <p>3) <i>Relevant experience in the region (working level fluency in local language(s)/ knowledge of local culture or administrative system, government organization, etc.): ..... (10%)</i></p> <p style="text-align: center;"><i>Total points for the three Criteria: .....100 points.</i></p>
23.1	<p>Notifications to the Consultants will be sent as following:</p> <p>(a) The Client shall notify those Consultants whose Proposals were considered non-responsive to the RFP and TOR or did not meet the minimum qualifying technical score (and shall provide information relating to the Consultant's overall technical score, as well as scores obtained for each criterion and sub-criterion) online through e-tendering portal of Odisha at <a href="http://www.tendersodisha.com">http://www.tendersodisha.com</a>.</p> <p>(b) Financial Proposals of responsive Consultants will be opened online through e-tendering portal of Odisha at <a href="http://www.tendersodisha.com">http://www.tendersodisha.com</a>. The date, time and venue of opening of Financial Proposals will be notified by the Client to the Consultants who are technically qualified.</p> <p>Consultants have an option to attend the opening of the Financial Proposals in person through authorised representative.</p>
23.2	<p>The online opening procedure shall be as following: Financial proposal will be opened only by the Client's Evaluation Committee using the digital signature key of minimum three members of the Evaluation Committee. . <i>Consultants have an option to attend the opening of the Financial Proposals in person through authorised representative.</i></p> <p>The procedure for notifying the Consultants on the results of the Financial opening shall be as following: same as in ITC 23.1</p>
25.1	<p>For the purpose of the evaluation, the Client will exclude: (a) all local identifiable indirect taxes such as sales tax, excise tax, VAT, or similar taxes levied on the contract's invoices</p>
26.1	<p>The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100.</p> <p>The formula for determining the financial scores (Sf) of all other Proposals is</p>

	<p>calculated as following:</p> <p><math>S_f = 100 \times F_m / F</math>, in which "Sf" is the financial score, "Fm" is the lowest price, and "F" the price of the proposal under consideration.</p> <p>The weights given to the Technical (T) and Financial (P) Proposals are:</p> <p>T = [Insert: Weightage] and P = [Insert: Weightage]</p> <p>Proposals are ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: <math>S = S_t \times T\% + S_f \times P\%</math>.</p>
<p><b>D. Negotiations and Award</b></p>	
<p>28.1</p>	<p>Expected date and address for contract negotiations:</p> <p>Date: .....</p> <p>Address: .....</p>
<p>30.1</p>	<p>Procedure for notifying unsuccessful Consultants and for publishing the contract award information is as following:</p> <p>(a) Following the award, completion of the contract negotiations and contract signing, other Consultants will be notified as following: that their Proposals have not been accepted on e- tendering portal of Odisha at <a href="http://www.....">http://www.....</a> .</p> <p>(b) Contract award information will be published on e-tendering portal of Odisha at <a href="http://www.....">http://www.....</a></p>
<p>30.2</p>	<p>Expected date for the commencement of the Services:</p> <p>Date: .....</p> <p>At: .....</p>



### Section 3: Technical Proposal - Standard Forms

{Notes to Consultant shown in brackets { } throughout Section 3 provide guidance to the Consultant to prepare the Technical Proposal; they should not appear on the Proposals to be submitted.}

#### CHECKLIST OF REQUIRED FORMS

FORM	DESCRIPTION	<i>Page Limit</i>
TECH-1	Technical Proposal Submission Form.	
TECH-1 Attachment	If the Proposal is submitted by a joint venture, attach a letter of intent or a copy of an existing agreement.	
Power of Attorney	No pre-set format/form. In the case of a Joint Venture, several are required: a power of attorney for the authorized representative of each JV member, and a power of attorney for the representative of the lead member to represent all	
TECH-2	Consultant's Organization and Experience.	
TECH-2A	A. Consultant's Organization	
TECH-2B	B. Consultant's Experience	
TECH-3	Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Client.	
TECH-3A	A. On the Terms of Reference	
TECH-3B	B. On the Counterpart Staff and Facilities	
TECH-4	Description of the Approach, Methodology, and Work Plan for Performing the Assignment	
TECH-5	Work Schedule and Planning for Deliverable	
TECH-6	Team Composition, Key Experts Inputs, and attached Curriculum Vitae (CV)	

All pages of the original Technical and Financial Proposal shall be initialled by the same authorized representative of the Consultant who signs the Proposal.

**FORM TECH-1**  
**TECHNICAL PROPOSAL SUBMISSION FORM**

{Location, Date}

To: *[Name and address of Client]*

Dear Sirs:

We, the undersigned, offer to provide the consulting services for ..... in accordance with your Request for Proposals dated *[Insert Date]* and our Proposal. We are hereby submitting our Proposal online, which includes this Technical Proposal and a Financial Proposal.

{If the Consultant is a joint venture, insert the following; we are submitting our Proposal a joint venture with: {Insert a list with full name and the legal address of each member, and indicate the lead member}. We have attached a copy {insert: "of our letter of intent to form a joint venture" or, if a JV is already formed, "of the JV agreement"} signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.

{OR

If the Consultant's Proposal includes Sub-consultants, insert the following: We are submitting our Proposal with the following firms as Sub-consultants: {Insert a list with full name and address of each Sub-consultant.}

We hereby declare that:

- (a) All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Client.
- (b) Our Proposal shall be valid and remain binding upon us for the period of time specified in the Data Sheet, Clause 11.1.
- (c) We have no conflict of interest in accordance with ITC 3.
- (d) In competing for (and if the award is made to us, in executing) the Contract, we undertake to observe the laws against fraud and corruption, including bribery, in force in the India.
- (e) Except as stated in the Data Sheet, Clause 11.1, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC Clause 11 and ITC Clause 26.4 may lead to the termination of Contract negotiations.
- (f) Our Proposal is binding upon us and subject to any modifications resulting from the Contract negotiations.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the assignment no later than the date indicated in Clause 29.2 of the Data Sheet.

We understand that the Client is not bound to accept any Proposal that the Client receives.

We remain,

Yours sincerely,

Authorized Signature {In full and initials}: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Consultant (company's name or JV's name):

In the capacity of: \_\_\_\_\_

Address: \_\_\_\_\_

Contact information (phone and e-mail): \_\_\_\_\_

{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached}

**FORM TECH-2****CONSULTANT’S ORGANIZATION AND EXPERIENCE**

Form TECH-2: a brief description of the Consultant’s organization and an outline of the recent experience of the Consultant that is most relevant to the assignment. In the case of a joint venture, information on similar assignments shall be provided for each partner. For each assignment, the outline should indicate the names of the Consultant’s Key Experts and Sub-consultants who participated, the duration of the assignment, the contract amount (total and, if it was done in a form of a joint venture or a sub-consultancy, the amount paid to the Consultant), and the Consultant’s role/involvement.

**A - Consultant’s Organization**

1. Provide here a brief description of the background and organization of your company, and - in case of a joint venture - of each member for this assignment.
2. Include organizational chart, a list of Board of Directors, and beneficial ownership

**B - Consultant’s Experience**

<b>Duration</b>	<b>Assignment name/&amp; brief description of main deliverables/outputs</b>	<b>Name of Client &amp; Country of Assignment</b>	<b>Approx. Contract value (in Indian Rupees)</b>	<b>Role on the Assignment</b>
{e.g., Jan.2009-Apr.2010}	{e.g., “Improvement quality of ..... designed master plan for rationalization of ..... ; }	{e.g., Department of , country }	Rupees	{e.g., Lead partner in a JV A&B&C }
{e.g., Jan-May 2008}	{e.g., “Support to sub-national government ” : drafted secondary level regulations on ..... }	{e.g., municipality of....., country }	Rupees	{e.g., sole Consultant }

## **FORM TECH-3**

### **COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE, COUNTERPART STAFF, AND FACILITIES TO BE PROVIDED BY THE Client**

Form TECH-3: comments and suggestions on the Terms of Reference that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities, which are provided by the Client, including: administrative support, office space, local transportation, equipment, data, etc.

#### **A - COMMENTS on the Terms of Reference**

{improvements to the Terms of Reference, if any}

#### **B - COMMENTS on Counterpart Staff and Facilities**

{comments on counterpart staff and facilities to be provided by the Client. For example, administrative support, office space, local transportation, equipment, data, background reports, etc., if any}

## FORM TECH-4

### DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN IN RESPONDING TO THE TERMS OF REFERENCE

Form TECH-4: a description of the approach, methodology and work plan for performing the assignment, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the assignment.

*[Suggested structure of your Technical Proposal]*

#### Technical Approach and Methodology

1. Work Plan
2. Organization and Staffing
  - a) Technical Approach and Methodology. {Please explain your understanding of the objectives of the assignment as outlined in the Terms of Reference (TORs), the technical approach, and the methodology you would adopt for implementing the tasks to deliver the expected output(s), and the degree of detail of such output. Please do not repeat/copy the TORs in here.}
  - b) Work Plan. {Please outline the plan for the implementation of the main activities/tasks of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the Client), and tentative delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing your understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents (including reports) to be delivered as final output(s) should be included here. The work plan should be consistent with the Work Schedule Form.}
  - c) Organization and Staffing. {Please describe the structure and composition of your team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative support staff.}

**FORM TECH-5**

**WORK SCHEDULE AND PLANNING FOR DELIVERABLES**

No.	Deliverables <sup>1,2,3</sup> (D-...)	Months											
		1	2	3	4	5	6	7	8	9	...	n	TOTAL
<b>D-1</b>	{e.g., Deliverable #1: Report A												
	1) data collection												
	2) drafting												
	3) inception report												
	4) incorporating comments												
	5) .....												
	6) delivery of final report to Client}												
<b>D-2</b>	{e.g., Deliverable #2:..... }												
<b>n</b>													

<sup>1</sup> List the deliverables with the breakdown for activities required to produce them and other benchmarks such as the Client’s approvals. For phased assignments, indicate the activities, delivery of reports, and benchmarks separately for each phase.

<sup>2</sup> Duration of activities shall be indicated in a form of a bar chart; and

<sup>3</sup> Include a legend, if necessary, to help read the chart

**FORM TECH-6**

**TEAM COMPOSITION, ASSIGNMENT, AND KEY EXPERTS' INPUTS**

No.	Name	Expert's input (in person/month) per each Deliverable (listed in TECH-5)										Total time-input (in Months)		
		Position		D-1		D-2		D-3		D-...		Home	Field	Total
<b>  KEY EXPERTS   </b>														
K-1	{ e.g., Mr. Abbbb }	[Team Leader]	[/Home	[2 month]	[1.0]	[1.0]								
			[/Field	[0.5 m]	[2.5]	[0]								
K-2														
K-3														
n														
<b>1</b>										<b>Subtotal</b>				
<b>  NON-KEY EXPERTS   </b>														
N-1			[/Home											
			[/Field											
N-2														
n														
										<b>Subtotal</b>				
<b>1</b>										<b>Total</b>				



**FORM TECH-6 (CONTINUED) CURRICULUM VITAE (CV)**

<b>Position Title and No.</b>	{ e.g., K-1, TEAM LEADER }
<b>Name of Expert:</b>	{ Insert full name }
<b>Date of Birth:</b>	{ day/month/year }
<b>Country of Citizenship/Residence</b>	

Education: {List college/university or other specialized education, giving names of educational institutions, dates attended, degree(s)/diploma(s) obtained }

Employment record relevant to the assignment: {Starting with present position, list in reverse order. Please provide dates, name of employing organization, titles of positions held, types of activities performed and location of the assignment, and contact information of previous Clients and employing organization(s) who can be contacted for references. Past employment that is not relevant to the assignment does not need to be included. }

<b>Period</b>	<b>Employing organization and your title/position. Contact information for references</b>	<b>Country</b>	<b>Summary of activities performed relevant to the Assignment</b>
[e.g., May 2005-present]	[e.g., Department of, advisor/consultant to... For references: Tel...../e-mail; Mr. ...., deputy minister]		

Membership in Professional Associations and Publications:

Language Skills (indicate only languages in which you can work):

Adequacy for the Assignment:

Detailed Tasks Assigned on Consultant’s Team of Experts:	Reference to Prior Work/Assignments that Best Illustrates Capability to Handle the Assigned Tasks
{ List all deliverables/tasks as in TECH- 5 in which the Expert will be involved }	

Expert’s contact information: (e-mail ....., phone .....) )

Certification:

the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the assignment in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal by the Client.

Name of Expert	Signature	Date
		{ day/month/year }
Name of authorized Representative of the Consultant (the same who signs the Proposal)	Signature	Date
		{ day/month/year }

## **Section 4: Financial Proposal - Standard Forms**

*{Notes to Consultant shown in brackets { } provide guidance to the Consultant to prepare the Financial Proposals; they should not appear on the Financial Proposals to be submitted.}*

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided in Section 2.

- FIN-1 Financial Proposal Submission Form
- FIN-2 Summary of Costs
- FIN-3 Breakdown of Remuneration, including Appendix A “Financial Negotiations  
- Breakdown of Remuneration Rates” in the case of QBS method
- FIN-4 Reimbursable expenses

**FORM FIN-1**

**FINANCIAL PROPOSAL SUBMISSION FORM**

{Location, Date}

To: [Name and address of Client]

Dear Sirs:

We, the undersigned, offer to provide the consulting services for ..... in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal.

Our attached Financial Proposal is for the amount of {Indicate the corresponding to the amount(s) currency(ies)} {Insert amount(s) in words and figures}, “excluding” *of all indirect local taxes in accordance with Clause 25.1 in the Data Sheet*. The estimated amount of local indirect taxes is {Insert currency} {Insert amount in words and figures} which shall be confirmed or adjusted, if needed, during negotiations. {Please note that all amounts shall be the same as in Form FIN-2}.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal, i.e. before the date indicated in Clause 11.1 of the Data Sheet.

Commissions and gratuities paid or to be paid by us to an agent or any third party relating to preparation or submission of this Proposal and Contract execution, paid if we are awarded the Contract, are listed below:

Name and Address of Agents	Amount and Currency	Purpose of Commission or Gratuity
-------------------------------	------------------------	--------------------------------------

{If no payments are made or promised, add the following statement: “No commissions or gratuities have been or are to be paid by us to agents or any third party relating to this Proposal and Contract execution.”}

We understand you are not bound to accept any Proposal you receive. We remain,

Yours sincerely,

Authorized Signature {In full and initials}:

Name and Title of Signatory: \_\_\_\_\_

In the capacity of: \_\_\_\_\_

Address:

E-mail: \_\_\_\_\_

{For a joint venture, either all members shall sign or only the lead member/consultant, in which case the power of attorney to sign on behalf of all members shall be attached}

**FORM FIN-2 SUMMARY OF COSTS**

Item	Cost in Rupees			
<b>Cost of the Financial Proposal</b>				
Including:				
(1) <b>Remuneration</b>				
(2) <b>Reimbursables</b>				
<b>Total Cost of the Financial Proposal:</b> {Should match the amount in Form FIN-1}				
<b>Indirect Local Tax Estimates - to be discussed and finalized at the negotiations if the Contract is awarded</b>				
(i) {insert type of tax. e.g., VAT or sales tax}				
(ii) {e.g., income tax on non-resident experts}				
(iii) {insert type of tax}				
Total Estimate for Indirect Local Tax:				

**Footnote: Payments will be made in Indian Rupees.**

**FORM FIN-3 BREAKDOWN OF REMUNERATION**

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for the calculation of the Contract’s ceiling amount; to calculate applicable taxes at contract negotiations; and, if needed, to establish payments to the Consultant for possible additional services requested by the Client. This Form shall not be used as a basis for payments under Lump-Sum contracts

No.	Name	Position (as in Tech-6)	Person-month Remuneration Rate	Time Input in Person/ Month (from Tech-6)	Cost in Indian Rupees
	Key Expert				
K-1		(Home)			
		(Field)			
K-2					
	Non-Key Expert				
N-1		(Home)			
		(Field)			
N-2					
Total Costs					

**FORM FIN- 4 BREAKDOWN OF REIMBURSABLE EXPENSES**

When used for Lump-Sum contract assignment, information to be provided in this Form shall only be used to demonstrate the basis for calculation of the Contract ceiling amount, to calculate applicable taxes at contract negotiations and, if needed, to establish payments to the Consultant for possible additional services requested by the Client. This form shall not be used as a basis for payments under Lump-Sum contracts

<b>B. Reimbursable Expenses</b>					
<b>No.</b>	<b>Type of Reimbursable Expenses</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Quantity</b>	<b>Cost in Indian Rupees</b>
	{ e.g., Per diem	{Day}			
	{ e.g., International flights }	{Ticket}			
–	{ e.g., In/out airport transportation }	{Trip}			
	{ e.g., Communication costs between Insert place and Insert place }				
	{ e.g., reproduction of				
	re.g., Office rent }				
	{Training of the Client’s personnel - if required in TOR }				
Total Costs					

Legend:

“Per diem allowance” is paid for each night the expert is required by the Contract to be away from his/her usual place of residence. Client can set up a ceiling.

## **Section 5: Terms of Reference**

### **Part I - Objective and Scope of Work**

*[The Terms of Reference (TOR) shall be drafted by the Client while compiling the RFP TOR should be compiled clearly indicating details under the following heads:*

- 1. Background*
- 2. Purpose/objective of the assignment.*
- 3. Detailed scope of work/assignment.*
- 4. Deliverables, stages of deliverables, content of each deliverables]*



## **Part II - TOR Related Information**

1. Names of different departments/ministries and different places where different tasks relating to the assignment are to be performed.
2. Procedure for review of the work of the consultant after award of contract including testing, validation, approval. The name and/or designation and address of the officials responsible for reviewing the work of the consultants may also be included here.
3. Expected input of key professionals and requisite expertise and number of key professional staff.
4. Expected schedule for completing the assignment. If an assignment consists of more than one activity, the target period/date for completing each activity can also be specified.
5. Background material including data available and to be provided to the consultant.
6. Facilities which can be provided to the consultants.
7. Any other related information specific to the study/assignment which is necessary to be furnished to all the bidders.

### **A. Sample Terms of Reference for Construction Supervision Consultancy Services**

#### **I. Background (to be completed by the Client)**

#### **II. Scope of Civil Works and Services**

The Civil Works consists of improvement and upgrading of the single lane/intermediate lane National Highway section to at least two lane standards or two lane with provision of paved shoulders. The project also includes performance-based maintenance of the project road/assets for five years including Defects Notification Period of Five Years on completion of upgradation of the road to two lanes.

#### **Construction and Upgradation:**

The Works to be carried out for construction and upgradation under the contract shall comprise of the following items:

- a. Site clearance.
- b. Underground utility works.
- c. Construction of cross-drainage structures including culverts and storm water drainage system.
- d. Leveling & grading of the corridor.
- e. Construction & rehabilitation works for bridges & retaining walls.
- f. Excavation & earthwork for embankment and subgrade.
- g. Dismantling of existing flexible pavement up to subgrade/embankment level and reconstruction/rebuilding wherever required
- h. Pavement layers like GSB, WMM, DBM, & BC as per specifications.
- i. Final construction activities related to road appurtenances like pavement markings, roadside signs, traffic signals, street lighting, guardrails, crash barriers, landscaping, drainage systems, etc.
- j. Social and environmental management during construction and maintenance.

### **Performance Based Maintenance of Road (Services):**

The performance based maintenance works shall consist of all interventions on the roads to achieve and keep the road performance standards up to the levels as specified in the Specifications of the Civil Works contract. The maintenance works shall be undertaken in order to maintain and keep the project road in a fit state for all traffic, including safety and comfort of pedestrians, and shall consist of organizing and providing all labour, material, plant and equipment required.

### **III. Objectives of the Construction Supervision Consultancy Services**

The objectives of the consultancy services are:

- a. To ensure high quality construction with full compliance to Engineering Designs and Drawings, Technical Specifications and other Contract Documents within the specified time schedule
- b. To ensure that the Services (performance-based maintenance) obligations of the Contractor during maintenance period are duly complied with as per technical specifications and other contract documents
- c. To monitor the Pre-construction activities
- d. To assist in taking remedial actions to avoid slippages, cost overruns, delays by the contractor
- e. To demonstrate the efficacy of contract supervision by independent external agencies experienced in this field of work.
- f. To ensure safety during construction and adherence to all Environment Management Regulations prescribed under the Contract.
- g. To ensure that effective Contract Administration is achieved

### **IV. Scope of the Construction Supervision Consultancy Services, Tasks and Expected Deliverables**

The Consultant will function as Engineer for the civil works contract and for that matter is charge the duties and the responsibilities of the Engineer. The Engineer's staff shall include suitably qualified personnel and other professionals who are competent to carry out these duties. The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation. The Consultant will ensure that all the obligations of the contractor under the civil works contract are duly complied. The Consultant will assist the Client in administration of civil works contract and rendering necessary advice to the Client from time to time as required.

#### **1. Duties and responsibilities of the Engineer**

- 1.1 The Engineer shall have no authority to amend the civil works contract. The Engineer may exercise the authority attributable to the Engineer as specified in or necessarily to be implied from the civil works contract. Except as otherwise stated in this TOR:
  - i. whenever carrying out duties or exercising authority, specified in or implied by the Contract, the Engineer shall be deemed to act for the Client;
  - ii. the Engineer has no authority to relieve either Client or contractor of civil works contract of any duties, obligations or responsibilities under their Contract;
  - iii. any act by the Engineer in response to a civil works contractor's request except as otherwise expressly specified shall be notified in writing to the civil works contractor within 28 days of receipt.
  - iv. The Engineer shall obtain the specific approval of the Client before taking following actions:

- a. Giving consent to the sub-contracting of any part of the works;
- b. Agreeing or determining an extension of time and/or additional cost;
- c. Approving new rates or prices either for existing items of work which arises from the variation quantities beyond the limit, defined in the contract or fixing rates of non-priced works involving any extra item and certifying any additional cost determined under the provisions of contract;
- d. Instructing a variation, except: (i) in an emergency situation as determined by the Engineer; (ii) each variation resulting in an increase in accepted contract amount of civil works contract by 0.2% or the cumulative variations resulting in an increase in accepted contract amount of civil works contract by 2%;
- e. Approving a proposal for variation submitted by the civil works contractor;
- f. Specifying the amount payable in each of the applicable currencies;
- g. Issuing/approving Technical Specifications if not provided for an item of works in the construction contract document and similarly, for any change in Technical Specification of any item of work;
- h. Instructing acceleration measures to reduce delays;
- i. Ordering suspension of work;
- j. Issuing order for special tests not provided for in the contract and determining the costs of such tests which shall be added to the contract price.

1.2 The Engineer's responsibilities shall also include:

- i. to carefully and comprehensively review the sufficiency of the Engineering drawings, plans, technical specifications, pertinent reports prepared at design stage - in particular the materials report and sources of materials identified before commencement of the works and during mobilization of the contractor.
- ii. to approve the contractor's key superintendent personnel, construction mobilization programs, temporary land to be occupied by the contractor;
- iii. to approve the contractor's work program including activity scheduling and resource programming;
- iv. to give the order to physically commence the works or any part of each;
- v. to ensure that the construction works are in accordance with the technical specifications, environmental management plan and other stipulation of construction contract documents and the construction methods proposed by the contractor are in compliance with the above stipulations particularly, in relation to contractor's construction equipment and other resource deployment;
- vi. approve the contractor's setting out of works and preparation for the works, prior to issue approval to start the works;
- vii. to verify and if necessary order correction of the drawings supplied by the contractor;
- viii. to approve quality assurance plan prepared by the contractor and ensure proper execution of the plan, approve materials and sources of materials, review all bituminous mix designs and concrete mix designs proposed by the contractor and approve/suggest modifications in the mix design, laying methods, sampling and testing procedure and Quality Control measures to ensure required standard and consistency in quality, at the commencement of each item;
- ix. to check the laboratory and field tests carried out by the contractor and develop a mechanism in consultation with Client to carry out adequate number of independent tests other than the regular testing done by laboratory personnel;
- x. to order special tests of materials and/or completed works, order removal and substitution of improper materials and/or works as required;

- xi. to review working drawings including modifications if any submitted by the Civil Works Contractors, revised the drawings if required approve and issue to the Contractor two copies of Good for Construction (GFC) drawings at least 28 days in advance of the scheduled date of the start of the activities;
- xii. to control and appraise the progress of the works, to order suspension of works and to authorize with the Client's approval, extensions of the period of completion of works;
- xiii. to monitor and check the day to day quality control and quantity measurements of the works carried out under the Contract, keep all measurement records as per the directions of the Client and issue monthly/interim payment certificates when the quality of the works is satisfactory and the quantities are correct;
- xiv. without relieving the civil works contractor of its obligations under the civil works contract, review and approve the traffic management and safety plan and ensure compliance with all applicable safety codes and regulations, before commencement of construction works at site. While doing so, ensure adequacy of measures in contractor's safety plan for the safety of pedestrians, 2-wheelers and slow moving traffic and ensure safety due to delineation of roadway at night, verify design of temporary diversions, adequacy of warning signs at construction zones, ensure adequacy of safety devices for workers at construction zone/plant sites and proper maintenance of the devices;
- xv. without relieving the civil works contractor of its obligations under the Contract, review and approve the work zone (including work site, plant site and contractor operated quarry locations) safety plan and ensure compliance;
- xvi. closely coordinate with the concerned personnel of the civil works contractor and formulate site safety guidelines & prepare checklist for safety auditing. Carryout periodic safety audit during the construction period and also maintenance period;
- xvii. recommend damages for non-conformity of traffic safety measures as per contract provisions;
- xviii. without relieving the civil works contractor of its obligation under the civil works contract, review and approve all permanent and temporary work plan to reduce construction induced impacts particularly related to restoration of access to the adjoining properties, drainage management of the adjoining properties, drainage management of the adjoining properties and other environmental impacts;
- xix. to direct the civil works contractor in all matters concerning traffic as well as construction safety and care of the works (including the erection of the temporary signs at road-works) and if required, direct the civil works contractor to provide (any) necessary lights, guards, fencing and watchmen;
- xx. to direct the civil works contractor to carry out all such works or to do such things as may be necessary in his opinion to avoid or to reduce the risk in any emergency affecting the safety of life or of adjoining property;
- xxi. to direct the civil works contractor to take all necessary steps including those mentioned in the construction contract to protect the environment on and off the site against negative impacts which arise due to construction operations;
- xxii. to inspect the works, during the construction period and at proper interval during the defects notification period and maintenance period and to issue necessary certificates after the rectification, by the civil works contractor, of possible defects and issue final payment certificates;
- xxiii. to verify and correct the as-built drawings supplied by the civil works contractor;
- xxiv. to assess performance of the civil works contractor and impact of performance on the work programme and the civil works contract timetable, to direct civil works contractor to

- take all necessary steps to maintain the rate of progress of works as per the approved programme of the civil works contractor on monthly basis;
- xxv. to ensure timely completion of the project without diluting the quality standards envisaged and be fully accountable to the Client in this regard;
  - xxvi. to direct the civil works contractor to take all necessary steps for maintaining smooth flow of existing traffic on concerned roads.
  - xxvii. to provide assistance to the Client in respect of contract implementation, claims and other matters;
  - xxviii. to review and ensure continuity of civil works contractor's services in approved formats;
  - xxix. to prepare quarterly cash flow projections in a format acceptable to the Client. Cash flow should identify budget estimates for all outstanding work;
  - xxx. to update cost estimate each year or at quarterly completion (25 percent, 50 percent, 75 percent and 100 percent) of the project whichever takes place early;
  - xxxi. prepare a clear duties and responsibilities framework for monitoring of services (performance based maintenance works) during the maintenance period.
  - xxxii. to prepare, in consultation with the Client, a construction supervision manual outlining routines and procedures to be applied in contract management, construction supervision and administration. The routines and procedures will be in accordance with the requirements;
  - xxxiii. to prepare a services supervision manual outlining the inspection and monitoring framework to be adopted for performance based maintenance works during the maintenance period of the civil works contract;
  - xxxiv. to assist/advise the Client for advance actions required to be taken for handing over of site and achieving different milestones for completion of projects as per schedule;
  - xxxv. to verify the quantities of all items in the bill of quantities and suggest modifications to the same if necessary as per the prevailing site conditions, for the approval of the Client;
  - xxxvi. to assist Client in proper monitoring/progress of works and implementation of project through computer aided project management technique and management information system (MIS);
  - xxxvii. to write a day to day project diary which shall record all events pertaining to the administration of the Civil Works Contract, request from and orders given to the Civil Works Contractor, any other information which may at a later date be of assistance in resolving queries which may arise concerning execution of the works.
  - xxxviii. to prepare and issue monthly and quarterly progress reports along with detailed quality control test statement in an approved format and also prepare detailed contract completion report.
  - xxxix. to advise the Client on all matters relating to execution of the works, claims from the civil works contractor and to make recommendations thereon, including the possible recourse to arbitration.
    - xl. to recommend liquidated damages, penalties and payment reductions in accordance with the terms of the construction contract.
    - xli. to prepare detailed recommendations to the Client for construction contract change orders and addenda, as necessary, to ensure the best possible technical results are achieved with the available funds.
    - xlii. to assist the Client in taking over from the civil works contractor of works, in particular by preparing lists of deficiencies which need to be corrected, and assisting with monitoring of the performance of the works during the Defects Notification Period.
    - xliii. to assist the Client in providing clarifications/explanations to observations made, from time to time, by the audit.

- xliv. to assist the Client in co-ordination works with different agencies and hold meetings for proper and timely implementation of the project
- xliv. to prepare revised estimate etc., if required.
- xlvi. to modify design and drawings if required.
- xlvii. to take digital colour progress photographs throughout the duration of the Contract, keep and maintain an official photographic record (available for inspection) of monthly progress at set locations and also of any construction activity of technical or contractual interest at any time. Each photograph to be captioned with: reference number, time, date, precise location, subject, and points of particular note. All digital data should be stored on diskette in a record system, together with copies of the captions.
- xlviii. to take video-recording of the road conditions before start and after completion of the construction works;
- xlix. to carry out any other duties relevant to the project agreed during the negotiations.
  - 1. to carry out the requirement analysis and recommend to the client for issue of the Project Authority Certificates to the Contractor for availing customs/excise duty exemptions, if applicable.
  - li. to assist the client during Dispute Resolution Board Meetings, Arbitration Proceedings and any other hearings held by statutory and legal body.

1.3 The Engineer's responsibilities shall include the following with respect to safety:

1.3.1 The Engineer shall demand from the civil works contractor as part of Quality Assurance Programme and Environment Management Plan, details of the following.

- i. Safety and emergency procedures
- ii. Arrangements for traffic during construction and maintenance
- iii. Temporary structures and equipment required and having bearing on safety of workers and road users at construction sites
- iv. Traffic management and safety plan including the safety, health and environment manager nominated by the civil works contractor for the works
- v. The name of the safety, health and environment manager and his qualification and experience

1.3.2 The Engineer shall review the Traffic Management and Safety Plan and convey his observations to the civil works contractor for compliance under intimation to the Client and his representatives. While reviewing the documents, the Engineer will keep in view the hazards and risks associated with the proposed construction activity at the specific sites. The civil works contractor shall be further directed not to proceed with any work at site before compliance with the Engineer's observations.

1.3.3 The Traffic Management and Safety Plan shall be formally approved by the Engineer. The Engineer shall permit commencement of any activity at work site only after he is satisfied with the compliance by the civil works contractor of the Engineer's observations. This will include approval of RFIs (Request for Inspection) to commence an activity/operation.

1.3.4 If at any time, the Engineer is of the opinion that the Traffic Management and Safety Plan requires revision or the Engineer is directed, as a result of Safety Audit or otherwise, by the representative of the Client to cause the Contractor to revise the same, the Engineer shall ask the civil works contractor to submit a revised Traffic Management and Safety Plan for his approval.

1.3.5 For ease of verification, the Engineer shall prepare a checklist of the requirements that the civil works contractor is obligated to comply under the civil works contract to

ensure safety of workers and road users on the project. This may be done in consultation with the Client's representative.

- 1.3.6 The Engineer shall keep a constant watch over the performance of the civil works contractor in adhering to the requirements of the safety at construction sites in terms of the contact and regularly verify once a week (and more frequently in case of dangerous emergency situations) whether the Contractor has provided and maintaining proper services for control and management of traffic as per the approved Traffic Management and Safety Plan. He will also record his observations in the Site Inspection Book.
- 1.3.7 The Engineer shall raise with the civil works contractor the issue of non-compliance or deficiency in compliance of the site safety requirements at the weekly progress meeting of the works. In case the civil works contractor does not take corrective action to improve his performance and comply with the requirement, the Engineer shall proceed with written instruction warnings to the civil works contractor in terms of the civil works contract under intimation to the Client's representative to rectify the deficiency (ies) within the time specified in the civil works contract. In case the time limit for rectification is not specified in the contract, the Engineer will decide the time for rectification.
- 1.3.8 The Engineer shall also help the Client in rating of the civil works contractor regarding the latter's compliance in adhering to the requirements laid down in the civil works contract for safety of workers and road users and smooth passage of traffic at construction zones. For this purpose, the Engineer will set the benchmark and weightage against 100 overall for good compliance for each of the items of the checklist referred above. The rating will be carried out every week and will be based on verification of compliance of the civil works contractor. The report on rating in this regard will be submitted to the Client's representative every week.

1.4 The Engineer's responsibilities shall include the following with respect to environmental management plan;

- i. to supervise and monitor the implementation of Environmental Management Plan (EMP) addressing the mitigation measures during construction leading to destruction or temporary or permanent degradation of existing and potential environmental assets; update/prepare mitigation measures if required.
- ii. to submit quarterly Environmental Monitoring and Supervision Report (in addition to monthly progress report) mentioning the changes of environmental parameters supported by laboratory tests result as set out in the Environmental Management Plan (EMP). The report shall also quantify and assess the efficacy of the environmental impact mitigation measures and recommendation of the best practices.
- iii. to ensure that all materials, tools, plant, equipment, facilities, etc, which have to be handed over to the Client after completion of the works are properly dismantled, packed, stored and maintained until the official handing over to the client. Furthermore, the Consultant shall arrange for the handing over of these items to take place as provided in the works contract.

## **2. Delegation by the Engineer**

The Engineer may from time to time assign duties and delegate authority to assistants, and may also revoke such assignment or delegation.

### 3. Determinations

Whenever the conditions of civil works contract provide that the Engineer shall determine any matter, the Engineer shall consult with each party in an endeavour to reach agreement. If agreement is not achieved, the Engineer shall make a fair determination in accordance with the civil works contract, taking due regard of all relevant circumstances.

### 4. Payments to Civil Works Contractor

The Consultant will process interim and final payments to the civil works contractor. Interim monthly payments shall be based on interim payment certificates processed by the Consultant following claims filed by the civil works contractor. The Engineer/Engineer's Representative will be responsible for ensuring that all measurements are taken as per specifications and drawings for the works and are recorded in presence of the representative of contractor and are countersigned by him. All measurements (100%) will be taken by the Quantity Surveyor of the Consultant (Sr. Quantity Surveyor during construction period and Quantity Surveyor during maintenance period). 25% of measurements will be checked and certified by the Resident Engineer of the Consultant. In processing contractual payments, the Engineer's representative will check and certify that he/she has checked at least 10% of the measurements and quality control tests. The Engineer's representative shall intimate the details of these check tests to the Client's representative before undertaking them, so that the Client's representative could associate, if they wish to do so.

## V. Team composition qualification requirement and Duties of Key Experts and Non Key Experts

- 1. The Consultant team will comprise highly qualified and experienced Key Experts and Non-Key Experts.** The minimum requirement of the Key Experts and Non-Key Experts and their period of deployment during construction as well as maintenance period are given below. The CVs of all Key Experts will be evaluated. The consultants need to provide CVs of both Key Experts and Non-Key Experts in their Technical Proposal

<b>Key Experts</b>				
<b>Position</b>	<b>Number to be stated by the Client</b>	<b>Period of deployment (months) during construction period</b>	<b>Period of deployment (months) during maintenance period</b>	<b>Total deployment (months)</b>
Team Leader cum Sr. Highway Engineer		-		-
Highway Engineer cum Pavement Specialist/ Resident Engineer		-		-
Senior Quantity Surveyor		-		-
Senior Material Engineer		-		-
Environmental Specialist		-		-
Safety Expert				



<b>Key Experts</b>				
<b>Position</b>	<b>Number to be stated by the Client</b>	<b>Period of deployment (months) during construction period</b>	<b>Period of deployment (months) during maintenance period</b>	<b>Total deployment (months)</b>
Senior Contract Specialist				-
Bridge Engineer		-	-	-
<b>Non-Key Experts</b>				
Survey Engineer		-	-	-
Material Engineer		-	-	-
Quantity Surveyor		-	-	-
Field Engineer		-	-	-

## 2. Qualification Requirements of Key Experts and Non-Key Experts

### Key Experts

#### **Team Leader cum Sr. Highway Engineer**

Team Leader cum Sr. Highway Engineer should possess at least graduate degree in civil engineering and preferably post graduate degree in Highway Engineering. He/She should have at least 20 years professional experience of which about 8 years should have been in the role of full-time on-site Team Leader/Senior RE/Resident Engineer/Project Manager or equivalent for administration and supervision of highway contracts of comparable size and nature. The TL should have handled at least one similar project in similar capacity in India or a developing country financed by World Bank or other multilateral funding agencies. The TL should have experience of working for a period of about 8 years on contracts with FIDIC conditions of contract. The TL should be fluent in English and good communication skills to negotiate on a range of interest.

#### **Highway Engineer cum Pavement Specialist/Resident Engineer**

Highway Engineer cum Pavement Specialist/Resident Engineer should possess at least graduate degree in civil engineering and preferably post graduate degree in Highway Engineering. He/She should have about 15 year's professional experience out of which about 8 years should be in the highway design, pavement design and major highway construction. He should have handled at least one similar project in similar capacity in India or a developing country. He/She should have extensive construction experience of flexible/bituminous pavement works. He/She should have about four years' experience with road ICB projects constructed using the FIDIC Conditions of Contract. Knowledge and experience in modern highway construction technology including the proper use of and productivity levels of highway construction plant and equipment as well as contract management procedures appropriate for major road projects is important. Knowledge of pavement design is essential. He should also be familiar with implementation aspects of Environmental Management Plans.

#### **Senior Quantity Surveyor**

Senior Quantity Surveyor should possess at least graduate degree in civil engineering. He/She should have about 15 years of experience out of which about 8 years should be full-time on-site experience on quantity surveying on major highway construction. The candidate must have experience on preparation and processing of payment certificates, rate analysis, works

measurements, calculation of quantities, preparation of variation orders, etc. The candidate must have experience on establishing works measurement methods, standardizing payment certificate format. He/She should have handled at least one similar project in similar capacity in India or a developing country.

#### **Senior Material Engineer**

Senior Material Engineer should possess graduate degree in civil engineering and preferably post graduate degree in Civil Engineering. He/She should have about 15 years of experience out of which about 8 years should be full-time on-site experience on material testing on major highway construction. He/She should have demonstrated experience of operation of crushers, bituminous and granular mixing plants, and pavers. He/She should have handled at least one similar project in similar capacity in India or a developing country.

#### **Environmental Specialist**

The Environmental Expert must possess a Masters' Degree or Degree in Environmental Engineering or Science. The candidate should be familiar with National Environmental regulation and on procedures/practices of Ministry of Environment & Forests, Govt. of India. He/She must have at least 10 years of experience out of which 5 years of experience should be full-time on-site experience as environmental specialist/Engineer on highway projects. He/She must also have experience in similar capacity in at least one highway project funded by multilateral institutions.

#### **Safety Expert**

The Road safety Expert must have a degree in civil engineering. He must have either post-graduation in traffic engineering or a certified road safety auditor course of minimum 3 months duration. He must have 10 years of experience in highway projects involving highway design, traffic studies, road safety analysis and design. He must have done road safety audit of at least 3 projects involving design stage, construction stage as well as operation stage.

#### **Senior Contract Specialist**

Senior Contract Specialist should possess graduate degree in civil engineering and preferably degree in law or degree/post graduate diploma in management. He/She should have about 15 years of experience out of which about 8 years should be as contract specialist in major highway project. He/She should have experience of at least 5 years working in major highway projects involving FIDIC conditions of contract. He/She should have handled at least one similar project in similar capacity in India or a developing country financed by World Bank or other multilateral funding agencies. He/She should have extensive experience in the fields of contract management, contract laws, handling the contractors' claims and their resolution, resolving contractual disputes, and handling arbitration, etc.

#### **Bridge Engineer**

Bridge Engineer must have a degree in civil engineering. He/She should have about 10 years of experience out of which about 5 years should be on construction of bridges. He/She should have handled at least one similar project in similar capacity in India or a developing country.

#### **Non-Key Experts**

##### **Survey Engineer**

Survey Engineer must have a degree in civil engineering. He should possess about 8 years professional engineering experience, of which about 5 years shall be on similar capacity in highway projects.

### **Quantity Surveyor**

Quantity Surveyor must have a degree in civil engineering. He should possess about 8 years professional engineering experience, of which about 5 years shall be on quantity surveying on major highway construction. The candidate must have experience on preparation and processing of payment certificates, rate analysis, works measurements, calculation of quantities, preparation of variation orders, etc

### **Field Engineer**

Field Engineer must have a degree in civil engineering. He should possess about 8 years professional engineering experience, of which about 5 years shall be on major highway construction.

## **3. Duties and Responsibilities of Key Experts and Non-Key Experts**

### **Key Experts**

#### **Team Leader cum Sr. Highway Engineer**

Team Leader cum Senior Highway Engineer will reside at site on a full time basis for the deployment period. He/She will be overall in-charge of the Project Supervision Team. He/She shall be responsible for the overall implementation activities. He/She shall be assisted by Key Experts and other Non-Key Experts. He/She shall coordinate with the Contractor and the Client to ensure that the construction of the project road and Services thereafter are carried out as per civil works contract. As Engineer's Representative, he/she will discharge the duties and responsibilities of the Engineer as specified in civil works contract to the extent delegated. He/ She will remain responsible to handle Request for Inspection (RFI) by the Contractor and accord necessary approval. He/She will examine and approve the work programme of the Contractor.

#### **Highway Engineer cum Pavement Specialist/Resident Engineer**

The Highway Engineer/Resident Engineer shall carry out the minor design/design reviews as required during construction. He/She will examine and approve construction methodology. He/ She will examine all proposals for changes in scope of work from any quarter except those related to bridges and road safety items and advise the Client of the technical soundness of the same through Team Leader. He/She will also be responsible for any design and drawing work the Client may assign the Consultant in relation to the project except those related to bridges and road safety items. He/She will review the quality control, traffic management, construction methodology and related aspects of the project and advise the Client through Team Leader accordingly. He/She will review the reasonableness of the contractor's milestone and project management plan. The Resident Engineer will check and certify the measurements (25%). He/ She will ensure that the works are carried out as per the Civil Works Contract agreement including technical specifications.

#### **Senior Quantity Surveyor**

Senior Quantity Surveyor will be required in the areas of quantity surveying and preparation of IPCs and processing of the invoices etc. He/She will be required to get the levels and quantity measurements checked in all items of works executed in different stages for calculations required for payment purpose. He/she will take 100% measurement of the quantities during constructions.

#### **Senior Material Engineer**

Senior Material Engineer will be responsible for preparing the quality assurance and testing program for the Consultant. He/She will guide the field supervision teams in supervising all the tests to be done in different stages of construction, besides ensuring that specified tests are done

as per codal stipulations and as per the specifications laid down in the contract for the different stages of construction to ensure that a high quality pavement is constructed. He/She shall also deal with the relevant material engineering aspects, like mix designs, laying procedures, slump control specifications, etc.

### **Environmental Specialist**

Environment Specialist will review the Contractor's implementation plans to ensure compliance with the Environmental Management Plan (EMP). He/She will supervise the implementation of the EMP. He/She will hold regular meetings with the Client and its representative to exchange information on the issues emerging while implementing the EMP. He/She will assist Client to mobilize consultants for periodic Environmental Monitoring (air, noise, water, etc.) and programs to ensure compliance with the concerned State Pollution Control Board requirements and the EMP. He/She will submit regular environmental monitoring and implementation progress reports to the Client.

### **Safety Expert**

Safety Expert will be responsible for reviewing and approving the construction zone safety plans and traffic management and safety plans prepared by the contractor and ensure their strict compliance. He/She will be also responsible for reviewing all temporary works/staging along with the structural/bridge engineer from the safety point of view. The safety specialist will guide the field supervision teams and the contractor's site officers in complying with adequate construction safety standards in worksites, plant sites and quarry locations (if quarries are independently operated by the contractors) and will undertake hands-on-training programs and conduct mock safety drills as required from time to time. He/She will be coordinating and controlling, through the Team Leader's office, all construction safety issues with the construction safety audit team deployed by the Client and will be responsible for reporting and following up on construction safety issues/lapses as appropriate.

### **Senior Contract Specialist**

Senior Contract Specialist will be reporting to the Team Leader in day to day working. His responsibilities will be to guide and assist Team Leader/Client in all aspects of contract Management in proper implementation of Conditions of Contract provisions including controlling the project cost of the construction package. He/She will be responsible for reporting all measures required to control the project cost and time over-runs. He/She will examine the claims of the contractor, variation orders, if any, and will prepare the progress reports as per the project requirements. He/She will assist the client in dispute resolution, arbitration, law suits etc.

### **Bridge Engineer**

Bridge Engineer shall be responsible for supervising the works of bridges, culverts and any other structure to be constructed by the Contractor for this project. He/She shall also inspect the bridge rehabilitation and repair works to be undertaken by the Contractor.

### **Non-Key Experts**

#### **Survey Engineer**

Survey Engineer will carry out survey works, determine all levels including OGLs, and prepare drawings.

#### **Quantity Surveyor**

Quantity Surveyor will be required in the areas of quantity surveying/processing of the invoices etc. during the maintenance period. He/She will be required to determine whether performance

standard of the road have been met during the period of billing and if not the extent of not being met and accordingly restrict the billing amount.

### **Field Engineer**

Field Engineer will oversee the Contract's day to day construction activities and report to Highway Engineer cum Pavement Expert.

## **VI. Reporting Requirements & Time Schedule for Deliverables**

1. The Consultant will prepare and submit the following reports in hard and soft copies to the Client in the format prepared by the Consultant and as approved by the Client:

<b>Particulars of the Report</b>	<b>No. of Copies</b>	<b>Content of the Report</b>
1) Inception Report		The Consultant will submit an Inception Report at the end of first month containing full details of deployment of office & personnel and the time of their mobilization.
2) Monthly Progress Reports		
3) Quarterly Progress Reports		
4) Environmental Reports		
5) Final Completion Report with CD		The Consultant will prepare a comprehensive final completion report within 90 days after issuance of Completion Certificate of the Civil Works Contract or before the end of Consultancy Services.

2. The Consultant shall also prepare and submit the following reports (hard & soft copies) from time to time to the Client:

<b>S. No.</b>	<b>Description</b>	<b>Number</b>	<b>Copies</b>	<b>Content of the Report</b>
1	Construction Supervision Manual			The Construction Supervision Manual shall include detailed project procedures for efficient and time-bound implementation of the project and for progress monitoring and quality control. This Manual shall be submitted within three months of the commencement of the consultancy services.
2	Engineering Reports			
3	Maintenance Manual			The Maintenance Manual shall be submitted 2 months prior to the completion of construction prepared in line with Civil Works Contract.

### **3. MONTHLY PROGRESS REPORTS**

The Consultant will, no later than 10th of each month, prepare a brief progress report summarizing the work accomplished by the supervision team for the preceding month. The report will outline any problems encountered (administrative, technical or financial) and give recommendations on how these problems may be overcome. Brief work progress summaries will

be included for ongoing road and bridge works, outlining problems encountered and recommended solutions. The report should record the status of payment of contractors' monthly certificates, of all claims for cost or time extensions, and of action required from government and other agencies to permit unconstrained works implementation.

#### **4. QUARTERLY PROGRESS REPORTS**

The Consultant will prepare a comprehensive report summarizing all activities under the supervision contract at the end of each quarter, and also at other times when considered warranted by either the Consultant or the Client because of delay of the construction works or because of the occurrence of technical or contractual difficulties. Such reports shall summarize (i) the activities of the Consultant (ii) the progress of the Contract (iii) all contract variations and change orders (iv) the status of Contractor's claims, if any; etc. and will include brief descriptions of the technical and contractual problems being encountered, physical and financial progress in approved formats, financial status of the contract as a whole consisting in the cost incurred, cost forecast, as well as financial plan (by Bank and the Government) and other relevant information on the ongoing contract.

#### **5. FINAL COMPLETION REPORTS**

The Consultant will prepare a comprehensive final Completion Report of the Civil Works contract, after an entire section reaches a stage of substantial completion during the period of the consultancy services. These reports must be submitted within one month after the completion of the work by the contractor and before taking over of such section by the Client. The report shall incorporate summary of the method of construction, the construction supervision performed, as built construction drawings, problems encountered & solutions undertaken thereon and recommendations for future projects of similar nature to be undertaken by the Client. The Consultant will summarize and consolidate in a single report the key information to prepare the Final Completion Report on completion of the Civil Works contract including Services.

### **VII. Data, services, and facilities to be provided by the Client:**

#### **1. Data and Services**

The entire copies of the civil works contract agreements will be made available to the Consultant.

#### **2. Accommodation, communication and vehicles**

The Consultant will be responsible for making his own arrangements for all his accommodation (including the office of the Consultant at Banswara where Team Leader and the entire Consultant's staff will be stationed). The Consultant should also make his own arrangements for office furniture, equipment, stationeries, photocopiers, communication facilities like telephones, web connections, facsimiles, etc. including maintenance thereof and vehicles for transportation of office staff/field staff etc. (including operation, maintenance, insurances and repairs thereof).

#### **3. Laboratory facilities**

Access will be provided to the Contractor's established lab facilities. The construction Contractor will establish and maintain a laboratory including testing equipment, water supply, electricity and cooling/heating equipment, which shall be made available for use by the Consultant. Maintenance of the laboratory by the Contractor shall include the cost of electricity, water and all consumable for testing. The Contractor will be responsible for carrying out tests for quality of soils/materials, etc. The Sr. Material Engineer of the Consultant shall be required to monitor lab testing and to carry out test checks as necessary to verify compliance with the Civil Works contract.

## **B. Sample Terms of Reference (TOR) for Design Services**

### **1. Background (to be completed by the Client)**

### **2. Objectives**

The main objectives of the Consultant Services is to established Technically, Economical & Financial viability of the project and prepare Detailed Project Report.

### **3. Scope of Services –Detailed Engineers Project Repair (DPR)**

3.1 The survey and Investigation and preparation of DPR shall be broadly governed by the guidelines laid down in IRC: SP: 19 -2001. However additional task or assignments may also be required as per the requirements of the Project.

3.2 Detailed Engineering and plan of construction shall comprise of:

- i. Detailed reconnaissance;
- ii. Traffic studies including traffic surveys and axle load survey and demand forecasting for next twenty years;
- iii. Route Finalisation of optimum alignment.
- iv. Inventory and condition surveys for existing road;
- v. Soil and Material Survey for the new alignments and re-alignment portions as well as available sources of Materials with their suitability as per relevant specifications of IRC and MORTH.
- vi. Inventory and condition surveys for bridges, cross-drainage structures and drainage provisions;
- vii. Detailed topographic surveys using Total Stations and GPS;
- viii. Pavement Investigations;
- ix. Sub-grade characteristics and strength: Investigation of required sub-grade and sub-soil characteristics and strength of road and embankment design and subsoil investigation;
- x. Identification of sources of construction materials;
- xi. Road safety audit to identify areas of major concern, including black spots, and measures to be taken for improving detailed engineering design with respect to road safety;
- xii. Preliminary proposal for rehabilitation/widening including shoulder composition and cross-section details;
- xiii. Detailed design for rehabilitation/widening road, its cross-sections, horizontal and vertical alignment;
- xiv. Detailed design for the road and road pavement for the new alignments.
- xv. Detailed design for rehabilitation/widening/reconstruction of bridges, cross-drainage structures, preparation of general arrangement drawing (GAD) and detailed drawings for bridges cross drainage structures and underpasses etc. In case of reconstruction/new construction, geotechnical investigations including bore holes, hydraulic surveys, etc. shall be carried out by the Consultant.
- xvi. Identification of the type and design of intersections/junctions
- xvii. Design of drainage system and disposal point of storm water
- xviii. Value analysis/value engineering and Project costing
- xix. Strip plans indicating the scheme for carriageway widening, location of all existing utility services (both over and underground) and the scheme for their relocation, trees to be felled and planted;
- xx. Land Acquisition Plans as per the existing settlement or village maps.
- xxi. Utility Relocation Plan.

- xxii. Preparation of detailed project report, cost estimate, good for construction drawings, rate analysis, detailed bill of quantities;
- xxiii. Bidding documents appropriate for single stage double cover bidding based on Odisha SBDs for Works.

### **3.3 Detail Project Report (D.P.R.)**

The consultant shall carry out the detail project engineering along the approved alignment as per relevant IRC standards and manuals and submit detail project reports (DPR). Broad scope of work to be done in Phase II shall be as under:

- a. Prepare a detail alignment plan for the proposed alignment, with all geometric parameters indicating all necessary details for finalizing land acquisition proposal for the department with particular emphasis on existing features and land usages pattern.
- b. Finalise span arrangement. type of foundation, substructure and super structure of all the bridges on the approved alignment based on Geotechnical investigation, hydrology.
- c. Prepare detail design and drawing of the bridge i/c approach alignments. Computer aided design shall be supported with manual calculations.
- d. Prepare detailed project reports (DPR) as per IRC SP: 19 and as defined in ante and Subsequent paras taking into account the above detail in particulars.

## **4. Sequencing of Project Preparation:**

Project preparation activities will be split into the following stages:

### **4.1 Stage – 1 Inception Report (IR)**

The consultant is required to submit an Inception Report within 30 days from the date of award of the work. The report shall cover at least the following major aspects

- i. Project appreciation
- ii. Detailed methodology and work plan (after collection/collation of necessary information) to meet the requirements of TOR indicating number of teams and their composition proposed to be deployed, scheduling of various sub- activities to be carried out for completion of different stages of the work within the stipulated time;
- iii. Task assignments and detailed work schedule/programme;
- iv. Performa for data collection;
- v. Key personnel to be employed for various activities including manning schedule;
- vi. Quality Assurance Plan. (QAP) finalised in consultation with client;
- vii. Draft design standards.

### **4.2 Detailed engineering & Detailed Project Report**

The draft DPR submission shall be construction package-wise and shall consist of Main Report, Topography Survey Report, Design Report, Material Report, Environmental Report, Detailed Geo-technical and Sub-soil Exploration Report, Drawings. The Documents and Drawings shall be in the following format:

#### **4.2.1 Volume-I**

##### **i. Main Report:**

This report will present the project background, details of surveys and investigations carried out, analysis and interpretation of survey and investigation data, traffic studies and demand forecasts, designs, cost estimation and conclusions. The report shall include Executive Summary giving brief accounts of the findings of the study and recommendations.



The Report shall also include maps, charts and diagrams showing locations and detail of existing features and the essential features of improvement and upgrading.

Topographical Survey Report will give methodology used and shall include the following:

- a. Control Point Survey with GPS
- b. Continuous Traverse with Total Station
- c. Establishment of Bench Marks
- d. Surface leveling.

The report shall give coordinates and levels for all the established cardinal points/ various Travers Stations/Bench Marks etc. The report shall also give “feature codes” compatible with software used, besides, it would contain all the details of established GPS reference pillars and BM reference pillars.

## **ii. Materials Report**

The Materials Report shall contain details concerning all types of proposed construction materials including the proposed borrow areas and quarries and possible sources of water for construction purposes.

### **4.2.2 Volume – II, Design Report**

This volume shall contain design calculations, supported by computer printout of calculations wherever applicable. The Report shall clearly bring out the various features of design standards adopted for the study. The design report will be in two parts. The sub-soil exploration report including the complete details of boring done, analyses and interpretation of data and the selection of design parameters shall be included as an Appendix to the Design Report.

The detailed design for all features should be carried out as per the requirements of the Design Standards for the project.

### **4.2.3 Volume – III, Drawings**

All plan and profile drawings will be prepared in scale 1:250 V and 1: 2500H scale. In addition this volume will contain drawings for the following:

- a. Horizontal Alignment and Longitudinal Profile.
- b. Cross – section @ 50 m interval along the alignment within ROW up to 500 m length from each abutment on either side for each bridge.
- c. Typical Cross-sections with details of pavement structure.
- d. Detailed Working drawings for culverts and Cross-Drainage Structures.
- e. Detailed Working Drawings for construction of Bridges and Structure.
- f. Drawings for Road Sign, Markings and other facilities etc.
- g. Schematic Diagrams (linear chart) indicating but not limited to be followings:
- h. Locations of toll plazas, parking areas, bus-bays etc.

## **4.3 Final Detailed Project Report, Documents and Drawings**

The final DPR consisting of Main Report, Design report, Detail Design report and Materials Report incorporating all revisions deemed relevant following receipt of the comments from the employer on the draft DPR shall be submitted within 15 days of the receipt of comments on the Draft DPR or within 150 days of commencement of services whichever is later as per IRC SP: 19 and as defined in Ante and subsequent paras taking into account the above detail in particulars.

## 5. Reporting Requirements

The consultant shall furnish to the client the following reports and documents both in hardcopies & Cassette Disc. All reports and documents shall be in English.

Sl. No.	Type of Reports	Nos.	Time Schedule (from date of start)
1	Inception report & QAP		-
2	Draft DPR including Bid document for each package		-
3	Final DPR including Bid Document		-

## 6. Resource requirement of the Consultant (Details to be provided by the Client)

Sl. No.	Key Personnel	Estimated Man-month
1	Team Leader -cum-Sr. Highway Engineer	
2	Highway Engineer -cum-Resident Engineer	
3	Sr. Bridge Engineer	
4	Bridge Engineer	
5	Transport Engineer	
6	Material-cum-Geo- technical Engineer	
7	Quantity Surveyor/Documentation Expert	
8	Survey Engineer	
9	Survey Expert	
10	Laboratory Assistant	
11	CAD Technician	
	<b>Total :</b>	
	Other Personnel (as per requirement assessed by the consultant supported with details)	
<i>Note: - Minimum qualification of key personnel should be as prescribed in the TOR.</i>		

## 7. Responsibility for Accuracy of Project Reports

The consultant shall be responsible for accuracy of all the data used in project preparation and estimate prepared by him as part of the project. He shall indemnify the client against any inaccuracies in the work. For this purpose he shall furnish Bank Guarantee of 5 % (Five Percent) of the Consultancy fee for his proper performance of the Consultancy within the period given for start of the work from the date of issue of the Acceptance Letter.

## 8. Qualification requirement of Key Experts and Non-Key Experts (to be provided by the Client)

## 9. Data, services, and facilities to be provided by the Client

## **PART II – Conditions of Contract and Contract Forms**

### **Section 6: Conditions of Contract and Contract Forms**

**STANDARD FORM OF CONTRACT**

**Consultant's Services  
Time-Based**

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## Preface

1. The standard Contract form consists of four parts: the Form of Contract to be signed by the Client and the Consultant, the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC); and the Appendices.
2. The General Conditions of Contract, including shall not be modified. The Special Conditions of Contract that contain clauses specific to each Contract intend to supplement, but not over-write or otherwise contradict, the General Conditions.

**Contract for Consultant's Services  
Time-Based**

*Project ID: .....*

**Contract No. ....**

**Between**

.....

**and**

*[Name of the Consultant]*

**Dated:**



## I. Form of Contract

### TIME-BASED

This CONTRACT (hereinafter called the "Contract") is made the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Client or Recipient]* (hereinafter called the "Client") and, on the other hand, *[name of Consultant]* (hereinafter called the "Consultant").

*If the Consultant consist of more than one entity, the above should be partially amended to read as follows: "...(hereinafter called the "Client") and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Client for all the Consultant's obligations under this Contract, namely, [name of member] and [name of member] (hereinafter called the "Consultant").]*

#### WHEREAS

- (a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the "Services");
- (b) the Consultant, having represented to the Client that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract.

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract;
- (b) The Special Conditions of Contract;
- (c) Appendices:

Appendix A: Terms of Reference

Appendix B: Key Experts

Appendix C: Remuneration Cost Estimates

Appendix D: Reimbursables Cost Estimates

Appendix E: Form of Advance Payments Guarantee

In the event of any inconsistency between the documents, the following order of precedence shall prevail: the Special Conditions of Contract; the General Conditions of Contract, Appendix A; Appendix B; Appendix C and Appendix D; Appendix E. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:
  - (a) the Consultant shall carry out the Services in accordance with the provisions of the Contract; and
  - (b) the Client shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[Name of Client]*

*[Authorized Representative of the Client - name, title and signature]*

For and on behalf of *[Name of Consultant or Name of a Joint Venture]*

*[Authorized Representative of the Consultant - name and signature]*

*[For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.]*

For and on behalf of each of the members of the Consultant *[insert the name of the Joint Venture]*

*[Name of the lead member]*

*[Authorized Representative on behalf of a Joint Venture]*

*[add signature blocks for each member if all are signing]*

## II. General Conditions of Contract

### A. GENERAL PROVISIONS

#### 1. Definitions

1.1. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in India, as they may be issued and in force from time to time.
- (b) "Client" means the implementing agency that signs the Contract for the Services with the Selected Consultant.
- (c) "Consultant" means a legally-established professional consulting firm or entity selected by the Client to provide the Services under the signed Contract.
- (d) "Contract" means the legally binding written agreement signed between the Client and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (e) "Day" means calendar days.
- (f) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (g) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- (h) "GCC" means these General Conditions of Contract.
- (i) "Government" means the government of Odisha.
- (j) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.
- (k) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant's proposal.
- (l) "Local Currency" means Indian Rupees.
- (m) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
- (n) "Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them.
- (o) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented but not overwritten.
- (p) "Services" means the work to be performed by the Consultant pursuant to this Contract,

as described in Appendix A hereto.

(q) "Sub-consultants" means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

(r) "Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-consultant.

## **2. Relationship between the Parties**

2.1. Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

## **3. Law Governing Contract**

3.1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law of India.

## **4. Language**

4.1. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

## **5. Headings**

5.1. The headings shall not limit, alter or affect the meaning of this Contract.

## **6. Communication**

6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the **SCC**.

6.2 A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the **SCC**.

## **7. Location**

7.1 The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, as the Client may approve.

## **8. Authority of Lead Partner**

8.1 In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the **SCC** to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

## **9. Authorized Representatives**

9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the **SCC**.

**10. Corrupt and Fraudulent Practices****a. Commissions and Fees**

10.1 The Client requires the Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract.

**B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT****11. Effectiveness of Contract**

11.1 This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services.

**12. Termination of Contract for Failure to Become Effective**

12.1 If this Contract has not become effective within 60 days period after the date of Contract signature either Party may, by not less than twenty two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

**13. Commencement of Services**

13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the 30 days after the Effective Date specified in the sub-clause 11.1 above.

**14. Expiration of Contract**

14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

**15. Entire Agreement**

15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

**16. Modifications or Variations**

16.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

16.2 In cases of substantial modifications or variations, the prior written consent of the Client is required.

**17. Force Majeure****a. Definition**

17.1 For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's

performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

17.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

17.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

**b. No Breach of Contract**

17.4 The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

**c. Measures to be Taken**

17.5 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7 Extension of Time - Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

17.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

(a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or

(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 48 & 49.

**18. Suspension**

18.1 The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this

Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

## 19. Termination

19.1 This Contract may be terminated by either Party as per provisions set up below:

### a. By the Client

19.1.1 The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Client shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 49.1;
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Client determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Client may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

### b. By the Consultant

19.1.3 The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 49.1 within forty- five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 49.1.

- (d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.

**c. Cessation of Rights and Obligations**

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.

**d. Cessation of Services**

19.1.5 Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

**e. Payment upon Termination**

- 19.1.6 Upon termination of this Contract, the Client shall make the following payments to the Consultant:
- (a) remuneration for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42;
  - (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

**C. OBLIGATIONS OF THE CONSULTANT**

**20. General**

**a. Standard of Performance**

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties. If any discrepancies are noticed in the services on the part of the Supervision Consultant, penal provision in the forms of fines shall be imposed at the rate indicated in the Special Conditions of Contract and in the Terms of Reference.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-



consultants as are required to carry out the Services.

- 20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

**b. Law Application to Services**

- 20.4 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law of India and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law of India.

**21. Conflict of Interest**

- 21.1 The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

**a. Consultant Not to Benefit from Commissions Discounts, etc.**

- 21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

- 21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

**b. Consultant and Affiliates Not to Engage in Certain Activities**

- 21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC.

**c. Prohibition of Conflicting Activities**

- 21.1.4 The Consultant shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract

**d. Strict Duty to Disclose Conflicting Activities**

- 21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

**22. Confidentially**

22.1 Except with the prior written consent of the Client, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.

**23. Limitation of the Consultant's Liability towards the Client**

(a) Except in case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client's property, shall not be liable to the Client:

- (i) for any indirect or consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds by two times the total value of the Contract.

(b) This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.

**24. Insurance to be Taken out by the Consultant**

24.1 The Consultant

(i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified as under;

The risks and the coverage shall be as follows:

- (a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government's country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage as per Motor Vehicles Act 1988,
  - (b) Third Party liability insurance, with a minimum coverage of (Rs ..... ) (After each occurrence the Consultant shall repay premium necessary to make insurance valid for this amount always);
  - (c) professional liability insurance, with a minimum coverage of Two times the Contract Price;
  - (d) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub- Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
  - (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
- (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.

**25. Accounting, Inspection and Auditing**

- 25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services in such form and detail as will clearly identify relevant time changes and costs.
- 25.2 The Consultant shall permit and shall cause its Sub-consultants to permit, the Client and/or persons appointed by the Client to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Client. The Consultant's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Client's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination.

**26. Reporting Obligations**

- 26.1 The Consultant shall submit to the Client the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in the said Appendix.

**27. Proprietary Rights of the Client in Reports and Records**

- 27.1 Unless otherwise indicated in the **SCC**, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.
- 27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the **SCC**.

**28. Equipment, Vehicles and Materials**

- 28.1 Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.
- 28.2 Any equipment or materials brought by the Consultant or its Experts into the Client's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

**D. CONSULTANT'S EXPERTS AND SUB-CONSULTANTS****29. Description of Key Experts**

- 29.1 The title, agreed job description, minimum qualification time-input estimates to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.
- 29.2 If required to comply with the provisions of Clause GCC 20a, adjustments with respect to the estimated time-input of Key Experts set forth in **Appendix B** may be made by the Consultant by a written notice to the Client, provided (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 41.2.
- 29.3 If additional work is required beyond the scope of the Services specified in **Appendix A**, the estimated time-input for the Key Experts may be increased by agreement in writing between the Client and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GCC 41.1, the Parties shall sign a Contract amendment.

**30. Consultants actions requiring Clients prior permission (as applicable)**

- 30.1 the Consultant shall take prior approval of the Client for construction supervision services all as specified in the work contract. the prior approval shall include
- (i) Approval of Sub-Contractor;
  - (ii) Issue of Variation Orders;
  - (iii) Revision of rates;
  - (iv) Extension of Time;
  - (v) Issue of completion of Works certificates; and
  - (vi) Issue of Performance Certificate.
- 30.2 The Consultants shall take final approval of all deliverable, reports of the Consultancy Services as specified in the scope of the services for Design/Institutional/Policy Services etc. The payment to the Consultants services shall be linked with the deliverable report all as specified in special Conditions of the Contract.

**31. Replacement of Key Experts**

- 31.1 Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.
- 31.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and require prior approval of the Client.

**32. Approval of Additional Key Experts**

- 32.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Client for review and approval a copy of their Curricula Vitae (CVs). If the Client does not object in writing (stating the reasons for the objection) within twenty two (22) days from the date of receipt of such CVs, such additional Key Experts shall be deemed to have been approved by the Client.

The rate of remuneration payable to such new additional Key Experts shall be based on the

rates for other Key Experts position which require similar qualifications and experience.

### 33. Removal of Experts or Sub-Consultants

- 33.1 If the Client finds that any of the Experts or Subconsultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Client determine that Consultant's Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Client's written request, provide a replacement.
- 33.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.
- 33.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and require prior approval of the client.

### 34. Replacement/Removal of key Personnel -Impact on Payments

- 34.1 The Consultant shall bear all additional travel and other costs arising out of or incidental to any replacement and/or removal.
- 34.2 The replacement of key Personnel for reason other than death/extreme medical ground, (i) the remuneration of first time replaced key personnel shall be reduced by 10% of its rate, and (ii) the remuneration of second time replaced key Personnel shall be reduced by 20% of the original rate and the remuneration of third time replaced key personnel shall be reduced by 30% of the original rate (iii) for replacement beyond third time, the client may initiate action for debarment of such consultant for future contracts with the department.

### 35. Working Hours, Overtime, Leave, etc.

- 35.1 Working hours and holidays for Experts are set forth in **Appendix B**. To account for travel time to/from the Client's country, experts carrying out Services inside the Client's country shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, the Client's country as is specified in **Appendix B**.
- 35.2 The Experts shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in **Appendix B**, and the Consultant's remuneration shall be deemed to cover these items.
- 35.3 Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.

## E. OBLIGATIONS OF THE CLIENT'S

### 36. Assistance and Exemptions

- 36.1 Unless otherwise specified in the **SCC**, the Client shall use its best efforts to:
- Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
  - Arrange for the Personnel to be provided promptly with, all necessary entry and exit visas, residence permits, exchange permits and any other documents required.
  - Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective

implementation of the Services.

(d) Provide to the Consultant any such other assistance as may be specified in the SCC.

### **37. Access to Project Site**

37.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

### **38. Change in the Applicable Law Related to Taxes and Duties**

38.1 If, after the date of this Contract, there is any change in the applicable law in India with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 41.1

### **39. Services, Facilities and Property of the Client**

39.1 The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (**Appendix A**) at the times and in the manner specified in said **Appendix A**.

39.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in **Appendix A**, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.

### **40. Counterpart Personnel**

40.1 The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in **Appendix A**.

40.2 If counterpart personnel are not provided by the Client to the Consultant as and when specified in **Appendix A**, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 41.3.

40.3 Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.

### **41. Payment Obligation**

41.1 In consideration of the Services performed by the Consultant under this Contract, the Client shall make such payments to the Consultant and in such manner as is provided by GCC F below.

**F. PAYMENTS OF THE CONSULTANT****42. Ceiling Amount**

- 42.1 An estimate of the cost of the Services is set forth in **Appendix C** (Remuneration) and **Appendix D** (Reimbursable expenses).
- 42.2 Payments under this Contract shall not exceed the ceilings in Indian Rupees specified in the **SCC**.
- 42.3 For any payments in excess of the ceilings specified in GCC41.2, an amendment to the Contract shall be signed by the Parties referring to the provision of this Contract that evokes such amendment.

**43. Remuneration and Reimbursable Expenses**

- 43.1 The Client shall pay to the Consultant (i) remuneration that shall be determined on the basis of time actually spent by each Personnel in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing; and (ii) reimbursable expenses that are actually and reasonably incurred by the Consultant in the performance of the Services.
- 43.2 All payments shall be at the rates set forth in **Appendix C** and **Appendix D**.
- 43.3 Unless the **SCC** provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.
- 43.4 The remuneration rates shall cover: (i) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (ii) the cost of backstopping by home office staff not included in the Experts' list in **Appendix B**, (iii) the Consultant's profit, and (iv) any other items as specified in the **SCC**.
- 43.5 Any rates specified for Experts not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Client, once the applicable remuneration rates and allowances are known.

**44. Taxes and Duties**

- 44.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract.

**45. Currency of Payment**

- 45.1 Any payment under this Contract shall be made in Indian Rupees.

**46. Mode of Billing and Payment**

- 46.1 Billings and payments in respect of the Services shall be made as follows:
- (a) *Advance payment.* An advance payment of 10% of the contract price in Indian Rupees shall be made within 30 days after the Effective Date. The advance payment will be set off by the Client in equal installments against the statement for the first 10 months of the services until the advance payment has been fully set off. An advance payment shall be made against an advance payment bank guarantee acceptable to the Client equal to the amount of advance payment.
- (b) *The Itemized Invoices.* As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, the Consultant shall submit to

the Client, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 45 and GCC 46. Each invoice shall show remuneration and reimbursable expenses separately.

- (c) The Client shall pay the Consultant's invoices within Thirty (30) days after the receipt by the Client of such itemized invoices with supporting documents. Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Client may add or subtract the difference from any subsequent payments.
- (d) *The Final Payment*. The final payment under this Clause shall be made only after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Client. The Services shall be deemed completed and finally accepted by the Client and the final report and final invoice shall be deemed approved by the Client as satisfactory ninety (90) calendar days after receipt of the final report and final invoice by the Client unless the Client, within such ninety (90) calendar day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Client has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Client within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final invoice approved by the Client in accordance with the above.
- (e) All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- (f) With the exception of the final payment under (d) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

#### **47. Interest on Delayed Payments**

- 47.1 If the Client had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 46.1 (c), simple interest shall be paid to the Consultant on any amount due by, not paid on, such due date for each day of delay at the annual rate of 8%.

### **G. FAIRNESS AND GOOD FAITH**

#### **48. Good Faith**

- 48.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

### **H. SETTLEMENT OF DISPUTES**

#### **49. Amicable Settlement**

- 49.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 49.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the



dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 49.1 shall apply.

## 50. Dispute Resolution

50.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the followings provisions;

- (i) **For the value of Contracts upto Rs. 2.00 crore**, Sole Arbitrator will conduct hearing and publish Award. The Sole Arbitrator will be Superintending Engineer of another Circle office who is no way connected with the work, as indicated in special conditions of contract.
- (ii) **For the value of contracts above Rs.2.00 crore and up to Rs 10.00 crore**, Sole Arbitrator will be Chief Engineer who is no way connected with the work as indicated in special condition of Contract.
- (iii) **For the value of Contracts above Rs. 10.00 crore**
  - a. Arbitral Tribunal consisting of 3 arbitrators one each to be appointed by the Employer and the Contractor and the third Arbitrator to be chosen by the two Arbitrators so appointed by the Parties to act as Presiding Arbitrator shall be considered. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed by the Secretary General, Indian Road Congress, New Delhi, India
  - b. If one of the parties fails to appoint its arbitrator in pursuance of sub clause (a) above within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the Secretary General, Indian Roads Congress, New Delhi, India shall appoint the arbitrator. A certified copy of the order of the Secretary General, Indian Roads Congress, New Delhi, India making such an appointment shall be furnished to each of the parties.
  - c. Arbitration proceedings shall be held in **Bhubaneswar**, Odisha, India and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.
  - d. The decision of the majority of Arbitrators shall be final and binding upon both parties. The cost and expenses of Arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its proceedings as also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.

### III. Special Conditions of Contract

*[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
6.1 and 6.2	<p><b>The addresses are:</b>            Client : .....            Attention : .....            Facsimile :.....            E-mail (where permitted): .....            Consultant :            Attention :            Facsimile :            E-mail (where permitted) :</p>
8.1	<p><i>[Note: If the Consultant consists only of one entity, state "N/A"; OR            If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here. ]</i></p> <p><b>The Lead Partner on behalf of the Jv is</b>  <i>[insert name of the Partner]</i>  <i>member]</i></p>
9.1	<p><b>The Authorized Representatives are:</b>  <b>For the Client:</b> <i>[name, title]</i>.....  <b>For the Consultant:</b> <i>[name, title]</i> .....  <i>[name, title]</i></p>
14.1	<p><b>Expiration of Contract:</b> .....  <b>The time period shall be</b> .....</p>
21 b.	<p>The Client reserves the right to determine on a case-by- case basis whether the Consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3</p>
23.1	<p>No additional provisions.</p>
27.2	<p>The Consultant shall not use these for purposes unrelated to this Contract without the prior written approval of the Client.</p>
42.2	<p><b>The ceiling is:</b> Rupees.....  <i>[insert amount ] inclusive ] of service tax.</i></p>

43.3	<p>Remuneration of employed personnel pursuant to the rates set forth in Appendix D shall be adjusted only once after 12 months from the date of commencement by increasing it by a factor of 8%.</p> <p>Notwithstanding any other provisions in the agreement in this regard, this provision will prevail and override any other provision to the contrary in this agreement.</p>																												
46.1(e)	<b>The Bank accounts details to be provided by the selected consultant.....</b>																												
46.1	<b>The interest rate is: .....</b>																												
50.	<p>Miscellaneous provision are as under:</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in Odisha (Bhubaneswar);</p> <p>(b) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p> <p>(c) Fee structure may be as indicated below or as decided by the parties.</p>																												
	<table border="1"> <thead> <tr> <th data-bbox="459 1093 531 1176">Sl. No.</th> <th data-bbox="531 1093 1010 1176">Particular</th> <th data-bbox="1010 1093 1390 1176">Amount Payable per Arbitrator/per cost</th> </tr> </thead> <tbody> <tr> <td data-bbox="459 1176 531 1227">1.</td> <td data-bbox="531 1176 1010 1227">Arbitrator fee</td> <td data-bbox="1010 1176 1390 1227">Rs. ..5000/- per day</td> </tr> <tr> <td data-bbox="459 1227 531 1279">2.</td> <td data-bbox="531 1227 1010 1279">Secretarial Assistance</td> <td data-bbox="1010 1227 1390 1279">Rs 15000 per month</td> </tr> <tr> <td data-bbox="459 1279 531 1368">3.</td> <td data-bbox="531 1279 1010 1368">Incidental charges (telephone, fax, postages, etc)</td> <td data-bbox="1010 1279 1390 1368">Rs 15000 per month</td> </tr> <tr> <td data-bbox="459 1368 531 1451">4.</td> <td data-bbox="531 1368 1010 1451">Charges for publishing/declaration of the award</td> <td data-bbox="1010 1368 1390 1451">Rs 10000 (2days fees)</td> </tr> <tr> <td data-bbox="459 1451 531 1503">5.</td> <td data-bbox="531 1451 1010 1503">Other expenses</td> <td data-bbox="1010 1451 1390 1503"></td> </tr> <tr> <td data-bbox="459 1503 531 1585"></td> <td data-bbox="531 1503 1010 1585">(a) Travelling Expenses</td> <td data-bbox="1010 1503 1390 1585">2nd class AC (by train) and AC Car (by Road)</td> </tr> <tr> <td data-bbox="459 1585 531 1742"></td> <td data-bbox="531 1585 1010 1742">(b) Lodging and Boarding</td> <td data-bbox="1010 1585 1390 1742">(a) Rs.3000 per day or (b) Rs 1500 per day, if any Arbitrator makes their own arrangements</td> </tr> <tr> <td data-bbox="459 1742 531 1792">6.</td> <td data-bbox="531 1742 1010 1792">Local Travel</td> <td data-bbox="1010 1742 1390 1792">Rs1000 per day</td> </tr> </tbody> </table>	Sl. No.	Particular	Amount Payable per Arbitrator/per cost	1.	Arbitrator fee	Rs. ..5000/- per day	2.	Secretarial Assistance	Rs 15000 per month	3.	Incidental charges (telephone, fax, postages, etc)	Rs 15000 per month	4.	Charges for publishing/declaration of the award	Rs 10000 (2days fees)	5.	Other expenses			(a) Travelling Expenses	2nd class AC (by train) and AC Car (by Road)		(b) Lodging and Boarding	(a) Rs.3000 per day or (b) Rs 1500 per day, if any Arbitrator makes their own arrangements	6.	Local Travel	Rs1000 per day	
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## IV. Appendices

### APPENDIX A - TERMS OF REFERENCE

*[This Appendix shall include the final Terms of Reference (TORs) worked out by the Client and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements; Client's input, including counterpart personnel assigned by the Client to work on the Consultant's team; specific tasks that require prior approval by the Client.]*

*Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 in the Consultant's Proposal. Highlight the changes to Section 5 of the RFP]*

*If the Services consist of or include the supervision of civil works, the following action that require prior approval of the Client shall be added to the "Reporting Requirements" section of the TORs: Taking any action under a civil works contract designating the Consultant as "Engineer", for which action, pursuant to such civil works contract, the written approval of the Client as "Client" is required.]*

### APPENDIX B - KEY EXPERTS

*[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]*

*[Specify Hours of Work for Key Experts: List here the hours of work for Key Experts; travel time to/from the Client's country; entitlement, if any, to leave pay; public holidays in the Client's country that may affect Consultant's work; etc. Make sure there is consistency with Form TECH-6. In particular: one month equals twenty two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours. ]*

### APPENDIX C - REMUNERATION COST ESTIMATES

#### 1. Monthly rates for the Experts:

*[Insert the table with the remuneration rates. The table shall be based on [Form FIN-3] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3] at the negotiations or state that none has been made.]*

#### 2. *[When the Consultant has been selected under Quality-Based Selection method, or the Client has requested the Consultant to clarify the breakdown of very high remuneration rates at the Contract's negotiations also add the following:*

*"The agreed remuneration rates shall be stated in the attached Model Form I. This form shall be prepared on the basis of Appendix A to Form FIN-3 of the RFP "Consultants' Representations regarding Costs and Charges" submitted by the Consultant to the Client prior to the Contract's negotiations.*

*Should these representations be found by the Client (either through inspections or audits pursuant to Clause GCC 25.2 or through other means) to be materially incomplete or inaccurate, the Client shall be entitled to introduce appropriate modifications in the remuneration rates*

*affected by such materially incomplete or inaccurate representations. Any such modification shall have retroactive effect and, in case remuneration has already been paid by the Client before any such modification, (i) the Client shall be entitled to offset any excess payment against the next monthly payment to the Consultants, or (ii) if there are no further payments to be made by the Client to the Consultants, the Consultants shall reimburse to the Client any excess payment within thirty (30) days of receipt of a written claim of the Client. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with Clause GCC 45.1(d) of this Contract*

### Model Form I Breakdown of Agreed Fixed Rates in Consultant’s Contract

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from the home office allowances (if applicable) indicated below:

(Expressed in [insert name of currency])\*

Experts		1	2	3	4	5	6	7	8
Name	Position	Basic Remuneration rate per Working Month/Day/Year	Social Charges <sup>1</sup>	Overhead <sup>1</sup>	Subtotal	<sup>2</sup> Profit	Away from Home Office Allowance	Agreed Fixed Rate per Working Month/Day/Hour	Agreed Fixed Rate per Working Month/Day/Hour <sup>1</sup>
Home Office									
Work in the Client’s Country									

- 1 Expressed as percentage of 1
- 2 Expressed as percentage of 4
- \* If more than one currency, add a table

Signature  
*Name and Title:*

Date

**APPENDIX D - REIMBURSABLE EXPENSES COST ESTIMATES**

1. *[Insert the table with the reimbursable expenses rates. The table shall be based on [Form FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-4] at the negotiations or state that none has been made.*
2. *All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount.*

**APPENDIX E - FORM OF ADVANCE PAYMENTS GUARANTEE**

[See Clause GCC 45.1 (a) and SCC 45.1(a)]

**Bank Guarantee for Advance Payment**

\_\_\_\_\_ [Bank's Name, and Address of Issuing Branch or Office]

**Beneficiary:** \_\_\_\_\_ [Name and Address of Client]

Date: \_\_\_\_\_

ADVANCE PAYMENT GUARANTEE No.: \_\_\_\_\_

We have been informed that \_\_\_\_\_ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (hereinafter called "the Consultant") has entered into Contract No. \_\_\_\_\_ [reference number of the contract] dated with you, for the provision of [brief description of Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of [amount in figures] ( ) [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we \_\_\_\_\_ [name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] ( \_\_\_\_\_ ) amount in words upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number.....at.....[name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made full repayment of the amount of the advance payment, or on the \_\_\_\_\_ day of ..... 2..... whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[signature(s)]

Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.



**STANDARD FORM OF CONTRACT**

**Consultant's Services  
Lump-Sum**

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## Preface

1. The standard Contract form consists of four parts: the Form of Contract to be signed by the Client and the Consultant, the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC); and the Appendices.
2. The General Conditions of Contract, including shall not be modified. The Special Conditions of Contract that contain clauses specific to each Contract intend to supplement, but not over-write or otherwise contradict, the General Conditions.

**I. Standard Form of Contract**  
**Consultants' Services**  
**Lump-Sum Contents**

CONTRACT FOR CONSULTANTS' SERVICES

Between

[Name of the Client]

and

[Name of the Consultant]

**Dated:**

**I. Form of Contract**

(Text in brackets [ ] should be filled up appropriately; all notes should be deleted in final text)

This CONTRACT (hereinafter called the "Contract") is made the [day] day of the month of [month], [year], between the President of India acting through (designation), Ministry of —, Department of -- —, Government of India, (office address), [name of Client] (hereinafter called the "Client"), of the First Part and, [name of Consultant] (hereinafter called the "Consultant") of the Second Part.

[Note: If the Consultant consist of more than one entity, the above should be partially amended to read as follows: "...(hereinafter called the "Client") and, on the other hand, a joint venture/consortium/association consisting of the following entities, namely, lead consultant [name of lead Consultant] and [name of Consultant/s] (hereinafter called the "Consultant").

**WHEREAS**

- (a) the Consultant, having represented to the "Client" that he has the required professional skills, personnel and technical resources, has offered to provide in response to the Tender Notice dated issued by the Client ;
- (b) the "Client" has accepted the offer of the Consultant to provide the services on the terms and conditions set forth in this Contract.

**NOW, THEREFORE, IT IS HEREBY AGREED between the parties as follows:**

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
  - (a) The General Conditions of Contract;
  - (b) The Special Conditions of Contract;
  - (c) The following Appendices:
    - Appendix A: Description of Services
    - Appendix B: Reporting Requirements
    - Appendix C: Staffing Schedule Cost
    - Appendix D: Estimates Duties of the 'Client'
    - Appendix E: Duties of the Consultant
2. The mutual rights and obligations of the "Client" and the Consultant shall be as set forth in the Contract, in particular:
  - (a) the Consultants shall carry out and complete the Services in accordance with the provisions of the Contract; and
  - (b) the "Client" shall make payments to the Consultant in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

Signed by -----

In presence of  
"Client"]  
(Witnesses)

1. For and on behalf of the President of India [name of

- (i)
- (ii)

[Authorized Representative]

2. For and on behalf of [name of Consultant]

In presence of (Witnesses)  
(i)  
(ii)

[Authorized Representative]

[Note: If the Consultant consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

3. For and on behalf of each of the Members of the Consultant.

[Name of member]

[Authorized Representative]

4. [Name of member]

[Authorized Representative]



## II. General Conditions of Contract

### A. GENERAL PROVISIONS

#### 1. Definitions

1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) "Applicable Law" means the laws and any other instruments having the force of law in India, as they may be issued and in force from time to time.
- (b) "Client" means the implementing agency that signs the Contract for the Services with the Selected Consultant.
- (c) "Consultant" means a legally-established professional consulting firm or entity selected by the Client to provide the Services under the signed Contract.
- (d) "Contract" means the legally binding written agreement signed between the Client and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (e) "Day" means calendar days.
- (f) "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (g) "Experts" means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- (h) "GCC" means these General Conditions of Contract.
- (i) "Government" means the government of Odisha.
- (j) "Joint Venture (JV)" means an association with or without a legal personality distinct from that of its members, of more than one entity where one member has the authority to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Client for the performance of the Contract.
- (k) "Key Expert(s)" means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant's proposal.
- (l) "Local Currency" means Indian Rupees.
- (m) "Non-Key Expert(s)" means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract.
- (n) "Party" means the Client or the Consultant, as the case may be, and "Parties" means both of them.
- (o) "SCC" means the Special Conditions of Contract by which the GCC may be amended or supplemented but not overwritten.
- (p) "Services" means the work to be performed by the Consultant pursuant to this Contract,

as described in Appendix A hereto.

(q) "Sub-consultants" means an entity to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

(r) "Third Party" means any person or entity other than the Government, the Client, the Consultant or a Sub-consultant.

## **2. Relationship between the Parties**

2.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Client and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

## **3. Law Governing Contract**

3.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law of India.

## **4. Language**

4.1 This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

## **5. Headings**

5.1 The headings shall not limit, alter or affect the meaning of this Contract.

## **6. Communication**

6.1 Any communication required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC.

6.2 A Party may change its address for notice hereunder by giving the other Party any communication of such change to the address specified in the SCC.

## **7. Location**

7.1 The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, as the Client may approve.

## **8. Authority of Lead Partner**

8.1 In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

## **9. Authorized Representatives**

9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SCC.

## **10. Corrupt and Fraudulent Practices**

### **a. Commissions and Fees**

10.1 The Client requires the Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the selection process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee. Failure to disclose such commissions, gratuities or fees may result in termination of the Contract.

## **B. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT**

### **11. Effectiveness of Contract**

11.1 This Contract shall come into force and effect on the date (the "Effective Date") of the Client's notice to the Consultant instructing the Consultant to begin carrying out the Services.

### **12. Termination of Contract for Failure to Become Effective**

12.1 If this Contract has not become effective within 60 days such time period after the date of Contract signature either Party may, by not less than twenty two (22) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

### **13. Commencement of Services**

13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services not later than the 30 days after the Effective Date specified in the sub-clause 11.1 above.

### **14. Expiration of Contract**

14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SCC.

### **15. Entire Agreement**

15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

### **16. Modifications or Variations**

16.1 Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

16.2 In cases of substantial modifications or variations, the prior written consent of the Client is required.

### **17. Force Majeure**

#### **a. Definition**

17.1 For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable, and makes a Party's

performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances, and subject to those requirements, includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, strikes, lockouts or other industrial action confiscation or any other action by Government agencies.

17.2 Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

17.3 Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

**b. No Breach of Contract**

17.4 The failure of a Party to fulfill any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

**c. Measures to be Taken**

17.5 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7 Extension of Time - Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

17.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Client, shall either:

(a) demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Client, in reactivating the Services; or

(b) continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

17.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clauses GCC 48 & 49.

**18. Suspension**

18.1 The Client may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to remedy such

failure within a period not exceeding thirty (30) calendar days after receipt by the Consultant of such notice of suspension.

## 19. Termination

19.1 This Contract may be terminated by either Party as per provisions set up below:

### a. By the Client

19.1.1 The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause. In such an occurrence the Client shall give at least thirty (30) calendar days' written notice of termination to the Consultant in case of the events referred to in (a) through (d); at least sixty (60) calendar days' written notice in case of the event referred to in (e); and at least five (5) calendar days' written notice in case of the event referred to in (f):

- (a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;
- (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;
- (c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 49.1;
- (d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract;
- (f) If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.

19.1.2 Furthermore, if the Client determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Client may, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

### b. By the Consultant

19.1.3 The Consultant may terminate this Contract, by not less than thirty (30) calendar days' written notice to the Client, in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause.

- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clauses GCC 49.1 within forty- five (45) calendar days after receiving written notice from the Consultant that such payment is overdue.
- (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days.
- (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 49.1.
- (d) If the Client is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the

Consultant may have subsequently approved in writing) following the receipt by the Client of the Consultant's notice specifying such breach.

**c. Cessation of Rights and Obligations**

19.1.4 Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GCC 22, (iii) the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and (iv) any right which a Party may have under the Applicable Law.

**d. Cessation of Services**

19.1.5 Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GCC 19a or GCC 19b, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Client, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 or GCC 28.

**e. Payment upon Termination**

19.1.6 Upon termination of this Contract, the Client shall make the following payments to the Consultant:

- (a) remuneration for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures for expenditures actually incurred prior to the effective date of termination; and pursuant to Clause 42;
- (b) in the case of termination pursuant to paragraphs (d) and (e) of Clause GCC 19.1.1, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

## **C. OBLIGATIONS OF THE CONSULTANT**

### **20. General**

**a. Standard of Performance**

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with the third parties. If any discrepancies are noticed in the services on the part of the Supervision Consultant, penal provision in the forms of fines shall be imposed at the rate indicated in the Special Conditions of Contract and in the Terms of Reference.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts

and Sub-consultants as may be approved in advance by the Client. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services.

**b. Law Application to Services**

20.4 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law of India and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Law of India.

**21. Conflict of Interest**

21.1 The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.

**a. Consultant Not to Benefit from Commissions Discounts, etc.**

21.1.1 The payment of the Consultant pursuant to GCC F (Clauses GCC 41 through 46) shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Client on the procurement of goods, works or services, the Consultant shall at all times exercise such responsibility in the best interest of the Client. Any discounts or commissions obtained by the Consultant in the exercise of such procurement responsibility shall be for the account of the Client.

**b. Consultant and Affiliates Not to Engage in Certain Activities**

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC.

**c. Prohibition of Conflicting Activities**

21.1.4 The Consultant shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract

**d. Strict Duty to Disclose Conflicting Activities**

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

**22. Confidentially**

22.1 Except with the prior written consent of the Client, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the

recommendations formulated in the course of, or as a result of, the Services.

### **23. Limitation of the Consultant's Liability towards the Client**

23.1 Except in case of gross negligence or willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused by the Consultant to the Client's property, shall not be liable to the Client:

- (i) for any indirect or consequential loss or damage; and
- (ii) for any direct loss or damage that exceeds by two times the total

23.2 This limitation of liability shall not affect the Consultant's liability, if any, for damage to Third Parties caused by the Consultant or any person or firm acting on behalf of the Consultant in carrying out the Services.

### **24. Insurance to be Taken out by the Consultant**

24.1 The Consultant

- (i) shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage specified as under;

The risks and the coverage shall be as follows:

- (a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government's country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage as per Motor Vehicles Act 1988,
  - (b) Third Party liability insurance, with a minimum coverage of (Rs ..... ) (After each occurrence the Consultant shall repay premium necessary to make insurance valid for this amount always);
  - (c) professional liability insurance, with a minimum coverage of Two times the Contract Price;
  - (d) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub- Consultant, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and
  - (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract,(ii) the Constltant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services.
- (ii) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid. The Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13.

### **25. Accounting, Inspection and Auditing**

25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services in such form and detail as will clearly identify relevant time changes and costs.



25.2 The Consultant shall permit and shall cause its Sub-consultants to permit, the Client and/or persons appointed by the Client to inspect the Site and/or all accounts and records relating to the performance of the Contract and the submission of the Proposal to provide the Services, and to have such accounts and records audited by auditors appointed by the Client. The Consultant's attention is drawn to Clause GCC 10 which provides, inter alia, that acts intended to materially impede the exercise of the Client's inspection and audit rights provided for under this Clause GCC25.2 constitute a prohibited practice subject to contract termination.

## **26. Reporting Obligations**

26.1 The Consultant shall submit to the Client the reports and documents specified in **Appendix A**, in the form, in the numbers and within the time periods set forth in the said Appendix.

## **27. Proprietary Rights of the Client in Reports and Records**

27.1 Unless otherwise indicated in the **SCC**, all reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Client in the course of the Services shall be confidential and become and remain the absolute property of the Client. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Client.

27.2 If license agreements are necessary or appropriate between the Consultant and third parties for purposes of development of the plans, drawings, specifications, designs, databases, other documents and software, the Consultant shall obtain the Client's prior written approval to such agreements, and the Client shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned. Other restrictions about the future use of these documents and software, if any, shall be specified in the **SCC**.

## **28. Equipment, Vehicles and Materials**

28.1 Equipment, vehicles and materials made available to the Consultant by the Client, or purchased by the Consultant wholly or partly with funds provided by the Client, shall be the property of the Client and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Client an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Client's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Client in writing, shall insure them at the expense of the Client in an amount equal to their full replacement value.

28.2 Any equipment or materials brought by the Consultant or its Experts into the Client's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

## **D. CONSULTANT'S EXPERTS AND SUB-CONSULTANTS**

### **29. Description of Key Experts**

29.1 The title, agreed job description, minimum qualification time-input estimates to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

29.2 If required to comply with the provisions of Clause GCC 20a, adjustments with respect to the estimated time-input of Key Experts set forth in **Appendix B** may be made by the Consultant

by a written notice to the Client, provided (i) that such adjustments shall not alter the original time-input estimates for any individual by more than 10% or one week, whichever is larger; and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GCC 42.2.

29.3 If additional work is required beyond the scope of the Services specified in **Appendix A**, the estimated time-input for the Key Experts may be increased by agreement in writing between the Client and the Consultant. In case where payments under this Contract exceed the ceilings set forth in Clause GCC 42.1, the Parties shall sign a Contract amendment.

### **30. Consultants actions requiring Clients prior permission (as applicable)**

30.1 The Consultant shall take prior approval of the Client for construction supervision services all as specified in the work contract. the prior approval shall include

- (i) Approval of Sub-Contractor;
- (ii) Issue of Variation Orders;
- (iii) Revision of rates;
- (iv) Extension of Time;
- (v) Issue of completion of Works certificates; and
- (vi) Issue of Performance Certificate.

30.2 The Consultants shall take final approval of all deliverable, reports of the Consultancy Services as specified in the scope of the services for Design/Institutional/Policy Services etc. The payment to the Consultants services shall be linked with the deliverable report all as specified in special Conditions of the Contract.

### **31. Replacement of Key Experts**

31.1 Except as the Client may otherwise agree in writing, no changes shall be made in the Key Experts.

31.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and require prior approval of the Client.

### **32. Approval of Additional Key Experts**

32.1 If during execution of the Contract, additional Key Experts are required to carry out the Services, the Consultant shall submit to the Client for review and approval a copy of their Curricula Vitae (CVs). If the Client does not object in writing (stating the reasons for the objection) within twenty two (22) days from the date of receipt of such CVs, such additional Key Experts shall be deemed to have been approved by the Client.

The rate of remuneration payable to such new additional Key Experts shall be based on the rates for other Key Experts position which require similar qualifications and experience.

### **33. Removal of Experts or Sub-Consultants**

33.1 If the Client finds that any of the Experts or Subconsultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Client determine that Consultant's Expert of Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Client's written request, provide a replacement.

33.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the

Client to be incompetent or incapable in discharging assigned duties, the Client, specifying the grounds therefore, may request the Consultant to provide a replacement.

- 33.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and require prior approval of the Client.

#### **34. Replacement/Removal of Key Personnel – Impact on Payments**

- 34.1 The Consultant shall bear all additional travel and other costs arising out of or incidental to any replacement and/or removal.
- 34.2 The replacement of key Personnel for reason other than death/extreme medical ground, (i) the remuneration of first time replaced key personnel shall be reduced by 10% of its rate, and (ii) the remuneration of second time replaced key Personnel shall be reduced by 20% of the original rate and the remuneration of third time replaced key personnel shall be reduced by 30% of the original rate (iii) for replacement beyond third time, the client may initiate action for debarment of such consultant for future contracts with the department.

#### **35. Working Hours, Overtime, Leave, etc.**

- 35.1 Working hours and holidays for Experts are set forth in **Appendix B**. To account for travel time to/from the Client's country, experts carrying out Services inside the Client's country shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, the Client's country as is specified in **Appendix B**.
- 35.2 The Experts shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in **Appendix B**, and the Consultant's remuneration shall be deemed to cover these items.
- 35.3 Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.

### **E. OBLIGATIONS OF THE CLIENT'S**

#### **36. Assistance and Exemptions**

- 36.1 Unless otherwise specified in the **SCC**, the Client shall use its best efforts to:
- (a) Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
  - (b) Arrange for the Personnel to be provided promptly with, all necessary entry and exit visas, residence permits, exchange permits and any other documents required.
  - (c) Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and effective implementation of the Services.
  - (d) Provide to the Consultant any such other assistance as may be specified in the **SCC**.

#### **37. Access to Project Site**

- 37.1 The Client warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Client will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or

negligence of the Consultant or any Sub-consultants or the Experts of either of them.

### **38. Change in the Applicable Law Related to Taxes and Duties**

38.1 If, after the date of this Contract, there is any change in the applicable law in India with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 41.1

### **39. Services, Facilities and Property of the Client**

39.1 The Client shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (**Appendix A**) at the times and in the manner specified in said **Appendix A**.

39.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in **Appendix A**, the Parties shall agree on (i) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (ii) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (iii) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.

### **40. Counterpart Personnel**

40.1 The Client shall make available to the Consultant free of charge such professional and support counterpart personnel, to be nominated by the Client with the Consultant's advice, if specified in **Appendix A**.

40.2 If counterpart personnel are not provided by the Client to the Consultant as and when specified in **Appendix A**, the Client and the Consultant shall agree on (i) how the affected part of the Services shall be carried out, and (ii) the additional payments, if any, to be made by the Client to the Consultant as a result thereof pursuant to Clause GCC 41.3.

40.3 Professional and support counterpart personnel, excluding Client's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Client shall not unreasonably refuse to act upon such request.

### **41. Payment Obligation**

41.1 In consideration of the Services performed by the Consultant under this Contract, the Client shall make such payments to the Consultant and in such manner as is provided by GCC F below.

## **F. PAYMENTS OF THE CONSULTANT**

### **42. Total Cost of the Services**

42.1 The total cost of the Services payable is set forth in Appendix D as per the consultant's proposal to the Client and as negotiated thereafter.

42.2 Except as may be otherwise agreed under Clause GC 16 and subject to Clause GC 42.3, payments under this Contract shall not exceed the amount specified in Appendix-D.

42.3 Notwithstanding Clause GC 42.2 hereof, if pursuant to any of the Clauses GC 29.3 or 37 hereof, the Parties shall agree that additional payments shall be made to the Consultant in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 42.1 above, the ceiling or ceilings, as the case may be, set forth in Clause GC 42.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

**43. Currency of Payment:** All payments shall be made in Indian Rupees.

**44. Terms of Payment** The payments in respect of the Services shall be made as follows:

- (a) Advance payment. An advance payment of 10% of the contract price in Indian Rupees shall be made within 30 days after the Effective Date. The advance payment will be set off by the Client in equal installments against the statement for the first 10 months of the services until the advance payment has been fully set off. An advance payment shall be made against an advance payment bank guarantee acceptable to the Client equal to the amount of advance payment.
- (b) The consultant shall submit the invoice for payment when the payment is due as per the agreed terms. The payment shall be released as per the work related milestones achieved and as per the specified percentage.
- (c) Once a milestone is completed, the consultant shall submit the requisite deliverables as specified in this Contract. The Client shall release the requisite payment upon acceptance of the deliverables. However, if the Client fails to intimate acceptance of the deliverables or its objections thereto, within 30 days of receipt of it, the Client shall release the payment to the consultant without further delay.
- (d) **Final Payment:** The final payment under this clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the "Client". The Services shall be deemed completed and finally accepted by the "Client" and the final report and final statement shall be deemed approved by the "Client" as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the "Client" unless the "Client", within such ninety (90) day period, gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final statement. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the "Client" has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Consultant to the "Client" within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the "Client" for reimbursement must be made within twelve (12) calendar months after receipt by the "Client" of a final report and a final statement approved by the "Client" in accordance with the above.
- (e) For the purpose of payment under Clause 44 (b) above, acceptance means; acceptance of the deliverables by the Client after submission by the consultant and the consultant has made presentation to the Client (Mention this if presentation is required) with/without modifications to be communicated in writing by the Client to the consultant.
- (f) If the deliverables submitted by the consultant are not acceptable to the Client, reasons for such non-acceptance should be recorded in writing; the Client shall not release the payment due to the consultant. This is without prejudicing the Client's right to levy any liquidated damages under clause 48. In such case, the payment will be released to the consultant only after it re-submits the deliverable and which is accepted by the Client.

- (g) All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.
- (h) With the exception of the final payment under (c) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder, unless the acceptance has been communicated by the Client to the consultant in writing and the consultant has made necessary changes as per the comments/suggestions of the Client communicated to the Consultant.
- (i) In case of early termination of the contract, the payment shall be made to the consultant as mentioned here with: (i) Assessment should be made about work done from the previous milestone, for which the payment is made or to be made till the date of the termination. The consultant shall provide the details of persons reasonably worked during this period with supporting documents. Based on such details, the remuneration shall be calculated based on the man month rate as specified. (ii) A reasonable assessment of the reimbursable and miscellaneous expenses shall be made based on details furnished by the consultant in this regard with supporting documents and based on the assessment of the work done and the respective rates as provided. Wherever such an assessment is difficult, the rates should be arrived at by calculating the amount on pro-rata basis. The total amount payable shall be the amount calculated as per (i) and (ii) above plus any applicable tax.

## **G. FAIRNESS AND GOOD FAITH**

### **45. Good Faith**

- 45.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

## **H. SETTLEMENT OF DISPUTES**

### **46. Amicable Settlement**

- 46.1 The Parties shall seek to resolve any dispute amicably by mutual consultation.
- 46.2 If either Party objects to any action or inaction of the other Party, the objecting Party may file a written Notice of Dispute to the other Party providing in detail the basis of the dispute. The Party receiving the Notice of Dispute will consider it and respond in writing within fourteen (14) days after receipt. If that Party fails to respond within fourteen (14) days, or the dispute cannot be amicably settled within fourteen (14) days following the response of that Party, Clause GCC 46.1 shall apply.

### **47. Dispute Resolution**

- 47.1 Any dispute between the Parties arising under or related to this Contract that cannot be settled amicably may be referred to by either Party to the adjudication/arbitration in accordance with the followings provisions:
  - (i) For the value of Contracts upto Rs. 2.00 crore, Sole Arbitrator will conduct hearing and publish Award. The Sole Arbitrator will be Superintending Engineer of another Circle office who is no way connected with the work, as indicated in special conditions of contract.
  - (ii) For the value of contracts above Rs.2.00 crore and up to Rs 10.00 crore, Sole Arbitrator will be Chief Engineer who is no way connected with the work as indicated in special condition of Contract.

(iii) For the value of Contracts above Rs. 10.00 crore

- a. Arbitral Tribunal consisting of 3 arbitrators one each to be appointed by the Employer and the Contractor and the third Arbitrator to be chosen by the two Arbitrators so appointed by the Parties to act as Presiding Arbitrator shall be considered. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed by the Secretary General, Indian Road Congress, New Delhi, India
- b. If one of the parties fails to appoint its arbitrator in pursuance of sub clause (a) above within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the Secretary General, Indian Roads Congress, New Delhi, India shall appoint the arbitrator. A certified copy of the order of the Secretary General, Indian Roads Congress, New Delhi, India making such an appointment shall be furnished to each of the parties.
- c. Arbitration proceedings shall be held in **Bhubaneswar**, Odisha, India and the language of the arbitration proceedings and that of all documents and communications between the parties shall be in English.
- d. The decision of the majority of Arbitrators shall be final and binding upon both parties. The cost and expenses of Arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its proceedings as also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.

#### **48. Liquidated Damages**

- 48.1 The parties hereby agree that due to negligence of act of any party, if the other party suffers losses, damages the quantification of which may be difficult, and hence the amount specified hereunder shall be construed as reasonable estimate of the damages and both the parties agree to pay such liquidated damages, as defined hereunder as per the provisions of this Contract.
- 48.2 The amount of liquidated damages under this Contract shall not exceed 10 % of the total value of the contract as specified in Appendix D.
- 48.3 The liquidated damages shall be applicable under following circumstances:
- (i) If the deliverables are not submitted as per schedule as specified in SCC, the Consultant shall be liable to pay 1% of the total cost of the services for delay of each week or part thereof.
  - (ii) If the deliverables are not acceptable to the Client as mentioned in Clause 44 (g), and defects are not rectified to the satisfaction of the Client within 30 days of the receipt of the notice, the Consultant shall be liable for Liquidated Damages for an amount equal to 0.25% of total cost of the services for every week or part thereof for the delay.

#### **49. Miscellaneous provisions:**

- (i) "Nothing contained in this Contract shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.
- (ii) Any failure or delay on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.
- (iii) The Contractor/Consultant shall notify the Client of any material change in their status, in particular, where such change would impact on performance of obligations under this Contract.

- (iv) Each member/constituent of the Consultant, in case of a consortium, shall be jointly and severally liable to and responsible for all obligations towards the Client/Government for performance of works/services including that of its Associates under the Contract.
- (v) The Consultant shall at all times indemnify and keep indemnified the Client against all claims/damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under the Project.
- (vi) The Consultant shall at all times indemnify and keep indemnified the Client against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its employees or agents or by any other third Party resulting from or by any action, omission or operation conducted by or on behalf of the Consultant.
- (vii) The Consultant shall at all times indemnify and keep indemnified the Client against any and all claims by Employees, Workman, Consultants, Sub-consultants, suppliers, agent(s), employed engaged or otherwise working for the Consultants, in respect of wages, salaries, remuneration, compensation or the like.
- (viii) All claims regarding indemnity shall survive the termination or expiry of the Contract.
- (ix) It is acknowledged and agreed by all Parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement or concession or preference for employment of persons engaged by the Consultant for any engagement, service or employment in any capacity in any office or establishment of the Client.



### III. Special Conditions of Contract

*[Notes in brackets are for guidance purposes only and should be deleted in the final text of the signed contract]*

Number of GC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
6.1 and 6.2	<p><b>The addresses are:</b></p> <p>Client : .....</p> <p>Attention : .....</p> <p>Facsimile :.....</p> <p>E-mail (where permitted): .....</p> <p>Consultant :</p> <p>Attention :</p> <p>Facsimile :</p> <p>E-mail (where permitted) :</p>
8.1	<p><i>[Note: If the Consultant consists only of one entity, state “N/A”; OR</i></p> <p><i>If the Consultant is a Joint Venture consisting of more than one entity, the name of the JV member whose address is specified in Clause SCC6.1 should be inserted here. ]</i></p> <p><b>The Lead Partners on behalf of the Jv is</b></p> <p><i>[insert name of the Partner]</i></p>
9.1	<p><b>The Authorized Representatives are:</b></p> <p><b>For the Client:</b> <i>[name, title]</i>.....</p> <p><b>For the Consultant:</b> <i>[name, title]</i> .....</p> <p><i>[name, title]</i></p>
14.1	<p><b>Expiration of Contract:</b> .....</p> <p><b>The time period shall be</b> .....</p>
21 b.	<p>The Client reserves the right to determine on a case-by- case basis whether the Consultant should be disqualified from providing goods, works or non-consulting services due to a conflict of a nature described in Clause GCC 21.1.3</p>
27.2	<p>The Consultant shall not use these for purposes unrelated to this Contract without the prior written approval of the Client.</p>
44 (g)	<p><b>Bank Account details to be provided by the Selected Consultant.....</b></p>

<b>47</b>	<p>1. Miscellaneous provision are as under</p> <p>(a) proceedings shall, unless otherwise agreed by the Parties, be held in Odisha (Bhubaneswar);</p> <p>(b) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.</p> <p>(c) Fee structure may be as indicated below or as decided by the parties</p>		
	<b>Sl. No</b>	<b>Particular</b>	<b>Amount Payable per Arbitrator/per cost</b>
	1.	Arbitrator fee	Rs.5000 per day
	2.	Secretarial Assistance	Rs. 15000/- per month
	3.	Incidental charges (telephone, fax, postages, etc.)	Rs. 15000/- per month
	4.	Charges for publishing/declaration of the award	Rs. 10000/- (2 days fees)
	5.	Other expenses	
		(c) Travelling Expenses	2nd class AC (by train) and AC Car (by Road)
		(d) Lodging and Boarding	(c) Rs.3000 per day or (d) Rs.1500 per day, if any Arbitrator makes their own arrangements
	6.	Local Travel	Rs.1000 per day

## IV. Appendices

### APPENDIX A - TERMS OF REFERENCE

*[This Appendix shall include the final Terms of Reference (TORs) worked out by the Client and the Consultant during the negotiations; dates for completion of various tasks; location of performance for different tasks; detailed reporting requirements; Client's input, including counterpart personnel assigned by the Client to work on the Consultant's team; specific tasks that require prior approval by the Client.]*

*Insert the text based on the Section 5 (Terms of Reference) of the ITC in the RFP and modified based on the Forms TECH-1 through TECH-5 in the Consultant's Proposal. Highlight the changes to Section 5 of the RFP]*

*If the Services consist of or include the supervision of civil works, the following action that require prior approval of the Client shall be added to the "Reporting Requirements" section of the TORs: Taking any action under a civil works contract designating the Consultant as "Engineer", for which action, pursuant to such civil works contract, the written approval of the Client as "Client" is required.]*

### APPENDIX B - KEY EXPERTS

*[Insert a table based on Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations. Attach the CVs (updated and signed by the respective Key Experts) demonstrating the qualifications of Key Experts.]*

*[Specify Hours of Work for Key Experts: List here the hours of work for Key Experts; travel time to/from the Client's country; entitlement, if any, to leave pay; public holidays in the Client's country that may affect Consultant's work; etc. Make sure there is consistency with Form TECH-6. In particular: one month equals twenty two (22) working (billable) days. One working (billable) day shall be not less than eight (8) working (billable) hours. ]*

### APPENDIX C - REMUNERATION COST ESTIMATES

1. Monthly rates for the Experts:

*[Insert the table with the remuneration rates. The table shall be based on [Form FIN-3] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-3] at the negotiations or state that none has been made.]*

2. [When the Consultant has been selected under Quality-Based Selection method, or the Client has requested the Consultant to clarify the breakdown of very high remuneration rates at the Contract's negotiations also add the following:

*"The agreed remuneration rates shall be stated in the attached Model Form I. This form shall be prepared on the basis of Appendix A to Form FIN-3 of the RFP "Consultants' Representations regarding Costs and Charges" submitted by the Consultant to the Client*

*prior to the Contract's negotiations.*

*Should these representations be found by the Client (either through inspections or audits pursuant to Clause GCC 25.2 or through other means) to be materially incomplete or inaccurate, the Client shall be entitled to introduce appropriate modifications in the remuneration rates affected by such materially incomplete or inaccurate representations. Any such modification shall have retroactive effect and, in case remuneration has already been paid by the Client before any such modification, (i) the Client shall be entitled to offset any excess payment against the next monthly payment to the Consultants, or (ii) if there are no further payments to be made by the Client to the Consultants, the Consultants shall reimburse to the Client any excess payment within thirty (30) days of receipt of a written claim of the Client. Any such claim by the Client for reimbursement must be made within twelve (12) calendar months after receipt by the Client of a final report and a final statement approved by the Client in accordance with Clause GCC 45.1(d) of this Contract*

**Model Form I**  
**Breakdown of Agreed Fixed Rates in Consultant’s Contract**

We hereby confirm that we have agreed to pay to the Experts listed, who will be involved in performing the Services, the basic fees and away from the home office allowances (if applicable) indicated below:

(Expressed in [insert name of currency])

Experts		1	2	3	4	5	6	7	8
Name	Position	Basic Remuneration rate per Working Month/Day/Year	Social Charges <sup>1</sup>	Overhead <sup>1</sup>	Subtotal	Profit <sup>2</sup>	Away from Home Office Allowance	Agreed Fixed Rate per Working Month/Day/Hour	Agreed Fixed Rate per Working Month/Day/Hour <sup>1</sup>
Home Office									
Work in the Client’s Country									

Signature

*Name and Title:*

Date

**APPENDIX D - REIMBURSABLE EXPENSES COST ESTIMATES**

1. *[Insert the table with the reimbursable expenses rates. The table shall be based on [Form FIN-4] of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to [Form FIN-4] at the negotiations or state that none has been made.*
  
2. *All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount. ]*

**Appendix E - Form of Advance Payments Guarantee**

[See Clause GCC 43 (a) and SCC 43 (a)]

**Bank Guarantee for Advance Payment**

\_\_\_\_\_ [Bank's Name, and Address of Issuing Branch or Office]

**Beneficiary:** \_\_\_\_\_ [Name and Address of Client]

Date: \_\_\_\_\_

ADVANCE PAYMENT GUARANTEE No.: \_\_\_\_\_

We have been informed that \_\_\_\_\_ [name of Consultant or a name of the Joint Venture, same as appears on the signed Contract] (hereinafter called "the Consultant") has entered into Contract No. \_\_\_\_\_ [reference number of the contract] dated with you, for the provision of [brief description of Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of [amount in figures] ( ) [amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we \_\_\_\_\_ [name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [amount in figures] ( \_\_\_\_\_ ) amount in words upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number.....at.....[name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultant has made full repayment of the amount of the advance payment, or on the \_\_\_\_\_ day of ..... , 2..... whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

[signature(s)]

Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.